

# **Managing Conflicts of Interest in the NHS: a consultation**

## **What does this mean for me?**

**A guide for staff across the health system, patients and the public**

**Managing Conflicts of Interest in the NHS:  
A Consultation**

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## Introduction

In “Managing Conflicts of Interest in the NHS: a consultation” we set out proposals for change to the way in which conflicts of interest are managed across the health system.

The Task and Finish Group which developed the content of the consultation recognised the complexity and breadth of this system. Thousands of organisations and over 1 million people are involved in the commissioning and provision of NHS services.

This gives rise to a myriad of different contexts in which conflicts can play out so we need your comments and views to help get these proposals right.

To support the debate this document explains further what the proposals for consultation might mean for individuals working in different places across the health system. These examples are intended to be indicative, not exhaustive, and to cover a reasonable range of possible scenarios. We hope they are helpful.

## What do these proposals mean for me?

### Primary care contractors

#### **I am a dentist who is a partner in a dental practice – what does this consultation mean for me?**

Your practice will already be subject to legal obligations (for instance, under the Bribery Act and the Fraud Act) which will mean that conflicts of interest management should be of particular interest to you. For instance, the Bribery Act 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.

Your practice should already have robust arrangements in place to ensure that conflicts of interest are managed effectively. The proposals in this consultation should supplement these, and you should check whether the issues raised in this consultation are adequately covered in your own policies.

As a statutorily regulated health professional you are also under professional duties relevant to management of conflicts of interest set out in the General Dental Council’s “Standards for the Dental Team”.

#### **I am a community pharmacist who is a sole trader, and I work closely with the pharmaceutical industry in order to do my job – isn’t that sort of collaboration good for the NHS and won’t these proposals prevent this from happening?**

The success and long term prospects of the NHS rely on greater collaboration and partnership working between public, private and third sector bodies and so it is not our intention to put a stop to this. However, with close collaboration comes the risk of conflicts of interest.

We think that having a clearer understanding of the issues and common principles and rules will be helpful. Everyone will know what is and is not appropriate and this should help, not hinder, closer working.

We think the proposals in this consultation are consistent with obligations you already have as a health professional too - as set out in the General Pharmaceutical Council’s “Standards of conduct, ethics and performance”.

**I am a GP and am concerned that these proposals will add to the burdens on already busy practices – why is this necessary?**

The NHS is entrusted with billions of pounds public money every year so it is right that we take a look at current arrangements around conflicts of interest management and make changes where these are appropriate.

We are consulting on the Task and Finish Group's proposals so that we get the views of individuals and organisations – if you have suggestions for improvements to the proposals to reduce burdens on your organisation then please let us know.

**I am a GP federation chair and am concerned that these proposals will restrict the ability of our federation to taken on greater responsibility such as the delivery of new care models.**

Whilst we recognise that the agenda surrounding conflicts of interest is a major issue for public confidence we also know that the modern NHS relies upon partnership and collaboration, in particular between providers and commissioners.

One output of this consultation will be revisions made to guidance for CCGs so that they are empowered to recognise and act on instances where real conflicts of interests arise when commissioning services. The guidance will be proportionate so that it provides strong support for the management of conflicts but does not unnecessarily restrict the development of transformation in the NHS.

**I am an optician working as an employee for a commercial optician company. I am not involved in the day-to-day management of the company. Is this relevant to me?**

Yes. We are keen to hear your views on our proposals. More broadly, we would expect that the proposals in this consultation will be implemented by your employer. You should follow the policies and processes that your employer sets out for you.

As a statutorily regulated health professional you are also under professional duties relevant to management of conflicts of interest set out in the General Optical Council's "Standards of Practice for Optometrists and Dispensing Opticians".

**Clinical staff in hospitals**

**I am a junior doctor – is this consultation relevant to me?**

As you develop your career within the NHS you will come into contact with, and work collaboratively, with representatives from industry. This might, at times, give rise to the risk of conflicts of interest. We would expect the proposals resulting from this consultation to be implemented by your employer but you should, as an individual, be mindful of the need to avoid conflicts.

As a statutorily regulated health professional you are also under professional duties relevant to management of conflicts of interest set out in the General Medical Council's "Good Medical Practice".

**I am a hospital consultant – why are you singling doctors out and asking us to make information about the money we earn from private work publically available?**

The proposals in the consultation relate to all clinicians, and not just doctors.

We recognise that the vast majority of clinical staff balance NHS and private duties appropriately. Our proposals are not intended to curb private work but to ensure there is transparency about the earnings of senior people in the health service.

This move is also in keeping with wider moves around transparency in the public sector:

- In the civil service the earnings of senior staff are published.
- From 1 April 2015 it became a contractual requirement for GP practices to publish on their practice website the mean earnings for all GPs in their practice relating to the previous financial year.
- Agenda for Change salary scales (which apply to clinical and non-clinical staff across the health system) are also publically available.

However this consultation is the opportunity to have your say and to tell us why you feel this is or is not appropriate.

### **Other staff groups across health organisations**

#### **I work in a CCG and NHS England has already issued guidance in this area, which in some places is different from your proposals. What should I follow?**

In June 2016 NHS England published, following a public engagement exercise, significantly strengthened guidance to Clinical Commissioning Groups on Management of Conflicts of Interest designed to increase public confidence in the propriety of decision-making.

The CCG guidance will be refreshed in line with the outcome of this consultation.

#### **I am a physiotherapist working in the community – will these proposals mean that I have to turn down gifts from grateful patients?**

This is very unlikely to be the case. Unless the gift is a very expensive one (over £50) or accepting it might affect, or be seen to affect, your professional judgement then you may accept it.

As a statutorily regulated health professional you are also under professional duties relevant to management of conflicts of interest set out in the Health & Care Professions Council's "Standards of conduct, and ethics".

#### **I am a Governance Manager in a Mental Health Trust – our policies, in some places, go further than your proposals. Which take precedence?**

The Task and Finish Group were also mindful that, in some areas, organisations might wish to go further than the proposals it has made. That is a legitimate decision for organisations to take, according to their own circumstances, but it was clear that it did not want to see less stringent provisions than those it has set out being implemented.

#### **I am a health care assistant in a District General Hospital and am concerned about your proposals to publish more information on the internet**

To avoid applying disproportionate burdens on organisations we are proposing that a distinction between 'all staff' and 'senior staff' is made in terms of a publication regime.

In our consultation we have made suggestions as to what groups of individuals should fall into the definition of 'senior staff', and your employer will decide exactly who these will be. At present it is unlikely that any information that you declare about conflicts of interest will be published – but ultimately that will be a decision for your employer.

#### **I provide secretarial/administrative support to a CCG. My partner works for a local healthcare provider who is commissioned by the CCG to provide a service, but I know this service is up for tender. How do these proposals affect me? Do I need to declare anything?**

The current proposals do not require you to make any declaration regarding a conflict of interest as we propose that any issues of familial loyalty only apply to senior staff. However if either you or your partner could reasonably be considered to be in a decision making position

within either organisation then one or both of you would need to declare this interest. In addition, if you were to come into contact about information relating to the tender through your role then you would be under an obligation to hold this in confidence and not tell your partner.

### **Non-Executives or lay members of NHS organisations**

**I am a Non-Executive Director in a large Foundation Trust. I am already aware of my organisational responsibilities regarding conflicts of interest and in my capacity as chair of the Audit Committee I ask for declarations of interest at the start of each meeting. What do I need to do differently?**

We anticipate that the principles and rules regarding many aspects of our work on conflicts of interest will already be understood by most, if not all, non-executive directors or lay members of NHS organisations. However the intention with the proposals is to ensure a 'levelling up' across the country of policies and procedures so that there is less variation.

As a result you may wish to get clarity as to whether your organisation needs to change its policies and ensure you familiarise yourself with and adhere to these changes.

### **Lay members of advisory groups**

**I provide advice to one of the statutory committees of an arm's length body to help them to develop policy. I receive expenses for doing this, but I am not employed by them – will these proposals apply to me?**

Our proposal contains specific content about advisory group members and we recommend you are treated as 'senior staff'. It is very important that advisory group members declare any interests that they have so that any actual, potential or perceived conflicts can be understood and managed.

### **Patients and members of the public**

**I have been recruited as a Patient and Public Voice representative to serve as a member of a committee in order to ensure that the views of patients and members of the public are taken into account in aspects of policy development. I have been recruited because I have a specific interest or personal experience of a particular condition or policy area. What do these proposals mean for me?**

Although not employed by the NHS in this particular capacity, for the purposes of identifying and managing conflicts of interest we regard your participation in decision making committees as significant and therefore in keeping with expected requirements of all NHS staff.

This means that principles and rules set out in this consultation should be followed. The reason for this is to ensure the integrity of decision making, so that patient and public voice representatives are not seen to unduly influence decisions as a result of conflicted interests elsewhere.

**I am a patient – should I be worried that the NHS is not managing conflicts of interest effectively?**

As the consultation recognises there is much good practice in existence across the NHS in terms of management of interests. However, there is significant variation too. Through this work we want to bring about a 'levelling up' so that all parties manage conflicts of interest consistently in line with recognised good practice.