



**Bath and North East Somerset,  
Swindon and Wiltshire**  
Integrated Care Board

# **BSW ICB STANDARDS OF BUSINESS CONDUCT POLICY**

<b>Title:</b>	<b>DRAFT BSW ICB Standards of Business Conduct Policy</b>		
<b>Version:</b>	<b>V0.3</b>	<b>Recommended Review Date:</b>	<b>April 2023 or sooner if / when statutory guidance is released</b>
<b>Approval Date:</b>	<b>July 2022</b>	<b>Approving Committee:</b>	<b>ICB Board</b>
<b>Document Manager:</b>	<b>Deputy Director of Corporate Affairs</b>	<b>Document Sponsor:</b>	
<b>Purpose:</b>	<p>This policy details the expectations regarding standards of business conduct for the Integrated Care Board (ICB), including</p> <ul style="list-style-type: none"> <li>- the management of conflicts of interest, gifts and hospitality, and sponsorship.</li> <li>- outside / secondary employment.</li> <li>- speaking on behalf of the organisation.</li> </ul> <p>This policy supports the ICB constitution.</p>		
<b>Key information:</b>	<p>This policy reflects and supports the seven principles of public life set out by the Nolan Committee.</p> <p>"Bribery" is the practice of offering something in exchange for benefits. The ICB has a strict zero tolerance policy towards bribery and corruption. The Fraud Act 2006 created a criminal offence of fraud. No individual must use their position to gain advantage. For detailed information refer to the Anti-Fraud, Bribery and Corruption Policy.</p> <p>It is ICB policy that no individual party to personal, sensitive or confidential material during their work for or with the ICB will disclose this information or further process it outside the scope of their employment. Refer to the Confidentiality &amp; Safe Haven Policy for further information.</p> <p>A conflict of interest is a set of conditions/circumstances in which an individual's ability to exercise objective judgement or act objectively in a role is, could be, or is seen to be impaired or otherwise influenced by their involvement in another role or relationship. All ICB colleagues, including consultants, students, trainees, agency, seconded colleagues, and members of the ICB Board and of committees and sub-committees incl. those who are not ICB employees will be asked on an annual basis to declare any actual and potential conflicts of interests.</p> <p>The Chair of a meeting should consider ahead of each meeting if conflicts are likely to arise, ascertain in the meeting whether members have interests to declare, and how interests should be managed, documenting the management action in the minutes.</p> <p>Failure to disclose an interest may render the individual liable to disciplinary action which could ultimately result in termination of employment or office.</p> <p>The ICB will procure services in a manner that is open, transparent, non-discriminatory and fair to all potential providers, and compliant with</p>		

	<p>relevant law. The involvement of the SCW CSU will provide additional assurance.</p> <p>No individual acting on behalf / for the ICB should ask for or accept gifts, hospitality or sponsorship from any individual or organisation that might be construed as being able to influence any decision or cast doubt on ICB integrity.</p> <p>Individuals must obtain prior permission to engage in secondary employment.</p> <p>It is the duty of every ICB colleague, including consultants, students, trainees, agency, seconded colleagues, and members of the ICB Board and of committees and sub-committees incl. those who are not ICB employees to speak up about genuine concerns in relation to the declaration of conflicts of interest. Incidents will be investigated and may be reported to LCFS, NHS England and details given on the ICB website.</p> <p>Advice may be sought from the Deputy Director of Corporate Affairs or the Conflict of Interests Guardian.</p>
<p><b>Specific colleagues / teams:</b></p>	<p>This policy applies to ICB colleagues, including consultants, students, trainees, agency staff, seconded colleagues, bank staff, and members of the ICB Board and of committees and sub-committees incl. those who are not ICB employees and those contracted to work on behalf of the ICB.</p>
<p><b>Tables/ Flowcharts:</b></p>	<p>When to make a declaration of interest:</p> <ul style="list-style-type: none"> <li>• On application for a post</li> <li>• On appointment</li> <li>• On changing role or responsibility</li> <li>• As an annual refresher</li> <li>• Within 28 days of an interest arising (or an interest ceasing)</li> <li>• At meetings where your interest may have some bearing on an agenda item</li> </ul> <p>Gifts, Hospitality and Sponsorship Quick Guide:</p> <p><b>GIFTS</b></p> <ul style="list-style-type: none"> <li>• DECLINE gifts of any nature from providers/suppliers (Current or potential), and DECLARE the offer</li> <li>• Accept trivial promotional gifts (calendars, pens) with a value under £6</li> <li>• Accept gifts from the public up to value of £50 (flowers, biscuits)</li> <li>• DECLINE gifts from the public or multiple gifts in a year that value over £50 DECLARE</li> <li>• DECLINE any gifts of money or money equivalents DECLARE</li> </ul> <p>Declare any offers of gifts within 28 days of offer, whether they are accepted or not</p>

**HOSPITALITY**

- Accept up to value of £25 – similar scale to what ICB would offer
- Accept up to value of £75 but requires prior authorisation DECLARE
- DECLINE if value over £75 DECLARE

Declare within 28 days of offer

**SPONSORSHIP**

- sponsorship must not compromise commissioning or purchasing decisions
- it must be clear that sponsorship does not imply endorsement of any product or company, and there should be no promotion of products apart from that agreed in writing in advance
- no information should be supplied to the sponsor from which they could gain a commercial advantage, or which is not normally in the public domain
- where events are sponsored by external sources, that fact must be disclosed in the papers relating to the meeting and in any published proceedings

Declare ALL offers of sponsorship within 28 days and seek authorisation

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# BSW STANDARDS OF BUSINESS CONDUCT POLICY

## 1.0 INTRODUCTION AND PURPOSE

This policy details the expectations regarding standards of business conduct for the Bath and Northeast Somerset, Swindon and Wiltshire (BSW) Integrated Care Board (hereafter referred to as the ICB) including the management of conflicts of interest.

The National Health Service Act 2006 (as amended by the Health and Social Care Act 2012, and the Health and Care Act 2022) (“the Act”) established provisions for all Integrated Care Boards (ICBs) to manage actual and potential Conflicts of Interests to ensure that they do not affect or appear to affect the integrity of the ICB’s decision-making processes and maintain registers of those interests. Section 14O of the Act sets out the minimum requirements of what ICBs must do in terms of managing conflicts of interest. These requirements are supplemented by procurement-specific requirements in the NHS (Procurement, Patient Choice and Competition) (No 2) regulations 2013. NHS England published “Managing Conflicts of Interest: Revised Statutory Guidance for CCGs” in June 2017

The ICB Governing Body determines to safeguard clinically lead commissioning, whilst ensuring objective investment decisions. The ICB recognises that a perception of wrongdoing, impaired judgement or undue influence alone can be detrimental. The ICB will inspire confidence and trust in the NHS managing any potential conflicts of interest and enabling commissioners to demonstrate that they are acting fairly and transparently and in the best interests of their patients and local populations.

This policy reflects and supports the seven principles of public life set out by the Nolan Committee and the ICB expects all members of its Board, committees and sub-committees and those who take decisions where they are acting on behalf of the public or spending public money to adhere to these principles, which are:

**Selflessness** – Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.

**Integrity** – Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

**Objectivity** – In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**Accountability** – Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**Openness** – Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**Honesty** – Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public

interest.

**Leadership** – Holders of public office should promote and support these principles by leadership and example.

This policy supports a culture of openness and transparency in business transactions. All individuals are required to:

- ensure that the interests of patients remain paramount at all times.
- be impartial and honest in the conduct of their official business.
- use public funds entrusted to them to the best advantage of the service, always ensuring value for money.
- ensure that they do not abuse their official position for personal gain or to the benefit of their family or friends.
- ensure that they do not seek to advantage or further private or other interests in the course of their official duties.

The requirements of the Constitution, Standing Orders, Scheme of Reservation and Delegation, and Standing Financial Instructions will prevail over requirements of this policy where conflicting advice is given. This policy should be read in conjunction with the Anti-Fraud, Bribery and Corruption Policy, and the Freedom to Speak Up Policy.

## **2.0 SCOPE AND DEFINITIONS**

### **2.1 Scope**

This policy applies to:

- ICB colleagues, including consultants, contracted clinical experts and pathway leads, students, trainees, agency staff, seconded colleagues, bank staff
- Members and their deputies of the ICB Board and of committees and sub-committees incl. those who are not ICB employees Members of the BSW ICB Board, committees, sub-committees and sub-groups including co-opted members, appointed deputies and members from other organisations.
- Contractors of the ICB.
- Third parties acting on behalf of the ICB, (including commissioning support, shared services, and individuals acting as senior responsible officers (SROs) for ICB programmes of work and work streams.

These are collectively referred to as ‘individuals’ hereafter.

### **2.2 Definitions**

**Benefit:** Making a gain or avoiding a loss, be that financial or non-financial.

**Bribery:** Offering, promising or giving/requesting, agreeing to receive or accepting a payment or a benefit-in-kind to influence others to use their position in an improper way to gain an advantage or as a reward for having



done so.

Conflict of interest:	A set of circumstances by which a reasonable person would consider that an individual's ability to exercise 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. <sup>1</sup>
Decision making individuals:	<p>Members of the ICB, of the ICB Board, of any ICB committees and sub-committees, of advisory groups, of programme boards.</p> <p>Staff who have the power to enter into contracts on behalf of their organisation or who are involved in decision making concerning the commissioning of services, purchasing of goods, medicines, medical devices or equipment, and formulary decisions. This normally includes ICB Executive directors; ICB staff on Agenda for Change band 8d and above; ICB budget holders; Senior Responsible Officers (SROs) in charge of programme boards or work streams</p>
Family member:	A spouse, civil partner, or partner living in the same residence; siblings; parents; grandparents; children; grandchildren; adults, who may or may not be living in the same residence, for whom the individual is legally responsible.
Fraud:	A dishonest act with a view to attempting to make a gain or causing a loss for themselves or another.
Gifts:	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.
Hospitality:	Provision of services such as meals, refreshments, travel, accommodation, visits, entertainment, courses, lectures etc.
Loyalty interest:	The existence of interests which an individual has to two or more organisations or bodies or individuals which might give rise to a conflict of interest with regard to their primary duty to the NHS.
Material interest:	An interest which a reasonable person would consider when making a decision regarding the use of taxpayers' money because the interest has relevance to that decision.

Outside employment:	Employment and other engagements with an organisation other than the ICB, outside formal employment arrangements, including directorships, non-executive roles, self-employment, consultancy work, charitable trustee roles, political roles and roles within not-for-profit organisations, paid advisory positions and paid honorariums which relate to organisations likely to do business with the NHS.
Prejudicial interest:	A personal interest of such significance that it is likely to prejudice judgement.
Shareholdings:	Shareholdings in private or not-for-profit companies (including interests in partnerships and limited liability partnerships), publicly listed companies (which the individual is aware or should be aware that the employing organisation contracts or is considering contracting with). There is no need to declare shares or securities held in collective investment or pension funds or units of authorised unit trusts.
Sponsorship:	Full or partial funding and/or supply of materials for an event run by another organisation.

### 3.0 PROCESS / REQUIREMENTS

All individuals in scope of this policy should observe the principles of good conduct in the way they do business. Individuals should always:

- Adhere to the [seven key principles of the NHS Constitution](#)
- Comply with the requirements of the ICB Constitution and ICB policies regarding business conduct<sup>1</sup> and be aware of the responsibilities outlined within.
- Act in good faith and in the interests of the ICB and follow the ‘Seven Principles of Public Life, set out by the Committee on Standards in Public Life’ (the [Nolan Principles](#)) 1995
- Adhere to [Good Governance Standards for Public Services](#) (2004), Office for Public Management (OPM) and Chartered Institute of Public Finance and Accountancy (CIPFA)
- Adhere to [Standards](#) for members of NHS boards in England (2013)
- Act with regard to the [UK Corporate Governance Code](#)
- Adhere to the Equality Act 2010

### 3.1 Prevention of corruption

#### 3.1.1 Bribery Act 2010

The Bribery Act 2010 makes it easier to tackle bribery offences proactively, creating specific

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<sup>1</sup> Policies that govern how the ICB goes about its business include: Anti-corruption, -bribery and -fraud policy; Procurement policy; Public involvement and engagement policy; Freedom to Speak Up policy

criminal offences which carry custodial sentences of up to 10 years and unlimited fines. The Act introduced a corporate offence which means that most organisations across the public, private and charitable sectors will be exposed to criminal liability for failing to prevent bribery.

The ICB has a strict zero tolerance policy towards bribery and corruption and will ensure all colleagues are aware of the Act and its implications.

In its simplest terms, "bribery" is the practice of offering something in exchange for benefits. Whilst money is a classic form of bribe, bribes can also be more intangible, and they might include things like the offer of property, valuable objects, or a promise to perform a particular service in the future. In order to be considered a bribe, there must be an offer and acceptance with the understanding that the individual who accepts the bribe will be doing something in return. This differentiates 'bribes' from 'gifts' offered in genuine good will, and distinguishes 'bribery' from 'tipping', a practice in which gifts are offered in return for good service. Please refer to section 3.4.1 for the recording of gifts.

Under the Bribery Act 2010, there are four offences:

- Bribing, or offering to bribe, another person(s)
- Requesting, agreeing to receive or accepting a bribe
- Bribing, or offering to bribe, a foreign public official
- Failing to prevent bribery

Where an individual believes there is the opportunity for bribery, whether because of poor procedures or lack of oversight, this should be reported to the Local Counter Fraud Specialist LCFS ( Kim Hampson, Local Counter Fraud Specialist, 07881 840869 [kim.hampson@nhs.net](mailto:kim.hampson@nhs.net)) or the ICB Chief Finance Officer, or the Fraud and Corruption Reporting Line (0800 028 4060) or [www.reportnhsfraud.nhs.uk](http://www.reportnhsfraud.nhs.uk). Additionally, it can be raised as a concern in accordance with the Freedom to Speak Up Policy available on ConsultOD.

Please refer to the Anti-Fraud, Bribery and Corruption Policy for more detailed information.

### **3.1.2 Counter fraud measures**

The Fraud Act 2006, created a criminal offence of fraud and defines three ways of committing it:

- Fraud by false representation.
- Fraud by failing to disclose information; and
- Fraud by abuse of position.

No individual must use their position to gain advantage. The ICB will encourage individuals with concerns or reasonably held suspicions about potentially fraudulent activity or practice, to report these. Individuals should inform the nominated Local Counter Fraud Specialist (LCFS) and ICB Chief Finance Officer immediately. Should the ICB Chief Finance Officer be implicated, the individual may instead report to the Lay Member for Audit and Governance / Conflict of Interest Guardian, who will liaise with the LCFS on the appropriate action.

Individuals can also call the NHS Fraud and Corruption Reporting line on free phone 0800 028 40 60 or report via the website at [www.reportnhsfraud.nhs.uk](http://www.reportnhsfraud.nhs.uk). This provides an easily accessible and confidential route for the reporting of genuine suspicions of fraud within or affecting the NHS. All calls are dealt with by experienced trained staff and any caller who wishes to remain anonymous may do so.

Anonymous letters, telephone calls etc. are occasionally received from individuals who wish to raise matters of concern other than through official channels. Whilst the suspicions may be erroneous or unsubstantiated, they may also reflect a genuine cause for concern and will always be taken seriously. The LCFS will make sufficient enquiries to establish whether or not there is any foundation to the suspicion that has been raised.

Individuals **should not** ignore their suspicions, investigate themselves or tell colleagues or others about their suspicions. Please refer to the Anti-Fraud, Bribery and Corruption Policy for further information.

The ICB recognises that gifts, hospitality and sponsorship may be offered as part of legitimate business relationships; please refer to section 3.4 of this policy.

### **3.1.3 Confidentiality**

During their work with or for the ICB, many individuals will handle or be exposed to information which is deemed personal, sensitive or confidential (including commercially confidential). Further information regarding confidentiality is available in the NHS Code of Confidentiality.

It is ICB policy that no individual party to personal, sensitive or confidential material during their work for or with the ICB will disclose this information or further process it outside the scope of their employment or the specific limitations imposed by the NHS Code of Confidentiality and/or the committee/manager providing the information.

Confidentiality should only be breached in exceptional circumstances, with appropriate justification, and be fully documented.

The following principles must be adhered to:

- Information must be effectively protected against improper disclosure when received, stored, processed, transmitted and disposed of.
- Information deemed to be confidential should only be accessed on a 'need to know' basis as supported by the Caldicott Principles.
- Every effort should be made to inform individuals how and why their information is held, how it will be used, who it may be shared with and why and how and when it will be disposed of. This includes the publication of a Fair Processing Notice.
- Informed consent must be obtained before disclosure of personal information and if an individual withholds consent, or if consent cannot be obtained, disclosure may only be made in specific circumstances described in the Information Governance legislation.
- Information identified as sensitive (commercially sensitive or relevant to on-going discussions and developments) must not be disclosed or otherwise discussed where disclosure may inadvertently occur.
- All ICB employees must adhere to the confidentiality of private and confidential material, whether that be patient or colleague information or of a 'commercial in confidence' nature. All 'embargo' rules and regulations must be adhered to.

Failure to adhere to confidentiality requirements may result in disciplinary action.

Those individuals party to confidential information will not be at liberty to disclose said information following the termination of their contract, employment or relationship with the ICB. All individuals should guard against providing information on the operations of the ICB which might provide a commercial advantage to any organisation (private or NHS) in a position to

supply goods or services to the ICB. For particularly sensitive procurement/contracts individuals may be asked to sign a non-disclosure agreement. The requirements of the Freedom of Information Act 2000 must be considered when attempting to legitimately restrict the release of information. Please refer to the Freedom of Information Policy for more detailed information.

## 3.2 Conflicts of interest

### 3.2.1 Overview

The guidance document [Managing Conflicts of Interest in the NHS: Guidance for staff and organisations 2017](#) details what falls under 'conflict of interest' and gives examples as well as guidance to manage conflicts of interest. Together with the Conflicts of Interest training that the ICB asks all individuals to undertake, it provides comprehensive support to identify, declare and manage conflicts of interest

A conflict of interest is a set of conditions/circumstances in which an individual's ability to objectively exercise judgement or objectively act in a role is, could be, or is seen to be impaired or otherwise influenced by their involvement in another role or relationship and must be managed to maintain probity and public trust.

A conflict of interest can occur when there is the possibility that an individual's judgement regarding their primary duty to NHS patients may be influenced by a secondary interest they hold. Such a conflict may be:

- Potential – there is the possibility of a material conflict between one or more interests in the future
- Actual – there is a material conflict between one or more interests
- Perceived – an observer could reasonably suspect there to be a conflict of interest regardless of whether there is one or not.

Conflicts can occur with interests held by the individual or their close family members, close friends and associates and business partners (dependant on the circumstances and the nature of such relationships).

The ICB requires clear and robust mechanisms for effective management of actual, potential and perceived conflicts of interest. With good management, clear governance and appropriate assurance mechanisms, confidence in the probity of commissioning decisions and the integrity of the clinicians will be promoted.

To support this, the ICB will:

- Do business appropriately by ensuring that the rationale for all decision making is clear and transparent and will withstand scrutiny.
- Identify and minimise the risk of conflicts of Interest at the earliest possible opportunity.
- Set rules that are clear and robust but not overly prescriptive or restrictive so as to ensure that decision making is transparent and fair whilst not being overly constrained, complex or cumbersome.
- Aid transparency by clearly documenting the approach and decisions taken at every

stage of the commissioning cycle so that a clear audit trail is evident.

- Create an environment and culture where individuals feel supported and confident in declaring relevant information and raising any concerns.
- Acknowledge that a perception of wrongdoing, impaired judgement or undue influence can be as detrimental as any of them occurring.
- Assume the existence of a conflict of interest, if in doubt, and manage it appropriately rather than ignore it.
- Accept that for a conflict of interest to exist, financial gain is not necessary.

Conflicts of interest are inevitable, but in most cases, it is possible to handle them with integrity and probity by ensuring they are identified, declared and managed in an open and transparent way.

### 3.2.2 Defining a conflict of interest

There can appear to be a conflict of interest when an individual's ability to exercise judgement in one role is impaired or perceived to be impaired by their obligations or competing interests.

The ICB needs to be aware of all situations where an individual has interests outside their role, where that interest has potential to result in a conflict of interest between the individual's interests and their ICB duties.

Where an individual has an interest or becomes aware of an interest which could lead to a conflict of interest where the ICB is considering an action or decision, this must be declared as soon as possible, and within 28 days of the conflict arising. Declarations should be made to the Deputy Director of Corporate Affairs or their nominee, using the form provided in Appendix 1.

A conflict of interest could include:

- a) **Financial interests:** where an individual may get direct financial benefits from the consequences of a decision their organisation makes. This could include:
  - A director (including a non-executive director) or senior employee in another organisation which is doing or is likely to do business with a health or social care organisation, including involvement in a new care model.
  - A shareholder, partner or owner of an organisation which is doing, or is likely to do business with a health or social care organisation.
  - Someone in outside employment.
  - Someone in receipt of secondary income.
  - Someone in receipt of a grant.
  - Someone in receipt of other payments (e.g., honoraria, day allowances, travel or subsistence).
  - Someone in receipt of sponsored research funding.
- b) **Non-financial professional interests:** where an individual may obtain a non-financial professional benefit from the consequences of a decision their organisation makes, (for example, increasing their professional reputation or status or promoting

their professional career). This could include situations where the individual is:

- An advocate for a particular group of patients.
  - A clinician with a special interest.
  - An active member of a particular specialist body.
  - An advisor for the Care Quality Commission (CQC) or National Institute of Health and Care Excellence (NICE).
  - A research role.
- c) **Non-financial personal interests:** where an individual may benefit personally from a decision their organisation makes in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit. This could include where the individual is:
- A member of a voluntary sector board or has a position of authority within a voluntary sector organisation.
  - A member of a lobbying or pressure group with an interest in health and care.
- d) **Indirect interests:** where an individual has a close association with another individual who has a financial interest, a non-financial professional interest or a non-financial personal interest who would stand to benefit from a decision they are involved in making. This would include:
- Close family members and relatives.
  - Close friends and associates.
  - Business partners (including fellow GP partners).

Whether an interest held by another person gives rise to a conflict of interests will depend on the nature of the relationship and the role of the individual within the ICB. If in doubt, the individual should assume that a potential conflict of interest exists and make a declaration. To provide additional illustration of what conflicts of interest are, case studies can be found [here](#), and additional advice can be sought from the ICB Conflicts of Interest Guardian or Deputy Director of Corporate Affairs.

### 3.2.3 Management of conflicts of interest

The ICB will facilitate an environment where all individuals feel able, encouraged and obliged to be open, honest and upfront about actual or potential conflicts. This will lead to effective identification and management of conflicts. In deciding whether any role or relationship or interest would impair or otherwise influence the individual's judgement or actions in their role within the ICB, the ICB will exercise discretion and consider each case separately. Where there is doubt, the existence of a conflict of interest will be assumed and managed accordingly.

The ICB will proactively manage potential conflicts of interest by:

- a) Maintaining and reviewing Registers of Declarations of Interest.
- b) Managing membership of formal committees and decision-making bodies supporting the ICB.
- c) Implementing clear meeting and decision-making procedures.
- d) Working within the Constitution, Standing Orders, Standing Financial Instructions and Scheme of Reservations and Delegations.
- e) At meetings, being aware of the law and good practice.

While conflicts of interest cannot always be avoided, we will proactively identify and manage conflicts of interest by:

- a) Having a well governed framework for decision-making – needs assessments, consultation mechanisms, commissioning strategies and procurement procedures in place from the outset.
- b) Being proactive not reactive – minimise the risk of potential conflicts of interest when electing or selecting individuals.
- c) Being balanced and proportionate – decision-making is transparent and fair but not overly cumbersome or complex.
- d) Being open – early engagement on plans with relevant stakeholders and, in some circumstances, providers.
- e) Being responsive and using good practice – commissioning intentions are informed by recognised local health needs, and decision-making evidence good practice.
- f) Transparency – clearly documenting each stage of the decision-making process.
- g) Securing independent expert advice – from appropriate health, social care, and other relevant professionals.
- h) Engaging with providers – early engagement over potential changes to services.
- i) Creating clear and transparent commissioning specifications – setting out the depth of engagement and basis on which contract will be awarded.
- j) Following proper procurement processes and legal arrangements.
- k) Ensuring sound record-keeping - including registers of interests.
- l) Having a clear, recognised and easily enacted system for dispute resolution.

### **3.2.4 Declarations of interests**

All applicants for a senior role in the ICB (cf. definitions above, ‘decision-makers’) its Board, committees and sub-committees will be required to declare any relevant interests. The ICB will request this declaration as part of the application process, i.e., candidates should ensure to complete relevant ‘other supporting information’ sections of application forms and / or pro-actively declare any interests.

On appointing Board members, committee and sub-committee members or senior colleagues, the ICB will need to consider whether conflicts of interest should exclude individuals from being appointed to the relevant role. This will need to be considered on a case-by-case basis assessing the materiality of the interest, i.e., whether the individual (or any person with whom they have a close association) could benefit (whether financially or otherwise) from any decision the ICB might make. This will be particularly relevant for decision-making roles such as Board members, committee and sub-committee members, and Executive and senior management roles.

The ICB will also need to determine the extent of the interest and the nature of an individual’s proposed role within the ICB. If the interest is related to an area of business significant enough that the individual would be unable to operate effectively and make a full and proper contribution in the proposed role, then that individual should not be appointed to the role.

Following appointment, and regardless of whether an individual declared interests as part of the recruitment / selection / appointment process, all individuals in scope of this policy must make a formal declaration of interests within 28 days of assuming a role with / for the ICB. The process for doing this is outlined below. Where there are no interests to declare a nil return is required (i.e., a declaration in writing that the individual has no interests). If interests arise at a later stage, or if an individual change’s role in the ICB, a declaration of interests is required. The declaration should be made as soon as reasonably practicable and by law within 28 days after



the interest or change in role arises.

All individuals in scope of this policy will be asked on an annual basis to declare conflicts of interests.

The ICB Corporate Office is available to advise and guide colleagues with regards to declarations of interest.

The ICB Board must ensure that the ICB's Register of Interests is regularly updated and appropriately maintained, so that it remains a reliable source for the management of conflicts of interest.

The agenda for all ICB Board, committee, sub-committee, advisory group, programme board meetings will contain a standing item, at the commencement of each meeting, requiring members to declare any interests relating specifically to the agenda items being considered including those interests already formally declared and recorded in the Register of Interests. Minutes of the meeting must detail all declarations made and any new declarations must be recorded in the Register of Interests (within 28 days). Failure to disclose an interest may render the individual liable to disciplinary action which could ultimately result in termination of employment.

As soon as interests arise or change, an updated declaration should be made (by law within 28 days). This is the responsibility of the individual. The following reiterates the points at which a declaration should be made.

**When to make a declaration of interests:**

- On application for a post
- On appointment
- On changing role or responsibility
- As an annual refresher
- Within 28 days of an interest arising (or an interest ceasing)
- At meetings where your interest may have some bearing on an agenda item

The Declaration of Interests form is available at Appendix 1.

### **3.2.5 Register of Declarations of Interests**

The ICB's Register of Declarations of Interests is held by the ICB Corporate Office. The Register details interests declared by individuals that may be actual or potential conflicts of interests. All declared interests will be transferred promptly to the Register of Interests.

It is the responsibility of the Deputy Director of Corporate Affairs to ensure that the ICB's register is up to date.

Interests remain on the register for six months after the interest has expired, or the individual has left. A historic record of interests is retained for a minimum of six years from the date on which it expired or the individual left. The Register of Interests will give the following information:

- Name of individual.

- Position within, or relationship with, the ICB.
- Type of interest.
- Description of interest.
- Relevant dates relating to the interest (i.e., from when to when the interest existed).
- Action taken to mitigate risk.

The Register of Interests for ICB Board members, committee members and sub-committee members will be published on the ICB website at least annually; the full register of interest will not be published but is available to the public on request. The ICB Corporate Office will inform ICB Board members, committee members and sub-committee members by email in advance that the Register will be published.

In exceptional circumstances, where the public disclosure of information could give rise to a real risk of harm, and where authorised by the Conflicts of Interest Guardian, an individual's name may be redacted from the published register. The individual must believe that substantial damage or distress may be caused to themselves or somebody else by the public disclosure, and a request to withhold from publication, in writing, can be made to the Conflicts of Interest Guardian. Decisions not to publish information are made by the Conflicts of Interest Guardian, who should seek appropriate legal advice where required, and who will inform the ICB's Board of any such decision. The ICB should retain a confidential un-redacted version of the register.

The register will be reviewed at least three times a year by the ICB Board in public and will be published within the Annual Report and Annual Governance Statement (by a link to the ICB website where the register is published). Individuals will be able to request copies of information held about them by making a data subject access request under the General Data Protection Regulations 2016.

For the ICB Board, committees and sub-committees, the Deputy Director of Corporate Affairs or their nominee, discussing with the Conflicts of Interest Guardian where appropriate, will consider every interest declared on appointment, on refreshed declarations of interest, and any declared new interests.

This may identify conflicts of interest that are profound and acute. The Deputy Director of Corporate Affairs will bring this to the attention of the Conflicts of Interest Guardian, and it may be decided that the interest is not manageable. If this is the case, the ICB Chair must be informed as in order to manage such a conflict of interest, an individual may be required to step down from a particular role or move to another role within the ICB. Section 21 of the standard employment contract supports action required in this regard.

### **3.2.6 Managing ICB Board, committee and sub-committee memberships**

The Conflicts of Interest Guardian will, with the Deputy Director of Corporate Affairs, ensure that for every interest declared on appointment or declared as a new interest by ICB Board, committee or sub-committee members, arrangements are in place to manage the potential conflicts of interest, to ensure the integrity of the decision-making process, and to protect individuals and the resources and reputation of the NHS.

Where an individual declares a significant interest that would prejudice their objective decision-making, the individual should not be a voting member of a committee, in particular of committees, sub-committees or advisory groups that make or inform commissioning and contracting decisions.

For previously recorded declarations of interest, steps will be taken to ensure that Committee membership supports decision making as far as is reasonably practicable.

### **3.2.7 Management of meetings and decision making**

The Chair of a meeting should consider ahead of each meeting what conflicts are likely to arise and how they should be managed. Through the meeting minutes, the Chair should document management action which could include:

- Requiring the member not to attend the meeting.
- Ensuring the member does not receive meeting papers for the relevant item.
- Requiring the member to not attend all or part of the discussion and decision on the relevant item; In private meetings, this could include requiring the individual to leave the room and in public meetings to either leave the room or join the audience in the public seating area.
- Allowing the individual to participate in some or all of the discussion when the relevant matter(s) are being discussed but requiring them to leave the meeting when any decisions are being taken in relation to those matter(s). This may be appropriate where, for example, the conflicted individual has important relevant knowledge and experience of the matter(s) under discussion, which it would be of benefit for the meeting to hear, but this will depend on the nature and extent of the interest which has been declared.
- Noting the nature and extent of the interest but judging it appropriate to allow the member to remain and participate in both the discussion and in any decision.
- Removing the member from the group or process altogether.

The agenda for all decision-making groups will contain a standing item, at the commencement of each meeting, requiring members to declare any interests relating specifically to the agenda items being considered including those interests already formally declared and recorded in the Register of Interests.

The Chair of the meeting will decide whether there is a conflict of interest and ensure that the appropriate course of action is taken. The Chair may consult with the Conflicts of Interest Guardian.

Failure to disclose an interest may render the individual liable to disciplinary action which could ultimately result in termination of employment or office. Where others at the meeting are aware of facts or circumstances which may give rise to a conflict of interests which has not been declared, this must be brought to the attention of the Chair to take the appropriate course of action.

Where the Chair of a meeting has a personal interest, previously declared or otherwise, in relation to the scheduled or likely business of the meeting, they must make a declaration and the Vice Chair (or other nominated individual if the Vice Chair is also conflicted) will act as Chair for the relevant part of the meeting.

Should the situation arise that a significant number of individuals (more than 50%) are deemed to be prevented from taking part in a meeting because of conflicts of interests, the Chair of the Board / committee / sub-committee will determine whether the discussion can proceed. In making this decision, the Chair will consider whether the meeting is quorate, in accordance with the number and balance of membership set out in the ICB Standing Orders and approved committee Terms of Reference.

Where a quorum cannot be convened from the membership of the meeting, owing to the arrangements for managing conflicts of interest or potential conflicts of interest, the Chair of the meeting shall consult with the Deputy Director of Corporate Affairs on the action to be taken. This may include:

- requiring another of the ICB's committees which can be quorate to progress the item of business, or if this is not possible a recommendation on decision can still be taken by remaining members and referred to the ICB's Audit Committee for verifying proposed recommendations.
- inviting on a temporary basis one or more of the following to make up the quorum (where the Constitution permits these to be members of the committee / sub-committee in question) so that the ICB can progress the item of business:
  - a member of a Health and Wellbeing Board.
  - a member of another ICB's Board or Committee.

Advisory committees bring together experts from a specific field of practice and often draw from a relatively small pool of individuals. It is likely that these advisors will have interests relevant to the subject matter. The chair should not normally have any specific direct or indirect financial or non-financial interests. Advisors must declare their interests on being invited to participate and, where there are material interests, should be allowed to participate but must not participate in decision making.

Minutes of meetings must detail all declarations made along with the course of action taken and any new declarations must be recorded in the Register of Interests. The minute will include:

- who has the interest?
- the nature and magnitude of the interest and why it gives rise to a conflict.
- the item(s) on the agenda to which it relates.
- how the conflict was agreed to be managed.
- evidence that the conflict was managed as intended (recording the time/point at which individuals left the room and returned).

### **3.3 Transparency in procurement**

#### **3.3.1 Procurement Policy**

The ICB recognises the importance in making decisions about the services it procures in a way that does not call into question the motives behind the procurement decision. The ICB will procure services in a manner that is open, transparent, non-discriminatory and fair to all potential providers, and compliant with relevant law.

The ICB's Procurement Policy will ensure the ICB's compliance with relevant procurement legislation, regulation and guidance.

With regards to conflicts of interest in procurement, Regulation 6 [National Health Service (Procurement, Patient Choice and Competition) (No.2) Regulations 2013] states "a conflict will arise where an individual's ability to exercise judgement or act in their role in the commissioning of services is impaired or influenced by their interests in the provision of those services".

Regulation 6 requires that the ICB does not award a contract for the provision of NHS

healthcare services where conflicts, or potential conflicts, affect or appear to affect the integrity of the award of that contract. The ICB is required to publish a record of how it managed any such conflict in relation to NHS commissioning contracts entered into.

The ICB will also identify as soon as possible where colleagues might transfer to a provider (or their role may materially change) following the award of a contract. This will be treated as a relevant interest to be managed.

Depending on circumstances, there may be ways of managing an actual or potential conflict of interest in order to prevent that conflict affecting or appearing to affect the integrity of the award of the contract, including the exclusion of certain individuals from discussion or removal of voting rights.

The ICB is supported through the procurement process by SCW CSU and will utilise the Declaration of Interest forms, process and recording arrangements of this support organisation as detailed in the Procurement Policy.

### **3.3.2 Primary Care Commissioning and Enhanced Services**

In the context of primary care commissioning, particularly with regard to delegated arrangements, it is likely that there will be potential or actual conflicts of interests. The ICB may also seek to expand the range of enhanced services provided by primary care practices as part of its work to redesign services.

The ICB will be managing general medical service contracts and primary medical service contracts. The ICB may also be commissioning such services from primary care practices. It is therefore vital that there is transparency and safeguards to ensure confidence that such commissioning decisions are based upon the best interests of patients and are made with no perceived conflicts of interest.

Procurement decisions relating to the commissioning of primary medical services will be made by the Primary Care Commissioning Committee. The committee will have a majority of lay members and executive members, with local Healthwatch, and Health and Wellbeing Board representatives invited. The interests of all primary care commissioning committee members (including any NHS England representatives) must be recorded on the ICB's register of interests.

The Committee will have a non-executive director as chair. The Conflicts of Interest Guardian is not permitted to be the Chair or a member of the committee to remove the possibility of conflict. Decisions of this committee will be made in public. The arrangements for decision making do not preclude GP participation in strategic discussions on primary care issues, subject to the appropriate management of conflicts of interest.

Where the potential provider for services is a GP, procurement may be through competitive tender or an Any Qualified Provider (AQP) approach or on a single tender basis where the GP is the only capable provider or where the service is of minimal financial value. Additional safeguards are in place when commissioning services that could potentially be provided by a GP.

These safeguards are designed to:

- maintain confidence and trust between patients and GPs.
- enable the ICB and member practices to demonstrate that they are acting fairly and transparently and that members of the ICB will always put their duty to patients before any personal financial interest.
- ensure that the ICB operates within the legal framework but is not bound by over-prescriptive rules that risk stifling innovation or slowing down the commissioning of services to improve quality or productivity; and
- build on existing guidance.

Please see the 'Procurement Checklist' form at Appendix 2. This form sets out factors on which the ICB would like to provide assurance, regarding the service planning and procurement process, in a consistent and transparent way. These completed forms will be made publicly available.

### **3.3.3 Contractors and people who provide services to the ICB**

Anyone seeking information in relation to procurement or otherwise engaging with the ICB, in relation to the potential provision of services or facilities to the ICB, will be required to make a declaration of any relevant or potential conflict of interest.

Anyone contracted to provide services or facilities directly to the ICB will be subject to the same provisions of this policy in relation to managing conflicts of interests. This requirement will be set out in the contract for their services.

Bidders should declare any conflicts of interest, to allow commissioners to ensure that they comply with the principles of equal treatment and transparency. When bidders declare an interest, the commissioners must decide how best to deal with it to ensure that no bidder is treated differently to any other.

Bidders' interests will not be recorded on the register of procurement decisions in order to protect bidders' anonymity during the procurement process, however, an internal audit trail of how the conflict or perceived conflict was dealt with will be maintained to enable the ICB to provide this information at a later date if required.

### **3.3.4 Register of Procurement Decisions**

The ICB will publish a Register of Procurement Decisions including the details of the decision, who was involved in the decision making, a summary of any conflicts of interest and how this was managed. The ICB will ensure that details of all contracts, including the value of the contract are included. The Register will be published on the ICB website and updated as soon as is practicable as contracts are agreed and on at least a six-monthly basis. Where the ICB decides to commission services through AQP, the type of services commissioned and the agreed price for each service will be published on the website. The decision to use a single tender action is a procurement decision and must also be recorded. The Register will also be referenced as part of the Annual Report.

### **3.3.5 Contract monitoring**

The individuals involved in contract monitoring should have no direct or indirect financial, professional or personal interest in the provider that could be perceived to prevent them from

carrying out their role in an impartial, fair and transparent manner.

As part of the procurement process and commissioning cycle, contract monitoring meetings need to consider conflicts of interest. The chair of a contract management meeting should invite declarations of interests, record any declared interests in the minutes of the meeting and manage any conflicts appropriately and in line with this policy. This also applies where a contract is held jointly with another organisation such as the Local Authority or with other ICBs under lead commissioner arrangements.

### 3.4 Gifts, Hospitality and Sponsorship

The ICB acknowledges that gifts, hospitality and sponsorship may be offered. The ICB will ensure that individuals do not accept gifts, hospitality or other benefits, which might reasonably be seen to compromise their professional judgement or integrity. The following sections outline considerations for each; please also refer to section 3.1 regarding the prevention of corruption.

Colleagues should not ask for or accept gifts, gratuities or honoraria (such as grants, scholarships) from any individual or organisation that may be capable of being construed as being able to influence any decision or cast doubt on the integrity of such decisions.

Colleagues are reminded that:

- it may be considered to be a breach of the ICB's Disciplinary Policy to solicit gifts;
- acceptance of gifts may also be illegal, under the Bribery Act 2010, and colleagues that are found to have done so may face disciplinary action and prosecution.

Where acceptance of gifts, hospitality or sponsorship requires prior approval, the following applies:

<b>Applicant/Recipient</b>	<b>Approval Required from</b>
Integrated Care Board member (excluding Chair & Accountable Officer)	Chair and NED Audit
ICB Chair, ICB Accountable Officer	NED Audit and one other Integrated Care Board NED or Partner Member
All other staff members	Line manager

#### 3.4.1 Gifts

Colleagues should not accept gifts that may affect, or be seen to affect, their professional judgement.

Gifts from suppliers or contractors:

- Gifts from suppliers or contractors doing business (or likely to do business) with the ICB should be declined, whatever their value.

- Subject to this, low cost branded promotional aids may be accepted where they are under the value of a common industry standard of £6 in total and need not be declared.

Gifts from other sources (e.g., patients, families, service users):

- Gifts of cash and vouchers to individuals should always be declined.
- Colleagues should not ask for any gifts.
- Gifts valued at over £50 should be treated with caution and only be accepted on behalf of an organisation (i.e., to an organisation's charitable funds), not in a personal capacity. These should be declared by staff.
- Modest gifts accepted under a value of £50 do not need to be declared.
- 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).
- Multiple gifts from the same source over a 12-month period should be treated in the same way as single gifts over £50 where the cumulative value exceeds £50.

All gifts of any nature offered to the individuals in scope of this policy by suppliers or contractors linked (currently or prospectively) to the ICB's business must be **declined**, whatever their value, and a record of the offer made on the Register of Gifts, Hospitality and Sponsorship within 28 days.

However, trivial gifts of a promotional nature, e.g., calendars, diaries, pens and other similar articles may be accepted and do not have to be declared on the Register of Gifts, Hospitality and Sponsorship. As a guideline the expectation is that such gifts would be worth a maximum of £6 and in most cases would be worth considerably less.

Team or directorate gifts, such as confectionary, intended to be shared, may be accepted with the approval of an Executive Director where this would not be perceived as a potential conflict. These team gifts must be declared.

Gifts of a small or moderate value up to a maximum value of £50, from members of the public to colleagues for work well done, such as flowers or small tokens of appreciation, where there is no risk that the gift could be suspected of influencing the ICB's actions or the cost of returning the gift would not be warranted may be accepted and do not need to be declared.

Gifts from members of the public over £50 in value must be declined, and multiple gifts during a year which collectively exceed £50 must also be declined. Where this may offend, the gift may be donated to charity or accepted on behalf of the organisation, but not in a personal capacity, and must be declared.

Any personal gift of cash or cash equivalents (e.g., vouchers, tokens, offers of remuneration to attend meetings whilst in a capacity working for or representing the ICB) must always be **declined**, whatever their value and whatever their source, and the offer which has been declined must be declared for inclusion in the ICB Register of Gifts, Hospitality and Sponsorship within 28 clear days of the gift or offer.

It is not appropriate to give gifts to individuals or organisations at public expense.

### 3.4.2 Hospitality

Delivery of services across the NHS relies on working with a wide range of partners (including industry and academia) in different places and, sometimes, outside of 'traditional' working hours. As a result, colleagues will sometimes appropriately receive hospitality. Colleagues receiving hospitality should always be prepared to justify why it has been accepted and be



mindful that even hospitality of a small value may give rise to perceptions of impropriety and might influence behaviour.

Hospitality means offers of meals, refreshments, travel, accommodation, and other expenses in relation to attendance at meetings, conferences, education and training events, etc.

Overarching principles applying in all circumstances:

- Colleagues 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.
- Particular caution should be exercised when hospitality is offered by actual or potential suppliers or contractors – these can be accepted if modest and reasonable, but individuals should always obtain senior approval and declare these.

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) senior approval is given. A clear reason should be recorded on the organisation's register of gifts, hospitality and sponsorship 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).

Travel and accommodation:

- Modest offers to pay some or all of the 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 approval by senior colleagues, 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 gifts, hospitality and sponsorship 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.

Modest hospitality is an accepted courtesy of a business relationship. However, the organisation or individual receiving the hospitality should never put themselves in a position where there could be any suspicion that their business decisions could have been influenced by accepting hospitality from others.

Hospitality may be accepted by all colleagues where it is moderate (not exceeding £25), on a similar scale to what would be offered by the ICB, in keeping with what is normal in public sector business relationships and where, as far as it can reasonably be assessed by the potential receiver, will not be deemed by others (and in particular by members of the general public), to influence a business decision. Hospitality of this nature does not need to be declared.

Particular caution should be exercised when hospitality is offered by actual or potential suppliers

or contractors, where it may be accepted but should be modest and reasonable, approved by a director in advance and declared.

Hospitality which goes beyond this level may be accepted up to an approximated value of £75 but must be declared. Hospitality above £75 approximated value should be declined, and the offer must be declared. In exceptional circumstances, the hospitality can be accepted with the advance approval of a director and the reason recorded on the register.

Modest offers to pay some or all of the travel and accommodation costs related to attendance at events may be accepted and must be declared. Offers above this level or above what the ICB would itself offer can only be accepted in exceptional circumstances, with the prior approval of a director and must be declared. Where a colleague is invited to attend an external event as part of their personal life but where this relationship and any hospitality provided could be seen to present a potential conflict, the individual must update their Declaration of Interests to reflect the relationship and should be encouraged to declare the hospitality.

Hospitality of £25 and above, either declined or accepted, must be declared by individuals on the Register of Gifts, Hospitality and Sponsorship of the ICB within 28 clear days. Individuals from Primary Care may need to also record the gift or hospitality on their own practice register.

### **3.4.3 Sponsorship**

Sponsorship by commercial companies, including the pharmaceutical sector, is a common practice and reduces NHS expenditure. ICB colleagues, governing body and committee members, may be offered commercial sponsorship for courses, conferences, events, post/project funding, meetings and publications in connection with the activities which they carry out for or on behalf of the ICB.

All offers of sponsorship (whether accepted or declined) must be declared and included on the ICB's register of interests. Declarations must be made within 28 days of the sponsorship being agreed.

Notwithstanding the above, acceptance of commercial sponsorship should not in any way compromise commissioning decisions of the ICB or be dependent on the purchase or supply of goods or services.

It should be made clear to the sponsor that their sponsorship of an event or the availability of publicity material about the company or product will not constitute an endorsement by the ICB and that this will be made clear to the public and those attending the event. Sponsors should not have any influence over the content of an event, meeting, seminar, publication or training event.

It is important to note that:

- sponsorship must not compromise commissioning or purchasing decisions.
- it must be clear that sponsorship does not imply endorsement of any product or company, and there should be no promotion of products apart from that agreed in writing in advance.
- where meetings are sponsored by external sources, that fact must be disclosed in the papers relating to the meeting and in any published proceedings.

When sponsorships are offered, the following principles must be adhered to:

- Sponsorship by appropriate external bodies should only be approved if a reasonable person would conclude that the event will result in a clear benefit to the ICB or NHS.
- Sponsors will not have access to patient or individual confidential information.
- no information should be supplied to the sponsor from which they could gain a commercial advantage, or which is not normally in the public domain.
- Sponsors representatives may attend and take part in the event but may not have a dominant influence over the content or main purpose of the event.
- Involvement of a sponsor will always be transparently identified.

A commercial partnership is one where material or support is supplied by a third party in addition to, and capable of being integrated with, services routinely provided in public sector health care. All commercial partnership and joint ventures arrangements must comply with relevant legislation, regulations, good practice and guidance, including for example:

- the NHS Code of Accountability and Code of Conduct.
- Standing Orders.
- Standing Financial Instructions.
- relevant professional codes of practice e.g., NMC, GMC etc.

Additional safeguards will be required for sponsored research and commercial sponsorship agreements for posts where guidance should be sought from the Deputy Director of Corporate Affairs with reference to [Managing conflicts of interest: Revised Statutory guidance for CCGs 2017](#).

When working with the pharmaceutical industry then the ABPI's (Association of British Pharmaceutical Industries) code of conduct should be adhered to.

#### **3.4.4 Hospitality, gifts and sponsorship register**

All relevant offers of hospitality, gifts and sponsorship, whether accepted or refused, must be reported using the form in Appendix 3 within 28 days for recording in the Register. The Register is managed by the Assistant Director of Corporate Affairs. The Register will be presented to the Audit Committee on at least a six-monthly basis. The Register will be published on the ICB website and will be referenced as part of the Annual Report.

## Gifts, Hospitality and Sponsorship Quick Guide

### GIFTS

- DECLINE gifts of any nature from providers/suppliers (current or potential)  
**DECLARE**
- Accept trivial promotional gifts (calendars, pens) with a value under £6
- Accept gifts from the public up to value of £50 (flowers, biscuits)
- DECLINE gifts from the public or multiple gifts in a year that value over £50  
**DECLARE**
- DECLINE any gifts of money or money equivalents

### DECLARE

Declare within 28 days of offer

### HOSPITALITY

- Accept up to value of £25 – similar scale to what ICB would offer
- Accept up to value of £75 but requires prior authorisation **DECLARE**
- DECLINE if value over £75

### DECLARE

Declare within 28 days of offer

### SPONSORSHIP

- sponsorship must not compromise commissioning or purchasing decisions
- it must be clear that sponsorship does not imply endorsement of any product or company, and there should be no promotion of products apart from that agreed in writing in advance
- no information should be supplied to the sponsor from which they could gain a commercial advantage, or which is not normally in the public domain
- where events are sponsored by external sources, that fact must be disclosed in the papers relating to the meeting and in any published proceedings

Declare ALL offers of sponsorship within 28 days and seek authorisation

## 3.5 Outside employment and private practice

All individuals in scope of this policy must inform the ICB if they are employed or engaged in or wish to engage in any employment or consultancy work in addition to their work with the ICB. The purpose of this is to ensure that the ICB is aware of any potential conflicts of interest.

Clinical colleagues must declare their general practice, any private practice (giving the name of the private facility, when they practice and what they practice as part of their declarations of interests). Outside employment and private practice must be declared as a potential conflict of interest.

Individuals must obtain prior permission to engage in secondary employment, as per section 21 of the standard employment contract, and the ICB reserves the right to refuse permission where it believes a conflict will arise which cannot be effectively managed. All existing outside employment should be declared on appointment.

### **3.6 Initiatives**

As a general principle any financial gain resulting from external work where use of the ICB's time or title is involved (e.g., speaking at events/conferences, writing articles) and/or which is connected with ICB business must be passed to the ICB Chief Finance Officer to pay in to the ICB.

Any patent, designs, trademarks or copyright resulting from the work (e.g., research) of an individual in their contract for services/employment with the ICB shall be the intellectual property of the ICB. Individuals with existing relevant patents will be expected to declare these where they might give rise to a conflict of interest with regard to their primary duty to the NHS.

Approval from the appropriate line manager should be sought prior to entering into any obligation to undertake external work connected with the business of the ICB.

Where the undertaking of external work benefits or enhances the ICB reputation or results in financial gain for the ICB, consideration will be given to rewarding colleagues, subject to any relevant guidance for the management of Intellectual Property in the NHS issued by the Department of Health.

### **3.7 Raising concerns and breaches**

There will be situations when interests will not be identified, declared or managed appropriately and effectively. Where this happens innocently or accidentally, e.g., through an oversight, this is referred to as 'poor practice incident'. Where interests are not identified, declared or managed because of the deliberate actions of colleagues or other organisations, including with fraudulent intent, this is referred to as a 'breach'.

#### **3.7.1 Raising concerns**

Effective management of conflicts of interest requires an environment and culture where individuals feel supported and confident in declaring relevant information, including notifying any actual or suspected breaches of the rules.

It is the duty of every individual in scope of this policy to speak up about genuine concerns in relation to the declaration of conflicts of interest. Individuals should not ignore their suspicions or investigate themselves, but rather speak to the Deputy Director of Corporate Affairs and/or the Conflict-of-Interest Guardian and/or apply the Freedom to Speak Up Policy. All such notifications will be recorded and held in the strictest confidence.

Individuals who wish to notify the ICB that they have accidentally or knowingly breached this policy should contact the Deputy Director of Corporate Affairs.

Anyone from a partner organisation wishing to report should ensure that they comply with their own organisation's relevant policies to obtain appropriate protection. Providers, patients and

other third parties can make a complaint under the Procurement Patient Choice and Competition Regulations.

### 3.7.2 Investigating incidents / breaches and reporting

Where individuals have **concerns about the administration and application of the ICB's policy on conflicts of interest management**, they should report these to the Deputy Director of Corporate Affairs. The Deputy Director of Corporate Affairs will investigate the alleged poor practice incident. In order to investigate an alleged poor practice incident, the Deputy Director of Corporate Affairs may request information from any individuals who may have witnessed the alleged incident and may request any relevant written material such as meeting papers or meeting minutes. Following investigation, the Deputy Director of Corporate Affairs will:

- Assess the severity of the incident.
- Assess what action is required in response.
- Consider who else inside and outside the organisation should be made aware.
- Prepare a report about the incident, including recommendations how to address/remedy the concerns raised.

The Conflicts of Interest Guardian will consider the Deputy Director of Corporate Affairs' report and recommendations, and decide which course of action to take, including implementation of recommendations made by the Deputy Director of Corporate Affairs. The Conflicts of Interest Guardian will report to the Audit Committee about the incident and actions taken.

Should the Deputy Director of Corporate Affairs and/or the Conflicts of Interest Guardian, in the course of their investigation and consideration of the alleged poor practice incident, conclude that the matter is serious enough to be treated as a breach of the ICB's policy on conflicts of interest, they will refer the matter to the ICB's LCFS, for investigation as a suspected breach. All concerns of poor practice incidents will be treated with appropriate confidentiality at all times in accordance with the ICB's policies and applicable laws, and the person raising a concern can expect an appropriate explanation of any decisions taken as a result of any investigation.

Depending on the severity of the incident, actions taken in response to a **poor practice incident** may include:

- informal action against colleagues including as reprimand, signposting to training and/or guidance.
- formal disciplinary action such formal warning, requirement for additional training, re-arrangement of duties, re-deployment, demotion, or dismissal.
- review of ICB policies and procedure to clarify expectations and requirements in regard to ICB colleague's conduct of business.

Where individuals suspect a **breach of the ICB's policy on conflicts of interest management**, i.e., suspect that someone deliberately withheld information about a conflict of interest, including with fraudulent intent, they should report their suspicions to the Conflicts of Interest Guardian. Based on the information given by the individual who raised the suspicion, the Conflicts of Interest Guardian, with the advice of the Deputy Director of Corporate Affairs as appropriate, will form an initial view whether the reported suspicion constitutes a breach or a poor practice incident. If the Conflicts of Interest Guardian concludes that a breach likely

occurred, they will instruct the LCFS to formally investigate the suspected breach.

All notifications will be logged, and LCFS will be informed where it is deemed appropriate to do so. Concerns raised via the Freedom to Speak Up Policy will be managed in accordance with that policy with the addition that the LCFS will be informed initially to ensure that the breach does not need to be investigated by the counter fraud service. Appropriate confidentiality will be applied to all notifications. Where a local investigation is required, this will be arranged by the Deputy Director of Corporate Affairs.

Depending on the severity of the incident, the Deputy Director of Corporate Affairs and the Conflicts of Interest Guardian may conclude that it must be treated as a breach and LCFS will be advised. Outcomes from an incident or breach might include:

- Review of ICB policies.
- Informal action against ICB colleague including a reprimand, signposting to training and/or guidance.
- Formal disciplinary action invoking the Disciplinary Policy.
- Report to the statutory regulated healthcare professional body.
- Legal action, including investigation and prosecution under fraud, bribery and corruption legislation.
- Contractual actions against other organisations.
- Report to NHSE and NHSI.

Anonymised detail of breaches will be published on the ICB website and reported to the Governing Body. LCFS will include relevant breaches in their reports to the Audit Committee.

### **3.8 Impact of non-compliance**

If conflicts of interest are not effectively managed, the ICB could face civil challenges to decisions made. For instance, if breaches occur during a service re-design or procurement exercise, the ICB risks a legal challenge from providers that could potentially overturn the award of a contract, lead to damages claims against the ICB, and necessitate a repeat of the procurement process. This could delay the development of better services and care for patients, waste public money and damage the ICB's reputation.

Individuals should be aware that a breach of this policy could render them liable to prosecution as well as leading to the termination of their employment or position with the ICB. In extreme cases, colleagues and other individuals could face personal civil liability, for example a claim for misfeasance in public office.

Failures could also lead to criminal proceedings including for offences such as fraud, bribery and corruption. Fraud carries a maximum sentence of 10 years imprisonment and /or a fine if convicted in the Crown Court or 6 months imprisonment and/or a fine in the Magistrates' Court. The offences can be committed by a body corporate.

The Bribery Act 2010 introduced a corporate offence which means that commercial organisations, including NHS bodies, will be exposed to criminal liability, punishable by an unlimited fine, for failing to prevent bribery. The offences of bribing another person, being bribed or bribery of foreign public officials in relation to an individual carries a maximum sentence of 10 years imprisonment and/or a fine if convicted in the Crown Court and 6 months imprisonment and/or a fine in the Magistrates' Court. In relation to a body corporate the penalty for these

offences is a fine.

Individuals who fail to disclose relevant interests, outside employment or receipts of hospitality, gifts or sponsorship, as required by this policy or the ICB standing orders and financial policies, may be subject to investigation and, where appropriate, to disciplinary action which could ultimately result in the termination of their employment or position with the ICB.

Statutorily regulated healthcare professionals who work for, or are engaged by, the ICB are under professional duties imposed by their relevant regulator to act appropriately with regard to conflicts of interest. The ICB will report statutorily regulated healthcare professionals to their regulator if they believe that they have acted improperly, so that these concerns can be investigated. Consequences for inappropriate action could include fitness to practise proceedings being brought against the individual and possibly being struck off by their professional regulator as a result.

## **4.0 ROLES AND RESPONSIBILITIES**

### **4.1 Accountable Officer**

The Accountable Officer has accountability for the ICB's management of conflicts of interests. The Accountable Officer will actively demonstrate leadership in this area and champion the highest standards of business conduct within the ICB.

### **4.2 Conflicts of Interest Guardian**

This role will be undertaken by the ICB NED Audit, to further strengthen scrutiny and transparency of ICB's decision-making processes and supported by the Deputy Director of Corporate Affairs.

The Conflicts of Interest Guardian should, in collaboration with the Deputy Director of Corporate Affairs:

- Act as a conduit for GP practice staff, members of the public, and health and care professionals who have any concerns with regards to conflicts of interests.
- Be a safe point of contact for colleagues or workers of the ICB to raise any concerns in relation to this policy.
- Consider and approve for acceptance offers of hospitality where applicable.
- Support the rigorous application of conflict-of-interest principles and policies.
- Undertake investigations into reported breaches.
- Provide independent advice and judgment (or seek legal advice where necessary) where there is any doubt about how to apply conflicts of interest policies and principles in a particular situation.
- Provide advice on minimising the risks of conflicts of interest.
- Notify NHS England and professional regulatory bodies of breaches where appropriate.

### **4.3 ICB Board, committee and sub-committee members**

All ICB Board, committee and sub-committee members will declare all interests on joining the organisation and ensure that their declaration remains complete and up to date. Members will also disclose, at all committee meetings, interests relevant to any agenda items. Members



will undertake the required conflicts of interest training and refresher training.

Executive members of the ICB Board have an on-going responsibility for ensuring robust management of conflicts of interest and providing leadership in this regard.

NEDs provide scrutiny, challenge and an independent voice in support of robust and transparent decision-making and management of conflicts of interest. NEDs chair a number of ICB committees, including the Audit Committee and Primary Care Commissioning Committee.

#### **4.4 Chairs of meetings**

Chairs have a responsibility to ensure this policy is robustly applied to all committee, sub-committee and other meetings, in particular those that make and / or inform commissioning and procurement decisions. Chairs' responsibilities regarding managing conflicts in meetings are detailed in **3.2.7** above.

#### **4.5 Deputy Director of Corporate Affairs**

This role has responsibility for:

- day-to-day management of conflicts of interest matters, queries and administration.
- maintaining the ICB's Register of Interests and the Register of Gifts, Hospitality and Sponsorship.
- supporting the Conflicts of Interest Guardian to enable them to carry out their role effectively.
- providing advice, support and guidance on how conflicts of interest, and offers of gifts, hospitality and sponsorship should be managed.
- facilitating appropriate training and monitor completion.
- liaising with LCFS and investigating incidents and breaches.

#### **4.6 ICB colleagues and all individuals in scope of this policy**

ICB colleagues are required to familiarise themselves and adhere to this policy. Colleagues must declare interests, and offer of gifts, hospitality and sponsorship as described in this policy. In doing so, colleagues must ensure that they discuss these matters with their line manager incl. mitigating actions. Line managers must ensure that they periodically check with their direct reports whether any declarations need to be made or updated and must sign-off declarations before submission. Colleagues will be expected to undertake and complete training on an annual basis.

#### **4.7 ICB Board**

The Board will formally review the Register of Declarations of Interest at least three times a year to ensure transparent decision making.

#### **4.8 Audit Committee**

The Audit Committee will receive the Registers of Gifts, Hospitality and Sponsorship on a six-monthly basis and any detailed reports from LCFS.

## **5.0 TRAINING**

Training on the management of conflicts of interest will be offered to all individuals in scope of this policy, including Board members, members of ICB committees and sub-committees, and ICB employees. This is to ensure all individuals in scope of this policy understand what conflicts are, and how to manage them effectively utilising the ICB procedures.

Training will be required to be completed by all colleagues on a yearly basis.

## **6.0 EQUALITY AND DIVERSITY**

An Equality Impact Assessment (EIA) has been completed for this policy and no issues have been identified.

## **7.0 SUCCESS CRITERIA / MONITORING EFFECTIVENESS**

The Evaluation Standard in Appendix 4 has been developed to provide assurance for monitoring compliance with and effectiveness of this policy.

An audit of conflicts of interest management will be undertaken as part of the internal audit programme on an annual basis with results reflected in each ICB's Annual Governance Statement and discussed in the end of year governance meeting with NHS regional teams. Completion rates for conflict-of-interest training will form part of this audit.

NHS England will be assessing ICB compliance as a key indicator on a quarterly and annual basis.

Any non-compliance with this policy should immediately be reported using the non-compliance form within the Policy for the Management of Policies. Any breaches by other individuals must be reported, with reference to the Whistleblowing Policy.

## **8.0 REVIEW**

This document may be reviewed at any time at the request of either colleague side or management. The policy will be reviewed after three years.

## 9.0 REFERENCES AND LINKS TO OTHER DOCUMENTS

The policy should be read in conjunction with the following documents, which also set out generic guidelines and responsibilities for NHS organisations and General Practitioners:

- [Code of Conduct for NHS Managers 2002](#)
- [Appointments Commission: Code of Conduct and Code of Accountability](#)
- [The Healthy NHS Board: Principles of Good Governance](#)
- Respective professional codes of conduct
- [NHS Confidentiality Policy](#)
- [The Bribery Act 2010](#)
- Health Service Guidance HSG (93) 5 “Standards of Business Conduct for NHS Staff”
- [Standards for members of NHS Boards and Clinical Commissioning Group Governing bodies in England November 2012](#)
- Section 14O National Health Service Act 2006 (as amended by the Health & Social Care Act 2012)
- [Commercial Sponsorship - Ethical Standards for the NHS](#)
- [Monitor's 'Substantive guidance on the Procurement, Patient Choice and Competition Regulations' December 2013](#)
- Public Contracts Regulations 2006 and Public Contracts Regulations 2015
- ['Principles and Rules for Cooperation and Competition' July 2010](#)
- ['Managing Conflicts of Interest in the NHS: Guidance for staff and organisations' February 2017](#)
- ['Managing Conflicts of Interest: Revised Statutory Guidance for CCGs 2017' June 2017](#)

## 10.0 REVIEW HISTORY

Version	Review Date	Reviewed By	Changes Required? (If yes, please summarise)	Changes Approved By	Approval Date

## 11.0 ACKNOWLEDGEMENT OF EXTERNAL SOURCES / ASSISTANCE

Title/Author/Individual	Institution/Organisation	Comment / Link

## 12.0 LINKS WITH OTHER ICB DOCUMENTS

Document title
<a href="#">Freedom to Speak Up Policy</a>
Anti-Fraud, -Bribery and -Corruption Policy
Procurement Policy
Confidentiality & Safe Haven Policy
Freedom of Information Policy
ICB Constitution
Standing Financial Instructions
Standing Orders

## 13 APPENDICES

Appendices are published as separate individual documents, for ease of use:

- Form Declaration of Interests
- Form Declaration of gifts, hospitality or sponsorship