

MANAGING CONFLICTS OF INTEREST & STANDARDS OF BUSINESS CONDUCT

1. Introduction

Managing potential conflicts of interest appropriately is required to protect the integrity of the Cheshire and Merseyside Clinical Senate and the members of the Clinical Senate Council and Assembly from any perceptions of wrong-doing.

It is anticipated that this policy will cover members of the Senate Council and Assembly and relevant individuals who have been commissioned to undertake any work on behalf of the Senate. The aim of the policy is to provide transparency and assure the public and other parties.

Members of the Senate need to demonstrate that the advice they give:

- Clearly meets local health needs and have been considered appropriately
- Goes beyond the scope of a single provider or organisation
- Is in the public and patient best interests

This policy supplements and does not replace the code of conduct of the individuals employing organisation. Ultimately, it is the responsibility of any individual to declare a known conflict.

2. Standards of Business Conduct

Members of the Cheshire and Merseyside Clinical Senate Council (C&M) and Assembly should act in good faith and in the interests of Clinical Senate.

Members of the Senate Council and Assembly must comply with the following statements on managing conflicts of interest.

Individuals appointed or nominated to work on behalf of the C&M Clinical Senate will be made aware of their obligation with regard to declaring conflicts or potential conflicts of interest.

All Clinical Senate Council & Assembly Members are obliged to declare a conflict of interest if there is an issue under review that may have a direct influence on their ability to make an objective decision. If there is a conflict here – the onus is on the individual to declare it.

This code of conduct supplements and does not over-ride the code of conduct of the individual's employing organisation. If there is a conflict here – the onus is on the individual to declare it.

3. Conflicts of Interest

A conflict of interest can be defined as:

- A situation that has the potential to undermine the impartiality of a person because of the possibility of a clash between the person's self-interest and professional interest or public interest.
- A situation in which a party's responsibility to a second part limits its ability to discharge its responsibility to a third party.

A Conflict of Loyalties may also occur:

- When decision-makers have competing loyalties between the organisations to which they have a primary duty and some other person or entity. For healthcare professionals, this could include loyalties to a particular professional body, society and special interest group and could involve an interest in a particular condition or treatment due to an individual's own experience or that of a family member.

The C&M Clinical Senate will make arrangements to manage conflicts and potential conflicts of interest to ensure that decisions made by the Council and Assembly will be taken and seen to be taken without any possibility of the influence of external or private interest. If conflicts are not managed effectively, it could undermine the business of the Senate.

Templates for declaring interests for the Clinical Senate and Working Groups can be found in Appendix A & B.

A conflict of interest will include:

- a) A direct pecuniary interest: where an individual may financially benefit from the consequences of a commissioning decision (for example, as a provider of services);
- b) An indirect pecuniary interest: for example, where an individual is a partner, member or shareholder in an organisation that will benefit financially from the consequences of a commissioning decision;
- c) A direct non-pecuniary interest: where an individual holds a non-remunerative or not-for profit interest in an organisation, that will benefit from the consequences of a commissioning decision (for example, where an individual is a trustee of a voluntary provider that is bidding for a contract);
- d) An indirect non-pecuniary interest: where an individual is closely related to, or in a relationship, including friendship, with an individual in categories a-f.
- e) A direct non-pecuniary benefit: where an individual may enjoy a qualitative benefit from the consequence of a commissioning decision which cannot be given a monetary value (for example, a reconfiguration of hospital services which might result in the closure of a busy clinic next door to an individual's house);
- f) An indirect non-pecuniary benefit: where an individual may enjoy a qualitative benefit from the consequence of a commissioning decision which cannot be given a monetary value but is a benefit to peers or colleagues (for example, a recommendation which results in an increase in revenue or status to their employing organisation or results in their organisation becoming the preferred provider).

- g) An indirect non-pecuniary conflict: where the evidence of the Senate may bring a member into direct or indirect conflict with their contracting or employing organisation, to the extent that it may impair the member's ability to contribute in a free, fair and impartial manner to the deliberations of the Senate Council, in accordance with the needs of patients and populations.

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

Appendix D sets out when a declaration of interest should be made, and Appendix E summarises the action which should be taken when interests are declared at Clinical Senate meetings.

4. Preserving integrity of decision making process when all or most members of the Clinical Senate have an interest in a decision

Where certain members of a decision-making body (be it the governing body, its committees or sub-committees, or a committee or sub-committee of the CCG) have a pecuniary/non-pecuniary interest or benefit, they should either be excluded from relevant parts of meetings, or join in the discussion but not participate in the decision-making itself (i.e. not have a vote). It is unlikely that the Clinical Senate will resort to voting on an issue and will seek a consensus agreement amongst members.

In many cases, e.g. where a limited number of members have an interest, it should be straightforward for relevant individuals to be excluded from decision-making.

5. Transparency - publication of contracts

The Clinical Senate should ensure that details of all decisions, including an estimation of the impact of the decision in terms of benefits and outcomes are published on the website as soon as agreed.

6. Declaring and Registering Interests

The C&MCS Clinical Senate Management team will maintain a register of the interests of the:

- Members of the Senate Council.
- Members of the Senate Assembly.
- Clinical Senate management support team.
- Expert advisors.

Senate Assembly members will declare any interest that they have, in relation to a decision/recommendation by the Senate Assembly in writing to the Senate Council.

Senate Council members will declare any interest that they have in relation to a decision/recommendation by the Senate Council in writing to the (host) NHS England area team Medical Director responsible for the Senate area.

All declarations of interest should be made as soon as they become apparent and in any event no later than 28 days after becoming aware.

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

The C&M Clinical Senate Manager, who is accountable to the C&M SCN / Senate Associate Director, will ensure that the register of interest is reviewed regularly, and updated as necessary.

In such circumstances, the Senate Chair will determine whether such interests amount to sufficient conflict of interest to require that a member or members stand down from the discussions and whether there is a need to co-opt a temporary member or members to assist the Senate Council in its deliberations.

If the Chair is sufficiently conflicted to impair the impartiality of the Senate Council, the Chair or a majority of the members, may request that the Area Director of the host Area Team, appoints a temporary chair for the relevant topic or issue before the Senate Council meeting.

Where the Chair or a majority of the Senate Council members are concerned that there is a persistent or serious breach of the governance or standards by a member or members, the Chair or a majority of the membership may apply to the Area Director, NHS England to have that member or members removed from the Senate Council and replaced by the normal means of nomination or appointment.

7. Managing Conflicts of Interest: general

Individual members of the Senate Assembly and Council will comply with the arrangements determined by the C&M Clinical Senate Council for managing conflicts or potential conflicts of interest (see Appendix D).

The C&M Clinical Senate Manager will ensure that for every interest declared, either in writing or by oral declaration, arrangements are in place to manage the conflict of interests or potential conflict of interests, to ensure the integrity of the group's decision making/recommendation processes. The NHS England host Area Team Medical Director and Senate Chair are responsible for overseeing management of conflicts of interest on behalf of C&MCS Clinical Senate.

8. Record of Interests

Arrangements for the management of conflicts of interest will include the requirement to put in writing to the relevant individual arrangements for managing the conflict of interest or potential conflicts of interest, within a week of declaration to the Senate Chair. The arrangements will confirm the following:

- When an individual should withdraw from a specified activity, on a temporary or permanent basis;
- Monitoring of the specified activity undertaken by the individual, by a designated individual.
- Where an interest has been declared, either in writing or by oral declaration, the declarer will ensure that before participating in any activity connected with the Senate's functions, they have received confirmation of the arrangements to manage the conflict of interest or potential conflict of interest from the Senate Chair

Where an individual member of the Senate Council and Assembly is aware of an interest which:

- Has not been declared, either in the register or orally, they will declare this at the start of the meeting;
- Has previously been declared, in relation to the scheduled or likely business of the meeting.

The individual concerned will bring this to the attention of the chair of the meeting, together with details of arrangements which have been confirmed for the management of the conflict of interests or potential conflict of interests.

The Senate Chair will then determine how this should be managed using the guide in Appendix E and inform the member of their decision. Where no arrangements have been confirmed, the Senate Chair may require the individual to withdraw from the meeting or part of it. The individual will then comply with these arrangements, which must be recorded in the minutes of the meeting.

Any declarations of interests, and arrangements agreed in any meeting of the Clinical Senate Council or Assembly, will be recorded in the minutes.

Where more than 50% of the members of a meeting are required to withdraw from a meeting or part of it, owing to the arrangements agreed for the management of conflicts of interests or potential conflicts of interests, the chair will determine whether or not the discussion can proceed.

In making this decision the chair will consider whether the meeting is quorate. Where the meeting is not quorate, owing to the absence of certain members, the discussion will be deferred until such time as a quorum can be convened. Where a quorum cannot be convened from the membership of the meeting, owing to the arrangements for managing conflicts of interest or potential conflicts of interests, the chair of the meeting shall consult with the Area Team Medical Director on the action to be taken. These arrangements must be recorded in the minutes of the Council and the Assembly.

1. Type of Interest – Please supply details of where there is conflict in accordance with the following list

- a) A direct pecuniary interest: where an individual may financially benefit from the consequences of a commissioning decision (for example, as a provider of services);
- b) An indirect pecuniary interest: for example, where an individual is a partner, member or shareholder in an organisation that will benefit financially from the consequences of a commissioning decision;
- c) A direct non-pecuniary interest: where an individual holds a non-remunerative or not-for profit interest in an organisation, that will benefit from the consequences of a commissioning decision (for example, where an individual is a trustee of a voluntary provider that is bidding for a contract);
- d) An indirect non-pecuniary interest: where an individual is closely related to, or in a relationship, including friendship, with an individual in categories a-f.
- e) A direct non-pecuniary benefit: where an individual may enjoy a qualitative benefit from the consequence of a commissioning decision which cannot be given a monetary value (for example, a reconfiguration of hospital services which might result in the closure of a busy clinic next door to an individual's house);
- f) An indirect non-pecuniary benefit: where an individual may enjoy a qualitative benefit from the consequence of a commissioning decision which cannot be given a monetary value but is a benefit to peers or colleagues (for example, a recommendation which results in an increase in revenue or status to their employing organisation or results in their organisation becoming the preferred provider).
- g) An indirect non-pecuniary conflict: where the evidence of the Senate may bring a member into direct or indirect conflict with their contracting or employing organisation, to the extent that it may impair the member's ability to contribute in a free, fair and impartial manner to the deliberations of the Senate Council, in accordance with the needs of patients and populations.

Appendix B: Declaration Form

A	Membership of other bodies	
	I am a member or trustee or hold a position of general control or management in the following bodies:	
1.	bodies to which I have been appointed or nominated by NHS England or my Clinical Commissioning Group or my (NHS) employer as its representative	
2.	public authorities or bodies exercising functions of a public nature	
3.	companies, industrial and provident societies, charities, or bodies which have charitable purposes	
4.	bodies whose principal purposes include the influence of public opinion or policy <i>{This includes political parties}</i>	
5.	trades union or professional associations	

Signed: _____

Print name: _____

Date: _____

When completed please return to the sarahogden@nhs.net

Appendix C

Declaration of Interest for Clinical Senate working group members

Title:

Chair:

Name of member:

I understand that if I, my family members, close relatives and / or personal friends have any direct or indirect interest in any company/organisation which is subject of the topic / study / review that I have been invited to participate in, I shall make a declaration to the Senate Chair to that effect.

I declare that:

- I am not a part-time, paid, or unpaid employee of any organisation that are (a) involved in the topic / study / review and / or (b) whose services would be directly and predictably affected in a major way by the outcomes of the study/review
- I am not an officer, member, owner, trustee, director, expert advisor, or consultant of such organisations
- I do not have any financial interests or assets in any organisations meeting and above criteria, nor does my spouse, dependent children, nor any organisation with which I am connected; and
- I am not a current collaborator or associate of the Chair of Clinical Senate or the working group lead.

Having read the above: *(please tick✓ the appropriate answer)*

I have no relevant interests or activities.

I have noted any exceptions in the space below*:

Signature:

Appendix D: Cheshire and Merseyside Clinical Senate: when it is necessary to declare an interest

Role	Declaration on appointment	Annual Declaration	Declaration on working groups	Declaration on publications
Senate Chair	Yes	Yes	Yes	Yes
Senate Support Team	Yes	Yes	N/A	Yes
Senate Council Members	Yes	Yes	Yes	Yes
Senate Assembly Members	Yes	Yes	Yes	Yes
Evidence contractors	NA	NA	Yes	Yes
Expert advisors	NA	NA	Yes	Yes

Appendix E: Cheshire and Merseyside: Action to be taken following a declaration of interest on a Clinical Senate Working Group

Type of Interest	See Interest	Action
A direct pecuniary interest	A	Declare and withdraw
An indirect pecuniary interest	B	Declare and withdraw
A direct non-pecuniary interest	C	Declare and withdraw (unless, exceptionally, the chair of the Clinical Senate rules otherwise).
An indirect non-pecuniary interest	D	Declare and participate (unless, exceptionally, the chair of the Clinical Senate rules otherwise).
A direct non-pecuniary benefit	E	Declare and withdraw (unless, exceptionally, the chair of the Clinical Senate rules otherwise).
An indirect non-pecuniary benefit	F	Declare and participate, unless the individual has personal knowledge of the intervention or matter either through his or her own work, or through direct supervision of other people’s work. In either cases he/she should declare this interest and not take part in proceedings except to answer questions.
An indirect non-pecuniary conflict	G	Declare and participate (unless, exceptionally, the chair of the advisory body rules otherwise).