

# Meeting of BNSSG ICB Board

**Date:** Thursday 5<sup>th</sup> October 2023

**Time:** 12:15 – 14:45

**Location:** Vassall Centre Gill Avenue, Bristol, BS16 2QQ

<b>Agenda Number :</b>	6.2
<b>Title:</b>	Managing Conflicts of Interest Policy
<b>Purpose: Decision</b>	
<b>Key Points for Discussion:</b>	
<p>The ICB Board is asked to approve the Managing Conflicts of Interest Policy which has been reviewed. This policy has been endorsed by the Audit and Risk committee and, in line with the Scheme of Reservation and Delegation, is recommended to the Board for approval.</p> <p>The Managing Conflicts of Interest Policy is required to be reviewed and updated annually and was due to be reviewed in June 2023. NHS England proposed that updated conflicts of interest guidance would be provided to ICBs during quarter 1 2023/24. This guidance was delayed and therefore the review was changed to September to incorporate the updated guidance in the policy review.</p> <p>Unfortunately, the guidance has not yet been issued and so the policy is presented as previous. There have been minor amendments, which include the addition of links to web pages and changes to the implementation plan.</p> <p>The updated guidance is expected from NHS England before 2024. This includes:</p> <ul style="list-style-type: none"> <li>• New guidance relating to managing conflicts of interest within ICSs</li> <li>• Guidance relating to the new Provider Selection Regime requirements</li> <li>• Updated conflict of interest training for ICBs</li> </ul> <p>The Managing Conflicts of Interest policy will be reviewed and updated to include the above guidance once received and before the next annual review date.</p>	
<b>Recommendations:</b>	The ICB Board is asked to approve the policy recommended by the Audit and Risk Committee
<b>Previously Considered By and feedback :</b>	Audit and Risk Committee on 15 September 2023
<b>Management of Declared Interest:</b>	There are no declared interests to consider regarding this report.

	The ICB has arrangements in place to manage conflicts of interest both actual and potential that sit alongside the Conflicts of Interest Policy. This includes the appointment of our Conflicts of Interest Guardian, an internal process that requires regular declarations to be made which is supported by a regular reminder system and regular updates through the internal newsletter, audits relating to conflicts of interest are undertaken by the Corporate Governance Team as well as training is available to all staff through the statutory and mandatory training programme.
<b>Risk and Assurance:</b>	There is a risk that there will be breaches of the Conflicts of Interest Policy. NHS England developed training is available regarding conflicts of interests and all staff are expected to complete this training as part of their statutory and mandatory training.
<b>Financial / Resource Implications:</b>	The policy does not have any financial resource implications.
<b>Legal, Policy and Regulatory Requirements:</b>	It is essential to manage conflicts of interest in order to protect healthcare professionals and to maintain public trust in the NHS. Failure to manage conflicts of interest could lead to legal challenge and even criminal action in the event of fraud, bribery and corruption. Section 14Z30 of the National Health Service Act 2006 (as amended by the Health and Social Care Act 2022) (“the Act”) sets out the minimum requirements of what ICBs must do in terms of managing conflicts of interest.
<b>How does this reduce Health Inequalities:</b>	No health inequalities issues arise because of this report, and there is no impact upon people with protected characteristics.
<b>How does this impact on Equality &amp; diversity</b>	No health inequalities issues arise because of this report, and there is no impact upon people with protected characteristics.
<b>Patient and Public Involvement:</b>	The declarations of interest register and gifts, hospitality and sponsorship register are available on the ICB website. The associated policies are available on the ICB website.
<b>Communications and Engagement:</b>	The ICB has a Conflicts of Interest policy and training on conflicts of interest is part of the Statutory/Mandatory training for all staff and is part of Information Governance training.
<b>Author(s):</b>	Lucy Powell, Corporate Support Officer Rob Hayday, Chief of Staff
<b>Sponsoring Director / Board Member:</b>	Shane Devlin, Chief Executive



**Bristol, North Somerset  
and South Gloucestershire**  
Integrated Care Board

# Managing Conflicts of Interest Policy



<b>Please complete the table below:</b>	
<i>To be added by corporate team once policy approved and before placing on website</i>	
<b>Policy ref no:</b>	5
<b>Responsible Executive Director:</b>	Sarah Truelove, Deputy CEO
<b>Author and Job Title:</b>	Lucy Powell, Corporate Support Officer Rob Hayday, Chief of Staff
<b>Date Approved:</b>	1 July 2022
<b>Approved by:</b>	Integrated Care Board (ICB) Board
<b>Date of next review:</b>	Sept 2024

### Policy Review Checklist

	<b>Yes/ No/NA</b>	<b>Supporting information</b>
Has an Equality Impact Assessment Screening been completed?	Yes	See Appendix 1
Has the review taken account of latest Guidance/Legislation?	Yes	The policy is aligned to the Revised Statutory Guidance on Managing Conflicts of Interest in the NHS (February 2017) and the Interim Guidance on the functions and governance of the integrated care board (March 2022) Further info is awaited from NHSE.

	<b>Yes/ No/NA</b>	<b>Supporting information</b>
Has legal advice been sought?	No	Specialist advice has been sought from the relevant Counter Fraud service
Has HR been consulted?	Yes	Advice has been sought from HR. HR issues arising from the application of the policy are set out in relevant HR policies and the recruitment toolkit
Have training issues been addressed?	Yes	Mandatory training requirements are detailed in the policy. NHSE provides a mandatory training package.
Are there other HR related issues that need to be considered?	No	The policy refers to relevant HR policies
Has the policy been reviewed by Staff Partnership Forum?	No	The HR issues arising from the application of the policy are set out in relevant HR policies which are considered by the Staff Partnership Forum
Are there financial issues and have they been addressed?	N/A	There are no financial issues arising from the application of the policy
What engagement has there been with patients/members of the public in preparing this policy?	N/A	The policy describes the ICB's statutory responsibilities and there has been no engagement with patients/members of the public in preparing this policy beyond that undertaken by NHSE as part of the legislative process
Are there linked policies and procedures?	Yes	Associated policies are referenced in the policy

	Yes/ No/NA	Supporting information
Has the lead Executive Director approved the policy?	Yes	
Which Committees have assured the policy?		Audit and Risk Committee
Has an implementation plan been provided?	Yes	See Appendix 2
How will the policy be shared with: <ul style="list-style-type: none"> <li>• Staff?</li> <li>• Patients?</li> <li>• Public?</li> </ul>		The policy will be published on the website and internet and will be featured in internal communication. Regular prompts regarding declaring interests will be placed in internal communications.
Will an audit trail demonstrating receipt of policy by staff be required; how will this be done?	Yes	The policy will be emailed to all staff. There will be a requirement for all staff to respond to the email and confirm receipt and that the policy has been read and understood.
Has a DPIA been considered in regards to this policy?	Yes	A DPIA has been developed for managing conflicts of interest
Have Data Protection implications have been considered?	Yes	The conflicts of interest register is published on the ICB website and consent for publication is included on the declarations of interest form.

## Table of Contents

<b>Table of Contents .....</b>	<b>5</b>
<b>1 Introduction.....</b>	<b>7</b>
1.1 BNSSG ICB Values.....	8
<b>2 Purpose and scope .....</b>	<b>8</b>
<b>3 Duties – legal framework for this policy .....</b>	<b>9</b>
<b>4 Responsibilities and Accountabilities .....</b>	<b>9</b>
<b>5 Definitions/explanations of terms used.....</b>	<b>12</b>
<b>6 Principles .....</b>	<b>12</b>
<b>7 Declaring Conflicts of Interest.....</b>	<b>13</b>
<b>8 Publication of Registers .....</b>	<b>14</b>
<b>9 Managing Conflicts of Interest during the Recruitment Process .....</b>	<b>14</b>
9.1 Appointing ICB Board, Committee Members, Senior Employees.....	14
9.2 ICB Independent Non-Executive Members .....	15
9.3 Primary Care Commissioning Committee Chair and Audit, Governance and Risk Committee Chair .....	<b>Error! Bookmark not defined.</b>
9.4 Other ICB Staff.....	15
9.5 ICB Board and Committee members from other Organisations .....	15
<b>10 Governance Arrangements and Decision Making .....</b>	<b>15</b>
10.1 Outside employment.....	15
10.2 ICB Board and Committee members from other organisations.....	16
<b>11 Managing Conflicts of Interest at Meetings.....</b>	<b>16</b>
11.1 Chairing arrangements and decision making processes.....	17
11.2 Committee Terms of Reference .....	19
11.3 Minute taking .....	19
<b>12 Managing Conflicts of Interest Throughout the Commissioning Cycle.....</b>	<b>19</b>
12.1 Designing service requirements.....	20



12.2	Provider engagement.....	20
12.3	Procuring new care models .....	22
12.4	Managing conflicts of interest relating to procurement.....	22
12.5	Register of procurement decisions.....	22
12.6	Contract monitoring.....	23
<b>13</b>	<b>Audit of Managing Conflicts of Interests.....</b>	<b>23</b>
<b>14</b>	<b>Raising Concerns and Breaches.....</b>	<b>23</b>
<b>15</b>	<b>Breaches of the ICB Managing Conflicts of Interest Policy .....</b>	<b>24</b>
15.1	Managing breaches of this policy .....	25
<b>16</b>	<b>Bribery and Fraud.....</b>	<b>25</b>
16.1	Bribery .....	25
16.2	Fraud .....	26
<b>17</b>	<b>Training requirements.....</b>	<b>26</b>
<b>18</b>	<b>Equality Impact Assessment .....</b>	<b>26</b>
<b>19</b>	<b>Implementation and Monitoring Compliance and Effectiveness.....</b>	<b>26</b>
<b>20</b>	<b>References, acknowledgements and associated documents .....</b>	<b>27</b>
<b>21</b>	<b>Appendices .....</b>	<b>27</b>
21.1	Equality Impact Assessment.....	28
21.2	Implementation Plan .....	30
21.3	Principles of Good Governance and Nolan Principles .....	30
21.4	Types of Interest .....	31
21.5	Contact details for the ICB Corporate Governance Team and Conflict of Interest Guardian .....	33
21.6	Conflict of Interest form.....	34
21.7	Conflict of Interest Checklist for Chairs, Meeting Members and Secretariat Support	36
21.8	Template to be used when commissioning services from GP Practices, including provider consortia, or organisations in which GPs have a financial interest	39
21.9	Declaration of Conflicts of Interests Form for Bidders/Contractors .....	41



# Managing Conflicts of Interest Policy

## 1 Introduction

This policy describes the arrangements that NHS Bristol, North Somerset and South Gloucestershire Integrated Care Board (ICB) has in place to manage conflicts of interest. This policy reflects and supports the BNSSG ICB constitution and the Statutory Guidance on Managing Conflicts of Interest in the NHS which was issued by NHS England in February 2017 as well as the Interim guidance on the functions and governance of the Integrated Care Board issued by NHS England in March 2022.

Integrated Care Boards (ICBs) manage conflicts of interest as part of their day-to-day activities. Effective handling of conflicts of interest is crucial to give confidence to patients, tax payers, healthcare providers and Parliament that ICB commissioning decisions are robust, fair and transparent and offer value for money. It is essential to manage conflicts of interest in order to protect healthcare professionals and to maintain public trust in the NHS. Failure to manage conflicts of interest could lead to legal challenge and even criminal action in the event of fraud, bribery and corruption.

Conflicts of interest are a common and sometimes unavoidable part of the design and delivery of healthcare and as such it may not be possible or desirable to completely eliminate them; it is how they are managed that matters. Section 14O of the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012) (“the Act”) sets out the minimum requirements of what both NHS England and ICBs must do in terms of managing conflicts of interest.

This policy reflects the legal requirements and the statutory guidance issued by NHS England under sections 14O and 14Z8 of the Act. This policy also describes the systems the ICB has in place to identify and manage conflicts of interest, and to create an environment in which staff, ICB Board and committee members, and ICS partners involved in the ICB business, feel able, encouraged and obliged to be open, honest and upfront about actual or potential conflicts.

In addition to complying with the guidance issued by NHS England, ICBs are also required to adhere to relevant guidance issued by professional bodies on conflicts of interest, including the British Medical Association (BMA), the Royal College of

General Practitioners, and the General Medical Council (GMC), and to procurement rules including The Public Contract Regulations 2015 and The National Health Service (procurement, patient choice and competition) (no.2) regulations 2013, as well as the Bribery Act 2010.

The principles of collaboration, transparency and subsidiarity should be at the centre of any decision making. It is expected that all those who serve as members of the ICB Board, its Committees or those who take decisions where they are acting on behalf of the public or spending public money will observe the principles of good governance in the way they do business. These are clearly defined and set out in Appendix 3.

### 1.1 BNSSG ICB Values

This policy supports the ICB values by ensuring the ICB does the right thing, it enables commissioners to demonstrate they are acting fairly and with integrity. The policy outlines best practice for managing conflicts of interest which enables the ICB to strive for excellence, do the right thing and demonstrate integrity.

## 2 Purpose and scope

The aims and objectives of this policy, in line with the statutory guidance issued by NHS England in February 2017 and the interim guidance for ICB governance issued in March 2022 are to:

- Decision-making must be geared towards meeting the statutory duties of the ICB at all times
- Safeguard clinically led commissioning, ensuring that conflicts of interest are declared and taken into account when investment decisions are made;
- Ensure that Bristol, North Somerset and South Gloucestershire ICB can demonstrate that it is acting fairly and transparently and in the best interests of patients and local populations;
- Any individual involved in decisions relating to ICB functions must be acting clearly in the interests of the ICB and of the public, rather than furthering their own interests
- Uphold confidence and trust in the NHS;
- Support anybody involved with ICB business to understand when conflicts (whether actual or potential) may arise and how to manage them if they do;
- Be a practical resource to help identify conflicts of interest and appropriately manage them; and
- Ensure that the ICB operates within the legal framework.

This policy applies to:

- All ICB employees (including temporary staff, students, apprentices, trainees, agency staff, seconded staff, self-employed consultants, sessional staff or those

on short term or honorary contracts, self-employed consultants and individuals working for the ICB under a contract for services)

- Any work experience staff or volunteers
- Members of the ICB Board, all members of the ICBs' committees, sub-committees or sub groups including co-opted members, appointed deputies and any member of committees/groups from other organisations. Where the ICB is participating in a joint committee or working group with system partners, any interests which are declared by the committee members should be recorded on the register(s) of interest for the ICB.

These are collectively referred to as 'individuals' hereafter.

### **3 Duties – legal framework for this policy**

Section 14O of the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012) ("the Act") sets out the minimum requirements of what both NHS England and ICBs must do in terms of managing conflicts of interest.

This policy reflects the legal requirements and the statutory guidance issued by NHS England under sections 14O and 14Z8 of the Act.

In addition to complying with the guidance issued by NHS England, ICBs are also required to adhere to relevant guidance issued by professional bodies on conflicts of interest, including the British Medical Association (BMA), the Royal College of General Practitioners, and the General Medical Council (GMC), and to procurement rules including The Public Contract Regulations 2015 and The National Health Service (procurement, patient choice and competition) (no.2) regulations 2013, as well as the Bribery Act 2010.

### **4 Responsibilities and Accountabilities**

#### **Chief Executive**

- Has overall accountability for the ICB's management of conflicts of interest.

#### **Line Managers**

- Ensure members of their team are aware of and follow this policy and report any potential or actual conflicts of interest to the Corporate Governance Team as they arise. Contact details for the team are at appendix 5.
- Provide basic advice including as part of local induction on how conflicts of interest should be managed, escalating queries to the Corporate Governance Team as necessary.
- Line Managers are responsible for ensuring that staff undertake their mandatory training and are aware of requirements associated with managing conflicts of interest

### **Corporate Secretary**

- Has responsibility for the day to day management of conflicts of interest and queries in relation to these.
- Maintains the ICB register(s) of interest and other registers referred to in this policy
- Supports the Conflict of Interest Guardian to enable them to carry out their role effectively
- Provides advice, support and guidance on how conflicts of interest should be managed, and
- Ensures that the appropriate administrative processes are in place to ensure compliance with legislation and statutory guidance

### **Conflicts of Interest Guardian**

This role is undertaken by the Audit and Risk Committee Chair and they will:

- Act as a conduit for staff, members of the public and healthcare professionals who have any concerns with regards to conflicts of interest
- Be a safe point of contact for employees to raise any concerns in relation to this policy
- Support the rigorous application of conflict of interest principles and policies
- Provide independent advice and judgement where there is any doubt about how to apply conflicts of interest policies and principles in an individual situation
- Provide advice on minimising risks of conflicts of interest

Contact details for the Conflicts of Interest Guardian can be found at Appendix 5.

### **Individuals**

Every individual has the responsibility to ensure that they complete annual conflicts of interest training. This training is available through the training platform.

Every individual has the responsibility to ensure that they complete a conflict of interest form on appointment and to ensure that this is kept up to date. Forms will need to be resubmitted on an annual basis unless something new arises in-year which needs to be declared. In such cases, a new declaration form must be completed and given to the Corporate Governance Team no later than 28 days after becoming aware so that the register can be updated. A Conflict of Interest form can be found at Appendix 6.

All individuals are also responsible for ensuring any conflict of interest arising from the agenda is declared at meetings they attend, regardless of this being declared on

the Conflicts of Interest register; any declarations made must be recorded in the minutes of the meeting. The Chair of the meeting must ensure that attendees are prompted to raise conflicts of interests.

There will be occasions where an individual declares an interest in good faith but, upon closer consideration, it is clear that this does not constitute a genuine conflict of interest. Your line manager, a member of the Corporate Governance team or the Conflicts of Interest Guardian will provide advice on this in line with maintaining the registers of interest and decide whether it is necessary for the interest to be declared.

Equally, there will be other occasions where the conflict of interest is profound and acute, such as where an individual has a direct financial interest which gives rise to a conflict, e.g. employment outside of the ICB or involvement with an organisation which benefits financially from contracts for the supply of goods and services to a ICB or aspires to be a new care model provider. Upon the declaration of such conflicts, consideration will be given as to whether, practically, such an interest is manageable. If it is not, 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 ICB. In such circumstances, the appropriate HR policies will be referred to and HR advice will be sought as required.

### **Managers Engaged in Procurements**

- Ensure Conflict of Interest forms are completed by all individuals involved in the procurement process.
- Ensure Conflict of Interest forms are completed regardless of the procurement financial envelope
- Consider their own declarations of interest and conflicts that may arise as part of the procurement. Any new potential conflicts of interest should be declared to the Corporate Governance Team and declared as part of the procurement.
- Ensure conflict of interest declarations are available at all related procurement meetings
- Ensure conflict of interest mitigations are clearly documented in the minutes
- Ensure conflict of interests are declared by any members of the public or group representatives in line with Section 11.1 of this policy
- Ensure a procurement template (Appendix 8) is completed when commissioning GP services
- Ensure bidders complete a conflict of interest form (Appendix 9) as part of the procurement process
- Update the Corporate Governance Team when a procurement decision is made so that the Procurement Register can be updated and published on the ICB website.

## ALL Individuals – Disclosure UK Database

Disclosure UK provides a valuable opportunity for healthcare professionals to further demonstrate their integrity in the eyes of patients and the public. All ICB staff who undertake work for pharmaceutical companies must disclose payments on the [UK Disclosure database](#).

Any work undertaken with pharmaceutical companies must also be recorded on a Declaration of Interest Form and given to the Corporate Governance Team.

## 5 Definitions/explanations of terms used

A conflict of interest is defined as “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” In some circumstances, it could be reasonably considered that a conflict exists even when there is no actual conflict. In such cases it is important to still manage these perceived conflicts in order to maintain public trust.

Conflicts of interest can arise in many situations, environments and forms of commissioning, with an increased risk in primary care and out-of-hours commissioning and involvement with integrated care organisations, as clinical commissioners may find themselves in a position of being at once commissioner and provider of services. Conflicts of interest can arise throughout the whole commissioning cycle from needs assessment, to procurement exercises, to contract monitoring.

Interests can be captured in four different categories: Financial, Non-Financial Professional, Non-Financial Personal and Indirect. These categories are described in more detail under Appendix 4.

## 6 Principles

To support the management of conflicts of interest, we will:

- **Conduct business in line with available guidance and ICB policy:** Conflicts of interest become much easier to identify, avoid and/or manage when the processes for needs assessments, consultation mechanisms, commissioning strategies and procurement procedures are right from the outset, because the rationale for all decision-making will be clear and transparent and should withstand scrutiny;
- **Be proactive, not reactive:** Individuals should seek to anticipate, identify and minimise the risk of conflicts of interest at the earliest possible opportunity;
- **Be balanced, sensible and proportionate:** Rules should be clear and robust but not overly prescriptive or restrictive. They should ensure that decision-making

is transparent and fair whilst not being overly constraining, complex or cumbersome.

- **Be transparent:** Document clearly the approach and decisions taken at every stage in the commissioning cycle so that a clear audit trail is evident.
- Create an **environment and culture** where individuals feel supported and confident in declaring relevant information and raising any concerns.

In addition to the above, it must be recognised that:

- A perception of wrongdoing, impaired judgement or undue influence can be as detrimental as any of them actually occurring;
- If in doubt, it is better to assume the existence of a conflict of interest and manage it appropriately rather than ignore it.
- For a conflict of interest to exist, financial gain is not necessary.

## 7 Declaring Conflicts of Interest

As required by section 14O of the NHS Act 2006 (as amended by the 2012 Act), the ICB has made arrangements to manage conflicts and potential conflicts of interest to ensure that they do not, and do not appear to, affect the integrity of any decision-making processes.

Individuals referred to in section 2 will be required to complete a Conflict of Interest Form (Appendix 6) in the following circumstances:

- On appointment,
- On an annual basis in line with the financial year
- On changing role, responsibility or circumstances. This must be no later than 28 days of the change being known.

Registers of Interest are maintained by the Corporate Governance Team for all of the individuals referred to in section 2 and these registers are available on the ICB website.

All interests declared will be promptly transferred to the relevant registers (within 10 working days) by the Corporate Governance Team. Where a declared interest has expired, this will remain on the public register for a minimum of 6 months although a private record of the historic interests will be retained by the ICB for a minimum of 6 years after the date on which it expired.

Members of the ICB Board and Sub-Committees, and ICB working groups, will also need to abide by their own organisation's Conflict of Interest Policies.



## 8 Publication of Registers

The ICB will publish its Conflicts of Interest Register and the Register of Procurement Decisions (described in sections 7 and 12.5) on the website.

[Register of Interests - NHS BNSSG ICB](#)

[ICB Procurement Register - NHS BNSSG ICB](#)

In exceptional circumstances, where the public disclosure of information could give rise to a real risk of harm or is prohibited by law, an individual's name and/or other information may be redacted from the publicly available register(s). Where an individual believes that substantial damage or distress may be caused to them or somebody else by the publication of information about them, they are entitled to request that the information is not published. Such requests must be made in writing to the ICB Conflicts of Interest Guardian (please see appendix 5). The outcome of this request will be shared with the individual within 10 working days.

Where a decision is made not to publish information the ICB will retain a confidential un-redacted version of the register(s).

Where a decision is made to refuse a request not to publish information the individual will have the right to appeal this decision through the Grievance Policy. During this process a redacted form of the information will be published.

## 9 Managing Conflicts of Interest during the Recruitment Process

Everyone in the ICB has responsibility to appropriately manage conflicts of interest during the recruitment process for ICB Board Members, Committee Members, Senior Employees as well as all other staff because these roles will be involved in the decision making processes of the ICB.

### 9.1 Appointing ICB Board Members, Committee Members, and Senior Employees

When advertising for a ICB Board Member, Committee or Sub-Committee member or a member of senior staff, a request will be made via the recruitment team by the recruiting manager for a Conflict of Interest form to be completed by successfully shortlisted candidates, and this will need to be brought with them to their interview.

On appointing ICB Board, committee or sub-committee members and senior staff, the ICB will need to consider whether conflicts of interest should exclude individuals from being appointed to the role. This will need to be considered on a case-by-case basis and in conjunction with the principles within the ICBs Constitution.

The materiality of the interest will need to be considered, in particular whether the individual (or any person with whom they have a close association as listed in the scope of this policy) could benefit (whether financially or otherwise) from any



decision the ICB might make. The ICB will also determine the extent of the interest and the nature of the appointee's proposed role within the ICB. If the interest is related to an area of business significant enough that the individual would be unable to operate effectively and make a full and proper contribution in the proposed role, then that individual should not be appointed to the role.

### **9.2 ICB Independent Non-Executive Members**

Independent Non-Executive members play a critical role, providing scrutiny, challenge and an independent voice in support of robust and transparent decision-making and management of conflicts of interest. They chair a number of ICB committees, including the Audit and Risk Committee and the Primary Care Commissioning Committee. BNSSG ICB has appointed five lay members to its ICB Board.

### **9.3 Other ICB Staff**

All recruiting managers will need to ensure that they support obtaining the declaration of interest forms for new staff and make the necessary arrangements to manage any declared conflicts of interest.

### **9.4 ICB Board and Committee members from other Organisations**

ICBs have been created to give statutory NHS providers, local authorities and primary medical services (general practice) nominees a role in decision-making. It should not be assumed that the ICB Board will always be conflicted because at least three members of the ICB Board must be jointly nominated (the "partner members") It is crucial that the ICB ensures that the Boards and Committees are appropriately composed and take into account different perspectives individuals will bring from their respective sectors to help inform decision making.

## **10 Governance Arrangements and Decision Making**

ICBs must make arrangements for managing conflicts of interest, and potential conflicts of interest, in such a way as to ensure that they do not, and do not appear to, affect the integrity of the group's decision-making.

### **10.1 Outside employment**

The ICB will take all reasonable steps to ensure that individuals are aware of the requirement to inform the ICB 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 ICB. This will ensure that the ICB is aware of any potential conflict of interest and that it is managed appropriately. The NHS England statutory guidance is clear however that it is not acceptable for pharmacy advisers or other advisers, employees or consultants to the ICB on matters of procurement, to themselves be in receipt of payments from the pharmaceutical or devices sector.

Examples of work which might conflict with the business of the ICB, including part-time, temporary and fixed term contract work, include:

- Employment with another NHS body;
- Employment with another organisation which might be in a position to supply goods/services to the ICB;
- Directorship of organisations such as Primary Care Networks, or Locality Partnerships ; and
- Self-employment, including private practice, in a capacity which might conflict with the work of the ICB or which might be in a position to supply goods/services to the ICB.

Individuals are required to obtain prior permission to engage in outside employment, and the ICB reserves the right to refuse permission where it believes a conflict may arise which cannot be effectively managed. Further detail of secondary employment and how this should be requested and managed can be found in the ICBs Secondary Employment policy.

### **10.2 ICB Board and Committee members from other organisations**

ICBs have been created to give statutory NHS providers, local authorities and primary medical services (general practice) nominees a role in decision-making. These individuals will be expected to act in accordance with the first principle, and whilst it should not be automatically assumed that they are personally or professionally conflicted just by virtue of being an employee, director, partner or otherwise holding a position with one of these organisations, the possibility of actual and perceived conflicts of interests arising will remain. For all decisions, ICBs will need to carefully consider whether an individual's role in another organisation could result in actual or perceived conflicts of interest and whether or not that outweighs the value of the knowledge they bring to the process.

## **11 Managing Conflicts of Interest at Meetings**

The ICBs will consider the composition of decision-making forums and will clearly distinguish between those individuals who should be involved in formal decision taking, and those whose input informs decisions. In particular, the ICB will consider the perspective the individual brings and the value they add to both discussions around particular decisions and in actually taking part in the decision including the ability to shape the ICB's understanding of how best to meet patients' needs and deliver care for the local population. The ICB will manage conflicts of interest to reflect this distinction. For example, where providers hold contracts for services it would be appropriate and reasonable to involve them in discussions such as pathway design and service delivery. However, this would need to be clearly distinct from any considerations around contracting and commissioning from which they would need to be excluded.

### **11.1 Chairing arrangements and decision making processes**

The chair of a meeting of the ICB Board or any of its committees, sub-committees or groups has ultimate responsibility for deciding whether there is a conflict of interest and for taking the appropriate course of action in order to manage the conflict of interest. In the event that the chair of a meeting has a conflict of interest, the vice chair is responsible for deciding the appropriate course of action in order to manage the conflict of interest. If the vice chair is also conflicted, then the remaining non-conflicted voting members of the meeting should agree between themselves how to manage the conflict(s). In making such decisions, the chair (or vice chair or remaining non-conflicted members as above) may wish to consult with the Conflicts of Interest Guardian or another member of the ICB Board.

The ICB Board Chair, with the support of the Corporate Secretary and, if required, the Conflicts of Interest Guardian, will proactively consider ahead of meetings what conflicts are likely to arise and how they should be managed, including taking steps to ensure that supporting papers for particular agenda items of closed sessions/meetings are not sent to conflicted individuals in advance of the meeting where relevant.

To support chairs in their role, they will have access to a Conflict of Interest register prior to meetings, which will include details of any declarations of conflicts which have already been made by members of the ICB or meeting members. An example of a meeting checklist is available at Appendix 7 which may support chairs in their role.

The chair will ask at the beginning of each meeting if anyone has any conflicts of interest to declare in relation to the business to be transacted at the meeting. Each member of the meeting should declare any interests which are relevant to the business of the meeting regardless of whether or not these interests have previously been declared. Any new interests declared at a meeting must be included on the ICB's relevant register of interests to ensure it is up-to-date.

It is the responsibility of each individual member of the meeting to declare any relevant interests which they may have. However, should any other member of the meeting be aware of facts or circumstances which may give rise to a conflict of interest but which have not been declared should bring this to the attention of the chair who will decide whether there is a conflict of interest and the appropriate course of action to take in order to manage the conflict of interest.

When a member of the meeting (including the chair or vice chair) has a conflict of interest in relation to one or more items of business to be transacted at the meeting, the chair (or vice chair or remaining non-conflicted members where relevant as described above) must decide how to manage the conflict. Actions to mitigate conflicts should be proportionate and should seek to preserve the spirit of collective decision-making wherever possible. Mitigation should take account of a range of

factors including the perception of any conflicts and how a decision may be reached if an individual with a perceived conflict is involved in that decision as well as the risks and benefits of having a particular individual involved in making the decision. The appropriate course of action will depend on the particular circumstances, but could include one or more of the following:

- Where the chair has a conflict of interest, deciding that the vice chair (or another non-conflicted member of the meeting if the vice chair is also conflicted) should chair all or part of the meeting;
- Requiring the individual who has a conflict of interest (including the chair or vice chair if necessary) not to attend the meeting;
- Ensuring that the individual concerned does not receive the supporting papers or minutes of the meeting which relate to the matter(s) which give rise to the conflict;
- Requiring the individual to leave the discussion when the relevant matter(s) are being discussed and when any decisions are being taken in relation to those matter(s) and securing technical or local expertise from an alternative unconflicted source where possible. In private meetings, this could include requiring the individual to leave the room and in public meetings to either leave the room or join the audience in the public gallery. This may require instructions to the meeting to be cautious about or cease the use of any chat function associated with video conferencing which may remain accessible to the individual who has been excluded from or asked to leave the meeting.
- Allowing the individual to participate in some or all of the discussion when the relevant matter(s) are being discussed but requiring them to leave the meeting when any decisions are being taken in relation to those matter(s) or not participate in the decision-making. This may be appropriate where, for example, the conflicted individual has important relevant knowledge and experience of the matter(s) under discussion, which it would be of benefit for the meeting to hear, but this will depend on the nature and extent of the interest which has been declared;
- Noting the interest and ensuring that all attendees are aware of the nature and extent of the interest, but allowing the individual to remain and participate in both the discussion and in any decisions. The rationale for inclusion should be properly documented and included in the minutes. This is only likely to be the appropriate course of action where it is decided that the interest which has been declared is either immaterial or not relevant to the matter(s) under discussion. The conflicts of interest case studies include examples of material and immaterial conflicts of interest.

Where the action taken, for example exclusion, affects the quoracy of a meeting appropriate action will be taken, for example in advance of a meeting it may be possible to review the committee's Terms of Reference to understand if, with appropriate approvals, they may be amended to enable the committee to remain

quorate. If the conflict arises so that issues of quoracy may not be addressed in advance the item will be postponed until a quorum can be achieved without conflict. Advice from the Corporate Governance Team should be sought in these circumstances.

It is important that an effective record is made and kept on the form of clear minutes of any interests that arise, the agenda item concerned and their subsequent management. An example of this is shown at Appendix 7.

### **11.2 Committee Terms of Reference**

Committee Terms of Reference must include a section on how the Committee will conduct its business in accordance with the ICB's Managing Conflicts of Interest Policy including:

- ensuring there is a section on the agenda to declare any potential conflicts of interest
- ensuring that the minutes capture the information required as per section 11.3 of this policy
- proactively considering ahead of meetings whether conflicts are likely to arise and how they should be managed including whether meeting papers should be sent to conflicted individuals in advance of the meeting

### **11.3 Minute taking**

It is imperative that the ICB ensures complete transparency in its decision-making processes through robust record-keeping and clear minutes. If any conflicts of interest are declared or otherwise arise in a meeting, the chair must ensure the following information is recorded in the minutes:

- who has the interest;
- the nature of the interest and why it gives rise to a conflict, including the magnitude of any interest;
- the items on the agenda to which the interest relates;
- how the conflict was agreed to be managed; and
- evidence that the conflict was managed as intended (for example recording the points during the meeting when particular individuals left or returned to the meeting).

## **12 Managing Conflicts of Interest Throughout the Commissioning Cycle**

The NHS England guidance for Managing Conflicts of Interest in the NHS (February 2017) is clear that conflicts of interest need to be managed appropriately throughout the whole commissioning cycle including within the ongoing management of existing contracts and ICBs must have in place processes to ensure this happens.

At the outset of a commissioning process, all individuals involved, including those from external bodies, must complete a Conflict of Interest form, even if there is nothing to declare (Appendix 9). Completed forms must be held by the lead Procurement Manager and either the forms or a collated register must be available at every meeting.

Where Conflicts of Interest are declared, the chair of the meeting, in conjunction with the Corporate Secretary and/or Conflicts of Interest Guardian, must put in place clear arrangements to robustly manage these. This includes consideration as to which stages of the process a conflicted individual should not participate in, and, in some circumstances, whether that individual should be involved in the process at all. The steps taken must be clearly documented in the minutes (Appendix 7).

Where a conflict is identified which may impact on the management of an existing contract, a discussion must take place with the Corporate Secretary, and if necessary the Conflicts of Interest Guardian, so that steps can be put in place to manage this. Any mitigation must also be recorded in minutes that are taken.

ICBs will also need to identify as soon as possible where staff might transfer to a provider (or their role may materially change) following the award of a contract. This should be treated as a relevant interest which will be managed in line with this policy and following advice from the Corporate Secretary and if necessary the ICB Conflicts of Interest Guardian.

### **12.1 Designing service requirements**

The NHS England guidance upon which this policy is based states that ICBs have legal duties under the Act to properly involve patients and the public in their respective commissioning processes and decisions. Public involvement supports transparent and credible commissioning decisions and should happen at every stage of the commissioning cycle from needs assessment, planning and prioritisation to service design, procurement and monitoring.

Conflicts of Interest can arise from the inclusion of members of the public or particular groups who are involved in the decision making process of the ICB. As such, any member of the public or representative of a particular group involved in the influencing or decision making of the ICB will be required to complete a Declaration of Interest form regardless of a conflict being identified. This will be held by the Procurement Manager alongside any other conflict of interest forms completed as part of the procurement process.

### **12.2 Provider engagement**

It is good practice to engage relevant providers, especially clinicians, in confirming that the design of service specifications will meet patient needs. Such engagement, done transparently and fairly, is entirely legal but it is important not to gear the



requirement in favour of any particular provider(s). If appropriate, the advice of an independent clinical adviser on the design of the service should be secured.

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 (existing or potential) in developing a service specification for a contract for which they may later bid. The ICB is particularly mindful of these issues when engaging with existing / potential providers in relation to the development of new care models and is developing a Procurement Strategy that will ensure:

- All relevant clinicians and potential providers, together with local members of the public, are engaged in the decision-making processes used to procure services;
- Provider engagement follows the three main principles of procurement law, namely equal treatment, non-discrimination and transparency. This includes ensuring that the same information is given to all at the same time and procedures are transparent. This mitigates the risk of potential legal challenge. When available this will be published on the ICB website.
- ICB Board discussion and decision making involving provider ICB Board members will consider conflicts of interest and manage these as outlined in section 11 of this policy.

External services such as commissioning support services (CSSs) can play an important role in ensuring Procurement law is adhered to at all times, as well as helping ICBs decide the most appropriate procurement route, undertaking procurements and managing contracts in ways that manage conflicts of interest and preserve the integrity of decision-making.

To ensure transparency and assurance, any member of the Commissioning Support Service (CSS) involved in assisting the ICB with procurement will be required to complete a declaration of interest form (Appendix 6). In addition, the Commissioning Support Service as an organisation will also be required to complete a declaration of interest form at organisational level which will include any conflicts of interest they may have in relation to the work commissioned by the ICB. It is the responsibility of the Procurement Manager to ensure this is completed and is held alongside any other conflict of interest forms that are completed as part of the procurement process.

Irrespective of CSS input, the ICB is responsible for:

- Determining and signing off the specification and evaluation criteria;
- Deciding and signing off decisions on which providers are invited to tender; and
- Making final decisions on the selection of the provider.

### **12.3 Procuring new care models**

Where new care models or other arrangements of a similar scale or scope, are being procured it is imperative that conflicts of interest are managed in line with this policy and in line with Appendix 8. Where further advice is needed, please seek advice from the Corporate Secretary.

### **12.4 Managing conflicts of interest relating to procurement**

An area in which conflicts could arise is where a ICB commissions (or continues to commission by contract extension) healthcare services, including GP services, in which a member of the ICB Board has a financial or other interest. A procurement template attached at Appendix 8, sets out factors that the ICB must address when planning to commission general practice services and must be completed every time general practice services are commissioned. It is the responsibility of the Procurement Manager to ensure this form is completed and passed to the ICB Governance Team so the register of procurement decisions can be updated (see section 12.5).

As part of any procurement process undertaken by the ICB, bidders will be asked to declare any conflicts of interest. This enables commissioners to ensure that they comply with the principles of equal treatment and transparency. It is the responsibility of the Procurement Manager and Procurement Team to ensure this step is completed. Where a bidder has declared a conflict, advice should be sought from the Procurement Team, the Corporate Governance Team or the Conflicts of Interest Guardian as to how this should be managed to ensure that no bidder is treated differently to any other. Please see Appendix 9 for a conflict of interests for bidders/contractors template.

While it is not appropriate to publish any bidder conflicts of interest, the ICB is required under regulation 84 of the Public Contract Regulations 2015 to make and retain records of contract award decisions and key decisions that are made during the procurement process.

This includes “communications with economic operators and internal deliberations” which should include decisions made in relation to actual or perceived conflicts of interest declared by bidders. These records must be retained by the Procurement Team/Procurement Manager for a period of at least three years from the date of award of the contract.

### **12.5 Register of procurement decisions**

To promote transparency in decision-making, and in line with the NHS England Managing Conflicts of Interest in the NHS (February 2017), the ICB will maintain a register of procurement decisions taken, either for the procurement of a new service or any extension or material variation of a current contract. This will include:

- The details of the decision;



- Who was involved in making the decision (including the name of the ICB clinical lead, the ICB contract manager, the name of the decision making committee and the name of any other individuals with decision-making responsibility);
- Summary of any conflicts of interest in relation to the decision and how these were managed; and
- The award decision taken.

It is the responsibility of Managers involved in Procurements to ensure that details of any procurement decisions taken, including single tender actions are provided to the Corporate Governance Team so that the register of procurement decisions can be maintained. Upon receipt of new information, the register of procurement decisions will be updated and published on the ICB website by the Corporate Governance Team. A template of the register is included at Appendix 10.

### **12.6 Contract monitoring**

Please see section 11 which describes how conflicts of interests at meetings should be managed and how these should be recorded in the minutes. The NHS Standard Contract General Conditions state that providers “must ensure that, in delivering the Services, all staff comply with Law, with Managing Conflicts of Interest in the NHS and other Guidance, and with Good Practice, in relation to gifts, hospitality and other inducements and actual or potential conflicts of interest.”

## **13 Audit of Managing Conflicts of Interests**

The ICB is required to undertake an audit of their conflicts of interest management as part of their internal audit on an annual basis. This is led by the ICB’s Internal Auditor and the outcome will be reflected in the ICB’s Annual Governance Statement as well as forming part of the discussion at the end of year governance meeting with NHS England.

## **14 Raising Concerns and Breaches**

It is the duty of all individuals referred to in section 2 to speak up about genuine concerns in relation to the administration of this policy and to report these concerns in line with the ICB’s Freedom to Speak Up Policy. Suspicions must not be ignored or investigated directly by an individual.

We encourage anyone who is not an employee or worker of the ICB, but who wishes to report a suspected or known breach of this Policy to contact a member of the Corporate Governance Team in the first instance.

All disclosures will be treated with appropriate confidentiality at all times in accordance with ICB policies and applicable laws. Anybody making such disclosures may expect an appropriate explanation of any decisions taken as a result of any investigation.

Providers, patients and other third parties may make a complaint to NHS Improvement in relation to the ICB's conduct under the Procurement Patient Choice and Competition Regulations.

Anonymised details of breaches will be published on the ICB's website for the purpose of learning and development. The outcomes of any investigation of breaches will also be reported to the ICB Audit, and Risk Committee and NHS England.

### **15 Breaches of the ICB Managing Conflicts of Interest Policy**

Failure to comply with the policy on conflicts of interest management can have serious implications for the ICB and any individuals concerned.

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

**Criminal implications:** Failure to manage conflicts of interest could lead to criminal investigations into fraud, bribery and corruption offences. This could have implications for the ICB, linked organisations, and the individuals who are engaged by them.

**Disciplinary implications:** Individuals who fail to disclose any relevant interests or who otherwise breach the ICB's rules and policies relating to the management of conflicts of interest will be subject to investigation and, where appropriate, to disciplinary action.

Individuals should be aware that the outcomes of such action may result in the termination of their employment or position with the ICB.

Statutorily regulated healthcare professionals who work for, or are engaged by the ICB are under professional duties imposed by their relevant regulator to act appropriately with regard to conflicts of interest. Failure to comply with this policy may result in the ICB reporting such individuals to their regulator for investigation if they believe that they have acted improperly. The consequences for inappropriate action could include fitness to practise proceedings being instigated which may result in individuals being struck off by their professional regulator.

## 15.1 Managing breaches of this policy

All breaches of the ICB's Conflicts of Interest Policy will be subject to internal investigation in the first instance, notwithstanding any external investigations which may be necessary. Internal investigations will be completed in line with the most appropriate ICB policy.

Investigation outcomes in relation to breaches of this policy will be shared with the ICB's Audit and Risk Committee which will review any lessons to be learnt and recommendations for action. The Audit and Risk Committee will monitor the implementation of any recommendations raised from the outcomes of investigations.

Once a breach is confirmed, the Corporate Governance Team will ensure that NHS England is notified, including information about the nature of the breach and the actions taken in response. This information will also be published anonymously on the ICB's website and a communications plan will be put in place to manage any media interest. This will be managed on a case by case basis.

## 16 Bribery and Fraud

### 16.1 Bribery

The ICB takes a zero tolerance approach to bribery. The ICB policy relating to Fraud and Bribery can be found on the ICB Intranet and website. The Bribery Act 2010 defines bribery as the giving or taking of a reward in return for acting dishonestly and or in breach of the law. There are four different classifications of bribery:

- Bribing another person.
- Being bribed,
- Bribing a foreign public official; or
- Failure to prevent bribery.

Any offering, promising, giving, requesting, receipt or acceptance of a bribe by any employee when conducting business on behalf of the ICB or when representing the ICB in any capacity is strictly forbidden and is contrary to the Bribery Act 2010. Furthermore, the ICB requires all individuals to report any suspicions of the above to its Local Counter Fraud Specialist, or the NHS Counter Fraud Authority. Individuals who fail to adhere to this policy will be dealt with by means of a criminal investigation, civil recovery and/or via the ICB's disciplinary processes.

Any suspicions or concerns of acts of bribery can be reported confidentially online via <https://cfa.nhs.uk/reportfraud> or via the NHS Fraud and Corruption Reporting Line on 0800 028 4060. All calls are dealt with by experienced trained staff and any caller who wishes to remain anonymous may do so.

## 16.2 Fraud

The ICB has a zero tolerance approach to fraud. The ICB policy relating to Fraud and Bribery can be found on the ICB Intranet and website. The Fraud Act 2006 creates a criminal offence of fraud and defines three main ways of committing it:

- Fraud by false representation;
- Fraud by failing to disclose information; and
- Fraud by abuse of position.

In these cases, an offender's conduct must be dishonest and their intention must be to make a gain or cause a loss (or the risk of a loss) to another.

Any suspicions or concerns of acts of fraud can be reported confidentially online via <https://cfa.nhs.uk/reportfraud> or via the NHS Fraud and Corruption Reporting Line on 0800 028 4060. All calls are dealt with by experienced trained staff and any caller who wishes to remain anonymous may do so.

## 17 Training requirements

The information and responsibilities within this policy will be disseminated to staff by the publication of this policy on the BNSSG ICB website and intranet. Conflict of Interest training is mandatory for all individuals referred to in section 2 and is to be completed annually by all staff. Conflicts of Interest training packages are provided by NHS England. Training compliance rates will be recorded as part of the ICB's annual conflicts of interest audit. Training compliance rates for decision making staff will be reported to NHS England annually. Decision making staff are those roles defined in the Constitution as members of the ICB Board and Terms of Reference as members of the ICB Board Sub Committees.

## 18 Equality Impact Assessment

All relevant persons are required to comply with this document and must demonstrate sensitivity and competence in relation to the nine protected characteristics as defined by the Equality Act 2010. If you, or any other groups, believe you are disadvantaged by anything contained in this document please contact the Document Lead (author) who will then actively respond to the enquiry.

## 19 Implementation and Monitoring Compliance and Effectiveness

An implementation plan has been prepared and is attached at appendix 2. Compliance with this policy will be monitored by the Corporate Governance team and reported quarterly to the Audit and Risk Committee. The outcomes of the mandatory annual audit will be reported to the Audit and Risk Committee.

## 20 References, acknowledgements and associated documents

The following related documents may be accessed through our website:

- Local Counter Fraud, Bribery and Corruption Policy
- Grievance Policy and Procedure
- Disciplinary Policy
- Gifts and Hospitality Policy
- Policy for the Sponsorship of Activities by and Joint Working with the Pharmaceutical Industry
- Freedom to Speak Up Policy
- Secondary Employment Policy

<https://www.england.nhs.uk/ourwork/coi/>

<https://www.england.nhs.uk/publication/managing-conflicts-of-interest-in-the-nhs-guidance-for-staff-and-organisations/>

## 21 Appendices

Appendix 1 Equality Impact Assessment

Appendix 2 Implementation Plan

Appendix 3 Principles of Good Governance and Nolan Principles

Appendix 4 Types of Interest

Appendix 5 Contact details for the ICB Corporate Governance Team and Conflicts of Interest Guardian

Appendix 6 Conflict of Interest declaration form

Appendix 7 Conflict of Interest Checklist for Chairs, Meeting Members and Secretariat Support

Appendix 8 Template to be used when commissioning services from GP Practices, including provider consortia, or organisations in which GPs have a financial interest

Appendix 9 Declarations of Conflicts of Interests form for Bidders/Contractors

Appendix 10 Register of Procurement Decisions and Contracts Awarded

## 21.1 Equality Impact Assessment

Equality Impact Assessment Screening		
Query	Response	
What is the aim of the document?	to set out the ICB responsibilities in relation to managing conflicts of interest in line with Revised Statutory Guidance on Managing Conflicts of Interest in the NHS (February 2017 ) and interim guidance on the functions and governance of the ICB (March 2022) and processes to ensure compliance	
Who is the target audience of the document (which staff groups)?	All staff	
Who is it likely to impact on and how?	Staff	yes in that it describes the way in which staff are required to declare all interests as set out in the policy. It does not have an impact on staff in terms of Equalities and Human Rights (see below)
	Patients	no
	Visitors	no
	Carers	no
	Other – governors, volunteers etc	yes – all those defined as staff in the policy are required by statutory guidance to conform to the policy. It does not have an impact in terms of Equalities and Human Rights (see below)
Does the document affect one group more or less favourably than another based on the 'protected characteristics' in the Equality Act 2010:	Age (younger and older people)	no
	Disability (includes physical and sensory impairments, learning disabilities, mental health)	This policy is available in formats as requested.
	Gender (men or women)	no
	Pregnancy and maternity	no
	Race (includes ethnicity as well as gypsy travellers)	no
	Sexual Orientation (lesbian, gay and bisexual people)	no
	Transgender people	no
	Groups at risk of stigma or social exclusion (e.g. offenders, homeless people)	no

	Human Rights (particularly rights to privacy, dignity, liberty and non-degrading treatment)	no – the ICB has processes in place to ensure that rights to privacy are protected
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## 21.2 Implementation Plan

Target Group	Implementation or Training objective	Method	Lead	Target start date	Target End date	Resources Required
ICB Board	Ensure the ICB Board is aware of ICB's responsibilities and provide assurance that appropriate process is established to ensure legal compliance	Policy to be included in the papers as part of the Audit and Risk Committee item		October 2023	October 2023	staff time, Governing Body time
Executive Directors	Ensure awareness of responsibilities to ensure compliance Individual Executive Director responsibilities Directorate Responsibilities	Discussion with individual directors as required	Corporate Support Officer	From Sep 2023	Ongoing	staff time, executive director time
All Staff	Ensure awareness of ICB processes and procedures	<p>Policy to be placed on website Information about the policy and ICB process to be placed on ICB Intranet</p> <p>Information about the policy and ICB process to be communicated through the ICB Staff newsletter</p> <p>Annual Conflicts of Interests training module</p>	Corporate Support Officer /Training manager	From Sep 2023	<p>Sep 2023 - Policy to added to The Hub, and the website following approval.</p> <p>Sep 2023 – Inclusion in The Voice following approval</p> <p>Ongoing - Annual declarations to be collated and staff to be reminded to undertake training.</p>	staff time training module

## 21.3 Principles of Good Governance and Nolan Principles



ICBs should observe the principles of good governance in the way they do business including:

- The Nolan Principles (also known as the 7 Principles of Public Life) set out below
- The Good Governance Standards for Public Services (2004), Office for Public Management (OPM) and Chartered Institute of Public Finance and Accountancy (CIPFA)
- The seven key principles of the NHS Constitution
- The Equality Act 2010
- The UK Corporate Governance Code
- Standards for members of NHS Boards

### **Nolan Principles, also known as The 7 Principles of Public Life**

- **Selflessness** – Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends;
- **Integrity** – Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties;
- **Objectivity** – In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit;
- **Accountability** – Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office;
- **Openness** – Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands;
- **Honesty** – Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest;
- **Leadership** – Holders of public office should promote and support these principles by leadership and example.

## 21.4 Types of Interest

### Financial Interests

This is where an individual may get direct financial benefit from the consequences of a decision they are involved in making. This could, for example, include being:

- A director (including a non-executive director) or senior employee in another organisation which is doing, or likely to do business with an organisation in receipt of NHS funding
- A shareholder, partner or owner of an organisation which is doing, or is likely to do business with an organisation in receipt of NHS funding
- Someone in outside employment
- Someone in receipt of a secondary income
- Someone in receipt of a grant
- Someone in receipt of other payments (e.g. honoraria, day allowances, travel or subsistence)
- Someone in receipt of sponsored research

### **Non-financial professional interests**

This is where an individual may obtain a non-financial professional benefit from the consequences of a decision they are involved in making, such as increasing their professional reputation or status or promoting their professional career. This may, for example, include situations where the individual is:

- An advocate for a particular group of patients
- A clinician with a special interest
- An active member of a particular specialist body
- An advisor for the Care Quality Commission or National Institute of Health and Care Excellence
- A research role

### **Non-financial personal interests**

This is where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit, because of decisions they are involved in making in their professional career. This could include, for example, where the individual is:

- A member of a voluntary sector board or has a position of authority within a voluntary sector organisation
- A member of a lobbying or pressure group with an interest in health and care

### **Indirect interests**

This is where an individual has a close association with another individual who has a financial interest, a non-financial professional interest or a non-financial personal

interest who would stand to benefit from a decision they are involved in making. This would include:

- Close family members and relatives
- Close friends and associates
- Business partners.

### **21.5 Contact details for the ICB Corporate Governance Team and Conflict of Interest Guardian**

**Senior person responsible for Governance**

Name	<b>Shane Devlin</b>
Title	<b>CEO</b>
Email	<b>Shane.devlin@nhs.net</b>
<b>Conflict of Interest Guardian</b>	
Name	John Cappock
Title	Independent Non-Executive Member for Audit
Email	<a href="mailto:John.cappock@nhs.net">John.cappock@nhs.net</a>
<b>Corporate Governance Team</b>	
Email	<a href="mailto:bnssg.corporate@nhs.net">bnssg.corporate@nhs.net</a>

### 21.6 Conflict of Interest form

<b>Name:</b>	
<b>Organisation:</b>	BNSSG ICB <input type="checkbox"/> Other <input type="checkbox"/> (please specify)

		.....		
<b>Position within, or relationship with, the ICB (or other organisation):</b>				
<b>Detail of interests held (complete all that are applicable):</b>				
<b>If you have nothing to declare please state this below</b>				
<b>Type of Interest*</b> <small>*See reverse of form for details</small>	<b>Description of Interest (including for indirect interests, details of the relationship with the person who has the interest)</b>	<b>Date interest relates From &amp; To</b>		<b>Actions to be taken to mitigate risk (to be agreed with line manager or a senior ICB manager)</b>

*The ICB is required to take steps to manage conflicts of interest that may arise; we collect this information to ensure that we are able to comply with the statutory guidance on this subject. The information collected in this form will be held securely and used for the purposes of identifying and managing conflicts of interest. Personal information will be managed in line with the General Data Protection Regulation and Data Protection Act 2018. Details of declarations of interest are published online and available on our website. Information may be disclosed to third parties in accordance with the Freedom of Information Act 2000 and published in registers that the ICB 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 ICB as soon as practicable and no later than 28 days after the interest arises. I am aware that if I do not make full, accurate and timely declarations then civil, criminal, or internal disciplinary action may result.

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

*(Note: The ICB is unable to remove information from the public view without sufficient reason, please contact the Corporate Governance Team for advice/guidance on this)*

**Signed:**

**Date:**

Please return to **The Corporate Team**, [bnssg.corporate@nhs.net](mailto:bnssg.corporate@nhs.net)

## **21.7 Conflict of Interest Checklist for Chairs, Meeting Members and Secretariat Support**

Under the Health and Social Care Act 2012, there is a legal obligation to manage conflicts of interest appropriately. It is essential that declarations of interest and actions arising from the declarations are recorded formally and consistently across



all ICB Board, committee and sub-committee meetings. This checklist has been developed with the intention of providing support in conflicts of interest management. It does not cover the requirements for declaring interests outside of the committee process.

Timing	Checklist for Chairs	Responsibility
<p><b>In advance of the meeting</b></p>	<ol style="list-style-type: none"> <li>1. <b>The agenda</b> to include a standing item on declaration of interests to enable individuals to raise any issues and/or make a declaration at the meeting.</li> <li>2. A <b>definition of conflicts of interest</b> should also be accompanied with each agenda to provide clarity for all recipients.</li> <li>3. <b>Agenda</b> to be circulated to enable attendees (including visitors) to identify any interests relating specifically to the agenda items being considered and be in accessible format(s).</li> <li>4. <b>Members should contact the Chair</b> as soon as an actual or potential conflict is identified.</li> <li>5. Chair to review <b>minutes from preceding meetings</b> i.e., sub-committee, working group, etc., detailing any conflicts of interest declared and how this was managed.</li> <li>6. A <b>copy of the members' declared interests</b> is checked to establish any actual or potential conflicts of interest that may occur during the meeting.</li> </ol>	<p>Meeting Chair and secretariat</p> <p>Meeting Chair and secretariat</p> <p>Meeting Chair and secretariat</p> <p>Meeting members</p> <p>Meeting Chair</p> <p>Meeting Chair and secretariat</p>
<p><b>During the meeting</b></p>	<ol style="list-style-type: none"> <li>1. <b>Check and declare the meeting is quorate</b> and ensure that this is noted in the minutes of the meeting.</li> <li>2. Chair requests <b>members to declare any interests in agenda items</b>- which have not already been declared, including the nature of the conflict.</li> <li>3. <b>Chair makes a decision</b> as to how to manage each interest which has been declared on a</li> </ol>	<p>Meeting Chair</p> <p>Meeting Chair</p> <p>Meeting Chair and secretariat</p>

	<p>case-by-case basis, and this decision is recorded and issue any instructions about the use of chat function to ensure access to information is appropriately managed.</p> <p><b>4. As minimum requirement</b>, the following should be <b>recorded in the minutes of the meeting</b>:</p> <ul style="list-style-type: none"> <li>• Individual declaring the interest;</li> <li>• At what point the interest was declared;</li> <li>• The nature of the interest;</li> <li>• The Chair’s decision and resulting action taken;</li> <li>• The point during the meeting at which any individuals retired from and returned to the meeting - even if an interest has not been declared.</li> </ul> <p><b>5. Visitors in attendance</b> who participate in the meeting must also follow the meeting protocol and declare any interests in a timely manner.</p>	<p>Secretariat</p>
<p><b>Following the meeting</b></p>	<p><b>1.</b> All new interests declared at the meeting should be promptly updated onto the declaration of interest form;</p> <p><b>2.</b> All new completed declarations of interest should be transferred onto the register of interests.</p>	<p>Individual(s) declaring interest(s)</p> <p>Relevant ICB Governance Lead</p>

**Example of a Conflict of Interest being declared at a meeting and how this should be recorded**

Item No	Agenda Item	Actions
1	Chairs welcome	
2	Apologies for Absence	
3	Declarations of Interest	



	<p>The Chair reminded committee members of their obligation to declare any interest they may have on any issues arising at committee meetings which might conflict with the business of XXX</p> <p>Declarations made by members of the XXX Committee are listed in the ICBs Register of Interests. The Register is available either via the ICB Governance Lead or on the ICBs website at the following link.....</p> <p><b>Declarations of Interest from today’s meeting</b></p> <p>With reference to business to be discussed at this meeting, XX declared that he is a shareholder in XXX.</p> <p>The Chair declared that the meeting is quorate and that XX would not be included in any discussions on agenda item 4 due to a direct conflict of interest which could potentially lead to financial gain for MS.</p> <p>The Chair and XX discussed the conflict of interest, which is recorded on the register of interest, before the meeting and XX agreed to remove himself from the table and not be involved in the discussion around agenda item 4.</p>	
4	<p><b>Item Title</b></p> <p>XX left the meeting, excluding himself from the discussion regarding xx</p> <p>*discussion minutes*</p> <p>XX was brought back in to the meeting</p>	

**21.8 Template to be used when commissioning services from GP Practices, including organisations in which GPs have a financial interest**

Service:	
Question	Comment/Evidence

How does the proposal deliver good or improved outcomes and value for money – what are the estimated costs and the estimated benefits? How does it reflect the ICBs proposed commissioning priorities? How does it comply with the ICBs commissioning obligations?	
How have you involved the public in the decision to commission this service?	
What range of health professionals have been involved in designing the proposed service?	
What range of potential providers have been involved in considering the proposals?	
How have you involved your Health and Wellbeing Board(s)? How does the proposal support the priorities in the relevant joint health and wellbeing strategy (or strategies)?	
What are the proposals for monitoring the quality of the service?	
What systems will there be to monitor and publish data on referral patterns?	
Have all conflicts and potential conflicts of interests been appropriately declared and entered in registers?	
In respect of every conflict or potential conflict, you must record how you have managed that conflict or potential conflict. Has the management of all conflicts been recorded with a brief explanation of how they have been managed?	
Why have you chosen this procurement route e.g. single tender action?	
What additional external involvement will there be in scrutinising the proposed decisions?	
How will the ICB make its final commissioning decision in ways that preserve the integrity of the decision-making process and award of any contract?	

**Additional question when qualifying a provider on a list or framework or pre selection tender (including but not limited to any qualified provider) or direct award (for services where national tariffs do not apply)**



How have you determined a fair price for the service?	
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**Additional questions when qualifying a provider on a list or framework or pre selection for tender (including but not limited to any qualifies provider) where GP practices are likely to be qualified providers**

How will you ensure that patients are aware of the full range of qualified providers from whom they can choose?	
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**Additional questions for proposed direct awards to GP providers**

What steps have been taken to demonstrate that the services to which the contract relates are capable of being provider by only one provider?	
In what ways does the proposed service go above and beyond what GP practices should be expected to provide under the GP contract?	
What assurances will there be that a GP practice is providing high-quality services under the GP contract before it has the opportunity to provide any new services?	

**21.9 Declaration of Conflicts of Interests Form for Bidders/Contractors**

<b>Name of Organisation:</b>	
<b>Details of Interests held:</b>	
<b>Type of Interest</b>	<b>Details</b>
<b>Provision of services or other work for the ICB or NHS England</b>	

<p><b>Provision of services or other work for any other potential bidder in respect of this project or procurement process</b></p>	
<p><b>Any other connection with the ICB or NHS England, whether personal or professional, which the public could perceive may impair or otherwise influence the ICBs or any of its members' or employees' judgements, decisions or actions</b></p>	

<p><b>Name of Relevant Person:</b></p>	<p>(Complete for all Relevant Persons)</p>	
<p><b>Details of Interests held:</b></p>		
<p><b>Type of Interest</b></p>	<p><b>Details</b></p>	<p><b>Personal interest or that of a family member, close friend or other acquaintance?</b></p>
<p><b>Provision of services or other work for the ICB or NHS England</b></p>		
<p><b>Provision of services or other work for any other potential bidder in respect of this project or procurement process</b></p>		
<p><b>Any other connection with the ICB or NHS England, whether personal or professional, which the public could perceive may impair or otherwise influence the ICBs or any of its members' or employees' judgements, decisions or actions</b></p>		



To the best of my knowledge and belief, the above information is complete and correct. I undertake to update as necessary the information.

**Signed:** \_\_\_\_\_

**On behalf of:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**21.10 Register of Procurement Decisions and Contracts Awarded**

ref no	contract/ service title	Procurement description	Existing contract or new (if new include details)	Procurement type	clinical lead	Executive Director	decision making process and name of decision making committee	summary of conflicts of interest declared and how managed	contract award	contract value (£) total	Contract value (£) to ICB