Conflicts of Interests Policy (including Gifts, Hospitality and Sponsorship)

**July 2023**

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**POLICY AMENDMENTS**

Amendments to the policy will be issued from time to time. A new amendment history will be issued with each change.

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# Introduction

1.1 NHS Humber and North Yorkshire ICB (the ICB) is required to make arrangements to manage conflicts of interest. This policy sets out the arrangements, based on the section 6 of the ICB Constitution, taking account of the relevant statutory requirements and guidance documents outlined in Sections 21 and 22 of this policy.

1.2 Specific additional guidance with respect to providers of ICB commissioned services will be covered in the ICB’s Procurement Policy.

* 1. In addition to the arrangements set out in this policy, the ICB will embody public service values and principles in all its business transactions as outlined in the Code of Conduct and Behaviours Policy.

# Policy statement

* 1. NHS Humber and North Yorkshire ICB strives to always achieve the highest standards of business conduct and is committed to conducting its business with honesty and impartiality. One of the overriding objectives of the ICB is to ensure that decisions made by the ICB are both taken, and taken to be seen, without any possibility of the influence of external or private interest.

# Impact analyses Equality

* 1. As a result of performing the screening analysis, the policy does not appear to have any adverse effects on people who share Protected Characteristics, and no further actions are recommended at this stage. The results of the screening are attached at Appendix 1.

**Sustainability**

* 1. A Sustainability Impact Assessment is not required for this policy.

**Bribery Act 2010**

* 1. This policy is designed to contribute to the ICB’s obligation to ensure adequate measures are in place to prevent acts of bribery within the meaning of the Bribery Act 2010.
  2. The Bribery Act 2010 came into force in July 2011 and has particular relevance to this policy. The Act created four criminal offences:
     + Bribery, or offering to bribe, another person (section 1).
     + Requesting, agreeing to receive, or accepting a bribe (section 2).
     + Bribing, or offering to bribe, a foreign public official (section 6).
     + Failing to prevent bribery (section 7).
  3. It should be noted that there need not be any actual giving and receiving for financial or other advantage to be gained, to commit an offence.
  4. The Act also increased the maximum penalty for bribery to 10 years’ imprisonment, with an unlimited fine, or both. Furthermore, the Act introduced a ‘corporate offence’ of failing to prevent bribery by the organisation not having adequate preventative procedures in place.
  5. Individuals may expose the organisation to a conviction punishable with an unlimited fine because the organisation may be liable where a person associated with it commits an act of bribery.
  6. Individuals should also be aware that a breach of this Act, or of this policy, renders them liable to disciplinary action by the ICB whether or not the breach leads to prosecution. Where a material breach of this guidance is found to have occurred, the likely sanction will be loss of employment and superannuation rights.
  7. Further information on the Bribery Act can be found at: <https://www.gov.uk/government/publications/bribery-act-2010-guidance>.

# Scope

* 1. This policy applies to:

Members of the ICB and members of, and attendees at, its committees and sub- committees

All ICB employees, including:

* + - All full and part-time staff.
    - Any staff on sessional or short-term contracts.
    - Any students and trainees (including apprentices).
    - Agency staff; and
    - Seconded staff.

In addition, any self-employed consultants or other individuals working for the ICB under a contract for services should make a declaration of interest in accordance with this guidance, as if they were ICB employees.

* + - Members of the ICB, all members of the ICB’s committees, sub-committees, and sub-groups, including:
    - Co-opted members.
    - Appointed deputies; and
    - Any members of committees/groups from other organisations. (Who may not be directly employed or engaged by the organisation, for example staff employed/engaged by member organisations of Humber & North Yorkshire Integrated Care Board).
  1. Where the ICB is participating in a joint committee alongside other ICBs, any interests which are declared by the committee members should be recorded on the register(s) of interest of each participating ICB.
  2. Individuals working on behalf of NHS Humber and North Yorkshire ICB or providing services or facilities to the ICB will be made aware of their obligations with regard to declaring conflicts or potential conflicts of interest. This requirement will be written into contract documentation.

# Policy purpose / aims and failure to comply.

* 1. NHS Humber and North Yorkshire ICB recognises that conflicts of interest are unavoidable and therefore has in place arrangements to seek to manage them. The measures outlined in this policy are aimed at ensuring that decisions made by the ICB will be taken, and be seen to be taken, uninfluenced by external or private interests.
  2. Breaches of this policy will be investigated and may result in the matter being treated as a disciplinary offence under the ICB’s disciplinary procedure. Failure to adhere to the provisions of this policy may constitute a criminal offence of fraud, as an individual could be gaining unfair advantages of financial rewards for themselves, a family member, or a close associate. Any suspicion that a relevant interest may not have been declared should be reported to the Senior Governance Lead.
  3. Where disciplinary action is taken breach of this policy may be regarded as gross misconduct and result in the individual being dismissed or removed from office.

Where a failure to declare an interest has resulted in legal proceedings being taken against the organization, the person in breach of the policy may be joined as a respondent to such proceedings.

# Principal legislation and compliance with standards Statutory Framework

* 1. **For ICBs, the starting point is Section 14O of the NHS Act 2006 which sets out minimum requirements, supplemented by the 2013 Regulations. ICBs must:**
     + Maintain appropriate registers of interests.
     + Publish or make arrangements for the public to access those registers.
     + Make arrangements requiring the prompt declaration of interests by the persons specified and ensure that these interests are entered into the relevant register.
     + Make arrangements for managing conflicts and potential conflicts of interest (for example by developing and reviewing this policy).
     + Must not award a contract for the provision of NHS health care services where conflicts, or potential conflicts, between the interests involved in securing such services and the interests involved in providing them affect, or appear to affect, the integrity of the award of that contract; and
     + Keep appropriate records of how conflicts of interest have been managed in individual cases in relation to NHS service contracts entered into, which must be published.

**NHS / Department of Health Guidance**

The policy has been developed in accordance with any guidance issued by NHS England/Improvement on the principles to support ICBs in managing conflict of interest and as as direct under Section 14O of the National Health Service Act 2021.

All delegation arrangements made by the ICB under the Health and Social Care Act 2021 will include a requirement for transparent identification and management of interests and any potential conflicts in accordance with suitable policies and procedures comparable with those of the ICB.

**Principles**

* 1. The conflicts of interest arrangements are intended to be read and understood in conjunction with the following:
     + The 7 principles of public life (known as the Nolan Principles as set out below)
     + [The Good Governance Standards for Public Services (2004)](https://www.cipfa.org/policy-and-guidance/reports/good-governance-standard-for-public-services), [Office for Public](https://traverse.ltd/) [Management (OPM)](https://traverse.ltd/)(T/A Traverse) and [Chartered Institute of Public Finance](https://www.cipfa.org/policy-and-guidance/reports/good-governance-standard-for-public-services) [and Accountancy (CIPFA)](https://www.cipfa.org/policy-and-guidance/reports/good-governance-standard-for-public-services).
     + The seven key principles of the NHS Constitution [The NHS Constitution for](https://www.gov.uk/government/publications/the-nhs-constitution-for-england/the-nhs-constitution-for-england) [England - GOV.UK (www.gov.uk)](https://www.gov.uk/government/publications/the-nhs-constitution-for-england/the-nhs-constitution-for-england);
     + The [Equality Act 2010 (legislation.gov.uk)](https://www.legislation.gov.uk/ukpga/2010/15/contents);
     + [The UK Corporate Governance Code](https://www.frc.org.uk/directors/corporate-governance-and-stewardship/uk-corporate-governance-code).
     + [Standards for members of NHS boards and CCG governing bodies in England](https://www.professionalstandards.org.uk/publications/detail/standards-for-members-of-nhs-boards-and-clinical-commissioning-group-governing-bodies-in-england).

**The Nolan Principles**

* + - **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.

# Roles / Responsibilities / Duties

* 1. **NHS Humber and North Yorkshire ICB**

The ICB has ultimate responsibility for all actions carried out by staff and committees throughout the ICB’s activities. This responsibility includes the stewardship of significant public resources and the securing of healthcare services to the local community.

7.2 **The Audit Committee**

The ICB Audit Committee is responsible for ensuring there is an effective system in place to manage and to protect the reputation of the ICB arising from conflicts or potential conflicts of interest. The Audit Committee will review the arrangements for the declaration and management of conflicts of interest and provide assurances, on a report highlighting issues to increase assurances, to the ICB that adequate systems and processes are in place to ensure compliance, especially in relation to the development of new services/contracts or changes to existing services / contracts.

7.3 **The Chief Executive**

The ICB’s Chief Executive has overall accountability for the ICB’s management of conflicts of interest.

7.4 **The Conflicts of Interest Guardian**

To further strengthen scrutiny and transparency of the ICB’s decision making processes, all ICBs should have a Conflicts of Interest Guardian (akin to a Caldicott Guardian). This role should be undertaken by the ICB Audit Committee Chair, provided they have no provider interests, as Audit Committee Chairs already have a key role in conflicts of interest management. They should be supported by the ICB’s Senior Governance Lead who should have responsibility for the day-to-day management of conflicts of interest matters and queries. The ICB’s Senior Governance Lead should keep the Conflicts of Interest Guardian well briefed on conflicts of interest matters and issues arising.

The Conflicts of Interest Guardian should:

* + - Act as a conduit for members of the public who have concerns with regards to a conflict of interest.
    - Be a safe point of contact for whistleblowing.
    - Support the rigorous application of conflict-of-interest principles and policies.
    - Provide independent advice and judgment where there is any doubt about how to apply conflicts of interest policies and principles in an individual situation.
    - Provide advice on minimising the risks of conflicts of interest.

Whilst the Conflicts of Interest Guardian has an important role within the management of conflicts of interest, executive members of the ICB have an ongoing responsibility for ensuring the robust management of conflicts of interest, and all ICB employees and committee members will continue to have individual responsibility in playing their part.

7.5 **The Senior Governance Lead Responsibilities**

The Senior Governance Lead will oversee arrangements to ensure that the ICB’s registers of interests are publicly accessible and will advise on how declarations of interest should be made and how interests are managed. They will also develop procedures for managing those interests that are common to a number of individuals or to specific activities of the ICB.

7.6 **Employees / Staff Working on Behalf of the Humber and North Yorkshire ICB**

Employees and staff working on behalf of the ICB should be aware that in any transaction undertaken in support of the NHS Humber and North Yorkshire ICB’s functions (including conversations between two or more individuals, emails, correspondence, and other communications), individuals must ensure, where they are aware of an interest, that they conform to the management arrangements for conflicts of interest.

Where someone is to be part of the tender evaluation panel or decision-making process regarding the award of the contract, any potential conflict of interest must be declared at the earliest opportunity. Failure to do so could result in the procurement process being declared invalid and possible suspension of the relevant individual from the ICB.

If in doubt, an individual should assume that a potential conflict of interest exists. Transparency demands that individuals are explicitly and clearly aware of their responsibilities and duties in this context. Should there be any doubt about the relevance of an interest, this should be discussed with the Chair of the ICB, Chair of the Audit Committee or the Senior Governance Lead, which will result in a recommended course of action.

The perception of a conflict of interest can be as damaging as an actual conflict of interest.

NHS Humber and North Yorkshire ICB employed staff are advised not to engage in outside employment which may conflict with their NHS work. They are advised to tell their employer if they think they may be risking a conflict of interest in this area and the declaration can be made on the form for declarations of interest.

All individuals covered by the scope of this policy are also required to declare any relevant personal or business interests of their spouse, civil partner, cohabitee, family member or any other relationship (including friendship) which may influence, or may be perceived to influence, their judgment.

Individuals must declare any interests, in writing, as soon as they are aware of it and in any event no later than 28 days after becoming aware. A form to be used for this purpose can be found [here](https://humberandnorthyorkshire.icb.nhs.uk/wp-content/uploads/2024/01/Declaration-of-Interest-Form-Template-MASTER-v6.1.xlsx)

Where an individual is unable to provide a declaration in writing, for example, if a conflict becomes apparent during a meeting, they will make an oral declaration at the meeting, and provide a written declaration as soon as possible thereafter. The declaration will be minuted.

Even if an interest has already been declared, it should be declared at the start of any meeting where matters relating to that interest are discussed and this should be minuted.

Individuals applying for posts at the ICB or seeking appointment to the ICB and any of its committees and sub-committees will be required to declare any potential conflicts of interest during the appointment process. Where a question arises as to whether this may impact on the ability to appoint individuals, further guidance should be sought from the Conflicts of Interest Guardian, the ICB Chair or the Senior Governance Lead.

# Managing conflicts of interest at meetings

* 1. The Chair of a meeting of the ICB or any of its committees or sub-committees has ultimate responsibility for deciding whether there is a conflict of interest and for taking the appropriate action in order to manage the conflict of interest.
  2. 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 / remaining non-conflicted members may wish to consult with the Conflicts of Interest Guardian.
  3. It is good practice for the Chair to proactively consider ahead of meetings any conflicts that are likely to occur and how they should be managed, including steps to ensure relevant supporting papers are not sent to conflicted individuals.
  4. To support the Chair, they should be provided with a checklist of declaration of interests made by members / attendees prior to the meetings.
  5. There should be a standing agenda item on every meeting agenda asking for declarations of interest. Each member (including any Partner/Participant members) and any attendees of the meeting should declare any interests which are relevant to the business of the meeting, whether or not those interests have been previously declared. It is the responsibility of each individual of the meeting to declare any interests.

8.6 Any interests which are declared at a meeting must be included within the minutes of the meeting, the individual with the conflict must ensure that the interest is added (if not already the case) to their declaration as soon as is practicable following the meeting and within 28 days deadline.

8.7 When a member / attendee 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 / remaining non-conflicted members) must decide how to manage that conflict. This could include one or more of the following:

* + - Where the Chair has a conflict, deciding that the Vice Chair or a non- conflicted member chair all or part of the meeting.
    - The individual not attending the meeting.
    - The individual not attending the relevant section of the meeting.
    - Noting the interest and ensuring all attendees are aware of the nature and extent but allowing the individual to participate in both the discussion and any decisions.
    - Ensuring the relevant person does not receive documentation and / or minutes in relation to the relevant matter.

# Minute taking

* 1. Asking for declarations of interests to be declared should be a standing agenda item for the ICB, all committees and sub-committees after the Chair’s Welcome and Introductions and Apologies.
  2. If any conflicts of interest are declared or otherwise at a meeting, the Chair must ensure they 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, i.e., recording the points during the meeting when individuals left or returned to the meeting.
  3. An example for recording interests in committee minutes is included at Appendix 3

# Definitions

* 1. A conflict of interest is defined as ‘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 potential for competing interests and / or a perception of impaired judgement or undue influence can also be a conflict of interest.
  2. An interest is defined for the purposes of Regulation 6 of the NHS Procurement Regulations as including an interest of the following:
     + A member of the organisation.
     + A member of its committees or sub-committees or committees or sub- committees of its ICB.
     + An employee.
  3. The important things to remember are 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 a conflict of interest and manage it appropriately rather than ignore it.
     + Financial gain is not necessary for a conflict to exist.
     + For the purposes of Regulation 6 of the NHS (Procurement, Patient Choice and Competition (No 2) Regulations 2013, a conflict will arise when an individual’s ability to exercise judgement or act in their role in the securing of services is impaired or influenced by their interests in the provision of those services.
  4. In line with Section 6 of the Constitution, a conflict of interest will include (but is not necessarily limited to):
     + **A financial interest**: where an individual may financially benefit from the consequences of a decision (for example, as a provider of services).
     + **An indirect interest**: for example, where an individual is a partner, member or shareholder in an organisation that will benefit financially from the consequences of a decision.
     + **A non-financial professional interest**: where an individual holds a non- remunerative or not-for profit interest in an organisation, that will benefit from the consequences of a decision (for example, where an individual is a trustee of a voluntary provider that is bidding for a contract).
     + **A non-financial personal interest**: where an individual may enjoy a qualitative benefit from the consequence of a decision which cannot be given a monetary value (for example, a reconfiguration of hospital services which might result in the closure of a busy clinic next door to an individual’s house).
     + Where an individual is closely related to, or in a personal or professional relationship, including friendship, with an individual in the above categories.
  5. Examples of interests that will be deemed to be relevant and material will include but are not limited to:
     + Roles and responsibilities held within local providers to the ICB.
     + Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the ICB.
     + Directorships, including non-executive Directorship held in private or public limited companies seeking to enter into contracts with the ICB.
     + All shareholdings of companies in the field of health and social care seeking to enter into contracts with the ICB must be declared.
     + Positions of authority in an organisation (e.g., charity or voluntary organisation) in the field of health and social care.
     + Any connection with a voluntary or other organisation contracting for NHS services.
     + Formal interest with a position of influence in a political party or organisation.
     + If registered with the General Medical Council (GMC), any interested are required to declare in accordance with paragraph 55 of the GMC’s publication ‘Management for Doctors’ or any successor guidance.
     + If registered with the Nursing and Midwifery Council (NMC), any interested would be required to declare in accordance with paragraph 7 of the NMC’s publication ‘Code of Professional Conduct’ or any successor Code.
     + Any interest which does, or might, constitute a conflict of interest in relation to the specification for or award of any contract to provide goods or services to the ICB.
     + Any research funding or grants that may be received by the individual or any organisation that they have an interest or role in.
     + Any other role or relationship which the public could perceive would impair or otherwise influence the individual’s judgement or actions in their role within the ICB.

# Managing conflicts of interest in ICB activities

* 1. Conflicts of interests may arise when the ICB engages clinicians, or other representatives of provider organisations for the purpose of advising it on its activities. These activities include:
     + Pre-procurement work.
     + Work during procurement; and
     + Work following procurement.
  2. The ICB acknowledges that its engagement with clinicians or representatives from partner practices, hospitals or other providers who have an interest in providing services to the ICB is likely to differ depending on which stage of the procurement process the organisation is at.
  3. In managing conflicts or potential conflicts of interests, the ICB may distinguish between those individuals or organisations that have an interest and those that are deemed to have a material interest.

# Registers of interest

* 1. The Senior Governance Lead, on behalf of the Conflicts of Interest Guardian, will maintain registers of all relevant and material interests and positions of influence declared by the ICB, its committees, sub committees and employees.
  2. Applicants for any appointment to the ICB or its committees or sub-committees should be asked to declare any relevant interests. When an appointment is made, a formal declaration of interests should again be made and recorded.
  3. All attendees at meetings should be asked to declare any interest they have in any agenda item before it is discussed or as soon as it becomes apparent. Even if an interest is declared in the register of interests, it should be declared in meetings where matters relating to that interest are discussed. Declarations of interest must be recorded in minutes.
  4. Registers will be reviewed annually by the Audit Committee with an assurance report provided to the ICB, to include explanations of any concerns and how these were managed.
  5. Where an individual change’s role or responsibility within the ICB, any change to the individual’s interests should be declared.
  6. Any changes / additions to declarations which could result in a conflict / potential conflict, should be notified to the Corporate Affairs Team ([hnyicb.declarationsofinterest@nhs.net](mailto:hnyicb.declarationsofinterest@nhs.net)) as soon as possible after the change occurs, and, at the latest, within 28 days.
  7. The Register will be published on the NHS Humber and North Yorkshire ICB’s website for declared interests of the ICB Board, its committees and staff (grade 8a and above). All information may have to be disclosed, if requested, under the Freedom of Information Act.
  8. The Registers for the ICB, ICB committees, and staff (grade 8a and above) will be reviewed not less than every six months and republished as necessary.
  9. 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). If individual believes that substantial damage or distress may be caused, to him/herself or somebody else by the publication of information about them, they are entitled to request that the information is not published. Requests must be made in writing to the Executive Director of Corporate Affairs who will consult with the Conflicts of Interest Guardian for the ICB, as well as appropriate legal advice where required, prior to final decision. The ICB will retain a confidential un-redacted version of the register(s). All information may have to be disclosed, if required under relevant legislation.

12.10 Everyone will be made aware, in advance, that the register(s) will be kept, how the information on the register(s) may be used or shared, and that the register (s) will be published (if applicable). This will be done by the provision of a Privacy Notice

12.11 An interest should remain on the public register for a minimum of 6 months, after the interest has expired. Declaration of interest records will be retained and disposed of appropriately and securely as specified in the ICB Corporate Records Management Standards and Procedural Policy. Any request for historical information must be submitted to the Corporate Affairs Team ([hnyicb.declarationsofinterest@nhs.net](mailto:hnyicb.declarationsofinterest@nhs.net)).

# Management arrangements

* 1. Full details of how declared interests should be managed are as outlined in [section 6 of the Constitution](https://humberandnorthyorkshire.icb.nhs.uk/constitution/). Examples of possible scenarios and how to manage them are included as Appendix 2.
  2. Where no previous declaration has been made, the Chair of the meeting will determine how this should be managed, in line with the management arrangements and may require the individual to withdraw from the meeting or part of it. The agreed actions should be recorded in the minutes.

13.3 **Effects of withdrawal**

Where 50% of members of a meeting are required to withdraw, the Chair (or Deputy) will determine whether or not the discussion can proceed. This decision will be based on whether the meeting is quorate, as set out in the terms of reference. Where a quorum cannot be convened, the Chair will consult with the Audit Committee Chair to ensure timely management of the issue. Possible actions are set out in section 6 of the ICB Constitution,

* 1. Any arrangements made or agreed in a meeting will be recorded in the minutes.

# Declarations in relation to procurement

* 1. The ICB recognises the importance in making decisions about the services it procures in a way that does not call into question the motives behind the procurement decision that has been made. This has now been put on a statutory footing in the 2013 Regulations mentioned above.
  2. The ICB will publish a Procurement Policy approved by its ICB which includes specific reference to conflicts of interest. The Procurement Policy should make reference to: -
     + Arrangements to ensure that relevant stakeholders, together with local members of the public, are engaged in the decision-making processes used to design and redesign services.
     + Service redesign and procurement processes are conducted in an open, transparent, non-discriminatory and fair way.
  3. Where a relevant and material interest or position of influence exists in the context of the specification for, or award of, a contract, the individual will be expected to:
     + Declare the interest.
     + Ensure that the interest is recorded in the register.
     + Only take part in discussions as part of extended membership meetings to involve other major stakeholders in the service being discussed.
     + Not have a vote in relation to the specification or award.
  4. Individuals will be expected to declare any interest early in the procurement process if they are to be a potential bidder in that process. In addition, where someone is to be part of the tender evaluation panel or decision-making process regarding the award of the contract, any potential conflict of interest must be declared at the earliest opportunity. Failure to do so could result in the procurement process being declared invalid and possible suspension of the relevant individual from the ICB.
  5. Potential conflicts will vary to some degree depending on the way in which a service is being commissioned, e.g.:
     + Where an ICB is securing a service through Competitive Tender (i.e., seeking to identify the best provider or set of providers for a service) a conflict of interest may arise where providers in which ICB members have an interest are amongst those bidding.
     + Where the ICB is securing a service through Any Qualified Provider (AQP) a conflict could arise where one or more potential providers has close links with the ICB. Further guidance on the role of provider collaboratives is expected.
  6. The ICB is prohibited by law from awarding any contract where the integrity of the procurement process or the award has been, or appears to have been, affected by a conflict of interest. In this context, it is likely that the ICB will wish to take specialist legal advice.

14.11 The ICB will also adhere to all relevant regulations and principles which pertain to NHS procurement and UK / EU competition law, including the NHS (Procurement, Patient Choice and Competition) Regulations 2013.

# Gifts, Hospitality and Sponsorship

* 1. The ICB will maintain a register of gifts, hospitality and sponsorship and robust processes must be in place to ensure individuals do not accept gifts, hospitality or other benefits which might reasonably be seen to compromise their professional judgment or integrity.
  2. The register will be reviewed by the Audit Committee at least annually with an assurance report provided annually to the ICB.
  3. All individuals need to consider the risks associated with accepting gifts, hospitality and sponsorship, or other benefits, particularly during procurement exercises.

The acceptance of gifts could give rise to real or perceived conflicts of interests or accusations of unfair influence, collusion, or canvassing.

**Gifts**

* 1. A gift is defined as any item of cash or goods, or any service, which is provided for personal benefit free of charge or at less than its commercial value.
  2. All gifts of any nature, whatever their value, offered to any member of ICB staff or committee member by a contractor or supplier (current or prospective) to the ICB’s business should be declined. The person to whom the gifts were offered must declare said offer to the Corporate Affairs Team ([hnyicb.declarationsofinterest@nhs.net](mailto:hnyicb.declarationsofinterest@nhs.net)) for inclusion on the register. The declaration should also be signed off by the relevant line manager (see form at Appendix 4).
  3. Subject to this, low cost branded promotional aids (diaries, calendars, etc.) may be accepted where they are under the value of the common industry standard of £6 in total and need not be declared.
  4. The offer of gifts must be declared, even when they are declined, within 28 days of the gift being offered.
  5. Gifts from other sources should also be declined if acceptance could be perceived as favoritism or bias. The only exceptions relate to low cost branded promotional gifts as detailed at 15.6.
  6. Any personal gift of cash or cash equivalent, i.e., vouchers, tokens, remuneration to attend meetings whilst working for / representing the ICB must always be declined whatever their value and whatever their source. The person to whom the gifts were offered must declare said offer to the [Corporate Affairs Team ([hnyicb.declarationsofinterest@nhs.net](mailto:hnyicb.declarationsofinterest@nhs.net)) for inclusion on the register.
  7. In relation to gifts from patients, families, service users, etc.:
     1. Gifts of cash and vouchers to individuals must always be declined. Staff should not accept any gifts.
     2. Gifts valued at over £50 should be treated with caution and only be accepted on behalf of the ICB, i.e., a charitable trust, and not in a personal capacity. These should always be declared.
     3. Modest gifts accepted under a value of £50 need not be declared. A commonsense approach to the value of the gift should be applied, i.e. using the actual value if known.
     4. Multiple gifts from the same source over a period of 12 months should be treated in the same way as a single gift over £50 where the cumulative value exceeds £50.

**Provision of Hospitality**

* 1. NHS funds for hospitality should be used sparingly and modestly and only after each case has been carefully considered. All expenditure on these items should be capable of justification as reasonable and authorised by the relevant budget holder. Petty cash should not be used to provide hospitality.
  2. Whenever possible meetings should be arranged within ICB premises. If this is not possible, other NHS establishments should be the preferred choice. If this is not possible the meeting should be arranged at the most economic rate, taking into account room and refreshment charges.
  3. Meetings during the lunch period should be avoided.

**Accepting Hospitality**

* 1. Hospitality means offers of meals, refreshments, travel, accommodation, and other expenses in relation to attendance at meetings, conferences, education and training events, etc.,
  2. To be acceptable, hospitality must be secondary to the purpose of the meeting or event. The level of hospitality offered in these circumstances should be appropriate and not out of proportion to the occasion e.g., a meal during the course of an event or visit away from base. Hospitality cannot in these circumstances be extended to spouses / partners. Modest hospitality, e.g., tea / coffee, and light refreshments at meetings need not be declared. Utmost discretion should be exercised in accepting offers of hospitality from contractors or their representatives, other organisations or individuals concerned with the supply of goods or services. Individuals should be especially cautious of accepting small items of value, or hospitality over that afforded in a normal meeting environment (i.e., beverages) during a procurement process or from bidders/potential bidders. This avoids any potential claim of unfair influence, collusion, or canvassing.
  3. Individuals need to be aware that accepting hospitality may compromise their strict independence and impartiality. If in doubt, advice should be sought from their line manager. Further advice is available from the Corporate Affairs team ([hnyicb.declarationsofinterest@nhs.net](mailto:hnyicb.declarationsofinterest@nhs.net))
  4. Overarching principles applying in all circumstances:
     1. Staff should not ask for, or accept, hospitality that may affect, or be seen to affect, their professional judgement.
     2. Hospitality must only be accepted when there is a legitimate business reason, and it is proportionate to the nature and purpose of the event.
     3. Particular caution must be exercised when hospitality is offered by actual, or potential, suppliers or contractors. Hospitality can, however, be accepted if modest and reasonable but individuals must always obtain senior approval

and declare the hospitality on the relevant form.

* 1. In relation to meals and refreshments:
     1. Under a value of £25 may be accepted and need not be declared.
     2. Of a value between £25 - £75 may be accepted but must be declared.
     3. Over a value of £75 must be refused unless (in extreme circumstances) senior approval is given. A clear reason for acceptance must be recorded on the ICB’s gifts and hospitality register.
     4. A common-sense approach must be applied in the valuing of meals and refreshments, using the actual amount if known.
  2. In relation to travel and accommodation:
     1. Modest offers to pay some or all the travel and accommodation costs relating to attendance at events may be accepted but must be declared.
     2. Offers which go beyond modest or are of a type that the ICB itself might not usually offer (i.e., foreign travel and accommodation, first class / business class travel, etc.) need senior approval and should only be accepted in exceptional circumstances and must be declared. A clear reason for acceptance must be entered onto the ICB’s Gifts and Hospitality Register.
  3. Individuals should decline all other offers of hospitality or entertainment even if they would occur in their own time. All offers of hospitality with a value of over £25 which have been accepted, must be reported on the relevant form (see Appendix 4).

**Sponsorship**

* 1. Offers of funding from private companies for events (e.g., training events for clinicians), which may include the provision of hospitality, must be approved prior to acceptance. Such circumstances are covered by the separate Policy.

Policy for the Sponsorship of activities and joint working with the Pharmaceutical Industry (the principles of which apply to all private companies).

* 1. Commercial sponsorship for courses, conferences, funding, meetings, and publications in relation to work by committee members may be offered, if there is a clear benefit for the ICB. If such offers are reasonably justifiable and otherwise in accordance with the statutory guidance then they may be accepted The ICB must ensure no commercial advantage is given to the sponsor and must ensure we prevent any data breaches arising from the event.
  2. All such offers, whether accepted or declined, must be declared to the Corporate Affairs Team ([hnyicb.declarationsofinterest@nhs.net](mailto:hnyicb.declarationsofinterest@nhs.net)) for inclusion in the register.

# Raising concerns and breaches

* 1. It is the duty of every ICB employee, ICB member and committee / sub-committee member to report genuine concerns in relation to conflicts of interest.
  2. In the first instance, suspected or actual breaches of the ICB’s conflicts of interest policy should be raised with the Conflicts of Interest Guardian. All such notifications will be treated in the strictest confidence.
  3. ICB staff and other individuals should also report any concerns to the NHS Fraud and Corruption Reporting Line on 0800 028 40 60.

# Policy implementation

* 1. Following approval by the ICB, this policy will be distributed by the Communications Team to staff, the ICB Board its committee and sub-committee Members.
  2. The policy will be published on the ICB’s website.

# Training and awareness

* 1. Notice of all approved policies placed on the website will be included in ICB briefing processes. The policy will be brought to the attention of all new Members and staff via the induction process. Advice on this policy can be obtained from the Chair of the Audit Committee or the Senior Governance Lead.
  2. The ICB will provide Conflicts of Interest awareness sessions to all ICB Staff, ICB Board, its committees and sub-committee Members.

# Monitoring and audit

* 1. The Audit Committee will:
     + Keep the arrangements for the management of conflicts of interest under review.
     + Annually review the registers of interest
     + Provide an annual assurance report to the ICB.
  2. Monitoring of this policy may form part of the Internal Audit review of governance compliance.
  3. The ICB is required to include an annual audit of conflicts of interest management within their internal audit plans and to publish the internal audit findings within their annual end-of-year governance statement.

# Policy review

* 1. This policy will be reviewed every two years. Earlier review may be required in response to exceptional circumstances, organisational change, or relevant changes in legislation / guidance, as instructed by the senior manager responsible for this policy.
  2. Breaches of this policy may be investigated and may result in the matter being treated as a disciplinary offence under the ICB’s disciplinary procedure.

# 21.0 References

* Managing Conflicts of Interest in ICBs – NHS Federation & RCGP Centre for Commissioning
* Best Practice Update on Conflicts of Interest Management – Call to Action for ICBs February 2019
* BMA’s Ensuring Transparency & Probity Guidance
* NHS Wirral Commissioning/Procurement of Health Services Appendix D – Approvals Process
* Section 14O of the National Health Service Act 2006, as inserted by section 25 of the 2012 Act.
* The NHS (Procurement, Patient Choice and Competition) (No 2) Regulations 2013 (SI 2013 No 500)
* Public Contracts Regulations 2006
* Towards Establishment: Creating responsive and accountable ICBs together with Technical Appendix 1 – Managing conflicts of interest (NHS Commissioning Board February 2012)
* Bribery Act 2010
* The Seven Principles of Public Life (commonly known as the Nolan Principles)
* The Good Governance Standards of Public Services
* The Seven Key Principles of the NHS Constitution

# 22.0 Associated policies

* Constitution
* Code of Conduct and Behaviours Policy
* Policy for the Sponsorship of activities and joint working with the Pharmaceutical Industry
* Whistleblowing Policy
* Local Anti-Fraud, Bribery and Corruption Policy
* Procurement Policy
* Induction Policy
* Data Protection and Confidentiality

# 23.0 Contact details

All queries can also be directed via [hnyicb.declarationsofinterest@nhs.net](mailto:hnyicb.declarationsofinterest@nhs.net)

# APPENDIX 1 – ICB BUSINESS CYCLE AND POTENTIAL CONFLICTS OF INTEREST

**Notes:**

* The illustrations given below should not be considered to be prescriptive in every instance.
* These are guidelines and both the materiality of the conflict, and the significance of the issue should be considered carefully by the Chair in deciding on how to manage the conflict.
* It is the responsibility of the Chair to review the agenda and operate caution in terms of deferment or referral if necessary.
* Chairs to also consider potential conflicts of interest arising from verbal reports.
* Links should be considered to strategy direction e.g., is the introduction of a LES in line with the strategy?
* If significant/complete conflict of interest at a locality level the matter could be referred to the ICB for decision.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Interest | Financial (Self, partner or  close associate) | Personal (Self) | Personal (Partner or close | Competing Loyalties |
| Needs  assessment | Fully participate | Fully participate | Fully participate | Fully participate |
| Decide priorities | Discuss but cannot vote | Discuss and vote | Discuss and vote | Discuss and vote |
| Review service  Proposals | Remain but cannot speak or vote | Remain but cannot speak or vote | Remain but cannot speak or vote | Discuss and vote |
| Design services (ensure a fully inclusive process) | Discuss and vote | Discuss and vote | Discuss and vote | Discuss and vote |
| Review prioritised business cases | Leave the room | Remain but cannot speak or vote (unless interest is deemed not  prejudicial) | Remain but cannot speak or vote (unless interest is  deemed not | Discuss and vote |
|  |  |  | prejudicial) |  |
| Procurement/ contracting | Leave the room | Remain but cannot speak or vote (unless  interest is deemed not | Remain but cannot speak or vote  (unless interest is | Discuss and vote |
|  |  | prejudicial) | deemed not |  |
| Performance Management | Remain but cannot speak or vote (unless significant | Remain but cannot speak or vote (unless significant and then | Remain but cannot speak or vote (unless significant | Discuss and vote |
|  | and then leave the | leave the room) | and then leave the |  |
|  | room) |  | room) |  |
| Review Health Outcomes | Fully participate | Fully participate | Fully participate | Fully participate |

# APPENDIX 2- RECORDING DECLARATIONS OF INTEREST IN MINUTES

**MEETING NAME**

**(Select date). AT (Enter Time).**

**CHAIRED BY [INSERT NAME]**

**[INSERT VENUE OR VIRTUAL PLATFORM USED]**

**MEMBERS PRESENT:**

(Insert Members’ Names)

**STANDING ATTENDEES PRESENT:**

**IN ATTENDANCE:**

(Include minute taker in this section)

**APOLOGIES:**

(Include names of those who could not attend in this section).

**WELCOME, INTRODUCTIONS AND APOLOGIES**

The Chair welcomed all to the meeting and apologies received and noted as above.

**ANY SIGNIFICANT QUALITY/ SAFETY CONCERNS**

**DECLARATIONS OF INTEREST**

In relation to any item on the agenda of the meeting Board Members were reminded of the need to declare:

(i) any interests which were relevant or material to the ICB;

(ii) that nature of the interest declared (financial, professional, personal, or indirect

(iii) any changes in interest previously declared.

**(Sample texts below provide guidance on wording to be used in event of no declarations/declarations made)**

There were no declarations of interest recorded. It was noted that on-going declarations of interest stood for every (insert name of Committee) meeting and were publicised on the ICBs website.

The following declarations of interest were made in respect of today’s meeting:

(Individual name) declared an interest in item \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and it was agreed that her/she would leave the meeting whilst this item was discussed. (If a chair needs to add - This item of the agenda would be chaired by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in place of the Chair

*Individual name) declared an interest in item \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and it was agreed that he/she would remain in the meeting and no further action was taken as no decision were taken.*

**APPROVAL OF PREVIOUS MINUTES**

The minutes of themeeting held on [insert date] were taken as a true and accurate record and approved / approved subject to the following amendment(s):

**DECISION:** It was agreed that:

1. *The minutes of the meeting be taken as a true and accurate record and signed by the Chair. OR The minutes of the meeting be taken as a true and accurate record subject to the above amendments and signed by the Chair.*

**ACTION TRACKER**

**ITEM (S) DECISION/APPROVAL**

1. Title

**DECISION**: It was agreed that:

**ACTION: (if required)**

*[ensure that the action is written in full so it can be transferred to the action tracker]*

**ITEM (S) FOR REVIEW/ DISCUSSON**

1. Title

**DECISION:** It was agreed that:



**ACTION: (if required)**

*[ensure that the action is written in full so it can be transferred to the action tracker]*

**ITEMS FOR INFORMATION**

1. Title

The \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ was noted.

**ANY OTHER BUSINESS**

1. Title

**10 DATE AND TIME OF THE NEXT MEETING:**

**(Select date). at (Enter Time).**

If members would like to submit items for a future meeting, please email [insert relevant email address]

# 

# APPENDIX 3 - DECLARATIONS OF GIFTS AND HOSPITALITY FORM

**Gifts:**

Contractors and Suppliers: All gifts of any nature, whatever their value, offered to any member of ICB Board, its committee members and staff by a contractor or supplier (current or prospective) to the ICB’s business should be declined. The person to whom the gifts were offered must declare said offer to the Corporate Affairs Team ([hnyicb.declarationsofinterest@nhs.net](mailto:hnyicb.declarationsofinterest@nhs.net)) for inclusion on the register.

Subject to this, low cost branded promotional aids (diaries, calendars, etc.) may be accepted where they are under the value of the common industry standard of £6 in total and need not be declared.

From patients and other sources: seek advice from the Corporate Affairs Team ([hnyicb.declarationsofinterest@nhs.net](mailto:hnyicb.declarationsofinterest@nhs.net))

**Hospitality:**

* Under a value of £25 may be accepted and need not be declared.
* Of a value between £25 - £75 may be accepted but must be declared.
* Over a value of £75 must be refused unless (in extreme circumstances) senior approval is given. A clear reason for acceptance must be recorded on the ICB’s gifts and hospitality register.
* A commonsense approach must be applied in the valuing of meals and refreshments, using the actual amount if known.

|  |  |
| --- | --- |
| Recipient Name: |  |
| Position: |  |
| Date of Offer: |  |
| Date of Receipt (if applicable): |  |
| Details of Gift / Hospitality: |  |
| Estimated Value: |  |
| Supplier / Offeror  Name and Nature of Business: |  |
| Details of Previous Offers or Acceptance  by this Offeror / Supplier: |  |
| Details of the Officer Reviewing and Approving the Declaration Made  and Date: |  |
| Declined or Accepted? |  |

|  |  |
| --- | --- |
| Reason for Declining or Accepting: |  |
| Other Comments: |  |

I confirm that the information provided above is complete and correct. I acknowledged 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, professional regulatory or internal disciplinary action may result.

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

|  |  |  |  |
| --- | --- | --- | --- |
|  | Name | Position | Date |
| Signed By: |  |  |  |
| Senior/Line Manager |  |  |  |

**Please return completed form to the Corporate Affairs Team** [**hnyicb.declarationsofinterest@nhs.net**](mailto:hnyicb.declarationsofinterest@nhs.net)

# APPENDIX 4- MANAGEMENT OF BREACHES OF THE CONFLICTS OF INTEREST

# POLICY

1. It is the duty of each individual (ICB employee, ICB member, committee or sub- committee member) to speak up about genuine concerns in relation to the administration of the ICB’s policy on Conflicts of Interest management. If an individual has any such concerns, they should not ignore such suspicions or investigate the matter themselves.
2. Any NHS Humber and North Yorkshire ICB employee, ICB member, committee or sub- committee member should also refer to the ICB’s Whistleblowing Policy which can be found on the ICB’s website at [humberandnorthyorkshire.icb](https://humberandnorthyorkshire.icb.nhs.uk/meetings-and-papers/01-july-2022/)
3. Concerns about the management of Conflicts of Interest should be raised with the Senior Governance Lead and / or the Conflicts of Interest Guardian.
4. When raising a concern, the individual must advise whether they wish to remain anonymous whilst the concern is being investigated.
5. If someone has any particular concerns as to confidentiality, they may raise the matter solely with the Conflicts of Interest Guardian who, in the first instance, will discuss the matter with the individual and consider how to retain confidentiality.
6. The concern will be investigated by the Conflicts of Interest Guardian and the Senior Governance Lead. The individual raising the concern will be asked to provide details. The Conflicts of Interest Guardian and Senior Governance Lead will consider the concern and take further steps to investigate the concern.
7. The individual raising the concern will be kept informed of any decisions taken as a result of any investigation.
8. The decision on the outcome of the investigation will be made by the Senior Governance Lead. In the event that a breach of this policy is identified, the Senior Governance Lead will consider whether any further action is required, taking all of the details of the concern and this policy into consideration.
9. All concerns raised will be reported to the Audit Committee who will receive updates as the investigation progresses and be notified of the final outcome of the investigation. Any breaches identified and any action taken will be reported to the Audit Committee.
10. Where a breach is identified, the Senior Governance Lead will be responsible for reporting the breach to NHS England. A confidential record of the breach will be retained by the Senior Governance Lead.
11. An anonymised record of any breaches of this policy will be made available on the ICB’s website.
12. Providers, patients and other third parties can make a complaint to NHS England at: [NHS England](https://www.england.nhs.uk/) in relation to a commissioner’s conduct under the Procurement Patient Choice and Competition Regulations.

**Humber & North Yorkshire Integrated Care Board**

**Conflict of Interest Breaches Register**

Definition of 'breach': There will be situations when interests will not be identified, declared, or managed appropriately and effectively. This may happen innocently, accidentally, or due to the deliberate actions of staff or organisations. These situations are referred to as ‘breaches.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Details of the Breach | Date Breach Identified | How the Breach was Managed | Learning / Improvements Made Following the Breach | Date NHS England Informed of the Breach |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

# APPENDIX 5 - FLOWCHART FOR PROCESSING CONFLICT OF INTEREST BREACHES

