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Version History

V.	Date	Status and/ or amendments
V2	3.9.2015	<ul style="list-style-type: none"> • New section (1.2) Defining how a conflict impairs or influences judgement • New Section (1.5) Setting out the operation of registers and managing conflicts in accordance with NHSE guidance • New Sections (4.5 and 4.6) requiring applications for governing body positions to have their interests assessed prior to appointment • New section (5.4) explaining the broader context of interests e.g. family members • New Section (5.11) setting out role of Audit Committee in adjudicating individual cases • New Section (8) on interests relevant to procurement • New Annex (Annex 4) regarding procurement of primary care
V1.0	01/10/13	First published draft

EQUALITY STATEMENT

Surrey Downs Clinical Commissioning Group (Surrey Downs CCG) aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others. It takes into account the Human Rights Act 1998 and promotes equal opportunities for all. This document has been assessed to ensure that no-one receives less favourable treatment

grounds of their gender, sexual orientation, marital status, race, religion, age, ethnic origin, nationality, or disability.

Members of staff, volunteers or members of the public may request assistance with this policy if they have particular needs. If the person requesting has language difficulties and difficulty in understanding this policy, the use of an interpreter will be considered.

Surrey Downs CCG embraces the four staff pledges in the NHS Constitution. This policy is consistent with these pledges.

EQUALITY ANALYSIS

This policy has been subject to an Equality Analysis, the outcome of which is recorded below.

		Yes, No or N/A	Comments
1.	Does the document/guidance affect one group less or more favourably than another on the basis of:		
	Gender (Men and Women)	No	
	Race (All Racial Groups)	No	
	Disability (Mental, Physical and Carers of Disabled people)	No	
	Religion or Belief	No	
	Sexual Orientation (Heterosexual, Homosexual and Bisexual)	No	
	Pregnancy and Maternity	No	
	Marital Status (Married and Civil Partnerships)	No	
	Transgender	No	
	Age(People of all ages)	No	
2.	Is there any evidence that some groups are affected differently?	No	
3.	If you have identified potential discrimination, are there any exceptions valid, legal and/or justifiable?	N/A	
4.	Is the impact of the document/guidance likely to be negative?	N/A	
5.	If so, can the impact be avoided?	N/A	
6.	What alternative is there to achieving the document/guidance without the impact?	N/A	
7.	Can we reduce the impact by taking different action?	N/A	

For advice in respect of answering the above questions, please contact the Corporate Office, Surrey Downs CCG. If you have identified a potential discriminatory impact of this procedural document, please contact as above.

Names and Organisation of Individuals who carried out the Assessment	Date of the Assessment
Michaela James, Business Manager, Continuing Healthcare Team	June 2014
Justin Dix, Governing Body Secretary	

1. Introduction

- 1.1. As required by section 14O of the 2006 Act, this Conflicts of Interest Policy (the "Policy") sets out the arrangements made by the Group to identify, manage and record conflicts and potential conflicts of interest to ensure that decisions made by the Group will be taken and seen to be taken without any possibility of the influence of external or private interest. The Group recognises that a conflict of interest, or perceived conflict of interest, in its role as a commissioner of healthcare services is a key risk that requires careful management and handling whether this is a direct or indirect conflict, pecuniary or otherwise.
- 1.2. The Group is committed to upholding the principles of openness, transparency, fairness and integrity in its role as a commissioner of healthcare services. Individuals and their employees and subcontractors, members of the Governing Body and members of committees and subcommittees of the Governing Body and Group, Practice Representatives and employees of the Group will need to be aware of the standards of conduct which are required from the Group as a publicly funded body which carries out public functions. They will have a duty to act with integrity, impartiality and honesty regarding their access to public funds and their private interests and should follow the Seven Principles of Public Life as set out by the Committee on Standards in Public Life (the "**Nolan Principles**") which are set out at Appendix F to the Constitution.
- 1.3. In addition to the Nolan Principles, this Policy should be seen in the context of the regulatory framework which governs the policies and operations of the Group including the 'Code of Conduct: Code of Accountability in the NHS (DH 2004)', the 'Code of Accountability for NHS Boards' and the 'Code of Conduct for NHS Managers' (DH 2002) and standards of good business and practice.

The NHS Code of Conduct produced by the Appointments Commission states that:

Public Service Values must be at the heart of The NHS. High standards of corporate and personal conduct based on a recognition that patients come first, have been a requirement throughout the NHS since its inception. Moreover, since the NHS is publically funded, it must be accountable to Parliament for the services it provides and for the effective and economical use of taxpayers' money.

The Code of Conduct additionally states three crucial public service values which must underpin the work of the health service:

***Accountability** – everything done by those who work in the NHS must be able to stand the test of parliamentary scrutiny, public judgements on propriety and professional codes of conduct;*

***Probity** - there should be an absolute standard of honesty in dealing with the assets of the NHS: integrity should be the hallmark of all personal conduct in decisions affecting patients, staff and suppliers, and in the use of information acquired in the course of NHS duties;*

***Openness** – there should be sufficient transparency about NHS activities to promote confidence between the NHS organisation and its staff, patients and the public.*

2. Definitions

2.1. For the purpose of this policy the following terms shall have the meanings set out as follows:

"Group Business"	means any subject of discussion or debate relating to the duties and roles of the Group or direct commissioning and any contract entered into by the Group for goods or services either existing or potential;
"Close Association"	means someone with whom the Individual is in regular contact over a period of time so that the person is more than an acquaintance;
"Declaration of Interests Form"	has the meaning given to it at paragraph 5.4 below;
"Individual"	means a person to whom this Conflict of Interest Policy shall apply in accordance with paragraph 0;
"NHS Body"	has the meaning given in section 275(1) of the Act;
"Non-Conflicted Individuals"	means those Individuals on the Governing Body, or relevant committee or sub-committee of the Governing Body or Group (as applicable) who have no conflicting interests, either directly or indirectly, in the matters of Group Business which are subject to discussion and/or decision by the Group in accordance with this policy;
"Personal Interest"	has the meaning given to it at paragraph 5.2 below;

"Prejudicial Interest"	means an interest that a member of the public, who knew the relevant facts, would reasonably consider to be so significant that it is likely to prejudice the Individual's judgement of what is in the public interest and as may be further described in Annex 1;
"Register of Interests"	has the meaning given to it at paragraph 5.7 below;
"Register of Gifts and Hospitality"	means the register maintained in accordance with paragraph 5; and
"Relevant Person"	means a member of the Group or their representative family, including: <ul style="list-style-type: none"> • a partner (someone who is married to, a civil partner or someone with whom the Individual lives with in a similar capacity); • a parent or parent in law; • a son or daughter or stepson or step daughter; • the child of a partner; • a brother or sister; • a brother or sister of the Individual's partner; • a grandparent and/ or a grandchild; • an uncle or aunt; • a nephew or niece; and • the partners of the above.

3. Scope

3.1. Adherence to this Conflict of Interest Policy will be mandatory for:

- 3.1.1. Members, Practice Representatives, Governing Body members, employees of the Group and appointed individuals working for the Group; and
- 3.1.2. members of any committees appointed by the Governing Body (including the Audit, Finance, Corporate Governance and Risk Committee and the Remuneration and Nominations Committee) or the Group. This includes temporary members

and members of any sub-committees that the Governing Body and its committees may, from time to time, establish.

3.1.4. This policy should be read in conjunction with other related policies as follows:

CG06	Incident Reporting
CG08	Procurement Policy
FBC01	Fraud, Bribery and Corruption Policy
FBC02	Receipt of Hospitality, Gifts and Inducements
FBC03	Standards of Business Conduct
FBC05	Working with the Pharmaceutical Industry
HR03	Disciplinary Policy
HR09	Whistleblowing Policy

Appendix G of the CCG's constitution (Nolan Principles)

4. Accountability and Responsibilities

- 4.1. The Chief Officer will be responsible for ensuring there is an effective system in place to manage conflicts, or potential conflicts, of interest and along with the Group Secretary, will retain an overview of the policy to ensure adherence in accordance with the Group's governance arrangements.
- 4.2. The Governing Body Secretary will ensure that adequate records are kept including the Register of Interests and that information is publicly available.
- 4.3. All members and officers of the Group must also comply with their own professional codes of conduct in relation to conflicts of interest.
- 4.4. The Governing Body Secretary, on behalf of the Chief Officer, has responsibility for ensuring these arrangements are put into place within the supporting committee, and sub-committee structures.

5. The Declaration of Interests

- 5.1. Individuals will take all reasonable steps to identify conflicts of interest (including without limitation, any conflict which may arise by virtue of an Individual also holding a role within any other NHS Body) that arises or may arise in the course of the Group providing any services or the delivery of the Group Business. Individuals are not required to declare all interests they may have outside of the Group, but rather those interests which relate to or could impact upon the Group Business. Individuals should register all relevant interests in accordance with paragraph 5.4 below and should also declare any Personal Interest when dealing with or discussing a matter to which it is pertinent.
- 5.2. Individuals are required to declare any Personal Interest in any matter of Group Business which may directly or indirectly give rise to a conflict or a potential for conflict of interest or duty. An Individual is considered to have a Personal Interest in a matter of Group Business where that Individual or any Relevant Person and/or Close Association to the Individual:
 - 5.2.1. is a director (including non-executive directorships),

shareholder, partner or employee or otherwise has a position of ownership (all or part), control or management of a Private Company or PLC, including a business which holds a contract with the Group or has the potential to enter into contracts with the Group;

- 5.2.2. is likely to make a financial gain, or avoid a financial loss, through the matter;
- 5.2.3. has an interest in the outcome of a matter which is distinct from the Group's interest; or

- 5.2.4. has a financial or other incentive to favour the interest of another party or group over the interests of the Group.
- 5.3. It is not possible, or desirable, to define all instances in which an interest may be a real or perceived conflict. It is for each Individual to exercise their judgement in deciding whether to register any interests that may be construed as a conflict. If any Individual is unsure as to whether an interest should be declared then he or she should seek guidance from the Governing Body Secretary or if relevant from the committee or sub-committee chair. Annex 1 sets out examples of what may be considered a conflict of interest.
- 5.4. Any declaration of interest made pursuant to this Conflicts of Interest Policy should be made by completing the form attached at Annex 2 (the "**Declaration of Interests Form**") and sending this to the Governing Body Secretary. The relevant Individual should carefully consider whether they feel they could participate in a meeting to discuss the relevant matter in which they have a Personal Interest without being influenced by their other interest to the detriment of patients, the taxpayer, or the Group.
- 5.5. Where an Individual becomes aware of a Personal Interest which:
 - 5.5.1. has not been declared, either in the Register of Interests or orally, they will declare this at the start of any meeting where the Group Business to which that Personal Interest relates is to be discussed; or
- 5.6. has previously been declared, in relation to the scheduled or likely business of any meeting where the Group Business to which that Personal Interest relates is to be discussed, the Individual concerned will bring this to the attention of the chair of the meeting, together with details of arrangements which have been confirmed for the management of the Personal Interest, and provide a written declaration to the Group Secretary as soon as possible thereafter. Following receipt of the Declaration of Interests Form or oral declaration in accordance with paragraph 5.2 above, the Group shall consider the nature, scale or complexity of the interest declared and the risk that the conflict of interest may adversely influence the interests of patients, taxpayers or the Group, in order to determine whether the interest is:
 - 5.6.1. non-prejudicial to the public interest so as to allow the Individual to remain a member of the Group and to continue to be involved in discussions regarding that element of the Group Business in which the Individual has an interest;
 - 5.6.2. a Prejudicial Interest, however that the Group is willing to authorise the Individual to remain involved in the Group Business on a conditional basis as set out in paragraph 6 below;
 - 5.6.3. so significant so as to be deemed as a Prejudicial Interest and to require the Individual to be prohibited from all discussions related to the issue of Group Business which gave rise to the conflict; or
 - 5.6.4. except in the case of a Member, a Prejudicial Interest such that the Group considers that the only option available to

resolve the conflict is that the Individual should be removed from the Group.

- 5.7. When first appointed to the Group, Individuals will be asked to read and comply with this policy and complete and sign a Declaration of Interests Form if relevant. A register will be held by the Group to record disclosures (the "**Register of Interests**") in accordance with the Constitution. Individuals who appear on the Register of Interests will be required to ensure that entries relating to them in the Register of Interests are accurate, complete and up to date. Individuals will declare interests where appropriate during the course of their duties and must notify the Group Secretary immediately or at the earliest opportunity of all changes to the information disclosed. Following any changes in circumstances Individuals will be asked to complete and sign a new Declaration of Interests Form if relevant.
- 5.8. The Register of Interests will be kept by the Group and will set out:
- 5.8.1. names of Individuals and details of the interest which were declared on appointment, as the interest first arises or through an annual declaration update; and
 - 5.8.2. names of Individuals who have declared interests at meetings giving dates, details of the interest declared and whether the Individual took part in the relevant part of the meeting.
- 5.9. The Register of Interests will be kept up to date by the Governing Body Secretary and reviewed by the Group quarterly. The Governing Body Secretary will take such steps and request such information as appropriate from Individuals, to ensure all conflicts and potential conflicts of interest are declared. The Register of Interests will be available to the public and will be published on the Group's website.
- 5.10. When a declared interest ceases to be relevant, the respective Individual should inform the Group Secretary so that it can be removed from the Register of Interests.

6. Authorisation of a Individual with a Prejudicial Interest

- 6.1. The Group may, by way of a majority vote of the Non-Conflicted Individuals (provided that they constitute a quorum), authorise a Individual who has a Prejudicial Interest in an aspect of Group Business to continue to be involved in that matter of Group Business subject to the terms of this paragraph 6.
- 6.2. Where the Group grants authorisation pursuant to paragraph 6.1 above the Non-Conflicted Individuals may impose conditions upon the relevant Individual's attendance and involvement at any meetings at which the Group Business, in which they have a Prejudicial Interest, may be discussed, which may include the following:
- 6.2.1. that they shall be entitled to make representations, answer questions and give evidence, however, they will be expected to leave the room as soon as they have finished making

representations, giving evidence or answering questions and before any debate starts; and/or

- 6.2.2. they shall not be entitled to cast a vote on that item of Group Business in which they have an interest; and/or
 - 6.2.3. that they will sign a confidentiality agreement with the Group to confirm that they will not discuss any issues regarding that matter of Group Business with any Close Association or Relevant Person; and/or
 - 6.2.4. such other terms for the purposes of dealing with the conflict as the Non-Conflicted Individuals think fit.
- 6.3. The Individual who is the subject of the conflict shall be obliged to conduct themselves in accordance with any terms and conditions imposed by the Non-Conflicted Individuals in respect of the conflict.
- 6.4. The Non-Conflicted Individuals may revoke or vary the authorisation granted under paragraph 6.1 above at any time.

7. Withdrawal from a meeting due to a conflict of interest

- 7.1. Where an Individual has a Prejudicial Interest to which paragraph 5.6.3 or paragraph 5.6.2 which is not authorised by the Non-Conflicted Individuals in accordance with paragraph 6 above, the chair of the relevant meeting may require the Individual to withdraw from the meeting or part of it (such requirement must be recorded in the minutes of the meeting).
- 7.2. It is the responsibility of the Governing Body Secretary to monitor quorum and advise the chair accordingly to ensure it is maintained throughout the discussion and decision of the relevant agenda item. Should the withdrawal of any conflicted Individual result in the loss of quorum, the item will not be decided upon at that meeting.
- 7.3. Where a quorum cannot be convened the chair of the meeting shall consult with the Governing Secretary on the action to be taken. This may include:
- 7.3.1. requiring another of the Group's committees or sub-committees, the Group's Governing Body or the Governing Body's committees or sub-committees (as appropriate) which can be quorate to progress the item of business, or if this is not possible,
 - 7.3.2. inviting on a temporary basis one or more of the following to make up the quorum (where these are permitted members of the Governing Body or committee / sub-committee in question) so that the Group can progress the item of business:
 - a) a member of the Group who is an individual;
 - b) an individual appointed by a member practice to act on its behalf in the dealings between it and the Group;

- c) a member of a relevant Health and Wellbeing Board;
- d) a member of a Governing Body of another clinical commissioning group.

7.4. All declarations of interest and arrangements agreed in any meeting of the Group, committees or sub-committees, or the Governing Body, the Governing Body's committees or sub-committees, will be recorded in the minutes, including:

- 7.4.1. the nature and extent of the conflict;
- 7.4.2. an outline of the discussion; and
- 7.4.3. the actions taken to manage the conflict.

7.5. All payments or benefits in kind to Governing Body members will be reported in the Group's accounts and Annual Report, with amounts for each Governing Body member listed for the year in question.

8. Breaches of this policy

- 8.1. Failure to adhere to this Conflict of Interest Policy may constitute the criminal offence of fraud, as an individual could be gaining unfair advantages or financial rewards for himself or a family member / friend or associate. Any suspicion that a relevant Personal Interest may not have been declared should be reported to the Governing Body Secretary.
- 8.2. Breaches of the policy may result in the relevant Individual being removed from the Group.

9. Monitoring and Review

- 9.1 This policy will be monitored and reviewed annually by the Group Secretary or at such time as there is a relevant change in law (including the issue of new regulations) which impact upon this policy.

Conflicts of Interest Policy - Annex 1

Examples of Prejudicial Interests

Scenario	Declaration of Interest Required (Y/N)	Prejudicial Interest?	Authorisation by Non-Conflicted Members Appropriate?	Disqualification from Involvement in matter of Interest appropriate?	Removal
An Individual (or a Relevant Person or Close Association) is a director, shareholder, employee or partner of an entity which has an interest in bidding for a contract for services which is being put out to tender by the Group.	Yes – when matter or any related issues arise or are discussed.	Yes.	Yes, in part. The Individual may be able to provide valuable insight into the development of a service specification at the outset of the process – but this could create procurement issues if the Individual subsequently bids against this specification.	Yes – depending on circumstances this should be considered.	No - situational conflict
The Group is considering whether to close down a service commissioned by the Group which an Individual, Relevant Person or person with a Close Association to the Individual is a partner/employee/ shareholder of a company which delivers services which the Group is	Yes – when matter or any related issues arise or are discussed.	Yes	No – unlikely to be able to be seen to have given un-conflicted advice on this matter or related issues.	Yes, the circumstances should be considered but this may be appropriate.	No - situational conflict.

Scenario	Declaration of Interest Required (Y/N)	Prejudicial Interest?	Authorisation by Non-Conflicted Members Appropriate?	Disqualification from Involvement in matter of Interest appropriate?	Removal
commissioning.					
An Individual is an existing director or partner in one or more potential providers of services to the Group.	Yes - on appointment.	Yes, potentially.	No.	Yes – on situation by situation basis depending on their interest and the matter being discussed. The Individual should be required to re-declare their interest prior to any such discussion each time the conflict arises.	Where it is likely that there is a potential for a high number of conflicts to arise in respect of a particular Individual which will have a detrimental impact on their involvement, the Group should consider whether it is appropriate and in the interests of the Group for that person to remain a member of the relevant committee/sub-committee/Governing Body (in accordance with the Group's Standing Orders) or if there are practical steps that can be taken to manage the conflicts on a longer term basis.
An Individual or Relevant Person or Close Association holds a contract with or is a director/shareholder/employee of	Yes – on appointment.	Yes - situational interest in relation to	No.	Yes	No – situational conflict.

Scenario	Declaration of Interest Required (Y/N)	Prejudicial Interest?	Authorisation by Non-Conflicted Members Appropriate?	Disqualification from Involvement in matter of Interest appropriate?	Removal
a company or party to a partnership which holds a contract with the Group.		matters relating to that contract.			

Conflicts of Interest Policy – Annex 2

Register of Interests

This Register of Interests includes all interests declared by Members, Governing Body Members, Practice Representatives and employees of the Group. In accordance with the Constitution the Group Secretary will be informed of any Personal Interest that needs to be included in the Register of Interests within not more than 28 days of any relevant event (e.g. appointment, change of circumstances) and the Register of Interests will be updated regularly.

Interests that must be declared include but are not limited to:

- Roles and responsibilities held within Member Practices;
- Directorships, including non-executive directorships, held in private companies or PLCs;
- Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the Group;
- Shareholdings (more than 5%) of companies in the field of health and social care;
- A position 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;
- Research funding/grants that may be received by the individual or any organisation they have an interest or role in;
- other specific interests that may be deemed relevant; and
- Any other role or relationship which the public could perceive would impair or otherwise influence the individual's judgment or actions in their role within the Group,

whether such interests are those of the individual themselves or of a family member, close friend or other acquaintance of the individual.

REGISTER

NAME	POSITION	DETAILS OF INTEREST

Conflicts of Interest Policy – Annex 3

Individual Declaration Form

This form is to be completed in accordance with the Group's Conflicts of Interest Policy

Notes:

Within 28 days of a relevant event, Individuals need to register their financial and other interests.

If any assistance is required in order to complete this form, then the Individuals should contact the Group Secretary.

The completed form should be sent by both email and signed hard copy to the Group Secretary.

Any changes to interests declared must also be registered within 28 days of the relevant event by completing and submitting a new declaration form.

The register will be published on the Group's website www.surreydownsccg.nhs.uk

Individuals completing this declaration form must provide sufficient detail of each interest so that a member of the public would be able to understand clearly the sort of financial or other interest the Individual has and the circumstances in which a conflict of interest with the business or running of the Group might arise.

If in doubt as to whether a conflict of interests could arise, a declaration of the interest should be made.

Interests that must be declared include but are not limited to:

- Roles and responsibilities held within Member Practices;
- Directorships, including non-executive directorships, held in private companies or PLCs;
- Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the Group;
- Shareholdings (more than 5%) of companies in the field of health and social care;
- 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;
- Research funding/grants that may be received by the individual or any organisation they have an interest or role in; or
- 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 Group, whether such interests are those of the Individual or a Relevant Person or Close Association.

Declarations:

Name of Relevant Organisation		
Interests		
Type of interest	Details	Personal interest or that of a relevant person or close association?
Roles and responsibilities held within member practices		
Directorships, including non-executive directorships, held in private companies or PLCs		
Ownership or part-ownership or private companies, businesses or consultancies likely or possibly seeking to do business with the Group		
Shareholdings (more than 5%) of companies in the field of health and social care		
Positions of authority in an organisation (e.g. charity or voluntary organisation) in the field of health or social care)		
Any connection with a voluntary or other organisation contracting for NHS Services		
Research funding/grants that may be received by the individual or any organisation 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 Group		
Any other specific interests		

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

Signed:

On Behalf of:

Date:

Conflicts of Interest Policy – Annex 4

NHS Surrey Downs Clinical Commissioning Group Conflicts of Interest Policy

This is to document formal approval and agreement of the Conflicts of Interest Policy

By signing this the Commissioning Locality accepts the Conflicts of Interest Policy for the Group and commits to working as a locality within the remit of this policy
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Commissioning Locality	
Commissioning Locality Lead Signature	
Date	

Commissioning Locality	
Commissioning Locality Lead Signature	
Date	

Commissioning Locality	
Commissioning Locality Lead Signature	
Date	

Commissioning Locality	
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Commissioning Locality Lead Signature	
Date	

Commissioning Locality	
Chair Signature	
Date	
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Date	

Commissioning Locality	
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Date	

Commissioning Locality	
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