



*Surrey Downs  
Clinical Commissioning Group*

# **Surrey Downs Clinical Commissioning Group**

## **Standards of Business Conduct Policy**

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Date agreed by Executive Committee	25.08.15
Author	Justin Dix, Governing Body Secretary
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### Version History

V.	Date	Status and/ or amendments
V2.2	25.8.15	Minor changes following agreement at Executive Committee
V2.1	20.8.15	Minor internal revisions
V2.0	17.8.15	Revised version following input from TIAA counter fraud
V1.0	01/10/13	First 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 on 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:		
	<b>Gender</b> (Men and Women)	No	
	<b>Race</b> (All Racial Groups)	No	
	<b>Disability</b> (Mental, Physical and Carers of Disabled people)	No	
	<b>Religion or Belief</b>	No	
	<b>Sexual Orientation</b> (Heterosexual, Homosexual and Bisexual)	No	
	<b>Pregnancy and Maternity</b>	No	
	<b>Marital Status (Married and Civil Partnerships)</b>	No	
	<b>Transgender</b>	No	
	<b>Age(People of all ages)</b>	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. Purpose and scope

### 1.1. Purpose

1.1.1. This policy sets out the Surrey Downs Clinical Commissioning Group (CCG) arrangements for ensuring that all staff maintain high standards of probity in relation to declaration and management of interests, use of information, and involvement in transactions.

1.1.2. The policy reflects the national guidance that was published in circular HSG (93)5 entitled “Standard of Business Conduct for NHS Staff”, (as amended) and the requirements of the Bribery Act 2010. This policy should be read in conjunction with the CCG’s policies on Conflict of Interest, Fraud, and Bribery and Corruption, Gifts and Hospitality.

### 1.2. Scope

1.2.1. This policy applies to all CCG staff (permanent, bank, full-time and part-time), including independent and lay members, Governing Body members and Committee members and all references to ‘staff’ in this document shall be construed accordingly.

1.2.2. It should be noted that there are other policies relating to this policy namely:

- CG06 Incident Reporting
- CG08 Procurement Policy
- FBC01 Fraud, Bribery and Corruption Policy
- FBC02 Receipt of Hospitality, Gifts and Inducements
- FBC04 Conflict of Interest
- FBC05 Working with the Pharmaceutical Industry
- HR03 Disciplinary Policy
- HR09 Whistleblowing Policy

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

1.2.3. This policy reflects the national guidance that the CCG adheres to through its Standing Orders, Standing Financial Instructions and the requirement of the Bribery Act 2010.

## **2. The Policy**

### **2.1. Responsibilities of Staff**

2.1.1. It is acknowledged that, in general, NHS staff have an outstanding sense of commitment to the ideals of the service and a very high sense of propriety in the way they conduct both their public duties and their private affairs. These include adherence to the following:

- NHS England; Managing Conflicts of Interest; Statutory Guidance for CCGs
- Standards for Members of NHS Boards and Clinical Commissioning Group governing bodies in England
- The ABPI Code of Practice for the Pharmaceutical Industry 2015
- The Nolan Principles of business conduct

- 2.1.2. This policy is a contractual document as referred to in the Contract of Employment of staff. Managers must comply with the Code of Conduct for NHS Managers in accordance with The Code of Conduct for NHS Managers Directions 2002 (these provisions do not apply to Non-executive Directors or Governors; they are subject to separate codes of conduct).
- 2.1.3. Improper performance is defined as performance which amounts to a breach of an expectation that a person will act in good faith, impartially, or in accordance with a position of trust. The offence applies to bribery relating to any function of a public nature, connected with a business, performed in the course of a person's employment or performed on behalf of a company or another body of persons.
- 2.1.4. It is the responsibility of staff to ensure that they are not placed in a position which risks, or appears to risk, conflict between their private interests and their CCG duties. This primary responsibility applies to all NHS staff, whether they commit NHS resources directly or indirectly.
- 2.1.5. It is a long-established principle that public sector bodies, which include the NHS, must be impartial and honest in the conduct of their business, and that their employees should remain beyond suspicion. It is also an offence under the Bribery Act 2010 for an employee to accept any inducement or reward for doing, or refraining from doing, anything in his or her official capacity or showing favour or disfavour, in the handling of contracts. Staff need to be aware that a breach of the provisions of these Acts renders them liable to prosecution and may also lead to loss of their employment and superannuation rights in the NHS.
- 2.1.6. Staff are expected to:
- Ensure that the interests of patients remains paramount at all times;
  - Be impartial and honest in the conduct of their business;
  - Use the public funds entrusted to them to the best advantage of the service;
  - Always ensure value of money;
  - Ensure that they do not abuse their official position for personal gain or to benefit their family or friends;
  - Ensure that they do not seek to advantage or further private business or other interests, in the course of their official duties.

## **2.2. Awareness of the Bribery Act**

- 2.2.1. It is the obligation of all CCG staff to ensure that the best interests of the public and its patients/clients are upheld in decision-making, that decisions are not improperly influenced by gifts or inducements, and that NHS resources are protected from fraud and corruption. Staff must ensure that any related incident of concern is reported to the Local Counter Fraud Specialist who will, if necessary, commence a criminal investigation that could lead to a criminal prosecution being commenced.
- 2.2.2. In particular, the Bribery Act 2010 makes it an offence for a person to offer, promise or give a financial or other advantage to another person in one of the four categories of offence, which address the following:
- Offering, promising or giving a bribe to another person;
  - Requesting, agreeing to receive or accepting a bribe from another person;
  - Bribing a foreign official; and
  - A corporate offence of failing to prevent bribery.
- 2.2.3. Under the new corporate offence, a commercial organisation (including a CCG) is now liable for the activities of associated third parties as well as its own staff, and corporate ignorance offers no protection from prosecution. The only defence is that it 'had in place adequate procedures designed to prevent a person associated with it from undertaking such conduct'.

## **2.3. Declaration of Interests**

- 2.3.1. This policy summarises the main provisions relating to conflicts of interest. For the full policy see FBC 04 Conflicts of Interest, which forms part of the CCG's Constitution. This also contains the declaration forms which should be completed.
- 2.3.2. Staff are required to declare any such interest when joining the CCG or at any point thereafter when interests arise. Staff must ensure that declarations are amended within 14 days of any change. Whilst it is the responsibility of all staff to comply with this policy, staff will be reminded annually to update their declarations. Governing Body Members will be asked at each meeting of the Governing Body or any Committee to declare any relevant interests.

2.3.3. For certain groups of staff (identified below) the CCG requires individuals to re-submit their declaration annually, including in the event that there has been no change to it or there are no interests to declare, i.e. in the latter case, a 'nil' return. The groups of staff to which this requirement applies are:

- Clinical leads
- Staff
- Contractors

2.3.4. Declarations of interest are also required from any managers responsible for a procurement processes. The declaration should be submitted at the outset of the process.

2.3.5. All individuals are required to declare to the CCG if they hold any of the following interests:

- a) Consultancies and/or direct employment; any paid consultancy, employment, partnership, directorship or position in (or for) any organisation (particularly health or social care service providers) either directly or indirectly related to the work of the CCG or the NHS generally.
- b) Honoraria and retainers and similar payments that reflect an ongoing relationship
- c) Fee paid work: any commissioned or fee-paid work for any organisation (particularly health or social care services providers) either directly or indirectly related to the work of the CCG or the NHS generally.
- d) Shareholdings: any significant shareholdings or other financial or beneficial interests in a private company or body that may give rise to a conflict of interest, particularly where the business might contract with the NHS.
- e) Directorships, including Non-Executive Directorships held in private companies or PLCs (with the exception of those dormant companies).
- f) Fellowships/trusteeships or membership of voluntary bodies, particularly any working in health or social care or any contracting with the NHS.
- g) Any other outside interest's which may be relevant to the role as a member of staff to the CCG, e.g. un-remunerated posts, honorary positions and other connections, which may give rise to a conflict of interest or of trust.

- h) Health or social care campaigning: any affiliation to health or social care-related campaigning organisations or special interests groups.
- i) Research funding/grants that may be received by an individual of his/her department any other personal interests not covered above.
- j) Non-personal interests: any relevant and known interests held by your spouse, a close family members, or a member of your household, which may provide a conflict of interest with your position within the CCG, including the interests described above;
- k) Close family relationships with any of the CCG's advisors, Directors, senior managers or suppliers.

2.3.6. In addition to the above types of interests, staff are required to declare any interest in or contract with any business providing private medical services, including any rights to admit patients to, or otherwise treat patients at, any private or NHS health or social care provider (other than the CCG).

2.3.7. It is particularly important for staff to declare any beneficial interest in any private care homes or hostels. This is necessary so that the CCG can ensure that referrals and other care arrangements are always in the best interests of patients and not motivated by any other means. In connection with this, the General Medical Council recommends that when a Doctor refers a patient to a private care home or hostel in which he or she has an interest, the patient must be informed of the interest before the referral is made.

2.3.8. Staff must declare interests using the form appended to the appropriate or by completing the on-line version available through the CCG's Intranet. Hardcopy forms must be sent to the Governing Body Secretary. All information declared by staff will be placed onto a Register for regular review by the Governing Body Secretary and Audit Committee and where necessary Executive Directors. Separate registers will be maintained for interests declared by Governing Body Members; these registers will be submitted to the Governing Body at each meeting.

## **2.4. Preferential Treatment in Private Transactions**

2.4.1. Individual staff must not seek or accept preferential rates or benefits in kind for private transactions carried out with companies with which they have had, or may have, official dealings on behalf of the CCG or associated employer. This does not apply to concessionary agreements negotiated with companies by NHS management, or by recognised staff interests, on behalf of all staff.

- 2.4.2. Staff must ensure they are not in a position to risk conflicts between private interests and CCG duties. Contractual obligations to the CCG must be fulfilled before extra work is taken on, paid or otherwise. Staff are advised not to engage in outside employment which may conflict with their work for the CCG, or be detrimental to it.
- 2.4.3. Staff are required to discuss with their line manager or Director of Human Resources immediately, and before engaging in the work, if they think there is a risk of a conflict of interests.
- 2.4.4. Staff may only undertake private practice or work for outside agencies, providing this is agreed in advance with their line manager and Executive Director in accordance with their contract of employment and do not do so within the time they are contracted to the NHS. Staff are required to give an assurance that any preparation for personal fee-earning outside engagements (such as lectures) will not be done in CCG time or using CCG facilities or equipment.
- 2.4.5. Staff must, if they sign purchase orders or place contracts, adhere to the ethical code of the Institute of Purchasing and Supply (see appendix 1).

## **2.5. Commercial Knowledge**

- 2.5.1. Staff must not use or make known publicly internal information with commercial value other than for purposes benefiting the CCG.
- 2.5.2. Staff involved in procurement processes must not give unfair advantage to one competitor over another. Staff must ensure that the principles laid out in the guide for purchasing must also be applied to Sales and Income Generation Schemes.
- 2.5.3. Documented notifications must be forwarded through the Corporate Secretary who has responsibility for maintaining registers recording such occurrences.
- 2.5.4. Fair and open competition between prospective contractors or suppliers for NHS contracts is a requirement of NHS Standing Orders and of EC Directives on Public Purchasing for Works and Supplies. No organisation (regardless of status) should be given any advantage over its competitors. This applies to all potential contractors, whether or not there is a relationship between them and the organisation.
- 2.5.5. Each new contract should be awarded solely on merit, taking into account the requirements of the CCG and the ability of the contractors to fulfil them. Scrupulous care must be taken to ensure that the selection process is conducted impartially, and that staff that are known to have a relevant interest play no part in the selection.

- 2.5.6. All invitations to potential contractors to tender must include a notice warning them of the consequences of engaging in any corrupt practices involving employees of the CCG.
- 2.5.7. All staff and particularly senior managers, Executive Team and Governing Body members, are required to have an awareness of the CCG's Standing Orders and Standing Financial Instructions and are required to comply with the same.

## **2.6. Intellectual Property**

2.6.1. Intellectual Property is the tangible output of any intellectual activity that is new or previously un-described. It has an owner, can be bought, sold or licensed, and must be adequately protected (restricted in its availability or dissemination) in order to ensure its appropriate development and ultimate use of exploitation. The following Intellectual Property categories are relevant to the NHS:

- Category Protection Examples
- Inventions
- Patents
- New medical devices, software systems
- Literary works
- Copyright
- Computer software, patient leaflets, journals, articles
- Designs, drawings
- Design rights
- Medical illustrations
- Brand names
- Trade marks
- CCG logos
- Trade secrets
- Know-how, knowledge
- Surgical technique

2.6.2. The CCG should be able to identify potential Intellectual Property Rights (IPR) as and when they arise, so that it can protect and exploit them properly, and thereby ensure that the CCG receives any rewards or benefits (such as royalties) in the course of their CCG duties. Most IPR are protected by statute e.g. Patents are protected under the Patents Act 1977 and Copyright (which includes software programmes) under the copyright Designs and Patents Act 1988. To achieve this, the CCG should build appropriate specifications and provisions into the contractual arrangement which they enter into before the work is commissioned or begins. Employees should make their line manager or designated officer aware of any work done in the course of their duties which may give rise to Intellectual Property Rights. Employees accept that any such work is the property of the CCG.

- 2.6.3. In the case of collaborative research and evaluative exercises with manufacturers, the CCG should see that it obtains a fair reward for the input they provide. If such an exercise involves additional work for a CCG employee outside that paid for by the CCG under his or her contract of employment, arrangement should be made for some share of any rewards or benefits to be passed on to the employee(s) concerned from the collaborating parties. Care should however be taken that involvement in this type of arrangement with a manufacturer does not influence the purchase of other supplies from that manufacturer.
- 2.6.4. Any arrangements entered into should be notified in detail to the Governing Body Secretary.

## **2.7. Breaches of Policy**

- 2.7.1. Alleged breaches of CCG Policy or the Code of Conduct for NHS Managers will be promptly considered and fairly and reasonably investigated under the disciplinary procedures or, in the case of Non-executive Directors the provisions in the Constitution.
- 2.7.2. Breach of the policy is capable of amounting to gross misconduct that may result in the person's dismissal. It may also be reported to the CCG Local Counter Fraud Specialist, for investigation, and may lead to a criminal prosecution being commenced.

## **2.8. Clarification**

- 2.8.1. Any doubts about the interpretation/implementation of this guide should be raised in the first instance with the Governing Body Secretary.

## **2.9.5.0 Policy monitoring and compliance**

- 2.9.1. 5.1 This policy will be monitored by bringing twice yearly reports to the Audit Committee in the following areas:
- Statistics on hospitality and registers of interests
  - Narrative reports on any particular risks, identifying particular teams or individuals whose work exposes them to higher risk in this area
  - Reports of any training conduct in-house or by external suppliers such as the counter fraud service.
- 2.9.2. Standards of business conduct will be routinely addressed through heads of service meetings and ongoing work with the counter fraud service.

## **APPENDIX 1**

### **Institute of Purchasing and Supply – Ethical Code**

#### **Introduction**

1. The code set out below was approved by the Institute’s Council on the 26 February 1977 and is binding on IPS members.

#### **Precepts**

2. Members shall never use their authority of office for personal gain and shall seek to uphold and enhance the standing of the Purchasing and Supply profession and the Institute by:
  - a. maintaining an unimpeachable standard of integrity in all their business relationships both inside and outside the organisations in which they are employed;
  - b. fostering the highest possible standards of professional competence amongst those for who they are responsible;
  - c. optimising the use of resources for which they are responsible to provide the maximum benefit to their employing organisation;
  - d. comply both with the letter and the spirit of:
    - i.. the law of the country in which they practice,
    - ii. such guidance on professional practice as may be issued by the Institute from time to time,
    - iii. contractual obligations,
    - iv. rejection of any business practice which might reasonably be deemed improper.

#### **Guidance**

3. In applying these precepts, members should follow the guidance set out below:
  - a. Declaration of interest. Any personal interest which may impinge or might reasonably be deemed by others to impinge on a member’s impartiality in any matter relevant to his or her duties should be declared.
  - b. Confidentiality and accuracy of information. The confidentiality of information received in the course of duty should be respected and should never be used for personal gain; information given in the course of duty should be true and fair and never be designed to mislead.
  - c. Competition. While bearing in mind the advantages to the member’s employing organisation or maintaining a continuing relationship with a supplier, any relationship which might, in the long term, prevent the effective operation of fair competition, should be avoided.

- d. Business Gifts. Business gifts other than items of a very small intrinsic value such as business diaries or calendars should not be accepted.
- e. Hospitality. Modest hospitality is an accepted courtesy of business relationships. However, the recipient should not allow him or herself to reach a position whereby he or she might be deemed by others to have been influenced in making a business decision as a consequence of accepting such hospitality; the frequency and scale of hospitality accepted should not be significantly greater than the recipients' employer would be likely to provide in return.
- f. when it is not easy to decide between what is and is not acceptable in terms of gifts or hospitality, the offer should be declined or advice sought from the member's superior.

## **APPENDIX 2**

### **MANAGER CHECKLIST**

1. Make sure all employees are aware of this policy. It is part of their contract with the CCG but you should also include it in their individual induction where you can explain exactly how it applies to the specific work situation.
2. If you are involved in awarding contracts make sure there is no bias of any kind.
3. If you are involved in the tendering process, include a statement against bribery and/or corruption on the invitation to tender.
4. If employees wish to take on additional work, discuss it with them and make sure there can be no conflict of interest. If you are in doubt, seek advice from the Human Resources Department.
5. Ensure that any financial rewards or benefit received in respect of work carried out by employees in the course of their CCG work are handed over to the CCG.
6. Ensure that any commercial sponsorship will not influence purchasing decisions.
7. Be clear about what constitutes commercially sensitive information.
8. Ensure that the necessity to declare a possible conflict is either part of the job pack information or raised at interview.