Management of Conflicts of Interest Policy

(Including Gifts and Hospitality, Outside Employment, Commercial Sponsorship and other situations where conflicts might arise)

# Document Control:

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| Policy Name | Conflicts of Interest Policy |
| Policy Number | MSEICB 018 |
| Version | 2.0 |
| Status | Final - Approved  |
| Author / Lead | Sara O’Connor, Senior Manager (Corporate Services), Mid Essex CCG |
| Responsible Executive Director | The Chief Executive has delegated responsibility to the Executive Director of Strategy and Corporate Services for the management of conflicts of interest |
| Responsible Committee | Audit Committee |
| Date Ratified by Responsible Committee | 16 April 2024 |
| Date Approved by Board/Effective Date | July 2024 |
| Next Review Date | April 2025 |
| Target Audience | * Mid and South Essex (MSE) Integrated Care Board (ICB) members and staff (including temporary/bank/agency/ voluntary/work experience staff).
* Contractors engaged by the ICB.
* Staff from other MSE Integrated Care Partnership (ICP) organisations who are members of ICB Committees/Sub-Committees and other groups.
 |
| Stakeholders engaged in development of latest version of Policy (internal and external)  | * Governance Team
* Kevin Edwards, Associate Director, Attain.
* MSE Staff Engagement Group.
* ICB Executive Team
* Audit Committee
 |
| Impact Assessments Undertaken  | * Equality and Health Inequalities Impact Assessment
 |

# Version History

| Version | Date | Author (Name and Title) | Summary of amendments made |
| --- | --- | --- | --- |
| 1.0 | 01/07/22 | Sara O’Connor / V Barnes | Final approved version following review against policy checklist.  |
| 1.1 | 20/06/23 | Sara O’Connor | Review date amended to 1 December 2023 as agreed by Audit Committee (20 June 2023). |
| 1.2 | 22/01/23 | Sara O’Connor | Review date extended to 30 April 2024 as agreed by Audit Committee, 16 January 2024 (awaiting outcome of annual internal audit and policy to be updated to reflect new mandatory training requirements).  |
| 1.3 | 29/01/2024 | Sara O’Connor | Updated to reflect new mandatory Conflicts of Interest Training for ICBs and job titles due to organisational change.  |
| 2.0 | July 2024 | Helen Chasney | Final – Approved version |

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## Introduction

Mid and South Essex Integrated Care Board (the ICB) and the people who work with and for us, collaborate closely with other organisations, delivering high quality care for our patients.

ICBs are designed to bring together partners from across the ICS in the interests of the local population, including through all ICB boards having local authority, Trust/Foundation Trust and general practice nominated board members. The ICB’s approach to the management of conflicts of interest should ensure these benefits of partnership are not lost.

These partnerships have many benefits and should help ensure that public money is spent efficiently and wisely. However, there is a risk that conflicts of interest may arise. The policy is based on current NHS guidance and training regarding the management of conflicts, gifts and hospitality, commercial sponsorship, outside employment or other situations where conflicts might arise and will be revised on receipt of any relevant updated guidance relating to ICBs.

Providing best value for taxpayers and ensuring that decisions are taken transparently and clearly are key principles in the NHS Constitution. The ICB is committed to maximising our resources for the benefit of the whole community. As an organisation and as individuals, we have a duty to ensure that all our dealings are conducted to the highest standards of integrity, that NHS monies are used wisely by using our finite resources in the best interests of patients, providing best value for taxpayers and being accountable to our residents and patients for the decisions we take.

The ICB will:

* Ensure that this policy and supporting processes are clear and help staff understand what they need to do.
* Identify a team or individual with responsibility for:
* Keeping this policy under review to ensure it is in line with current guidance.
* Providing advice, training and support for staff on how interests should be managed.
* Maintaining register(s) of interests.
* Audit this policy and its associated processes and procedures at least annually.
* **NOT** avoid managing conflicts of interest.
* **NOT** interpret this policy in a way which stifles collaboration and innovation with our partners. Measures implemented to manage conflicts of interest will allow the ICB to function as intended in legislation.

It is a requirement for the ICB to have CB Board members from primary care, Trusts/Foundation Trusts, and the local authorities in order to support achievement of organisational alignment ensuring that decisions of the ICB Board are well informed from a range of perspectives. The Board and its committees will be appropriately composed and take account of the different perspectives individuals will bring from their respective sectors to help inform decision making.

Decision-making must be geared towards meeting the statutory duties of the ICB at all times, including the ‘triple aim’ to consider the effects of its decisions on:

* The health and wellbeing of the population.
* The quality of services provided or arranged by both the ICB and other relevant bodies.
* The sustainable and efficient use of resources by the ICB and other relevant bodies.

Interim Guidance on the functions and governance of the ICB was published by NHS England and Improvement, which includes principles to support ICBs in managing conflicts of interest. These principles have been incorporated within this policy.

Any individual involved in decisions relating to ICB functions must be acting clearly in the interests of the ICB and of the public, rather than further direct or indirect financial personal, professional or organisational interests.

Partner Members will be expected to act in accordance with paragraph 1.9 above and whilst it should not be automatically assumed that they are personally or professionally conflicted just by virtue of being an employee, director, partner or otherwise holding a position with one of the relevant organisations, the possibility of actual and perceived conflicts of interests arising will remain. For all decisions, ICBs will need to carefully consider whether an individual’s role in another organisation could result in actual or perceived conflicts of interest and whether or not that outweighs the value of the knowledge they bring to the process.

The ICB will consider the composition of decision-making forums and distinguish between those individuals who should be involved in formal decision taking and those whose input informs decisions. This will include considering the perspective the individual brings and the value they add to both discussions around particular decisions and in actually taking part in decisions, including the ability to shape the ICB’s understanding of how best to meet patients’ needs and deliver care for the population.

Actions to mitigate conflicts of interest should be proportionate and should seek to preserve the spirit of collective decision-making wherever possible. Mitigation should take account of a range of factors including the perception of any conflicts and how a decision may be received if an individual with a perceived conflict is involved in that decisions, and the risks and benefits of having a particular individual involved in making the decision. Section 6.6 below sets out possible mitigations.

## Purpose

This policy and associated policies and procedures referred to throughout, including [NHS England and Improvement (NHSE/I) conflict of interest guidance](https://www.england.nhs.uk/wp-content/uploads/2017/02/guidance-managing-conflicts-of-interest-nhs.pdf), will help our staff manage conflicts of interest risks effectively.

The policy:

* Introduces consistent principles and rules.
* Provides simple advice about what to do in common situations.
* Supports good judgement about how to approach and manage interests.

## Scope

This policy applies to:

* Mid and South Essex (MSE) Integrated Care Board (ICB) members and staff (including temporary/bank/agency/ voluntary/work experience staff).
* Contractors engaged by the ICB.
* Staff from other MSE Integrated Care Partnership (ICP) organisations who are members of ICB Committees/Sub-Committees and other groups.

## Definitions and Categories of Interests

**Conflict of Interest** - A set of circumstances by which a reasonable person would consider that an individual’s ability to apply judgement or act, in the context of delivering, commissioning, or assuring taxpayer funded health and care services is, or could be, impaired or influenced by **another** interest they hold.

A conflict of interest may be:

* **Actual** - there is a material conflict between one or more interests, or
* **Potential** – there is the possibility of a material conflict between one or more interests in the future.

Individuals may hold interests for which they cannot see potential conflict. However, caution is always advisable because others may see it differently and perceived conflicts of interest can be damaging. All interests should be declared where there is a risk of perceived improper conduct.

**Financial interest -** Where an individual may get direct financial benefit[[1]](#footnote-2) from the consequences of a decision they are involved in making.

**‘Material interest’** – is an interest reported and which is assessed as appropriate for inclusion in the ICB’s register of interests.

**Non-financial professional interest** - Where an individual may obtain a non-financial professional benefit from the consequences of a decision they are involved in making, such as increasing their professional reputation or promoting their professional career.

**Non-financial personal interests** - Where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit, because of decisions they are involved in making in their professional career.

**Indirect interests:** Where an individual has a close association[[2]](#footnote-3) with another individual who has a financial interest, a non-financial professional interest or a non-financial personal interest and could stand to benefit from a decision they are involved in making.

**Decision-Making Staff:** Those staff who are more likely than others to have a decision-making influence on the use of taxpayers’ money, because of the requirements of their role. The ICB considers decision-making staff to be:

* Executive, non-executive and partner members of the ICB Board (or equivalent roles) who have decision making roles which involve the spending of taxpayers’ money.
* Members of advisory groups which contribute to direct or delegated decision making on the commissioning or provision of taxpayer funded services.
* Staff at Agenda for Change band 8d and above.
* Administrative and clinical staff who have the power to enter into contracts on behalf of the ICB.
* Administrative and clinical staff involved in decision making concerning the commissioning of services, purchasing of goods, medicines, medical devices or equipment, and formulary decisions.

**Improper Performance** – Under the Bribery Act 2010 improper performance is defined in summary as ‘performance which amounts to a breach of an expectation that a person will act in good faith, impartially, or in accordance with a position of trust.’ The offence applies to bribery relating to any function of a public nature, connected with a business, performed in the course of a person’s employment or performed on behalf of a company or another body of persons. Therefore, bribery in both the public and private sectors is covered by the Act.

***NB:*** It is an offence for a person to offer, promise or give a financial or other advantage to another person in one or two cases:

Case One applies where that person intends the advantage to bring about the improper performance by another person of a relevant function or activity or to reward such improper performance.

Case Two applies where the person knows or believes that the acceptance of the advantage offered, promised, or given in it constitutes the improper performance or a relevant function or activity.

**Openness** – Means that there should be transparency about NHS activities to promote confidence between the ICB and its employees, service users and the public.

**Probity** – Means that there should be an absolute standard of honesty in dealing with the assets of the NHS. Integrity should be the hallmark of all personal conduct affecting service users, employees, and suppliers and in the use of information acquired in the course of NHS duties.

## Roles and Responsibilities

### Chief Executive

The Chief Executive Officer of the ICB has overall accountability for managing conflicts of interest within the ICB and is responsible for:

* ensuring that the ICB has processes in place to enable individuals to declare and manage conflicts of interest.
* creating a culture in which ICB employees feel able and supported to report any conflicts of interest concerns as part of their day-to-day activities.

Executive Director of Strategy and Corporate ServicesThe Chief Executive has delegated responsibility to the Executive Director of Strategy and Corporate Services for managing conflicts of interest.

### All ICB Employees and Board members

The ICB uses the skills of many different people, all of whom are vital to our work. This includes people on differing employment terms, who for the purposes of this policy we refer to as ‘staff’ and are listed below:

* All Board members and salaried employees.
* All prospective employees who are part-way through recruitment.
* Contractors and sub-contractors.
* Agency/bank staff.
* Committee, sub-committee and advisory group members (who may not be directly employed or engaged by the organisation, for example staff employed/engaged by member organisations of the Mid and South Essex Integrated Care Partnership).

As a member of staff you should:

* Familiarise yourself with this policy and follow it.
* Refer to [NHSE/I guidance on managing conflicts of interest](https://www.england.nhs.uk/wp-content/uploads/2017/02/guidance-managing-conflicts-of-interest-nhs.pdf) for the rationale behind this policy.
* Use your common sense and judgement to consider whether the interests you have could affect the way taxpayers’ money is spent.
* Regularly consider what interests you have and declare these as they arise. If in doubt, declare.
* **NOT** misuse your position to further your own interests or those close to you.
* **NOT** be influenced or give the impression that you have been influenced by outside interests.
* **NOT** allow the outside interests you have to inappropriately affect the decisions you make when using taxpayers’ money.
* Seek clarification from your line manager on any points which are not clear.
* Report any suspicions of fraud, bribery, or corruption in accordance with the ICB’s Counter Fraud, Bribery, and Corruption Policy by referral to the ICB’s Local Counter Fraud Specialist (LCFS), Executive Chief Finance Officer, or to the NHS Counter Fraud Authority (NHS CFA).

### Audit Committee

* + 1. The Audit Committee will have responsibility for monitoring the ICB’s compliance with this policy.

### Conflicts of Interest Guardian

* + 1. The Chair of the Audit Committee will be the ICB’s Conflict of Interest Guardian and, in collaboration with the ICB Governance Lead, will:
* Act as a conduit and safe point of contact for staff, members of the public and healthcare professionals who have any concerns with regards to conflicts of interest.
* Be a safe point of contact for employees or workers of the ICB to raise any concerns in relation to this policy, ensuring that concerns are treated with appropriate confidentiality and that explanations are provided for any decisions taken.
* Support the rigorous application of this and associated policies.
* Provide independent advice and judgement where there is any doubt about how to apply conflicts of interest policies and principles in an individual situation.
* Provide advice on minimising the risks of conflicts of interest.
	+ 1. Contact details for the Audit Committee Chair/Conflicts of Interest Guardian are at **Appendix D**.

### Policy Author

* + 1. The policy author will have responsibility for reviewing and updating the policy in line with Section 8.

### ICB Governance Lead

* + 1. The ICB Governance Lead, with the support of other governance team staff, is responsible for:
* Providing staff and other relevant individuals with advice, support, and guidance to enable them to manage conflicts of interest.
* Maintaining appropriate registers and other records relating to the management of conflicts of interest.
* Ensuring that appropriate arrangements are in place to effectively manage and record/report any issues relating to breaches of this or associated policies.
* Supporting the Conflicts of Interest Guardian to enable them to effectively carry out their responsibilities.
* Ensuring that senior managers provide adequate, appropriate and transparent reporting to the ICB Board, its committees, stakeholders and the public as required by the Health and Social Care Act 2012 and the Health and Care Act 2022.

### Line Managers

* + 1. Line managers are responsible for upholding and promoting high standards in relation to the management of conflicts of interest, gifts, hospitality and commercial sponsorship, ensuring staff reporting to them understand their responsibilities and are supported to adhere to the requirements of this policy and for providing adequate, appropriate and transparent reporting to the ICB Board and its committees, stakeholders and the public.
		2. Line managers should be the first point of contact if a member of staff is unsure whether to declare an interest or to accept/decline a gift and should work with their staff to ensure their declarations of interests and declarations of gifts and hospitality are up-to-date.

**Local Counter Fraud Specialist**

In line with the ICB’s Counter Fraud, Bribery and Corruption Policy, the LCFS is responsible for investigating allegations of fraud, bribery, and corruption. In consultation with the Executive Chief Finance Officer, the LCFS will report any case to the NHS Counter Fraud Authority and / or the police, as agreed, and in accordance with the NHS Counter Fraud manual. The LCFS is responsible for taking forward all counter fraud work locally in accordance with national standards and in consultation with the Executive Chief Finance Officer.

## Policy Detail

### Identification & Declaration of Interests (Including Gifts and Hospitality)

* + 1. All staff should identify and declare material interests at the earliest opportunity (and in any event within 28 days).
		2. If staff are in any doubt as to whether an interest is material, they should declare it so that it can be considered.
		3. Declarations should be made:
		- On appointment with the organisation, or as a member of an ICB committee/sub-committee or other group/forum – the ICB will implement appropriate arrangements to facilitate this.
		- Annually when prompted by the ICB – because of its role in spending taxpayers’ money, the ICB will ensure that, at least annually, staff are prompted to update their declarations of interests or make/confirm a nil return where there are no interests or changes to declare.
		- During meetings by inclusion of declarations of interest as a standing item each meeting’s agenda.
		- When staff move to a new role or their responsibilities change significantly.
		- At the beginning of a new project/piece of work/procurement process.
		- As soon as circumstances change and new interests arise or become evident(e.g. during a meeting when it becomes apparent that interests individuals have are relevant to the matters in discussion).
		1. The Declaration of Interest form is available at **Appendix B** and as a separate document on the ICB’s intranet.
		2. Where an interest is declared, the individual’s line manager should review the form and agree any mitigating action required to manage any conflicts which should be recorded on the form for transferring to the appropriate register.
		3. Declarations of Interest forms submitted outside of recruitment processes should be returned to the Governance team.
		4. After expiry, an interest will remain on register(s) for a minimum of six months and a private record of historic interests will be retained for a minimum of six years.

### Proactive Review of Interests

* + 1. The ICB will require all staff to formally review and, if necessary, update their declaration of interest annually.
		2. Reminders for staff to review and update their declarations of interest will be provided via the ICB’s intranet bi-annually.
		3. The ICB will implement arrangements to prompt ICB Board members and other decision-making staff to review and update their declarations of interest on a regular basis by:
* Including ‘declarations of interest’ on meeting agendas.
* Providing a register to each meeting of the ICB Board and its main committees/groups setting out the interests of relevant members and regular attendees.
* Implementing arrangements to ensure that staff participating in projects, new pieces of work and procurement processes are required to declare relevant interests.

### Maintenance of Records

* + 1. The ICB will maintain the following registers:
		- Register of Interests.
		- Register of Gifts and Hospitality.
		- Register of Commercial Sponsorship.
		- Register of Procurement Decisions.
		1. All declared interests that are material will be promptly transferred to the register by the Governance team.

### Publication

* + 1. The ICB will publish the interests declared by decision-making staff in the relevant registers available on the ICB website.
		2. This information will be refreshed on a bi-monthly basis.
		3. Registers of interests for publicly held Board or Committee meetings will be made available within meeting papers available on the ICB website.
		4. Registers will also be made available for inspection, via telephoning 01268 594350 to make an appointment with the Governance team, at Phoenix Court, Christopher Martin Road, Basildon Essex SS14 3HG.
		5. If decision-making or other staff have substantial grounds for believing that publication of their interests should not take place, they should contact the ICB Governance Lead to explain why. In exceptional circumstances, for instance where publication of information might cause the member of staff or somebody else substantial damage or distress or put a member of staff at risk of harm, with the agreement of the Conflicts of Interest Guardian (who will seek appropriate legal advice where required), information may be withheld or redacted on public registers. However, this would be the exception and information will not be withheld or redacted merely because of a personal preference. In these circumstances a confidential unredacted record will be maintained.

### Wider Transparency Initiatives

* + 1. The ICB fully supports wider transparency initiatives in healthcare and encourages staff to engage actively with these.
		2. Relevant staff are strongly encouraged to give their consent for payments they receive from the pharmaceutical industry to be disclosed as part of the Association of British Pharmaceutical Industry (ABPI) Disclosure UK initiative. These “transfers of value” include payments relating to:
		- Speaking at and chairing meetings.
		- Training services.
		- Advisory board meetings.
		- Fees and expenses paid to healthcare professionals.
		- Sponsorship of attendance at meetings, which includes registration fees and the costs of accommodation and travel, both inside and outside the UK.
		- Donations, grants and benefits in kind provided to healthcare organisations.
		1. Further information about the scheme can be found on the ABPI website: <http://www.abpi.org.uk/our-work/disclosure/about/Pages/default.aspx>

### Management of Interests - General

* + 1. If an interest is declared but there is no risk of a conflict arising then no action is warranted. However, if a material interest is declared then the general management actions that could be applied include:
* Restricting staff involvement in associated discussions and excluding them from decision making.
* Removing staff from the whole decision-making process.
* Removing staff responsibility for an entire area of work.
* Removing staff from their role altogether if they are unable to operate effectively in it because the conflict is so significant.
	+ 1. Each case will be different and context-specific, and the ICB will always clarify the circumstances and issues with the individuals involved. Staff should maintain a written audit trail of information considered and actions taken.
		2. Staff who declare material interests should make their line manager or the person(s) they are working to aware of their existence.
		3. The ICB Governance Lead and/or the Conflicts of Interest Guardian will provide advice on possible disputes about the most appropriate management action to ensure that interests do not (and do not appear to) affect the integrity of the ICB’s decision-making process.

### Management of Interests – Common Situations

* + 1. Sections 6.8 to 6.20 set out the principles and rules to be adopted by staff in common situations, and what information should be declared.

### Gifts

* + 1. A gift means any item of cash or goods, or any service, which is provided for personal benefit, free of charge, or at less than its commercial value.
		2. Staff should not accept gifts that may affect, or be seen to affect, their professional judgement.
		3. Gifts from suppliers or contractors:
* Gifts from suppliers or contractors doing business (or likely to do business) with the organisation should always be declined, whatever their value.
	+ - Low cost branded promotional aids such as pens or post-it notes may, however, be accepted where they are under the value of £6 in total and need not be declared. The £6 value has been selected with reference to [existing industry guidance issued by the Association of the British Pharmaceutical Industry (ABPI)](https://www.pmcpa.org.uk/media/3406/2021-abpi-code-of-practice.pdf).
		1. Gifts from other sources (e.g. patients, families, service users):
		- Gifts of cash and vouchers to individuals should always be declined.
		- Staff should not ask for any gifts.
		- Gifts valued at over £50 should be treated with caution and only be accepted on behalf of behalf of the ICB and not in a personal capacity. These should be declared by staff to the ICB. Governance Lead in order to agree how these should be used, for example, donated to a local charity.
		- Modest gifts accepted under a value of £50 do not need to be declared.
		1. A common-sense approach should be applied to the valuing of gifts (using an actual amount, if known, or an estimate that a reasonable person would make as to its value).
		2. Multiple gifts from the same source over a twelve-month period should be treated in the same way as single gifts over £50 where the cumulative value exceeds £50.
		3. The acceptance or rejection of gifts should be declared on the form provided at **Appendix C** and submitted to Corporate Governance Team.

### Hospitality (including Meals, Refreshments, Travel and Accommodation)

* + 1. Staff should not ask for or accept hospitality that may affect, or be seen to affect, their professional judgement.
		2. Hospitality must only be accepted when there is a legitimate business reason and it is proportionate to the nature and purpose of the event.
		3. Particular caution should be exercised when hospitality is offered by actual or potential suppliers or contractors. This can be accepted, and must be declared, if modest and reasonable. Prior approval by the relevant Director must be obtained.
		4. Meals and refreshments:
		- Under a value of £25 - may be accepted and need not be declared.
		- Of a value between £25 and £75 - may be accepted and must be declared.
		- Over a value of £75 - should be refused unless (in exceptional circumstances) prior approval by the relevant Director is given. A clear reason should be recorded on the organisation’s register(s) of interest as to why it was permissible to accept.
		- A common sense approach should be applied to the valuing of meals and refreshments (using an actual amount, if known, or an estimate that a reasonable person would make as to its value).
		1. Travel and accommodation:
		- Modest offers to pay some or all travel and accommodation costs related to attendance at events may be accepted and must be declared.
		- Offers which go beyond modest or are of a type that the organisation itself might not usually offer, need prior approval by the relevant Director. They should only be accepted in exceptional circumstances and must be declared.
		- A clear reason should be recorded on the organisation’s register(s) of interest as to why it was permissible to accept travel and accommodation of this type. A non-exhaustive list of examples includes:
		- offers of business class or first class travel and accommodation (including domestic travel).
		- offers of foreign travel and accommodation.
		1. The acceptance or rejection of hospitality should be declared on the form provided at **Appendix C** and submitted to the Corporate Governance Team.

### Outside Employment

* + 1. The ICB requires employees, committee members, contractors and others engaged under a contract with the ICB to declare if they are employed or engaged in any employment, business, consultancy, or voluntary role in addition to their work with the ICB.
		2. Staff must declare any existing outside employment/engagement on their appointment and any new outside employment/engagement when it arises.
		3. Where a risk of conflict of interest arises, the general management actions outlined in this policy should be considered and applied to mitigate risks.
		4. Where contracts of employment or terms and conditions of engagement permit, staff will be required to seek prior approval from the ICB to engage in outside employment.
		5. The ICB may also have legitimate reasons within employment law for knowing about outside employment of staff, even when this does not give rise to risk of a conflict.
		6. The ICB reserves the right to implement appropriate arrangements to manage any conflict(s) and to refuse permission for outside employment where it believes a conflict will arise which cannot be effectively managed.
		7. As set out within the ICB’s Standards of Business Conduct Policy, trading on official premises is prohibited, whether for personal gain or on behalf of others. Canvassing/advertising by, or on behalf of, outside bodies or firms (including non-ICB interests of staff or their relatives) is also prohibited. Official ICB email accounts and documentation such as letter headed paper should not be used for private enterprise and may constitute an offence of fraud.
		8. The ICB will implement arrangements to facilitate the declaration of outside employment by new staff upon their appointment by completion of the Declaration of Interest form at **Appendix B.** This process will be managed by the ICB’s Human Resources and Governance Teams with relevant outside employment interests being recorded within the register of interest.

### Shareholdings and other ownership issues

* + 1. Staff should declare, as a minimum, any shareholdings and other ownership interests in any publicly listed, private or not-for-profit company, business, partnership or consultancy which is doing, or might be reasonably expected to do, business with the ICB or member organisations of the wider Integrated Care Partnership.
		2. Where shareholdings or other ownership interests are declared and give rise to risk of conflicts of interest then the general management actions outlined in this policy should be considered and applied to mitigate risks.
		3. There is no need to declare shares or securities held in collective investment or pension funds or units of authorised unit trusts.
		4. Shareholdings and other ownership issues should be declared on the form provided at **Appendix B** and will be recorded within the register of interests.

### Patents

* + 1. Staff should declare patents and other intellectual property rights they hold (either individually, or by virtue of their association with a commercial or other organisation), including where applications to protect have started or are ongoing, which are, or might be reasonably expected to be, related to items to be procured or used by the organisation.
		2. Staff should seek prior permission from the ICB before entering into any agreement with bodies regarding product development, research, work on pathways etc, where this impacts on the ICB’s time, or uses its equipment, resources or intellectual property.
		3. Where holding of patents and other intellectual property rights give rise to a conflict of interest then the general management actions outlined in this policy should be considered and applied to mitigate risks.
		4. Relevant patents must be declared on the form provided at **Appendix B** and submitted to the Corporate Governance Team for recording within the register of interests.

### Loyalty Interests

* + 1. Loyalty interests should be declared by staff involved in decision making where they:
		- Hold a position of authority in another NHS organisation or commercial, charity, voluntary, professional, statutory or other body which could be seen to influence decisions they take in their NHS role.
		- Sit on advisory groups or other paid or unpaid decision-making forums that can influence how an organisation spends taxpayers’ money.
		- Are, or could be, involved in the recruitment or management of close family members and relatives, close friends and associates, and business partners.
		- Are aware that the ICB does business with an organisation in which close family members and relatives, close friends and associates, and business partners have decision making responsibilities.
		1. Loyalty interests must be declared on the form provided at **Appendix B** and submitted to the Corporate Governance Team for recording within the register of interests.

### Donations

* + 1. Donations made by suppliers or bodies seeking to do business with the ICB should be treated with caution and not routinely accepted. In exceptional circumstances they may be accepted but should always be declared. A clear reason should be recorded as to why it was deemed acceptable, alongside the actual or estimated value.
		2. Staff should not actively solicit charitable donations unless this is a prescribed or expected part of their duties for the ICB or is being pursued on behalf of the ICB’s own registered charity (if any) or other charitable body and is not for their own personal gain.
		3. Staff must obtain permission from the ICB if in their professional role they intend to undertake fundraising activities on behalf of a pre-approved charitable campaign for a charity other than the organisation’s own.
		4. Donations, when received, should be made to a specific charitable fund (never to an individual) and a receipt should be issued.
		5. Staff wishing to make a donation to a charitable fund in lieu of receiving a professional fee may do so, subject to ensuring that they take personal responsibility for ensuring that any tax liabilities related to such donations are properly discharged and accounted for.
		6. The ICB will maintain records in line with the above principles and rules and relevant obligations under charity law.

### Sponsored events

* + 1. Line manager and governance advice must be sought before accepting any type of sponsorship as this can be a controversial issue.
		2. In the case of sponsored events, sponsorship should never be accepted from organisations whose business would not be seen as being compatible with the ethos of the NHS, e.g. organisations that are associated with:
		- matters that are damaging to health or associated with gambling, alcohol, vaping, tobacco, illegal drugs, weight control or politics.
		- the promotion of prescription-only drugs to the general public, or other promotion that contravenes that ABPI Code of Practice to the Pharmaceutical Industry.
		- Pornography or other companies involved in the sexual exploitation of adults or children.
		- The manufacture of firearms or other weapons.
* Legal services which overtly promote compensation and personal injury services and claims management companies acting on their behalf.

This list is not exhaustive and if there is any doubt, please contact your line manager and/or a senior member of the Governance Team.

* + 1. Sponsorship of events by appropriate external bodies will only be approved if a reasonable person would conclude that the event will result in clear benefit to the ICB and the NHS.
		2. During dealings with sponsors there must be no breach of patient or individual confidentiality or data protection rules and legislation.
		3. No information should be supplied to the sponsor from whom they could gain a commercial advantage, and information which is not in the public domain should not normally be supplied.
		4. At the ICB’s discretion, sponsors or their representatives may attend or take part in the event but they should not have a dominant influence over the content or the main purpose of the event.
		5. The involvement of a sponsor in an event should always be clearly identified.
		6. Staff within the organisation involved in securing sponsorship of events should make it clear that sponsorship does not equate to endorsement of a company or its products and this should be made visibly clear on any promotional or other materials relating to the event.
		7. Staff arranging sponsored events must declare this to the organisation by using the form at **Appendix C**.

* + 1. The organisation will maintain records regarding sponsored events in line with the above principles and rules.

### Sponsored Research

* + 1. Funding sources for research purposes must be transparent.
		2. Any proposed research must go through the relevant health research authority or other approvals process.
		3. There must be a written protocol and written contract between staff, the organisation, and/or institutes at which the study will take place and the sponsoring organisation, which specifies the nature of the services to be provided and the payment for those services.
		4. The study must not constitute an inducement to prescribe, supply, administer, recommend, buy or sell any medicine, medical device, equipment or service.
		5. Staff should declare involvement with sponsored research to the ICB by using the form at **Appendix B.**
		6. The ICB will retain written records of sponsorship of research, in line with the above principles and rules.

### Sponsored Posts

* + 1. External sponsorship of a post requires prior approval from the ICB. Requests should be submitted to the Executive Chief People Officer.
		2. Rolling sponsorship of posts should be avoided unless appropriate checkpoints are put in place to review and withdraw if appropriate.
		3. Sponsorship of a post should only happen where there is written confirmation that the arrangements will have no effect on purchasing decisions or prescribing and dispensing habits. This should be audited for the duration of the sponsorship. Written agreements should detail the circumstances under which organisations have the ability to exit sponsorship arrangements if conflicts of interest which cannot be managed arise.
		4. Sponsored post holders must not promote or favour the sponsor’s products, and information about alternative products and suppliers should be provided.
		5. Sponsors should not have any undue influence over the duties of the post or have any preferential access to services, materials or intellectual property relating to or developed in connection with the sponsored posts.
		6. The ICB will retain written records of sponsorship of posts, in line with the above principles and rules.
		7. Staff should declare any other interests arising as a result of their association with the sponsor, in line with the content in the rest of this policy.

### Clinical Private Practice

* + 1. Clinical staff should declare all private practice on appointment, and/or any new private practice when it arises[[3]](#footnote-4) including:
* Where they practise (name of private facility).
* What they practise (specialty, major procedures).
* When they practise (identified sessions/time commitment).
* Action taken to mitigate against a conflict, including details of any approvals given to depart from the terms of this policy.
	+ 1. Clinical staff should (unless existing contractual provisions require otherwise or unless emergency treatment for private patients is needed):
* Seek prior approval of the ICB before taking up private practice.
* Ensure that, where there would otherwise be a conflict or potential conflict of interest, NHS commitments take precedence over private work.[[4]](#footnote-5)
* Not accept direct or indirect financial incentives from private providers other than those allowed by Competition and Markets Authority guidelines: <https://assets.publishing.service.gov.uk/media/542c1543e5274a1314000c56/Non-Divestment_Order_amended.pdf>
	+ 1. Hospital Consultants should not initiate discussions about providing their Private Professional Services for NHS patients, nor should they ask other staff to initiate such discussions on their behalf.
		2. Staff should declare involvement with clinical private practice to the ICB by using the form at **Appendix B** which should be submitted to the Corporate Governance Support Officer for inclusion on the relevant register.

### Strategic Decision Making Groups

* + 1. In common with other NHS bodies the ICB uses a variety of different groups to make key strategic decisions about things such as:
* Entering into (or renewing) large scale contracts.
* Awarding grants.
* Making procurement decisions.
* Selection of medicines, equipment, and devices.
	+ 1. The interests of those who are involved in these groups should be well known (as highlighted on registers of interests provided to each meeting) so that they can be managed effectively. For this organisation these groups are: The ICB’s strategic decision-making groups include:
* The ICB Board
* The ICB’s main Committees as set out in its Constitution
* Mid and South Essex Medicines Optimisation Committee
	+ 1. These groups should adopt the following principles:
* Chairs should consider any known interests of members in advance and begin each meeting by asking for declaration of relevant material interests.
* Members should take personal responsibility for declaring material interests at the beginning of each meeting and as they arise.
* Any new interests identified should be added to the appropriate register.
* The vice chair (or other non-conflicted member) should chair all or part of the meeting if the chair has an interest that might prejudice their judgement.
	+ 1. If a member has an actual or potential interest the chair should consider the following approaches and ensure that the justification and reason for the chosen action is documented in the minutes of the meeting and (where appropriate) other records:
* Requiring the member to not attend the meeting.
* Excluding the member from receiving meeting papers relating to their interest.
* Excluding the member from all or part of the relevant discussion and/or decision and where necessary, securing technical or local expertise from an alternative unconflicted source.
* Including a conflicted person in the discussion and decision where there is a clear benefit to them being included in both – however, including the conflicted person in the actual decision should be done after careful consideration of the risk and with proper mitigation in place. The rationale for inclusion should also be properly documented and included in minutes.
* Noting the nature and extent of the interest but judging it appropriate to allow the member to remain and participate.
* Removing the member from the group or process altogether.
* Consider using a sub-committee to remove potential conflict from core committee membership.
	+ 1. The default response should not always be to exclude members with interests, as this may have a detrimental effect on the quality of the decision being made. Good judgement is required to ensure proportionate management of risk.
		2. The Chair of a meeting has ultimate decision-making responsibility regarding how conflicts of interest are managed.

### Procurement

* + 1. Procurement should be managed in an open and transparent manner, compliant with procurement and other relevant law, to ensure there is no discrimination against or in favour of any provider. Procurement processes should be conducted in a manner that does not constitute anti-competitive behaviour which is against the interest of patients and the public.
		2. Those involved in procurement exercises for and on behalf of the organisation should keep records that show a clear audit trail of how conflicts of interest have been identified and managed as part of procurement processes. At every stage of procurement steps should be taken to identify and manage conflicts of interest to ensure and to protect the integrity of the process.
		3. In relation to the Provider Selection Regime, where decisions are being taken as part of a formal competitive procurement of services, any individual who is associated with an organisation that has a vested interest in the procurement should recuse themselves from the process.
		4. The procedure for managing conflicts of interest during procurements is set out in the ICB’s Procurement and Contracting Policy.

### Prevention of Fraud and Bribery

The ICB is committed to preventing fraud and bribery and encourages staff with concerns or reasonably held suspicion about potentially fraudulent activity or practice to report these immediately to the ICB’s Local Counter Fraud Specialist (LCFS), whose contact details can be obtained via the ICB’s intranet. Suspicions may also be reported to the Executive Chief Finance Officer to the ICB Chair or ICB Chief Executive Officer where it would not be appropriate to report to the Executive CFO.

Suspicions of fraud can also be reported directly and confidentially to the NHS Fraud and Corruption Reporting Line on 0800 028 4060 or via <https://cfa.nhs.uk/reportfraud>.

### Identifying and Reporting Breaches

* + 1. There will be situations when interests will not be identified, declared or managed appropriately and effectively. This may happen innocently, accidentally, or because of the deliberate actions of staff or other organisations. For the purposes of this policy these situations are referred to as ‘breaches’.
		2. Staff who are aware about actual breaches of this policy, or who are concerned that there has been, or might be, a breach, should report these concerns to one of the officers listed below, whose contact details are set out on **Appendix D**:
* The ICB Governance Lead.
* The Conflicts of Interest Guardian.
* The Director of Resources.
* The ICB’s Local Counter Fraud Specialist (who is the first point of contact for any genuine suspicions or concerns regarding fraud or bribery, as per the ICB’s Counter Fraud, Bribery and Corruption Policy)
	+ 1. To ensure that interests are effectively managed staff are encouraged to speak up about actual or suspected breaches. Every individual has a responsibility to do this. For further information about how concerns should be raised please refer to the ICB’s Freedom to Speak Up Policy.
		2. The ICB will investigate each reported breach according to its own specific facts and merits and give relevant parties the opportunity to explain and clarify any relevant circumstances.
		3. Following investigation, the ICB will:
* Decide if there has been or is potential for a breach and, if so, what the severity of the breach is.
* Assess whether further action is required in response – this is likely to involve any staff member involved and their line manager, as a minimum.
* Consider who else inside and outside the organisation should be made aware
* Take appropriate action as set out in the next section.

### Taking Action in Response to Breaches

* + 1. Action taken in response to breaches of this policy will be in accordance with the disciplinary procedures of the organisation and could involve organisational leads for staff support (e.g. Human Resources), fraud (e.g. Local Counter Fraud Specialist), members of the management or executive teams and auditors.
		2. Breaches could require action in one or more of the following ways:
* Clarification or strengthening of existing policy, process and procedures.
* Consideration as to whether HR/employment law/contractual action should be taken against staff or others.
* Consideration being given to escalation to external parties. This might include referral of matters to external auditors, NHS Counter Fraud Authority, the Police, statutory health, or social care bodies (such as NHS England, NHS Improvement or the Care Quality Commission, Local Government Association, and/or health professional regulatory bodies.
	+ 1. Inappropriate or ineffective management of interests can have serious implications for the organisation and staff. There will be occasions where it is necessary to consider the imposition of sanctions for breaches in accordance with the ICB’s Disciplinary Policy.
		2. Sanctions should not be considered until the circumstances surrounding breaches have been properly investigated. However, if such investigations establish wrong-doing or fault then the ICB can and will consider the range of possible sanctions that are available, in a manner which is proportionate to the breach. This includes:
* Employment law action against staff, which might include
* Informal action (such as reprimand or signposting to training and/or guidance).
* Formal disciplinary action (such as formal warning, the requirement for additional training, re-arrangement of duties, re-deployment, demotion, or dismissal).
* Reporting incidents to the external parties described above for them to consider what further investigations or sanctions might be.
* Civil/contractual action, such as exercise of remedies or sanctions against the body or staff which caused the breach.
* Legal action, such as investigation and prosecution under fraud, bribery, and corruption legislation.

### Learning and Transparency Concerning Breaches

* + 1. Anonymised reports on breaches, the impact of these, and actions taken will be considered by the Audit Committee and any other relevant committee/group.
		2. To ensure that lessons are learnt and management of interests can continually improve, anonymised information on breaches, the impact of these, and action taken will be prepared and published on the ICB’s website, as appropriate, or made available for inspection by the public upon request.

## Monitoring Compliance

Compliance with this policy will be monitored in the following ways:

* As part of the routine monitoring undertaken by the ICB Governance Lead.
* Monitoring completion rates of mandatory training relating to the management of conflicts of interest and taking action where necessary to improve completion rates.
* Annual audit of arrangements to manage conflicts of interest undertaken by the ICB’s auditors.
* Anonymised reporting on breaches and significant issues relating to the management of conflicts of interest to the Audit Committee or other relevant committee.
* By submission of any returns required by NHSE/I in relation to the management of conflicts of interest, which will be signed-off by the Conflicts of Interest Guardian.

## Staff Training

* + 1. All ICB staff will be required to undertake training deemed to be mandatory by NHSE/I or the ICB on the management of conflicts of interest available via the Electronic Staff Record (ESR). The module is also available to individuals without an ESR account at [Managing-conflicts-of-interest-online-training-for-ICBs](https://gbr01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fhrandod.england.nhs.uk%2Fwp-content%2Fuploads%2Funcanny-snc%2F109%2Ftc_index.html%3Fendpoint%3Dhttps%3A%2F%2Fhrandod.england.nhs.uk%2FucTinCan%2F%26auth%3DLearnDashId497%26course_id%3D0%26actor%3D%257B%2522name%2522%253A%2520%255B%2522hamid.jamal%2540england.nhs.uk%2522%255D%252C%2520%2522mbox%2522%253A%2520%255B%2522mailto%253Ahamid.jamal%2540england.nhs.uk%2522%255D%257D%26activity_id%3Dhttps%3A%2F%2Fhrandod.england.nhs.uk%2Fwp-content%2Fuploads%2Funcanny-snc%2F109%2Ftc_index.html%26client%3DScorm%26base_url%3Dhttps%3A%2F%2Fhrandod.england.nhs.uk%26nonce%3Dc45d9623dd&data=05%7C02%7Csara.oconnor%40nhs.net%7C351aee724b064486b9c508dc20c5243c%7C37c354b285b047f5b22207b48d774ee3%7C0%7C0%7C638421278285391876%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=MLLAs5z4ibGQRG%2BACJIXMM7A9ku2sKkKgNhGW%2BnuSME%3D&reserved=0).
		2. The ICB will also implement arrangements to ensure that non-ICB staff who are members of the Board or its committees have undergone suitable training on the management of conflicts of interests.
		3. Those staff with responsibility for decision-making or providing advice and support regarding the management of conflicts of interest (including the ICB Governance Lead, other governance staff and the Conflicts of Interest Guardian) will be required to undertake appropriate additional training relating to the management of conflicts of interest. .
		4. Additional training needs may be identified, for example, where a breach has occurred or to provide a member of staff with additional knowledge to undertake their role effectively.
		5. Completion of mandatory training will be monitored and action taken to address completion rates where necessary.

## Arrangements For Review

This policy will be reviewed annually. An earlier review will be carried out in the event of any relevant changes in legislation, national or local policy/guidance, organisational change or other circumstances which mean the policy needs to be reviewed.

If only minor changes are required, the sponsoring committee (Audit Committee) has authority to make these changes without referral to the ICB Board. If more significant or substantial changes are required, the policy will need to be ratified by the relevant committee before final approval by the ICB Board.

## Associated Policies, Guidance And Documents

**Associated Guidance and Legislation**

* Managing Conflicts of Interest Mandatory Training for ICBs.
* NHSE/I Interim Guidance on the Functions and Governance of the Integrated Care Board
* [www.england.nhs.uk/ourwork/coi](http://www.england.nhs.uk/ourwork/coi)
* Freedom of Information Act 2000
* ABPI: [The Code of Practice for the Pharmaceutical Industry (2021)](https://www.abpi.org.uk/reputation/abpi-2021-code-of-practice/)
* ABHI Code of Ethical Business Practice https://www.abhi.org.uk/membership/code-of-ethical-business-practice/
* NHS Code of Conduct and Accountability (July 2004)

**Associated ICB Policies**

* MSEICB 003 Procurement and Contracting Policy
* MSEICB 019 Standards of Business Conduct Policy
* MSEICB 023 Freedom to Speak Up Policy
* MSEICB 026 Counter-Fraud, Bribery and Corruption Policy
* MSEICB 045 Disciplinary Policy

## References

This policy is based on:

[Managing Conflicts of Interest in the NHS (Model Policy for Organisations) April 2017](https://www.england.nhs.uk/publication/managing-conflicts-of-interest-model-policy-content-for-organisations/)

Managing Conflicts of Interest: online training for ICBs – Module 1 (January 2024).

## Equality Impact Assessment (EIA)

The EIA has identified no equality issues with this policy.

The EIA has been included as **Appendix A**.

## Appendix A - Equality Impact Assessment

**INITIAL INFORMATION**

|  |  |
| --- | --- |
| **Name of policy:** Conflicts of Interest Policy **Version number (if relevant):** 1.0 | **Directorate/Service**: Corporate / Chief Executive’s Office |
| **Assessor’s Name and Job Title:** Sara O’Connor, Head of Corporate Governance | **Date:** 29/01/24 |

|  |
| --- |
| **OUTCOMES** |
| *Briefly describe the aim of the policy and state the intended outcomes for staff*  |
| This policy is designed to enable the ICB and its staff and partner organisations to effectively manage conflicts of interest in situations where conflicts might arise (e.g. during decision making/procurement processes, offers of gifts and hospitality, commercial sponsorship and outside employment).  |
| **EVIDENCE** |
| *What data / information have you used to assess how this policy might impact on protected groups?* |
| The ICB monitors the composition of its workforce under the nine protected equality characteristics and reports on this annually. This information helps the ICB to assess the potential impact of its policies upon staff. |
| *Who have you consulted with to assess possible impact on protected groups? If you have not consulted other people, please explain why?*  |
| The policy is based on the NHS England/Improvement Policy template for managing conflicts. The Staff Engagement Group have been consulted on the policy and their feedback will be considered before the policy is finalised.  |

**ANALYSIS OF IMPACT ON EQUALITY**

The Public Sector Equality Duty requires us to **eliminate** discrimination, **advance** equality of opportunity and **foster** good relations with protected groups. Consider how this policy / service will achieve these aims.

N.B. In some cases it is legal to treat people differently (objective justification).

* ***Positive outcome*** *– the policy/service eliminates discrimination, advances equality of opportunity and fosters good relations with protected groups*
* ***Negative outcome*** *–**protected group(s) could be disadvantaged or discriminated against*
* ***Neutral outcome***  *–**there is no effect currently on protected groups*

Please tick to show if outcome is likely to be positive, negative or neutral. Consider direct and indirect discrimination, harassment and victimisation.

| ProtectedGroup | Positiveoutcome | Negativeoutcome | Neutraloutcome | Reason(s) for outcome |
| --- | --- | --- | --- | --- |
| Age |  |  | X | The onus is on every individual to declare their interests. However, there is a risk that staff from protected groups may be reluctant to use the policy to raise concerns because of fear of discrimination, harassment or victimisation.However it is considered that this risk will be minimised by the assurances given in the associated Freedom to Speak Up Policy and reference within the Conflicts of Interest Policy that employees will not be penalised for raising honest concerns and by the regular monitoring of reported cases.  |
| Disability(Physical and Mental/Learning) |  |  | X | As above.  |
| Religion or belief |  |  | X | As above |
| Sex (Gender) |  |  | X | As above |
| Sexual Orientation |  |  | X | As above |
| Transgender/Gender Reassignment |  |  | X | As above |
| Race and ethnicity |  |  | X | As above |
| Pregnancy and maternity (including breastfeeding mothers) |  |  | X | As above |
| Marriage or Civil Partnership |  |  | X | As above |

|  |
| --- |
| **MONITORING OUTCOMES** |
| Monitoring is an ongoing process to check outcomes. It is different from a formal review which takes place at pre-agreed intervals. |
| *What methods will you use to monitor outcomes on protected groups?* |
| An anonymised summary of breaches will be provided to the Audit Committee. If pertinent, the summary will identify where an individual’s protected group status was relevant to the circumstances investigated and identify any lessons learned in this respect. |

|  |
| --- |
| **REVIEW** |
| *How often will you review this policy / service?*  |
| Annually |
| *If a review process is not in place, what plans do you have to establish one?* |
| N/A |

## Appendix B – Declarations of Interest Form

**Declaration of Interest form (for ICB Board members, Employees/Bank/Agency Staff/Contractors, GPs and members of ICB Committee/Sub-Committees/Groups)**

**To be completed and signed even if a ‘Nil’ Return**

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |  | **Email Address:**  |  |
| **Tel No:**  |  |
| **Position within, or relationship with, the ICB**  |  |
| **Name & Position of Head of Service/Senior ICB Manager:** (who will sign-off form where an interest is declared) |  |
| Please list below details of actual or potential interests held by you, or state ‘Nil’ if there are no interests that need to be declared. Interests declared by those staff considered to be ‘decision-makers’, as defined within the ICB’s Management of Conflicts of Interest Policy, will be included within the publicly available Register of Interests posted on the ICB website unless an objection to publication is received (see below).  |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Declared Interest** (Name of the Organisation and nature of business) | **Type of Interest**(see guidance notes below – please mark ‘X’) | **Is the interest direct or indirect?**(see guidance notes below) | **Nature of Interest** | **Date of Interest** | **Action taken to mitigate risk** Action to be agreed with Head of Service (with support from ICB Governance Lead if required) who must sign p2 of this form |
| **Financial Interest** | **Non-Financial Professional Interest** | **Non-Professional Personal Interest** | **From** | T**o**(Insert end date if interest is time limited. Advise ICB Gov Lead when interest ceases) |  |
|  |  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |

**NB: The names of individuals who make a ‘Nil’ declaration will not be included in the publicly available register of interests (except where they are Board members).**

**Fair Processing Statement**

This information submitted will be held by the ICB for the reasons specified on this form and to comply with the NHS Act 2006 (section 14O(1)), the ICB’s Constitution and the ICB’s policies. This information may be held in both manual and electronic form, in accordance with the Data Protection Act 2018. The information will be held securely by the ICB, but, as per the NHS Act 2006 (section 14O(2)), will be made available to the public on request and, as per NHSE/I mandatory guidance on managing conflicts of interest, in the case of Governing Body members and other staff/individuals who have declared an interest, published on the ICB website.

**Declaration**

I confirm the information provided above is complete and correct. I acknowledge that any changes in this declaration must be notified to the ICB as soon as practicable and no later than 28 days after the interest arises. I am aware that if I do not make full, accurate and timely declarations then I may be committing an offence under the Fraud Act 2006, which may result in civil, criminal, and / or internal disciplinary investigation and action, including prosecution.

I **do / do not** **[delete as applicable]** object to my name and details of declared interests being published on registers that the ICB holds.

|  |
| --- |
| *If you are raising an objection, please give reasons and a decision will be made by the ICB’s Conflict of Interests Guardian whether to redact this information from the publicly available register(s).* |

**Signed**: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**Date**:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**(Individual making the declaration of interest(s)**

**‘Nil’ declarations do not need to be signed-off by the Head of Service/Senior ICB Manager. Where one or more interests have been declared, individuals must discuss and agree how these interests will be managed with their Head of Service/Senior ICB Manager, who must then sign this form before submission to the ICB Governance Lead.**  Agreed action taken to mitigate the risk must be recorded in the last column of the table on the first page of this form. Declarations from non-ICB employees, will be signed-off by the ICB Governance Lead.

**Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Position: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**(Head of Service/Senior ICB Manager)**

**Please return to: Corporate Governance Team**

**DEFINITION OF AN INTEREST**

A conflict of interest may be “actual” or “potential”.

|  |  |
| --- | --- |
| **Actual** | **Potential** |
| There is a material conflict between one or more interests | There is the possibility of a material conflict between one or more interests in the future.  |

It should be noted that a benefit may arise from the making of a gain or the avoidance of a loss. Interests fall into four categories as set out in the table below (not exhaustive). It is also important to avoid any ‘**perception**’ that a conflict of interest has occurred. Therefore, if you have any doubt as to whether an interest should be declared, please seek advice from the ICB Governance Lead.

| **Type of Interest** | **Description** |
| --- | --- |
| **Direct Financial Interests** | This is where an individual may get direct financial benefits from the consequences of a commissioning decision. This could, for example, include being:* A director, including a non-executive director, or senior employee in a private company or public limited company or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations. This includes involvement with a potential provider of a new care model.
* A shareholder (or similar owner interests), a partner or owner of a private or not-for-profit company, business, partnership or consultancy which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations.
* A management consultant for a provider;
* A provider of clinical private practice;
* Employment outside of the ICB;
* In receipt of secondary income;
* In receipt of a grant from a provider;
* In receipt of any payments (for example honoraria, one off payments, day allowances or travel or subsistence) from a provider
* In receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role; and
* Having a pension that is funded by a provider (where the value of this might be affected by the success or failure of the provider).
 |
| **Direct Non-Financial Professional Interests**  | This is where an individual may obtain a non-financial professional benefit from the consequences of a commissioning decision, such as increasing their professional reputation or status or promoting their professional career. This may, for example, include situations where the individual is:* An advocate for a particular group of patients;
* A GP with special interests e.g., in dermatology, ophthalmology, acupuncture etc.
* An active member of a particular specialist professional body (although routine GP membership of the Royal College of General Practitioners RCGP, British Medical Association (BMA) or a medical defence organisation would not usually by itself amount to an interest which needed to be declared);
* An advisor for Care Quality Commission (CQC) or National Institute for Health and Care Excellence (NICE);
* Engaged in a research role.
* The development and holding of patents and other intellectual property rights which allow staff to protect something that they create, preventing unauthorised use of products or the copying of protected ideas; or
* GPs and practice managers or other practice staff who are members of the ICB governing body or committees of the ICB, should declare details of their roles and responsibilities held within their GP practices.
 |
| **Direct Non-Financial Personal Interests** | This is where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit. This could include, for example, where the individual is:* A voluntary sector champion for a provider;
* A volunteer for a provider;
* A member of a voluntary sector board or has any other position of authority in or connection with a voluntary sector organisation;
* Suffering from a particular condition requiring individually funded treatment;
* A member of a lobby or pressure groups with an interest in health and care.
 |
| **Indirect Interests** | This is where an individual has a close association with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest in a commissioning decision (as those categories are described above). For example, this should include:* + - Spouse / partner;
		- Close family member or relative e.g., parent, grandparent, child, grandchild or sibling, aunt/uncle/niece nephew etc.
		- Close friend or associate; or
		- Business partner.

Whether an interest held by another person gives rise to a conflict of interest will depend upon the nature of the relationship between that person and the individual and the role of the individual within the ICB.  |

## Appendix C – Gifts and Hospitality Declaration Form

 **Declaration of Gifts, Hospitality, and Sponsored Events Form**

|  |  |  |  |
| --- | --- | --- | --- |
| **Name of member of staff offered gift(s) or hospitality:** |  | **Email Address:**  |  |
| **Tel No:**  |  |
| **Position within, or relationship with, the Integrated Care Board**  |  |
| **GIFT(S) AND/OR HOSPITALITY – please see table below (pages 3 and 4) for guidance on what can be accepted (in some cases with prior approval) or must be refused, and what must be declared. Please refer to Section 6.15 of the Conflicts of Interest Policy regarding Sponsored Events.**  |
| Date of Offer  | Date of Receipt (if applicable) | Details of Gift / Hospitality / Sponsorship | Estimated Value(£) | Supplier / Offeror Name and Nature of Business | Details of Previous Offers or Acceptance by this Offeror/ Supplier/Sponsor | Declined or Accepted? | Reason for Accepting or Declining |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |

|  |  |
| --- | --- |
| **REVIEW BY HEAD OF SERVICE** |  |
| **Name and Position of Manager reviewing and signing-off acceptance/rejection of gift or hospitality.** |  |
| **Reason for recommending acceptance/rejection, where applicable (see guidance below).** |  |
| **Signature of Manager**  |  |
| **Date:**  |  |

Fair Processing Statement

The information submitted will be held by the ICB for personnel or other reasons specified on this form and to comply with the organisation’s policies. This information may be held in both manual and electronic form in accordance with the Data Protection Act 1998. Information may be disclosed to third parties in accordance with the Freedom of Information Act 2000 and published in registers that the ICB holds. The Data Protection Officer can be contacted at Jane.marley@nhs.net.

I confirm that the information provided above is complete and correct. I acknowledge that any changes in this declaration must be notified to the ICB as soon as practicable and no later than 28 days after I am aware that changes are required. I am aware that if I do not make full, accurate and timely declarations then I may be committing an offence under the Fraud Act 2006, which may result in civil, criminal, and / or internal disciplinary investigation and action, including prosecution may result

**I** **do / do not (delete as applicable)** object to this information being included on registers that the ICB holds and publishes on its website.

NB: *If you are raising an objection, please give reasons and a decision will be made by the ICB’s Conflict of Interests Guardian whether to redact this information from the publicly available register(s).*

|  |
| --- |
|  |

**Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Please return completed and signed form to ICB Governance Lead.

**GUIDANCE ON ACCEPTING, REFUSING AND DECLARING GIFTS, HOSPITALITY AND SPONSORSHIP**

**Gifts**

A ‘gift’ is defined as any item of cash or goods, or any service, which is provided for personal benefit, free of charge or at less than its commercial value. ICB staff should not ask for any gifts. ICB staff should also not accept any unsolicited offers of gifts or hospitality that may affect, or be seen to affect, their professional judgement. The rules for accepting, refusing, and declaring gifts and hospitality are summarised below.

If the actual value of a gift is unknown, a ‘common sense’ approach should be applied to the valuing of such gifts, by using an estimated amount that a reasonable person would make as to its value. Multiple gifts from the same source over a twelve-month period should be treated in the same way as single gifts over £50 where the cumulative value exceeds £50. For further information, please refer to the ICB’s Policy on Gifts & Hospitality.

**Hospitality**

‘Hospitality’ means offers of meals, refreshments, travel, accommodation. and other expenses in relation to attendance at meetings, conferences, education/training or other events. ICB staff, or others working on behalf of the ICB, should not ask for, or accept, hospitality that may affect, or be seen to affect their professional judgement. Hospitality must only be accepted when there is a legitimate business reason, and it is proportionate to the nature and purpose of the event.

| **Relevant Paragraph within G&H Policy** | **Types of Gifts and Hospitality and thresholds for acceptance/refusal.**  | **Accept or Refuse?**  | **Must I Declare the Offer/Gift/Hospitality?** |
| --- | --- | --- | --- |
| 6.8.2 | Gifts made by suppliers or contractors linked (currently or prospectively) to the ICB’s business. However, see exception below.  | **Refuse** | **Yes** – all such offers must still be declared. |
| 6.8.2 | Low cost branded promotional aids from suppliers or contractors may be accepted and not declared where they are under the value of a common industry standard of £6.  | **Acceptable** | **No** |
| 6.8.3 | Cash or cash equivalents (including vouchers, tokens, offers of remuneration to attend meetings whilst in a capacity working for or representing the ICB) whatever their value and whatever their source; | **Refuse** | **Yes** – all such offers must still be declared. |
| 6.8.3 | Items of low value such as diaries, calendars, stationery and other gifts acquired from meetings, events or conferences and modest gifts such as flowers and small tokens of appreciation from patients, families and members of the public to staff for work well done may be accepted where the notional value is under £50. These gifts do not have to be declared. | **Acceptable** | **No** |
| 6.8.3 | Gifts offered from other sources (i.e. other than suppliers or contractors) and valued at over £50 should be treated with caution and only be accepted on behalf of the ICB (i.e. to the ICB’s charitable funds) not in a personal capacity and must be declared.  | **Acceptable** (but treat with caution) | **Yes** – all such offers must still be declared. |
| 6.8.3 | Gifts offered from other sources (i.e. other than suppliers or contractors) should be declined if accepting them might give rise to perceptions of bias or favouritism, and a common-sense approach should be adopted as to whether or not this is the case. All such gifts should be declared to a Line Manager, and the Head of Corporate Governance, who will recommend refusal or acceptance.  | **Refuse** if there could be a perception of bias/favouritism. | **Yes** – all such offers must still be declared. |
| 6.9.4 | Modest hospitality, under the value of £25, provided in normal and reasonable circumstances may be acceptable, although it should be on a similar scale to that which the ICB might offer in similar circumstances (e.g. tea, coffee, light refreshments at meetings). A common-sense approach should be adopted as to whether hospitality offered is modest or not.  | **Acceptable** | **Yes** – if offered by suppliers or contractors linked (currently or prospectively) to the ICB’s business**No** – if offered from other sources.  |
| 6.9.4 | Offers of hospitality of a value between £25 and £75.  | **Acceptable** | **Yes** – all such offers must still be declared.  |
| 6.9.4 | Hospitality (including meals, refreshments, travel, accommodation) of a value above £75 unless (in exceptional circumstances) senior prior approval is given (a clear reason should be recorded on the gifts & hospitality register as to why it was permissible to accept). | **Refuse** (unless senior prior approval given in exceptional circumstances) | **Yes – all such offers must still be declared.** |
| 6.15 – 6.17 | **Sponsorship**Line manager and governance advice must be sought before accepting any type of sponsorship as this can be a controversial issue.In the cases of sponsored events, sponsorship should **never** be accepted from organisations whose business would not be seen as being compatible with the ethos of the NHS, e.g. organisations that are associated with:* Matters that are damaging to health or associated with gambling, alcohol, tobacco, weight control or politics.
* The promotion of prescription-only drugs to the general public, or other promotion that contravenes that ABPI Code of Practice to the Pharmaceutical Industry.
* Pornography or other companies involved in the sexual exploitation of adults or children.
* The manufacture of firearms or other weapons
* Legal services which overtly promote compensation and personal injury services and claims management companies acting on their behalf
 | **Discuss with Line Manager and obtain Governance advice regarding acceptance or refusal.**  | **Yes – all sponsorship must be declared.**  |

## Appendix D – Contact Details of Officers referred to within the Policy

Corporate Governance Team contacts – Nicola Adams, Sara O’Connor or Helen Chasney

Audit Committee Chair George Wood

Conflicts of Interest Guardian: George Wood

Executive Chief Finance Officer – Jennifer Kearton

Local Counter Fraud Specialist – Hannah Wenlock, Anti-Crime Specialist (ACS). Email: hannah.wenlock@nhs.net, Telephone: 07919 595930

1. This may be a financial gain, or avoidance of a loss. [↑](#footnote-ref-2)
2. A common sense approach should be applied to the term ‘close association’. Such an association might arise, depending on the circumstances, through relationships with close family members and relatives, close friends and associates, and business partners. [↑](#footnote-ref-3)
3. Hospital Consultants are already required to provide their employer with this information by virtue of Para.3 Sch. 9 of the Terms and Conditions – Consultants (England) 2003: [https://www.bma.org.uk/-/media/files/pdfs/practical advice at work/contracts/consultanttermsandconditions.pdf](https://www.bma.org.uk/-/media/files/pdfs/practical%20advice%20at%20work/contracts/consultanttermsandconditions.pdf) [↑](#footnote-ref-4)
4. These provisions already apply to Hospital Consultants by virtue of Paras.5 and 20, Sch. 9 of the

Terms and Conditions – Consultants (England) 2003: [https://www.bma.org.uk/-/media/files/pdfs/practical advice at work/contracts/consultanttermsandconditions.pdf](https://www.bma.org.uk/-/media/files/pdfs/practical%20advice%20at%20work/contracts/consultanttermsandconditions.pdf)) [↑](#footnote-ref-5)