

Managing Conflicts of Interest:

Internal Audit Framework for CCGs



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Target Audience	CCG Accountable Officers, NHS England Regional Directors, NHS England Directors of Commissioning Operations
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Additional Circulation List

Description	The revised statutory guidance on managing conflicts of interest for CCGs (published June 2016) requires CCGs to undertake an annual internal audit of conflicts of interest management. To support CCGs to undertake the audit, NHS England has published this template audit framework
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Cross Reference	Revised statutory guidance on managing conflicts of interest for CCGs (Published June 2016)
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Superseded Docs (if applicable)	
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Action Required	For use by CCGs
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Timing / Deadlines (if applicable)	Annual
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Contact Details for further information	Commissioning Strategy Directorate NHS England Quarry House Leeds LS1 7EU england.co-commissioning@nhs.net
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Document Status

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Managing Conflicts of Interest: Internal Audit Framework for CCGs

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Background

1. In June 2016, NHS England published revised *statutory guidance on managing conflicts of interest for CCGs*. The guidance has been strengthened to further support CCGs to identify and manage conflicts of interest.
2. One of the requirements of the revised guidance is that CCGs undertake an annual audit of conflicts of interest management as part of their internal audit plans (see paragraphs 127-130 of the guidance). This will be an important mechanism for CCGs to confirm and obtain assurance that the safeguards set out in the revised statutory guidance have been embedded. The outcome of the audit will need to be reported in the CCG's annual governance statement, and discussed as part of the annual end-of-year governance meeting with NHS England regional teams.
3. This document provides a framework to support CCGs to undertake an internal audit of conflicts of interest management, including the scope and approach. This framework has been developed in collaboration with the CCG Audit Chairs Forum and other key stakeholders.
4. It is strongly recommended that CCGs adopt this framework for their 2016/17 conflicts of interest audit. CCGs should also consider any additional areas of risk, which should be included in the audit. In subsequent years, CCGs may wish to tailor their approach to take account of the findings from previous audit work, and to adopt a risk-based approach to determine the appropriate scope of the work.
5. In the financial year 2016/17, we recommend that CCGs complete the audit in quarter three or four to give sufficient time for the safeguards set out in the revised guidance to be embedded prior to the audit taking place. In future years, CCGs should decide upon the best time to conduct the audit, although consideration should be given to the fact that completion will need to be reported as part of the CCG's annual governance statement.

For further information on the audit, please contact england.co-commissioning@nhs.net.

Audit Framework

Objective of the audit

6. The objective of this audit is to evaluate the design and operating effectiveness of the arrangements that the CCG has in place to manage conflicts of interest and gifts and hospitality, including compliance with NHS England's statutory guidance on managing conflicts of interest for CCGs.

Scope of the conflicts of interest audit

7. This section sets out the scope for the audit, which should include consideration of the following five key areas:
 - Governance arrangements – for example, whether policies/procedures comply with legal requirements and statutory guidance, appropriate number of lay members and a conflict of interest guardian is/are appointed, required training has been provided, and any joint committees / primary care commissioning committees are appropriately constituted;
 - Declarations of interests and gifts and hospitality - for example, whether declarations are being made and recorded in accordance with legal requirements and statutory guidance;
 - Registers of interests, gifts and hospitality and procurement decisions - for example, whether each of these registers are maintained and published in accordance with legal requirements and statutory guidance;
 - Decision making processes and contract monitoring – for example, whether there are mechanisms for the management of conflicts within meetings, when making procurement decisions and in relation to contract management;
 - Reporting concerns and identifying and managing breaches/ non-compliance – for example, whether processes are in place for managing breaches and for the publications of anonymised details of breaches on the CCG's website.
8. Whilst performing the audit, auditors should also consider:
 - Coverage of any previous internal audit work undertaken;
 - Any additional areas of risk to be included;
 - The culture of the organisation to ensure it supports and proactively encourages the management of potential and actual conflicts of interest.

Section 1: Governance arrangements

- 9 The policies and procedures established by the CCG for managing conflicts of interest and gifts and hospitality are aligned to NHS England's [statutory guidance](#), appropriately approved and communicated to relevant individuals.
- 10 The CCG has a minimum of three lay members in accordance with the recommendations of the statutory guidance, or the CCG has explained to NHS England the reason for non-compliance with this requirement.
- 11 The CCG has clearly identified a Conflicts of Interest Guardian and publicised this.
- 12 The CCG considers conflicts of interest when appointing governing body members, members of committees and sub committees and senior employees. All new appointments are required to declare any interests during the recruitment process.
- 13 Training is provided on induction and then annually to all CCG employees, governing body members, members of committees and sub committees; and practice staff with involvement in CCG business to ensure that they understand what constitutes a conflict of interest and their obligations with regards to declaring and managing conflicts of interest.

For CCGs with joint or delegated commissioning arrangements for primary medical services

- 14 The CCG has a Primary Care Commissioning Committee, or Joint Committee with NHS England, which is separate to the CCG's Governing Body and has a greater proportion of lay and executive members compared to clinical members.
- 15 The Chair of the Primary Care Commissioning Committee, or Joint Committee, is a lay member and not the CCG audit committee chair.
- 16 The scope and responsibilities of the Primary Care Commissioning Committee, or Joint Committee and any sub-committees, are clearly defined in an approved terms of reference.
- 17 A standing invitation has been made to the CCG's local HealthWatch representative and a local authority representative from the local Health and Wellbeing Board, to join the Primary Care Commissioning Committee, or Joint Committee, as non-voting attendees.

Section 2: Declarations of interest and gifts and hospitality

- 18 The CCG has mechanisms and arrangements in place to ensure that any person covered by one of the registers, who declares a conflict of interest or any gifts or hospitality, does so as soon as practicable and in any event within **28 days** of them becoming aware of it.
- 19 The CCG's constitution includes a statement of conduct detailing what is expected of its employees, governing body members, members of committees and sub committees; and members of the CCG i.e. GP partners and practice staff with involvement in CCG business, with regards to declaring conflict of interests.
- 20 Declarations of interest are a standing item on all CCG governing body, committee and sub-committee meeting agendas. The chair of meetings should have access to a declaration of interest checklist.

Section 3: Registers of interest, gifts and hospitality and procurement decisions

- 21 An individual or team has been assigned responsibility for maintaining the registers of interest, gifts and hospitality and procurement decisions and this has been clearly communicated to CCG employees, governing body members, members of committees and sub committees; and practice staff with involvement in CCG business. Processes are in place to ensure that declared interests are promptly transferred to the relevant register.
- 22 The CCG has processes in place to confirm on a six monthly basis that the register(s) of interests is accurate and up-to-date, including the requirement for employees, governing body members, members of committees and sub committees and practice staff with involvement in CCG business to provide 'nil returns' where there are no changes to interests.
- 23 The CCG maintains one or more registers of interest for all CCG employees, members of its governing body, members of committees and sub committees; and practice staff with involvement in CCG business. Register(s) of interests should as a minimum include:
 - Name of the person declaring the interest;
 - Position within, or relationship with, the CCG (or NHS England in the event of joint committees);
 - Type of interest e.g., financial interests, non-financial professional interests;
 - Description of interest, including for indirect interests details of the relationship with the person who has the interest;
 - The dates from which the interest relates; and

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- The actions to be taken to mitigate the risk.
- 24 The CCG maintains a register of gifts and hospitality which should include as a minimum:
- Recipient's name;
 - Current position(s) held by the individual (within the CCG);
 - Date of offer and/or receipt;
 - Details of the gift or hospitality;
 - The estimated value of the gift or hospitality;
 - Details of the supplier/offer (e.g. their name and the nature of their business);
 - Details of previous gifts offered or accepted by this offeror/supplier;
 - Details of the officer reviewing/approving the declaration made and date;
 - Whether the offer was accepted or not;
 - Reasons for accepting or declining the offer.
- 25 The CCG maintains a register of procurement decisions taken, including:
- The details of the decision;
 - Who was involved in making the decision (including the name of the CCG clinical lead, the CCG contract manager, the name of the decision making committee and the name of any other individuals with decision-making responsibility);
 - A summary of any conflicts of interest in relation to the decision and how this was managed by the CCG; and
 - The award decision taken.
- 26 The CCG publishes up-to-date registers of interest, gifts and hospitality and procurement decisions on the CCG's websites and has arrangements in place to ensure that members of the public have access to these registers at the CCG's headquarters.

Section 4: Decision making processes and contract monitoring

- 27 The CCG has a mechanism in place to require bidders/potential contractors to declare any interests as part of the bidding process.
- 28 The CCG retains documentation and records of how they have managed conflicts of interest when making commissioning decisions, including the use of single tender actions who has overseen management of the conflict of interest.
- 29 When decisions are made in meetings, evidence is maintained to show conflicts have been considered and, if any potential conflicts exist, that the following items are recorded in the minutes:
- Who has the interest;
 - The nature of the interest and why it gives rise to a conflict, including the magnitude of any interest;
 - The items on the agenda to which the interest relates;
 - How the conflict was agreed to be managed; and
 - Evidence that the conflict was managed as intended.
- 30 Records are in place to confirm that conflicts of interest have been considered in any working groups and sub-committees considering commissioning decisions or designing the services to be commissioned.
- 31 There are processes in place to ensure that any conflicts of interest are managed appropriately during contract monitoring processes.

Section 5: Identifying and managing non-compliance

- 32 The process for managing breaches is clear and detailed in the CCG's conflicts of interest policy.
- 33 Processes are in place to ensure anonymised details of breaches are published on the CCG's website and promptly reported to NHS England.
- 34 The CCG has defined the process to be followed for managing non-compliance with policies and procedures (including how this will be addressed when it relates to contracts already entered into).

Audit Approach

- 35 The following procedures should be performed to cover the proposed scope:
- Obtain and read background documents relating to conflicts of interest, including NHS England’s revised statutory guidance on managing conflicts of interest and other relevant CCG guidance.
 - Hold discussions with a sample of CCG senior management, staff and governing body members to understand the arrangements in place to manage conflicts of interest in relation to the areas in scope and to obtain perspectives on how supported individuals feel to manage conflicts of interest and raise any concerns.
 - For each “in scope” area, identify the key risks and mitigating controls in place. Evaluate the design and effectiveness of controls.
 - By obtaining documentation, and through the performance of non-statistical sample testing (see Appendix A for further guidance on sample testing), where appropriate, evaluate the effectiveness of arrangements to manage conflicts of interest. Audit testing should include selecting a non-statistical sample of commissioning decisions to check the requirements of the statutory guidance have been met. The sample should include coverage of a range of commissioning decisions, for example these may include:
 - Procurement decisions
 - Contract management decisions
 - Strategy decisions
 - Designing service requirements
 - Carry out proactive checks for a small sample of individuals to confirm registers displayed on the CCG’s website are complete.
 - Discuss with management (and NHS England) any exceptions identified.
 - The CCG should ensure that their internal audit work is performed according to UK Public Sector Internal Audit Standards (PSIAS) or International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board.
 - Consideration of submissions made by the CCG in relation to the Conflict of Interest indicator under the CCG Improvement and Assessment Framework

Reporting

- 36 A report should be produced detailing the observations identified for each scope area, the recommendations required to comply with the NHS England revised *statutory guidance on managing conflicts of interest for CCGs* and the

agreed management actions including responsible owners and timeframes for implementation.

- 37 For each scope area (e.g., governance arrangements, declarations of interests and gifts and hospitality etc.), we recommend that auditors assign a compliance level:
- Fully compliant;
 - Partially compliant;
 - Non-compliant.
- 38 The results of the audit are required to be reflected in the CCG's annual governance statement, and should be discussed in the end of year governance meeting with NHS England regional teams. A template annual governance statement for 2016/17 will be published on NHS England's website.

Audit approach for 2017/18 onwards

- 39 For future internal conflicts of interest audits (FY2017/18 onwards), CCGs should tailor the audit approach to the risk profile of the organisation. For example, depending upon the severity and volume of the observations identified as a result of the FY2016/17 internal audit, the CCG may want to consider performing either a full audit, if significant issues were found, or a more focussed audit, if only minor issues were identified previously e.g. on specific risk areas.
- 40 The CCG's Internal Audit function should consider the following when developing the scope of future Internal Audit work:
- Specific risk areas;
 - Management concerns;
 - Particular issues identified, including consideration of known issues at other CCGs;
 - Known control failures;
 - Actions/ issues from previous audits.

Appendix A – Sample Size requirements

The below table details the minimum sample sizes that should be applied when undertaking non-statistical sample testing.

Frequency of performance	Sample size
Many times per day	25
Daily	15
Weekly	5
Monthly	3
Quarterly	2
Half-yearly	1
Annually	1