

NHS COMMISSIONING BOARD AUTHORITY

Title: Standards of Business Conduct

Clearance: Bill McCarthy

Purpose of Paper:

The proposed policy will provide the NHS CBA with a Standards of Business Conduct.

Key Issues and Recommendations: It is good practice for all organisations to have in place a Standards of Business Conduct policy. This becomes part of the contract of employment of all staff working for the organisation and covers all arrangements such as permanent and temporary employment and secondees. The policy explicitly makes it clear to all staff about the requirements from the NHS CBA with regard to their business conduct.

Actions Required by Board Members:

1. To approve the proposed Standards of Business Conduct.

NHS COMMISSIONING BOARD AUTHORITY
POLICY ON STANDARDS OF BUSINESS
CONDUCT

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Abstract	
This Policy seeks to describe the public service values, which underpin the work of the NHS and to reflect current guidance and best practice to which all individuals within the NHS CBA must have regard in their work for the NHS CBA.	

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NHS COMMISSIONING BOARD AUTHORITY (NHS CBA)
POLICY ON THE STANDARDS OF BUSINESS CONDUCT

1. INTRODUCTION

- (i) This policy seeks to describe the public service values, which underpin the work of the NHS and to reflect current guidance and best practice to which all individuals within the NHS CBA must have regard in their work for the NHS CBA.

The NHS CBA aspires to the highest standards of corporate behaviour and responsibility. All NHS CBA staff are required to comply with this Policy.

- (ii) The Code of Conduct and Code of Accountability in the NHS (second revision July 2004) sets out the following three public service values which are central to the work of the NHS CBA:

Accountability - everything done by those who work in the NHS must be able to stand the test of parliamentary scrutiny, public judgements on propriety and professional codes of conduct.

Probity - there should be an absolute standard of honesty in dealing with the assets of the NHS: integrity should be the hallmark of all personal conduct in decisions affecting patients, officers and members and suppliers, and in the use of information acquired in the course of NHS duties.

Openness - there should be sufficient transparency about NHS activities to promote confidence between the NHS CBA and its staff, patients and the public.

- (iii) In addition, all individuals within the NHS CBA must abide by the Seven Principles of Public Life as set out by the Committee on Standards in Public Life and set out at Appendix A of this policy.

2. SCOPE OF POLICY

This policy applies to:

- NHS CBA executive directors;
- NHS CBA non-executive directors;
- NHS CBA employees (whether their remit is clinical or corporate);
- committee members;
- third parties acting on behalf of the NHS CBA under a contract;
- students and trainees (including apprentices);
- agency staff engaged by the NHS CBA; and
- secondees.

(referred to collectively in this policy as "**NHS CBA Staff**").

3. PREVENTION OF CORRUPTION

- (i) The NHS CBA has a responsibility to ensure that all NHS CBA staff are made aware of their duties and responsibilities arising from the Bribery Act 2010. Under this Act there are four offences:
- bribing, or offering to bribe, another person (section 1);
 - requesting, agreeing to receive, or accepting a bribe (section 2);
 - bribing, or offering to bribe, a foreign public official (section 6);
 - failing to prevent bribery (section 7).
- (ii) All NHS CBA staff are required to be aware of the Bribery Act 2010 and should also refer to paragraph six below for further guidance in relation to this.
- (iii) Counter Fraud Measures

All NHS CBA staff are required not to use their position to gain advantage. The NHS CBA is keen to prevent fraud and encourages staff with concerns or reasonably held suspicions about potentially fraudulent activity or practice, to report these. NHS CBA staff should inform the nominated Local Counter Fraud Specialist (LCFS) or the NHS CBA's Director of Finance immediately, unless the Director of Finance or LCFS is implicated. If that is the case, they should report it to the Chair or Chief Executive, who will decide on the action to be taken.

NHS CBA staff can also call the NHS Fraud and Corruption Reporting Line on free phone 0800 028 40 60. 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, but not through official channels. While 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.

NHS CBA staff should not ignore their suspicions, investigate themselves or tell colleagues or others about their suspicions.

4. STANDING ORDERS (SOs), STANDING FINANCIAL INSTRUCTIONS (SFIs) AND SCHEME OF DELEGATION (SD)

All NHS CBA staff must carry out their duties in accordance with the NHS CBA's SOs, SFIs and SD. The SOs, SFIs and SD set out the statutory and governance framework in which the NHS CBA operates and there is considerable overlap between the contents of this policy and the provisions of the NHS CBA's SOs, SFIs and SD. NHS CBA staff must at all times refer to and act in accordance with the SOs, SFIs and SD to ensure current NHS CBA process is followed. In the event of

doubt, NHS CBA staff should seek advice from their line manager. In the event of any conflict arising between the details of this policy and the SOs, SFIs and SD, the provisions of the SOs, SFIs and SD shall prevail.

5. DECLARATION OF INTERESTS

- (i) The NHS CBA needs to have in place principles and procedures for minimising, managing and registering potential conflicts of interests which could be deemed or assumed to affect the decisions made by those involved in the NHS CBA. These decisions could include awarding contracts, procurement, policy, employment and other decisions.

NHS CBA staff should not allow their judgement or integrity to be compromised. They should be, and be seen to be, honest and objective in the exercise of their duties and should understand fully their terms of appointment, duties and responsibilities.

This paragraph five describes the NHS CBA policy in relation to the identification and management of conflicts of interest for staff. Adherence to these provisions is mandatory in order to identify and manage current or potential conflicts which may arise between the interests of the NHS CBA and the personal interests, associations and relationships of its staff or representative family members.

- (ii) Failure to adhere to these provisions relating to the Declaration of Interests may constitute the criminal offence of fraud, as an individual could be gaining unfair advantages or financial rewards for themselves or a family member/friend or associate. Any suspicion that a relevant personal interest may not have been declared should be reported to the NHS CBA Board Secretary.
- (iii) All NHS CBA staff must declare any interest, either on appointment or when the interest is acquired, which may directly or indirectly give rise to an actual or potential conflict of interest or duty. Such interests, and potential conflicts of interest, include personal and indirect interests, and may come about through:

- financial interests (for example, where someone involved has significant shareholdings or voting rights in a company or partnership);
- decisions affecting individuals who share the interests of organisation staff – for example, family members or members of societies, clubs or other organisations;
- acceptance of hospitality from current or prospective business contacts; and
- acceptance of gifts.

A family member may include:

- a partner (someone who is married to, a civil partner or someone with whom the NHS CBA staff member lives with in a similar capacity);
- a parent or parent in law;
- a son or daughter or stepson or step daughter;
- the child of a partner;
- a brother or sister;

- a brother or sister of the member's partner;
- a grandparent and/ or a grand child;
- an uncle or aunt;
- a nephew or niece; and
- the partners of the above.

Further examples of relevant interests for non-Board member NHS CBA staff are set out in Appendix G. If in doubt NHS CBA staff should take advice from the Board Secretary.

- (iv) The NHS CBA is required to maintain a register of interests to record formally declarations of interest of NHS CBA Board members. The declaration form set out at Appendix B should be completed by Board members and sent to the Board Secretary. Further guidance on the declaration of interests by NHS CBA Board members is set out in the Declaration of Interest Policy for Board Members, available from the Board Secretary.

The NHS CBA will also maintain a register of interests declared by all other NHS CBA staff. NHS CBA staff (excluding Board members) should complete the form set out at Appendix C to declare any relevant interests and send it to the Board Secretary.

- (v) All Declarations of Interest made by NHS CBA staff will be reviewed by the Board Secretary on an annual basis.

6. GIFTS AND HOSPITALITY

- (i) With the exception of items of little value (less than £25) such as diaries, calendars, flowers and small tokens of appreciation (including seasonal gifts), which may be accepted, all offers of gifts should be declined. In cases of doubt, advice should be sought from your line manager. A 'gift' is defined as any item of cash or goods, or any service, which is provided for personal benefit at less than its commercial value.
- (ii) Any personal gift of cash must be declined whatever its value.
- (iii) NHS CBA staff should:
- report immediately all offers of unreasonably generous gifts to the Board Secretary; and
 - return promptly any unacceptable gifts, with a letter politely explaining the terms of this policy and stating that you are not allowed to accept them.
- (iv) NHS CBA staff should exercise discretion in accepting offers of hospitality from contractors, other organisations or individuals concerned with the supply of goods or services. Modest hospitality provided in normal and reasonable circumstances during the course of working visits may be acceptable, although it should be on a similar scale to that which the NHS CBA might offer in similar circumstances, e.g. hospitality

provided at meetings, events, seminars. In cases of doubt, advice should be sought from your line manager.

- (v) All hospitality or gifts accepted regardless of value should be recorded in the Hospitality Book held by the Board Secretary (example attached at Appendix D) as soon as is reasonably practicable. It is not necessary to record refreshments such as tea, coffee etc, or for course participants to record meals provided during a training event or seminar. The Hospitality Book will be shown at each Audit Committee meeting.
- (vi) NHS CBA staff should be especially cautious of accepting small items of value, or hospitality over that afforded in a normal meeting environment (i.e. beverages) during a procurement process or from bidders/potential bidders. This avoids any potential claim of unfair influence, collusion or canvassing.

7. OUTSIDE EMPLOYMENT AND PRIVATE PRACTICE

- (i) Employees of the NHS CBA (depending on the details of their contract as regards outside employment and private practice) are required to inform the NHS CBA if they are engaged in or wish to engage in outside employment in addition to their work with the NHS CBA (using the form at Appendix C). The purpose of this is to ensure that the NHS CBA is aware of any potential conflict of interest with their NHS CBA employment. Examples of work which might conflict with the business of the NHS CBA include:
 - (a) employment with another NHS body;
 - (b) employment with another organisation which might be in a position to supply goods/services to the NHS CBA; and
 - (c) self-employment, including private practice, in a capacity which might conflict with the work of the NHS CBA or which might be in a position to supply goods/services to the NHS CBA.
- (ii) The HR team of the NHS CBA will send an annual reminder to all NHS CBA staff about this requirement.
- (iii) Permission to engage in outside employment/private practice will be required and the NHS CBA reserves the right to refuse permission where it believes a conflict will arise.

8. COMMERCIAL SPONSORSHIP

- (i) NHS CBA staff may accept commercial sponsorship for courses, conferences, post/project funding, meetings and publications if they are reasonably justifiable and in accordance with the principles set out in this policy. In cases of doubt advice should be sought from your line manager. Permission (with details of the proposed sponsorship) must be obtained from the relevant Director in writing in advance and a

copy of this permission must be sent to the Board Secretary. (See Appendix F “Application to seek permission to accept commercial sponsorship”).

- (ii) Acceptance of commercial sponsorship should not in any way compromise commissioning decisions of the NHS CBA or be dependent on the purchase or supply of goods or services.
- (iii) Sponsors should not have any influence over the content of an event, meeting, seminar, publication or training event.
- (iv) The NHS CBA should not endorse individual companies or their products. It should be made clear that the fact of sponsorship does not mean that the NHS CBA endorses a company’s products or services.
- (v) During dealings with sponsors there must be no breach of patient or individual confidentiality or data protection legislation.
- (vi) No information should be supplied to a company for their commercial gain unless there is a clear benefit to the NHS. As a general rule, information which is not in the public domain should not normally be supplied.

9. SUPPLIERS AND CONTRACTORS

- (i) All NHS CBA staff who are in contact with suppliers and contractors (including external consultants), and in particular those who are authorised to sign purchase orders or enter into contracts for goods and services are expected to adhere to professional standards in line with those set out in the Code of Ethics of the Chartered Institute of Purchasing and Supply (Appendix E).
- (ii) All NHS CBA staff must treat prospective contractors or suppliers of services to the NHS CBA equally and in a non-discriminatory way and act in a transparent manner.
- (iii) NHS CBA staff involved in the awarding of contracts and tender processes must take no part in a selection process if a personal interest or conflict of interest is known. Such an interest must be declared to the Board Secretary using the form at Appendix C as soon as it becomes apparent. NHS CBA staff should not at any time seek to give undue advantage to any private business or other interests in the course of their duties.
- (iv) The NHS CBA has duties under European and UK procurement law and NHS CBA staff must comply with Standing Financial Instructions in relation to all contract opportunities with the NHS CBA.
- (v) NHS CBA staff must not seek, or accept, preferential rates or benefits in kind for private transactions carried out with companies with which they have had, or may have, official dealings on behalf of the NHS CBA. This does not apply to officers and members benefit schemes offered by the NHS or Trade Unions.

- (vi) NHS CBA staff invited to visit organisations to inspect equipment eg software, training aids, etc for the purpose of advising on its purchase will be reimbursed for their travelling expenses in accordance with the travel expenses policy laid down by the NHS CBA. Such expenses should not be claimed from other organisations to avoid compromising the purchasing decisions of the NHS CBA.
- (vii) Every invitation to tender to a prospective bidder for NHS CBA business must require each bidder to give a written undertaking, not to engage in collusive tendering or other restrictive practice and not to engage in canvassing the NHS CBA, its employees or officers concerning the contract opportunity tendered.

10. INITIATIVES

- (i) As a general principle any financial gain resulting from external work where use of NHS CBA time or title is involved (eg, speaking at training events/conferences, writing articles etc) and/or which is connected with NHS CBA business will be forwarded to the Board Secretary.
- (ii) Any patents, designs, trademarks or copyright resulting from the work (eg, research) of an employee of the NHS CBA carried out as part of their employment by the NHS CBA shall be the Intellectual Property of the NHS CBA.
- (iii) Approval from the appropriate line manager should be sought prior to entering into an obligation to undertake external work connected with the business of the NHS CBA, eg writing articles for publication, speaking at conferences.
- (iv) Where the undertaking of external work, gaining patent or copyright or the involvement in innovative work benefits or enhances the NHS CBA's reputation or results in financial gain for the NHS CBA, consideration will be given to rewarding employees subject to any relevant guidance for the management of Intellectual Property in the NHS issued by the Department of Health.

11. COMMERCIAL CONFIDENTIALITY

NHS CBA staff should guard against providing information on the operations of the NHS CBA which might provide a commercial advantage to any organisation (private or NHS) in a position to supply goods or services to the NHS CBA. For particularly sensitive procurements/contracts NHS CBA staff may be asked to sign a Non-Disclosure Agreement, a copy of which can be found at Appendix H.

12. MANAGEMENT ARRANGEMENTS

- (i) NHS CBA staff 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 NHS CBA.
- (ii) NHS CBA staff who fail to disclose any relevant interests, outside employment or receipt of gifts or hospitality as required by this policy or the NHS CBA's SOs and SFIs may be subject to disciplinary action which could, ultimately, result in the termination of their employment or position with the NHS CBA.

- (iii) The Board Secretary will be responsible for maintaining the Register of Interests, holding the Hospitality Register and reviewing the implementation of this policy.

13. COMPLAINTS

NHS CBA staff who wish to report suspected or known breaches of this policy should inform the Board Secretary. All such notifications will be held in the strictest confidence and the person notifying the Board Secretary can expect a full explanation of any decisions taken as a result of any investigation.

14. FURTHER INFORMATION

This policy is an interpretation of guidance and is based on examples of good practice. In addition to referring to the NHS CBA Standing Orders, Reservation of Powers, Standing Financial Instructions and Financial Scheme of Delegation.

NHS CBA staff should refer to:

- the National Health Service Act 2006 & the Health and Social Care Act 2008;
- The Code of Conduct for NHS Managers;
- the Nolan Principles on Conduct in Public Life;
- the NHS Codes of Conduct and Accountability; (NHS Appointments Commission & Department of Health – amended July 2004)
- the Code of Practice on Openness in the NHS; and
- any additional or successor guidance published by the Department of Health.

NB Copies of these documents are available from the Board Secretary.

APPENDIX A

THE SEVEN PRINCIPLES OF PUBLIC LIFE SET OUT BY THE COMMITTEE ON STANDARDS IN PUBLIC LIFE (THE NOLAN PRINCIPLES)

Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material 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 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 awards or 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.

NHS CBA

DECLARATION OF INTERESTS BY NHS CBA BOARD MEMBERS

Note: A Declaration of Interest must be submitted by an NHS CBA Board Member to the Board Secretary on appointment as an NHS CBA Board Member, reviewed annually and also in the event that any Personal Interest or potential Personal Interest arises during the course of their involvement with the NHS CBA.

NAME:	DESIGNATION:
NATURE OF INTEREST: (Please write none if applicable) <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>	
Signature _____ Date: _____	

Please identify any actual or potential Personal Interest that may arise as a consequence of your role as a board member of the NHS CBA and how you propose that these will be dealt with.

Some examples of circumstances in which potential conflicts could arise are set out at Appendix B of the Declaration of Interest Policy (a copy of which can be obtained from the Board Secretary).

A conflict of interest shall not arise solely by virtue of a person's employment or engagement by an NHS Trust, Primary Care Trust, Strategic Health Authority or other NHS body (although representatives with these interests are requested to disclose such relationships for information purposes only).

SPECIMEN DECLARATION OF INTEREST BY NHS CBA STAFF – For the period xx-xx

Full name:

Position:

(Nil entries are required for each item if applicable)

Nature of interest

Details

A. Consultancies and/or direct employment:

B. Fee paid work

C. Shareholdings

D. Fellowships / trusteeships & membership of voluntary bodies:

E. Any other personal interests not covered above

F. Non-personal interests:

I confirm that the information provided is a full, accurate and complete list of all my interests that require declaration to the NHS CBA. I acknowledge that any changes in these declarations must be notified to the Board Secretary as soon as they occur. I will provide the NHS CBA with further details of any interest declared if required.

I am also aware that any hospitality received or offered must be notified to the Board Secretary on the appropriate declaration form as soon as possible.

Signed & Dated

Notes

Declaring interests helps to avoid public concern that external links and relationships might unduly influence the work of the NHS CBA. It ensures that such interests are openly and publicly declared.

Declaring an interest would not necessarily preclude an individual from undertaking an external activity, whether Personal or Non-Personal, but it might mean that they would not be able to take part in certain parts of a process where there could be a conflict of interest. As a result, for example, an individual may be asked to leave the room during certain parts of a meeting.

Examples of particular interests that should be regarded as relevant are:

Directorships, including Non-Executive Directorships held in private companies or PLCs;

Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS;

Majority or controlling share holdings in organisations likely or possibly seeking to do business with the NHS;

A position of authority in a charity or voluntary organisation in the field of health and social care or contracting for NHS services; and

Research funding/grants that may be received by an individual or his/her department.

NHS CBA
HOSPITALITY REGISTER

NAME	POSITION	DATE & DETAILS OF GIFT OR HOSPITALITY RECEIVED	VALUE WHERE KNOWN (OR ESTIMATED VALUE) £	SUPPLIER	REASON FOR THE GIFT/HOSPITALITY

The Chartered Institute of Purchasing and Supply (CIPS)

Code of Ethics

Use of the code

Members of CIPS are required to uphold this code and to seek commitment to it by all those with whom they engage in their professional practice. Members are expected to encourage their organisation to adopt an ethical purchasing policy based on the principles of this code and to raise any matter of concern relating to business ethics at an appropriate level. The Institute's Royal Charter sets out a disciplinary procedure which enables the CIPS Council to investigate complaints against any of our members and, if it is found that they have breached the code, to take appropriate action. Advice on any aspect of the code is available from the CIPS.

This code was approved by the CIPS Council on 11 March 2009.

As a member of The Chartered Institute of Purchasing & Supply, I will:

- maintain the highest standard of integrity in all my business relationships;
- reject any business practice which might reasonably be deemed improper;
- never use my authority or position for my own personal gain;
- enhance the proficiency and stature of the profession by acquiring and applying knowledge in the most appropriate way;
- foster the highest standards of professional competence amongst those for whom I am responsible;
- optimise the use of resources which I have influence over for the benefit of my organisation; and
- comply with both the letter and the intent of:
 - the law of countries in which I practise;
 - agreed contractual obligations; and
 - CIPS guidance on professional practice.

NHS CBA

Application to seek permission to accept commercial sponsorship

Please complete the form below and then pass to the relevant Director for approval. If approval is given, send a copy of the form, once signed by the Director, to the Board Secretary.

1 Detail of staff

Name

Title

E-mail

Tel-No

2 Details of proposed sponsorship, including details of proposed sponsor

Approval by relevant Director

Name

Title

Signature

Date

Any comments

Please return this form to:

Board Secretary

NHS CBA

EXAMPLES OF CONFLICTS OF INTEREST FOR NHS CBA STAFF (EXCLUDING BOARD MEMBERS)¹

Scenario	Declaration of Interest Required (Y/N)	Disqualification from involvement in matter of interest appropriate?
NHS CBA staff member is a director, shareholder, employee or partner of an entity which has an interest in bidding for a contract for services which is being put out to tender by the NHS CBA.	Yes.	Yes, depending on circumstances this should be considered.
NHS CBA staff member is an existing director or partner in one or more potential providers of services to the NHS CBA or to a CCG whom the NHS CBA will have oversight of.	Yes - on appointment.	Yes.
NHS CBA staff member holds a contract with or is a director/ shareholder/ employee of a company or party to a partnership which holds a contract with the NHS CBA or with a CCG over whom the NHS CBA will have oversight.	Yes – on appointment.	Yes

¹ Board members should refer to the Declaration of Interest Policy for examples of potential conflicts of interest and further guidance.

NON-DISCLOSURE AGREEMENT

NHS Commissioning Board Authority (NHS CBA) - express requirement for confidentiality

You have been requested to be involved in **[INSERT DETAILS]** (the "Project").

NHS CBA or other parties participating in the Project may provide you with, as part of your role in respect of the Project, access to certain confidential information relating the Project (whether before or after the date of this letter), in writing, by email, orally or by other means (including from or pursuant to discussions with any other party or which is obtained through attendance at meetings related to the Project) and trade secrets including, without limitation, technical data and know-how relating to the Project, **including in particular (by way of illustration only and without limitation) [EXAMPLES]** and including (but not limited to) information that you may create, develop, receive or obtain in connection with your engagement on the Project, whether or not such information (if in anything other than oral form) is marked confidential (the "Confidential Information").

Accordingly we draw to your attention that as part of your role for the NHS CBA you are required to:

- 1.1. maintain the Confidential Information in the strictest confidence and not divulge any of the Confidential Information to any third party without the prior written permission of NHS CBA; and
- 1.2. not make use of, reproduce, copy, discuss, disclose or distribute the Confidential Information other than for use as part of your role in the Project.

The above obligations in respect of this Confidential Information are supplemental to any prior representation, understanding and commitment (whether oral or written) between us. The terms of this Letter can only be changed by a written document, agreed upon by both of us and signed by duly authorised persons. These provisions shall be governed and construed by English law.

Yours faithfully

For and on behalf of the
NHS Commissioning Board Authority

By signing this letter you agree to comply with these terms.

Signed:	
Date:	
Print Name:	