# Annex J: Conflicts of interest policy checklist

In accordance with the Health and Social Care Act 2012, there is a legal requirement for Clinical Commissioning Groups (CCGs) to manage the process of conflicts of interest, both actual and perceived. The aim of the conflicts of interest policy checklist is to support CCGs to develop their conflict of interest policy. It is recommended that the CCG makes a commitment to review their conflicts of interest policy (subject to changes) annually to ensure all material is up to date. CCGs should refer to ***Managing Conflicts of Interest: Revised Statutory Guidance for CCGs*** when developing the conflicts of interest policy.

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| **Conflicts of interest** **policy - checklist** | **Key areas for consideration** |
| **Introduction to the policy** | * **Introduction**;
* Aims and objectives of the policy;
* Consider the **CCG’s constitution** and specified requirements in terms of conducting business appropriately;
* Consider the **legal requirements** in terms of managing conflicts of interest;
* Consider any other appropriate regulations;
* **Scope of the policy** <whom the policy applies to>
* **Commitment to review** <include frequency>
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| **Definition of an interest** | * **Definition of an interest**:
* **Types of an interest**, including:
* **Financial** interests;
* **Non-financial professional interests**
* **Non-financial personal interests**; or
* **Indirect interests** where an individual has a close association with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest in a commissioning decision

Refer to paragraphs 16 of the CCG Guidance for further information |
| **Principles** | * **Principles of good governance** for consideration, include those set out in the following:
* The **Seven Principles of Public Life** (commonly known as the Nolan Principles);
* The **Good Governance Standards of Public Services**;
* The **Seven Key Principles of the NHS Constitution**;
* The **Equality Act 2010**.
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| **Declaration of interests** | * Consideration should be given to the **statutory requirements**;
* Detail the **types of interests to be declared** - as outlined in the *definition of an interest* section;
* Details of **when a conflict of interest should be declared**;
* State the **contact details of the nominated person** to whom declarations of interest should be reported to;
* Consider **visual formats** including a **flowchart detailing the process** of declaring conflicts of interest in various settings i.e. meetings, the transfer of information onto registers of interest, etc.;
* Declarations of interest should be made by those listed in section 45 of the statutory guidance.

**A declaration on interests template should be appended to the policy** |
| **Register(s) of interest** | * Consideration should be given to the statutory requirements.
* CCGs should maintain one or more registers of interest for the individuals listed in paragraph 45 of the statutory guidance.
* As a minimum, CCGs should publish register(s) of interests of decision making staff at least annually in a prominent place on their website and make them available at their headquarters upon request.
* For the purposes of this guidance, decision-making staff are individuals who are more likely than others to have a decision making influence on the use of taxpayers’ money, because of the requirements of their role.
* The following non-exhaustive list describes who these individuals are likely to be:
* All governing body members;
* Members of advisory groups which contribute to direct or delegated decision making on the commissioning or provision of taxpayer funded services such as working groups involved in service redesign or stakeholder engagement that will affect future provision of services;
* Members of the Primary Care Commissioning Committee (PCCC);
* Members of other committees of the CCG e.g., audit committee, remuneration committee etc.;
* Members of new care models joint provider / commissioner groups / committees;
* Members of procurement (sub-)committees;
* Those at Agenda for Change band 8d and above;
* Management, administrative and clinical staff who have the power to enter into contracts on behalf of the CCG; and
* Management, administrative and clinical staff involved in decision making concerning the commissioning of services, purchasing of goods, medicines, medical devices or equipment, and formulary decisions.
* Stipulate the period of time within which registers of interest have to be updated- upon receiving a declaration of interest in line with the guidance;
* Stipulate publication arrangements for registers of interests for decision making staff in line with the guidance.

**A register of interests template should be appended to the policy** |
| **Declaration of** **gifts and hospitality** | * Consideration should be given to the statutory requirements;
* Consideration of risks when accepting gifts and hospitality;
* Define acceptable types of gifts and hospitality;
* Define the process for reporting gifts and hospitality;
* State the contact details of the nominated person to whom declarations of gifts and hospitality should be reported to;
* Declarations of gifts and hospitality should be made by those listed in section 45 of the statutory guidance.

**A declaration of gifts and hospitality form template should be appended to the policy.**  |
| **Maintaining a register of** **gifts and hospitality** | * Consideration should be given to the statutory requirements.
* CCGs should maintain one or more registers of gifts and hospitality for the individuals listed in paragraph 45 of the statutory guidance.
* As a minimum, CCGs should publish register(s) of gifts and hospitality of decision making staff at least annually in a prominent place on their website and make them available at their headquarters upon request. See above for the meaning of ‘decision making staff.’
* Consideration should be given to the time period for updating the registers of gifts and hospitality upon receiving a declaration of gifts and hospitality in line with the guidance;
* Stipulate publication arrangements for registers of gifts and hospitality in line with the guidance.

**A register of gifts and hospitality template should be appended to the policy** |
| **Roles and responsibilities** | * **Key considerations** when appointing governing body or committee members including the following:
* **Whether conflicts of interest should exclude** individuals from appointment;
* **Assessing materiality** of interest;
* **Determining the extent** of the interest.
* The **role of CCG lay members** in managing organisational conflicts of interest, including the following:
* **Conflicts of interest guardian**;
* **Primary care commissioning** **committee chair**.
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| **Governance arrangements and decision making** | * Consider the **CCG’s policy on outside employment** and procedure for declaring details- how will this impact on appointing governing board members.
* **Define the procedure** to be followed in governing body, committee and sub-committee meetings, including:
* Declarations of interest checklist **(a template should be appended to the policy)**;
* **Register of interests declared** to be **available for the Chair** in advance of the meeting;
* **Process for declaring interests** during the meeting;
* **Recording minutes** **of the meeting** including interests declared.
* **Procedures to be followed** for managing conflicts of interest which arise during a governing body, committee or sub-committee meeting, including, where appropriate:
* **Excluding the conflicted individual(s)** from any associated discussions and decisions;
* **Actions to be taken** if the exclusion affects the quorum of the meeting- including postponing the agenda item until a quorum can be achieved without conflict;
* **Clearly recording** the agenda item for which the interest has been declared.

See paragraphs 82 – 106 of the CCG Guidance (Managing conflicts of interest at meetings) for further details* Consider **openness and transparency in decision making processes** through:
* Effective record keeping in the form of clear minutes of the meeting.
* All minutes should clearly record the context of discussions, any decisions and how any conflicts of interest were raised and managed.

 **A template for recording minutes of the meeting should be appended to the policy.** |
| **Managing conflicts of interest throughout the** **commissioning cycle** | * Key areas for consideration include the following:
* **Service design**, this can either increase or reduce the level of perceived or actual conflicts of interest;
* Consider **public and patient involvement** and **provider engagement** in service design;
* Consider how you **involve PPI in** needs assessment, planning and prioritisation to service design, procurement and monitoring;
* Consider how you will **engage relevant providers, especially clinicians**, in confirming the design of service specifications- ensuring an audit train/ evidence base is maintained;
* Consider how you ensure provider engagement is in accordance with the three main principles of procurement law, namely **equal treatment, non-discrimination and transparency;**
* Are **specifications clear and transparent.**
* **Procurement**, are there clear processes to recognise and manage any conflicts or potential conflicts of interest that may arise in relation to procurement
* Consideration should be given to **statutory regulations and guidance when procuring** and contracting clinical services;
* Consideration should be given to how you ensure **transparency and scrutiny of decisions** i.e. keeping records of any conflicts and how these were managed;
* Maintaining **register of procurement decisions** detailing decisions taken, either for the procurement of a new service or any extension or material variation of a current contract.

**A procurement template and register of procurement decisions should be appended to the policy.*** Contract monitoring, consider conflicts of interest as part of the process i.e., the Chair of a contract management meeting should invite declarations of interests;
* **Process for recording** any declared interests in the minutes of the meeting; and how these are managed;
* Consider **commercial sensitivity of information** i.e. which information should be disseminated.

**A template for recording minutes of the contract meeting should be appended to the policy.** |
| **Raising concerns** | * Key areas for consideration:
* **When should a concern** regarding conflicts of interest **be reported**;
* What is the **process for reporting** concerns;
* **Who should concerns be raised with**;
* How will concerns **be investigated**;
* **Who is responsible** for making the decision;
* How do you **ensure confidentiality;**
* **Reporting requirements.**
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| **Breach of conflicts of interest policy** | * Consider and agree a clear, **defined process for managing breaches of the CCG’s conflicts of interest policy**, including:
* **How the breach is recorded**;
* How it is **investigated**;
* The **governance arrangements and reporting mechanisms**;
* Clear **links to whistleblowing and HR policies**;
* **Communications and management of any media interest**;
* When and who to **notify NHS England**;
* **Process for publishing the breach** on the CCG website.
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