

# NHS Gloucestershire Integrated Care Board

## **Standards of Business Conduct**

v1.0  
1<sup>st</sup> July 2022

## 1. Introduction

- 1.1. NHS Gloucestershire Integrated Care Board (the ICB) aspires to the highest standards of business conduct and has therefore developed this policy to ensure that the ICB's Board, all staff, member practices and others acting on behalf of the ICB observe and comply with all relevant legislation and regulations and undertake business in a way that is ethical, and act with integrity at all times.
- 1.2. Standards of Business Conduct are the standards set and expected of staff who work within the public sector in order to ensure that they operate with integrity, openness and honesty and are accountable to the public for the actions that they take on behalf of the ICB. The ICB has a duty to ensure fairness and honesty in its relationships with suppliers, contractors, service providers and service users or any other person or organisation with whom it has or might have business connections with. This policy sets out how the ICB will manage standards of business conduct and underpins the ICB's constitution.
- 1.3. To further support the management of conflicts of interest, the ICB will:
  - **Do business appropriately:** Conflicts of interest become much easier to identify, avoid and manage when the processes are clear, because we will withstand scrutiny;
  - **Be proactive, not reactive:** Commissioners will seek to identify and minimise the risk of conflicts of interest at the earliest possible opportunity;
  - **Be balanced, sensible and proportionate:** Rules will be clear and robust but not overly prescriptive or restrictive;
  - **Be transparent:** We will document clearly the approach and decisions taken at every stage in 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.
- 1.4. The principles contained within this policy are aimed at GICB Board Members, all staff, member practices and others acting on behalf of the ICB who must therefore be aware of this policy and comply with the details within it.
- 1.5. The policy describes processes and procedures in place to manage standards of business conduct within the ICB in the following areas:
  - in the operation of the ICB Board;

- in the procurement of services;
- commercial sponsorship;
- the acceptance of gifts and hospitality;
- further areas of business conduct including private practice, sponsored events and secondary employment;
- commissioning of new care models.

## 2. Guidance and Legal Framework

2.1. This policy has considered a number of statutory and regulatory guidance in its development, all of which the ICB expects its staff and employees working on its behalf to comply with. In particular, this policy respects the seven key principles of the NHS Constitution:

- The NHS provides a comprehensive service, available to all.
- Access to NHS services is based on clinical need, not an individual's ability to pay.
- The NHS aspires to the highest standards of excellence and professionalism.
- The patient will be at the heart of everything the NHS does.
- The NHS works across organisational boundaries and in partnership with other organisations in the interest of patients, local communities and the wider population.
- The NHS is committed to providing best value for taxpayers' money and the most effective, fair and sustainable use of finite resources.
- The NHS is accountable to the public, communities and patients that it serves.

2.2. The Standards of Business Conduct policy also respects the seven principles of public life promulgated by the Nolan Committee, which form a basis for the standards expected of all staff. The seven principles are:

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

The Nolan Principles can be found in full [here](#).

2.3. Bribery Act 2010 - The ICB has a responsibility to ensure that all staff are made aware of their duties and responsibilities with regards to the Bribery Act 2010. Under this act there are four offences, the first three are most applicable to the NHS:

- 2.3.1. Offer, promise or give a bribe to another person to perform a relevant function or activity improperly (this is known as ‘active bribery’).
- 2.3.2. Request, accept or agree to receive a bribe to perform a function or activity improperly (even if the bribe is not for the recipient’s benefit or is received via a third party). This is known as ‘passive bribery’.
- 2.3.3. Failure of an organisation to prevent bribery.
- 2.3.4. Offer, promise or give a financial or other advantage to a foreign public official.

For further information, please refer to the ICB Counter Fraud and Corruption Policy.

- 2.4. Section 25 of the Health and Social Care Act 2012 imposes duties on ICB in relation to maintaining registers of interest and managing conflicts of interest. Further guidance was also published in December 2014 to reflect the opportunity for ICB to take an increased responsibility for commissioning of Primary Care.
- 2.5. NHS England has also issued guidance for ICB on the management of conflicts of interest in 2016 and again in 2017, and this policy has been updated to incorporate these requirements. Full NHS England guidance can be found [here](#). This policy also addresses NHS England’s *Best Practice Update on Conflicts of Interest Management: Call to Action for CCGs* published in February 2019 (see Appendix 12).
- 2.6. Staff may also wish to read the Good Governance Standards for Public Services, and the Equality Act 2010 in which this policy also respects.

### **3. Responsibilities**

#### **3.1. NHS Gloucestershire ICB**

- 3.1.1. The ICB is responsible for ensuring that the requirements of this policy are brought to the attention of the ICB’s Board, all staff, member practices and others acting on behalf of the ICB and that processes are put in place for ensuring that statutory and regulatory guidelines are effectively implemented.

### 3.2. Board

- 3.2.1. All members of Gloucestershire ICB's Board are collectively responsible for decisions made by the organisation and are equally obliged to avoid, and/or manage, any real or perceived material conflicts of interest in accordance with this policy as appropriate.
- 3.2.2. The Board has ultimate responsibility for all actions carried out by staff and committees throughout the ICB's activities. This responsibility includes the stewardship of significant public resources and the commissioning of healthcare to the community.
- 3.2.3. It is therefore the duty of the Board to ensure the organisation inspires confidence and trust amongst its patients, staff, partners, funders and suppliers by demonstrating integrity and avoiding any potential or real situations of undue bias or influence in the decision-making of the ICB.

### 3.3. Chief Executive

- 3.3.1. The Chief Executive has overall responsibility for business conduct and is the Executive Lead on the Board for all corporate governance processes operated by the ICB.

### 3.4. Chairs of Committees, Sub-committees and Meetings

- 3.4.1. All Chairs will ensure that meetings are conducted in accordance with this policy and that every meeting gives members an opportunity to declare any conflict of interest in relation to items on the agenda. The Chair is also responsible for ensuring that any declarations are recorded appropriately, and suitable action is taken within the meeting, with the assistance of the secretariat for the meeting.
- 3.4.2. The Chairs have ultimate responsibility for deciding whether there is a conflict of interest and for taking the appropriate course of action in order to manage this.
- 3.4.3. In the event that the Chair themselves holds a conflict of interest, the Vice Chair is then responsible for deciding the appropriate course of action. If the Vice Chair is also conflicted then the remaining non-conflicted voting members of the meeting should agree between themselves how to manage the conflict(s).
- 3.4.4. The Chair of the Primary Care Commissioning Committee has a particularly important role in the management of conflicts of interest due to the

responsibilities the Committee has towards delegated commissioning and the matters that subsequently arise.

- 3.4.5. It is good practice for the Chair, with support of the ICB's Associate Director of Corporate Affairs, to proactively consider any potential conflicts that may arise at a meeting and consider how these should be managed. The Corporate Governance Team will ensure that the Chair has sight of the register of interests before the meeting if necessary to assist this process.
- 3.4.6. The Corporate Governance Team will be responsible for maintaining the ICB Committee declarations of interest register and ensuring that it is kept up to date with conflicts of interests arising at committees and other meetings.
- 3.4.7. Further information regarding the management of conflicts of interests at meetings can be found at 4.5.

### 3.5. Members, Senior Managers and all Staff

- 3.5.1. All Members including GP Practices, senior managers, staff and others working for or on behalf of the ICB must familiarise themselves with this policy upon their appointment within the organisation. This will include all those acting on behalf of the ICB including contracted and temporary staff and lay persons.

### 3.6. Associate Director of Corporate Affairs

- 3.6.1. The Associate Director of Corporate Affairs will provide advice and assistance to all ICB staff members on matters pertaining to business conduct and ensure that appropriate registers are maintained.
- 3.6.2. The Corporate Governance team should be contacted to report any declarations of interests as soon as possible and must be declared within 28 days, these will then be recorded as appropriate.

### 3.7. Audit & Risk Committee

- 3.7.1. The Audit & Risk Committee is responsible for reviewing the registers of Gifts, Hospitality and Commercial Sponsorship including Pharmaceutical rebates on behalf of the ICB Board and receives reports on these at least quarterly.

### 3.8. Primary Care Commissioning Committee

- 3.8.1. The Primary Care Commissioning Committee (PCCC) has delegated responsibility for agreeing matters pertaining to primary care, and will therefore ensure it complies with the guidance of this policy in terms of managing conflicts of interest. Further information about how the PCCC will manage conflicts can be found at point 4.4.12.

3.9. ICB Executive Team

- 3.9.1. The ICB Executive Team (Core) is responsible for reviewing the full register of declarations of interest and provides sufficient scrutiny on these on a bi-monthly basis.

3.10. New Models of Care Board

- 3.10.1. Gloucestershire's Integrated Care System (ICS) supports the delivery of service change across the county. The ICS checklist for governance and engagement supports the Gloucestershire Partnerships and collaborative working that is in place for a system wide development programme. The New Models of Care Board focusses on innovation and collaboration across Gloucestershire GP practices, under the ICS. The purpose of this group means that representatives from partner organisations are included as equivalent members, therefore it is likely that there will be individuals with roles in both the ICB and any new care model provider/potential provider commissioned.
- 3.10.2. The ICB will ensure that it manages conflicts of interest in relation to New Models of Care locally and in compliance with Annex K of the NHS England guidance which can be found [here](#).

4. **Declarations of Interest**

***Statutory requirements:*** ICB must make arrangements to ensure individuals declare any conflict or potential conflict in relation to a decision to be made by the group as soon as they become aware of it, and in any event within **28 days**. The ICB must record the interest in the registers as soon as they become aware of it.

4.1. Definition of a Conflict of Interest

- 4.1.1. A conflict of interest occurs where an individual's ability to exercise judgement or act in one role is, or could be, impaired or otherwise influenced by his or her involvement in another role or relationship. It can be described as 'a set of circumstances by which a reasonable person would consider that an individuals' ability to apply 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.’

4.1.2. A conflict of interest may be actual or potential:

- Actual – There is a material conflict between one or more interests
- Potential – There is the possibility of a material conflict between one or more interests in the future

4.1.3. Conflicts of interest are not possible to avoid in all instances, however, recognising where and how they arise and dealing with them appropriately will enable the ICB to demonstrate proper governance and decision making with regard to the use of public resources

4.1.4. The individual does not need to exploit his or her position or obtain an actual benefit, financial or otherwise. A potential for competing interests and/or a perception of impaired judgement or undue influence can also be a conflict of interest.

4.2. Who should declare interests

4.2.1. Declarations of interest and gifts and hospitality should be made by the following groups upon appointment to the ICB:

- **All ICB employees including:**
  - Any full and part time staff
  - Any staff on sessional or short term contracts
  - Any students and trainees
  - Agency staff
  - Seconded staff
  - Voluntary staff
  - Apprentices.
- **Members of the Board**
- **All members and participants of the ICB (i.e. each GP Practice)**

This includes each provider of primary medical services which is a member of the ICB under Section 140 (1) of the 2006 Act. Declarations should be made by:

  - GP Partners
  - Any individual directly involved with the business or decision-making of the ICB.



- 4.2.2. GPs and other staff within the ICB's member practices are not required to declare offers/receipt of gifts and hospitality to the ICB which are unconnected with their role or involvement with the ICB.
- 4.2.3. All ICB staff shall complete a declaration of interests form as part of the appointment process. The Dol form will be included in the paperwork sent to new appointees.

#### 4.3. Conflicts of Interests Guardian (COIG)

- 4.3.1. The ICB is required by NHS England to have a Conflicts of Interest Guardian (akin to a Caldicott Guardian) who will:

- Act as a conduit for members of the public who have any concerns in regard to conflicts of interest;
- Be the safe point of contact for a whistleblower within the organisation for issues pertaining to conflicts of interest; and
- Support the rigorous application of conflict of interest principles and policies;
- Provide independent advice and judgement where there is any doubt about how to apply conflicts of interest policies and principles in an individual situation;
- Provide advice on minimising the risks of conflicts of interest.

- 4.3.2. Whilst the COIG has an important role within the management of conflicts of interests, executive members of the ICB's Board have an on-going responsibility for ensuring the robust management of conflicts of interest, and all ICB employees, Board and committee members and member practices will continue to have individual responsibility in playing their part on an ongoing and daily basis.

- 4.3.3. The COIG for Gloucestershire ICB is the Lay Member for Governance and Audit & Risk Committee Chair, who will be supported by the Associate Director of Corporate Affairs and Corporate Governance Manager.

- 4.3.4. Details about how to get in touch with the COIG can be found in Appendix 14.

#### 4.4. Types of Conflicts of Interests

- 4.4.1. Types of conflicts of interest that can arise include the following and are fully defined within Appendix 1:

- Financial interests;
- Non-financial professional interests;

- Non-financial personal interests;
  - Indirect interests
- 4.4.2. It is not possible, or desirable, to define all instances in which an interest may be a real or perceived conflict. It is for each individual to exercise their judgement in deciding whether to register any interests that may be construed as a conflict. Individuals can seek guidance from the Associate Director of Corporate Affairs, but as a general rule “if in doubt, declare”.
- 4.4.3. Accordingly, ICB Board members are required to declare any relevant and material interests, and any gifts or hospitality offered and received in connection with their role in the ICB. Interests that may impact on the work of the Board and should be declared include:
- any directorships of companies likely to be engaged with the business of the ICB;
  - previous or current employment or consultancy positions;
  - voluntary or remunerated positions, such as trusteeship, local authority positions, other public positions;
  - membership of professional bodies or mutual support organisations;
  - investments in unlisted companies, partnerships and other forms of business, major shareholdings and beneficial interests;
  - gifts or hospitality offered to you by external bodies and whether this was declined or accepted in the last twelve months;
  - any other conflicts that are not covered by the above.
- 4.4.4. A declaration of interests form listing the types of interest that should be declared is attached at Appendix 2. The declaration of interests form must be completed in the following instances:

### ***On appointment***

- 4.4.5. Applicants for any appointment to the ICB Board or its Committees are required to declare any relevant interests. If any potential conflicts of interests arise these will be considered on a case by case basis by the recruiting manager and interview panel.
- 4.4.6. If it is considered that any individual has a material interest in an organisation which provides/is likely to provide substantial business to the ICB they shall not be entitled to be a member of the Board. A material interest can be defined as being so significant that the individual would be unable to make a full and proper contribution to the Board as this interest would preclude them from having involvement in the majority of discussions and decisions.

### ***At meetings***

- 4.4.7. All attendees at meetings are required to declare relevant interests as a standing agenda item for every Board, Committee, Sub-committee or working group meeting, before the item is discussed. It is also good practice to consider any potential interests in relation to the agenda items ahead of the meeting. These declarations will be recorded within the minutes as appropriate.
- 4.4.8. A series of guides has been developed by NHS England to help effectively manage conflicts of interests including a summary guide for administrator staff responsible for organising and administering meetings. A copy is available **here** and on the ICB's intranet.

### ***When prompted to by the ICB***

- 4.4.9. The ICB will ensure that at least annually, staff are prompted to update their declarations of interest or make a nil return (via a returned form or email) where there are no interests or changes to declare. The ICB may ask for updates from individuals or groups on an adhoc basis where gaps are identified e.g. within internal audit or there has been a change in organisational circumstances which require a review of declarations

### ***Change of role or responsibility or circumstance***

- 4.4.10. Whenever an individual's role, responsibility or circumstances change in a way that affects the individual's interests (e.g. where an individual takes on a new role outside the ICB or enters into a new business or relationship), a further declaration should be made to reflect the change in circumstances as soon as possible, and in any event within **28 days**. This could involve a conflict of interest ceasing to exist or a new one materialising, and it is the responsibility of the individual concerned to make a further declaration as soon as possible, rather than waiting to be asked.
- 4.4.11. Whenever interests are declared they should be promptly reported to the Corporate Governance Manager within the Corporate Governance team who has designated responsibility for maintaining the register of interests (further information at section 6).

### ***4.5. Managing Conflicts of Interest at Meetings***

***Statutory requirements:*** *The ICB must make arrangements for managing actual or potential conflicts of interest in such a way as to ensure that they do not, and do not appear to, affect the integrity of the group's decision making.*

- 4.5.1. All members of the Board, sub-committees and meetings will be required to declare any interests in any agenda item before it is discussed or as soon as it becomes apparent, albeit if an interest is declared in the register of interests. Declarations of interest will be recorded in minutes of meetings accordingly.
- 4.5.2. When an interest is declared at a Committee or other decision making body, the Chair should make the decision as to whether that individual remains out of the discussion with regards to the topic in which the interest is declared, or other action taken as appropriate (see below). Further information regarding the Chair's role can be found at 3.4 of this policy.
- 4.5.3. It is imperative that the ICB ensures complete transparency in decision-making processes through robust record-keeping. If any conflicts of interest are declared or otherwise arise in a meeting, the Chair must ensure the following information is recorded in the minutes:
- Who has the interest;
  - The nature of the interest and why it gives rise to a conflict;
  - 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.

It must also be recorded that no declarations of interest were made if applicable.

### **Exclusion of Individuals on Account of an Interest**

- 4.5.4. All Board members are required to declare their interests in relation to any items on the agenda at the start of each meeting however it is also good practice to consider potential conflicts against each agenda item before the meeting and discuss these with the Chair and Associate Director of Corporate Affairs. Where the conflict is material to the discussion of the Board, that member shall withdraw from discussions pertaining to that agenda item, the conflict and the action will be recorded in the minutes of the meeting and the register of interests updated accordingly.
- 4.5.5. In some instances, a conflict may be so significant that an individual should not receive any documents/reports in relation to that agenda item. The Chair, with the assistance of the Associate Director of Corporate Affairs will be responsible for making this decision prior to the forwarding of meeting papers. This issue demonstrates the importance of proactive conflicts of interest management.

- 4.5.6. It is the responsibility of the Associate Director of Corporate Affairs to monitor quorum and advise the Chair accordingly to ensure it is maintained throughout the discussion and decision of the agenda item. Should the withdrawal of the conflicted individual result in the loss of quorum, the item cannot be decided upon at that meeting.
- 4.5.7. Where permitted under the ICB's Constitution or the conditions of its establishment, the Board has the power to waive restrictions on any clinical professional member participating in the business of the Board, where to authorise such a conflict would be in the interests of the ICB. The application of a waiver can, therefore, be used in the following situations:
- a member of the Board is a clinical professional providing healthcare services to the ICB that do not exceed the average for other practices and NHS entities commissioned to provide services by the ICB; or
  - where the Board member has a pecuniary interest arising out of the delivery of some professional service on behalf of the ICB, and the conflict has been adjudged by the Chair and the Conflict of Interest Guardian not to bestow any greater pecuniary benefit to other professionals in a similar relationship with the ICB.
- 4.5.8. Where the Chair and the appropriate Non-Executive Member have approved the use of the waiver, the Chair must have discussed it with the Chief Executive before the meeting. In such circumstances where the waiver is used, the Board member:
- must disclose their interest as soon as practicable at the start of the meeting;
  - may participate in the discussion of the matter under consideration; but
  - must not vote on the subject under discussion.
- 4.5.9. The minutes of the meeting will formally record that the waiver has been used, and that this policy and the appropriate document provisions have been observed in managing that authorised conflict. Where a member has withdrawn from the meeting for a particular item, the Associate Director of Corporate Affairs will ensure that the minutes for that member do not contain such information that may compound the potential conflict, but do not unnecessarily disadvantage the member in their performance of their functions and legal responsibilities.

## **Decisions Taken With an Interest**

- 4.5.10. In the event of the Board having to decide upon a question in which a member has an interest, all decisions will be made by vote, with a simple majority required. A quorum must be present for the discussion and decision;

interested parties will not be counted when deciding whether the meeting meets quorum. Conflicted members **must not vote** on matters affecting their own interests, even where the use of the waiver has been approved by the chairman and used.

- 4.5.11. All decisions under a conflict of interest will be recorded by the Associate Director of Corporate Affairs and reported in the minutes of the meeting as outlined within section 4.5.3 but should also include the use of the waiver if there has been one, and the reason behind its implementation.
- 4.5.12. Where a Board member benefits from the decision; this will be reported in the annual report and accounts, as a matter of best practice. All payments or benefits in kind to Board members will be reported in the ICB's accounts and annual report, with amounts for each Board member listed for the year in question.
- 4.5.13. As stated within the Constitution, a register of all procurement decisions will be maintained and will also be made publicly available on the ICB's website [here](#)
- 4.5.14. Primary Care Commissioning Committee (PCCC)
- a. NHS Gloucestershire ICB holds delegated commissioning responsibility for Primary Care and therefore has an established Primary Care & Direct Commissioning (PCDC) Committee. Due to their nature in deciding on Primary Care services, the Committee holds a number of potential conflicts of interests risks. These meetings are held in public unless the ICB has concluded that it is appropriate to exclude them.

Examples of where it may be appropriate to exclude the public include:

- Information about individual patients or other individuals which includes sensitive personal data is to be discussed;
  - Commercially confidential information is to be discussed, for example the detailed contents of a provider's tender submission;
  - Information in respect of which a claim to legal professional privilege could be maintained in legal proceeding is to be discussed;
  - To allow the meeting to proceed without interruption and disruption.
- b. In the interest of minimising these risks, the ICB ensures that GPs do not have voting rights on the committee. The arrangements do not preclude GP participation in strategic discussions of Primary Care issues, subject to appropriate management of conflicts of interest. They

apply to decision-making on procurement issues and the deliberations leading up to the decision. GP input into clinical issues in Primary Care is important therefore they shall remain in attendance at PCCC meetings, as per defined terms of reference.

- c. It is also important that conflicts of interests are managed appropriately within sub-committees and sub-groups. Therefore as an additional safeguard, sub-groups must submit their minutes to the PCCC, detailing any conflicts and how they have been managed. The PCCC should be satisfied that conflicts of interest have been managed appropriately in its sub-committees and other relevant groups, and take action where there are concerns.

## **5. Gifts, Hospitality and other areas of Business Conduct**

- 5.1. Staff in the NHS offer support during significant events in people's lives, and we should be proud that services are valued, but situations where the acceptance of gifts could rise to conflicts of interest should be avoided. Employees of the ICB may accept gifts, sponsorship and/or hospitality under certain circumstances, which are outlined in the following sections of this policy. In the interests of transparency, any offers outside these circumstances must be refused however must still be recorded. A central register will be maintained by the Corporate Governance team and reported to the ICB Core Team and Audit & Risk Committee at quarterly intervals as part of the ICB's internal assurance process.

- 5.1.1. ICB staff and members should be mindful that even gifts of a small value may give rise to perceptions of impropriety and might influence behaviour if not handled in an appropriate way. This is also the case where the ICB staff give gifts on behalf of the ICB to other organisations and individuals. As a general rule the ICB discourages its employees accepting or giving gifts except in exceptional circumstances (see conditions below). Employees are encouraged to seek advice from the Associate Director of Corporate Affairs and / or the Conflicts of Interests Guardian.

### **5.2. Gifts**

- 5.2.1. A 'gift' is defined as 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.
  - 5.2.2. All gifts of any nature offered to ICB staff, Board and committee members and individuals within GP member practices by suppliers or contractors linked (currently or prospectively) to the ICB's business should be declined,

whatever their value. However, low cost branded promotional aids may be accepted and not declared where they are under the value of a common industry standard of **£6**. The person to whom the gifts were offered should also declare the offer to the Corporate Governance team who have designated responsibility for maintaining the register of gifts and hospitality so the offer which has been declined can be recorded on the register.

- 5.2.3. Gifts offered from other sources (e.g. **patients, families, service users**) may be accepted if they are **under the value of £50** and do not need to be declared. Gifts at over this value should be treated with caution and should only be accepted on behalf of an organisation, not in a personal capacity and should be declared. Multiple gifts from the same source over a twelve month period should be treated in the same way as single gifts over £50 where the cumulative exceeds £50. ICB staff and members should not request gifts, and staff should operate a common sense approach to the valuing of gifts.
- 5.2.4. 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 to the Corporate Governance team who have designated responsibility for maintaining the register of gifts and hospitality and recorded on the register.
- 5.2.5. Employees must declare any gifts using the form at Appendix 2 whether or not the offer has been refused or accepted to ensure that the employee and the ICB is protected against any subsequent accusation of compromise.

### 5.3. Hospitality

- 5.3.1. Hospitality means offers of meals, refreshments, travel, accommodation and other expenses in relation to attendance at meetings, conferences, education and training events.
- 5.3.2. A blanket ban on accepting or providing hospitality is neither practical nor desirable from a business point of view however, all offers of hospitality should be approached with caution by employees of the ICB. Any offers of modest hospitality including a drink or a sandwich during an external meeting or free parking to attend a meeting do not require approval from a manager.
- 5.3.3. Employees should refuse any hospitality which may compromise or be reasonably seen to compromise their ability to exercise judgement in their role. Offers of hospitality including holiday accommodation, sporting fixtures,



theatre or other events **must be declined**. 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 (e.g. Associate Director of Corporate Affairs) and declare these.

5.3.4. Hospitality must be secondary to the purpose of the meeting and should not be out of proportion to the occasion or exceed the level which the staff member would normally adopt under normal circumstances when paying for themselves, or that would normally be acceptable to the NHS.

5.3.5. Meals and refreshments:

- Under the 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 register as to why it was permissible to accept;
- A common sense approach should be applied to the valuing of meals and refreshments (using the actual amount, if known).

5.3.6. Travel and accommodation:

- Modest offers to pay some or all of the travel and accommodation costs related to attendance at events may be accepted however must be declared;
- Offers which go beyond modest, or are of a type that the ICB itself might not usually offer, need approval by senior staff and should only be accepted in exceptional circumstances;

5.4. Commercial Sponsorship

5.4.1. For the purpose of this policy commercial sponsorship is defined as “NHS funding from an external source, including funding of all or part of the cost of a member of staff, NHS research, staff training, pharmaceuticals, equipment, meeting rooms, costs associated with meetings, meals, gifts, hospitality, hotel and transport costs, provision of free services and buildings or premises.”

5.4.2. Commercial sponsorship can include different forms, the most applicable to the ICB include:

- Financial support and hospitality for meetings;
- Attendance at conferences;

- Publications;
  - Training.
- 5.4.3. ICB employees should read the 'Policy for the Joint Working between NHS Gloucestershire ICB and the Pharmaceutical Industry' in conjunction with this policy where commercial sponsorship is from pharmaceutical companies.
- 5.4.4. In all cases, ICB employees must declare sponsorship or any commercial relationship linked to the supply of goods or services **where this is above the estimated value of £25.00**. This should be declared on the form at Appendix 2 of this policy, returned to the Corporate Governance team and recorded within the Commercial Sponsorship Register.
- 5.4.5. As a general rule, sponsorship arrangements involving the ICB will be at a corporate, rather than individual level.
- 5.4.6. If publications are sponsored by a commercial organisation, that organisation should have no influence over the content of the publication. The company logo can be displayed on the publication, but no advertising or promotional information should be displayed. The publication should contain a disclaimer which states that sponsorship of the publication does not imply that the ICB endorses any of the company's products or services.
- 5.4.7. All ICB employees and individuals acting on behalf of the ICB should discuss the implications, with their manager, before accepting an invitation to speak at a meeting organised by a pharmaceutical company. The company should have no influence over the content of any presentation made by the ICB employee/representative. It should be made clear that ICB presence does not imply that the ICB endorses any of the company's products or services.
- 5.4.8. Under no circumstances will the ICB agree to 'linked deals' whereby sponsorship is linked to the future purchase of particular products or to supply from particular sources.
- 5.4.9. Sponsorship of NHS events can sometimes occur and is valued. Offers to meet some or part of the costs of running an event secures their ability to take place, benefiting NHS staff and patients. However, there is potential for conflicts of interest between the organiser and the sponsor, particularly regarding the ability to market commercial products or services. As a result of this, the ICB will ensure proper safeguards in place to prevent such conflicts occurring.
- 5.4.10. When sponsorship is offered, the following principles must be adhered to:

- Sponsorship of ICB events by appropriate external bodies should only be approved if a reasonable person would conclude that the event will result in clear benefit for the ICB and the NHS;
- During dealing with sponsors there must be no breach of patient or individual confidentiality or data protection rules and legislation;
- No information should be supplied to the sponsor from which they could gain a commercial advantage, and information which is not in the public domain should not normally be supplied;
- At the ICB's discretion, sponsors or their representatives may attend or take part in the event but they should not have a dominant influence over the content or the main purpose of the event;
- The involvement of a sponsor in an event should always be clearly identified in the interest of transparency
- ICB should make it clear that sponsorship does not equate to endorsement of a company or its products and this should be made visibly clear on any promotional or other materials relating to the event; An appropriate disclaimer by the ICB should be included on any brochures / leaflets (consult the Associate Director of Corporate Affairs for further advice);
- Staff should declare involvement with arranging sponsored events to their ICB.

## 5.5. Secondary Employment

- 5.5.1. As per the standard contract of employment, individuals working for the ICB are required to notify the ICB of any secondary employment. This is also covered in the ICB Working Time Regulations Policy. The ICB reserves the right to take action where it believes a conflict will arise which cannot be effectively managed.
- 5.5.2. The purpose of this is to ensure that the ICB is fully aware of any potential conflicts of interest. Examples of work which might conflict with the business of the ICB include:
- Employment with another NHS body;
  - Employment with another organisation which might be in a position to supply goods or services to the ICB;
  - Self-employment, including private practice, in a capacity which might conflict with the work of the ICB or which might be in a position to supply goods or services to the ICB;
  - Directorship of a GP federation / Primary Care Network.
- 5.5.3. Outside employment and private practice (secondary employment) must be declared as a potential conflict of interest, whether the individual believes it to be a conflict or not.

5.5.4. Should a staff member hold any secondary employment which may conflict with the work of the ICB, the ICB will consider whether, practically, such an interest is manageable at all. If it is not, the appropriate course of action may be to refuse to allow circumstances which give rise to the conflict to persist. This may require an individual to step down from a particular role and/or move to another role within the ICB.

#### 5.6. Co-operation with product suppliers

5.6.1. All requests for co-operation from product suppliers that are received by members of staff should be referred to their senior managers. Suppliers should also be provided with a copy of this policy and the Counter Fraud and Corruption Policy. They must be reminded that the ICB has a zero tolerance approach to fraud and bribery (see the ICB's Bribery Statement ***here***).

5.6.2. There are occasions when it may be beneficial to patients and clients for staff to participate in trials of products and appliances which may be used in the delivery of our services. Patients may ultimately benefit from the development of new products, and being involved in such trials ensures our staff are up to date with current product development.

5.6.3. Any financial incentives offered to staff to participate in such trials should be dealt with in the same way as monetary gifts given by patients. Staff are reminded that if they are asked to participate in any research or trials, this must be submitted to their Line Manager / Director before any agreement to participation is given. Advice can also be sought from the Associate Director of Corporate Affairs / COIG.

5.6.4. Employees who attend educational meetings or conferences where some part of their costs (registration fees, travel or accommodation) are paid by commercial companies, they must declare the sponsorship to the Corporate Governance team on the form at (Appendix 3) in addition to seeking the usual agreement for study leave.

#### 5.7. Personal Conduct

5.7.1. The lending or borrowing of money between staff should be avoided, whether informally or as a business, particularly where the amounts are significant.

5.7.2. It is a particularly serious breach of discipline for any member of staff to use their position to place pressure on someone in a lower pay band, a business contact, or a member of the public to loan them money.

- 5.7.3. No member of staff may bet or gamble when at work or on ICB premises, with the exception of small lottery syndicates or sweepstakes related to national events such as the World Cup or the Grand National among immediate colleagues.
- 5.7.4. Staff who become bankrupt or insolvent must inform their line management and Human Resources as soon as possible. Staff who become bankrupt or insolvent cannot be employed in posts that involve duties which might permit the misappropriation of public funds or involve the handling of money.
- 5.7.5. A member of staff who is arrested and refused bail or convicted of any criminal offence must inform their line management and Human Resources who will take appropriate action in line with the ICB disciplinary policy. All ICB staff should make themselves aware of the ICB Counter Fraud and Corruption Policy. ICB managers must ensure they adhere to the NHS Management Code of Conduct at all times.

## 5.8. Political Activities

- 5.8.1. Any political activity should not identify an individual as an employee of the ICB. Conferences or functions run by a party political organisation should not be attended in an official capacity, except with prior written permission from the Chief Executive and Chair of the ICB in exceptional circumstances.

## 5.9. Appointing Board or Committee Members

- 5.9.1. The ICB needs to consider whether conflicts of interest should exclude individuals from being appointed to the Board or to a Committee or Sub-Committee membership. This will be considered on a case by case basis with reference to the disqualification criteria outlined in the NHS England documents, ICB Board members: Roles outlines, attributes and skills (April 2012), Managing Conflicts of Interests: Statutory Guidance for ICB and the ICB's own Constitution.
- 5.9.2. In these instances, the ICB will assess the materiality of the interest, in particular whether the individual could benefit from any decision the ICB might make. This will be particularly relevant for Board, committee and sub-committee appointments, but should also be considered for all employees and especially those operating at a senior level.
- 5.9.3. The ICB will need to determine the extent of the interest and the nature of the appointee'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.

- 5.9.4. The responsibility for this decision will sit with the recruiting manager for the particular post (usually the Associate Director of Corporate Affairs for Board members) in liaison with the interview or appointment panel as appropriate. For committee membership issues, this will be the responsibility of the Chair with advice and support from the Associate Director of Corporate Affairs and the Chief Executive. Sometimes the Board as a whole may discuss the issue together to reach a decision. However, this decision relies on the applicants declaration of interest as outlined in this policy.

#### 5.10. The Commissioning Cycle

- a. Conflicts of interest need to be managed appropriately throughout the whole commissioning cycle. At the outset of a commissioning process, the relevant interests of all individuals involved should be identified and clear arrangements put in place to manage any conflicts of interest. This includes consideration as to which stages of the process a conflicted individual should not participate in, and, in some circumstances, whether that individual should be involved in the process at all.
- b. The way in which services are designed can either increase or decrease the extent of perceived or actual conflicts of interest. Particular attention should be given to public and patient involvement in service development.

##### 5.10.1. Commissioning Services from GP Practices

- a. The ICB will abide by the NHS Commissioning Board Code of Conduct 'Managing conflicts of interest where GP practices are potential providers of ICB-commissioned services', first published in October 2012 which sets out additional safeguards to use when commissioning services for which GP practices could be potential providers.

##### 5.10.2. Procuring Services

- a. The management of conflicts of interest is vitally important in the procurement of clinical services and managing them appropriately is paramount to the probity and accountability of the ICB's decision making and will ensure that the principles of transparency and fairness are upheld. The ICB must and will comply with two different regimes of

procurement law and regulation when commissioning healthcare services:

- The NHS procurement regime
  - The European procurement regime
- b. The nature of the ICB means that it is led by GPs, therefore there is an increased risk that conflicts of interest could arise when procuring clinical services. An obvious area in which conflicts could arise is where the ICB commissions (or continues to commission by contract extension) healthcare services, including GP services, in which a member of the ICB has a financial or other interest.
- c. The Procurement Strategy for the Purchase of Healthcare Services considers conflicts of interest that may exist when commissioning services from providers including GP practices and should be read in conjunction with this policy where appropriate.

Such a conflict could arise:

- In carrying out a competitive tender: where GP practices or other providers in which ICB Members have an interest are amongst those bidding to provide those services;
- When procuring clinical services through Any Qualified Provider: where one or more GP practice (or other providers in which ICB members have an interest) are amongst the qualified providers from which patients can choose.

In managing conflicts of interests in procuring services the ICB will:

- Comply with its statutory obligations in relation to the management of conflicts of interest;
- Have regard to relevant guidance published by NHS England in relation to the discharge of its statutory obligations; and
- Comply with its constitution in relation to the management of conflicts of interests;
- Maintain and publish a register of completed procurements outlining any conflicts of interests declarations;
- Make the register of procurement decisions available within its annual accounts.

Regulation 6 of the NHS (Procurement, Patient Choice and Competition) Regulations 2013 requires ICB to:

- Manage conflicts and potential conflicts of interest when awarding a contract by prohibiting the award of the contract where the integrity of the award has been or appears to have been affected by a conflict; and
  - Keep appropriate records of how conflicts of interest have been managed in individual cases.
- d) The ICB will complete the Procurement checklist (Appendix 9) when procuring services from providers, to ensure full due consideration is given to the process of procurement. This information will then be transferred onto the Register of procurements decisions and contracts awarded (Appendix 10 and 11) and made publically available.
- e) Bidders and contractors will be required to declare any potential conflicts of interest that could arise if they were to take part in any procurement process and/or provide services under, or otherwise enter into any contract with, the ICB, or with NHS England. The ICB will request bidders and contractors to complete the form at Appendix 12 of this policy.

## 6. Registers of Interests

**Statutory requirements:** ICB must maintain one or more registers of interest of: the members of the group, members of its Board, members of its committees or sub-committees of its Board, and its employees. ICB must publish, and make arrangements to ensure that members of the public have access to, these registers on request.

6.1 The ICB has a statutory requirement to maintain one or more registers of interest of the members of the group, members of the Board, members of its committees or sub-committees of its Board, and its employees in relation to the issues detailed in section 4 and 5 of this policy:

- Interests declared at decision making bodies;
- Interests declared by Board members and other staff which could potentially influence their decision making;
- Members of the ICB (i.e. each Practice) including GP Partners;
- Gifts and Hospitality declarations;
- Commercial Sponsorship
- Association of British Pharmaceutical Industry (reference to this register shall be included on the ICB's website).



- 6.1.1 ICB must publish the registers at least annually, and will also make arrangements to ensure that members of the public have access to these registers upon request.
- 6.2 Interests will be recorded on the ICB's Register of Interests as and when they are declared, within 28 days. They should be reported to the Associate Director of Corporate Affairs on the relevant form who will maintain the register on behalf of the Chief Executive. The register will be accessible by the public and inspection of the register of Board members' interests will be encouraged, as appropriate.
- 6.3 The ICB will maintain a register of interests for each provider of primary medical services which is a member of the ICB under Section 140 (1) of the 2006 Act. Declarations should be made by the following groups:
- GP partners (or where the practice is a company, each director)
  - Any individual directly involved with the business or decision-making of the ICB.
- 6.4 Any interests must be promptly transferred onto the relevant register and should remain on the public register for a minimum of 6 months after the interest has expired. The register will also remain on file for 6 years after archiving (see Appendix 13 to describe the process in more details)
- 6.5 In exceptional circumstances, where the public disclosure of information could give rise to a real risk of harm or is prohibited by law, an individual's name and/or other information may be redacted from the publicly available register(s). Where an individual believes that substantial damage or distress may be caused, to him/herself or somebody else by the publication of information about them, they are entitled to request that the information is not published. Such requests must be made in writing. Decisions not to publish information must be made by the COIG for the ICB, who should seek appropriate legal advice where required, and the ICB should retain a confidential un-redacted version of the register(s).
- 6.6 The register(s) of interests (including the register of gifts and hospitality) will be published as part of the ICB's Annual Report and Governance Statement.

## **7 Counter Fraud**

- 7.1 The ICB aims to ensure that all staff can feel supported should they have any concerns of dishonest or fraudulent behaviour conducted at their workplace.

- 7.2 Staff concerned about how to raise their suspicions can receive independent and confidential advice from their Local Counter Fraud Specialist, the NHS Fraud and Corruption Reporting Line, the online fraud reporting tool (FCROL) - <https://www.reportnhsfraud.nhs.uk/>; from the charity "Public Concern at Work" or from the ICB's own whistleblower contact, Alan Elkin (Lay Member).
- 7.3 Further information about the ICB's approach to Counter Fraud can be found within the Counter Fraud, Bribery and Corruption Policy.

## **8 Internal Audit**

- 8.1 The ICB is required to undertake an audit of conflicts of interest management as part of their internal audit on an annual basis. The results of this will be reflected in the ICB's Governance Statement.

## **9 Target Audience**

- 9.1 The target audience for the policy is the ICB Board, members of staff, Member Practices and any other persons working on behalf of the ICB or members of ICB committees.
- 9.2 A copy of this policy will be made available on the ICB external internet site for the public to access, in line with best practice guidance.

## **10 Communication**

- 10.1 The policy will be sent to members of the Board and the wider ICB membership via email, included within Team Brief and placed on the ICB intranet site for onward access.

## **11 Training**

- 11.1 NHS England requires that all ICB have a structured conflicts of interests training programme in place for all staff. The ICB will use the NHS England mandatory online training package and other training materials in order to comply with this requirement and all staff will be required to complete training on an annual basis and by 31 January each year. The training requirements for ICB staff are detailed in Appendix 14.
- 11.2 ICB Lay Members and Board members will receive additional training in accordance with national guidelines, including any face to face training offered by NHS England. Training will also be offered to non-ICB members who sit on ICB committees so that they may discharge their duties effectively.

## 12 Managing Breaches

- 12.1 Failure to comply with this policy could have serious implications for the ICB and the individuals concerned.
- 12.2 It is a duty of every ICB employee, Board member, committee or sub-committee member and GP practice member to speak up about genuine concerns in relation to the administration of the ICB's policy on conflicts of interest management, and to report these concerns. These individuals should speak to the Associate Director of Corporate Affairs and/or COIG or Freedom to Speak-up Guardian should they have any concerns (see Appendix 15 for contact details).
- 12.3 Anyone who wishes to report a suspected or known breach of this policy who is not an employee or worker of the ICB, should ensure they comply with their own organisation's whistleblowing policy. This policy takes into account guidance issued under the 'Freedom to speak up: raising concerns (whistleblowing) policy for the NHS'.
- 12.4 All such notification should be treated with appropriate confidentiality at all times in accordance with the ICB's policies and applicable laws, and the person making such disclosures should expect an appropriate explanation of any decisions taken as a result of any investigation.
- 12.5 Individuals who fail to disclose any conflict of interest or who otherwise breach the ICB's rules and policies relating to the management of conflicts of interest are subject to investigation and, where appropriate, to disciplinary action. ICB staff, Board and committee members should be aware that outcomes of such action may, if appropriate, result in the termination of their employment or position with the ICB.
- 12.6 Any deliberate failure to declare an interest will be addressed through the relevant ICB disciplinary route with the individual concerned.
- 12.7 The ICB will ensure that any breaches are anonymously published on the public facing website at least annually in line with NHS England guidance, and will also state clearly if no breaches have occurred.

## 13 References/Further reading

- 13.1 Please find listed below details of organisations used in researching this protocol.
  - NHS Commissioning Board – Towards establishment: *Creating*

*responsive and accountable ICBs* (February 2012)

- NHS Commissioning Board – Towards establishment: *Technical Appendix 1 - Managing conflicts of interest* (February 2012)
- NHS Commissioning Board – Code of Conduct: *Managing conflicts of interest where GP practices are potential providers of ICB commissioned services* (June 2012)
- ICSA Guidance Note 120228 – *Model conflicts of interest policy for ICB board members* (February 2012)
- NHS Confederation / RCGP Centre for Commissioning – *Managing conflicts of interest in ICBs* (September 2011)
- NHS England – *Managing Conflicts of Interest: Revised Statutory Guidance for ICB 2017 version 7*
- NHS England's - *Best Practice Update on Conflicts of Interest Management: Call to Action for ICB published in February 2019*
- NHS Protect – *Bribery Act 2010 Guidance 2015*
- Department of Health - *Commercial Sponsorship – Ethical Standards for the NHS*
- NHS England - ICB Board members: Roles outlines, attributes and skills (April 2012)
- ICB Improvement and Assessment Framework (March 2016)
- The Good Governance Standards for Public Services (2004)
- The Equality Act (2010)
- Standards for members of NHS Boards and ICB governing bodies in England
- ICB Whistleblowing Policy
- ICB Disciplinary Policy
- CounterFraud, Bribery and Corruption Policy

## **14 Commitment to Review**

- 14.1 The ICB will review this policy at least every three years and where required in order to comply with new guidance and regulations as appropriate.