

# Conflict of Interest Management and Standards of Business Conduct Policy

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## Implementation Plan:

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| <b>Development and Consultation:</b>    | <p>The following individuals were consulted and involved in the development of this document:</p> <ul style="list-style-type: none"> <li>▪ Integrated Care System Establishment Steering Group</li> <li>▪ Director of Performance &amp; Governance</li> <li>▪ Governance &amp; Compliance Team</li> <li>▪ Conflicts of Interest Guardian</li> <li>▪ Local Counter Fraud Specialist</li> </ul>       |
| <b>Dissemination:</b>                   | <p>Staff can access this document via the website and will be notified of new / revised versions via the staff briefing. This document will be included in the organisation's Publication Scheme in compliance with the Freedom of Information Act 2000.</p>  |
| <b>Training:</b>                        | <p>The following training will be provided to make sure compliance with this document is understood:</p> <ul style="list-style-type: none"> <li>▪ Annually complete the online Conflicts of Interest training module, provided by NHS England - accessed via the Electronic Staff Record (ESR), or,</li> <li>▪ eLearning for Health System provided by Health Education England.</li> </ul>         |
| <b>Monitoring:</b>                      | <p>Monitoring and compliance of this document will be carried out via:</p> <ul style="list-style-type: none"> <li>▪ Annual internal audit of conflicts of interest management.</li> </ul>   |
| <b>Review:</b>                          | <p>The Document Owner will ensure this document is reviewed in accordance with the Review Date on page 2.</p>   |
| <b>Equality, Diversity and Privacy:</b> | <p>Appendix 1 - Equality Impact Assessment<br/>Appendix 2 - Data Protection Impact Assessment</p>   |
| <b>Associated Documents:</b>            | <p>The following documents must be read in conjunction with this document:</p> <ul style="list-style-type: none"> <li>▪ Anti-Fraud and Bribery Policy</li> <li>▪ Bedfordshire, Luton &amp; Milton Keynes Integrated Care Board Constitution</li> <li>▪ Disciplinary Policy and Procedure</li> <li>▪ Raising Concerns (Whistleblowing) Policy</li> <li>▪ Recruitment and Selection Policy</li> </ul> |
| <b>References:</b>                      | <p>The following articles were accessed and used to inform the development of this document:</p> <ul style="list-style-type: none"> <li>▪ Health and Social Care Act 2012</li> <li>▪ NHS England, Managing Conflicts of Interest: Statutory Guidance for CCGs</li> <li>▪ NHS England, Best Practice Update on Conflicts of Interest Management: Call to Action for CCGs: February 2019</li> </ul>   |

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## 1.0 Introduction

- 1.1 NHS Bedfordshire, Luton and Milton Keynes Integrated Care Board (ICB) aims to ensure robust governance through its formal written procedural documents, such as this document, which communicate standard organisational ways of working. These documents help clarify operational requirements and consistency within day-to-day practice. They can improve the quality of work, increase the successful achievement of objectives and support patient safety, quality and experience. The ICB aims to ensure its procedural documents are user friendly, up-to-date and easily accessible.
- 1.2 The ICB must design and implement procedural documents that meet the diverse needs of our service and workforce, ensuring that none is placed at a disadvantage over others, in accordance with the Equality Act 2010. The Equality Impact Assessment initial screening, which was used to determine the potential impact this policy might have with respect to the individual protected characteristics is incorporated at Appendix 1.
- 1.3 A Data Protection Impact Assessment is a process which helps assess privacy risks to individuals in the collection, use and disclosure of personal information. The Data Protection Impact Assessment initial screening, which was used to determine the potential impact this policy might have with respect to an individual's privacy is incorporated at Appendix 2.
- 1.4 The purpose of this policy is to ensure exemplary standards of business conduct are adhered to, by Board members, committee and sub-committee members and employees of the ICB, as well as individuals contracted to work on behalf of the ICB or otherwise providing services or facilities to the ICB.
- 1.5 The Health and Social Care Act 2012<sup>1</sup> established provisions for all NHS organisations to manage conflicts of interests and maintain registers of those interests. This policy sets out how the ICB will comply with those provisions and has been developed with regard to the 'Managing Conflicts of Interest: Statutory Guidance for NHS organisations' published by NHS England and 'Best Practice Update on Conflicts of Interest Management: Call to Action for Clinical Commissioning Groups (CCGs): February 2019<sup>2</sup>.
- 1.6 The underpinning legal framework is provided by the Bribery Act 2010 and the Fraud Act 2006.

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<sup>1</sup> <http://www.legislation.gov.uk/ukpga/2012/7>

<sup>2</sup> <https://www.england.nhs.uk/wp-content/uploads/2019/02/best-practice-update-conflict-of-interest-audit-response.pdf>

- 1.7 The Bribery Act 2010 creates two general offences covering the offering, promising or giving of an advantage, and requesting, agreeing to receive or accepting an advantage and creates a new offence of failure by a commercial organisation to prevent a bribe being paid for or on its behalf (it will be a defence though if the organisation has adequate procedures in place to prevent bribery).
- 1.8 It is an offence under the Fraud Act for an employee to disclose false information to the organisation to make a gain for themselves or another or to cause a loss or expose the organisation to the risk of loss. Additionally, the Act also provides that it is an offence for an employee who occupies a position in which they are expected to safeguard or not act against the financial interests of the organisation, to abuse that position to cause a loss or expose the organisation to the risk of loss.
- 1.9 A number of staff members will also be duty-bound by the professional codes of conduct of their respective professions, which contain conflicts of interest principles, for example, the General Medical Council, the Association of the British Pharmaceutical Industry etc.
- 1.10 The intention of this policy is to maintain the highest standards of probity and to provide assurance that any relationships entered lead to clear benefit for the ICB, and that they represent value for money. For this to be achieved the process must be conducted in the context of openness and transparency.

## **2.0 Scope**

- 2.1 This policy applies, as appropriate, to:
- All ICB employees.
  - All NHS, but non-ICB employees when serving on a joint committee / board level committee or sub-committee with the ICB or when involved in a joint procurement / commissioning / decision.
  - All non-NHS employees (for example Local Authority staff) when serving on a joint committee / board level committee or sub-committee with the ICB or when involved in a joint procurement / commissioning / decision.
  - All voluntary individuals, for example, patient or public representatives or residents who serve as members of ICB board level committees or sub-committee or are regular participants / observers.

## **3.0 Definitions**

- 3.1 A 'conflict of interest' is: "A set of circumstances by which a reasonable person would consider that an individual's 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.”

3.2 A conflict of interest may be:

- **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
- **Perceived** – where an observer could reasonably suspect there to be a conflict of interest regardless of whether there is one or not. Individuals may hold interests for which they cannot see potential conflict. However, caution is always advisable because others may see it differently and perceived conflicts of interest can be damaging. All interests should be declared where there is a risk of perceived improper conduct.

3.3 It is not possible, or desirable, to define all instances in which an interest may be a potential, actual or perceived conflict. The aim of this policy is to protect both the organisation and the individuals involved from any appearance of impropriety and demonstrate transparency to the public and other interested parties.

3.4 The following table describes the categories of interests; examples for each are detailed in the Declaration of Interest form – see Appendix 3:

| Category                                    | Description   |
|---|---|
| <b>Financial Interests</b>                  | This is where an individual may get direct financial benefits from the consequences of a decision.  |
| <b>Non-Financial Personal Interests</b>     | 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.   |
| <b>Non-Financial Professional Interests</b> | This is where an individual may obtain a non-financial professional benefit from the consequences of a decision, such as increasing their professional reputation or status or promoting their professional career. |
| <b>Indirect Interests</b>                   | 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 decision.                      |

3.5 A declaration of interest for a “business partner” in a GP Partnership should include all relevant collective interests of the partnership, and all interests of their fellow GP partners (which could be done by cross referring to the separate declarations made by those GP Partners, rather than by repeating the same information verbatim).

- 3.6 Whether an interest held by another person gives rise to a conflict of interest will depend upon the nature of the relationship between that person and the individual, and the role of the individual within the ICB.
- 3.7 It should be noted that:
- The above categories and examples are not exhaustive and the ICB will exercise discretion on a case-by-case basis.
  - The possibility of the perception of wrongdoing, impaired judgement or undue influence shall also be considered a conflict of interest for the purposes of this Policy and should be declared and managed; accordingly, and,
  - Where there is doubt as to whether a conflict of interest exists, it should be assumed that there is a conflict of interest and declared and managed accordingly.
- 3.8 Some staff are more likely than others to have a decision-making influence on the use of taxpayers' money, because of the requirements of their role. For the purposes of this policy these people are referred to as 'decision making staff.'
- 3.9 Decision making staff in the ICB are:
- Board Members.
  - Members of the Board's Committees and sub-Committees, including joint committees.
  - Its employees and workers on Agenda for Change Band 8d or above.
  - Partner members on the Board of the Integrated Care Board who are not employees of the ICB.
- 3.10 Bribery is defined as giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly or to reward that person for having already done so.
- 3.11 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.
- 3.12 'Hospitality' means offers of meals, refreshments, travel, accommodation, and other expenses in relation to attendance at meetings, conferences, education and training events etc.
- 3.13 Commercial sponsorship is defined as, funding from an external source, including funding of all, or part of the costs of a member of staff, research, staff training, pharmaceuticals, equipment, meeting rooms, costs associated with meetings, meals, gifts, hospitality, hotel and transport costs (including trips abroad), provision of free services (speakers), buildings or premises.

## **4.0 Policy Statement**

- 4.1 Individuals contracted to work on behalf of the ICB or otherwise providing services or facilities to the ICB will be made aware of their obligation to declare conflicts or potential conflicts of interest.
- 4.2 To ensure the integrity and probity of decision-making, individuals will act independently and will not be influenced by social or business relationships. No-one should use their public position to further their private interests. Where there is potential for private interests to be material and relevant business, they will be declared, recorded in the minutes or action notes of the relevant meeting, and entered into a Register of Interests.
- 4.3 All individuals will consider the risks associated with accepting offers of gifts, hospitality and entertainment when undertaking activities for or on behalf of the ICB.
- 4.4 The ICB will maintain registers of the interests (including a register of gifts and hospitality) – see Appendix 4 and 5. They will be available for public inspection via the ICB’s public website and at its headquarters.
- 4.5 The ICB will ensure that, as a matter of course, declarations of interest are updated at least annually.
- 4.6 The ICB will include an annual audit of conflicts of interest management within their internal audit plans and will also include the findings of this audit within their Governance Statement in its Annual Report.
- 4.7 Activities funded in whole or in part by third parties who may have an interest in ICB business such as sponsored events, posts and research will be managed in accordance with this policy to ensure transparency and that any potential for conflicts of interest are well-managed.

## **5.0 Roles and Responsibilities**

### **5.1 Chief Executive Officer**

- 5.1.2 The Chief Executive Officer is accountable to the Board for conflict of interest management and standards of business conduct.

### **5.2 Conflicts of Interest Guardian**

- 5.2.1 The ICB has appointed the Audit and Risk Assurance Committee Chair as the Conflicts of Interest Guardian. In collaboration with the ICBs Governance lead, their role is to:
- Act as a conduit for members of the public and members of the ICB who have any concerns with regards to conflicts of interest.

- Be a safe point of contact for individuals to raise any concerns in relation to conflicts of interest.
- Support the rigorous application of conflicts of interest principles and policies.
- Provide independent advice and judgment to individuals 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.

### **5.3 Governance and Compliance Team**

5.3.1 The Governance and Compliance Team will:

- Support the Conflicts of Interest Guardian in their role
- Hold, maintain and publish the registers of interest.
- Monitor the ICBs publication of other registers e.g., procurement, contracts awarded etc which will form part of its Publication Scheme.

### **5.4 All Individuals working for or on behalf of the ICB**

5.4.1 It is the responsibility of all individuals to declare, and keep up-to-date, details of any interests which may influence or may be perceived to influence their judgement. This must be done as soon as is reasonably practicable and within 28 days after the interest arises, using the 'Declaration of Interest' form – see Appendix 3. This form is also available on the ICBs public website [www.bedfordshirelutonandmiltonkeynes.icb.nhs.uk](http://www.bedfordshirelutonandmiltonkeynes.icb.nhs.uk) and from the ICBs Governance and Compliance Team.

5.4.2 To support the ICBs agile working arrangements, the Governance & Compliance Team will accept email as a signature/authorisation.

5.4.3 The Declaration of Interest form provides examples of interests which should be declared.

5.4.4 Individuals should exercise their judgment in deciding whether to register any interests and seek advice and guidance from the Governance & Compliance Team. If in doubt, the individual concerned should assume that a potential conflict of interest exists and must declare this and manage it appropriately rather than ignore it.

5.4.5 For the avoidance of doubt; directorships, including non-executive directorships held in private companies or public limited companies (except for those of dormant companies), must be declared.

5.4.6 Individuals should consider the risks associated with accepting gifts, hospitality and entertainment, especially during procurement exercises, as the acceptance of gifts could give rise to real or perceived conflicts of interests, or accusations of unfair influence, collusion or canvassing.

5.4.7 The Seven Principles of Public Life (commonly known as the Nolan Principles) outline the ethical standards those working in the public sector (referred to in the principles as 'holders of public office') are expected to adhere to. They are:

| <b>The Seven Principles of Public Life</b> |   |
|--|---|
| <b>Selflessness</b>                        | Holders of public office should act solely in terms of the public interest.   |
| <b>Integrity</b>                           | Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships. |
| <b>Objectivity</b>                         | Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.  |
| <b>Accountability</b>                      | Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.   |
| <b>Openness</b>                            | Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.  |
| <b>Honesty</b>                             | Holders of public office should be truthful.  |
| <b>Leadership</b>                          | Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.  |

## 6.0 Processes and Procedures

### 6.1 Declaring and managing conflicts of interest

6.1.1 As detailed in section 5 above, staff and ICB members must declare interests as soon as is reasonably practicable and **within 28 days** after the interest arises.

6.1.2 The Governance & Compliance Team conducts a Conflicts of Interest Renewal Exercise every 12 months. This exercise requires all 'Decision Making Staff' (as defined in section 3 above) to update their declarations of interest or make a nil return where there are no interests to declare. Previously declared interests will be overwritten.

6.1.3 In addition to the above exercise individuals are required to review and declare interests at the points detailed below.

## **6.2 Completion of application for appointment**

6.2.1 Applicants for any appointment with the ICB must disclose in writing if they are related to or in a significant relationship with any Board member or employee of the ICB.

6.2.2 A member of an appointment panel which is to consider the employment of a person to whom he/she is related must declare the relationship before an interview is held.

## **6.3 On appointment or when moving to a new role**

6.3.1 As part of the recruitment process for potential new starters, Human Resources is responsible for ensuring interests are identified at the earliest opportunity in the recruitment/new starter process.

6.3.2 All applicants for any position within the ICB (as members or employees) will be required as part of the recruitment process to declare any relevant interests by completing a Declaration of Interest form – see Appendix 3.

6.3.3 Only individuals being recruited to roles defined in this policy as ‘decision making staff’ (see definition in section 3) are required to return a completed and signed declaration form, even if they have no interest to declare (a ‘nil return’).

6.3.4 Where an interest is declared, the Human Resources Team is required to forward the form to the Recruiting Manager. This will enable the recruiting manager to assess and decide how the interest should be managed.

6.3.5 Where the interest is such that it cannot be managed under this policy and would prevent the individual from making a full and proper contribution to the ICB, consideration should be given to the materiality of the declared interest and the extent to which the individual could benefit or not from any decision of the ICB. If the interest cannot be managed in accordance with this policy, the individual may be debarred from appointment.

6.3.6 The Recruiting Manager should complete the relevant section of the Declaration form, sign it and forward it to the Governance & Compliance Team who will update the Register of Interests.

## **6.4 Change in responsibilities or personal circumstances**

6.4.1 Whenever an individual’s responsibilities change in a way that affects the ICB or sets up a new business or relationship, a further declaration may need to be made to reflect the change in circumstances. This could involve a conflict of interest ceasing to exist or a new one materialising.

6.4.2 As previously noted in this policy, interests should be declared as soon as is reasonably practicable and within 28 days after the interest arises using the 'Declaration of Interest' form – see Appendix 3. This form is available on the ICBs Intranet.

## **6.5 Prior to and at meetings**

6.5.1 All individuals are required to declare their interests in relation to any items on the agenda. For meetings of the ICB Board or its committees, in particular, individuals are required to declare interests in advance.

6.5.2 Where the conflict is material to the discussion, the Chair will decide how the conflict should be managed. They may decide that the individual should withdraw from discussions pertaining to that agenda item. The conflict and the action taken will be recorded in the minutes of the meeting.

6.5.3 If, after a meeting, a member realises that they have contributed to a discussion in which they had an interest, they must notify the Chair of the meeting at the earliest opportunity and, if there is time, the interest will be noted in the minutes, otherwise it will be raised as a Matter Arising at the next meeting.

## **6.6 Managing conflicts of interests at meetings**

6.6.1 To support Chairs in their role at ICB Board meetings and its committees, the Meeting Secretariat will regularly provide the Chair with access to a copy of the Register of Interests prior to meetings. This should include details of any declarations of conflicts, which have already been made by the members.

6.6.2 The Meeting Secretariat should invite members and those in attendance, to declare any interests in relation to agenda items to the Chair in advance of the meeting.

6.6.3 Meeting Secretariats are required to use the following templates to administer the meetings. Use of these will help to ensure conflicts of interest are discussed and recorded in line with statutory guidelines.

- Meeting Agenda
- Template for recording minutes

6.6.4 When a member of the meeting (including the chair or deputy chair) has a conflict of interest in relation to one or more items of business to be transacted at the meeting, the chair (or deputy chair or remaining non-conflicted members where relevant) must decide how to manage the conflict. The appropriate course of action will depend on the particular circumstances, but could include one or more of the following:

- Request that the individual does not receive the papers which are relevant or minutes of the meeting which relate to the matter(s) which give rise to the conflict or receive redacted versions.
- Request that the individual leaves the meeting when the relevant matter(s) are about to be discussed or does not attend the meeting.
- Allow the individual to participate in some or all of the discussion when the relevant matter(s) are being discussed but request them to leave the meeting when any decisions are being taken in relation to those matter(s). This may be appropriate where the conflicted individual has important relevant knowledge and experience of the matter(s) which would benefit other members to hear, but this will depend on the nature and extent of the interest which has been declared.
- Noting the interest and ensuring that all in attendance are aware of the nature and extent of the interest but allowing the individual to remain and participate in both the discussion and in any decisions. This is only likely to be the appropriate course of action where it is decided that the interest which has been declared is either immaterial or not relevant to the matter(s) under discussion.

6.6.5 In the event that the Chair of a meeting has a conflict of interest, the Deputy Chair is responsible for deciding the appropriate course of action to manage the conflict of interest. If the Deputy Chair is also conflicted or not in attendance then the remaining non-conflicted voting members of the meeting should agree between themselves how to manage the conflict(s).

6.6.6 As a minimum requirement, the following should be recorded in the minutes of all meetings where a conflict of interest has been declared:

- Individual declaring the interest.
- At what point the interest was declared.
- The nature of the interest.
- The Chair's decision and resulting action taken.
- The point during the meeting at which the individual left and returned to the meeting.

## **6.7 Managing conflicts of interest throughout the commissioning cycle**

6.7.1 The ICB Chief Transformation Officer is responsible for ensuring this policy is adhered to from a procurement perspective and for ensuring adequate records are kept for audit purposes.

6.7.2 Procurement should be managed in an open and transparent manner, compliant with procurement and other relevant law, to ensure there is no discrimination against or in favour of any provider. Procurement processes should be conducted in a manner that does not constitute anti-competitive behaviour - which is against the interest of patients and the public.

6.7.3 Those involved in procurement exercises for and on behalf of the organisation should keep records that show a clear audit trail of how conflicts of interest have been identified and managed as part of procurement processes. At every stage of procurement steps should be taken to identify and manage conflicts of interest to ensure and to protect the integrity of the process.

6.7.4 It should be noted that “Procurement” relates to any purchase of goods, services or works and the term “procurement decision” should be understood in a wide sense to ensure transparency of decision making on spending public funds. The decision to use a single tender action, for instance, is a procurement decision and if it results in the commissioner entering into a new contract, extending an existing contract, or materially altering the terms of an existing contract, then it is a decision that should be recorded.

## **6.8 Notification of gifts, hospitality or sponsorship**

6.8.1 All individuals must make their declarations of Gifts, Hospitality or Sponsorship using the form at Appendix 6. All declarations must be made within 28 days of receiving the offer and must be signed off by a line manager, senior manager or the ICB Chair.

6.8.2 The form should be completed with sufficient detail so that a member of the public would be able to clearly understand the sort of gift, hospitality or sponsorship received.

6.8.3 Completed form should then be sent by email to the Governance and Compliance Team [blmkicb.corporatesec@nhs.net](mailto:blmkicb.corporatesec@nhs.net)

## **6.9 The acceptance and declining of gifts**

6.9.1 Low cost branded promotional aids from suppliers or contractors up to a value of £6 may be accepted and do not need to be declared. All other gifts from suppliers or contractors doing business (or likely to do business) with the ICB must be declined and declared to the Governance and Compliance Team.

6.9.2 Modest Gifts up to a value of £50 may be accepted from non-suppliers and non-contractors, for example, patients, residents’ families or service-users and do not need to be declared.

6.9.3 Gifts with a value of over £50 from non-suppliers and non-contractors should be treated with caution and can only be accepted on behalf of an organisation, and not in a personal capacity, and must be declared to the Governance and Compliance Team.

6.9.4 Any personal gift of cash or cash equivalents, for example, 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 Governance and Compliance Team.

- 6.9.5 Multiple gifts from the same source over a 12-month period should be treated in the same way as single gifts over £50 where the cumulative value exceeds £50.

## **6.10 The acceptance and declining of hospitality**

- 6.10.1 A blanket ban on accepting or providing hospitality is neither practical nor desirable from a business point of view. However, staff should be able to demonstrate that the acceptance or provision of hospitality would benefit the ICB. Hospitality must only be accepted when there is a legitimate business reason and it is proportionate to the nature and purpose of the event.

- 6.10.2 Modest hospitality under a value of £25 provided in normal and reasonable circumstances may be accepted, although it should be on a similar scale to that which the ICB might offer in similar circumstances, for example, tea, coffee, light refreshments at meetings. A common-sense approach should be adopted as to whether hospitality offered is modest or not. Hospitality of this nature does not need to be declared.

- 6.10.3 Hospitality between a value of £25 and £75 may also be accepted, but this must be declared to the Governance and Compliance Team using the form in Appendix 5.

- 6.10.4 Hospitality over a value of £75 should be refused. There may be some limited and exceptional circumstances where accepting hospitality over £75 may be accepted. Express prior approval should be sought from an Executive Director before accepting such offers, and clear reasons for acceptance should be recorded in the ICBs register of gifts and hospitality.

## **6.11 Commercial sponsorship/joint working with pharmaceutical industry**

- 6.11.1 The ICB has a separate policy entitled 'Policy for Sponsorship and Joint Working between the ICB and the Pharmaceutical Industry and other non-NHS organisations' available on the ICBs public website [www.bedfordshirelutonandmiltonkeynes.icb.nhs.uk](http://www.bedfordshirelutonandmiltonkeynes.icb.nhs.uk)

- 6.11.2 The purpose of the Policy in section 6.11.1 is to provide a framework within which the ICB can develop sponsorship arrangements or joint working with Pharmaceutical and other health and care related companies such that assurance is provided to the Board and to the public, that any agreements made do not adversely influence prescribing advice or choice of products.

## **6.12 The provision of hospitality by the ICB**

6.12.1 The use of public monies for hospitality and entertainment, including hospitality at conferences or seminars, should be carefully considered and approved for by an Executive Director. Expenditure on these items should be capable of justification, as reasonable in the light of general practice in the public sector. Hospitality or entertainment is open to challenge by auditors, and ill-considered actions can damage respect for the ICB in the eyes of the community.

## **6.13 Payment for speaking at a meeting / conference**

6.13.1 Staff asked to speak at an event relating to ICB business for which a payment is offered, and it is delivered in working hours must note:

- The payment should be credited to the ICB, or,
- The member of staff takes annual leave or unpaid leave, and the payment is made to the member of staff as a private matter between the organisation making the payment and the individual member of staff. The member of staff remains responsible for any tax liability which arises.

## **6.14 Private transactions**

6.14.1 Staff must not seek or accept preferential rates or benefits in kind for private transactions carried out with companies with which they have had, or may have, official dealings on behalf of the ICB. (This does not apply to concessionary agreements negotiated with companies by ICB management, or by recognised staff interests, on behalf of all staff, for example, staff benefits schemes).

## **6.15 Outside employment (secondary employment)**

6.15.1 Any employee who may have or is considering outside employment should discuss this in the first instance with their Line Manager before undertaking the employment.

6.15.2 Employees must not engage in outside employment during any periods of sickness absence from the ICB. To do so may lead to a referral being made to the Local Counter Fraud Specialist for investigation, which may lead to criminal and / or disciplinary action in accordance with the ICB's Anti-Fraud and Bribery Policy.

## **6.16 Donations in relation to the organisation**

6.16.1 Employees must check with their Line Manager or Executive Director before making any requests for donations to clarify appropriateness and / or financial or contractual consequences of acquisition. Requests for equipment or services should not be made without the express permission of a senior manager.

6.16.2 Donations / gifts from individuals, charities, companies (if they are not associated with known health-damaging products) – often related to individual pieces of equipment or items – provide additional benefits to individuals but may have resource implications for the ICB. Further guidance regarding charitable funds and gifts and donations can be requested from the Chief Finance Officer.

6.16.3 Any gifts to the organisation should be receipted and a letter of thanks should be sent.

## **6.17 Donations to an individual**

6.17.1 Personal monetary gifts to staff should be politely but firmly declined.

6.17.2 Where a member of staff is a beneficiary to a Will of a patient who has been under their care, the member of staff must inform their Line Manager of the gift so that consideration can be given to whether it is appropriate in all the circumstances for that member of staff to retain the gift.

6.17.3 In order to determine whether the bequest should be accepted it may be necessary to have the gift valued and where the gift has a value over a certain amount for the gift to either be returned to the Estate or the gift to be donated to a Charity of the member of staff's choice. Where the gift is to be returned to the Estate and the Trustees of the Estate are of the view having regards to all the circumstances that the member of staff should retain the gift regardless of its value, it may be appropriate for the Trustees to provide a disclaimer for future claims against the gift to avoid subsequent claims on the gift or allegations of inducement or reward being made against the member of staff or the ICB at some point in the future.

## **6.18 Rewards for initiative**

6.18.1 The ICB will identify potential intellectual property rights (IPR), as and when they arise, so they can protect and exploit them properly, and thereby ensure that they receive any rewards or benefits (such as royalties), in respect of work commissioned from third parties, or work carried out by individuals in the course of their duties.

6.18.2 Most IPR are protected by statute; e.g. patents are protected under the Patents Act 1977 and copyright (which includes software programmes) under the Copyright Designs and Patents Act 1988. To achieve this, public sector organisations and employers should build appropriate specifications and provisions into the contractual arrangements which they enter into before the work is commissioned or begins. They should always seek legal advice if in any doubt.

6.18.3 In certain defined circumstances the Patents Act 1977 gives employees or individuals in the course of their duties a right to obtain some reward for their

efforts, and the ICB will see that this is affected. Other rewards may be given voluntarily to employees or other individuals who, within the course of their employment or duties, have produced innovative work of outstanding benefit to the public sector.

6.18.4 In the case of collaborative research and evaluative exercises with manufacturers, the ICB will obtain a fair reward for the input they provide. If such an exercise involves additional work for a ICB employee or individual outside that paid for by the ICB under his or her contract of employment, or sessional arrangements, arrangements will be made for some share of any rewards or benefits to be passed on to the employee(s) or individuals concerned from the collaborating parties. Care will, however, be taken that involvement in this type of arrangement with a manufacturer does not influence the purchase of other supplies from that manufacturer.

### **6.19 Retention period**

6.19.1 Interests (including gifts and hospitality) will remain on the public register for a minimum of six months. In addition, the ICB will retain a record of historic interests and offers / receipt of gifts and hospitality for a minimum of six years after the date on which it expired.

### **6.20 Raising concerns**

6.20.1 If an individual becomes aware that someone has failed to disclose relevant and material information, they should raise the matter with the Governance & Compliance Team. The Anti-Fraud and Bribery Policy will be consulted and an appropriate referral made to the Local Counter Fraud Specialist where applicable.

6.20.2 If an individual wishes to raise their concerns they should also obtain a copy of the ICB's Raising Concerns at Work (Whistleblowing) Policy for further advice.

6.20.3 To ensure they are fully supported, the Freedom to Speak up Guardian should be contacted for confidential advice.

6.20.4 Anyone who wishes to report a suspected or known breach of this policy, who is not an employee or worker of the ICB, should also ensure that they comply with their own organisation's Whistleblowing Policy, since most such policies should provide protection against detriment or dismissal.

### **6.21 Managing breaches: failure to disclose / declare**

6.21.1 In any situation where there are grounds for suspicion of misconduct, a proper and thorough investigation will be undertaken to establish the facts in line with the ICB's Disciplinary Policy and Procedure.

6.21.2 Failure to comply with this policy can have serious implications for the ICB and any individuals concerned and could result in the implications listed below.

6.21.3 Anonymised details of breaches will be published on the ICBs website to promote learning and development.

## **6.22 Civil implications**

6.22.1 If breaches occur during a service re-design or procurement exercise, the ICB risks a legal challenge from providers that could potentially overturn the award of a contract, lead to damages claims against the ICB, and necessitate a repeat of the procurement process. This could delay the development of better services and care for patients, waste public money and damage the ICB's reputation. In extreme cases, staff and other individuals could face personal civil liability, for example a claim for misfeasance in public office.

## **6.23 Criminal implications**

6.23.1 Failure to manage conflicts of interest could lead to criminal proceedings including for offences such as fraud, bribery and corruption. This could have implications for the ICB and linked organisations, and the individuals who are engaged by them.

6.23.3 Fraud carries a maximum sentence of 10 years imprisonment and /or a fine if convicted.

6.23.4 The offences of bribing another person, being bribed or bribery of foreign public officials in relation to an individual carries a maximum sentence of 10 years imprisonment and/or a fine if convicted in the Crown Court and 6 months imprisonment and/or a fine in the Magistrates' Court. In relation to a body corporate the penalty for these offences is a fine.

## **6.24 Disciplinary implications**

6.24.1 The ICB will ensure that individuals who fail to disclose any relevant interests 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 or sub-committee members in particular should be aware that the outcomes of such action may, if appropriate, result in the termination of their employment or position with the ICB.

## **6.25 Professional regulatory implications**

6.25.1 The ICB will report statutorily regulated healthcare professionals to their regulator if they believe that they have acted improperly, so that these concerns can be investigated. Statutorily regulated healthcare professionals

should be made aware that the consequences for inappropriate action could include fitness to practise proceedings being brought against them, and that they could, if appropriate, be struck off by their professional regulator as a result.

## Appendix 1 - Equality Impact Assessment Initial Screening

Please answer the questions against each of the protected characteristic and inclusion health groups. If there are significant impacts and issues identified a full Equality / Quality Impact Assessment (EQIA) must be undertaken. It is against the law to discriminate against someone because of these protected characteristics. For support and advice on undertaking EQIAs please contact: [agcsu.equalities@nhs.net](mailto:agcsu.equalities@nhs.net)

|                                 |   |
|---------------------------------|---|
| <b>Name of Policy:</b>          | Conflict of Interest & Standards of Business Conduct Policy |
| <b>Date of assessment:</b>      | 23-03-2022  |
| <b>Screening undertaken by:</b> | Governance & Compliance Manager                             |

| Protected characteristic and inclusion health groups.<br><br>Find out more about the Equality Act 2010, which provides the legal framework to tackle disadvantage and discrimination: <a href="https://www.equalityhumanrights.com/en/equality-act/protected-characteristics">https://www.equalityhumanrights.com/en/equality-act/protected-characteristics</a> | Could the policy create a disadvantage for some groups in application or access?<br><br>(Give brief summary) | If Yes - are there any mechanisms already in place to mitigate the potential adverse impacts identified?<br><br>If not, please detail additional actions that could help.<br><br>If this is not possible, please explain why |
|---|--|--|
| <b>Age</b><br>A person belonging to a particular age (for example 32 year olds) or range of ages (for example 18 to 30 year olds).  | No significant impacts or issues identified.   |  |
| <b>Disability</b><br>A person has a disability if she or he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.  | No significant impacts or issues identified.   |  |
| <b>Gender reassignment</b><br>The process of transitioning from one gender to another.  | No significant impacts or issues identified.   |  |
| <b>Marriage and civil partnership</b><br>Marriage is a union between a man and a woman or between a same-sex couple. Same-sex couples can also have their relationships legally recognised as 'civil partnerships'.   | No significant impacts or issues identified.   |  |
| <b>Pregnancy and maternity</b><br>Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth and is linked to maternity leave in the  | No significant impacts or issues identified.   |  |

|  |  |  |
|--|--|--|
| employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.   |  |  |
| <b>Race</b><br>Refers to the protected characteristic of race. It refers to a group of people defined by their race, colour and nationality (including citizenship) ethnic or national origins.  | No significant impacts or issues identified. |  |
| <b>Religion or belief</b><br>Religion refers to any religion, including a lack of religion. Belief refers to any religious or philosophical belief and includes a lack of belief. Generally, a belief should affect your life choices or the way you live for it to be included in the definition. | No significant impacts or issues identified. |  |
| <b>Sex</b><br>A man or a woman.  | No significant impacts or issues identified. |  |
| <b>Sexual orientation</b><br>Whether a person's sexual attraction is towards their own sex, the opposite sex, to both sexes or none.   | No significant impacts or issues identified. |  |
| <b>Carers</b><br>Individuals within the ICB which may have carer responsibilities.   | No significant impacts or issues identified. |  |
| <b>Please summarise the improvements which this policy offers compared to the previous version or position.</b>  |  |  |
| This policy does not introduce any changes to policy, practice or procedure that could have an impact (positive or negative) on an individual, or group, because of their protected characteristics or health group.   |  |  |
| <b>Has potential disadvantage for some groups been identified which require mitigation?</b>  |  |  |
| No   |  |  |

## Appendix 2 - Data Protection Impact Assessment Initial Screening

Data protection is the fair and proper use of information about people. Before completing this form, please refer to the Data Protection Impact Assessment (DPIA) Guidance in the Information Governance (IG) section on the staff Intranet or contact the Data Protection Officer for support via [blmkicb.ig@nhs.net](mailto:blmkicb.ig@nhs.net)

A DPIA is a process to help you identify and minimise the data protection risks. You must do a DPIA for processing that is likely to result in a high risk to individuals. You can use our screening checklist below to help you decide when to do one. If you have answered 'Yes' to any of the 10 screening questions, you must then carry out a full DPIA using the Stage 2 form, which is also available on the Intranet in the IG section.

|                                 |   |
|---------------------------------|---|
| <b>Name of Policy:</b>          | Conflict of Interest & Standards of Business Conduct Policy |
| <b>Date of assessment:</b>      | 23-03-2022  |
| <b>Screening undertaken by:</b> | Governance & Compliance Manager                             |

### Stage 1 – DPIA form

please answer 'Yes' or 'No'

|   |     |
|---|-----|
| <b>1. Will the policy result in the processing of personal identifiable information / data?</b><br>This includes information about living or deceased individuals, including their name, address postcode, email address, telephone number, payroll number etc.   | Yes |
| <b>2. Will the policy result in the processing of sensitive information / data?</b><br>This includes for living or deceased individuals, including their physical health, mental health, sexuality, sexual orientation, religious belief, National Insurance No., political interest etc.   | Yes |
| <b>3. Will the policy involve the sharing of identifiers which are unique to an individual or household?</b><br>e.g., Hospital Number, NHS Number, National Insurance Number, Payroll Number etc.   | No  |
| <b>4. Will the policy result in the processing of pseudonymised information by organisations who have the key / ability to reidentify the information?</b><br><b>Pseudonymised data</b> - where all identifiers have been removed and replaced with alternative identifiers that do not identify any individual. Re-identification can only be achieved with knowledge of the re-identification key. <b>Anonymised data</b> - data where all identifiers have been removed and data left does not identify any patients. Re-identification is remotely possible, but very unlikely. | No  |
| <b>5. Will the policy result in organisations or people having access to information they do not currently have access to?</b>  | Yes |
| <b>6. Will the policy result in an organisation using information it already holds or has access to, but for a different purpose?</b>   | No  |
| <b>7. Does the policy result in the use of technology which might be perceived as being privacy intruding?</b> e.g., biometrics, facial recognition, CCTV, audio recording etc.   | No  |
| <b>8. Will the policy result in decisions being made or action being taken against individuals in ways which could have a significant impact on them?</b><br>Including profiling and automated decision making. (This is automated processing of personal data to evaluate certain things about an individual i.e., diagnosis and then making a decision solely by automated means - without any human involvement)   | No  |
| <b>9. Will the policy result in the collection of additional information about individuals in addition to what is already collected / held?</b>   | No  |
| <b>10. Will the policy require individuals to be contacted in ways which they may not be aware of and may find intrusive?</b> e.g., personal email, text message etc.   | No  |

## Appendix 3 - Declaration of Interest Form

(Template as example)

### Declaration of Interest

|   |   |
|---|---|
| <b>Full name:</b>   |   |
| <b>Position/role within, or relationship with the Bedfordshire, Luton &amp; Milton Keynes Integrated Care Board (the ICB):</b>  |   |
| <b>Department / Team:</b>   |   |
| <b>Do you have any interests to declare?</b><br>Please select one and follow the instructions   |   |
| <b>Yes</b> <input type="checkbox"/><br><b>Please document</b> them in the table below, sign the declaration, forward to your line manager to sign, then send to the Governance & Compliance Team <a href="mailto:blmkicb.corporatesec@nhs.net">blmkicb.corporatesec@nhs.net</a> | <b>No</b> <input type="checkbox"/><br>Please go straight to the declaration section, sign, forward to your line manager to sign, then send to the Governance & Compliance Team <a href="mailto:blmkicb.corporatesec@nhs.net">blmkicb.corporatesec@nhs.net</a> |

The information provided in this form will be held by the ICB in accordance with Data Protection Act 2018 and will be processed to enable compliance with the ICB's statutory duties and its Conflict of Interest Management & Standards of Business Conduct Policy.

Please be aware that the information provided in this form will be added to the ICB's register of interests, held for inspection by the public and published on the ICB's website. If you have provided information about third parties in this form, please make them aware of this.

Information may be disclosed to third parties in accordance with the Freedom of Information Act 2000.

**Detail of interests held**

(complete all fields below, sign and forward to line manager for their signature)

| What type of Interest is it?<br><small>(refer to table at end of form, then type yes or no for each)</small> |                            |                        |          | Description of interest<br><br>Please include: <ul style="list-style-type: none"> <li>• Company details (if relevant): registered office address, company number etc.</li> <li>• For indirect interests, include details of the relationship with the person who has the interest e.g., partner, daughter etc.</li> </ul> <b>Please note:</b> You MUST declare any 'Active' Directorships. | Date                              |                                 | Actions to be taken to mitigate risk<br><small>(to be agreed with line manager or a senior ICB manager)</small> |
|--|----------------------------|------------------------|----------|--|-----------------------------------|---------------------------------|---|
| Financial  | Non-Financial Professional | Non-Financial Personal | Indirect |  | From<br><small>(dd/mm/yy)</small> | To<br><small>(dd/mm/yy)</small> |   |
|  |                            |                        |          |  |                                   |                                 | e.g., Declare in line with conflicts of interest policy   |
|  |                            |                        |          |  |                                   |                                 | e.g., Exclusion from involvement in related meeting or decision-making  |

**Declaration:**

I confirm that the information provided above is complete and correct. I acknowledge that any changes in these declarations must be notified to the ICB as soon as practicable and **no later than 28 days after the interest arises**.

I am aware that if I do not make full, accurate and timely declarations then civil, criminal, or internal disciplinary action may be taken.

|                  |  |             |  |
|------------------|--|-------------|--|
| <b>Signature</b> |  | <b>Date</b> |  |
|------------------|--|-------------|--|

**Line Manager or Senior ICB Manager**

|                  |  |                 |  |
|------------------|--|-----------------|--|
| <b>Name</b>      |  | <b>Position</b> |  |
| <b>Signature</b> |  | <b>Date</b>     |  |

Please return to [blmkicb.corporatesec@nhs.net](mailto:blmkicb.corporatesec@nhs.net)

| Interest                                    | Description   |
|---|---|
| <b>Financial Interests</b>                  | <p>This is where an individual may get direct financial benefits from the consequences of a decision. This could, for example, include being:</p> <ul style="list-style-type: none"> <li>• 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. This includes involvement with a potential provider of a new care model;</li> <li>• 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;</li> <li>• A management consultant for a provider; or</li> <li>• A provider of clinical private practice.</li> </ul> <p>This could also include an individual being:</p> <ul style="list-style-type: none"> <li>• In employment outside of the ICB;</li> <li>• In receipt of secondary income;</li> <li>• In receipt of a grant from a provider;</li> <li>• In receipt of any payments (for example honoraria, one-off payments, day allowances or travel or subsistence) from a provider;</li> <li>• 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</li> <li>• 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).</li> </ul> |
| <b>Non-Financial Professional Interests</b> | <p>This is where an individual may obtain a non-financial professional benefit from the consequences of a decision, such as increasing their professional reputation or status or promoting their professional career. This may, for example, include situations where the individual is:</p> <ul style="list-style-type: none"> <li>• An advocate for a particular group of patients;</li> <li>• A GP with special interests e.g., in dermatology, acupuncture etc.;</li> <li>• An active member of a particular specialist professional body (although routine GP membership of the Royal College of General Practitioners (RCGP), British Medical Association (BMA) or a medical defence organisation would not usually by itself amount to an interest which needed to be declared);</li> <li>• An advisor for the Care Quality Commission (CQC) or the National Institute for Health and Care Excellence (NICE);</li> <li>• Engaged in a research role;</li> <li>• The development and holding of patents and other intellectual property rights which allow staff to protect something that they create, preventing unauthorised use of products or the copying of protected ideas; or</li> <li>• GPs and practice managers, who are members of the Board or committees of the ICB, should declare details of their roles and responsibilities held within their GP practices.</li> </ul>   |
| <b>Non-Financial Personal Interests</b>     | <p>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:</p> <ul style="list-style-type: none"> <li>• A voluntary sector champion for a provider;</li> <li>• A volunteer for a provider;</li> <li>• A member of a voluntary sector board or has any other position of authority in or connection with a voluntary sector organisation;</li> <li>• Suffering from a particular condition requiring individually funded treatment;</li> <li>• A member of a lobby or pressure group with an interest in health and care.</li> </ul>   |
| <b>Indirect Interest</b>                    | <p>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 decision (as those categories are described above) for example, a:</p> <ul style="list-style-type: none"> <li>• Spouse / partner;</li> <li>• Close family member or relative e.g., parent, grandparent, child, grandchild or sibling;</li> <li>• Close friend or associate; or</li> <li>• Business partner</li> </ul>   |

**Appendix 4 - Register of Interests**

(Template as example)

| Name | Position within, or relationship with the ICB | Interests to Declare | Type of Interest |                            |                        |          | Description of interests | Date |    | Actions to be taken to mitigate risk |
|------|---|----------------------|------------------|----------------------------|------------------------|----------|--------------------------|------|----|--------------------------------------|
|      |   |                      | Financial        | Non-Financial Professional | Non-Financial Personal | Indirect |                          | From | To |                                      |
|      |   |                      |                  |                            |                        |          |                          |      |    |                                      |
|      |   |                      |                  |                            |                        |          |                          |      |    |                                      |
|      |   |                      |                  |                            |                        |          |                          |      |    |                                      |
|      |   |                      |                  |                            |                        |          |                          |      |    |                                      |

**Appendix 5 - Register of Gifts & Hospitality**

(Template as example)

| Name | Position | Date of Offer<br><i>(dd/mm/yy)</i> | Date of Receipt<br><i>(if accepted)</i> | Details of Gift /Hospitality | Estimated Value | Supplier<br><i>(Name &amp; Nature of Business)</i> | Declined (D) or Accepted (A) | Reason for Accepting or Declining |
|------|----------|------------------------------------|---|------------------------------|-----------------|--|------------------------------|-----------------------------------|
|      |          |                                    |   |                              |                 |  |                              |                                   |
|      |          |                                    |   |                              |                 |  |                              |                                   |
|      |          |                                    |   |                              |                 |  |                              |                                   |
|      |          |                                    |   |                              |                 |  |                              |                                   |
|      |          |                                    |   |                              |                 |  |                              |                                   |
|      |          |                                    |   |                              |                 |  |                              |                                   |
|      |          |                                    |   |                              |                 |  |                              |                                   |

**Appendix 6 - Declaration of Gifts & Hospitality**

| <b>Recipient Name</b> | <b>Position</b> | <b>Date of Offer</b> | <b>Date of Receipt</b><br><i>(if accepted)</i> | <b>Details of Gift / Hospitality</b> | <b>Estimated Value</b> | <b>Supplier</b><br><i>(name &amp; nature of business)</i> | <b>Details of previous offers or acceptance from this supplier</b> | <b>Declined (D) or Accepted (A)?</b> | <b>Reason for Accepting or Declining &amp; any other comments</b> |
|-----------------------|-----------------|----------------------|--|--------------------------------------|------------------------|---|--|--------------------------------------|---|
|                       |                 |                      |  |                                      |                        |   |  |                                      |   |

The information provided in this form will be held by the ICB in accordance with Data Protection Act 2018 and will be processed to enable compliance with the ICBs statutory duties and its Conflict of Interest Management & Standards of Business Conduct Policy.

Please be aware that the information provided in this form will be added to the ICB's register of interests, held for inspection by the public and published on the ICB's website. If you have provided information about third parties in this form, please make them aware of this.

Information may be disclosed to third parties in accordance with the Freedom of Information Act 2000.

**To be signed by Line Manager or a Senior ICB Manager**

|               |  |                 |  |
|---------------|--|-----------------|--|
| <b>Name</b>   |  | <b>Position</b> |  |
| <b>Signed</b> |  | <b>Date</b>     |  |

Please return to [blmkicb.corporatesec@nhs.net](mailto:blmkicb.corporatesec@nhs.net)