

Wandsworth Clinical Commissioning Group

Conflict of Interests and
Dispute Resolution
policy
Version 7

18th June 2012

STANDARDS OF BUSINESS CONDUCT AND MANAGING CONFLICTS OF INTEREST

1.1 Standards of Business Conduct

Employees, members, committee and sub-committee (for example, Integrated Governance sub-committee) members of the Wandsworth CCG and members of the Governing Body (and its committees, for example, its weekly Management Team) will at all times comply with this Constitution and be aware of their responsibilities as outlined in it. They should act in good faith and in the interests of the Wandsworth CCG and should follow the Seven Principles of Public Life, set out by the Nolan Principles. The Nolan Principles are incorporated in the constitution.

They must comply with the Wandsworth CCG's Constitution including the requirements set out in this policy for managing conflicts of interest.

Individuals contracted to work on behalf of the Wandsworth CCG or otherwise providing services or facilities to the Wandsworth CCG will be made aware of their obligation with regard to declaring conflicts or potential conflicts of interest. This requirement will be written into their contract for services.

This policy is effective from 1st April 2013.

Conflicts of Interest

1.2.1 As required by section 14O of the 2006 Act, as amended by section 25 of the 2012 Act, Wandsworth CCG will make arrangements to manage conflicts and potential conflicts of interest so that decisions made by the Wandsworth CCG will be taken, and seen to be taken, uninfluenced by external or private interest.

A conflict of interest will include:

- a) a direct pecuniary interest: where an individual may financially benefit from the consequences of a commissioning decision (for example, as a provider of services);
- b) an indirect pecuniary interest: for example, where an individual is a partner, member or shareholder in an organisation that will benefit financially from the consequences of a commissioning decision;
- c) a non-pecuniary interest: where an individual holds a non-remunerative or not-for profit interest in an organisation, that will benefit from the consequences of a commissioning decision (for example, where an individual is a trustee of a voluntary provider that is bidding for a contract);
- d) a non-pecuniary personal benefit: where an individual may enjoy a qualitative benefit from the consequence of a commissioning 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);
- e) where an individual is closely related to, or in a relationship, including friendship, with an individual in the above categories.

1.2.2. Where an individual has an interest, or becomes aware of an interest which could lead to a conflict of interests, that potential conflict is subject to the provisions of this policy and the constitution.

1.2.3. If in doubt, the individual concerned should assume that a potential conflict of interests exists.

1.3 Declaring and Registering Interests

1.3.1. The Wandsworth CCG will maintain and publish one or more registers of the interests of:

- a) the Members of the Wandsworth CCG;
- b) the members of its Governing Body;
- c) the members of committees of its Governing Body; and
- d) its employees.

1.3.2. Where an individual is unable to provide a declaration in writing, for example, if a conflict becomes apparent in the course of a meeting, they will make an oral declaration before witnesses, and provide a written declaration as soon as possible thereafter to the Governing Body.

1.3.3. The Governing Body will ensure that the register(s) of interest is reviewed regularly, and updated as necessary.

1.3.4. The Lay Member of the Governing Body with responsibility for governance, will make him or herself available to provide advice to any individual who believes they have, or may have, a conflict of interest.

1.3.5. The Governing Body will take such steps as it deems appropriate, and request information it deems appropriate from individuals, to ensure that all conflicts of interest and potential conflicts of interest are declared and published.

1.3.6. In addition, individuals will declare any interest that they have, in relation to a decision to be made by Wandsworth CCG, in writing to the Governing Body, as soon as they are aware of it and in any event no later than 28 days after becoming aware.

1.4 Managing Conflicts of Interest: general

1.4.1. Where an interest has been declared, either in writing or by oral declaration (for example in a meeting), the declarer will ensure that before participating in any activity connected with the Wandsworth CCG's functions, they have received confirmation of the arrangements to manage the conflict of interest or potential conflict of interest from the Governing Body.

1.4.2. The Governing Body will ensure that for every interest declared, either in writing or by oral declaration, arrangements are in place to manage the conflict of interests or potential conflict of interests, to ensure the integrity of the Wandsworth CCG's decision making processes.

1.4.3. Arrangements for the management of conflicts of interest are to be determined by the Governing Body and will include the requirement where practicable to write to the relevant individual within a week of the declaration explaining the arrangements for managing the conflict or potential conflict of interests.

1.4.4. The arrangements will confirm the following:

- a) at what point an individual should withdraw from specified activity, on a temporary or permanent basis;
- b) monitoring of the specified activity undertaken by the individual, either by a line manager, colleague or other designated individual.

1.4.5. In any meeting where an individual is aware of an interest, previously declared or otherwise, in relation to the scheduled or likely business of the meeting, the individual concerned will bring this to the attention of the chair, together with details of arrangements which have been confirmed by the Governing Body for the management of the conflict of interests or potential conflict of interests. Where no arrangements have been confirmed, the chair may require the individual to withdraw from the meeting or part of it.

1.4.6. Where the chair of any meeting of the Wandsworth CCG, including committees, sub-committees, or the Governing Body, has a personal interest, previously declared or otherwise, in relation to the scheduled or likely business of the meeting, they must make a declaration and the deputy chair will act as chair for the relevant part of the meeting.

1.4.7. Where arrangements have been confirmed with the Governing Body for the management of the conflict of interests or potential conflicts of interests in relation to the CCG chair, the meeting must ensure these are followed.

1.4.8. Where no arrangements have been confirmed, the deputy chair may require the chair to withdraw from the meeting or part of it. Where there is no deputy chair, the members of the meeting will select one.

1.4.9. Any declarations of interests, and arrangements agreed in any meeting of the Wandsworth CCG, sub-committees, or the Governing Body, will be recorded in the minutes.

1.4.10. The Audit Committee will provide assurance to the Governing Body that due process has been followed in relation to the development of new services/contracts or changes to existing services/contracts.

1.4.11. In any transaction undertaken in support of the Wandsworth CCG's commissioning functions (including conversations between two or more individuals, e-mails, correspondence and other communications), individuals must ensure, where they are aware of an interest, that they conform to the arrangements confirmed for the management of that interest. Where an individual has not had confirmation of arrangements for managing the interest, they must declare their interest at the earliest possible opportunity in the course of that transaction, and declare that interest as soon as possible thereafter. The individual must also inform either their line manager (in the case of employees), or the Governing Body, of the transaction.

1.5 Managing Conflicts of Interest: Governing Body

1.5.1. Individual members of the Governing Body will comply with the arrangements determined by the Governing Body for managing conflicts or potential conflicts of interest.

1.5.2. Members of the Governing Body should declare any conflicts of interests orally at the start of each meeting.

1.5.3. Where a Governing Body member is aware of an interest which has not been declared, either in the register or orally to the Governing Body, they will declare this at the start of the meeting. The Governing Body will then determine how this should be managed and inform the member of their decision. The member will then comply with these arrangements, which must be recorded in the minutes of the meeting.

1.5.4. In making this decision the chair will consider whether the meeting is quorate, in accordance with the number and balance of membership set out in the Wandsworth CCG's standing orders/constitution. Where the meeting is not quorate, owing to the absence of certain members, the discussion will be deferred until such time as a quorum can be convened.

1.5.5. Where a quorum cannot be convened from the membership of the Governing Body, owing to the arrangements for managing conflicts of interest or potential conflicts of interests, the chair may invite on a temporary basis one or more of the following to make up the quorum so that the Wandsworth CCG can progress the item of business:

- a) a member of the Wandsworth CCG;
- b) an individual appointed by a member to act on its behalf in the dealings between it and the Wandsworth CCG;
- c) a member of a relevant Health and Wellbeing Board;
- d) a member of a Governing Body of another clinical commissioning group.

1.5.6. The WCCG will work with the NHS Commissioning Board to determine if any alternate arrangements may be required.

1.5.7 These arrangements must be recorded in the minutes.

1.6 Managing Conflicts of Interest: contractors

1.6.1. Anyone seeking information in relation to a procurement, or participating in a procurement, or otherwise engaging with the Wandsworth CCG in relation to the potential provision of services or facilities to the Wandsworth CCG, will be required to make a declaration of interest.

1.6.2. Anyone contracted to provide services or facilities directly to the Wandsworth CCG will be subject to the same provisions of this constitution in relation to managing conflicts of interests. This requirement will be set out in the contract for their services.

1.7. Transparency in Procuring Services

1.7.1. Wandsworth CCG recognises the importance in making decisions about the services it procures in a way that does not call into question the motives behind the decision. The Wandsworth CCG will procure services in a manner that is open, transparent, non-discriminatory and fair to all potential providers.

1.7.2. Wandsworth CCG will publish a Procurement Strategy approved by its Governing Body which will ensure that:

- a) all members of the relevant Clinical Reference Group are engaged in the development of the specifications to procure services;
- b) service redesign, pilot projects and procurement processes are conducted in an open, transparent, non-discriminatory and fair way

DISPUTE RESOLUTION FOR CONFLICTS OF INTERESTS

2.1. We hope that disputes arising as a result of conflicts of interests can normally be resolved informally, without recourse to a formal process. If however the dispute cannot be resolved informally, this document sets out the process by which the perceived breach will be handled.

2.2. The design of the procedure is based on the principle that disputes should be resolved at the most local level possible.

2.2.1. The first port of call is the Wandsworth CCG

2.2.2. If the dispute is not successfully resolved at this level, the complaint should then be heard by the NHS CB.

2.3 Objectives of the procedure

2.3.1. The objectives of the procedure are as follows:

To provide the Wandsworth CCG with an appropriate mechanism for dealing with disputes about conflicts of interests

To resolve disputes transparently, fairly and consistently.

To assure bidders and service providers that the process is fair and transparent.

To mitigate risks and protect the reputation of the Wandsworth CCG

To prevent where possible legal challenge/ expensive external referral processes.

2.3.2. When handling disputes, Wandsworth CCG will:

Commit to transparency

Communicate the process and decision making criteria widely and in advance

Engage all relevant stakeholders

Enforce declarations of interest

Publish findings within and across the Wandsworth CCG to enable consistency

Be objective and base the analysis and the decision on objective information and criteria

Maintain an audit trail

2.4 The Procedure

The Wandsworth CCG dispute resolution procedure in relation to conflicts of interests is made up of the following stages:

Stage 1: Making the Complaint

Any complaint must be submitted to the Chair of the Wandsworth CCG in writing. The complaint will be acknowledged within five working days.

Stage 2: Triage

Following the receipt of the complaint, the Wandsworth CCG may contact the complainant to request clarification or further information. If the complaint is not deemed to warrant proceeding further the complainant will be notified that the complaint will not progress.

If the complaint should be fast tracked to another organisation, for legal, governance or safety reasons, the claimant will be informed of the course of action.

Where the complaint is in scope and not subject to fast tracking, it will proceed to the next stage. In most cases we would envisage that the triage process will be carried out within five working days.

Stage 3: Chair review

Following the triage, the Wandsworth CCG Chair will review the complaint to determine whether a swift resolution can be achieved without the need to involve the Governing Body. The Chair may call a meeting of the parties concerned to discuss the matter informally and without prejudice. If the Chair is unavailable or if the complaint involves the Chair, the Accountable Officer (Chief Officer) will review the complaint and act in accordance with this dispute resolution procedure as appropriate. The Lay Member for Governance will be made aware, and will make themselves available for advice.

Stage 4: The Governing Body

If the complaint cannot be resolved by the Chair, an appropriate committee of the Governing Body, chaired by the Lay Member for Governance will then formally review the complaint (with external advice if required) and may refer on to the Audit Committee to advise on the appropriateness of the procedure followed.

Stage 5: The decision

Once the Governing Body has made the decision, it will write to the complainant notifying them of the decision, explaining the rationale and necessary the course of action. It will also notify the NHS Commissioning Board of the dispute and the outcome.

While the timescales set out for each stage above are illustrative, the process as a whole will take no longer than three months.

2.5 Right of Appeal

The expectation is that most complaints will be successfully resolved. However, if the complainant is unsatisfied by the results of this procedure, they can refer the complaint to the NHS Commissioning Board process. Appeals to the NHS Commissioning Board must be made within 3 months of the complainant being informed of the Wandsworth CCG's decision. This will be subject to change as laid out by the NHS Commissioning Board.