

## CONFLICT OF INTEREST (COI) PROCEDURE

### DOCUMENT CONTROL

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### REVISION RECORD

Date	Version	Revision Description
01/06/2017	2.0	Combined COI Framework and COI Fact Sheet into Procedure document.
20/07/2018	3.0	Step by Step COI process, revised COI Form and COI Flowchart included.
21/03/2019	4.0	Updated in accordance with Department of Health COI and Related Party policy.
03/09/2019	5.0	COI Form updated with relevant information to align with COI Register
27/4/2021	5.1	Annual review by Board (attachment to Board Handbook)
01/07/2021	5.1	Reviewed by HR Manager and Executive Assistant. Streamlined electronic COI Form submission process to Assistant Company Secretary (ASC)/Executive Assistant to CEO.
01/06/2022	6.0	Reviewed by HR Manager and Executive Assistant. Minor updates to document. Appendix D updated to align with current process. CEO endorsed.

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## 1. PURPOSE

The purpose of this procedure is to help support employees/other personnel to effectively:

- Identify conflicts of interest that employees/other personnel may encounter
- Recognise their responsibilities to disclose and promptly address any conflicts of interests
- Understand and implement the process for managing conflicts of interest

## 2. WHAT IS A CONFLICT OF INTEREST?

- A conflict of interest occurs when employees/other personnel are in a position to be influenced, or appear to be influenced, by personal interests when undertaking an organisational activity.
- A conflict of interest can involve avoiding personal disadvantage as well as gaining personal advantage.
- A conflict of interest is not limited to circumstance where employees/other personnel, or those close to them, may gain or lose financially from their position.
  - It includes situations where official decisions may be influenced by personal interests in social and professional activities, and interests with individuals or other groups, including family and friends.
- The Department of Health Standard Funding Agreement (SFA) stipulates that: *'a conflict of interest is any matter, circumstance, interest or activity involving or effecting your Organisation or your Organisation's Personnel, which may appear to impair your Organisation's ability to perform an activity diligently, fairly and independently'*.

### 2.1 What are the different types of conflicts of interest?

- **Actual** – An actual conflict of interest involves a direct conflict between a person's current duties and responsibilities and existing private interests. i.e. you **ARE** being influenced by a conflicting interest.
- **Perceived** - A perceived or apparent conflict of interest can exist where it could be perceived, or appears, that a person's private interests could improperly influence the performance of their duties – whether or not this is in fact the case i.e. you could **APPEAR** to be influenced by a conflicting interest.
- **Potential** - A potential conflict of interest arises where a person has private interests that could conflict with their official duties in the future i.e. you **COULD** be influenced by a conflicting interest.

### 2.2 What are the different classifications of conflicts of interest?

- A **pecuniary** interest involves an actual or potential financial gain or loss. It may result from the employee or someone associated with them (e.g. family member) owning property, holding shares or a position in a company bidding for government work, accepting gifts or hospitality, or receiving an income from a second job. Money does not actually have to change hands for an interest to be pecuniary.
- A **non-pecuniary** interest does not have a financial component but may arise from personal or family relationships, involvement in sporting, social, trade union, community or cultural activities. Non-pecuniary interests include any tendency toward favour or prejudice resulting from friendship, animosity or other personal involvement that could bias your judgement or decisions.

### 2.3 Where may a conflict of interest occur?

- There are many areas of work and organisational functions that may create a high risk for potential conflicts of interests, including but not limited to:
  - managing employees
  - recruitment and selection processes and making appointments to positions

- purchasing/procurement and contracting
- exercising delegations
- having discretion for planning or development applications
- disposing of assets
- undertaking investigations
- carrying out regulatory tests and procedures
- inspecting, regulating or monitoring standards, businesses, equipment or premises
- issuing qualifications or licences
- allocating grants of public funds
- interacting regularly with the private sector
- making determinations or handing down judgement about individuals or disputes
- providing consumer advice.
- Conflicts of interest can also occur when:
  - an employee/other personnel undertakes secondary employment in another sector or in the private sector.
  - an employee/other personnel's role requires them to take on a public sector or community-based role, in conjunction with their GCPHN roles, e.g. to also be a member of an advisory committee or board.
  - an employee/other personnel with more than one role acquires confidential information that could be useful in relation to their work in another role.

[Refer to Appendix A: Conflict of interest case studies.](#)

### 3. WHY IS IT IMPORTANT TO MANAGE CONFLICTS APPROPRIATELY?

**3.1** Conflicts of interest, if managed appropriately, do not have to be a problem for the organisation. However, it is important to be aware of what can happen if a conflict is not managed appropriately.

- **Reputational Risk** – failing to manage conflicts of interest can damage the reputation of GCPHN and could have a negative impact on funding, recruitment and retention of employees and public trust and confidence in GCPHN.
- **Poor Governance** – good governance is a central part of ensuring that GCPHN effectively works towards achieving its mandate as well as meeting its obligations under the law. Failing to manage conflicts of interest affects GCPHN's governance in a variety of ways:
  - It could suggest that GCPHN's Members, Board, management and employees are not acting in the organisations best interest, and this could undermine the long-term sustainability of the organisation.
  - May indicate a lack of accountability and transparency. Appropriately identifying and managing conflicts of interest is essential in promoting accountability and transparency in the organisation.
  - The organisation's ability to function effectively as a whole could be undermined if conflicts of interest are not managed appropriately. The integrity and effectiveness of GCPHN's decision-making processes can be put at risk.

#### 3.2 Promoting a culture of disclosure

- Employee/other personnel's attitudes and behaviours towards conflict of interest are a key factor to successful disclosure and management of conflicts of interest.
- Employee/other personnel should never feel apprehensive about disclosing a potential conflict. Rather they should view disclosing interests as part of their respective roles and should encourage others to do the same.

- The key to managing conflicts responsibly is to encourage, facilitate and record all disclosures (see 4. Below for this process).
- The cornerstone of creating a culture of disclosure at GCPHN is to have and encourage open discussion on conflicts of interest in a way that is supportive and non-judgemental.
- Promoting a culture of disclosure can be promoted by:
  - Informing new employees/other personnel about GCPHN’s COI Procedure and providing them with a copy of the procedural document.
  - Providing conflict of interest training.
  - Providing easy access to the COI procedure and related COI Form.
  - Making conflicts of interest a standing agenda item (for meetings as well as other organisational processes) – this routinely reminds employees/other personnel of their duty to declare any potential conflicts.
  - Recording declared conflicts of interest in meeting minutes or in other relevant process documentation.
  - Employees to complete an “External Business Undertaking Acknowledgement” form to seek GCPHN’s prior written consent to engage in any business employment or provide services to anyone other than GCPHN (in accordance with Terms and Conditions of Employment).

#### 4. CONFLICT OF INTEREST PROCESS



##### 4.1 **STEP 1: Identify**

Employees/other personnel are responsible for identifying and disclosing their own conflicts of interest. Consideration should be given as to whether in performing a role, an employee/other personnel could be influenced, or appear to be influenced, by personal interests.

Employees/other personnel need to consider:

- if they, or someone associated with them, would benefit or be disadvantaged directly or indirectly, now or in the future, from a decision they may be involved in making in their employment capacity.
- whether they, or someone associated with them, has received a gift or benefit from another person or business who stands to benefit from a decision the employee makes or can influence.
- whether a member of the public would view the employee’s decision as being influenced by their personal interests or associations with other persons/entities.

A good way to think about whether a conflict of interest may exist is to ask the following question:

*“Would a reasonable person (properly informed about the nature of your personal interest) believe that you may be influenced by your personal interest when making a decision on behalf of the organisation?”*

## 4.2 STEP 2: Manage

### 4.2.1 Disclose the conflict of interest

As soon as a likely conflict of interest is identified, it should be promptly disclosed to the relevant Manager or Responsible Person.

### 4.2.2 Assess

The relevant Manager or Responsible Person will then assess the situation and determine whether or not any conflict actually exists. If a conflict of interest is established, then the type of interest (i.e. actual, perceived or potential) and the best strategy for its management should be discussed and agreed upon by the parties concerned.

Once a conflict of interest is determined to exist a Conflict of Interest Form (COI Form) – should be completed by the employee/other personnel jointly with the relevant responsible person.

[Refer to Appendix B: COI Form](#)

### 4.2.3 Choose Strategy

While conflicts of interest may be resolved or managed in a variety of ways, the choice of strategy will depend on an assessment of the individual circumstances of each case. The six major options for managing conflicts of interest are:

STRATEGY		DESCRIPTION / RECOMMENDED ACTION
1.	<b>Register</b>	Details of the existence of a conflict of interest (actual, potential or perceived) are formally entered into the Conflicts of Interest Register. <b><i>When to use: for low-risk COI's.</i></b>
2.	<b>Restrict</b>	Where restrictions are placed on the employee's involvement in the matter e.g. may not participate in discussions or decision making. <b><i>When to use: If the COI is not likely to arise frequently.</i></b>
3.	<b>Recruit</b>	Where a neutral third party is used to oversee part or all of the process that deals with the matter. <b><i>When to use: if the expertise of the third party is necessary.</i></b>
4.	<b>Remove</b>	Where the employee is removed from their involvement in the matter creating the conflict i.e. leave the room during pertinent discussions. <b><i>When to use: For ongoing serious COIs where ad hoc restriction or recruitment of others is not appropriate.</i></b>
5.	<b>Relinquish</b>	Where the employee relinquishes the private interest that is creating the conflict. <b><i>When to use: if the employee's commitment to public/official duty outweighs their attachment to the private interest.</i></b>
6.	<b>Resign</b>	Where the employee resigns from the conflicting role e.g. on the interview panel, from the Board etc. <b><i>When to use: where no other options are practicable or if the employee prefers this course as a matter of personal principle.</i></b>

In resolving or managing the conflict of interest, the following should be achieved:

- restricting the extent to which a private interest could compromise, or be seen to compromise, impartiality when carrying out official duties.
- ensuring there can be no perception of receiving an improper benefit that could influence the performance of official duties.
- removing the employee from involvement in official decisions and actions which could be compromised by private interests and affiliations.

#### 4.2.4 Implement

Once the most appropriate strategy or strategies for the conflict of interest has been determined it must be appropriately implemented and recorded on the COI Form.

#### 4.2.5 Record

- Transparent decision making and detailed record keeping are essential.
- Relevant details of the conflict of interest should be captured as per the Conflicts of Interest Form (COI Form). This will enable GCPHN to demonstrate in an accountable manner, if necessary, that a specific conflict of interest was appropriately identified and managed.
- Completed COI Forms should be scanned and emailed directly to [HR@gcphn.com.au](mailto:HR@gcphn.com.au) who will in turn forward the form to the Executive Assistant for entering into the COI Register. Any hard copies should be securely destroyed once scanned and updated to the COI Register. Employee's conflict of interest documentation should also be filed securely within their personnel records.
- Instances where a COI should be disclosed:
  - a. **Recruitment panel:** If you are participating on a recruitment panel and upon receipt of the applications become aware that a person/s applying for the role are known to you, either professionally or personally, you need to complete a COI Form. The COI should be disclosed to the panel and a COI Form completed. The panel are to discuss which strategy (as per 4.2.3) is the most appropriate to implement. The COI and strategy implemented should also be documented in the selection report.
  - b. **Meetings:** When it is not possible to disclose a conflict of interest in writing, for example, during a meeting where, without prior warning, a matter is introduced in which the employee/other personnel recognises they may have a conflict of interest, the employee/other personnel should immediately verbally disclose the interest. The employee/other personnel's disclosure should be recorded in the minutes of the meeting. The participants and Chair of that meeting should decide on a conflict of interest management strategy (refer to 4.2.3 above) and then implement accordingly. At the earliest possible opportunity, the employee/other personnel should then follow the process to complete a COI Form.
  - c. **Procurement Selection Panel Members** will be required to disclose any potential, actual or perceived conflicts of interest either prior to or during the evaluation of procurement applications e.g. *any personal financial interest in the project; any immediate relatives, close friends or business associates with a financial interest in the project; any personal bias or inclination, which would in any way affect an individual's decisions in relation to the project; and, any personal obligation, allegiance or loyalty, which would in any way affect an individual's decisions in relation to the project.* A COI Form should be completed at the start of the process. The Procurement Selection Panel Chair should take into consideration any conflicts of interests arising as part of the shortlisting process and then decide and implement an appropriate conflict of interest strategy (refer to 4.2.3).



- d. **Governance, Committee and Advisory Council Members** - It is a requirement that all members upon signing their formal Agreement to commence with GCPHN, acknowledge that they have read the COI procedure and will declare any conflicts of interest. Opportunity is provided at each meeting to declare new conflicts of interest, refer to b) above for the related process in this instance.
- e. **Reporting OTHER conflict of interest matters not relating to self** - Employees who become aware of a conflict of interest involving another employees/other personnel should, if they are comfortable doing so, raise the matter with the individual concerned or, if after raising the issue it becomes apparent that a conflict has not been declared, they should raise it with their immediate manager/Responsible Person or Human Resources.

#### **4.3 STEP 3: Review and Monitor**

- Reviewing and monitoring is an essential component of the conflict of interest process by the Senior Leadership Team (SLT).
- Ongoing monitoring and regular reviews of identified conflicts of interest allow changes to be made to the management strategy.
- Each quarter the COI Register will be provided to the relevant SLT meeting for review and audit i.e. for compliance and applicability. COIs on the register should be reviewed, discussed, adjusted and or closed if necessary at the appropriate SLT meeting.
- All COI forms submitted to HR are entered into the COI Register. The COI Register is maintained by the Executive Assistant and is submitted monthly to the DoH for their review and noting.
- A separate COI Register is held for the Board of Directors. This is maintained by the Company Secretary.

[Refer to Appendix D: Conflict of interest flowchart](#)

### **5. MAINTAINING CONFIDENTIALTY**

All details relating to conflicts of interests are to be maintained in the strictest confidence and in accordance with the Privacy Act 1988.

### **6. COI REGISTER**

- All conflicts of interest must be registered into the COI Register.
- For minor or perceived conflicts of interest no further management action may be needed after the conflict is disclosed and registered.
- The Register is to include, as a minimum:
  - The name of the person declaring the conflict of interest
  - To whom the conflict was declared (name and position)
  - The date of declaration
  - The nature of the declared conflict, including if relevant the name of the organisation or individual the conflict relates to
  - A brief description of the matter
  - Any action taken
  - Any additional comments

### **7. REPORTING TO THE DEPARTMENT OF HEALTH**

Under the Department of Health (DoH) Standard Funding Agreement, Clause 9.4 governs the organisation's obligations in relation to managing conflicts of interests. Clause 9.4.2 states if a conflict arises (or appears likely to arise), the PHN must immediately notify the Department and



make a full disclosure of all relevant information relating to the conflict and set out the steps proposed to resolve or deal with the conflict, and take such steps. Failure to disclose could result in the termination of the relevant activity under the funding agreement. GCPHN's standard practice is to submit the COI Register to the DoH at the end of each month for their review and records. This practice has been accepted by the DoH.

## 8. RELATED PARTY TRANSACTIONS

### 8.1 Who is a related party?

- General definition: A related party is a person or an entity that is **related** to the reporting entity. A person or a close member of that person's family is **related** to a reporting entity if that person has control, joint control, or significant influence over the entity or is a member of its key management personnel.
- The Department of Health's Definition: (Terms and Conditions for Standard Funding Agreement (Clause 9.5) is:
  - a) An entity that controls or has significant influence over GCPHN at any time;
  - b) An entity that GCPHN controls or has significant influence over at any time, including GCPHN's subsidiary;
  - c) A person who is a member of GCPHN's board or governing body;
  - d) A member of the board of an entity referred to in a) or b);
  - e) A member of GCPHN's Personnel, other than in their capacity as an employee; or
  - f) A spouse or immediate family member of:
    - i. A member of GCPHN's Personnel; or
    - ii. A person specified in c) or d)Who is not themselves an employee of GCPHN.

### 8.2 What is a related party transaction?

A related party transaction is an arrangement between two parties who are joined by a pre-existing special relationship. It is a transfer of resources, services or obligations between a reporting entity and a related party, regardless of whether a price is charged.

### 8.3 Process for managing related party transactions

- DoH approval is required before a related party transaction proceeds.
- A request for approval should first be provided to the GCPHN's Board of Directors for endorsement.
- If endorsed by the Board, then a written request for approval is to be submitted to DoH, in accordance with the Related Party Transaction form found in Appendix C.
- In the event the DoH receives such a request from GCPHN, it may:
  - Request further information from GCPHN which must be provided within 7 days of receiving the request and
  - Consent (or not consent) GCPHN making the payment to the related party. Any consent may be given by the DoH on any terms or conditions it deems fit and GCPHN must comply with these.
- All Board endorsed related party transactions must be entered into the Related Party Transactions Register.

[Refer to Appendix C – Related Party Transaction Application](#)

## 9. GIFTS AND BENEFITS

Employees/other personnel should not seek or accept any payment, gift or benefit intended or likely to influence, or that could be reasonably be perceived by an impartial observer as being

intended or likely to influence the employee/other personnel. A Manager or Responsible Person should be consulted with to determine the best approach based on the circumstances.

Generally speaking, **token** gifts and moderate acts of hospitality would be of nominal value (under \$20) and could include:

- Box of chocolates or flowers from a grateful stakeholder
- Free meals and/or refreshments provided infrequently (i.e. annually) and/or reciprocally by representatives of other organisations
- Gifts of a single bottle of reasonably priced alcohol (i.e. under \$10) to individuals at public occasions or in recognition of a presentation

Token or inexpensive gifts may only be accepted if offered as a gesture of appreciation, and not to secure favour. Acceptance of the gift must be declared, managed and documented in the **Gift Register**.

**Managers must:**

- Provide employees with guidance on responding to various situations when being offered a gift, benefit or bribe
- Disclose any gifts received to the Assistant Company Secretary (Executive Assistant to CEO) for updating to the Gift Register and advise employees on any actions required.

**Employees must:**

- Not solicit gifts and benefits
- Not accept gifts of money
- Always consider the value and purpose of a gift or benefit before making any decisions about accepting it.
- Advise their Manager as soon as possible to ensure accepting the gift or benefit is appropriate and provide details of such gift for entry in the Gift Register.

## 10. NON-DISCLOSURE

If a conflict of interest is not identified, disclosed and managed effectively it can cause private interests being put above the interest of the organisation; thereby compromising work and creating a catalyst for misconduct and corruption.

If employees/other personnel fail to make the necessary disclosure about conflicts of interest they may be in breach of this procedure. Breaches will be treated seriously and may lead to disciplinary action in accordance with company policy/procedure and may lead to termination of employment.

Refusal to take any action directed by GCPHN to resolve a conflict of interest may be in breach of this procedure and may render the employee liable to disciplinary action.

All breaches must be reported to Human Resources.

[Refer to Appendix E – Improper Actions](#)

## 11. CONFLICT RESOLUTION

If a decision cannot be made at the time of jointly reviewing and assessing the Form i.e. further investigation, consultation is required, then a decision should be determined within 7 (seven) working days and the employee/other personnel notified of the outcome. The outcome should be noted on the Form and provided to the employees/other personnel for their information. Where it is not possible to make a determination within this timeframe, the employee/other personnel concerned is to be kept informed of the progress on the matter.

If employees/other personnel disagree with the decision, the matter is to be discussed with the employees/other personnel and the Manager or Director in an attempt to seek a resolution. If, following this discussion, the matter remains unresolved, it should then be referred to the CEO for resolution. In the event there is still no consensus on the outcome then grievance and dispute resolution procedures are to be followed.

## 12. DEFINITIONS/ABBREVIATIONS

**Benefit** is a service or intangible item which is of value to the receiver. Examples include access to a private box at sporting events, a new job or promotion, preferential treatment (such as 'queue jumping'), or access to confidential information.

**COI** conflict of interest/s

**DoH** refers to Department of Health

**GCPHN** refers to Gold Coast Primary Health Network

**Gift** any item, service, prize, hospitality or travel, offered or provided by a customer, client, applicant, supplier, potential supplier or external organisation, which has an intrinsic value and/or a value to the recipient, a member of their family, relation, friend or associate, and includes bequests.

**Gift Register** is an official written record that captures a gift and/or a benefit received by or offered to employees with a value of \$20 or above and details the decisions made and action taken.

**Responsible person** refers to Gold Coast Primary Health Network Executive Management, Managers or other personnel leading relevant process, Chair of Committee or Chair of relevant process.

**Organisation** where applicable, refers to GCPHN

**Other Personnel** for the purpose of this procedure refers to members of governance (i.e. Board) and advisory committees (i.e. Clinical Council and Community Advisory Council), panel members, volunteers, advocates, contractors, students, consultants, researchers performing work for the organisation.

**Employee/s** for the purpose of this procedure refers to all Gold Coast Primary Health Network employees, including full-time, part-time, and casual employees.

### 13. Appendix A (SOURCE: NHS England, Managing Conflicts of Interest: Case Studies)

#### Case Study 1:

#### Assessing the need for and location of new community medical centres

Context	<ul style="list-style-type: none"> <li>▪ As part of North County CCG's strategy to provide more accessible primary care services, the CCG plans to open community medical centres in each of its localities. The medical centres will provide a range of out-of-hospital services.</li> <li>▪ The CCG's Primary Care Commissioning Committee (PCCC) sets up a working group to undertake a needs assessment and to develop a business case, recommending the range of services to be offered and the location of each medical centre.</li> <li>▪ At a public meeting of the PCCC, the business case and needs assessment is presented by the Chair of the working group.</li> <li>▪ In one locality, the recommendation is to open the medical centre in buildings owned by Dr Adam Brown, a GP governing body and PCCC member. This is because the building's rent would be cheaper than the rent of alternative sites.</li> <li>▪ The proposed site is next to Dr Brown's GP practice, which is a prescribing practice. Therefore, there is a high probability that the medical centre would increase business at Dr Brown's pharmacy.</li> <li>▪ Dr Brown has previously declared that he owned a prescribing practice and the property in question. This is on the CCG's register of interest.</li> <li>▪ Dr Brown left the PCCC meeting when this matter was discussed.</li> </ul>
Risks	<ul style="list-style-type: none"> <li>▪ Dr Brown has a direct financial interest in the medical centre being located on his premises.</li> <li>▪ There could be a perception that the CCG has favoured a PCCC member when selecting the location of the medical centre.</li> <li>▪ There is a risk of loss of public confidence and trust in the CCG, as well as legal challenge from the owners of other potential sites, if the conflicts of interest are not managed appropriately.</li> <li>▪ There is also a risk that the personal reputation of Dr Brown will be damaged if his interests are not appropriately declared and managed.</li> </ul>
Actions to consider	<ul style="list-style-type: none"> <li>▪ All proposals should clearly state whether any conflicts of interest have been identified during the development of the proposal and if so, how they were managed.</li> <li>▪ In this case, the appropriate management of the conflicts of interest should include ensuring that:             <ul style="list-style-type: none"> <li>○ Dr Brown's interests (both his ownership of the prescribing practice and neighbouring property) have been recorded in the CCG's register of interests and in the minutes of every meeting where this topic was discussed.</li> <li>○ Dr Brown was not part of the working group, and this was recorded in the relevant minutes.</li> <li>○ There are clear and objectively justifiable reasons for selecting the preferred locations for the medical centres, which are included within the working group's report and referenced in the PCCC's minutes. The cheaper rent may be one such reason, but it may not be a sufficient reason in itself for selecting one site over another.</li> <li>○ The proposals have been subject to appropriate scrutiny, public and stakeholder engagement, and are in accordance with procurement rules.</li> <li>○ The PCCC should also consider whether there are any other relevant conflicts of interest. For example:                 <ul style="list-style-type: none"> <li>➢ <i>Were any of Dr Brown's partners at the neighbouring practice part of the working group or members of the PCCC?</i></li> <li>➢ <i>Would any members of the working group be affected by the relocation of some existing services to the medical centre (i.e., have they got an indirect financial interest)?</i></li> </ul> </li> </ul> </li> <li>▪ Any additional interests identified should be declared and managed appropriately during the process.</li> <li>▪ Provided Dr Brown's interests (and any other relevant interests) were declared and managed as above, it seems likely that he has acted appropriately and that the CCG will have an audit trail which evidences this.</li> <li>▪ However, if the PCCC (led by the Chair) is not satisfied that conflicts of interest have been appropriately managed during the process, then it should defer a decision on this item and specify what remedial steps are required in order to ensure that a fair and transparent decision is taken and can be evidenced.</li> </ul>

#### Case Study 2:

#### Strategic planning of primary care services

Context	<ul style="list-style-type: none"> <li>▪ East City CCG has recently implemented delegated commissioning of primary medical services. The CCG establishes a Primary Care Commissioning Committee (PCCC), which holds its first meeting to discuss the future development of local primary care services.</li> <li>▪ Three PCCC members are GPs who have business interests in a private company, Sunflower Health Ltd., which provides some primary medical care services.</li> <li>▪ At the start of the meeting, the GPs declare their interests in Sunflower Health Ltd., and the PCCC considers whether it is appropriate for the GPs to be present for all agenda items.</li> <li>▪ One GP states that as the focus of the meeting is on the future direction of primary care services and the PCCC will not be making any procurement decisions, the GPs should be allowed to contribute to the discussion and should not have to leave the meeting. After discussion, the Chair agrees to proceed on this</li> </ul>
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	<p>basis.</p> <ul style="list-style-type: none"> <li>▪ During the discussion about the future direction of primary care services, the PCCC starts to discuss developing local enhanced services. The services discussed are ones that Sunflower Health Ltd. might have an interest in providing.</li> </ul>
Risks	<ul style="list-style-type: none"> <li>▪ By being present at the meeting, particularly during the discussions about enhanced services, there is a risk (whether actual or perceived) that the proceedings may be influenced by the financial</li> <li>▪ Interests of the three GPs, given their involvement with an organisation which may wish to bid to provide those services.</li> <li>▪ If the GPs have access to information about a future procurement before other potential providers, this could give them an unfair advantage. This may particularly be the case if the item was not discussed in the public session and/or it was not made clear in the papers published prior to the meeting that the PCCC would be discussing the development of enhanced services. This could lead to a costly legal challenge later on by other potential providers.</li> <li>▪ There is a risk of loss of public confidence and trust in the CCG if the conflicts are not managed appropriately.</li> <li>▪ There is a risk of harm to the GPs' own personal reputations, and to the reputation of East City CCG, if their interests in Sunflower Health Ltd are not appropriately managed.</li> <li>▪ If the GPs gain access to any commercially sensitive information, or are involved in any decision which leads to a procurement in relation to the enhanced services, it is likely that Sunflower Health Ltd. would be unable to participate in any subsequent procurement for those services.</li> </ul>
Actions to consider	<ul style="list-style-type: none"> <li>▪ Details of the three GPs' interests in Sunflower Health Ltd. should be recorded in the minutes of the PCCC meeting and in the CCG's register of interests.</li> <li>▪ As it seems likely that Sunflower Health Ltd. might want to bid in a future procurement exercise, the three GPs should not be involved in any decision or deliberations leading up to a procurement decision regarding the development of primary care services.</li> <li>▪ The initial decision to allow the GPs to remain in the meeting was reasonable, because: <ul style="list-style-type: none"> <li>○ The GPs are experts in the field of primary care and their input would be valuable to these discussions;</li> <li>○ It appeared at this point that no decision-making on procurement issues, or deliberations leading up to a procurement decision, were going to take place at the meeting.</li> </ul> </li> <li>▪ However, the Chair should keep this decision under constant review during the meeting and should ask the GPs to leave if at any point it becomes appropriate to do so. If this occurs, the time at which they left (and returned to) the meeting should be recorded in the minutes.</li> <li>▪ The meeting should be held in public unless commercially sensitive information is being discussed or there is some other reason why it would be prejudicial to the public interest to do so. The agenda should clearly state the purpose of the meeting and nature of the expected discussion and the CCG should ensure it is made available to the public (so any potential providers have the opportunity to attend the meeting).</li> <li>▪ If the discussions cease to be at a strategic level and become deliberations leading up to a procurement decision and the Chair asks the GPs to leave, there would be nothing in these circumstances to stop the GPs from joining the audience.</li> <li>▪ However, if the published agenda did not indicate that a detailed procurement discussion would take place at the meeting, the Chair should instead defer the discussion to a subsequent meeting at which it is included as an agenda item, so that other potential providers would have notice and the opportunity to attend as observers.</li> <li>▪ If a subsequent meeting is held in private for reasons of commercial sensitivity, the GPs should be asked to leave the meeting for the item where they are conflicted.</li> <li>▪ The CCG should consider whether it is appropriate for the three GPs to be members of the PCCC at all, given their interests in Sunflower Health Ltd, and the nature and extent of their interests in the company.</li> </ul>

### Case Study 3:

#### *Re-procurement of an Alternative Provider Medical Services Contract (APMS) in a delegated CCG*

Context	<ul style="list-style-type: none"> <li>▪ In January 2015, NHS England began to consider options for the re-procurement of an APMS<sup>1</sup> contract for services currently provided by Rose Medical practice. The existing contract was due to expire in September 2016.</li> <li>▪ South Eastern CCG implemented delegated commissioning from 1 April 2015. The CCG's Primary Care Commissioning Committee (PCCC) established a sub-group to review the procurement options in respect of this contract and to recommend a way forward to the PCCC. The members of this sub-group include the locality clinical lead, Dr Yasmin Bindari. Dr Bindari is a GP in one of the CCG's member practices, Middle Castle Medical Centre.</li> <li>▪ At the first meeting of the sub-group, the following procurement options were discussed: <ul style="list-style-type: none"> <li>○ Re-procurement of the APMS services;</li> <li>○ Dispersal of the registered patient list to other GP practices in the vicinity of Rose medical practice who currently hold the contract; and</li> <li>○ Direct award of the contract to a new provider without running a procurement process, i.e. a non-competitive "single tender waver".</li> </ul> </li> <li>▪ At the first meeting of the sub-group, Dr Bindari declares an interest, but states that the practice she works for has no intention of bidding for these services, if it is agreed to procure them.</li> <li>▪ Dr Bindari fails to declare that she has a close friend who works as a GP at another member practice (they went to medical school together, attend the same yoga class, their husbands are friends, their children attend the same school and the two families often socialise together), who is very interested in bidding for the service should it be re-procured. Dr Bindari has never declared this friendship because she claims she was not aware that she needed to do so.</li> </ul>
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	<p><b>1 Alternative Provider Medical Services (APMS) contract:</b> this is a contractual route for commissioning primary medical services. It allows the commissioner to contract with 'any person' e.g. private sector, voluntary and not-for-profit providers of general medical services, as well as GP practices, NHS trusts and foundation trusts.</p>
Risks	<ul style="list-style-type: none"> <li>▪ Dr Bindari has an indirect financial interest because her close friend may benefit financially depending on which procurement option is recommended by the sub group.</li> <li>▪ There is a risk of loss of public confidence and trust in the CCG as a result, as well as a risk of challenge from the other potential providers if the conflicts of interest are not managed appropriately.</li> <li>▪ There is a risk that Dr Bindari's personal reputation will be damaged if her interests are not appropriately declared and managed.</li> </ul>
Actions to consider	<ul style="list-style-type: none"> <li>▪ Dr Bindari should declare her <i>indirect financial interest</i> and this information should be included in the CCG's conflict of interest register and within the minutes of the sub-group's meetings.</li> <li>▪ The sub-group, led by the Chair, should decide how to manage this conflict of interest. It may be justifiable to allow Dr Bindari (having appropriately declared her interests) to remain part of the sub-group during the initial deliberations, but to require her to withdraw and play no part in the decision-making process on which option to recommend. However, the more prudent option would be to require her to withdraw from the sub-group altogether since its primary purpose is to develop a procurement options appraisal.</li> <li>▪ The decision and the rationale for the decision and (if relevant) the times at which Dr Bindari leaves/re-joins the sub-group's meeting(s), should all be clearly recorded in the minutes.</li> <li>▪ The PCCC should review the minutes of any previous sub-group meetings and consider whether Dr Bindari's indirect financial interest, arising due to her close friendship with one of the GPs at another surgery, may have impacted on any previous decisions so that the PCCC can consider whether any remedial action needs to be taken.</li> <li>▪ Dr Bindari should be reminded that the interests of close friends can put individuals in a position of being conflicted. If Dr Bindari has not undertaken the mandatory online training on the management of conflicts of interest, she should do so as soon as possible.</li> <li>▪ The CCG should also consider, with advice from the Head of Governance and the Conflicts of Interest Guardian, whether, under its conflicts of interest policy, disciplinary action would be appropriate.</li> </ul>

#### Case Study 4: Re-procurement of out-of-hours services

Context	<ul style="list-style-type: none"> <li>▪ North Western CCG has commenced a re-procurement exercise for out-of-hours (OOH) services in its area. The CCG has established a programme board which reports to the CCG governing body.</li> <li>▪ The programme board's membership comprises an out-of-county GP with experience of delivering OOH services, a secondary care consultant, a community nurse and three senior managers from across the CCG. The out-of-county GP was invited to join the programme board to ensure there was appropriate clinical input, as all North Western CCG's GPs were conflicted.</li> <li>▪ On appointment, two members of the programme board declared the following interests: <ul style="list-style-type: none"> <li>○ Mina Patel, a senior manager who works within the CCG's engagement and inclusion team, is married to a registered paramedic who is employed by North Western Ambulance Service, which is a potential bidder;</li> <li>○ Kate Lloyd, a manager who is the CCG's strategy lead, declares that her mother is the clinical director for a social enterprise, Ivy Medical, which may also be a potential bidder.</li> </ul> </li> <li>▪ The programme board plans to establish an evaluation panel that will make recommendations on the preferred bidder. A paper setting out the programme board's preferred bidder will be submitted to the CCG's governing body for a final decision.</li> </ul>
Risks	<ul style="list-style-type: none"> <li>▪ Mina Patel has an indirect financial interest. Whilst it may be unlikely that her husband has any decision-making influence within the North Western ambulance service, there could at the very least be a perception of a conflict of interest.</li> <li>▪ Kate Lloyd also has an indirect financial interest as her mother is a senior decision maker within a potential provider, which is likely to have a financial interest in potential new work.</li> <li>▪ Because of the nature of the services, a number of the members of the CCG's governing body are likely to have direct financial interests in the procurement of these services.</li> <li>▪ There is a risk of loss of public confidence and trust in the CCG, as well as challenge from providers, if the interests of Mrs Patel and Ms Lloyd and the members of the governing body are not appropriately declared and managed.</li> <li>▪ There is a risk that the personal reputation of those with potential conflicting interests will be damaged if those interests are not appropriately declared and managed.</li> </ul>
Actions to consider	<p><b>At programme board meetings:</b></p> <ul style="list-style-type: none"> <li>▪ If Ivy Medical intends to bid for the OOH contract, Ms Lloyd should leave the programme board, as it seems unlikely she would be able to participate meaningfully in the business of the board.</li> <li>▪ If Ivy Medical does not intend to bid for the contract and confirms this in writing, then Ms Lloyd should be permitted to stay on the programme board.</li> <li>▪ Mrs Patel should be allowed to remain on the programme board, provided her interests are appropriately declared and managed. Possible options to help manage her conflict of interests could include: <ul style="list-style-type: none"> <li>○ requiring her to sign a confidentiality agreement which prevents her from disclosing any confidential information regarding the OOH procurement to her husband;</li> <li>○ ensuring that she is not part of the evaluation panel that makes recommendations to the programme board on the preferred bidder.</li> </ul> </li> </ul>



	<p><b>At governing body meetings (where updates on the procurement are provided to a wider CCG audience which includes GPs):</b></p> <ul style="list-style-type: none"> <li>▪ In advance of the meeting, the Chair of the governing body should ensure that any papers about the OOH procurement, not in the public domain, are not circulated to conflicted members. It is important to discuss this with the secretariat so that there is clarity on who should receive the papers in advance of them being issued.</li> <li>▪ It is important that all CCG employees are trained in the management of conflicts of interest and understand how it impacts upon their role. For those providing administrative support to the governing body and sub-groups, they need to understand why some papers may be withheld from certain members for particular agenda items or whole meetings.</li> <li>▪ If the meeting is held in public, the agenda should clearly state the purpose of the item and nature of the expected discussion. The CCG should ensure it is made available to the public in advance, so any other potential providers have the opportunity to attend the meeting.</li> <li>▪ If the meeting is held in public, the Chair should ask the conflicted GPs to leave the meeting when this item is discussed, but there would be nothing in these circumstances to stop the GPs from joining the audience as members of the public, since the discussions and the subsequent minutes will be in the public domain. The time at which they left (and returned to) the meeting as governing body members (rather than members of the public) should be recorded in the minutes.</li> <li>▪ If confidential information regarding the procurement is under discussion, then that part of the meeting should be held in private. Again, the Chair should ask the conflicted individuals to leave the meeting, and the time at which they left (and returned to) the meeting should be recorded in the minutes.</li> <li>▪ An alternative to requiring the programme board to report into the CCG's governing body would be to consider whether it could report to the Primary Care Commissioning Committee instead. However, the CCG's governing body would need to check and (if necessary) amend the terms of reference/scheme of delegation for the PCCC to ensure that it has the appropriate authority before proceeding, as the commissioning of OOH services does not fall within the PCCC's normal remit.</li> </ul>
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**Case Study 5:**  
**A procurement challenge**

Context	<ul style="list-style-type: none"> <li>▪ Midshire CCG has recently awarded a contract for a new primary care mental health service to a federation of GP practices, the Shire Federation.</li> <li>▪ The contract was awarded following a six month procurement process. The process was overseen by a small project group. The project group was chaired by Midshire CCG's contract lead for mental health services and included two other CCG managers and a mental health nurse.</li> <li>▪ The procurement process included an engagement exercise, the development of a specification, an invitation to tender, evaluation of bids against agreed criteria and ratification of the final decision by the governing body.</li> <li>▪ Midshire CCG receives a challenge from a voluntary sector organisation, Bluebell, who felt that the CCG had favoured the federation. Bluebell has seen that the CCG's register of interests includes a declaration by one of the CCG's governing body members, Dr Myra Nara, that she is a shareholder in Shire Federation. Bluebell alleges that the CCG has favoured the federation in its decision-making process.</li> <li>▪ Dr Nara was not a member of the project group that oversaw the procurement exercise, but the governing body did receive regular updates on the procurement exercise, signed off the specification and approved the decision to award the contract to the federated GP practices.</li> <li>▪ A review of the procurement process is undertaken by Midshire CCG's governance lead. This includes a review of the governing body's minutes. Whilst Dr Nara's interests are noted in the minutes, they do not detail the full nature of the conflict of interest, who was involved in the discussions or how the conflict was managed. There is no evidence that the situation was managed in line with the CCG's policy on conflicts of interest.</li> <li>▪ During the review, it becomes apparent that the CCG's governance lead has not sent any reminders regarding updates to the register of interests for the last ten months.</li> </ul>
Risks	<ul style="list-style-type: none"> <li>▪ Dr Nara has a direct financial interest in the outcome of the procurement because of her role in the Shire Federation.</li> <li>▪ Even if the CCG has undertaken a robust procurement exercise and fully adhered to its conflicts of interest policy, there is insufficient evidence to prove this in its documentation.</li> <li>▪ As the register of interests has not been updated in ten months, there is a risk that it does not contain the latest information on declared interests, which could have an impact upon decision-making processes.</li> <li>▪ As well as the risk of challenge from other bidders (which has materialised in this case), there is a risk of loss of public confidence and trust in the CCG and a risk of damage to Dr Nara's professional reputation if the conflicts of interest are not appropriately managed.</li> </ul>
Actions to consider	<ul style="list-style-type: none"> <li>▪ The CCG's Conflicts of Interest Guardian, supported by the CCG governance lead, should interview governing body members to confirm how the conflicts were managed at this particular meeting.</li> <li>▪ If satisfactory assurance cannot be obtained that conflicts were dealt with appropriately at the governing body meetings, including clear evidence that: <ul style="list-style-type: none"> <li>○ Appropriate safeguards were in place to prevent Shire federation from gaining an unfair advantage by having access to confidential information in relation to the procurement; and</li> <li>○ Dr Nara was not involved in any decision or deliberations leading up to a procurement decision regarding the award of the contract to the federation;</li> </ul> then it is likely the procurement exercise would need to be rerun to ensure that a fair and transparent process is carried out. This would be at additional cost to the CCG and would likely delay service delivery. </li> <li>▪ If a breach is identified, Midshire CCG must publish it on their website and should also consider potential disciplinary action in accordance with its conflicts of interest policy.</li> <li>▪ Although it is an individual's responsibility to ensure that they declare relevant interests promptly (and in any event within 28 days of the interest arising), the CCG's Head of Governance should put systems in place to ensure that Midshire CCG's register of interests is accurate and up-to-date, including requiring declarations of interest (or nil returns) from all relevant individuals at least every six months.</li> </ul>



Case Study 6:  
Breach of powers for financial gain

Context	<ul style="list-style-type: none"> <li>▪ Uptown CCG has a growing waiting list for a number of minor surgery procedures.</li> <li>▪ In a confidential governing body meeting, the governing body agree to make one-off payments to private providers to reduce the waiting list. This information is not yet public.</li> <li>▪ Following the meeting, Oswald Price, a GP governing body member who was present at the meeting, arranges for letters to be sent to his patients on the waiting list, informing them of a small list of private providers that can offer the service immediately. At the top of the list is Tallom Health Limited, a private business of which Dr Price is a director.</li> <li>▪ Dr Price does not inform the patients that he is a director of Tallom Health Ltd. and presents the information in a way that steers the patient to choose Tallom Health Ltd., over the other providers listed.</li> <li>▪ Dr Price had previously declared his directorship of Tallom Health Ltd. to the CCG and this is recorded in the CCG's register of interests. However, he did not declare this interest again at the governing body meeting.</li> </ul>
Risks	<ul style="list-style-type: none"> <li>▪ Dr Price has a <i>direct financial interest</i> in Uptown CCG's decision to use private providers to help reduce waiting lists. A failure to properly declare and manage this interest could damage the reputation of the CCG, Dr Price and his GP practice, and his attempts to steer his NHS patients towards Tallom Health Ltd. could lead to challenges from other providers.</li> <li>▪ Dr Price is in significant breach of the CCG's conflicts of interest policy by having used his position for financial gain. This could damage the reputation of the GP, the practice and the CCG. It could damage public trust and weaken patients' confidence in the independence of healthcare professionals.</li> <li>▪ There is a potential risk that an offence of fraud has been committed under section 3 of the Fraud Act 2016 (fraud by failing to disclose information) or section 4 (fraud by abuse of position).</li> <li>▪ If the other GPs and employees in the practice are not aware of the GP's actions, this may result in damage to the practice as a business and impact upon the trust and relationships with his colleagues.</li> <li>▪ There are also other issues for the CCG and the practice need to consider apart from conflicts of interest, including potential breaches of: <ul style="list-style-type: none"> <li>○ The Privacy and E-Communications Regulations 2003;</li> <li>○ The Data Protection Act by not informing patients that he is a director of the business;</li> <li>○ The Good Medical Practice-Financial and Commercial arrangements and conflicts of interest (2013) issued by the General Medical Council.</li> </ul> </li> </ul>
Actions to consider	<ul style="list-style-type: none"> <li>▪ Dr Price should have declared his interest prior to, or during, the governing body meeting and he should have taken no part in the decision to use private providers to reduce the waiting lists, or in any of the discussions leading up to this decision. His failure to do so, in conjunction with his attempt to use his position for personal financial gain, constitutes a serious breach of the CCG's conflicts of interest policy.</li> <li>▪ The CCG should consult their policy on counter fraud and seek advice from their local counter fraud specialist. If fraud is suspected, the CCG should refer the case immediately to NHS Protect, so as not to prejudice any potential investigation. This should form part of the CCG's section on breaches within their conflicts of interest policy.</li> <li>▪ Uptown CCG, with guidance from its Conflicts of Interest Guardian, should consider what steps need to be taken in light of this serious breach. This is likely to include issues in relation to procurement law, data protection law, communication with the affected patients, notification to NHS England, and disciplinary action against Dr Price by the CCG and regulatory bodies.</li> <li>▪ Once the counter fraud specialist and/or the CCG's Director of Finance has informed the CCG it is safe to do so, the CCG must publish anonymised information about the breach on their website.</li> <li>▪ The CCG will also need to include the breach as part of their Improvement and Assessment Framework quarterly return for the probity and corporate governance indicator.</li> </ul>

Case Study 7:  
Monitoring of voluntary sector contracts

Context	<ul style="list-style-type: none"> <li>▪ Amit Bal, senior contract manager for Downswood CCG, leads all contract monitoring meetings for voluntary and community sector organisations which deliver small and grant funded contracts.</li> <li>▪ At an event in the community, a representative from a small voluntary sector organisation seeks out the CCG's Accountable Officer (AO) to complain that the CCG unfairly favours one particular voluntary sector service, the Hawthorn Care &amp; Support Centre. They imply that the poor quality of the Hawthorn service is consistently overlooked.</li> <li>▪ The AO discusses this complaint with Mr Bal. During this discussion Mr Bal discloses that he is married to the Business and Development manager of the Hawthorn Care &amp; Support Centre. He states that he has not declared this information to the CCG as he did not think it was important given the relatively small scale of the services provided by Hawthorn Care and Support Centre and the fact that no payments apart from reimbursement of expenses are made to Hawthorn by the CCG.</li> </ul>
Risks	<ul style="list-style-type: none"> <li>▪ Mr Bal has an indirect, financial personal interest which he should have declared. It is irrelevant that the service is a voluntary sector provider: there is still a conflict of interest which should be managed so as to avoid the risk (whether actual or perceived) that he has inappropriately influenced the decision-making process for the award of contracts or grants to the third sector.</li> <li>▪ There is a risk that Mr Bal's interest could have, or have been perceived to have, impacted upon his contract monitoring role.</li> <li>▪ There is a potential damage to the CCG's and Mr Bal's reputation, risk of challenge by other potential providers and loss of confidence by other organisations and the public in the probity and fairness of commissioners' decisions.</li> </ul>

Actions to consider	<ul style="list-style-type: none"> <li>▪ Mr Bal's interest should be recorded in the CCG's register of interests.</li> <li>▪ Mr Bal should not be involved in any decisions, or discussions leading up to decisions, relating to any services which are or may be provided by Hawthorn Care &amp; Support Centre.</li> <li>▪ In light of the allegation which has been made to the Accountable Officer and Mr Bal's failure to declare his interests, a non-conflicted manager should review: <ul style="list-style-type: none"> <li>○ the performance of Hawthorn Care &amp; Support Centre against the contract and identify any necessary actions;</li> <li>○ all contracts or grants awarded to Hawthorn Care &amp; Support Centre to identify who was involved in the process;</li> <li>○ whether there is any risk that conflicts of interest could have been inappropriately managed.</li> </ul> </li> <li>▪ Depending on the outcome of the review, the CCG, advised by its Conflicts of Interest Guardian, should consider whether any disciplinary action is required, and whether the breach should be published on the CCG's website.</li> <li>▪ If the contract manager has not undertaken the mandatory online training on managing conflicts of interest, they should do so.</li> </ul>
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**Case Study 8:**  
*Recruitment of patient representatives with a conflict of interest*

Context	<ul style="list-style-type: none"> <li>▪ A member of the public, Sarah Thomas, applies to be a patient representative on North County CCG's service user group, following a recent advert for new members.</li> <li>▪ Ms Thomas works for a consultancy company, Pinewood Services Ltd., which provides services to several providers who hold contracts with the CCG.</li> <li>▪ Pinewood Services Ltd. may also become a provider in an impending procurement.</li> </ul>
Risks	<ul style="list-style-type: none"> <li>▪ Ms Thomas has an <i>indirect financial interest</i> because Pinewood Services Ltd. stands to gain financially from any contracts which have been, or are in future, awarded by the CCG to providers who are clients of the consultancy company.</li> <li>▪ She also has a <i>direct financial interest</i> in light of Pinewood Services Ltd. participation in the forthcoming procurement process, which may result in the company becoming a provider of services directly to the CCG.</li> <li>▪ If Ms Thomas becomes a member of the CCG's service user group, then any failure to declare and appropriately manage these interests will lead to a risk (whether actual or perceived) that the group carries out its functions in a way which favours the interests of Pinewood Services Ltd. and/or its clients over and above the interests of other providers. This could lead to costly challenges later on by other potential providers.</li> </ul>
Actions to consider	<ul style="list-style-type: none"> <li>▪ Before appointment to any role within the CCG, an applicant should be given a form to enable them to declare any interests.</li> <li>▪ North County CCG will need to consider whether Ms Thomas could effectively fulfil the role she has applied for if steps are taken to manage the conflict of interests.</li> <li>▪ The steps required to manage Ms Thomas' conflict of interests are likely to involve excluding her from participating in any meetings of the service user group where Pinewood Services Ltd., or any of its clients, or any services provided by them, are under discussion. If, as a result, she was unable to actively participate in many of the group's discussions, then the CCG should consider not appointing her to this role.</li> <li>▪ If the CCG does appoint her, her interests should be recorded in the CCG's register of interests and should be declared at all relevant meetings of the service user group.</li> <li>▪ The CCG should request declarations of interest during the recruitment process and give advice to recruiting managers on how to manage any conflicts of interest which become apparent. This could include providing advice on when and why someone would be excluded from appointments due to conflicts of interest.</li> </ul>

**Case Study 9:**  
*Attendance at a provider funded event*

Context	<ul style="list-style-type: none"> <li>▪ South CCG's procurement lead Uriah Vadis is invited to an all-day seminar hosted by Daisychain Systems Ltd., which is the CCG's current IT provider. The seminar is about how technology can deliver improvements in healthcare.</li> <li>▪ A modest buffet lunch is to be provided at the seminar itself, but existing clients of the IT provider, including Mr Vadis, have additionally been invited to an evening dinner consisting of a 4-course meal at a locally renowned restaurant.</li> </ul>
Risks	<ul style="list-style-type: none"> <li>▪ The acceptance of hospitality could give rise to real or perceived conflict of interests, or accusations of unfair influence, collusion or canvassing with providers.</li> </ul>
Actions to consider	<ul style="list-style-type: none"> <li>▪ Mr Vadis should consider whether he can demonstrate that attendance at the seminar and/or the evening dinner would benefit</li> <li>▪ South CCG or the wider NHS. Particular caution should be applied in this case because Daisychain Systems Ltd. is an existing supplier to South CCG. Advice should be sought from a senior manager within the CCG where there is any doubt on what action to take.</li> <li>▪ Given the generic title of the seminar, there may be clinical leads within the CCG who would gain more from attendance than the procurement lead.</li> </ul>

	<ul style="list-style-type: none"><li>▪ Provision of a modest buffet lunch to attendees at the seminar is likely to be acceptable if it is on a similar scale to that which the CCG might offer in similar circumstances.</li><li>▪ Acceptance of the evening dinner invitation is unlikely to be appropriate as it is neither proportionate nor of benefit to the CCG.</li><li>▪ If the event is close to a potential re-tendering of IT services, then extreme caution should be applied when considering whether or not any representatives from the CCG, especially the procurement lead, should attend. If attendance is favoured then strong consideration should be given to attending similar events offered by other IT suppliers, to avoid accusations of favouring one supplier over another.</li><li>▪ Should Mr Vadis decide to attend the seminar and buffet lunch (providing it is deemed to constitute only modest and proportionate hospitality), but to politely decline the evening meal invitation:<ul style="list-style-type: none"><li>○ The invitation to attend the seminar (including lunch) will need to be declared and recorded on the CCG's gifts and hospitality register</li><li>○ Refusal of the evening meal invitation should be declared and registered on the CCG's gifts and hospitality register.</li></ul></li></ul>
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## 14. Checklist to help identify a Conflict of Interest

A test when trying to determine if you have a conflict of interest or not, is to ask yourself:

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*“Could this conflict with my professional duties?”*

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If you answer **YES** to any of the questions below, you may have an actual, perceived or potential conflict of interest.

		YES	NO
1.	Would I or anyone associated with me benefit from or be detrimentally affected by my proposed decision action?	<input type="checkbox"/>	<input type="checkbox"/>
2.	Could there be benefits for me in the future that could cast doubt on my objectivity?	<input type="checkbox"/>	<input type="checkbox"/>
3.	Do I have a current or previous personal, professional or financial relationship or association of any significance with an interested party?	<input type="checkbox"/>	<input type="checkbox"/>
4.	Would my reputation or that of a relative, friend or associate stand to be enhanced or damaged because of the proposed decision or action?	<input type="checkbox"/>	<input type="checkbox"/>
5.	Do I or a relative, friend or associate of theirs stand to gain or lose financially in some covert or unexpected way?	<input type="checkbox"/>	<input type="checkbox"/>
6.	Do I hold any personal or professional views or biases that may lead others to reasonably conclude that I am not an appropriate person to deal with the matter?	<input type="checkbox"/>	<input type="checkbox"/>
7.	Have I received a benefit from someone who stands to gain or lose from my proposed decision or action?	<input type="checkbox"/>	<input type="checkbox"/>
8.	Am I a member of an association, club or a professional organisation or do I have particular ties or associations with organisations or individuals who stand to gain or lose by my proposed decision or action?	<input type="checkbox"/>	<input type="checkbox"/>
9.	Could this situation have an influence on any future employment opportunities outside my current official duties?	<input type="checkbox"/>	<input type="checkbox"/>
10.	Could there be any other benefits or factors that could cast doubts on my objectivity?	<input type="checkbox"/>	<input type="checkbox"/>

## 15. Appendix B – COI Form

<b>Conflict of Interest (COI) Notification</b> Standard Funding Agreement Terms and Conditions Clause 9.4.2	
<b>PHN Name:</b> Gold Coast, Level 1, 14 Edgewater Court, Robina, Qld, 4225	
<b>Person Declaring Conflict of Interest (Legible Full Name/Title/Role):</b>	
<b>Name of Meeting / Group / Event:</b>	
<b>Date Meeting / Group / Event took place:</b>	
<b><u>DETAILS OF CONFLICT</u></b> (Note: <i>all questions are required to be completed unless states as 'Optional'</i> )	
<b>Conflict type:</b> (tick appropriate box)	<input type="checkbox"/> Actual <input type="checkbox"/> Perceived <input type="checkbox"/> Potential Note: Definitions of the above COI options can be found on the back of this form
<b>Provide a FULL description of the COI:</b>	
<b>Names and details of all parties involved in the conflict:</b>	
<b>Is the conflict New or Historical:</b> (tick appropriate box)	<input type="checkbox"/> New COI <input type="checkbox"/> Historical COI (if yes, then provide further details )
<b>Further information:</b> (OPTIONAL)	
<b>Select agreed* proposed strategy for resolving or managing the Conflict:</b>	<input type="checkbox"/> Register <input type="checkbox"/> Restrict <input type="checkbox"/> Recruit <input type="checkbox"/> Remove <input type="checkbox"/> Relinquish <input type="checkbox"/> Resign Note: Types and definitions of Strategies can be found on the back of this form * COI strategy is agreed on and endorsed by the meeting / panel members.
<b>Further information:</b> (OPTIONAL)	
<b>Signature of Declaree:</b>	
<b>GCPHN Personnel Name:</b>	
<b>GCPHN Personnel Position:</b>	
<b>GCPHN Personnel Signature:</b>	
<b>Date signed:</b>	

### What are the different types of conflicts of interest?

- **Actual** – An actual conflict of interest involves a direct conflict between a person’s current duties and responsibilities and existing private interests. i.e. you **ARE** being influenced by a conflicting interest
- **Perceived** - A perceived or apparent conflict of interest can exist where it could be perceived, or appears, that a person’s private interests could improperly influence the performance of their duties – whether or not this is in fact the case i.e. you could **APPEAR** to be influenced by a conflicting interest.
- **Potential** - A potential conflict of interest arises where a person has private interests that could conflict with their official duties in the future i.e. you **COULD** be influenced by a conflicting interest.

STRATEGY		DESCRIPTION / RECOMMENDED ACTION
1.	<b>Register</b>	Details of the existence of a conflict of interest (actual, potential or perceived) are formally entered into the Conflicts of Interest Register. <i>When to use: for low-risk COI's.</i>
2.	<b>Restrict</b>	Where restrictions are placed on the employee’s involvement in the matter e.g. may not participate in discussions or decision making. <i>When to use: If the COI is not likely to arise frequently.</i>
3.	<b>Recruit</b>	Where a neutral third party is used to oversee part or all of the process that deals with the matter. <i>When to use: if the expertise of the third party is necessary.</i>
4.	<b>Remove</b>	Where the employee is removed from their involvement in the matter creating the conflict i.e. leave the room during pertinent discussions. <i>When to use: For ongoing serious COIs where ad hoc restriction or recruitment of others is not appropriate.</i>
5.	<b>Relinquish</b>	Where the employee relinquishes the private interest that is creating the conflict. <i>When to use: if the employee’s commitment to public/official duty outweighs their attachment to the private interest.</i>
6.	<b>Resign</b>	Where the employee resigns from the conflicting role e.g. on the interview panel, from the Board etc. <i>When to use: where no other options are practicable or if the employee prefers this course as a matter of personal principle.</i>

## 16. Appendix C – Related Party Transaction Application

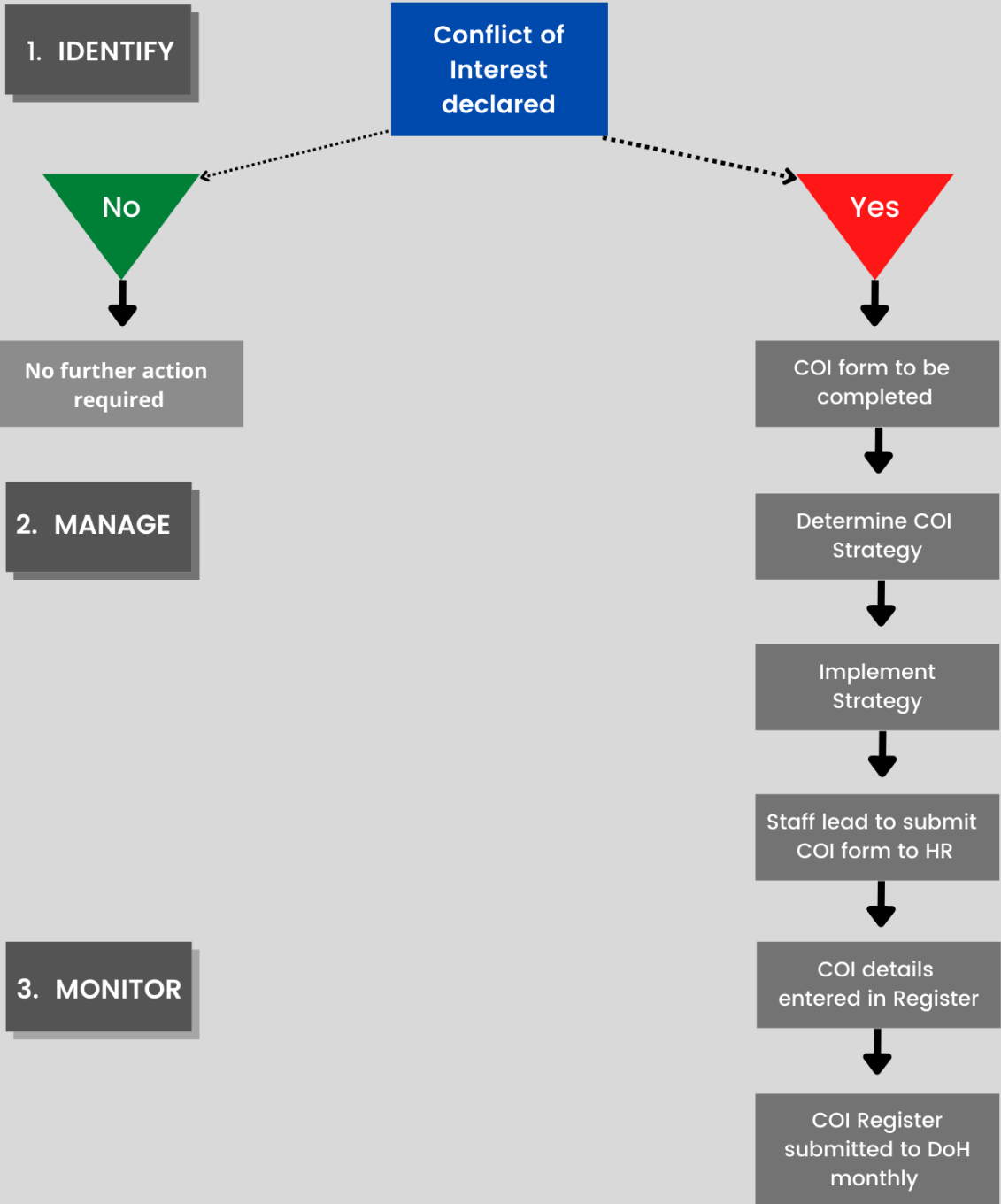
<b>Related Party Transaction Application</b>	
Standard Funding Agreement Terms and Conditions Clause 9.5.3	
<b>PHN Name:</b> Gold Coast	
<b>Location:</b> Level 1, 14 Edgewater Court, Robina, QLD 4225	
<b>Contact Details:</b> (07) 5635 2455	
<b>Details of Related Party</b>	
<b>Name:</b>	
<b>ABN (if applicable):</b>	
<b>Address:</b>	
<b>Related Party Relationship Type</b>	
	Mark as applicable
9.5.1.a	An entity that controls or has significant influence over the PHN <input type="checkbox"/>
9.5.1.b	An entity that the PHN controls or has significant influence over at any time, including the PHN's subsidiary <input type="checkbox"/>
9.5.1.c	A person who is a member of the PHN's Board or governing body <input type="checkbox"/>
9.5.1.d	A person who is a member of the Board of an entity referred to in clause 9.5.1.a or 9.5.1.b <input type="checkbox"/>
9.5.1.e	A member of the PHN's Personnel, other than in their capacity as a PHN employee <input type="checkbox"/>
9.5.1.f	A spouse or immediate family member of: (i) the PHN's Personnel; or (ii) a person specified in 9.5.1.c or 9.5.1.d, who is not themselves a PHN employee. <input type="checkbox"/>
<b>Related Party Description</b>	<b>PHN to complete</b> <i>Please attach supporting documents, if required</i>
Description of Related Party relationship:	
Description of steps taken to resolve or manage conflict:	
The relevant Activity: <i>(include Schedule and Activity Work Plan reference)</i>	
The proposed amount of Grant funds to be transferred to the Related Party and how the amount was determined (or the Asset proposed to be transferred):	
A complete description of the part of the Activity that Your Organisation expects the Related Party to perform:	
The reason(s) why it is necessary to pay the Grant funds (or transfer the Asset) to the Related Party:	
Dates relevant to the Related Party Transaction:	
<b>Signature:</b>	
<b>PHN Personnel Name:</b>	
<b>Position:</b>	
<b>Date:</b>	

## 17. Appendix D - COI PROCESS



APPENDIX D

# Conflict of Interest (COI) Flowchart



## 18. Appendix E - Improper Actions

### Purchasing Goods and Services or Contracting

- Preferentially selecting individual suppliers
- Evaluating new products and being biased towards a supplier
- Inviting quotes/tenders and then informing a particular supplier of the quote price they have to better
- Providing information that gives a supplier an advantage over other suppliers either at that time or later on
- Going to a supplier, who is a relative, without ensuring competitive prices are being obtained
- Developing specifications that are directed at a particular supplier's product because of a personal association
- Receiving short supply of goods and paying full cost from a firm in which the employees member has a financial interest, or in expectation of a 'kick-back'
- Accepting an invitation from a supplier to a social engagement which could lead you to feel obligated to that supplier.

### Recruitment

- Manipulating/coercing selection panels to select or not select a particular applicant
- Withholding information that would affect the selection or non-selection of the most appropriate applicant
- Providing information such as selection questions to one applicant and not others.

### Employee Administration

- Promoting friends or relatives where other employees are more deserving
- Preferentially rostering employees to the advantage of particular individuals due to personal association with those persons. This can have financial advantage to the favoured individual/s to the disadvantage of other employees.
- Assessment and/or inappropriate recommendation of particular individuals over others because of personal associations, for such things as Training courses, Attending conferences, Job or advancement opportunities.
- Giving preference for the taking of leave by individuals to the detriment of others due to personal association
- Not applying the same rules equally to all employees because of personal association e.g. failure to address issues of late attendance, non-performance etc.

### Secondary Employment

- Use organisation resources, including employees, to support private work outside organisation employment
- Using your position within the organisation to unfairly obtain opportunities for future or outside employment.

### Client Relationship

- Recommending service providers or firms to stakeholders, relatives or other individuals due to personal relationships, or preferences, whether for financial gain or not
- Receiving a financial or other form of gain in recommending a particular service provider
- Giving preferential treatment to stakeholders due to personal association at the expense of others.

### **Membership of Associations, Clubs, Professional Organisations, Political Parties**

- Using the position in the organisation to favour the private organisation, or a member of the private organisation
- Being involved in an association, club or professional organisation and making decisions which impact adversely on the organisation
- Making known confidential information from the organisation, without approval, to the advantage of the private/outside organisation and to the detriment of the organisation

**Note:** Release of confidential information without appropriate approval is at least a disciplinary offence and depending on the extent and nature of the information could be a case for dismissal.

### **Clinicians and Other Health Professionals**

- Using the organisation's resources to support other external organisations without approval
- Inappropriately accessing private confidential information to establish a private practice
- Recommending service providers or firms to clients, relatives or other individuals due to personal relationships, or preferences, whether for financial gain or not