

Pathfinder / LCCC Conflict of Interest Guidance

1. Introduction

- 1.1 As they develop, Clinical Commissioning Groups (CCGs) will need clear and robust mechanisms for managing real and perceived conflicts of interest. If they are not managed effectively, confidence in the probity of commissioning decisions and the integrity of the clinicians involved could be seriously undermined, but with good planning and sound governance clinical commissioners should be able to avoid these risks.
- 1.2 The requirements outlined in this paper apply to, but are not limited to, all Pathfinder Board members (and therefore by extension the Local Clinical Commissioning Committees' membership operating as committees of NHS SEL Boards) and any working groups or Pathfinder staff members (jointly referred to as "members" in this document).

2. Guiding Principles

2.1 Conflicts of Interest

Put simply, a conflict of interest can occur when an individual's ability to exercise judgment in one role is impaired by the existence of competing interests. In particular, a conflict of interest may occur when a member could be influenced by financial or other commitments or relationships and as a result could fail to adequately represent the views of his/her constituents (where representing others) or make impartial decisions. It can also arise when a member working for or having a link to a private company is involved in discussions at which information useful to the private company could be available.

For a clinical commissioner, a conflict of interest would exist when their judgment as a commissioner could be, or reasonably be perceived to be, influenced and impaired by their own concerns and obligations as a healthcare provider, as an owner, director or shareholder in an organisation doing business with the NHS, or as a member of a particular peer, professional or special interest group, or by those of close family members.

2.2 Standing orders

The policy for the declaration and management of conflicts of interest is

as set out in the NHS South East London Standing Orders/Standing Financial Instructions/Scheme of Delegation (excerpts set out in 'what to declare' section).

This document summarises the arrangements regarding declaration and management of conflicts of interest in the context of the establishment of GP Pathfinders and of Committees of the Joint Boards for the purpose of delegation of commissioning functions to Pathfinders (or their successor bodies). However, for the avoidance of doubt, and in the case of any query or matter of detail, the NHS South East London Standing Orders take precedence.

Members must also comply with the Standards of Business Conduct for NHS Staff, the NHS Code of Conduct for NHS Managers 2002 and the ABPI Code of Professional Conduct relating hospitality/gifts from pharmaceutical/external industry and should also take account of the GPC Guidance and The Principles of GP Commissioning. The NHS SEL Boards have also adopted the Nolan Principles of Public Life which describe the values and behaviours transcending such codes, policies and principles may be applicable. The Boards commend these principles to the emergent pathfinders.

3. Implementing the Principles

3.1 Register of Interests

Members are required to declare interests which are relevant and material to the Committee/s of which they are a member. All existing members should declare such interests; any members appointed subsequently should do so on appointment. Any new interests or changes to interests arising during the year should be declared as and when they arise.

Each Clinical Commissioning Committee will establish a Register of Interests, which will be held by the Committee and reported to the NHS South East London governance team to form part of the overall NHS SEL Register of Interests which will be available publically. This register will be accepted and minuted at a meeting of the Pathfinder Clinical Commissioning Committee. The register will be updated as required during the year and reviewed in full annually. The register of interests will be published in the respective Care Trust or PCT's annual report and be available on the website. (An indicative pro forma is attached as Appendix 1)

3.2 Declarations of Interest at Meetings

Committee members will be expected to declare any relevant interests at the start of each meeting or for agenda items as they arise (indicative pro forma is attached as appendix 2). Depending on the nature of the

interest they may present their views on the subject but not be part of any vote, or where appropriate in line with Standing Orders will play no part in the discussion or decision or absent themselves from the meeting for that item (by leaving the room for the discussion and decision, for example). The overriding principle guiding such considerations should be to ensure that both the affected individual's conduct and any decisions taken by the committee are beyond reproach.

Where appropriate, due to the nature of the conflict of interest, agenda items or related papers in draft or final form will not be shared with the Committee member. Decisions regarding this will generally be taken by the Chair of the Committee in consultation with the Business Support Unit (BSU) Managing Director, or where it concerns the Chair of the Committee or BSU Managing Director, by a Non-Executive member of the Committee in consultation with the Chair/BSU Managing Director or another member of the committee who does not have a conflict of interest.

Note: Standing orders should be referred to regarding the very specific conditions for application by the Chair of the waiver in relation to the disability to participate in respect of healthcare professionals.

Where the withdrawal of the member has the effect of making the meeting inquorate, the Chair will decide whether to adjourn the meeting to permit the attendance of other members at another date or whether to proceed with the discussion in order to make a recommendation subject to ratification at a future quorate meeting, or at the Joint Boards.

4. Procurement and areas of significant conflict of interest

- 4.1 All procurement and contracting must comply with EU law and best practice across NHS South East London, which includes obligations in respect of openness, transparency, equality and non-discrimination.
- 4.2 NHS South East London is considering the establishment of a procurement panel to oversee all decisions on procurement routes for contracts in excess of £50k and approve the administrative arrangements for the procurement, where a significant proportion of clinical commissioners have a conflict of interest.
- 4.3 Where a significant proportion of the Committee members have a specific conflict of interest in a particular proposal or contract, the Committee would remit any related process (e.g. tendering) to this group albeit that the matter is within the Committee's delegated responsibility.
- 4.4 In all circumstances where a 'procurement' is being discussed any member with a conflict of interest will be required to absent themselves from the meeting.

5. Monitoring and Review

- 5.1 Pathfinders and BSU Managing Directors will establish local proportionate arrangements for monitoring declarations of interest (advising the SEL central governance team of any updates / amendments) and audit of the arrangements will be overseen by the South East London Director of Finance.
- 5.2 NHS South East London may also request internal auditors undertake a review of declarations of interest including members of Local Clinical Commissioning Committees and GP Pathfinder Boards.

6. What to declare

- 6.1 Members are required to declare any relevant and material personal or business interests or positions of influence for themselves and any relevant and material personal or business interests or positions of influence of people connected with them which may influence or be perceived to influence their judgment.
- 6.2 These are listed within the NHS SEL Standing Orders as interests which are relevant and material:
 - (i) Interests which should be regarded as "relevant and material" are:
 - a) Directorships, including non-executive directorships held in private companies or PLCs (with the exception of those of dormant companies);
 - b) Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS;
 - c) Majority or controlling share holdings in organisations likely or possibly seeking to do business with the NHS;
 - d) A position of authority in a charity or voluntary organisation in the field of health and social care;
 - e) Any connection with a voluntary or other organisation contracting for NHS services.
 - f) Research funding/grants that may be received by an individual or their department;
 - g) Interests in pooled funds that are under separate management (and any relevant company included in this fund that has a potential relationship with a PCT/Care Trust must be declared.)
 - h) Practice Based Commissioning

(ii) Any Member of the Joint Boards, or individual PCT/Care Trust Board or Local Commissioning Committee who comes to know that a PCT/Care Trust or Local Commissioning Committee has entered into or proposes to enter into a contract in which he or any person connected with him (as defined in Standing Order 8.3 below and elsewhere) has any pecuniary interest, direct or indirect, the Board member or Local Commissioning Committee member shall declare his/her interest by giving notice in writing of such fact to the Director of Corporate Affairs as soon as practicable.

7. Related Parties

7.1 For this purpose, a person connected may include the following and other persons where the connection could be deemed to be such as to influence a decision or an individual:

- Spouse (including civil partner);
- Cohabitee;
- Child;
- Parent;
- Sibling.

7.2 For professional members of the Committees a relevant and material interest may include such interests relating to members of their Practice Partnership. Interests that should be deemed to be relevant and material include:

- Directorships, including non-executive directorships held in private companies or PLCs (with the exception of those of dormant companies);
- Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS;
- Partnership or employment in a professional partnership (whether salaried or profit sharing);
- Majority or controlling share holdings in organisations likely or possibly seeking to do business with the NHS;
- A position of authority (eg employee or trustee) in a charity or voluntary or social enterprise organisation in the field of health and social care;
- Any connection with a voluntary or other organisation contracting for NHS services;
- Research funding/grants that may be received by an individual or their department or by their Pathfinder (CCG), or by their Practice;
- Interests in pooled funds that are under separate management (any relevant company included in this fund that has a potential relationship with any of the PCTs must be declared);
- Any interests that arise from any joint working arrangements, or similar, such as with the local authority;

- Any interest that they (if they are registered with the General Medical Council) would be required to declare in accordance with paragraph 55 of the GMC's publication Management for Doctors or any successor guidance;
- Any interest that they (if they are registered with the Nursing and Midwifery Council) would be required to declare in accordance with paragraph 7 of the NMC's publication Code of Professional Conduct or any successor code.

8. Failure to Declare

- 8.1 An unwitting failure to declare a relevant and material interest or position of influence and/or to record a relevant and material interest or position of influence that has been declared may, but will not necessarily, render void any decision made by the Board or its properly constituted sub committees.
- 8.2 The PCT Board will reserve the right to declare such a contract void. In any event the Committee member or employee affected will be required to declare any benefit he or she or person connected with them received under the contract in the Register of Interests.
- 8.3 Any conscious or deliberate failure to declare a relevant or material interest or position of influence will be addressed through the relevant performance or disciplinary routes.

DECLARATION OF PERSONAL AND FINANCIAL INTERESTS – BOARD MEMBER / DIRECTOR / LCCC MEMBER

1 I wish to declare that I, or a close relative or associate, hold the following directorships, appointments, and/or significant and financial interests in the business, companies, public sector organisations, other NHS bodies and/or voluntary organisations which may contract with the business of NHS South East London

i Company/Organisation

Personal interest (give details)

Position held

Shareholding (if any)

Is remuneration paid?

ii Company/Organisation

Personal interest (give details)

Position held

Shareholding (if any)

Is remuneration paid?

iii Company/Organisation

Personal interest (give details)

Position held

Shareholding (if any)

Is remuneration paid?

[Enter “Nil” if appropriate. Continue on a separate sheet if necessary]

PLEASE TURN OVER

2 I wish to declare the following directorships and/or other significant interests not covered above:

3 I wish to declare that I have received the following gifts, hospitality and sponsorships (excluding items of low intrinsic value):

Signed

Date

(Please sign here in all cases, including nil returns)

Name (Block Capitals please)

NHS xxxxx PATHFINDER BOARD
E.g. Xday XXth XXmonthXX 2012, 3.00pm-6.00pm, at the XXXXX

BOARD MEMBERS ONLY
ATTENDANCE/DECLARATION OF INTERESTS* SHEET

NAME	DECLARATION	SIGNATURE

*All Board members and senior employees of NHS SEL have the legal obligation to act in the best interests of each of the SEL PCTs and Care Trusts in line with their delegations. Public service values matter in the NHS and those working in it have a duty to conduct NHS business with probity. All Board members and senior employees are therefore expected to declare any personal or business interest which may influence, or may be perceived to influence, their judgement. This should include as a minimum, personal, direct or indirect financial interests