

# Gifts, Hospitality & Commercial Sponsorship Policy

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<b>Target Audience</b>	<b>CCG Governing Body Members GP Membership Members of Committees/Groups CCG staff</b>
<b>Approving Committee</b>	<b>CCG Conflicts of Interest Committee CCG Chief Officer (on behalf of Executive)</b>
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<b>Cross Reference with:</b>  <b>This policy should be read in conjunction with other relevant documents, guidance and policies</b>	<b>Code of Conduct Policy, Standing Orders, Prime Financial Policies, Anti-Fraud, Bribery and Corruption Policy, Conflicts of Interest Policy, Disciplinary Policy.</b>

The CCG is committed to an environment that promotes equality, embraces diversity and respects human rights both within our workforce and in service delivery. This document should be implemented with due regard to this commitment.

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Approved documents are valid for use after their approval date and remain in force beyond any expiry of their review date until a new version is available.

## Version Control Sheet

Version	Date	Reviewed By	Comment
Draft v0.1	Sept 14	Board Secretary/ACO	Merge commercial sponsorship and gifts and hospitality policy into one.
Draft v0.2	Sept 14	Meds Management/ Finance review	Comments received and included in draft.
Draft v0.3	Nov 14	Internal Audit	Comments received and included in draft.
Draft v0.4	Nov 14/ Feb 15	CCG Executive	For discussion and agreement prior to submission to Audit Committee and Board.
Final v1.0	April 16	Anti-Fraud Specialist	Comments received and included in draft.
Draft v0.5	Nov 16	CCG Board Secretary	Reviewed in line with revised statutory guidance for managing conflicts of interest.
Draft v0.5	Jan 16	CCG Conflicts of Interest Committee	Reviewed and ratified for final approval by CCG Board.
Draft v0.5	Jan 16	CCG Board	Approved.
Final v2.0	Sept 17	CCG Conflicts of Interest Committee	Reviewed in line with revised statutory guidance for managing conflicts of interest and minor adjustments made.

Analysis of Effect completed:	By:	Date:
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## 1. Summary and Introduction

This policy is for NHS Bolton CCG and is underpinned by the Department of Health guidance *Commercial Sponsorship: Ethical Standards for the NHS*. The policy covers the appropriate declaration of sponsorship, gifts and hospitality, considerations in seeking sponsorship, specific requirements for pharmaceutical sponsorship and for research and development, and the promotion of sponsors.

This policy provides guidance to ensure that CCG Governing Body Members, GP Membership, Members of Committees/Groups, CCG staff and independent contractors are clear about the systems and processes in place when dealing with seeking sponsorship and the receipt of gifts and hospitality.

This policy should be read in conjunction with other relevant documents, guidance and policies, namely the Code of Conduct Policy, Standing Orders, Prime Financial Policies, Anti-Fraud, Bribery and Corruption Policy, Conflicts of Interest Policy, Disciplinary Policy.

### **Commercial Sponsorship**

## 2. Purpose

Clinical Commissioning Groups (CCG) are increasingly being offered Commercial Sponsorship particularly from within the Pharmaceutical Industry. This policy sets out the CCG's position in relation to commercial sponsorship and covers all decisions and actions of staff in relation to the acceptance of individual or commercial sponsorship. This policy is in response to Commercial Sponsorship Ethical Standards for the NHS – published by the Department of Health (DH) in November 2000 which requires NHS organisations to produce local policies in relation to commercial sponsorship.

CCG staff, governing body, committee and sub-committee members and GP member practices may be offered commercial sponsorship for courses, conferences, post/project funding, meetings and publications in connection with the activities which they carry out for or on behalf of the CCG or their GP practices. All such offers (whether accepted or declined) must be declared so that they can be included on the CCG's register of interests, and the Board Secretary will provide advice, support and guidance on how conflicts of interest should be managed and whether or not it would be appropriate to accept any such offers. If such offers are reasonably justifiable and otherwise in accordance with this statutory guidance, then they may be accepted.

Prior approval should be sought from the individual's line manager before accepting any form of sponsorship.

Notwithstanding the above, acceptance of commercial sponsorship should not in any way compromise commissioning decisions of the CCG or be dependent on the purchase or supply of goods or services. Sponsors should not have any influence over the content of an event, meeting, seminar, publication or training event.

The CCG will not endorse individual companies or their products. The fact of sponsorship does not mean that the CCG endorses a company's product or service. During dealings with sponsors, there must be no breach of patient or individual confidentiality or data protection legislation. Furthermore, no information should be supplied to a company for their commercial gain unless there is a clear benefit to the NHS. As a general rule, information which is not in the public domain should not normally be supplied.

Commercial Sponsorship is defined as "NHS funding from an external source, including funding of all or part of the cost of a member of staff, NHS research, staff training, pharmaceuticals, equipment, meeting rooms, costs associated with meetings, meals, gifts, hospitality, hotel and transport costs, (including trips abroad), provision of free services and buildings or premises."

The arrangements outlined within this policy apply to CCG Governing Body Members, GP Membership, Members of Committees/Groups and CCG staff. The Department of Health Guidance also requires Independent Contractors to put in place similar local arrangements. Independent Contractors should refer to their professional bodies for guidance. GPs should also refer to the BMA guidance "Ensuring Transparency and Probity". May 2011.

Limited finance and management resources mean that the potential availability of financial and other support is attractive to the NHS. The Association of the British Pharmaceutical Industry (ABPI) Code of Practice allows pharmaceutical companies to commit up to 9% of their total resources to educational work with NHS bodies and primary care contractors, so significant resources are available for appropriate projects from this source alone. There are, however, concerns that accepting sponsorship from commercial for-profit companies with a vested interest in promoting their own products may impact the quality of patient care and distort priorities. Consideration of the impact of sponsorship agreements across all sections of the NHS should be considered. Adhering to this policy will limit individuals being put in a position whereby they may be accused or questioned in relation to any wrongdoing regarding the acceptance of sponsorship.

Commercial Sponsorship Ethical Standards for the NHS requires NHS bodies to have formal arrangements, with clear policy statements, codes of practice in working with sponsors, and codes of conduct for CCG Boards, Clinical Commissioning Group (CCG) members and staff. These arrangements need to be in line with the CCG's Standing Orders, Scheme of Delegation and Prime Financial Policies.

This document describes how formal records will be maintained within NHS Bolton CCG.

### **3. Aims**

To have a robust and transparent process for managing partnership working and commercial sponsorship to avoid situations which could amount to a suspicion or allegation of bribery.

To ensure partnership working projects / sponsorship is in the best interest of the patients, the CCG and the NHS as a whole.

#### **4. Roles & Responsibilities**

##### **CCG Chief Officer**

The Chief Officer has overall accountability and responsibility for implementation of this policy within the CCG.

##### **Departmental Heads**

Departmental Heads must ensure that managers within their directorate are made aware of the provisions set out within the policy and that it is implemented within their directorate, in particular:

Ensuring all employees are aware of their responsibilities, the law and the policy on Commercial Sponsorship.

Ensuring appropriate authorisation is obtained prior to events involving sponsors, particularly Medicines Optimism approval for Pharmaceutical company sponsorship

Ensuring that breaches of policy are dealt with in a fair and consistent manner.

##### **Board Secretary**

The Board Secretary is responsible for:

- Advising staff on the contents of this policy.
- Ensuring adequate records are established.
- Maintaining the Gifts, Hospitality & Commercial Sponsorship Register, ensuring it is open for public inspection and scrutiny.
- Preparation of the Gifts and Hospitality and Commercial Sponsorship Annual Report and presentation to CCG Board.
- Maintaining declared conflict of interest records.

##### **Managers**

Managers are responsible for ensuring that their staff are aware of, and adhere to the policy.

##### **CCG members and employees**

All members and employees of the CCG are responsible for following the policy and for declaring any Commercial Sponsorship covered within the confines of this policy and have a duty to act with integrity, transparency and honesty in the workplace at all times.

## **Conflicts of Interest**

All personal potential conflicts of interest must be declared in line with the CCG Constitution. This would include any payments received to organise, chair or speak at pharmaceutical industry events; industry led advisory board and market research; consultancies to pharmaceutical industry; research projects or drug trials sponsored by pharmaceutical industry; journal articles or promotional material sponsored or funded by the pharmaceutical industry.

## **5. Code of Conduct**

The Code of Conduct approved by NHS Bolton CCG for officers and CCG members, who are not subject to professional codes is included in Appendix A.

## **Breaches of Policy**

Members and employees are reminded that breaches of rules, including breaches of policy, could be regarded as misconduct under the CCG's Disciplinary Procedure and/or as criminal activity which will be reported to the Anti Fraud Specialist/Local Security Management Specialist and/or police accordingly

## **6. Procedure**

### **General Principles**

Clinical and professional decisions should always be made in the best interest of patients and the NHS. Involvement of a commercial sponsor should not compromise the CCG or any member of staff/officer in undertaking their duties within the NHS.

Any relationship must respect and safeguard confidential patient information.

No agreements are permissible which lead to higher costs or reduce the quality of service to patients in other parts of the NHS. Only projects which have a positive impact for patients and the service will be acceptable.

All agreements with a commercial sponsor will be handled in an open and transparent manner as befits a publicly funded body and are open to scrutiny and be a matter of public record.

No agreements will be entered into with sponsors whose products or services are prejudicial to health or conflict with the principles and objectives of the NHS and the CCG.

No agreements will be entered into with organisations whose business or function is ethically unacceptable to the CCG, its staff or the public.

In areas such as clinical trials, or commissioning, it must be ensured that there is sufficient distance between the commercial sponsor and the clinicians involved in the day to day operation of the clinical trial or commissioning decisions, to ensure no undue influence is exerted to promote a particular companies product or service.



All pharmaceutical companies entering into sponsorship agreements must comply with the ABPI code of practice.

All sponsorship arrangements in excess of £40 will be subject to prior written agreement between authorised officers and prospective sponsors and must clearly specify the benefits to the NHS, the CCG or patient. The benefits to the sponsor must also be explicit.

Clinical aspects of sponsored projects should always be under local control. Development of guidelines and advice will be by a local group, but not including a representative of the sponsors. The local group may decide that advice and guidelines developed by a sponsor are suitable for promotion locally.

Training events which rely heavily on the use of sponsored materials should be discouraged, unless they promote good practice agreed to by the CCG. Service Level Agreements with training agencies must include a clause which requires the approval of the CCG to the use of commercially sponsored materials.

All members and officers of the CCG who are taking part in sponsored projects must comply with both the CCG and their own professional codes of conduct.

Formal meetings required by the CCG governance framework should not be the subject of sponsorship agreements. Sponsorship for local training may be acceptable subject to the necessary authorisations (appendix B and C).

Projects which involve the use of clinical guidelines or protocols prepared by sponsors should only be agreed following advice from the CCGs professional advisors (medical, nursing, and medicines management as appropriate) and relevant clinical leads.

Projects which involve the exchange of patient information should seek the advice of the organisations Caldicott Guardian and Information Governance lead, and must comply with Data Protection Act.

All staff including CCG members involved in the development of a sponsorship agreement must declare any prior interest in terms of previous sponsorship or relationship to any of the individual sponsors in question.

Sponsors should not advertise the CCGs participation in their project as an endorsement to their product, packages or company without specific written permission of the CCG. The CCG should agree the nature of any endorsement or linked publication.

Commercial organisations must not be in breach of article 85 (1) of the EC treaty which prohibits agreements preventing, restricting or distorting competition or section 21 (1) of the Competition Act 1980 which makes it unlawful to engage in practice preventing, restricting or distorting competition in the supply and acquisition of goods.

All agreements must include a break clause enabling the termination of the agreement at short notice, or immediately if necessary.

Sponsors should be informed that any sponsorship arrangement will have no effect on purchasing decisions with the CCG.

Sponsorship agreements which involve several sponsors are to be preferred to those which involve a single sponsor.

All sponsors should be provided with a copy of this policy document before any partnership working / sponsorship arrangements are agreed.

### **The Register**

A register of sponsorship agreements will be maintained by the Board Secretary. The register will be open to inspection by the public. The register will record those proposals which were submitted and approved or not approved. The Board Secretary will report any proposals to the CCG Conflicts of Interest Committee for review.

### **Written Agreements**

All sponsorship agreements exceeding £40 will be subject to written agreements. Completion of the proforma in appendix B and/or C will usually be sufficient for low value proposals. Higher value proposals (£600+) will need to be accompanied by additional supporting information and may need to be the subject of a formal contract. If advice is required this should be sought from the Chief Officer.

### **Approval/Authorisation**

Sponsorship arrangements involving amounts less than £40 need not be declared or registered. The £40 limit will apply to each sponsorship arrangement i.e. if more than one member of staff attends a training event valued at £20 per person the event should be recorded as the total sponsorship arrangement is in excess of £40.

Sponsorship under £600 value can be authorised by the Chief Officer/Departmental Head of the CCG. Following authorisation, officers should forward the pro-forma to the Board Secretary for entry in the Register.

Sponsorship valued at £600-£5000 and above will be authorised by the Chief Officer and Chief Finance Officer. Anything over £5,000 will need authorisation by the CCG Board.

Sponsorship valued in excess of £5000 requires prior approval by the Governing Body.

In making their decisions, the Chief Officer/Departmental Head will be confirming that proposals meet the requirements of this policy and that the appropriate professional advice has been sought.

## 7. Training

There are no specific training requirements, however all staff who work with external partners or sponsors should ensure they are familiar with the content of this policy.

## 8. Monitoring the Compliance and Effectiveness of this Policy

The Commercial Sponsorship Register will be kept, and be open for public inspection and scrutiny.

A Gifts and Hospitality and Commercial Sponsorship Annual Report and presentation will be made to the CCG Governing Body.

## 9. Dissemination

This policy will be brought to the attention of all employees and will be disseminated CCG wide for all employees to understand through a variety of communication mechanisms, including team briefings and email bulletins.

## 10. References

Department of Health (1997) *New NHS: Modern and Dependable* London :HMSO.

Department of Health (2000) *Commercial Sponsorship Ethical Standards* for the NHS London :HMSO.

Department of Health & ABPI (2010) *Moving Beyond Sponsorship: Joint working between the NHS and pharmaceutical industry* [available from <http://www.networks.nhs.uk/nhs-networks/joint-working-nhs-pharmaceutical/documents/joint%20working%20working%20toolkit%20dh.abpi.pdf> accessed 8/4/13

Managing Conflicts of Interest: Revised Statutory Guidance for CCGs June 2016.

## Appendix A

### CODE OF CONDUCT

CCG members, and staff employed by NHS Bolton CCG or its member practices should follow the following principles and abide by any professional codes of conduct:

- Act impartially in all their work.
- Refuse sponsorship of any kind which might reasonably be seen to compromise their personal judgement or integrity, or seek to exert influence to obtain preferential consideration.
- Declare and register sponsorship of any kind (provided that this is worth at least £40), whether refused or accepted.
- Declare any financial or personal interest in any organisation with which they have to deal, and be prepared to withdraw from those dealings if required, thereby ensuring that their professional judgement is not influenced by commercial considerations.
- Not misuse their official position or information acquired in the course of their official duties, to further their private interests or those of others.
- Beware of bias generated through sponsorship; where this might impinge on professional judgement and impartially.
- Neither agree to practice under any conditions which compromise professional independence or judgment, nor impose such conditions on other professionals
- Commercial sponsorship agreements, hospitality or personal gifts of a value greater than £40 should be recorded on the relevant CCG register. Registers are held by the Board Secretary.
- Declare all potential conflicts of interest as these arise.

**Appendix B****Commercial Sponsorship Agreement**

<b>Details of partnership working project / sponsorship. (Include: the key aims and objectives, expected timeframe and location)</b>	
<b>Recipient: CCG department and project lead.</b>	
Name	
Organisation and directorate	
Address	
Phone Number	
Email	
<b>Sponsor:</b>	
Organisation	
Nature of business	
Address	
Contact Name	
Phone Number	
Email	
Value Of Sponsorship	
Total Value	

Form of sponsorship e.g. financial grants, staff costs, training costs, room hire, hospitality etc	
<b>Payment arrangements e.g. direct to the CCG or to third party</b>	
<b>Benefits to recipient</b>	
<b>Benefits to sponsor</b>	
<b>Could sponsorship arrangements lead to higher costs or risks to quality elsewhere in the NHS?</b>	
<b>PATIENT CONFIDENTIALITY</b> <i>Does the arrangement involve the sharing of clinical data? Has the Caldicott guardian been consulted? Will the patients consent be sought?</i>	

<b>PROTOCOLS AND GUIDELINES</b>			
<i>Does the project include the use of protocols or guidelines? The advice of CCG Professional Leads should be sought and recorded</i>			
<b>PHARMACEUTICAL COMPANY SPONSORSHIP</b>			
<i>If the project is valued at more than £600, the advice of the Chief Officer must be recorded in all cases.</i>			
<b>Signature</b>		<b>Date</b>	
<b>Termination Arrangements:</b> <b>The agreement should be capable of the early termination by either the CCG or the sponsor</b>			
<b>RECIPIENT</b>			
I have read NHS Bolton CCG Partnership working: Commercial Sponsorship Policy and agree to abide by it			
Organisation			
Department			
Position/Designation			
Tel Number			
Project Lead	Signature:	Date:	
CCG Chief Officer/ Head of Service approval (£40-£600)	Signature:	Date:	
CCG Chief Officer/Chief Finance Officer (£600-£5000)	Signature:	Date:	

<b>CCG Board Approval (if over £5000)</b>	<b>Signature of Chair:</b>	<b>Date:</b>
<b>SPONSOR</b>		
<b>I have read NHS Bolton CCG Partnership working: Commercial Sponsorship Policy and agree to abide by it</b>		
<b>Organisation</b>		
<b>Contact Name</b>		
<b>Position/designation</b>		
	<b>Signature:</b>	<b>Date:</b>
<b>Contact details:</b>	<b>Tel:</b>	<b>Email:</b>

**FOR INTERNAL USE ONLY**

<b>Assigned Partnership Working/ Sponsorship Reference Number</b>	
<b>Partnership Working Project / Sponsorship Title</b>	
<b>Recipient</b>	
<b>Sponsor</b>	
<b>Value</b>	
<b>Sponsorship Accepted</b>	<b>Y/N</b>
<b>Authorised by (Name and designation)</b>	
<b>Date of CCG Board Authorisation (if over £5000)</b>	
<b>Date entered on register</b>	
<b>Name of person entering on register</b>	





**Appendix C****NHS Bolton CCG Sponsorship for Professional or Scientific Meetings**

<b>To</b>
<b>Of (State Company)</b>
<b>Thank you for agreeing to sponsor the meeting on</b>
<b>Title of Meeting</b>

**Sponsorship is accepted on the understanding that:-**

- **The meeting organiser retains overall control of the event and the content of the event**
- **The sponsor does not have the automatic right to present teaching or promotional material**
- **Where the organiser considers additional value may be gained from a presentation by the sponsor, that the content of the material is agreed in advance.**
- **The sponsor does not use the CCG contact to promote products outside the meeting**
- **Any stand the sponsor uses to promote products is to be outside the main meeting room, where this is possible.**
- **Attendance at the meeting by the sponsor is at the discretion of the course organiser**
- **Where course material is provided by a pharmaceutical company there is no promotion of specific products (the name of the company supporting the meeting is acceptable)**

**Please confirm that you accept the terms detailed above:**

**Signed:**

**Date:**

**Print Name:**

**Position/Company:**

## Appendix D

### Examples of Potential Conflicts

Below are some examples of situations that could be encountered by all employees and how they should deal with:

#### **Offer from a company to provide training for staff**

The CCG should be careful to ensure that staff are not pressurised by sponsors of training to alter their own activity to accommodate sponsors' wishes, particularly where these are not backed up by appropriate evidence. Training provided by industry may be above board if it is unbiased, has mutual benefit for both the NHS and the sponsoring company and is evidence based and the hospitality is appropriate. However, participants should assess whether they may be influenced unduly and also bear in mind what benefits the company might derive (eg. exposure to the NHS, professional contacts, potential allies to use later, names of who to influence – often without the participants realising).

#### **A manufacturer of a particular type of Nicotine Replacement Therapy offers to provide their product at a reduced rate**

This arrangement is acceptable provided that there is a clear clinical view that these products are appropriate to particular patients and there is no obligation to also prescribe these products to other patients for whom an alternative product would be at least as beneficial.

A pharmaceutical company offers to provide starter packs at a discounted price. This type of sponsorship is acceptable, but should always be declared in order to avoid any suspicion that subsequent prescribing might be inappropriate and linked to the provision of starter packs.

#### **High Tech Home Health Care Provider offers to supply equipment at a reduced rate in return for business linked to a specific product**

Contract negotiators should advise the company that any contract will not prejudice the provision of the most appropriate service to patients, and will not bear any relation to other contracts.

#### **A manufacturer offers to pay the travelling costs or accommodation costs for clinicians invited to a conference to view medical products**

Only clinicians with a specific interest in the products should attend and the travel costs incurred should be paid for by the CCG, unless the Chief Officer/Chief Finance Officer gives approval for the potential supplier to take responsibility for the costs. Such decisions should be taken at least at CFO level.

## **Gifts and Hospitality**

### **1. Introduction**

- 1.1 This policy is intended to inform all CCG Governing Body Members, GP Membership, members of Committees/Groups and CCG staff (including interim and sessional employees including clinical leads) of their responsibilities when accepting gifts and hospitality and to advise them to consider fully the implications of their actions in respect of the various probity issues contained in this policy.
- 1.2 The CCG has a duty to ensure robust processes are in place to ensure that the individuals outlined in this policy do not accept gifts or hospitality or other benefits which might reasonably be seen to compromise their professional judgement or integrity.
- 1.3 All individuals outlined in this policy need to consider the risks associated with accepting offers of gifts, hospitality and entertainment when undertaking activities for or on behalf of the CCG or their GP practice. This is especially important during procurement exercises, as the acceptance of gifts could give rise to real or perceived conflicts of interest or accusations of unfair influence, collusion or canvassing.
- 1.4 This policy also applies to activities conducted outside of the scope of the CCG's activities but which are either directly or indirectly related to an individual's position within the CCG. This may arise due to the concern that such activities, although not within CCG working hours, may relate to an impact upon an individual's role in their capacity as a commissioner for healthcare services.
- 1.5 This policy has been written in line with the Bribery Act 2010 and Fraud Act 2006 and will be updated with any changes to UK and EU legislation.
- 1.6 The policy excludes GPs own internal register for gifts and hospitality offered by patients in their capacity as a provider of healthcare services. Each practice should have its own internal procedure for the management of such gifts and hospitality (such as chocolates, flowers, wine etc.). Any gifts, hospitality or sponsorship offered to GPs and practices over and above those received from patients are covered by this policy as they may be made in their capacity as a commissioner of healthcare services or as a member of the CCG and, as such, would need to declare these gifts and hospitality to the CCG.
- 1.7 This policy should be read in conjunction with the CCG's Prime Financial Policies, Anti Fraud, Bribery and Corruption Policy, Conflicts of Interest Policy and the NHS Code of Conduct.

## 2. Purpose

- 2.1 This policy applies to those members of staff that are directly employed by the CCG and for whom the CCG has legal responsibility and covers all decisions and actions of staff in relation to the acceptance of gifts and hospitality to prevent accusations of improper behaviour which may lead to investigations, financial and reputational damage.
- 2.2 For those staff covered by a letter of authority/honorary contract or work experience, the organisation's policies are also applicable whilst undertaking duties for or on behalf of the CCG. Further, this policy applies to all third parties and others authorised to undertake work on behalf of the CCG. This includes individuals known to or even potentially have a commercial relationship with the CCG, as detailed under the Bribery Act 2010.
- 2.3 Where an employee feels this Policy unduly impacts upon their work outside the CCG, provision is made within the Policy for an application to be made to the CCG's Conflicts of Interest Guardian setting out the employee's position, and will be considered on a case by case basis.

## 3. Definitions

- 3.1 Bribery – An inducement or reward offered, promised or provided to someone to perform their functions or activities improperly in order to gain a personal, commercial, regulatory and/or contractual advantage.
- 3.2 Corruption – is generally considered to be an “umbrella” term covering such various activities as bribery, corrupt preferential treatment, kickbacks, cronyism, graft or embezzlement.
- 3.3 Hospitality – The reception and entertainment of guests, visitors, or strangers including, but not limited to travel, accommodation and refreshments.
- 3.4 Gifts – something that is bestowed voluntarily and without compensation upon an employee including, but not limited to, goods, money and gift cards.

## 4. Roles and Responsibilities

- 4.1 The proper management resources require sound governance procedures to ensure public money is spent appropriately and that the organisation conducts its business transactions in an open, honest and equitable manner.
- 4.2 To ensure that this is done effectively, the following roles and responsibilities are defined within the CCG:
- Governing Body – it is the responsibility of the Governing Body to approve the policy and disseminate to all members of staff and the GP membership. It is the responsibility of the Governing Body to ensure that

the policy is up to date and complies with the relevant EU Legislation with regard to the Bribery Act 2010 and the Fraud Act 2006.

- Conflicts of Interest Committee and Audit Committee – will be responsible for reviewing the Register of Gifts and Hospitality. It is the responsibility of the Conflicts of Interest Committee to ensure that the organisation acts in an open, honest and equitable manner.
- Board Secretary– any gift or hospitality offered to a CCG member or an employee of the CCG during the performance of his/her official duties, should be disclosed to the Board Secretary **before** acceptance and **before** an entry is made in the register of gifts and hospitality. The register of gifts and hospitality is held by the Board Secretary.
- Departmental Managers – each manager must ensure that this policy is followed for all types of gifts and hospitality received. Managers must ensure that all staff have up to date copies of the policy and have adequate training.
- CCG Employees – all staff must be familiar with and follow the policy. Staff should also raise any concerns or suspicions regarding NHS fraud, bribery and corruption, with the CCG's Local Counter Fraud Service who may be contacted directly on 0161-206-8162 or by reference to the contact/supporting details contained in the CCG' Local Anti Fraud, Bribery and Corruption Policy.
- Local Anti Fraud Specialist – any indication of deliberate non-compliance with this policy, or with the Prime Financial Policies, particularly where there is a suspicion of financial irregularity, will be referred to the CCG's Anti Fraud Specialist (AFS) for further investigation. Where fraud or corruption is proven, the CCG will appropriately consider the application of disciplinary and criminal sanctions, as well as redress, against identified perpetrators.
- NHS Protect – leads on work to identify and tackle crime across the health service. The aim is to protect NHS staff and resources from activities that would otherwise undermine their effectiveness and their ability to meet the needs of patients and professionals. Ultimately, this helps to ensure the proper use of valuable NHS resources and a safer, more secure environment in which to deliver and receive care. NHS Protect may investigate any financial irregularity within the CCG.

## 5. Register of Gifts and Hospitality

5.1 The Register of Gifts and Hospitality should be maintained for:-

- All CCG employees including full/part time, sessional or short term contracts (including Clinical Leads), students and trainees (including apprentices), agency staff and seconded staff (in addition any self-employed consultants or other individuals working for the CCG under a contract for services should make a declaration of interest in accordance with this guidance, as if they were CCG employees).
- Members of the Governing Body including all members of the CCG's committees, sub committees/sub groups including co-opted members, appointed deputies and any members of committees/groups from other organisations.

- Where a CCG is participating in a joint committee alongside other CCGs, any gifts and hospitality which are declared by the committee members should be recorded on the register of each participating CCG.
  - GP Membership which includes each provider of primary medical services which is a member of the CCG under Section 140(1) of the 2006 Act and includes GP partner (or where the practice is a company, each director) and any individual directly involved with the business or decision-making of the CCG.
- 5.2 The Register of Gifts and Hospitality will be published on the CCG's website at <http://www.boltonccg.nhs.uk/about-us/declarations-of-interest>
- 5.3 On appointment, individuals will be given a copy of the CCG Managing Conflicts of Interest Policy. This will include a copy of the declarations form for completion for any gifts and hospitality received.
- 5.4 It is the responsibility of the individual to complete and submit information on the declarations form on occasions where they have been offered gifts or hospitality.
- 5.5 The declarations form must be submitted within 14 days of the offer/acceptance of gift or hospitality.
- 5.6 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. Where an 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. Such requests must be made in writing. Decisions not to publish information must be made by the CCG's Conflicts of Interest Guardian who should seek appropriate legal advice where required, and the CCG should retain a confidential un-redacted version of the register.
- 5.7 The Register of Gifts and Hospitality must be published as part of the CCG's Annual Report and Annual Governance statement.
- 5.8 All persons who are required to make a declaration of interest(s) or a declaration of gifts or hospitality will be made aware that the register(s) will be published in advance of the publication. This is done through the quarterly update to all individuals.

## **6. Acceptance of Gifts & Hospitality**

**Gifts, hospitality or other benefits must not be accepted which might be seen to compromise your own personal or professional integrity or that of the CCG.**

## 6.1 By way of inducement or rewards:

- 6.1.1 From 1<sup>st</sup> July 2011, the Bribery Act 2010 has updated UK law by making it a criminal offence to:
- Offer, promise or give a bribe (section 1).
  - Request, agree to receive, or accept a bribe (section 2).
- 6.1.2 Under the 2010 Act, bribery is now a series of specific offences. Bribery is defined as an inducement or reward offered, promised or provided to someone to perform their functions or activities improperly in order to gain a personal, commercial, regulatory and/or contractual advantage.
- 6.1.3 A bribe does not have to be in cash, it may be the awarding of a contract, the provision of gifts, hospitality, sponsorship, the promise of work or some other benefit. The persons making and receiving the bribe may be acting on behalf of others - under the Bribery Act 2010, all parties involved may be prosecuted for a bribery offence.
- 6.1.4 The Act is also extra-territorial in nature. This means that anyone involved in bribery activity overseas may be liable to prosecution in the UK if the bribe is in respect of any UK activity, contract or organisation. To this end, the Act also includes an offence of bribing a foreign public official (section 6).
- 6.1.5 In addition, the Act introduces a new 'corporate offence' (section 7) of the failure of commercial organisations to prevent bribery. The Department of Health Legal Services has stated that NHS bodies are deemed to be 'relevant commercial organisations' to which the Act applies. As a result, an NHS body may be held liable (and punished with a potentially unlimited fine) when someone "associated" with it bribes another in order to get, keep or retain business for the organisation. However, the organisation will have a defence, and avoid prosecution, if it can show it had adequate procedures in place designed to prevent bribery.
- 6.1.6 Under section 14 of the Act, a senior officer of the organisation (eg. a senior manager, Executive or Non-Executive Director) would also be liable for prosecution if they consented to or connived in a bribery offence carried out by another. Under such circumstances, the senior officer may be prosecuted for a parallel offence to that brought against the primary perpetrator. Furthermore, the organisation could also be subject to an unlimited fine because of the senior officer's consent or connivance.
- 6.1.7 The Bribery Act is applicable to NHS organisations including NHS Bolton CCG and, consequently, it also applies to (and can be triggered by) everyone "associated" with the CCG who performs services for or on behalf of it, or who provides it with goods or facilities. This includes those who work for and with it, such as employees, officers, members, agents, subsidiaries, contractors and suppliers (regardless of whether they are incorporated or not). The term 'associated persons' has an intentionally wide interpretation under the Act.



6.1.8 NHS Bolton CCG adopts a zero tolerance attitude towards bribery and does not, and will not, pay or accept bribes or offers of inducement to or from anyone, for any purpose. The CCG is fully committed to the objective of preventing bribery and will ensure that adequate procedures, which are proportionate to our risks, are in place to prevent bribery and which will be regularly reviewed. We will, in conjunction with NHS Protect, seek to obtain the strongest penalties – including criminal prosecution, disciplinary and/or civil sanctions – against anyone associated with NHS Bolton CCG who is found to be involved in any bribery or corruption activities.

As with the Fraud Act, a conviction under the Bribery Act may ultimately result in an unlimited fine and/or a custodial sentence of up to 10 years imprisonment.

## **6.2 Gifts and Inducements:**

6.2.1 In the environment in which the NHS operates, it is potentially possible for staff to gain personal benefits from their position within the CCG. Examples of these may be:

- Offers of gifts from patients or suppliers.
- Offers of hospitality from potential suppliers to the CCG (suppliers covers services as well as goods).
- Offers from suppliers to an individual member of staff to purchase goods at discount or special prices.

6.2.2 Items provided on long term or permanent loan to a doctor or practice are regarded as gifts and are subject to the requirements of this policy.

6.2.3 No gift, benefit-in-kind or pecuniary advantage shall be solicited by, or received or given to, members of the health professions or to administration staff as an inducement to prescribe supply, administer or buy any medicine. In this respect any offers to an individual member of staff allowing purchase, from suppliers to the CCG, at discount or special prices should be refused and names of suppliers involved should be notified to the Chief Finance Officer. Any other inappropriate or unsuitable gifts should also be refused and notified to the Board Secretary.

### **6.3 Gifts – Definition and Process**

- 6.3.1 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.
- 6.3.2 All gifts of any nature offered to CCG staff, governing body and committee members and individuals within GP member practices by suppliers or contractors linked (currently or prospectively) to the CCG's business should be declined, whatever their value. The person to whom the gifts were offered should also declare the offer to the Board Secretary so the offer which has been declined can be recorded on the register.
- 6.3.3 Gifts offered from other sources should also be declined if accepting them might give rise to perceptions of bias or favouritism, and a common sense approach should be adopted as to whether or not this is the case.
- 6.3.4 The only exceptions to the presumption to decline gifts relates to items of little financial value (ie. less than £10) such as diaries, calendars, stationery and other gifts acquired from meetings, events or conferences, and items such as flowers and small tokens of appreciation from members of the public to staff for work well done. Gifts of this nature do not need to be declared to the Board Secretary nor recorded on the register.
- 6.3.5 Any personal gift of cash or cash equivalents (eg. vouchers, tokens, offers of remuneration to attend meetings whilst in a capacity working for or representing the CCG) must always be declined, whatever their value and whatever their source, and the offer which has been declined must be declared to the Board Secretary for maintaining the register of gifts and hospitality and recorded on the register.
- 6.3.6 There may be occasions that, on registering the gift, it is deemed that the gift should be returned.

### **6.4 Hospitality – Definition and Process**

- 6.4.1 A blanket ban on accepting or providing hospitality is neither practical nor desirable from a business point of view. However, individuals should be able to demonstrate that the acceptance or provision of hospitality would benefit the NHS or CCG.
- 6.4.2 Modest hospitality provided in normal and reasonable circumstances may be acceptable, although it should be on a similar scale to that which the CCG might offer in similar circumstances (eg. tea, coffee, light refreshments at meetings). A common sense approach should be adopted as to whether hospitality offered is modest or not. Hospitality of this nature does not need to be declared to the Board Secretary nor recorded on the register, unless it is offered by suppliers or contractors linked (currently or prospectively) to the CCG's business in which case all such offers (whether or not accepted) should be declared and recorded.

- 6.4.3 There is a presumption that offers of hospitality which go beyond modest or of a type that the CCG itself might offer, should be politely refused. A non-exhaustive list of examples include:
- Hospitality of a value above £40; and
  - In particular, offers of foreign travel and accommodation.
- 6.4.4 There may be some limited and exceptional circumstances where accepting the types of hospitality referred to in this paragraph may be contemplated. Express prior approval should be sought from a senior member of the CCG (Chief Finance Officer) before accepting such offers, and the reasons for acceptance should be recorded in the CCG's Register of Gifts and Hospitality. Hospitality of this nature should be declared to the Board Secretary and recorded on the register, whether accepted or not.
- 6.4.5 In addition, particular caution should be exercised where hospitality is offered by suppliers or contractors linked (currently or prospectively) to the CCG's business. Offers of this nature can be accepted if they are modest and reasonable but advice should always be sought from a senior member of the CCG (Chief Finance Officer) as there may be particular sensitivities, for example if a contract re-tender is imminent. All offers of hospitality from actual or prospective suppliers or contractors (whether or not accepted) should be declared and recorded.
- 6.4.6 You should refuse hospitality of any kind which might reasonably be seen to compromise your personal judgement or integrity, and which could be perceived as seeking to exert influence to obtain preferential consideration.
- 6.4.7 Hospitality must be secondary to the purpose of the meeting and should not be out of proportion to the occasion, nor exceed that level which the recipients would normally adopt when paying for themselves, or that which could be reciprocated by the NHS.
- 6.4.8 Hospitality should not extend beyond those whose role it makes appropriate for them to attend the meeting.
- 6.4.9 Where meetings are sponsored by external sources this fact must be disclosed in the papers relating to the meeting and in any published proceedings, and should be recorded on a commercial sponsorship form for inclusion in the CCG's register
- 6.4.10 Any trade stand or display must be outside the meeting room. Industry representatives should be excluded from internal meetings about CCG business. (This does not include formal CCG meetings which are open to members of the public).
- 6.4.11 All offers of hospitality with a value of £40 or more must be declared on the gifts and hospitality form and entered in the CCG's Register of Gifts and Hospitality.

## 7. Conclusion

- 7.1 The purpose of this document is to emphasise that all Board members, members of committees/groups, the GP membership and staff of the CCG are accountable for achieving the best possible healthcare within the resources available and to advise them to consider fully the implications of their actions in respect of the various probity issues contained in this policy.
- 7.2 In all cases, responsibility for notifying the CCG of any receipt of hospitality or gift lies firmly with the member/employee concerned. Failure to disclose such items could constitute a disciplinary offence and/or a criminal offence. Employees should therefore seek the advice of their line manager or declare the interest immediately, should any doubt exist. In certain circumstances, non-disclosure may also be referred to the Anti Fraud Specialist for further investigation.
- 7.3 The Register of Gifts and Hospitality is presented to the Audit Committee on a regular basis. The Register is a document within the public domain and the details will be a matter of public knowledge.
- 7.4 The process for monitoring and review of the process is listed below:

Quarterly reminders sent to all Board members, GP Membership, clinical leads and staff.	March/June/September/December
Reviewed by Conflicts of Interest Committee, Executive and Audit Committee.	At each meeting as part of Corporate Register update
Reviewed annually by CCG Board.	January

## 8. Consultation Process

- 8.1 The production of this policy has been undertaken with guidance from the Local Anti-Fraud Specialist taking into account all current legislation and CCG rules and processes.

## 9. Dissemination and Implementation

- 9.1 Dissemination: Following approval of this policy, it will be made available through the CCG's website. All managers must familiarise themselves with this policy and ensure that relevant staff are also aware and have the required training.
- 9.2 Implementation: Awareness will be raised regarding the changes to or introduction of this policy via the Governing Body, Audit Committee, Conflicts of Interest Committee and staff briefings. If any member of staff requires training on this policy, they should speak to the Chief Finance Officer in the first instance.

## **10 Monitoring Compliance**

- 10.1 The Board Secretary is responsible for monitoring compliance with the policy.
- 10.2 An annual report will be presented to the CCG Governing Body along with the Declarations of Interest annual report and will be presented at the January board meeting each year.
- 10.3 The register of Gifts and Hospitality will be presented periodically to the Audit Committee, regularly monitored through the Conflicts of Interest Committee and reviewed annually by the Governing Body. As such, the register is a document within the public domain and the details will be a matter of public knowledge.
- 10.4 If employees or members have any doubts or require advice on receipt of gifts this can be done in the first instance via their line manager or Board Secretary, and legal advice may be sought when required.
- 10.5 Any breach of this policy, or the acceptance of gifts in circumstances whereby the employee or member has not acted with absolute impartiality, integrity, and honesty will be investigated and may result in disciplinary action. Staff or members may face criminal action under the Bribery Act 2010. Professional conduct rules and the Local Anti-Fraud, Bribery and Corruption Policy will also apply.
- 10.6 It should be noted that it is not appropriate to use CCG funds to purchase gifts or floral tributes for staff or members, although the Chief Officer may authorise this in exceptional circumstances.

## **11. Standards and Key Performance Indicators**

- 11.1 This policy must be reviewed at least every three years or when there are significant changes in the policy or the associated legal acts.
- 11.2 This policy will be monitored for effectiveness by self-assessment against any external accreditation that is applicable and may be subject to review by internal audit.

## **12. References and Bibliography**

Bribery Act 2010  
Fraud Act 2006  
Association of British Pharmaceutical Industry (ABPI) Code of Practice  
The Medicines (Advertising) Regulations 1994  
Race Relations (Amendment) Act 2000  
Disability Discrimination Act 2005  
Equality Act 2010

**13. Associated CCG Documents and Useful Contacts**

Anti-Fraud, Bribery and Corruption Policy  
Equality and Diversity Strategy 2012-2016  
Bolton CCG Constitution  
Bolton CCG Governance framework  
Equality Impact Assessment Framework 2010



## Appendix A

## Declaration Form – Gifts and Hospitality

<b>NAME OF RECIPIENT:</b>	<b>DIRECTORATE AND POST HELD:</b>
<b>DATE OF OFFER AND DATE RECEIVED:</b>	<b>NATURE OF GIFT OR HOSPITALITY:</b>
<b>DETAILS: (inc. travel, destination, accommodation, meals and whether in own or CCG time).</b>	<b>ESTIMATED COST:</b>  (NB: If this is not completed, an estimated cost will be provided by the finance department).
<b>NAME, ADDRESS &amp; NATURE OF BUSINESS OF OFFERER:</b>	<b>HOW LINKED TO ROLE AT CCG:</b>
<b>ACCEPTED/DECLINED (and your reasons for doing so):</b>	Signed:..... Date: .....
<b>DETAILS OF PREVIOUS OFFERS OR ACCEPTANCE BY THIS OFFERER/SUPPLIER:</b>	
<b>COMMENTS (any additional comments felt useful to note):</b>	
<b>ADDITIONAL SCRUTINY:</b> Before accepting the gift/hospitality, please explain and consider the implications in particular whether this gives any potential rise to any conflicts now and in the future and, if so, how these will be managed – PLEASE DETAIL BELOW:	
Signed: .....	
Date: .....	
<i>I confirm that the information provided on this form is complete and correct. I acknowledge that any changes in these declarations must be notified to the CCG 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.</i>	

***I do/do not (delete as applicable) give my consent for this information to be published on registers that the CCG holds. If consent is NOT given, please give reasons:***

**AUTHORISATION OF LINE MANAGER: (Required before accepting gifts or hospitality)**

**Signed:** ..... **Designation:** .....

**Date:** ..... **Directorate:** .....

**Countersigned by:** .....  
**(Chief Finance Officer)**

**For office use**

<b>ENTRY IN REGISTER</b>	<b>YES/NO:</b>	<b>DATE:</b>	<b>BY:</b>
<b>REVIEW BY LINE MANAGER ON:</b>			

**NOTES:**

This form must be completed when gifts (other than articles of low value such as diaries or calendars) or hospitality are accepted or declined.

The information submitted will be held by the CCG 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 Data Protection Act 1998.

Information may be disclosed to third parties in accordance with the Freedom of Information Act 2000 and published in registers that the CCG holds.

**The completed and signed form must be returned to the Board Secretary, NHS Bolton CCG, St Peters House, Silverwell Street, Bolton, BL1 1PP.**