



Manchester Health & Care Commissioning

Conflict of Interest Policy

Version 2.3

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Target audience:	All MHCC Staff and GP Practices including GP Partners (or where the practice is a company, each director) and individuals in a practice directly involved with the business or decision making of their CCG/MHCC.

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1 Policy Summary

Adhering to this policy will help to ensure that we use NHS money wisely, providing best value for taxpayers and accountability to our patients for the decisions we take.

As a member of staff you should...	As an organisation we will...
<ul style="list-style-type: none">• Familiarise yourself with this policy and follow it. Refer to the guidance for the rationale behind this policy https://www.england.nhs.uk/wp-content/uploads/2017/06/revised-ccg-coi-guidance-jul-17.pdf• Use your common sense and judgement to consider whether the interests you have could affect the way taxpayers' money is spent• Regularly consider what interests you have and declare these as they arise. If in doubt, declare.• <u>NOT</u> misuse your position to further your own interests or those close to you• <u>NOT</u> be influenced, or give the impression that you have been influenced, by outside interests• <u>NOT</u> allow outside interests you have to inappropriately affect the decisions you make when using taxpayers' money	<ul style="list-style-type: none">• Ensure that this policy and supporting processes are clear and help staff understand what they need to do.• Identify a team or individual with responsibility for:<ul style="list-style-type: none">○ Keeping this policy under review to ensure it is in line with the guidance.○ Providing advice, training and support for staff on how interests should be managed.○ Maintaining register(s) of interests.○ Reviewing the Conflicts of Interest Policy annually.• <u>NOT</u> avoid managing conflicts of interest.• <u>NOT</u> interpret this policy in a way which stifles collaboration and innovation with our partners

2 Introduction

Manchester Health and Care Commissioning (MHCC) is the partnership between NHS Manchester Clinical Commissioning Group (MCCG) and Manchester City Council (MCC), which leads the commissioning of health, social care and public health services in the city of Manchester.

MHCC, and the people who work with and for us, collaborate closely with other organisations, in commissioning and delivering high quality services for Manchester residents.

These partnerships have many benefits and should help ensure that public money is spent efficiently and wisely. But there is a risk that conflicts of interest may arise.

Providing best value for taxpayers and ensuring that decisions are taken transparently and clearly, are both key principles in the NHS Constitution. We are committed to maximising our resources for the benefit of the whole community. As an organisation and as individuals, we have a duty to ensure that all our dealings are conducted to the highest standards of integrity and that NHS monies are used wisely so that we are using our finite resources in the best interests of residents.

The Partnership Agreement between MCCG and MCC, which created MHCC as a “single commissioning function”, obligates the Partners to “comply with the policy for identifying and managing conflicts of interest as agreed by the Partners from time to time”.

MCCG’s Constitution states that it will, in accordance with section 14L(2)(b) of the 2006 Act, at all times observe “such generally accepted principles of good governance” in the way it conducts its business, including “the highest standards of propriety involving impartiality, integrity and objectivity in relation to the stewardship of public funds, the management of the organisation and the conduct of its business”. And there is a specific section that summarises the commitment to managing conflicts of interest, as required by section 14O of the 2006 Act (as amended by the 2012 Act).

Not all conflicts of interest are financial, and having a conflict does not mean that an individual will not act appropriately; however, there is a responsibility to prevent the occurrence of conflicts of interest and to minimise their impact when they do occur.

In this policy we refer to staff as both NHS Manchester CCG staff and Manchester City Council staff who work collaboratively as Manchester Health and Care Commissioning.

3 Purpose

This policy addresses perceived and actual conflicts of interest relating to MHCC members and staff. It sets out how these conflicts should be prevented and managed when they do occur, in addition to how offers of gifts, hospitality and commercial sponsorship should be managed.

This policy will help our staff manage conflicts of interest risks effectively. It:

- Introduces consistent principles and rules;
- Provides simple advice about what to do in common situations;
- Supports good judgement about how to approach and manage interests.

This policy also briefly addresses issues relating to outside employment and personal conduct as well as anti-fraud and whistleblowing.

This policy should be considered alongside these other organisational policies:

- NHS Manchester CCG Freedom to Speak Up Policy (Including Whistleblowing);
- NHS Manchester CCG Disciplinary Policy;
- MHCC Procurement Policy;
- MHCC Local Anti-Fraud, Bribery and Corruption Policy.

Those who make decisions where they are acting on behalf of the public or spending public money should observe the principles of good governance in the way they do business. The policy applies principles of good governance and includes those set out in the following:

- The Seven Principles of Public Life (known as the Nolan Principles);
- The Good Governance Standards of Public Services;
- The Seven Key Principles of the NHS Constitution;
- The Equality Act 2010;
- The UK Corporate Governance Code;
- Standards for members of NHS Boards & CCG Governing Bodies in England; and
- NHS Manchester CCG Constitution.

4 Key terms

A 'conflict of interest' is:

“A set of circumstances by which a reasonable person would consider that an individual's ability to apply judgement or act, in the context of delivering,

commissioning, or assuring taxpayer funded health and care services is, or could be, impaired or influenced by another interest they hold.”

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.

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

5 Interests

Interests fall into the following categories:

- **Financial interests:**

Where an individual may get direct financial benefit¹ from the consequences of a decision they are involved in making.

- **Non-financial professional interests:**

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.

- **Non-financial personal interests:**

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.

¹ This may be a financial gain, or avoidance of a loss.

- **Indirect interests:**

Where an individual has a close association² with another 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).

6 Staff

At MHCC we use the skills of many different people, all of whom are vital to our work. This includes people on differing employment terms, who for the purposes of this policy we refer to as 'staff' and are listed below:

- All salaried staff of NHS Manchester CCG;
- Salaried staff of Manchester City Council who operate in the scope of the single commissioning function created by MHCC
- Prospective staff – who are part-way through recruitment to the single commissioning function;
- GP partners or directors and individuals in practices directly involved with the business or decision making of MHCC;
- Contractors and sub-contractors;
- Agency staff; and
- Committee, sub-committee and advisory group members (who may not be directly employed or engaged by the organisation).

MHCC acts as the 'host organisation' for some members of staff working at the Greater Manchester Health and Social Care Partnership (GMHSCP). As they would not be directly involved with the business or decision making of the CCG, they (or any other hosted staff members with no direct involvement in CCG business) would not fall under this policy.

However, MHCC will support hosted bodies with their Conflicts of Interest arrangements (where applicable) by collecting Declaration of Interest forms for those members of staff who are hosted by the CCG as part of the initial recruitment process.

² A common sense approach should be applied to the term 'close association'. Such an association might arise, depending on the circumstances, through relationships with close family members and relatives, close friends and associates, and business partners.

Responsibilities:

Chief Accountable Officer

The Chief Accountable Officer is ultimately responsible for ensuring that all processes involved in managing conflicts of interest are maintained and followed as appropriate.

Lay and “Non-Executive” Members

Such members of Boards and Committees play a critical role in MHCC, providing scrutiny, challenge and an independent voice in support of robust and transparent decision-making and management of conflicts of interest.

Conflicts of Interest Guardian

Reflecting the Governance Committee’s duties in respect of conflicts of interest, the Chair of the Governance Committee will be a Conflict of Interest Guardian. In line with the Statutory Guidance, MHCC will also designate the Chair of its Audit Committee as a Conflict of Interest Guardian.

The Conflicts of Interest Guardians are responsible for supporting the rigorous application of conflict of interest policies and principles and to provide independent judgement where there are any queries about conflicts of interest.

The Conflicts of Interest Guardians are supported by Director of Corporate Affairs and Corporate Governance Team regarding the day-to-day management of conflicts of interest matters and queries.

The Conflicts of Interest Guardians, in collaboration with the Director of Corporate Affairs and Corporate Governance Team, will:

- Act as a conduit for GP practice 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 staff or workers of MHCC 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; and
- Provide advice on minimising the risks of conflicts of interest.

The Chair of the MHCC Commissioning Board will, as stated in MCCG’s Constitution, be the Executive Councillor of MCC.

Committee Chairs

The Chairs, of the Board, its committees, sub-committees or groups, have ultimate responsibility in meetings 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. They should ensure that meetings are conducted with due consideration of conflicts of interests, and that declaration of any occurs at the outset of all meetings. They are further responsible for ensuring that conflicts they are made aware of are managed in that meeting and appropriately recorded. (see section 8.3 below)

The Corporate Governance Team will provide a “Declaration of Interest Checklist” for Chairs, with the support of the relevant Lead Officer and Business Support colleague, to have a register of declared interests in advance of the meeting and follow the process for declaring interests in the meeting.

Lead Officer for each Committee

Each Committee/ sub-committee will have a lead officer who will work with the Chair to ensure Conflicts of Interest are appropriately managed within the business of the Committee.

Commissioning, Procurement and Project Managers

Conflicts of interest need to be managed appropriately throughout the whole commissioning, procurement or project cycle.

MHCC will comply with two regimes of procurement law and regulation when commissioning healthcare services: NHS (Procurement, Patient Choice and Competition) (No.2) Regulations 2013 (PPCCR 2013); and the Public Contracts Regulations 2015 (PCR 2015).

MHCC will maintain and publish a register of procurement decisions.

All CCG members or staff acting in this role are responsible for ensuring conflicts of interests arising in their work are recorded and managed in accordance with this policy.

Corporate Governance Team

The Corporate Governance Team will provide advice and support relating to this policy to Members, Chairs and members of Boards and Committees, the Conflicts of Interest Champions, managers and staff.

The Team will ensure declarations of interest and gifts and hospitality are made and regularly confirmed or updated.

They will also maintain, and publish as appropriate, registers of interests, and gifts, hospitality or sponsorship.

GP Practices

All GP partners (or where the practice is a company, each director) and individuals in a practice directly involved with the business or decision making of their CCG should comply with this policy, declaring all interests as they arise and ensuring the public good is placed ahead of private gain at all times.

Following guidance from The General Medical Council (GMC), MHCC will ensure that any GPs with a responsibility for or involvement in commissioning of services must:

- Satisfy themselves that all decisions made are open, fair and transparent and comply with legislation;
- Keep up to date and follow the guidance and codes of practice that govern the commissioning of services;
- Formally declare any interest that they, or someone close to them, including their business partner, or their employer has in a provider company;
- Take steps to manage any conflict between their duties as a GP and their commissioning responsibilities, for example by excluding themselves from the decision-making process and any subsequent monitoring arrangements.

Staff

Everyone in MHCC has responsibility to appropriately manage conflicts of interest.

All staff must comply with this policy, declaring all interests as they arise, and ensuring the public good is placed ahead of private gain at all times. This responsibility extends to those working for other organisations on behalf of the single commissioning function.

7 Decision Making Staff

Some staff are more likely than others to have a decision-making influence on the use of taxpayers' money, because of the requirements of their role. For the purposes of this policy these people are referred to as 'decision making staff.'

Decision making staff in this organisation are:

- Directors and lay members and equivalent roles who have decision making roles which involve the spending of taxpayers' money;
- Members of committees which contribute to direct or delegated decision making on the commissioning or provision of taxpayer funded services;
- Those at Agenda for Change band 8d and above;
- GP partners (or where the practice is a company, each director) and individuals in a practice directly involved with the business or decision making of MHCC;
- Management, administrative and clinical staff who have the power to enter into contracts on behalf of their organisation; and
- Management, administrative and clinical staff involved in decision making concerning the commissioning of services, purchasing of good, medicines, medical devices or equipment, and formulary decisions.

MHCC will offer training to all staff on those matters relevant to conflicts of interest identified in the NHSE guidance. However, MHCC will identify its decision-making staff and require them to complete annually the on-line training provided by NHSE.

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

8.1 Identification & declaration of interests

All staff should identify and declare material interests at the earliest opportunity, and in any event within 28 days. The Corporate Governance Team will record the interest in the registers as soon as they become aware of any interests. If staff are in any doubt as to whether an interest is material, then they should declare it, so that it can be considered.

Declarations should be made:

- On appointment with the organisation;
- At meetings – declarations of interests will be a standing agenda item
- When prompted by the organisation
- When staff move to a new role or their responsibilities change significantly;
- At the beginning of a new project/piece of work;
- As soon as circumstances change and new interests arise (for instance, in a meeting when interests staff hold are relevant to the matters in discussion).

Committee members who declare a new interest as it arises should share this information at the next committee meeting.

The MHCC declaration of interest(s) form is available from the Corporate Governance Team and on the MHCC intranet (ERNIE).

Declarations should be made to the Corporate Governance Team.

If an individual is unsure as to whether an interest should be declared then that individual should seek advice from a Conflicts of Interest Guardian, the Corporate Governance Team or from the Committee Chair as appropriate.

After expiry, an interest will remain on the public register(s) for a minimum of 6 months from the date of expiry or until the end of the financial year (whichever is longer) and on the privately held (unpublished) register of historic interests for a minimum of 6 years.

8.2 Proactive review of interests

We will prompt staff annually to review declarations they have made and, as appropriate, update them or make a nil return. This process will be led by the Corporate Governance Team.

8.3 Declarations of interest in meetings

The Chair should consider ahead of meetings which conflicts are likely to arise and how they should be managed, including taking steps to ensure that supporting papers for the particular agenda items are not sent to the conflicted individuals in advance of the meeting. The Chair will have access to the declarations of conflicts checklist prior to the meeting which includes details of any declarations which have already been made by members of MHCC.

The Chair will ask at the beginning of each meeting if there any declarations of interest to be made, regardless of whether they have been previously declared. It is the responsibility of each individual member of the meeting to declare, at the earliest opportunity, any relevant interests which they may have, detailing which, if any, of the agenda items the conflict of interest relates to.

The Chair will have responsibility for deciding how to address any conflicts that arise. Courses of action can range from the affected individual being required to not attend the meeting to being allowed to take part in the discussion on the relevant item but being asked to leave the meeting when the decision is taken. If the Chair is the affected individual, the Vice-Chair will be 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 will agree between themselves how to manage the conflict(s).

Any interests declared at a meeting will be recorded in the minutes and will record:

- 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).

Interests declared at a meeting will be notified to the Corporate Governance Team, who will add new interests to the register.

8.4 Strategic decision-making groups

In common with other NHS bodies, MHCC 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.
- 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, and the meetings of such groups should follow the principles detailed above.

8.5 Conflicts of Interest in Meetings: Quoracy

It can occur that the suspension of committee members' voting rights on agenda items causes the committee to lose quoracy. Where this occurs, it is the responsibility of the remaining members of the committee to determine where the agenda item should be resolved. This may require transfer to another committee or the Board or suspension until a subsequent meeting when additional (or replacement) committee members are present. This decision should be taken during the meeting and recorded in the minutes.

8.6 Gifts and Hospitality

A gift is defined as any item of cash or goods, or any services, which is provided for personal benefit, free of charge or at less than its commercial value.

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

Any personal gift of cash or cash equivalents (e.g. vouchers, tokens, offers of remuneration to attend meetings whilst in a capacity working for or representing MHCC) must always be declined, whatever their value and whatever their source. The offer which has been declined must be declared to the Corporate Governance Team and recorded on the register.

Gifts from suppliers or contractors:

- Gifts from suppliers or contractors doing business (or likely to do business) with the organisation must 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 £6 in total, and need not be declared.

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

- Staff should not ask for any gifts.
- Modest gifts under a value of £50 may be accepted and do not need to be declared;
- Gifts valued at over £50 should be treated with caution and only be accepted on behalf of the organisation (i.e. to the organisation's charitable funds), not in a personal capacity. These must be declared by staff;
- Multiple gifts from the same source over a 12-month period should be treated with caution.

Corporate Donations:

- Offers of gifts or donations to MHCC as an organisation (and not to an individual) will be considered an offer of a 'corporate donation'.
- When an offer is received, the donor must be informed of the following:
 - Corporate donations will not be distributed amongst MHCC staff.
 - Where a corporate donor indicates a preferred charity or organisation they would like to see the donation passed onto, they should inform MHCC and the process of onward donation will be facilitated.

- Where the corporate donor indicates only a preferred sector or no preference, MHCC will consult with its commissioned voluntary, community and social enterprise (VCSE) infrastructure provider, Macc, to agree where the donation would be most appropriately passed onto and will facilitate the process.
- All offers of corporate donations, whatever their value, should be referred directly to the Head of Corporate Governance for review in consultation with the Director of Corporate Affairs and the Conflicts of Interest Guardian(s).
- Offers of corporate donations from suppliers or contractors doing business (or likely to do business) with the organisation must be declined, whatever their value, in line with this Policy.
- The acceptance of any equipment should be accompanied by the relevant warranties and proof of PAT testing certificates (where applicable).
- Offers of corporate donations will be recorded on the MHCC Register of Gifts and Hospitality.

Hospitality

Hospitality covers any event where attendance is funded by a third party. These often include conferences or networking events, and receipt of modest hospitality is recognised as an accepted courtesy of business or professional relationships. MHCC staff and members should be able to demonstrate that the acceptance or provision of hospitality would benefit the NHS or MHCC.

- 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, if modest and reasonable. However, senior management approval must be obtained and the hospitality must be declared.

Meals and refreshments

Hospitality arising from NHS sources or organisational training events of the value of £25 and under does not need to be declared.

Other hospitality up to the value of £25 except tea and coffee, which is not modest or that which MHCC may offer, must be declared.

Any hospitality over the value of £25 must be approved by a senior individual and must be declared. A clear reason, as to why it was permissible to accept, should be recorded on the individual's declaration and will be included on MHCC's register(s) of interest.

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 in exceptional circumstances, and must be declared. A clear reason, as to why it was permissible to accept travel and accommodation of this type, should be recorded on the individual's declaration and will be included on MHCC's register(s) of interest. 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

The frequency with which hospitality is accepted, and the scale of such events should not be significantly greater than MHCC would be likely to provide in return, e.g. tea, coffee, light refreshments at meetings.

If any individual is unsure as to whether a gift or hospitality can be accepted then that individual should seek advice from the Conflicts of Interest Guardian or the Corporate Governance Team.

Sponsorship

Commercial sponsorship is defined as funding from a non-NHS company or organisation to meet some or all costs involved in providing staff, courses, conferences, medicines/equipment, meeting infrastructure needs such as meeting rooms or travel costs, or conducting research.

- 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 MHCC 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 which they could gain a commercial advantage, and information which is not in the public domain should not normally be supplied
- At MHCC'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 in any papers or publications relating to the event
- MHCC staff 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 Corporate Governance Team
- Management of sponsorship of research or posts will follow the principles of this policy and individuals involved in such policy should declare such involvement and any interests arising from it.

All offers of sponsorship must be declared to the Corporate Governance Team to be recorded on the register of interests. The Conflicts of Interest Guardian and Corporate Governance Team will provide advice on whether or not it would be appropriate to accept any offers in accordance with statutory guidance.

Where MHCC members or staff have benefitted from commercial sponsorship in outside interests (such as in private practice), this should be declared in the Register of Interests.

9 Records and publication

9.1 Maintenance

The organisation will maintain a register of declared interests and a register of gifts and hospitality. MHCC will use the template declaration and register of interests, gifts and hospitality as provided in the NHS guidance document.

9.2 Publication

We will:

- Publish the interests declared by decision making staff in a register of declared interests on the MHCC and MCCG websites
- Publish a register of gifts and hospitality on the MHCC and MCCG websites
- Refresh this information at least annually

If an individual believes that substantial damage or distress may be caused to them, or somebody else, by the publication of information about them, they can request that the information is not published.

The Conflict of Interest Guardian will make the decision not to publish information. The Corporate Governance Team will retain a confidential un-redacted version of the register(s).

9.3 Wider transparency initiatives

MHCC fully supports wider transparency initiatives in healthcare, and we encourage staff to engage actively with these.

Relevant staff are strongly encouraged to give their consent for payments they receive from the pharmaceutical industry to be disclosed as part of the Association of British Pharmaceutical Industry (ABPI) Disclosure UK initiative. These “transfers of value” include payments relating to:

- Speaking at and chairing meetings
- Training services
- Advisory board meetings
- Fees and expenses paid to healthcare professionals
- Sponsorship of attendance at meetings, which includes registration fees and the costs of accommodation and travel, both inside and outside the UK
- Donations, grants and benefits in kind provided to healthcare organisations

Further information about the scheme can be found on the ABPI website:

<https://www.abpi.org.uk/our-ethics/disclosure-uk/about-disclosure-uk/#6954c18c>

10 Management of interests – general

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 the organisation 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.

11 Management of interests – other common situations

This section summarises some other common situations where conflicts of interest may arise and the basic principles of what MHCC staff and members should do.

Outside Employment

- Staff should declare any existing outside employment on appointment and any new outside employment when it arises.
- Where contracts of employment or terms and conditions of engagement permit, staff may be required to seek prior approval from MHCC to engage in outside employment.

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 MHCC.

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Patents

- Staff should declare patents and other intellectual property rights they hold and seek prior permission from MHCC 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.

Donations

- Donations made by suppliers or bodies seeking to do business with MHCC should be treated with caution and not routinely accepted.

Individuals should contact the Corporate Governance Team or Conflicts of Interest Guardians for advice.

12 Private Conduct

Staff and members of MHCC are expected to adhere to a number of Human Resources policies, and to meet the highest standards of probity. The Anti-Fraud and Disciplinary policies cover these issues in more depth. However, it is important to note that staff and members:

- Are not permitted to bet or gamble using MHCC resources, or against other staff or members while on MHCC premises (barring small stakes as part of lottery syndicates, or sweepstakes for major sporting events);
- Cannot, in the event of personal bankruptcy or insolvency, be employed in posts which involve the handling of money or which could enable the misappropriation of public funds;
- Must notify their line manager and HR in the event of their arrest or their conviction of a criminal offence.

13 Counter Fraud

MHCC is committed to reducing the level of fraud, corruption and bribery within the NHS to an absolute minimum and keeping it at this level, freeing up public resources for better patient care. MHCC has adopted a Local Anti-Fraud, Bribery and Corruption Policy which is accessible to view on MHCC's website and individuals should refer and adhere to this policy in full.

The Bribery Act

Under the Bribery Act 2010 ('the Act'), it is a criminal offence for employees to give promise or offer a bribe, and to request, or receive any bribes, gifts, or consideration as an inducement or reward.

Bribery is offering an incentive to someone to do something which they would not normally do. For example, someone advertising a job might be offered tickets to an event by one of the candidates or someone linked to them in an attempt to influence a decision.

A bribe may take the form of payment, gifts, hospitality, promise of contracts or employment, or some other form of benefit or gain. The individuals engaged in the actual bribery activity do not have to be those who instigate the offence(s), or ultimately benefit from it. All parties involved are potentially subject to prosecution. The bribe may take place prior or after, the corrupt act or improper function.

All staff have a personal responsibility to ensure they are not placed in a position which risks, or appears to risk, a conflict between their private interests and their NHS duty.

Raising Concerns

It is the duty of every member of staff to speak up about genuine concerns in relation to criminal activity, breach of a legal obligation (including negligence, breach of contract or breach of administrative law), miscarriage of justice, danger to health and safety or the environment, and the cover up of any of these in the workplace. The CCG has adopted a Whistleblowing and Freedom to Speak Up Policy which sets out the arrangements for raising and handling staff concerns.

Counter Fraud Measures

No individual must use their position to gain financial advantage. MHCC will encourage individuals with concerns or reasonably held suspicions about potentially fraudulent activity or practice, to report these.

Any individual who has concerns or information about actual or suspected fraud should contact either the Local Anti-Fraud Specialist (LAFS) or Chief Finance Officer. In the event that either the LAFS or CFO is implicated, the individual should instead report to the Chair of the Audit Committee or the Chief Accountable Officer who will liaise with the LAFS on the appropriate action.

Another option, if contacting these staff members is unsuitable or insufficient, is to call the NHS Fraud and Corruption Reporting Line on 0800 028 4060. This is a national service, is

confidential and callers can remain anonymous. It provides easily accessible and confidential routes for the reporting of genuine suspicions of fraud within or affecting the NHS. All contacts are dealt with by experienced trained staff.

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

14 Whistleblowing

MHCC will investigate any concerns raised about malpractice or malfeasance within the organisation and under the Public Interest Disclosure Act 1998 it has a legal responsibility to ensure that staff disclosing these concerns do not receive detrimental treatment as a result.

Staff can refer to the NHS Manchester CCG Freedom to Speak Up Policy (Including Whistleblowing) on the MHCC website for more information and guidance.

15 Conflicts of Interest and the Commissioning Cycle

MHCC recognises that conflicts of interest need to be managed appropriately throughout the whole commissioning, procurement or project cycle.

At the outset and every stage of a commissioning or procurement process, MHCC will identify and manage the relevant interests of all individuals involved, keeping a clear audit trail of how this is achieved.

MHCC will put in place clear arrangements to manage any conflicts of interest. 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.

MHCC will identify as soon as possible where staff might transfer to a provider (or their role may materially change) following the award of a contract. We will treat this as a relevant interest and ensure that the potential conflict is managed.

In designing services, MHCC recognises that public and patient involvement supports transparent and credible commissioning decisions and will aim to ensure it happens at every stage of the commissioning cycle.

MHCC also understands that engagement of relevant providers, especially clinicians, will support confirmation that the design of service specifications will meet patient needs. However, conflicts of interest, as well as challenges to the fairness of the procurement

process, can arise in this engagement. We will follow the three main principles of procurement law, namely equal treatment, non-discrimination and transparency.

We will do this by providing the same information at the same time to all involved in the commissioning exercise, by being transparent and by observing our obligations to document our decisions.

MHCC will aim to avoid any potential bias towards particular providers by making our specifications outcome-based rather than specifying processes.

MHCC will comply with two regimes of procurement law and regulation when commissioning healthcare services: NHS (Procurement, Patient Choice and Competition) (No.2) Regulations 2013 (PPCCR 2013); and the Public Contracts Regulations 2015 (PCR 2015). We will avoid any actions or processes that might constitute discrimination or anti-competitive behaviour.

Where a member or employee of the organisation is in a lead role for commissioning, or are part of projects that may result in procurement, that individual is ineligible to apply to be a provider of that service. If an individual has interests that will be affected by the outcome of a procurement exercise (or are likely to have interests as a result, such as a potential job offer should a service be commissioned), this should be declared and their involvement should be restricted to advising on the decision.

Contract management meetings will follow the same principles in relation to conflicts of interest as MHCC committee meetings do, with there being the opportunity for attendees to declare interests and any declarations (and how they are managed) being recorded in the minutes.

MHCC will maintain and publish a register of decisions made in the whole commissioning or procurement cycle. We will use the templates for recording decisions made in the cycle as provided by NHS in their statutory guidance.

16 Dealing with breaches

There will be situations when interests will not be identified, declared or managed appropriately and effectively. This may happen innocently, accidentally, or because of the deliberate actions of staff or other organisations. For the purposes of this policy these situations are referred to as 'breaches'.

16.1 Identifying and reporting breaches

Staff who are aware about actual breaches of this policy, or who are concerned that there has been, or may be, a breach, should report these concerns to the Corporate Governance Team who will inform the Conflict of Interest Guardian and Local Anti-Fraud Specialist.

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 please see the NHS Manchester CCG Freedom to Speak Up Policy (Including Whistleblowing). Anyone, who wishes to report a suspected or known breach of the policy, who is not an employee or worker of MHCC, should also ensure that they comply with their own organisation's whistleblowing policy.

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.

In the first instance, the investigation will be carried out by the Head of Corporate Governance, whose responsibility will be to decide if there has been, or is, potential for a breach and, if so, what the severity of the breach is.

The Head of Corporate Governance will assess whether further action is required in response, consider who else, inside or outside MHCC, should be made aware and take appropriate action.

16.2 Taking action in response to breaches

Action taken in response to a breach will depend on the severity of that breach.

The Head of Corporate Governance, following investigation, may decide that the usual actions to manage conflicts of interest outlined in this policy are sufficient.

However, the breach of this policy may be considered as a breach of conduct and, consequently, the action taken may be in accordance with MHCC's Disciplinary Policy.

If an employee or contractor suspects, or the investigation by the Head of Corporate Governance indicates, that there has been fraud or corruption in the breach of this policy, the matter will be managed through the Local Anti-Fraud Policy.

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

MHCC will not consider sanctions until the circumstances surrounding breaches have been properly investigated. However, if such investigations establish wrong-doing or fault then we will consider the range of possible sanctions that are available, in a manner which is proportionate to the breach. This may include:

- Employment law action against staff;
 - 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, such as external auditors, NHS Counter Fraud Authority, the police or statutory health bodies, 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.

In conducting an investigation and taking any relevant action, the Head of Corporate Governance will keep the Conflict of Interest Guardians informed and seek agreement on the progress of the investigation and/or actions.

16.3 Learning and transparency concerning breaches

Reports on breaches, the impact of these, and action taken will be considered by the MHCC Governance Committee at least bi-annually.

To ensure that lessons are learnt and management of interests can continually improve, anonymised information on breaches, the impact of these, and action taken will be prepared and published on the MHCC website as appropriate, or made available for inspection by the public upon request.

17 Review

This policy will be reviewed annually unless an earlier review is required. This will be led by the Corporate Governance Team.

18 Associated documentation

Freedom of Information Act 2000

ABPI: The Code of Practice for the Pharmaceutical Industry (2019)

ABHI Code of Business Practice

NHS Code of Conduct and Accountability (July 2004)

NHS Manchester CCG Freedom to Speak Up Policy (Including Whistleblowing) NHS
Manchester CCG Disciplinary Policy

MHCC Procurement Policy

MHCC Anti-Fraud, Bribery and Corruption Policy

Key Contacts

Name	Role	Email Address	Telephone Number
Chris Jeffries	Conflict of Interest Guardian	chrisjeffries@nhs.net	0161 765 4248
Grenville Page	Conflict of Interest Guardian	Grenville.page@nhs.net	0161 765 4248
Chris Gaffey	Head of Corporate Governance	chris.gaffey@nhs.net	0161 213 1765
Local Anti-Fraud Specialist	Lynne Doherty	lynne.doherty@miaa.nhs.uk	0161 743 2037

19 Version Control

Version	Date	Details
1	September 2017	Drafted
2	May 2018	Rewritten to ensure compliance with NHS England guidance.
2.1	May 2019	Amended to comply with internal audit recommendations.
2.2	October 2019	Updated to include version control and remove declaration of interest form as an appendix as this is now available on the MHCC Intranet (ERNIE).
2.3	March 2021	Annual Review: <ul style="list-style-type: none">- Clarification on 'hosted bodies' in section 6.- Addition of section on corporate donations in section 8.6.- Updating of associated policy names and contact details.