

STANDARDS FOR BUSINESS CONDUCT

UNIQUE REFERENCE NUMBER: AC/XX/004/V3
DOCUMENT STATUS: Approved by Audit & Governance Committee
DATE ISSUED: April 2018
DATE TO BE REVIEWED April 2021

AMENDMENT HISTORY

VERSION	DATE	AMENDMENT HISTORY
AC/XX/004/D1	15 May 2013	First draft for internal review prepared by Paul Capener
AC/XX/004/D2	11 June 2013	Considered by Remuneration Committee and referred to Audit Committee for approval
AC/XX/004/V1	19 June 2013	Approved by Audit Committee subject to changes discussed
AC/XX/004/V1.1	27 June 2013	Revised draft prepared by Paul Capener
AC/XX/004/V1.2	December 2013	Addition of branding and formatting changes in line with policy for Policy Development
AC/XX/004/V1.3	February 2014	Addition of unique reference number prior to publication
AC/XX/004/V2	October 2015	Review of Version 1.3
AC/XX/004/V3	April 2018	Revised version prepared by Paul Capener & GDPR

REVIEWERS

This document has been reviewed by:

NAME	DATE	TITLE/RESPONSIBILITY	VERSION
Paul Capener	May 2013 and June 2013	Interim Governance Support	D1/V1.1
Don Ferguson	June 2013	LCFS	D1
Lay members	June 2013	Lay members	D1
Paul Lewis-Grundy	October 2015	Governance Manager	V2
Emma Smith	April 2018	Governance Support Manager	V3

APPROVALS

This document has been approved by:

NAME	DATE	VERSION
Remuneration Committee	June 2017	V1
CCG Audit Committee	19 June 2013	V1
CCG Audit & Governance Committee	21 November 2015	V2
CCG Audit & Governance Committee	24 May 2018	V3

NB: The version of this policy posted on the intranet must be a PDF copy of the approved version.

DOCUMENT STATUS

This is a controlled document. Whilst this document may be printed, the electronic version posted on the intranet is the controlled copy. Any printed copies of the document are not controlled.

RELATED DOCUMENTS

These documents will provide additional information:

REFERENCE NUMBER	DOCUMENT TITLE	VERSION
RC/XX/030/V2	Disciplinary Policy	V2
GB/XX/063/V4.2	Conflicts of Interest (including Gifts and Hospitality) Policy	V4.2
AC/XX/003/V2	Counter Fraud, Bribery and Corruption Policy	V2
AC/XX/006/V2.1	Whistleblowing Policy	V2.1
	Constitution	V5.1
CDC/MM/066/V1	Policy for CCG Engagement with the Pharmaceutical Industry	V1

APPLICABLE LEGISLATION AND OTHER EXTERNAL REFERENCE DOCUMENTS

The Public Interest Disclosure Act 1998
NHS Act 2006
Bribery Act 2010
Health & Social Care Act 2012
The Code of Conduct for NHS Managers
The Nolan Principles on Conduct in Public Life
Code of Conduct and Code of Accountability in the NHS
NHS England guidance - Managing Conflicts of Interest: Statutory Guidance For CCGs
Code of Ethics of the Chartered Institute of Purchase and Supply
Code of Conduct and Code of Accountability in the NHS
Code of Ethics of the Chartered Institute of Purchasing and Supply
General Data Protection Regulations

GLOSSARY OF TERMS

TERM	ACRONYM	DEFINITION
Public Interest Disclosure Act 1998	PIDA	Protects workers who 'blow the whistle' about wrongdoing or malpractice and places a clear responsibility on public sector employers to remind staff of their responsibility to disclose suspected malpractice without fear of recriminations.
General Data Protection Regulations	GDPR	New Regulations that come into effect from 25 May 2018, that provides legal requirements for data protection within organisations that operate within the EU.

Contents

1. INTRODUCTION.....	5
2. SCOPE OF THIS POLICY	5
3. PREVENTION OF CORRUPTION (BRIBERY ACT 2010).....	6
4. CONSTITUTION, STANDING ORDERS, PRIME FINANCIAL POLICIES AND SCHEME OF DELEGATION.....	6
5. MANAGING CONFLICT OF INTEREST	7
6. OUTSIDE EMPLOYMENT AND PRIVATE PRACTICE	9
7. GIFTS & HOSPITALITY	10
8. COMMERCIAL SPONSORSHIP	10
9. SUPPLIERS AND CONTRACTORS	10
10. INITIATIVES.....	11
11. COMMERCIAL CONFIDENTIALITY	12
12. DATA PROTECTION ARRANGEMENTS	12
13. MANAGEMENT ARRANGEMENTS	12
14. COMPLAINTS.....	12
15. FURTHER INFORMATION	12
Appendix 1	14

1. INTRODUCTION

- 1.1. This policy seeks to describe the values that underpin the work of the NHS, and to reflect guidance and best practice for NHS Dudley Clinical Commissioning Group (the 'Group').
- 1.2. The Group aspires to the highest standards of behaviour and responsibility. The individuals outlined in section two, below, are required to comply with this policy and with the NHS Codes of Conduct and Accountability 2004¹ and with any successor document.
- 1.3. All individuals should act in good faith and in the interests of the Group, and should follow the *Seven Principles of Public Life*, set out by the Committee on Standards in Public Life (known as the Nolan Principles), as set out in Appendix A.
- 1.4. This policy and the associated forms are available on the Group's website at <http://www.dudleyccg.nhs.uk>.

2. SCOPE OF THIS POLICY

- 2.1. This policy applies to all people (hereafter referred to as 'individuals') acting on behalf of the Group, regardless of whether they are directly employed, or hold a corporate or clinical role:
 - member GPs
 - Governing Body members
 - Committee members
 - Group employees (including any seconded to work in the CCG)
 - Third parties contracted to work on behalf of the Group, or otherwise providing services or facilities to the Group
 - Agency, locum and other temporary staff engaged by the Group
 - Students (including those on work experience), trainees and apprentices.
- 2.2. This policy incorporates:
 - Prevention of Corruption – Bribery Act 2010
 - Compliance with Constitution, Standing Orders, Prime Financial Policies and Scheme of Delegation
 - Managing conflicts of interest
 - Gifts and hospitality
 - Outside employment and private practice
 - Commercial sponsorship
 - Suppliers and contractors
 - Initiatives
 - Commercial confidentiality.
 - Data protection

¹ NHS Code of conduct and code of accountability 2004 available at: http://www.nhsbsa.nhs.uk/Documents/Sect_1_-_D_-_Codes_of_Conduct_Acc.pdf

3. PREVENTION OF CORRUPTION (BRIBERY ACT 2010)

- 3.1. The Group has a responsibility to ensure that all individuals are made aware of their duties and responsibilities arising from the Bribery Act 2010². Under this Act there are four offences:
- a) Bribing, or offering to bribe, another person (s1),
 - b) Requesting or agreeing to receive, or accepting a bribe (s2),
 - c) Bribing, or offering to bribe, a foreign public official (s6),
 - d) Failing to prevent bribery (s7).
- 3.2. All individuals are required to be aware of the Bribery Act 2010, and should also refer to the 'gifts and hospitality' guidance, in Section six below.
- 3.3. Counter fraud measures:
- a) Individuals must not use their position to gain advantage. The Group will take all reasonable measures to prevent fraud, and encourages individuals to report concerns or reasonably held suspicions about potentially fraudulent activity. Individuals should inform the nominated Local Counter Fraud Specialist (LCFS) or the Chief Finance Officer (CFO) immediately (unless the LCFS or CFO is implicated). If this is the case, individuals should report their suspicions to the Chief Accountable Officer or to the Chair.
 - b) Individuals may also call the NHS Fraud and Corruption Reporting line (tel. 0800 028 4060). This line provides a confidential route for reporting genuine suspicions of fraud within or affecting the NHS. Any caller who wishes to remain anonymous can do so.
 - c) Anonymous letters or telephone calls are occasionally received from individuals who wish to raise matters of concern. While the suspicions may be erroneous or unsubstantiated, they may also reflect a genuine cause for concern and will be taken seriously. The LCFS will make sufficient enquiries to establish whether there is any foundation to the suspicions that have been raised.
 - d) Individuals should not ignore their suspicions, undertake their own investigations, or tell colleagues about their suspicions.

4. CONSTITUTION, STANDING ORDERS, PRIME FINANCIAL POLICIES AND SCHEME OF DELEGATION

- 4.1. Individuals must carry out their Group duties in accordance with the CCG's Constitution, Standing Orders (SOs), Prime Financial Policies (PFPs) and Scheme of Delegation (SD). This suite of documents sets out the statutory and governance framework within which the CCG operates.
- 4.2. Naturally, there is considerable overlap between the contents of this policy and the provisions of these documents. Individuals should refer to, and act in accordance with

² Bribery Act 2010 available at http://www.legislation.gov.uk/ukpga/2010/23/pdfs/ukpga_20100023_en.pdf

the Constitution, SOs, PFPs and SD to ensure that the correct process is being followed.

- 4.3. In the case of any doubt, individuals should seek advice from their line managers or from the Chief Finance Officer. If there is still doubt, the provisions of the Constitution, SOs, PFPs and SD take precedence.

5. MANAGING CONFLICT OF INTEREST

5.1 Conflict of interest

- 5.1.1. The Group has put in place arrangements to manage actual and potential conflicts of interest to ensure that decisions made are taken and seen to be taken without the influence of external or private interest³.

- 5.1.2. Where any individual has an interest, or becomes aware of an interest which could lead to a conflict in the event of the Group considering an action or decision in relation to that interest, this must be considered as a potential conflict, and is subject to the provisions of the Group's Conflict of Interest Policy.

- 5.1.3. A conflict of interest will include:

i. Financial interests: This is where an individual may get direct financial benefits from the consequences of a commissioning decision. This could, for example, include being:

- A director, including a non-executive director, or senior employee in a private company or public limited company or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations.
- A shareholder (or similar ownership interests), a partner or owner of a private or not-for-profit company, business, partnership or consultancy which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations.
- A management consultant for a provider.

This could also include an individual being:

- In secondary employment
- In receipt of secondary income from a provider
- In receipt of a grant from a provider
- In receipt of any payments (for example honoraria, one-off payments, day allowances or travel or subsistence) from a provider;
- In receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role; and
- Having a pension that is funded by a provider (where the value of this might be affected by the success or failure of the provider).

³ As required by section 14O of the NHS Act 2006, as inserted by section 25 of the Health & Social Care Act 2012

ii. Non-financial professional interests: This is where an individual may obtain a non-financial professional benefit from the consequences of a commissioning decision, such as increasing their professional reputation or status or promoting their professional career. This may, for example, include situations where the individual is:

- An advocate for a particular group of patients;
- A member of a particular specialist professional body (although routine GP membership of the RCGP, British Medical Association (BMA) or a medical defence organisation would not usually by itself amount to an interest which needed to be declared);
- An advisor for the Care Quality Commission (CQC) or the National Institute for Health and Care Excellence (NICE);
- A medical researcher.

GPs and practice managers, who are members of the governing body or committees of the CCG, should declare details of their roles and responsibilities held within their GP practices.

iii. Non-financial personal interests: This is where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit. This could include, for example, where the individual is:

- A voluntary sector champion for a provider;
- A volunteer for a provider;
- A member of a voluntary sector board or has any other position of authority in or connection with a voluntary sector organisation;
- Suffering from a particular condition requiring individually funded treatment;
- A member of a lobby or pressure group with an interest in health.

iv. Indirect interests: This is 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 (as those categories are described above) for example, a:

- Spouse / partner
- Close relative e.g., parent, grandparent, child, grandchild or sibling;
- Close friend;
- Significant other;
- Business partner.

5.1.4. If in doubt, the individual concerned should assume that a potential conflict of interest exists.

5.2 Declaring and Registering Interests

5.2.1 The Group will maintain Registers of Interests in accordance with the Conflict of Interest Policy.

- 5.2.2 The register is published on the Group's website: <http://www.dudleyccg.nhs.uk>.
- 5.2.3 Individuals must declare their interests in accordance with the Group's Policy, using the forms included therein.
- 5.2.4 If any individual is unable to provide a declaration in writing, for example, if a conflict becomes apparent in the course of a meeting, he / she will make an oral declaration before witnesses, which will be recorded in the minutes of the meeting. The individual will provide a written declaration, as soon as possible thereafter.
- 5.2.5 Failure to declare a relevant interest, whether inadvertent or otherwise, may result in removal from office or disciplinary proceedings, in accordance with the Constitution and CCG's Disciplinary Policy.
- 5.2.6 The Group will ensure that the Registers of Interests are reviewed and updated, as necessary.

5.3 Managing Conflicts of Interest: General

- 5.3.1. All individuals will comply with the arrangements determined for managing conflicts or potential conflicts of interest, as set out in the Group's Conflict of Interests Policy. As such, all individuals should familiarise themselves with these arrangements.

6. OUTSIDE EMPLOYMENT AND PRIVATE PRACTICE

- 6.1 The CCG will take all reasonable steps to ensure that employees, committee members, contractors and others engaged under contract with them are aware of the requirement to inform the CCG if they are employed or engaged in, or wish to be employed or engage in, any employment or consultancy work in addition to their work with the CCG. The purpose of this is to ensure that the CCG is aware of any potential conflict of interest. Examples of work which might conflict with the business of the CCG, including part-time, temporary and fixed term contract work, include:

- Employment with another NHS body;
- Employment with another organisation which might be in a position to supply goods/services to the CCG;
- Directorship of a GP federation; and
- Self-employment, including private practice, in a capacity which might conflict with the work of the CCG or which might be in a position to supply goods/services to the CCG.

- 6.2 The CCG requires that individuals obtain prior permission to engage in secondary employment, and reserve the right to refuse permission where it believes a conflict will arise which cannot be effectively managed.** In particular, it is unacceptable for pharmacy advisers or other advisers, employees or consultants to the CCG on matters of procurement to themselves be in receipt of payments from the pharmaceutical or devices sector.

7. GIFTS & HOSPITALITY

- 7.1. The Group has established its rules on the receipt of gifts and hospitality within its Conflicts of Interest policy. Individuals should familiarise themselves with this policy (which is available on the Group's intranet and website) and comply with it at all times when conducting business on behalf of the Group.
- 7.2. The Audit Committee will review the gifts and hospitality register at an agreed interval.
- 7.3. Individuals should be aware that details regarding the giving and receiving of hospitality could be requested under the Freedom of Information Act. Individuals should ask themselves the question as to whether the hospitality offered could be construed as an inducement, or improper reward for expending NHS resources with a particular company, or in a particular manner. Apply the 'Newspaper Test': would the average person feel embarrassed or compromised if they read about the hospitality they had offered (or received) in a newspaper?

8. COMMERCIAL SPONSORSHIP

- 8.1. Individuals, with prior approval from the Chief Finance Officer, may accept commercial sponsorship for courses, conferences, projects, meetings and publications, if they are reasonable and in accordance with the principles set out in the Conflicts of Interest Policy.
- 8.2. Acceptance of corporate sponsorship should not influence commissioning or procurement decisions: sponsorship should not be dependent on the purchase or supply of goods or services.
- 8.3. Sponsors should not influence the content of an event, meeting, seminar, publication or training event.
- 8.4. The Group should not endorse individual companies or their products. It should be made clear that the Group will not endorse a sponsor's products or services.
- 8.5. There should be no breach of patient confidentiality or data protection legislation in discussions with sponsors.
- 8.6. Information should not be supplied to a company for its commercial gain, unless there is clear benefit to the NHS. As a general rule, information which is not in the public domain should not be supplied.

9. SUPPLIERS AND CONTRACTORS

- 9.1. All individuals who are in contact with suppliers and contractors, 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 Supply⁴.

⁴ Code of Ethics of the Chartered Institute of Purchase and Supply available at <http://www.cips.org/Documents/About%20CIPS/CIPS%20Code%20of%20Ethics.pdf>

- 9.2. Individuals should treat prospective contractors or suppliers of services to the Group equally and in a non-discriminatory way, and act in a transparent manner.
- 9.3. Individuals involved in the awarding of contracts and tender processes must take no part in the selection process, if a personal interest or conflict of interest is known. Should such an interest become apparent, it must be declared, using a Declaration of Interest Form. Individuals should not give undue advantage to any private businesses or other interests in the course of their duties.
- 9.4. The Group has legal duties under both European and UK procurement law. Individuals must comply with the Procurement Strategy and with Prime Financial Policies in all procurement situations.
- 9.5. Individuals must not seek, or accept, preferential rates or benefits in kind for private transactions carried out with companies they have official dealings with on behalf of the Group. This does not apply to member benefit scheme schemes offered by the NHS or Trade Unions.
- 9.6. Individuals invited to visit organisations, e.g. to inspect equipment for the purpose of advising on its purchase, will be reimbursed for their travelling expenses in accordance with the CCG travelling expenses policy. Such expenses should not be claimed back from the other organisation, to avoid compromising the purchasing decisions of the Group.
- 9.7. An invitation to tender for Group business should require each bidder to give a written undertaking not to engage in collusive tendering or other restrictive practices, and not to engage in canvassing the Group, its employees or officers, concerning the contract opportunity tendered.

10. INITIATIVES

- 10.1. Group employees (ie those directly employed by the CCG), Agency, locum and other temporary staff engaged by the Group and third parties performing a specific role or function on behalf of the CCG should ask their line manager to provide prior approval to undertake any external work, e.g. speaking at a training event / conference, or writing an article, **that is undertaken in Group time, or where use of the Group's title and/or resources is involved**. In the case of office holders (GP elected members, Clinical Executives, Clinical Leads and lay advisers) then prior approval should be sought from the Chair of the Governing Body.
- 10.2. If a Group employee is paid directly for external work undertaken in Group time, he / she should take annual leave, and this work would be considered as independent consultancy. The individual is responsible for any resultant National Insurance and Income Tax liabilities.
- 10.3. If the employee is attending the conference during work hours and representing the Group, payment should be made directly to the Group.

- 10.4. Any patents, designs, trademarks or copyright derived from work carried out as part of a Group employees' duties, shall be the intellectual property of the Group.
- 10.5. Where external work, gaining patent or copyright or the involvement in innovative work benefits or enhances the Group's reputation, or results in financial gain for the Group, consideration will be given to rewarding the employee, subject to any guidance on the management of intellectual property, issued by the Department of Health.

11. COMMERCIAL CONFIDENTIALITY

- 11.1. Individuals should avoid providing information on the operations of the Group, where it might provide a commercial advantage to any organisation in a position to supply goods or services to the Group. For particularly sensitive matters, individuals may be asked to sign a 'non disclosure' agreement.

12. DATA PROTECTION ARRANGEMENTS

- 12.1. Individuals are required to meet their responsibilities according to the General Data Protection Regulations (GDPR) 2018, with respect to data protection. These are legal requirements governing the collection, control and processing of personal data. Individuals should familiarise themselves with the Group's data protection and related policies and ensure they comply with them.

13. MANAGEMENT ARRANGEMENTS

- 13.1. Individuals should be aware that breach of this policy could render them liable for prosecution as well as leading to termination of their employment or position within the Group.
- 13.2. Individuals who fail to disclose any relevant interests, outside employment or receipt of gifts or hospitality, as required by this policy or by the Constitution, Standing Orders, Prime or other financial policies, may be subject to disciplinary action or the Group's dispute resolution process, which could, ultimately, result in the termination of their employment or positions with the Group.

14. COMPLAINTS

- 14.1. Individuals who wish to report suspected or known breaches of this policy should inform the Chief Finance Officer. All such notifications will be held in the strictest confidence.

15. FURTHER INFORMATION

- 15.1. This policy is developed from current legislation, guidance and is based on examples of good practice. For more information please refer to the following or any successor documents:
- a) Constitution, Standing Orders, Prime Financial Policies and Scheme of Delegation and Reservation.
 - b) NHS Act 2006
 - c) Bribery Act 2010
 - d) Health & Social Care Act 2012
 - e) The National Health Service (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013
 - f) The Code of Conduct for NHS Managers
 - g) The Nolan Principles on Conduct in Public Life
 - h) Code of Conduct and Code of Accountability in the NHS
 - i) NHS England statutory guidance for managing conflicts of interest
 - j) Code of Ethics of the Chartered Institute of Purchase and Supply
 - k) General Data Protection Regulations 2018

Appendix 1: Seven Principles of Public Life ('Nolan Principles')

The 'Nolan Principles' establish the ways in which holders of public office should behave in discharging their duties.

The seven principles are: -

- a) **Selflessness** – Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.
- b) **Integrity** – Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
- c) **Objectivity** – In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
- d) **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.
- e) **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.
- f) **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.
- g) **Leadership** – Holders of public office should promote and support these principles by leadership and example.

Source: *The First Report of the Committee on Standards in Public Life* (1995)⁵

⁵ Available at www.public-standards.gov.uk