



*Castle Point and Rochford
Clinical Commissioning Group*

Conflict of Interest and Bribery Awareness Stakeholder Meeting

December 2014

Introductions

Your Local Counter Fraud Specialist

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Conflicts of Interest in the NHS

All NHS bodies have a responsibility to safeguard their interests and ensure any conflicts of interest are managed appropriately

Since the restructure in April 2013, there has been growing concern regarding conflicts of interest amongst healthcare professionals and this a main feature in public and political debate

What are Conflicts of Interest?

'Conflicts of Interests' occurs when:

An individual's ability to exercise judgement is impaired or influenced by their involvement in another role or relationship

The individual does not need to exploit their position or obtain an actual benefit - financially or non financially

If there is a potential for competing interests and/or a perception of impaired judgement or influence, this is considered as a **conflict of interest**

There are three main things CCGs need to remember about Conflicts of Interest:

- A perception of wrongdoing, impaired judgment or influence is as detrimental as to conflicts occurring
- It is better to assume a conflict of interest if in doubt and manage it appropriately, rather than ignoring it
- No financial gain is required for a conflict to exist

Types of Conflicts of Interest

Direct or Indirect Financial Interest

These occur when an individual involved in taking or influencing the decision of an organisation receives a direct financial benefit as a result of the decision made (direct) or a close relative or other key person receives a financial benefit as a result of the decision made (indirect).

Holding shares in a private company which is likely to do business within the NHS

Research funding received by an individual

Connections with a voluntary organisation contracted to provide a service to the NHS

Types of Conflicts of Interest

Non-Financial or Personal Interests

These occur when directors or key persons are influenced by external factors such as gaining an intangible benefit

No financial gain is received under this type of conflict of interest

**Awarding a contract
to friends or personal
business contacts**

**Long standing clinical
commissioner takes a
decision that favours
one of their well
known colleagues**

Types of Conflicts of Interest

Conflicts of Loyalty / Conflicts in Professional Duties and Responsibilities

This occurs when the decision maker has competing loyalties between the organisation to which they own their primary duty and another person or entity

This loyalty to another person or entity could cause a conflict to their professional duty and judgement as they may act in a way that goes against their primary duty

A doctor has a loyalty to the GMC but may have a family member who needs a particular treatment

Scenario

A doctor is the chair of a local commissioning group. His wife is the clinical Director for Health PLC, a company which has developed risk stratification software designed to enable CCGs to identify vulnerable patients at risk of going into hospital and help them put measures in place to address this

Health PLC has made an offer to provide their software to the doctor's CCG free of charge for two years to help develop it. After the two years, the software will be offered at a discounted price due to the work in developing the software during the first two years.

Is there a conflict of interest?

Answer

Yes, there is a conflict of interest as the doctor and clinical lead are husband and wife

The doctor should declare an interest that his wife is the clinical lead and should have no input into the decision on the project

Things to note:

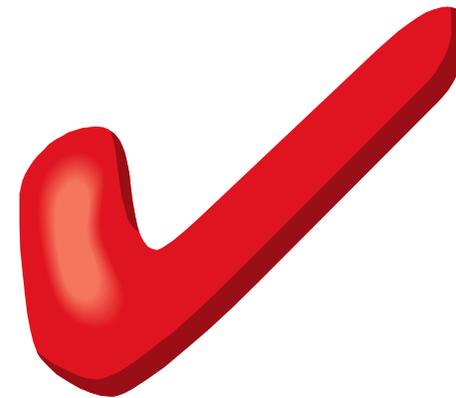
- There may not be an immediate financial gain as the first two years are free of charge; however, there will be a future gain
- If the CCG were to accept the offer, would this be in line with the policies and procedures for working/joint ventures
- Has the CCG considered other companies offering similar software packages

The Importance of Declaring Interests

- Maintains confidence of the public, taxpayers
- Ensures the best decisions for the CCG are being made

What You Can Do to Manage Conflicts of Interest

- Ensure that existing policies and procedures include declaring any conflicts of interest
- All business in terms of assessments, consultations and procurement is conducted properly from the beginning - therefore all decisions made will be transparent and clear
- Be proactive, not reactive - conflicts of interest should be identified at the earliest possible stage rather than waiting until they arise
- Maintain an up to date register and get each staff member to complete a declaration of interest form annually - this to note any changes



Implications of Not Declaring Interests

If the CCG find that there are conflicting interests which have not been declared, the Local Counter Fraud Specialist should be notified

If an employee of the CCG fails to declare an interest, this could be investigated under the Fraud Act 2006 Section 1 - Fraud by False Representation

Fraud by False Representation

A person commits an offence if they:

- Dishonestly make a false representation; AND
- Intend, by making the representation, to make a gain for themselves or another, or to cause a loss or to expose another to a risk of loss

Applying Sanctions

Where there is evidence of a failure to declare conflicting interests, we will advise the Chief Finance Officer on options for possible sanctions

- Criminal Prosecution
- Civil Proceedings
- Disciplinary Action
- Referral to Professional Body



What is Bribery?

The Bribery Act 2010 came into force in July 2011

Bribery is defined within the Act as ‘the giving or receiving of a financial or other advantage in exchange for improperly performing a relevant function or activity’

	Offence	Description	Examples	Convictions
INDIVIDUALS	Bribing another person	Offering, promising or giving a bribe in the UK or abroad	<p>A staff member offering tickets to a concert to their manager in exchange for them not recording leave taken</p> <p>A contractor, tendering for work at the CCG, offering to pay for the staff Christmas party</p>	Individuals could face a 10 year prison sentence and unlimited fines
	Receiving a bribe	Requesting, agreeing to receive, or accepting of a bribe in the UK or abroad	<p>Receiving a bribe to consider a lesser course of action to be taken against a member of staff or no further action at all</p> <p>Receiving a bribe from a job applicant to ensure they secure employment with the CCG</p>	
	Bribery of foreign public officials	Bribing a foreign public official in order to obtain or retain businesses	Facilitation payment to enable a person to pass through a customs point	
ORGANISATIONS	Failure to prevent bribery	Failure by the CCG to prevent a bribe being paid by those who perform service for, or on behalf of the CCG (“Associated Persons”)	N.B. <i>only applies to the failure to prevent any instances of bribes being given and <u>not</u> to any instances of bribes being received</i>	The CCG could face unlimited fines and reputational damage could be significant

Indicators That Fraud and Bribery May Be Present

- Data showing high performance compared to similar practices or organisations
- Lack of evidence to support claims for payment or for additional services
- Unexpected claims for payment
- A change in behaviour or performance when management changes
- Prescribing habits changing dependent on the pharmacy used by patients
- Inability to explain rationale for prescribing or clinical decisions based on clinical need
- Conflicts of interest causing business decisions to be made against the weight of evidence

What To Do If You Suspect Fraud or Bribery

Please report it immediately to:

Brendan Harper (LCFS):

- Tel: 07917 790112
- Brendan.harper@mazars.co.uk
- Brendan.harper@nhs.net

National Fraud & Bribery Reporting Line:

- 0800 028 40 60 (office hours)



Any Questions?



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