

Declaration of Interests, Hospitality, Acceptance of Gifts and Sponsorship Policy

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1. Introduction

This policy governs declaration of interests, hospitality and acceptance of gifts by all NHS Kernow employees and Governing Body (GB) members, and those persons who contribute to the work of NHS Kernow Clinical Commissioning Group (CCG) either on specific projects or tasks. It is based on the revised national guidance issued to CCGs in June 2017 [1].

The policy also sets out the principles and standards which should be applied when NHS Kernow and its employees engage with the Pharmaceutical Industry.

These same principles and standards should apply equally to sponsorship by other profit making organisations and also non-profit-making or charitable organisations.

Employees of NHS Kernow must at all times avoid putting themselves in a position where their integrity can be called into question under the Bribery Act 2010. It is an offence for employees, in the simplest form, to accept any gift or consideration or anything that induces or intends to induce improper performance. There are four offences within the Act:

- Offering, promising or giving a bribe
- Requesting, agreeing to receive or accepting a bribe
- Bribing a foreign public official
- A corporate offence of failing to prevent bribery

Breach of the provisions renders individuals liable to prosecution and may also lead to loss of employment and superannuation rights in the NHS. Failure to comply with this policy is grounds for action under NHS Kernow's Disciplinary Procedure. See section 9 for further details.

The 'New NHS: Modern and Dependable' [2] places an obligation on CCGs and NHS Trusts to work together in partnership with other agencies to improve the health of the population and the quality of health services provided to that population.

The NHS Plan and other recent Department of Health (DH) and NHS England publications all point to the benefits that can come from a constructive engagement with the private sector. By constructing the right partnerships the NHS can harness the capacity of private and voluntary providers to treat more NHS patients.

Nationally, it is also recognised when CCGs are commissioning new models of care, particularly those that include primary medical care, it is likely there will be some individuals with roles in the CCG (whether clinical or non-clinical), that also have roles within a potential provider, or may be affected by decisions relating to new models. Any conflicts must be identified and appropriately managed in accordance with statutory guidance.

The NHS document 'Commercial Sponsorship - Ethical Standards in the NHS' [3]

requires Trusts, CCGs and independent contractors to develop local arrangements in relation to commercial sponsorship within a national framework. This document recognises that there can be mutual benefit in sponsorship arrangements with organisations external to the NHS, but only if they are agreed within a framework with the necessary safeguards and checks. There is a concern that in accepting sponsorship from organisations whose primary aim is to make profits or campaign for a particular interest group, the quality of patient care may be compromised. Priorities may be distorted by sponsorship agreements which look attractive in one part of the NHS, but may lead to increased costs or poorer care of patients in other parts of the service.

The impact of commercial sponsorship on 'prescribing' needs to be formally assessed. Any anticipated increase in prescribing as a result of sponsorship (and the associated costs) needs to be assessed against the following criteria:

- Affordability – an increase in prescribing in one area may deprive funding and resources for other areas of healthcare
- Consistency with national and locally agreed guidelines and prescribing advice e.g. service and outcome frameworks, the National Institute for Health and Care Excellence (NICE), Cornwall and Isles of Scilly and the Plymouth Area Joint Formulary, etc.
- Consistency with national and locally agreed healthcare priorities

This policy will allow NHS Kernow to monitor the extent of sponsorship, hospitality and gifts. It will also help ensure that sponsorship, hospitality and gifts comply with national guidance.

This policy should be read in conjunction with all other relevant policies, especially:

- Whistleblowing Policy
- Procurement Policy
- Disciplinary Policy and Procedures
- Anti-Fraud and Bribery Policy
- Grievance Policy and Procedures
- Secondary Employment policy
- Intellectual Property Policy
- Freedom of Information Policy and Requests procedure
- Policy for Managing Rebates on Prescribed Products

Additional support and advice is available from the corporate governance team and/or within the Statutory Guidance [1].

2. Scope

This policy applies to all employees of NHS Kernow, including Governing Body members, and any other person engaged in the business on behalf of or for NHS Kernow:

- All NHS Kernow employees, full and part time
- Any students and trainees (including apprentices)
- Governing Body members
- Staff on sessional work and short term contracts
- Seconded staff
- Agency staff
- Self-employed consultants or other individuals working for NHS Kernow under a contract for services
- All members of NHS Kernow including GP partners or company directors if the practice is organised as a commercial company; and,
- Any other person/organisation that has a role within or contributing to the business on behalf of or for NHS Kernow, including co-opted members of committees/meetings and/or members of the public

It does not extend to offers of funding made directly and without NHS Kernow involvement to GPs and their practice staff, community pharmacists or dentists unless acting on behalf of NHS Kernow. However, pharmaceutical companies may approach GPs who are NHS Kernow clinical governance, prescribing, locality or clinical leads. If this approach is because of their NHS Kernow role, then this policy will apply. It also applies to other practice employed staff working with NHS Kernow. It must be recognised this distinction cannot be clearly made and in any case public or external perception may be that the distinction does not exist. In this regard it is best to avoid the interest or declare it. (See also section 5 on Management of Interests – General).

3. Key terms and principles

Interest: Is considered generally to be a right, claim, legal share, involvement with or participation in another organisation or person.

Conflict of interest: 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. 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

Staff 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.

Conflict of Interest Guardian: The lay member for governance and chair of NHS Kernow's Audit committee acts as the Conflict of Interest Guardian to provide Governing Body oversight of the management of conflicts of interest.

Decision Making Staff: Staff who are more likely than others to have a decision-making influence on the use of taxpayers' money due to the requirements of their role. Including:

- Executive, GP and lay members of the Governing Body
- Members of advisory groups which contribute to decision making on the commissioning or provision of services
- Those at Agenda for Change band 8C and above
- Administrative and clinical staff who have the power to enter into contracts on behalf of the organisation or are involved in decision making concerning the commissioning of services, purchasing of goods, medicines, medical devices or equipment and formulary decisions

Fees: The money paid to a staff member for a service provided to a private or commercial sector organisation.

Gift: Items of any value offered or provided in the nature of the organisation's business by anyone other than the employer.

Hospitality: Food, drink, accommodation or entertainment offered or provided in the nature of the organisation's business by anyone other than the employer.

Inclusion in the register: Reference to making declarations for inclusion in the register includes the completion of appropriate declaration proformas for hospitality, gifts, rewards and/or inducements received and declarations of interest.

Principle Committees: The Governing Body or constitutional committees as well as other committees which involve GB GPs or lay members, or those deemed to be key decision making committees/meetings for NHS Kernow.

Sponsorship: Funding from any external source including funding all or part of costs of a member of staff, equipment, research, staff training, pharmaceuticals, meeting rooms, costs associated with meetings, hotel and transport costs including travel abroad, and provision of free services e.g. speakers.

4. Identification, declaration and review of interests (including gifts and hospitality)

All employees of NHS Kernow, including Governing Body members and any other person engaged in the business on behalf of or for NHS Kernow, are required¹ to

¹ Bribery Act 2010
HSG (93)5
NHS Kernow Standing Orders S.7

declare any actual (or potential) personal, professional or financial interest in a business (including a private company, public sector organisation, other NHS employer and/or voluntary organisation) which may influence an individual's judgement or actions, or could be perceived to do so, as well as any sponsorship, gift or hospitality received or offered and declined in order that the details may be entered into the register. If staff are in any doubt as to whether an interest is material, then they should declare it so that it can be considered. Staff will be expected to declare any interest (including nil interests):

- At induction upon first being employed by NHS Kernow
- When an interest arises or as soon as they become aware of it, and in any event within 28 days
- As an annual declaration to re-affirm an unchanged interest or confirm nil interests
- On changing role or responsibility
- At meetings, as required – see section 4.1 below

The annual review of all interests will be instigated and managed by the corporate governance team.

Declaration forms can be found at Appendix A(i) for interests and Appendix A(ii) for gifts and hospitality, and are available from the document library. Completed forms should be handed to a member of the corporate governance team or sent by email to kccg.corporategovernance@nhs.net.

All those required to make a declaration are required to identify specific issues that might lead to a conflict with their declaration of interest on each and every occasion that this might occur. Failure to make an appropriate declaration may lead to the matter being referred to the Local Counter Fraud Specialist, and if appropriate, disciplinary or legal action taken by NHS Kernow in respect of any wrong doing.

The Board Secretary and the corporate governance team will maintain the following:

- Declaration of Interests Register
- Gifts and Hospitality Register/Commercial Sponsorship Register

All material interests declared will be promptly transferred to the register by the corporate governance team.

The contracting and procurement team maintain the declaration of interest registers for each procurement exercise undertaken. They work closely with the corporate governance team to ensure the registers are complete, accurate and this policy is followed.

Declarations of interest may be considered to fall into two categories:

- Direct; and
- Indirect

Direct interests are those pertaining to the activities of the individual making the declaration.

Indirect interests are those 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, for example:

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

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.

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 NHS Kernow.

4.1 Declarations of Interests for meetings, procurements or other pieces of work

GB members, members of principle committees, and those involved in procurement projects will be provided an opportunity at each meeting to update their declaration in addition to declaring a specific interest in an agenda item. Where an individual is unable to provide a declaration in writing, for example if a conflict or the need for an update to the register becomes apparent in the course of a meeting or the need for an update, they will make an oral declaration before witnesses that will be recorded in the minutes of the meeting and the administration support will provide a proforma for completion and return to the chair of the committee or officer leading the work, who will consider and determine the need for any mitigating action. These declarations will then be forwarded to the corporate governance team to be entered in the register. In addition, an annual declaration must also be made in respect of GB members in order to ensure an accurate report is made part of the Annual Report and Accounts.

As part of the preparation for conducting a meeting, procurement or piece of work for NHS Kernow, the individual responsible for managing the administration will request a report extracted from the Declarations of Interest Register detailing the declarations of interest of all those participating in the work. This will be provided to the chair of the committee or officer leading the work in order that they consider the declarations and identify any conflicts. They will decide and inform the individuals concerned of any such conflict and their decision on how this will be managed. This consideration will be advised and recorded in the minutes of the committee or notes of the work file.

It is anticipated that irrespective of any declaration of interest Governing Body members may have made, they may be called upon to take decisions concerning delivery of services provided by GPs. This may bring about a conflict of interest for the Governing Body GP members who would need to absent themselves from relevant Governing Body meetings at which they would be conflicted. The Governing Body will determine how best to proceed including consideration of delegating decision making powers to one of its committees or another CCG.

The revised statutory guidance for managing conflicts of interest within CCGs [1], introduced a new annex (see Appendix E). The annex is intended to provide further advice and support to help CCGs manage conflicts of interest in the commissioning of new models of care. It summarises key aspects of the statutory guidance which are of particular relevance to commissioning new care models rather than setting out new requirements. Whilst this annex highlights some of the key aspects of the statutory guidance, CCGs should always refer to, and comply with, the full statutory guidance.

It should be remembered that for a conflict to exist, financial gain is not necessary. Also, if staff are in any doubt about accepting a gift, hospitality, sponsorship or expenses, no matter how small, they should first consider declining the gift or consult their line manager or the Board Secretary.

The standards set out in NHS Kernow's Constitution must be followed at all times.

All members and officers who are involved in receiving offers of sponsorship, funding or gifts from outside agencies also should comply with their own professional codes of practice. Professional staff must also make themselves aware of their own professional body codes of conduct e.g. Nursing and Midwifery Council, General Medical Council, professional, legal, accounting and other bodies.

Staff should notify the Board Secretary or the corporate governance team as soon as possible if an interest ceases.

4.2 Reviewing declarations

All declarations must be kept under review along with implementing appropriate agreed mitigating action. This will ensure that all involved are aware of the potential conflict and raise any issue for the chair to consider.

Inclusion of declarations of interest as a standing agenda item for GB, principal committees and procurement project groups will allow interests to be kept up to date and considered against the ongoing work of that group,

Regular reports shall be produced, including submissions to NHS England as required, and will be shared and discussed in the appropriate forums such as Governing Body or Audit committee.

Declarations will be monitored by appropriate officers to identify any potential or perceived conflicts of interest to ensure these are managed appropriately to ensure they do not affect, or appear to affect, the integrity of NHS Kernow's decision making processes. This may include chairs of committees/meetings, the Governing Body, members of the executive team, corporate governance team or procurement team.

5. Declaring interests

If an interest is declared but there is no risk of a conflict arising, then no action is warranted. However, if a material interest is declared then the general management actions that could be applied include:

- restricting staff involvement in associated discussions and excluding them from decision making
- removing staff from the whole decision making process
- removing staff responsibility for an entire area of work
- removing staff from their role altogether if they are unable to operate effectively in it because the conflict is so significant

Each case will be different and context-specific and NHS Kernow will always clarify the circumstances and issues with the individuals involved. Staff should maintain a written audit trail of information considered and actions taken.

Staff who declare material interests should make their line manager or the person(s) they are working to aware of their existence.

5.1 Common situations

This section sets out the principles and rules to be adopted by staff in common situations, and what information should be declared.

5.1.1 Gifts

Staff should not accept gifts that may affect, or be seen to affect, their professional judgement.

Gifts from suppliers or contractors:

- Gifts from suppliers or contractors doing business (or likely to do business) with the organisation should be declined, whatever their value.
- Low cost branded promotional aids such as pens or post-it notes may, however, be accepted where they are under the value of £6² in total, and need not be declared.

Gifts from other sources (e.g. patients, families, service users):

- Gifts of cash and vouchers to individuals should always be declined.

² The £6 value has been selected with reference to existing industry guidance issued by the ABPI: <http://www.pmcpa.org.uk/thecode/Pages/default.aspx>

- Staff should not ask for any gifts.
- Gifts valued at over £50 should be treated with caution and only be accepted on behalf of NHS Kernow not in a personal capacity and should be passed to the Board Secretary who will ensure appropriate handling. These should be declared by staff.
- Modest gifts accepted under a value of £50 do not need to be declared.
- A common sense approach should be applied to the valuing of gifts (using an actual amount, if known, or an estimate that a reasonable person would make as to its value).
- 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.

What should be declared:

- Staff name and their role with the organisation.
- A description of the nature and value of the gift, including its source.
- Date of receipt.
- Any other relevant information (e.g. circumstances surrounding the gift, action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

5.1.2 Hospitality

- Staff should not ask for or accept hospitality that may affect, or be seen to affect, their professional judgement.
- Hospitality must only be accepted when there is a legitimate business reason and it is proportionate to the nature and purpose of the event.
- Particular caution should be exercised when hospitality is offered by actual or potential suppliers or contractors. This can be accepted, and must be declared, if modest and reasonable. Senior approval must be obtained.

Meals and refreshments:

- Under a value of £25 - may be accepted and need not be declared.
- Of a value between £25 and £75³ - may be accepted and must be declared.
- Over a value of £75 - should be refused unless (in exceptional circumstances) senior approval is given. A clear reason should be recorded on the organisation's register(s) of interest as to why it was permissible to accept.
- A common sense approach should be applied to the valuing of meals and refreshments (using an actual amount, if known, or a reasonable estimate).

Travel and accommodation:

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

³ The £75 value has been selected with reference to existing industry guidance issued by the ABPI <http://www.pmcpa.org.uk/thecode/Pages/default.aspx>

in exceptional circumstances, and must be declared. A clear reason should be recorded on the organisation's register(s) of interest as to why it was permissible to accept travel and accommodation of this type. A non-exhaustive list of examples includes:

- offers of business class or first class travel and accommodation (including domestic travel)
- offers of foreign travel and accommodation.

What should be declared:

- Staff name and their role with the organisation.
- The nature and value of the hospitality including the circumstances.
- Date of receipt.
- Any other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

5.1.3 Outside Employment

- Staff should declare any existing outside employment on appointment and any new outside employment when it arises.
- Where a risk of conflict of interest arises, the general management actions outlined in this policy should be considered and applied to mitigate risks.
- Where contracts of employment or terms and conditions of engagement permit, staff may be required to seek prior approval from the organisation to engage in outside employment.

The organisation may also have legitimate reasons within employment law for knowing about outside employment of staff, even when this does not give rise to risk of a conflict. Staff should refer to the Secondary Employment Policy and HR advice should be sought for each particular circumstance.

What should be declared:

- Staff name and their role with the organisation.
- The nature of the outside employment (e.g. who it is with, a description of duties, time commitment).
- Relevant dates.
- Other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

5.1.4 Shareholdings and other ownership issues

- Staff should declare, as a minimum, any shareholdings and other ownership interests in any publicly listed, private or not-for-profit company, business, partnership or consultancy which is doing, or might be reasonably expected to do, business with the organisation.
- Where shareholdings or other ownership interests are declared and give rise to risk of conflicts of interest then the general management actions outlined in this policy should be considered and applied to mitigate risks.
- There is no need to declare shares or securities held in collective investment or pension funds or units of authorised unit trusts.

What should be declared:

- Staff name and their role with the organisation.
- Nature of the shareholdings/other ownership interest.
- Relevant dates.
- Other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

5.1.5 Patents

- Staff should declare patents and other intellectual property rights they hold (either individually, or by virtue of their association with a commercial or other organisation), including where applications to protect have started or are ongoing, which are, or might be reasonably expected to be, related to items to be procured or used by the organisation.
- Staff should seek prior permission from the organisation before entering into any agreement with bodies regarding product development, research, work on pathways etc, where this impacts on the organisation's own time, or uses its equipment, resources or intellectual property.
- Where holding of patents and other intellectual property rights give rise to a conflict of interest then the general management actions outlined in this policy should be considered and applied to mitigate risks.

What should be declared:

- Staff name and their role with the organisation.
- A description of the patent.
- Relevant dates.
- Other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy)

5.1.6 Loyalty interests

Loyalty interests should be declared by staff involved in decision making where they:

- Hold a position of authority in another NHS organisation or commercial, charity, voluntary, professional, statutory or other body which could be seen to influence decisions they take in their NHS role.
- Sit on advisory groups or other paid or unpaid decision making forums that can influence how an organisation spends taxpayers' money.
- Are, or could be, involved in the recruitment or management of close family members and relatives, close friends and associates, and business partners.
- Are aware that their organisation does business with an organisation in which close family members and relatives, close friends and associates, and business partners have decision making responsibilities.

What should be declared:

- Staff name and their role with the organisation.
- Nature of the loyalty interest.
- Relevant dates.

- Other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

5.1.7 Donations

- Donations made by suppliers or bodies seeking to do business with the organisation should be treated with caution and not routinely accepted. In exceptional circumstances they may be accepted but should always be declared. A clear reason should be recorded as to why it was deemed acceptable, alongside the actual or estimated value.
- Staff should not actively solicit charitable donations unless this is a prescribed or expected part of their duties for the organisation, or is being pursued on behalf of the organisation's own registered charity or other charitable body and is not for their own personal gain.
- Staff must obtain permission from the organisation if in their professional role they intend to undertake fundraising activities on behalf of a pre-approved charitable campaign for a charity other than the organisation's own.
- Donations, when received, should be made to a specific charitable fund (never to an individual) and a receipt should be issued.
- Staff wishing to make a donation to a charitable fund in lieu of receiving a professional fee may do so, subject to ensuring that they take personal responsibility for ensuring that any tax liabilities related to such donations are properly discharged and accounted for.

What should be declared:

- The organisation will maintain records in line with the above principles and rules and relevant obligations under charity law.

5.1.8 Sponsored events

Please refer to Section 11 for further guidance on sponsorship. General principles are:

- Sponsorship of events by appropriate external bodies will only be approved if a reasonable person would conclude that the event will result in clear benefit to the organisations and the NHS.
- During dealings with sponsors there must be no breach of patient or individual confidentiality or data protection rules and legislation.
- No information should be supplied to the sponsor from whom they could gain a commercial advantage, and information which is not in the public domain should not normally be supplied.
- At the organisation's discretion, sponsors or their representatives may attend or take part in the event but they should not have a dominant influence over the content or the main purpose of the event.
- The involvement of a sponsor in an event should always be clearly identified.
- Staff within the organisation involved in securing sponsorship of events should make it clear that sponsorship does not equate to endorsement of a company or its products and this should be made visibly clear on any promotional or other materials relating to the event.
- Staff arranging sponsored events must declare this to the organisation.

What should be declared:

- The organisation will maintain records regarding sponsored events in line with the above principles and rules.

5.1.9 Sponsored research

- Funding sources for research purposes must be transparent.
- Any proposed research must go through the relevant health research authority or other approvals process.
- There must be a written protocol and written contract between staff, the organisation, and/or institutes at which the study will take place and the sponsoring organisation, which specifies the nature of the services to be provided and the payment for those services.
- The study must not constitute an inducement to prescribe, supply, administer, recommend, buy or sell any medicine, medical device, equipment or service.
- Staff should declare involvement with sponsored research to the organisation.

What should be declared:

- The organisation will retain written records of sponsorship of research, in line with the above principles and rules.
- Staff should declare:
 - Their name and their role with the organisation.
 - Nature of their involvement in the sponsored research.
 - relevant dates.
 - Other relevant information (e.g. what, if any, benefit the sponsor derives from the sponsorship, action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

5.1.10 Sponsored posts

- External sponsorship of a post requires prior approval from the organisation.
- Rolling sponsorship of posts should be avoided unless appropriate checkpoints are put in place to review and withdraw if appropriate.
- Sponsorship of a post should only happen where there is written confirmation that the arrangements will have no effect on purchasing decisions or prescribing and dispensing habits. This should be audited for the duration of the sponsorship. Written agreements should detail the circumstances under which organisations have the ability to exit sponsorship arrangements if conflicts of interest which cannot be managed arise.
- Sponsored post holders must not promote or favour the sponsor's products, and information about alternative products and suppliers should be provided.
- Sponsors should not have any undue influence over the duties of the post or have any preferential access to services, materials or intellectual property relating to or developed in connection with the sponsored posts.

What should be declared:

- The organisation will retain written records of sponsorship of posts, in line with the above principles and rules.

- Staff should declare any other interests arising as a result of their association with the sponsor, in line with the content in the rest of this policy.

5.1.11 Clinical private practice

Clinical staff should declare all private practice on appointment, and/or any new private practice when it arises⁴ including:

- Where they practise (name of private facility).
- What they practise (specialty, major procedures).
- When they practise (identified sessions/time commitment).

Clinical staff should (unless existing contractual provisions require otherwise or unless emergency treatment for private patients is needed):

- Seek prior approval of their organisation before taking up private practice.
- Ensure that, where there would otherwise be a conflict or potential conflict of interest, NHS commitments take precedence over private work.⁵
- Not accept direct or indirect financial incentives from private providers other than those allowed by Competition and Markets Authority guidelines:

https://assets.publishing.service.gov.uk/media/542c1543e5274a1314000c56/Non-Divestment_Order_amended.pdf

Hospital consultants should not initiate discussions about providing their Private Professional Services for NHS patients, nor should they ask other staff to initiate such discussions on their behalf.

What should be declared:

- Staff name and their role with the organisation.
- A description of the nature of the private practice (e.g. what, where and when staff practise, sessional activity, etc).
- Relevant dates.
- Any other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

5.1.12 Lecture/consultancy, provision of statement to police fees

If work is undertaken in NHS Kernow's time, and/or facilities used, records or equipment belonging to NHS Kernow is used in conjunction with that work, and annual leave/flexi has not been taken, then sums received/fees are due to NHS Kernow.

⁴ Hospital Consultants are already required to provide their employer with this information by virtue of Para.3 Sch. 9 of the Terms and Conditions – Consultants (England) 2003: https://www.bma.org.uk/-/media/files/pdfs/practical_advice_at_work/contracts/consultanttermsandconditions.pdf

⁵ These provisions already apply to Hospital Consultants by virtue of Paras.5 and 20, Sch. 9 of the Terms and Conditions – Consultants (England) 2003: https://www.bma.org.uk/-/media/files/pdfs/practical_advice_at_work/contracts/consultanttermsandconditions.pdf

The acceptance of fees for lectures, consultancy work or providing statements to the police or other non-NHS organisations is only appropriate providing the following conditions are met:

- The work would not form part of the individual's normal duties, or could reasonably be regarded as falling within their normal duties;
- The work has been prepared substantially in the individual's own time;
- If the work is undertaken during normal working hours, then annual leave or flexi time has been taken;
- NHS Kernow facilities, records, equipment and staff have not been used to undertake or contribute to the work in full or in part.

Staff preparing and undertaking any of these activities in their employed time, or using NHS Kernow facilities, will be expected in advance of undertaking these activities, to discuss and gain approval to do so from their line manager, such approval to be recorded and retained on the individual's 'P' file. Line managers will be expected to monitor their staff to ensure compliance with this policy and any agreed activity in 'work time'.

What should be declared:

- Staff name and their role with the organisation.
- A description of the nature of the activity (e.g. what, where and for whom etc.).
- Relevant dates.
- Any other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

5.1.13 Visits to inspect equipment

On occasion, it may be necessary for an employee, who is advising on the purchase of an item of equipment, to inspect such equipment in operation in other parts of the country. NHS Kernow will meet the cost of such visits to ensure that no doubt is cast upon the future integrity of the purchase.

6. Management of interests – advice in specific contexts

6.1 Strategic decision making groups

NHS Kernow uses a variety of different groups to make key strategic decisions about things such as:

- Entering into (or renewing) large scale contracts.
- Awarding grants.
- Making procurement decisions.
- Reviewing services.
- Selection of medicines, equipment, and devices.

The interests of those who are involved in these groups should be well known so that they can be managed effectively. For this organisation these groups are: Finance Committee, Quality & Performance Committee and Governing Body.

These groups should adopt the following principles:

- Chairs should consider any known interests of members in advance, and begin each meeting by asking for declaration of relevant material interests.
- Members should take personal responsibility for declaring material interests at the beginning of each meeting and as they arise.
- Any new interests identified should be added to the organisation's register(s).
- The vice chair (or other non-conflicted member) should chair all or part of the meeting if the chair has an interest that may prejudice their judgement.

If a member has an actual or potential interest the chair should consider the following approaches and ensure that the reason for the chosen action is documented in minutes or records:

- Requiring the member to not attend the meeting.
- Excluding the member from receiving meeting papers relating to their interest.
- Excluding the member from all or part of the relevant discussion and decision.
- Noting the nature and extent of the interest, but judging it appropriate to allow the member to remain and participate.
- Removing the member from the group or process altogether.

The default response should not always be to exclude members with interests, as this may have a detrimental effect on the quality of the decision being made. Good judgement is required to ensure proportionate management of risk.

6.2 Procurement

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.

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.

Staff should make contact with the procurement team should they need further advice and support.

6.3 Contract Meetings

The management of conflicts of interest applies to contract management, including all formal meetings such as Integrated Assurance Meetings, Quality Review meetings or technical meetings. Consequently, conflicts of interest should form part of the process, i.e. the chair of a contract management meeting should invite declarations of interests, record any declared interests in the minutes of the meeting, and manage any conflicts appropriately and in line with this policy and the Statutory Guidance [1]. This equally applies where a contract is held jointly with another organisation such as the local authority or with other CCGs under lead commissioner arrangements.

The individuals involved in the monitoring of a contract should not have any direct or indirect financial, professional or personal interest in the incumbent provider or in any other provider that could prevent them, or be perceived to prevent them, from carrying out their role in an impartial, fair and transparent manner.

NHS Kernow will remain mindful of any potential conflicts of interest when they disseminate contract or performance information/reports on providers, and manage the risks appropriately.

7. Records and publication

All decisions, and details of how any conflicts of interest issues have been managed, will be recorded in the minutes of the meeting and published in the registers.

The full Register of Declarations of Interest for all decision makers is published annually on NHS Kernow's website. It is also available to view on request by contacting the corporate governance team on: kccg.corporategovernance@nhs.net

In addition, the declarations from relevant staff will be included in GB and principle committee papers.

If staff, particularly decision making staff, have substantial grounds for believing the publication of their interests should not take place, this should be noted on the declaration form in the appropriate section, or if retrospective, contact be made with the corporate governance team to explain why. In exceptional circumstances, for instance where publication might put a member of staff at risk of harm, information may be withheld or redacted on public registers. However, this should be the exception and information will not be withheld or redacted simply due to personal preference.

Where decision making staff request that their declarations are not made public, this decision will require agreement by the Conflict of Interests Guardian (see section 3) and this will be sought by the corporate governance team.

The registers used to record sponsorship or hospitality will be made available for inspection upon request by emailing the corporate governance team on: kccg.corporategovernance@nhs.net. They will be shared with the Governing Body on a quarterly basis.

Once an interest expires, it will remain on the register for a minimum of six months and a private record of historic interests will be retained for a minimum of six years.

8. Support and training

The corporate governance team will provide advice and support on how interests, gifts and hospitality should be declared and managed.

All NHS Kernow staff will be expected to complete annual mandatory training on Managing Conflicts of Interest⁶

Training will, at a minimum, include:

- What a conflict of interest is and individual responsibilities to declare interests and gifts and hospitalities
- How to access NHS Kernow's policy on conflicts of interest management
- Who NHS Kernow's Conflicts of Interest Guardian is
- The implications of a breach in NHS Kernow's policy on conflicts of interest

9. Dealing with breaches

There may be situations where interests are not identified, declared or managed appropriately and effectively, whether this occurs innocently, accidentally or because of the deliberate actions of staff or other organisations. For the purposes of this policy, these situations are described as 'breaches'.

9.1 Identifying and reporting breaches

Staff who are aware of actual breaches of this policy, or who are concerned that there has been, or may be, a breach, should report these concerns to the Board Secretary or corporate governance team who will take the appropriate action. Staff could also contact the Conflicts of Interest Guardian (section 3) or the Local Counter-Fraud Specialist (LCFS) on 07580 971240 or by email to tony.hall@tiaa.co.uk.

To ensure that interests are effectively managed staff are encouraged to speak up about actual or suspected breaches. Every individual has a responsibility to do this. For further information about how concerns should be raised can be found in the Whistleblowing Policy.

⁶ To comply with this the National Conflict of Interest Training Model is required. As at January 2018, it had not been released.

The organisation will investigate each reported breach according to its own specific facts and merits, and give relevant parties the opportunity to explain and clarify any relevant circumstances.

Following investigation the organisation will:

- Decide if there has been or is potential for a breach and if so, what the severity of the breach is.
- Assess whether further action is required in response – this is likely to involve any staff member involved and their line manager, as a minimum.
- Consider who else inside and outside the organisation should be made aware.
- Take appropriate action as set out in the next section.

9.2 Taking action in response to breaches

Action taken in response to breaches of this policy will be in accordance with the disciplinary procedures of the organisation and could involve organisational leads for staff support (e.g. Human Resources), fraud (e.g. Local Counter Fraud Specialists), members of the management or executive teams and organisational auditors.

Breaches could require action in one or more of the following ways:

- Clarification or strengthening of existing policy, process and procedures.
- Consideration as to whether HR/employment law/contractual action should be taken against staff or others.
- Consideration being given to escalation to external parties. This might include referral of matters to external auditors, NHS Protect, the police, statutory health bodies (such as NHS England, NHS Improvement or the CQC), and/or health professional regulatory bodies.

Inappropriate or ineffective management of interests can have serious implications for the organisation and staff. There will be occasions where it is necessary to consider the imposition of sanctions for breaches.

Sanctions should not be considered until the circumstances surrounding breaches have been properly investigated. However, if such investigations establish wrongdoing or fault then the organisation can and will consider the range of possible sanctions that are available, in a manner which is proportionate to the breach. This includes:

- Employment law action against staff, which might include:
 - Informal action (such as reprimand, or signposting to training and/or guidance).
 - Formal disciplinary action (such as formal warning, the requirement for additional training, re-arrangement of duties, re-deployment, demotion, or dismissal).
- Reporting incidents to the external parties described above for them to consider what further investigations or sanctions might be.

- Contractual action, such as exercise of remedies or sanctions against the body or staff which caused the breach.
- Legal action, such as investigation and prosecution under fraud, bribery and corruption legislation.

9.3 Learning and transparency concerning breaches

Reports on breaches, the impact of these and action taken will be considered by Audit committee and/or the Governing Body as they arise.

The report to the Audit committee/Governing Body will detail:

- How the breach was investigated.
- The work undertaken at the time of the breach.
- The individual concerned.
- The declaration omitted or bringing about the conflict.
- The impact of the breach.
- The risks to the work completed to date.
- Mitigating action taken.
- Recommendation for further mitigation or decision to proceed.
- Confirmation of:
 - formal notification of breach to NHS England,
 - learning and development gained,
 - intended wording for publishing the anonymised details of the breach on NHS Kernow's website.

10. Policy review

The corporate governance team will review this policy regularly to ensure it remains in line with NHS England guidance.

11. The Pharmaceutical Industry

NHS Kernow and its employees interact with the Pharmaceutical Industry in three main ways:

- Source of information on medicines.
- Source of sponsorship for events, meetings, training, education materials, patient leaflets, staff costs and equipment etc.
- Partnership Working on major NHS Kernow projects.

11.1 The pharmaceutical industry as a source of information on medicines

NHS Kernow must be mindful of all its legal obligations when considering Commercial Sponsorship including the potential for fraudulent activity and money laundering opportunities. In this regard such checks as are considered necessary

must be undertaken to ensure sponsorship, where likely to be approved, is considered from reputable organisations. In this regard advice may be sought from the Chief Finance Officer and the Board Secretary who may also seek legal advice.

In any dealings with the pharmaceutical industry:

- NHS Kernow and patient confidentiality must be respected and protected at all times.
- Clinical decisions should always be made in the best interests of patients.
- Agreements which lead to higher costs will not be permissible unless this is associated with an improvement in quality in line with national and local priorities.
- Agreements which reduce the quality of service in other parts of the NHS will not be permissible.
- Only projects which lead to gain for the NHS overall will be accepted.
- No agreement will be entered into with any sponsor whose products are prejudicial to health or conflict with the principles and objectives of the NHS, nor whose business or function is ethically unacceptable to the CCG, its staff or the public.

All offers of sponsorship, funding or gifts from pharmaceutical companies must comply with the ABPI Code of Practice [4]. Each June/July, the corporate governance team will cross reference NHS Kernow's Gifts and Hospital Register with the ABPI Disclosure UK online database to ensure the consistency and accuracy of our Register. A report will be provided to the appropriate committee, depending on the findings, and outlining correction action taken. (Please note: Disclosure UK is updated annually and released every June to take account of the previous calendar year.)

Where commercial sponsorship is used to fund NHS Kernow training events or other training for NHS Kernow staff, the promotion or inclusion of medicines and products not included in Cornwall and Isles of Scilly or the Plymouth Area Joint Formulary is not permitted. Formulary products can only be mentioned in the same context as they are included in the Joint Formularies e.g. first line, second line etc. Training events, which rely heavily on the use of sponsored materials, should be discouraged unless they promote good practice agreed to by NHS Kernow.

Where commercial sponsorship is used to fund 'general meetings' for health professionals or other appropriate administrative staff, hospitality should not be out of proportion to the occasion. Where meetings are sponsored by external sources, that fact must be disclosed in the papers relating to the meeting and in any published proceedings. The promotion of products not included in the Cornwall and Isles of Scilly or the Plymouth Area Joint Formulary is not permitted. Formulary products can only be mentioned in the same context as they are included in the Joint Formularies e.g. first line, second line etc.

Where commercial sponsorship is used to fund NHS Kernow sponsored training materials, guidelines or education materials for staff or patients, commercial

products may not be specifically mentioned other than as detailed in Cornwall and Isles of Scilly and the Plymouth Area Joint Formulary. This includes written materials, recorded materials and information made available to NHS Kernow staff and patients for use on a computer or through the Internet. A small acknowledgement to the sponsor is allowed but company logos are not permitted. Where sponsorship links to the development of guidelines and advice, this will be carried out by the appropriate NHS Kernow working group independent of the sponsors. While it is recognised that consultation with the industry may be necessary when developing a guideline, the overall decision on what is included should lie with the NHS Kernow working group.

Individuals and organisations within the NHS Kernow should ensure that contact with the Pharmaceutical Industry is appropriate and not excessive e.g. limits on number of meetings, duration of meetings, rotation of companies etc.

NHS Kernow staff will not be expected or permitted to participate in 'advisory boards' or similar such groups unless scrutinised and approved in advance by the Chief Officer, such approval to provide clear instruction on the remit and authority of NHS Kernow staff engaged in these activities. Involvement will be recorded in the Register of Interests and reported on the activity to be provided to the Chief Officer.

No preferential access to NHS Kernow is to be given to any commercial company unless this is necessary as part of a specific NHS Kernow approved project.

NHS Kernow staff that in the course of their work regularly meet with industry representatives, should have a formal and structured policy for meeting with such representatives to ensure the above guidance is followed. An example is attached at Appendix B.

NHS Kernow employed staff, in particular nurses and pharmacists, are required/ advised to limit their contact with industry representatives to those promoting products within the Cornwall and Isles of Scilly and Plymouth Area Joint formularies. For wound care, the Cornwall and Isles of Scilly Community Dressings Formulary must be referred to.

11.2 Sponsorship (less than £500) for events, meetings, training, education materials, patient leaflets, staff costs and equipment etc.

The following rules apply to all NHS Kernow employees including part-time and seconded staff that have a role in NHS Kernow. It does not extend to offers of funding or sponsorship made directly and without NHS Kernow involvement to GPs and their practice staff, community pharmacists or dentists unless acting on behalf of NHS Kernow. When considering this section, employees must also be mindful of Section 2 of this policy.

If an NHS Kernow employee is involved in attending wider meetings (e.g. health community wide commissioning groups) on behalf of NHS Kernow, the employee

should endeavour to follow the rules and principles of this policy as far as is practicable.

An overview of the responsibilities of NHS Kernow employees in relation to commercial sponsorship is shown in Appendix C.

All offers of sponsorship greater than £25 but less than £500 should be assessed by completing a 'Sponsorship Checklist and Approval Form' (Appendix C). If all answers to the questions are 'Yes', the offer can be approved by the line manager/ team leader who signs at the bottom of the form. The completed form should be sent to the NHS Kernow Medicines Optimisation Programme Board for information (see 10.2 below).

11.3 Major sponsorship (greater than £500) and partnership working agreements

Where sponsorship exceeds £500 and/or the sponsorship is part of a major 'Partnership Working' arrangement, the NHS Kernow Medicines Optimisation Programme Board must approve the project before it can proceed. In the event of small, straightforward projects a 'Partnership Working Agreement Form' (Appendix D) should be completed and signed by the head of directorate, and submitted to the NHS Kernow Medicine Optimisation Programme Board. This will allow a full evaluation of the sponsorship agreement including the governance issues of the project and also for the overall impact of the project to be assessed in relation to healthcare priorities. In the event of larger or more complex projects, more detail may be required by the group – in this event staff should refer to the template documents published on the DH website as "Moving beyond sponsorship: Interactive toolkit for joint working between the NHS and the pharmaceutical industry" ([link here](#)). In all cases where sponsorship is being considered, CCG employees must be mindful of the requirements of the Anti-Bribery Policy and to ensure that this is not behind the sponsorship.

The NHS Kernow Medicines Optimisation Programme Board will include a core representation from the following NHS Kernow departments/ directorates:

- Finance manager with responsibility for the relevant area of business
- Clinical or corporate governance

This group may also include members from other departments/directorates as required, and will report to Finance committee.

The NHS Kernow Medicines Optimisation Programme Board will evaluate and approve or reject sponsorship offers as it sees fit. Where the Medicines Optimisation Programme Board considers that a particular sponsorship may not fit in with national or locally agreed health priorities and guidelines (including prescribing), the group will seek advice from other groups, as appropriate, before making a final decision. Final versions of guidelines should have approval of the Finance committee. Where

there are ethical concerns, the opinion of a Medical Research Ethics committee may be sought.

The written agreement must clearly specify the benefits to the NHS, NHS Kernow or practice, arising from any sponsorship agreement. The benefits to the sponsor must also be explicit.

Although sponsors may be consulted in relation to the clinical aspects of sponsored projects, the final decisions and overall control lies with NHS Kernow.

All members and officers of NHS Kernow who are taking part in sponsored projects must comply with their own professional codes of conduct.

Projects which involve the use of clinical guidelines or protocols prepared by sponsors should only be used if agreed by the appropriate service commissioning group(s).

Projects which involve the exchange of patient information should seek the advice of NHS Kernow's Caldicott Guardian and normally should be anonymised. Additional advice may be available from NHS Kernow's Head of Information Governance.

All NHS Kernow staff involved in the development of a sponsorship agreement must declare and maintain current through subsequent declarations, any interests in terms of previous sponsorship or relationship to any of the individual sponsors in question. Where NHS Kernow members or employees have benefitted from commercial sponsorship in outside interests (such as in private practice), this should be declared in the Register of Interests.

Sponsors should not advertise the participation of NHS Kernow in their project or use the information gleaned from the project as an endorsement to their product, packages or company without specific written permission of NHS Kernow, which should agree the nature of any endorsement or linked publication.

All agreements must include a 'break' clause enabling the termination of the agreement at reasonable notice given the nature of the agreement.

Sponsors must be informed that any sponsorship arrangement would have no effect on purchasing or commissioning decisions within NHS Kernow, other than any effect overtly stated in the agreement.

Sponsorship agreements which involve several sponsors are to be preferred to those which involve a single sponsor.

Payment arrangements should be separately accounted for within NHS Kernow's accounts.

All sponsors should be provided with copies of this policy document before draft arrangements are agreed.

Where a member of NHS Kernow staff is working on a multi-agency project they will be guided by this policy. If any sponsorship for the project appears to be in conflict with the policy, the advice of the Medicines Optimisation Programme Board should be sought.

12. Freedom of Information Act (FOIA) 2000

Sponsors must be advised that NHS Kernow is a body defined under the FOIA 2000 and therefore has to comply with the requirements of the Act.

NHS Kernow is obligated to respond to all requests for information and will consider release in part, using appropriate exemptions, or in full as appropriate.

NHS Kernow may be passed, or is likely to be passed in future, information that is considered confidential by providing organisations. Such organisations must advise NHS Kernow at the beginning of the relationship with NHS Kernow, details of the information it considers confidential or 'Commercial in Confidence'. The providing organisation must also provide NHS Kernow with an opportunity to challenge and agree with this designation. In the absence of this agreement NHS Kernow will confer with the providing organisation but may have to release information it holds in response to a freedom of information (FOI) request.

The confidentiality of information held by NHS Kernow may be time limited dependent on the nature of the information. FOI requests received after expiry of the confidential period may be considered and released in response to a request.

13. The Bribery Act 2010

The Bribery Act 2010 [5], which replaced existing corruption legislation, introduced the offences of offering and or receiving a bribe. It also places specific responsibility on organisations to have in place sufficient and adequate procedures to prevent bribery and corruption taking place and there is a linked corporate Bribery Act offence where a lack of proper controls failed to prevent bribery

Under the Act, 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.” Corruption is broadly defined as the offering or the acceptance of inducements, gifts or favours, payments or benefit in kind which may influence the improper action of any person; corruption does not always result in a loss.

The corrupt person may not benefit directly from their deeds; however, they may be unreasonably using their position to give some advantage to another. To demonstrate the organisation has sufficient and adequate procedures in place and to demonstrate openness and transparency all staff are required to comply with the requirements of this policy.

There is a standalone Anti-Fraud and Bribery Policy which should also be read in conjunction with this policy. For a more detailed explanation see the Anti-Fraud and Bribery Policy. Should members of staff wish to report any concerns or allegations, they should contact the Local Counter Fraud Specialist.

14. Counter fraud

Any individual who has concerns or information about actual or suspected fraud, bribery or corruption should contact either the Local Counter-Fraud Specialist (LCFS) or Chief Finance Officer.

Another option is to call the NHS Fraud and Corruption Reporting Line on 0800 028 4060. This is a national service and is confidential; any caller who wishes to remain anonymous may do so.

If the NHS Kernow receives any anonymous correspondence alleging fraud within the organisation or elsewhere in the NHS, this will be passed to the LCFS.

References

- [1] Managing Conflicts of Interest: Revised Statutory Guidance for CCGs issued by NHS England in June 2017
- [2] The New NHS: Modern and Dependable
- [3] Commercial Sponsorship-Ethical Standards for the NHS (November 2000)
<http://www.doh.gov.uk/comspon1.htm>
- [4] ABPI Code of Practice for the Pharmaceutical Industry
<http://www.pmcpa.org.uk/thecode/Pages/default.aspx>
- [5] The Bribery Act 2010 (Repealed the original references to the Prevention of Corruption Acts 1906 and 1916)

Appendix A (i): Declaration of interests for NHS Kernow CCG members and employees

Name:					
Position within, or relationship with, the CCG (or NHS England in the event of joint committees):					
Detail of interests held (complete all that are applicable):					
Type of Interest* <small>*See reverse of form for details</small>	Description of Interest (including for indirect Interests, details of the relationship with the person who has the interest)	Date interest relates From & To		Actions to be taken to mitigate risk (to be agreed with line manager or a senior manager)	

The information submitted will be held by the CCG for personnel or other reasons specified on this form and to comply with the organisation's policies. This information may be held in both manual and electronic form in accordance with the Data Protection Act 1998. Information may be disclosed to third parties in accordance with the Freedom of Information Act 2000 and published in registers that the CCG holds.

I confirm that the information provided above is complete and correct. I acknowledge that any changes in these declarations must be notified to the CCG 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 result.

I **do / do not [delete as applicable]** give my consent for this information to published on registers that the CCG holds. If consent is NOT given please give reasons below:

Reason for withholding consent:

Signed:

Date:

Signed: **Position:** **Date:**
(eg Line Manager or Senior Manager at CCG/Practice)

Please return to kccg.corporategovernance@nhs.net

Types of interest

Type of Interest	Description
Financial Interests (F)	<p>This is where an individual may get direct financial benefits from the consequences of a commissioning decision. This could, for example, include being:</p> <ul style="list-style-type: none"> • 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 owner 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; • In secondary employment (see paragraph 56 to 57); • 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).
Non-Financial Professional Interests (N)	<p>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:</p> <ul style="list-style-type: none"> • An advocate for a particular group of patients; • A GP with special interests e.g., in dermatology, acupuncture etc. • A member of a particular specialist professional body (although routine GP membership of the RCGP, BMA or a medical defence organisation would not usually by itself amount to an interest which needed to be declared); • An advisor for Care Quality Commission (CQC) or National Institute for Health and Care Excellence (NICE); • A medical researcher.
Non-Financial Personal Interests (P)	<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"> • 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 groups with an interest in health.
Indirect Interests (I)	<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 commissioning decision (as those categories are described above). For example, this should include:</p> <ul style="list-style-type: none"> • Spouse / partner; • Close relative e.g., parent, grandparent, child, grandchild or sibling; • Close friend; • Business partner.

Appendix A (ii): Declaration of gifts and hospitality



Declarations of Gifts and Hospitality Proforma

Name	Position	Date of Offer	Declined or Accepted	Date of Receipt (if applicable)	Details of Gift/Hospitality	Estimated Value	Supplier / Offeror Name & Nature of Business	Details of previous offers or acceptance by this offeror/ supplier	Details of officer reviewing & approving the declaration made (inc date)	Reason for Accepting or Declining	Other Comments

In principle and in accordance with national guidance (July 2017):

- Gifts from current or likely providers of services should be declined unless at a value of £6 or less. These can be accepted but should be declared.
- Gifts from other sources (non-contractors, non-suppliers) at a value of less than £50 can be accepted and do not have to be declared. Those of a value greater than £50 can be accepted on behalf of the organisation, but not in a personal capacity.
- Hospitality of a value between £25 and £75 must be declared and anything over £75 declined. Hospitality offered, where value is less than £25, does not need to be recorded unless it occurs with the same organisation on multiple (greater than 2) occasions.
- "Modest" travel and accommodation can be accepted but must be declared.

We would prefer people to 'over-declare' rather than 'under-declare' - if you are unsure please contact the corporate governance team for advice.

The information submitted will be held by NHS Kernow for personnel or other reasons specified on this form and to comply with the organisation's policies. This information may be held in both manual and electronic format in accordance with the Data Protection Act 2018. Information may be disclosed to third parties in accordance with the Freedom of Information Act 2000 and published in registers that the CCG holds.

I confirm the information provided above is complete and correct. I acknowledge that any changes in these declaration must be notified to NHS Kernow 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 declaration then civil, criminal, professional regulatory or internal

I do / do not (delete as applicable) give my consent for this information to be published on registers that the CCG holds. If consent is NOT given please provide reasons below:

Signed: _____

Date: _____

Signed: _____

Position: _____

Date: _____

(Line Manager or NHS Kernow Senior Manager)

Please return completed form to the Board Secretary / Corporate Governance Team at the Sedgemoor Centre, St Austell (or email them on kccg.corporategovernance@nhs.net). They can also provide advice, support and guidance on how conflicts of interest should be managed.

Appendix B: Example policy for contact with the pharmaceutical industry

It is recognised that the pharmaceutical industry can provide useful information on new and existing medicinal products. The aim of this policy is to facilitate communication of drug-related information between the pharmaceutical industry and NHS Kernow in a consistent and structured way.

A member of the Medicines Management team will by appointment meet pharmaceutical industry representatives wishing to discuss information pertaining to medicinal products. Any pertinent information will then be disseminated to the rest of the team and where appropriate to the relevant people within NHS Kernow.

The following rules apply to Industry representatives who meet with the Medicines Management team:

- Representatives will be seen by appointment only.
- Visits by senior representatives of the pharmaceutical industry e.g. regional managers, would be encouraged to ensure that the full range of product information is available. Pharmaceutical companies should provide one point of contact to ensure consistent communication.
- Appointments are arranged one day a month and are for 30 minutes duration.
- Appointments will be limited to one appointment each year for each pharmaceutical company.
- The Prescribing and Medicine Management team will not discuss product information with company representatives on the telephone.
- Representatives are encouraged to send detailed information (to include, for example, clinical trials, educational material to be left with GPs and community pharmacists) at least seven days prior to their appointment so that the most effective use of time can be made at meetings.
- Industry representatives who wish to specifically provide information for consideration by the Cornwall and Isles of Scilly Joint Formulary Group are advised to send written information to the chair of that group.

Appendix C: NHS Kernow Sponsorship Checklist and Approval Form

Sponsorship/Hospitality of value less than £500

For all commercial sponsorship offered to NHS Kernow or its staff where the value is between £25 and £500, *and the sponsoring company has no active role*, this form must be completed. Provided all answers to the questions are 'yes', the sponsorship can be approved by the line manager / team leader who signs off the form, and sends it to the NHS Kernow Medicines Optimisation Programme Board for information.

For further advice please ring the NHS Kernow Prescribing Team on 01726 62 7953

Summary of Sponsorship offer:

Name and Contact Details of NHS Kernow lead person liaising with commercial company:	
Name of commercial company(ies) involved and contact details:	
Details of proposal including benefits to NHS Kernow, patients and potential benefits to the company. What is the money to be spent on?	
Amount of funding and time period involved	

Checklist:

Criteria	Yes / No
1. Does the sponsorship offer comply with the rules specified in the NHS Kernow policy on 'Policy on sponsorship, hospitality, declaration of interests and acceptance of gifts'?	
2. As part of sponsorship, are all medicines or products which are promoted or otherwise mentioned in line with Cornwall Joint Formulary or other locally agreed prescribing advice? (including specific context e.g. 1st line, 2nd line etc.)	
3. Where sponsorship is offered to facilitate the development of Guidelines and protocols etc. will this be carried out by the appropriate NHS Kernow working group independent of the sponsors?	
4. Has due consideration been given to any potential differential impacts of this initiative (including an EIA if necessary)?	
5. Is this sponsorship in line with national and locally agreed healthcare priorities?	

Line manager / team leader to sign off where all answers to checklist are 'yes'.

Name:		Position:	
Signature:		Date:	

Form should be returned to NHS Kernow Medicines Optimisation Programme Board, c/o Prescribing Team, Sedgemoor

Appendix D: NHS Kernow Partnership Working Agreement

Joint Working:

Sponsorship/hospitality of value greater than £500

Projects where industry have an active role

For all commercial sponsorship offered to NHS Kernow or its staff where the value is over £500, and/or the sponsoring company has an active role, the form below must be completed, and the project must be approved by the NHS Kernow Medicines Optimisation Programme Board before it can be taken forward. For large or complex projects, this form may not be comprehensive enough – staff are advised to familiarise themselves with “[Joint working with the pharmaceutical industry, guide and case studies](#)” from the Association of the British Pharmaceutical Industry in 2013 and [Moving beyond sponsorship: Interactive toolkit for joint working between the NHS and the pharmaceutical industry](#)” published by the DH in 2008 and to seek advice from the NHS Kernow Prescribing Team).

Project Summary:

1. Recipient (include NHS Kernow contact details)	
2. Sponsor(s) (including contact details)	
3. Details of Project	
4. Aims and objectives of Project	
5. Benefits to NHS Kernow / NHS e.g. improvement in services as defined by NICE, outcome and service frameworks etc	
6. Benefits to Sponsor	
7. Start Date	
8. Finish Date	
9. Termination arrangements: The agreement should be capable of early termination by NHS Kernow.	

Equality Impact Assessment:

1. Have any differential impacts been identified, and have these been addressed?	
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Resources and costs:

1. Overall cost of partnership project?	
2. What are the direct/ indirect resource / cost commitments by sponsor(s)?	
3. What are the direct/ indirect resource / cost commitments by NHS Kernow (if any)	
4. How will the resources / costs be monitored and recorded? How will payment be made?	
5. Will sponsorship lead to higher costs elsewhere in the NHS?	
6. List valid and relevant information on cost – effectiveness / value for money	

Governance and management arrangements:

1. Who has been consulted in relation to project and how was this done?	
2. How will patients be informed of project?	
3. What is the decision making process of the project?	
4. What are the operational and management arrangements?	
5. How does the project relate to, and mesh with existing systems of care in the primary and secondary care?	
6. Has project been piloted or are there plans to do this? How would this be done?	
7. Has the project been compared with other proposals on offer?	
8. Has the sponsor read the NHS Kernow policy document 'Working with Industry' and agree to abide the rules detailed in this document?	
9. Does the project include the use of protocols and guidelines? Who is	

<p>responsible for producing these? Please include full details of guidelines?</p>	
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Data and patient protection:

<p>1. Does the project involve the sharing of clinical data at patient and NHS Kernow level?</p>	
<p>2. Are there potential conflicts of interest in relation to access to this data?</p>	
<p>3. What arrangements have been put in place to ensure patient confidentiality and patient consent is considered?</p>	
<p>4. Where project includes collection of data for research purposes, has this been approved by medical Ethics?</p>	
<p>5. Who has access to data and in what form?</p>	
<p>6. How will the data be used?</p>	
<p>7. For clinical services, what are the professional indemnity and liability arrangements in place?</p>	

NHS Kernow lead signature:

Date:

Sponsor signature:

Date:

For Medicines Optimisation Programme Board use only

Reference Number:

Outcome: **Approved/Not Approved**

Comments:

Date considered:

Appendix E: Managing conflicts of interest relating to commissioning of new care models guidance

This Appendix is taken from Annex K of the Managing Conflicts of Interest: Revised Statutory Guidance for CCGs, dated June 2017. It provides further advice on how actual or potential conflicts of interest can be managed when commissioning new care models. NHS Kernow will take account of this guidance as it develops its new models of care.

Introduction

1. Conflicts of interest can arise throughout the whole commissioning cycle from needs assessment, to procurement exercises, to contract monitoring. They arise in many situations, environments and forms of commissioning.
2. Where CCGs are commissioning new care models⁷, particularly those that include primary medical services, it is likely that there will be some individuals with roles in the CCG (whether clinical or non-clinical), that also have roles within a potential provider, or may be affected by decisions relating to new care models. Any conflicts of interest must be identified and appropriately managed, in accordance with this statutory guidance.
3. This appendix is intended to provide further advice and support to help CCGs to manage conflicts of interest in the commissioning of new care models. It summarises key aspects of the statutory guidance which are of particular relevance to commissioning new care models rather than setting out new requirements. Whilst this appendix highlights some of the key aspects of the statutory guidance, CCGs should always refer to, and comply with, the full statutory guidance.

Identifying and managing conflicts of interest

4. The statutory guidance for CCGs is clear that any individual who has a material interest in an organisation which provides, or is likely to provide, substantial services to a CCG (whether as a provider of healthcare or provider of commissioning support services, or otherwise) should recognise the inherent conflict of interest risk that may arise and should not be a member of the governing body or of a committee or sub-committee of the CCG.
5. In the case of new care models, it is perhaps likely that there will be individuals with roles in both the CCG and new care model provider/potential provider. These conflicts of interest should be identified as soon as possible, and

⁷ Where we refer to 'new care models' in this note, we are referring to any Multi-speciality Community Provider (MCP), Primary and Acute Care Systems (PACS) or other arrangements of a similar scale or scope that (directly or indirectly) includes primary medical services.

appropriately managed locally. The position should also be reviewed whenever an individual's role, responsibility or circumstances change in a way that affects the individual's interests. For example where an individual takes on a new role outside the CCG, or enters into a new business or relationship, these new interests should be promptly declared and appropriately managed in accordance with the statutory guidance.

6. There will be occasions where the conflict of interest is profound and acute. In such scenarios (such as where an individual has a direct financial interest which gives rise to a conflict, e.g. secondary employment or involvement with an organisation which benefits financially from contracts for the supply of goods and services to a CCG or aspires to be a new care model provider), it is likely that CCGs will want to consider whether, practically, such an interest is manageable at all. CCGs should note that this can arise in relation to both clinical and nonclinical members/roles. If an interest is not manageable, the appropriate course of action may be to refuse to allow the circumstances which gave rise to the conflict to persist. This may require an individual to step down from a particular role and/or move to another role within the CCG and may require the CCG to take action to terminate an appointment if the individual refuses to step down. CCGs should ensure that their contracts of employment and letters of appointment, HR policies, governing body and committee terms of reference and standing orders are reviewed to ensure that they enable the CCG to take appropriate action to manage conflicts of interest robustly and effectively in such circumstances.
7. Where a member of CCG staff participating in a meeting has dual roles, for example a role with the CCG and a role with a new care model provider organisation, but it is not considered necessary to exclude them from the whole or any part of a CCG meeting, he or she should ensure that the capacity in which they continue to participate in the discussions is made clear and correctly recorded in the meeting minutes, but where it is appropriate for them to participate in decisions they must only do so if they are acting in their CCG role.
8. CCGs should 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 engaged in, any employment or consultancy work in addition to their work with the CCG (for example, in relation to new care model arrangements).
9. CCGs should identify as soon as possible where staff might be affected by the outcome of a procurement exercise, e.g., they may transfer to a provider (or their role may materially change) following the award of a contract. This should be treated as a relevant interest, and CCGs should ensure they manage the potential conflict. This conflict of interest arises as soon as individuals are able to identify that their role may be personally affected.

10. Similarly, CCGs should identify and manage potential conflicts of interest where staff are involved in both the contract management of existing contracts, and involved in procurement of related new contracts.

Governance arrangements

11. Appropriate governance arrangements must be put in place that ensure that conflicts of interest are identified and managed appropriately, in accordance with this statutory guidance, without compromising the CCG's ability to make robust commissioning decisions.
12. We know that some CCGs are adapting existing governance arrangements and others developing new ones to manage the risks that can arise when commissioning new care models. We are therefore, not recommending a "one size fits" all governance approach, but have included some examples of governance models which CCGs may want to consider.
13. The principles set out in the general statutory guidance on managing conflicts of interest (paragraph 19-23), including the Nolan Principles and the Good Governance Standards for Public Services (2004), should underpin all governance arrangements.
14. CCGs should consider whether it is appropriate for the Governing Body to take decisions on new care models or (if there are too many conflicted members to make this possible) whether it would be appropriate to refer decisions to a CCG committee.

Primary Care Commissioning Committee

15. Where a CCG has full delegation for primary medical services, CCGs could consider delegating the commissioning and contract management of the entire new care model to its Primary Care Commissioning Committee. This Committee is constituted with a lay and executive majority, and includes a requirement to invite a Local Authority and Healthwatch representative to attend (see paragraph 97 onwards of the CCG guidance).
16. Should this approach be adopted, the CCG may also want to increase the representation of other relevant clinicians on the Primary Care Commissioning Committee when new care models are being considered, as mentioned in Paragraph 98 of this guidance. The use of the Primary Care Commissioning Committee may assist with the management of conflicts/quorum issues at governing body level without the creation of a new forum/committee within the CCG.
17. If the CCG does not have a Primary Care Commissioning Committee, the CCG might want to consider whether it would be appropriate/advantageous to establish either:

- a) A **new care model commissioning committee** (with membership including relevant non-conflicted clinicians, and formal decision making powers similar to a Primary Care Commissioning Committee (“NCM Commissioning Committee”); or
- b) A separate **clinical advisory committee**, to act as an advisory body to provide clinical input to the Governing Body in connection with a new care model project, with representation from all providers involved or potentially involved in the new care model but with formal decision making powers remaining reserved to the governing body (“NCM Clinical Advisory Committee”).

NCM Commissioning Committee

- 18. The establishment of a NCM Commissioning Committee could help to provide an alternative forum for decisions where it is not possible/appropriate for decisions to be made by the Governing Body due to the existence of multiple conflicts of interest amongst members of the Governing Body. The NCM Commissioning Committee should be established as a sub-committee of the Governing Body.
- 19. The CCG could make the NCM Commissioning Committee responsible for oversight of the procurement process and provide assurance that appropriate governance is in place, managing conflicts of interest and making decisions in relation to new care models on behalf of the CCG. CCGs may need to amend their constitution if it does not currently contain a power to set up such a committee either with formal delegated decision making powers or containing the proposed categories of individuals (see below).
- 20. The NCM Commissioning Committee should be chaired by a lay member and include non-conflicted GPs and CCG members, and relevant non-conflicted secondary care clinicians.

NCM Clinical Advisory Committee

- 21. This advisory committee would need to include appropriate clinical representation from all potential providers, but have no decision making powers. With conflicts of interest declared and managed appropriately, the NCM Clinical Advisory Committee could formally advise the CCG Governing Body on clinical matters relating to the new care model, in accordance with a scope and remit specified by the Governing Body.
- 22. This would provide assurance that there is appropriate clinical input into Governing Body decisions, whilst creating a clear distinction between the clinical/provider side input and the commissioner decision-making powers (retained by the Governing Body, with any conflicts on the Governing Body managed in accordance with this statutory guidance and constitution of the CCG).

23. From a procurement perspective the Public Contracts Regulations 2015 encourage early market engagement and input into procurement processes. However, this must be managed very carefully and done in an open, transparent and fair way. Advice should therefore be taken as to how best to constitute the NCM Clinical Advisory Committee to ensure all potential participants have the same opportunity. Furthermore it would also be important to ensure that the advice provided to the CCG by this committee is considered proportionately alongside all other relevant information. Ultimately it will be the responsibility of the CCG to run an award process in accordance with the relevant procurement rules and this should be a process which does not unfairly favour any one particular provider or group of providers.
24. When considering what approach to adopt (whether adopting an NCM Commissioning Committee, NCM Clinical Advisory committee or otherwise) each CCG will need to consider the best approach for their particular circumstances whilst ensuring robust governance arrangements are put in place. Depending on the circumstances, either of the approaches in paragraph 17 above may help to give the CCG assurance that there was appropriate clinical input into decisions, whilst supporting the management of conflicts. When considering its options the CCG will, in particular, need to bear in mind any joint / delegated commissioning arrangements that it already has in place either with NHS England, other CCGs or local authorities and how those arrangements impact on its options.

Provider engagement

25. It is good practice to engage relevant providers, especially clinicians, in confirming that the design of service specifications will meet patient needs. This may include providers from the acute, primary, community, and mental health sectors, and may include NHS, third sector and private sector providers. Such engagement, done transparently and fairly, is entirely legal. However, conflicts of interest, as well as challenges to the fairness of the procurement process, can arise if a commissioner engages selectively with only certain providers (be they incumbent or potential new providers) in developing a service specification for a contract for which they may later bid. CCGs should be particularly mindful of these issues when engaging with existing / potential providers in relation to the development of new care models and CCGs must ensure they comply with their statutory obligations including, but not limited to, their obligations under the National Health Service (Procurement, Patient Choice and Competition) (No 2) Regulations 2013 and the Public Contracts Regulations 2015.

Equality and Impact Assessment

Section	Corporate Governance	Officer responsible for the assessment	Trudy Corsellis – Deputy Director of Corporate Governance (Board Secretary)			
Name of Policy to be assessed	Gifts, Hospitality and Sponsorship, and Declaration of Interest Policy	Date of Assessment	December 2017	Is this a new or existing policy?	Existing (refreshed)	
1. Briefly describe the aims, objectives and purpose of the policy.	To set out the conditions for the acceptance or refusal of gifts, hospitality and sponsorship, and to advise on the arrangements and requirements to declare interests to ensure conflicts of interest are avoided.					
2. Are there any associated objectives of the policy? Please explain.	To protect staff and the organisation against inappropriate pressure to take actions that would ordinarily not be taken, to ensure compliance with legislation and national guidance.					
3. Who is intended to benefit from this policy, and in what way?	Any Governing Body Member, all staff employed by the CCG and those engaged on the work of the CCG, including the public and partners and staff of GP practices.					
4. What outcomes are wanted from this policy?	All staff are aware of their responsibilities concerning the subject matter of the policy					
5. What factors/forces could contribute/detract from the outcomes?	Staff aware of their responsibilities, or ignore policy requirements.					
6. Who are the main stakeholders in relation to the policy?	Staff Governing Body Members, of public engaged to assist with CCG work Partners and practice staff engaged to assist with CCG work			7. Who implements the policy, and who is responsible for the policy?	Board Secretary, or whoever oversees the operation of and maintenance of the relevant registers, and all managers responsible for implementation	

8. Are there concerns that the policy could have a differential impact on RACIAL groups?	Y	N	Please explain
What existing evidence (either presumed or otherwise) do you have for this?	All new staff are required to complete the declaration of interest proforma which is reviewed by Corporate Governance without knowledge of the individual completing the form.		
9. Are there concerns that the policy could have a differential impact due to GENDER (including TRANSGENDER)?	Y	N	Policy is inclusive of all staff irrespective of gender
What existing evidence (either presumed or otherwise) do you have for this?	All new staff are required to complete the declaration of interest proforma which is reviewed by Corporate Governance without knowledge of the individual completing the form.		
10. Are there concerns that the policy could have a differential impact due to DISABILITY?	Y	N	Policy is inclusive of all staff irrespective of any disability
What existing evidence (either presumed or otherwise) do you have for this?	All new staff are required to complete the declaration of interest proforma which is reviewed by Corporate Governance without knowledge of the individual completing the form.		
11. Are there concerns that the policy could have a differential impact due to SEXUAL ORIENTATION?	Y	N	Policy is inclusive of all staff irrespective of sexual orientation
What existing evidence (either presumed or otherwise) do you have for this?			

12. Are there concerns that the policy could have a differential impact due to their AGE?	Y	N	Policy is inclusive of all staff irrespective of age	
What existing evidence (either presumed or otherwise) do you have for this?				
13. Are there concerns that the policy could have a differential impact due to their RELIGIOUS BELIEF?	Y	N	Policy is inclusive of all staff irrespective of their religious beliefs	
What existing evidence (either presumed or otherwise) do you have for this?				
14. How have the Core Human Rights Values of: Fairness; Respect; Equality; Dignity; Autonomy Been considered in the formulation of this policy/strategy If they haven't please reconsider the document and amend to incorporate these values.	The policy has been written to ensure that all those engaged in the work of the CCG are treated equally and have responsibility for highlighting any activities that are governed by this policy. As far as is reasonable for a public body, the process of advising staff on compliance and information provided is kept confidential except in regard to information that NHS Kernow is required by law to make public. In this regard the CCG has sought to ensure the policy remains fair in its approach and implementation, it respects the individuals rights to engage in activities within the permitted scope of the policy, and allows staff to act autonomously as possible within the constraints of monitoring and ensuring compliance with the policy requirements.			
15. Which of the Human Rights Articles does this document impact?	The right:		Yes	No

17. Can this adverse impact be justified on the grounds of promoting equality of opportunity for one group? Or any other reason?	Y	N	Please explain for each equality heading (questions 8 –13) on a separate piece of paper.
18. Should the policy proceed to a full equality impact assessment?	Y	N	17. If Yes, describe why, then proceed to a full EIA.
			18. If No, are there any minor further amendments that should take place?
			19. If a need for minor amendments is identified, what date were these completed and what actions were undertaken.

Signed (completing officer)

Date

Signed (Head of Section)

Date

Please ensure that a signed copy of this form is sent to both the Policies Officer and the Equality and Diversity lead to be placed on the NHS Kernow website.