



*Wigan Borough
Clinical Commissioning Group*

Gifts and Hospitality Policy



DOCUMENT CONTROL PAGE	
Title	Gifts and Hospitality Policy – October 2016
Purpose	This policy describes the business conduct behaviour required by all staff who potentially may benefit as the recipient of gifts and hospitality arrangements.
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Minor Amendments	Updates fraud references
Author	Ella Bailey Assistant Chief Finance Officer – Financial Control and Governance
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Contents

Section	Contents	Page
1	Introduction	3
2	Purpose	3
3	Definitions	3
4	Roles & Responsibilities	3
5	Gifts and Hospitality Policy	5
6	Equality, Diversity & Human Rights Impact Assessment	9
7	Consultation & Approval Process	10
8	Dissemination & Implementation	10
9	Monitoring Compliance	10
10	Standards & Key Performance	11
11	References & Bibliography	11
12	Associated CCG Documents & Useful Contacts	11
Appendix 1	Gifts and Hospitality Declaration Form	12

1. Introduction

- 1.1.** This policy document is intended to inform all CCG Employees and members of the Governing Body in their responsibilities when accepting gifts and hospitality and to advise them to consider fully the implications of their actions in respect of the various probity issues contained in this policy, which can leave both individuals and the CCG vulnerable to accusations of improper behaviour and lead to investigations, financial damage and reputational damage.
- 1.2** This policy has been written in line with the Bribery Act 2010 and Fraud Act 2006 and will be updated with any changes to UK and EU legislation and is intended to provide advice and assurance to staff, patients and clients, and any other party that the CCG does business with; that there is a policy to adhere to with detailed procedures in relation to gifts and hospitality. Adhering to such a policy will limit individuals being put in a position where they may be accused or questioned in relation to any wrongdoing regarding the acceptance of gifts and hospitality.
- 1.3** The policy excludes GPs own internal register for gifts and hospitality offered by patients in their capacity as a provider of healthcare services. Each practice should have its own internal procedure for the management of such gifts and hospitality (such as chocolates, flowers, wine etc). Any gifts, hospitality or sponsorship offered to GPs and Practices over and above those received from patients are covered by this policy as they may be made in their capacity as a commissioner of healthcare services or as a member of the CCG

2. Purpose

- 2.1.** This policy applies to those members of staff that are directly employed by the CCG and for whom the CCG has legal responsibility.
- 2.2.** For those staff covered by a letter of authority/honorary contract or work experience the organisation's policies are also applicable whilst undertaking duties for or on behalf of the CCG. Further, this policy applies to all third parties and others authorised to undertake work on behalf of the CCG.

3. Definitions

3.1. Bribery

An inducement or reward offered, promised or provided to someone to perform their functions or activities improperly in order to gain a personal, commercial, regulatory and/or contractual advantage.

3.2. Corruption

Corruption is generally considered to be an “umbrella” term covering such various activities as bribery, corrupt preferential treatment, kickbacks, cronyism, graft or embezzlement.

3.3. Hospitality

The reception and entertainment of guests, visitors, or strangers including, but not limited to travel, accommodation and refreshments.

3.4. Gifts

Something that is bestowed voluntarily and without compensation upon an employee including, but not limited to, goods, money and gift cards.

4. Roles & Responsibilities

- 4.1. The proper management of resources requires sound governance procedures to ensure public money is spent appropriately and that the organisation conducts its business transactions in an open, honest and equitable manner.
- 4.2. To ensure that this is done effectively, the following roles and responsibilities are defined within the CCG.

Governing Body – it is the responsibility of the Governing body to approve the policy and disseminate to all members of staff. It is the responsibility of the Governing Body to ensure that the policy is up to date and complies with the relevant EU Legislation as follows:

- Bribery Act 2010
- Fraud Act 2006

Audit Committee – the Audit Committee will be responsible for reviewing the Register for the Receipt of Casual Gifts and Provision and Receipt of Hospitality. It is the responsibility of the Audit Committee to ensure that the organisation acts in an open, honest and equitable manner.

Accountable Officer – any gift or hospitality offered to a CCG Member or an employee of the CCG during the performance of his/her official duties, should be disclosed to the Accountable Officer for approval before acceptance and before an entry is made in the register provided for this purpose.

Corporate Office - the Register for the Receipt of Casual Gifts and Provision and Receipt of Hospitality is held by the Corporate Office.

Departmental Managers – each manager must ensure that this policy is followed for all types of gifts and hospitality received. Managers must ensure that all staff have up to date copies of the policy and have adequate training.

All CCG Employees – all must be familiar with and follow the policy. It is the responsibility of every individual to comply with this policy, for making any necessary declarations, and have a duty to act with integrity, transparency and honesty.

CCG employees should also raise any concerns or suspicions regarding NHS fraud, bribery and corruption, with the CCG's LAFS who may be contacted directly on 07825 456 226 or Kerryann.wheat@miaa.nhs.uk, or by reference to the contact / reporting details contained in the CCG's Anti-Fraud Bribery and Corruption Policy 2015.

Local Anti-Fraud Specialist - any indication of deliberate non-compliance with this policy, or with SFIs, particularly where there is a suspicion of financial irregularity, will be referred to the CCG's Local Anti-Fraud Specialist (LAFS) for further investigation. Where fraud or corruption is proven, the CCG will appropriately consider the application of disciplinary and/or criminal sanctions, as well as redress, against identified perpetrators.

NHS Protect - leads on work to identify and tackle crime across the health service. The aim is to protect NHS staff and resources from activities that would otherwise undermine their effectiveness and their ability to meet the needs of patients and professionals. Ultimately, this helps to ensure the proper use of valuable NHS resources and a safer, more secure environment in which to deliver and receive care. NHS Protect may investigate any financial irregularity within the CCG.

5. Gifts and Hospitality Policy

ACCEPTANCE OF GIFTS BY WAY OF INDUCEMENTS OR REWARDS

- 5.1 You must not accept gifts or hospitality or other benefits which might be seen to compromise your own personal or professional integrity or that of the CCG.
- 5.2 For any relevant activities undertaken prior to 1st July 2011, the Standards state that it is an offence under the Prevention of Corruption Acts 1906 and 1916 for an employee to accept an inducement or reward for doing, or refraining from doing anything in his or her official capacity, or corruptly showing favour or disfavour in the handling of contracts
- 5.3 From 1st July 2011, the Bribery Act 2010 ['the Act'] has updated UK law by making it a criminal offence to:
- Offer, promise, or give a bribe [section 1]; or
 - Request, agree to receive, or accept a bribe [section 2].
- 5.4 Under the 2010 Act, bribery is now a series of specific offences. Bribery is defined as: an inducement or reward offered, promised or provided to someone to perform their

functions or activities improperly in order to gain a personal, commercial, regulatory and/or contractual advantage.

- 5.5 A bribe does not have to be in cash; it may be the awarding of a contract, the provision of gifts, hospitality, sponsorship, the promise of work or some other benefit. The persons making and receiving the bribe may be acting on behalf of others – under the Bribery Act 2010, all parties involved may be prosecuted for a bribery offence.
- 5.6 The Act is also extra-territorial in nature. This means that anyone involved in bribery activity overseas may be liable to prosecution in the UK if the bribe is in respect of any UK activity, contract or organisation. To this end, the Act also includes an offence of bribing a foreign public official [section 6].
- 5.7 In addition, the Act introduces a new ‘corporate offence’ [section 7] of the failure of commercial organisations to prevent bribery. The Department of Health Legal Service has stated that NHS bodies are deemed to be ‘relevant commercial organisations’ to which the Act applies. As a result, an NHS body may be held liable (and punished with a potentially unlimited fine) when someone “associated” with it bribes another in order to get, keep or retain business for the organisation. However, the organisation will have a defence, and avoid prosecution, if it can show it had adequate procedures in place designed to prevent bribery.
- 5.8 Under section 14 of the Act, a senior officer of the organisation (e.g. a Senior Manager, an Executive or Non-Executive Director) would also be liable for prosecution if they consented to or connived in a bribery offence carried out by another. Under such circumstances, the senior officer may be prosecuted for a parallel offence to that brought against the primary perpetrator. Furthermore, the organisation could also be subject to an unlimited fine because of the senior officer’s consent or connivance.
- 5.9 The Bribery Act is applicable to NHS organisations including WBCCG and, consequently, it also applies to (and can be triggered by) everyone “associated” with the CCG who performs services for, or on behalf of, it or who provides it with goods or facilities. This includes those who work for and with it, such as employees, officers, members, agents, subsidiaries, contractors and suppliers (regardless of whether they are incorporated or not). The term ‘associated persons’ has an intentionally wide interpretation under the Act.
- 5.10 WBCCG adopts a ‘zero tolerance’ attitude towards bribery and does not, and will not, pay or accept bribes or offers of inducement to or from anyone, for any purpose. The CCG is fully committed to the objective of preventing bribery and will ensure that adequate procedures, which are proportionate to our risks, are in place to prevent bribery and which will be regularly reviewed. We will, in conjunction with NHS Protect, seek to obtain the strongest penalties – including criminal prosecution, disciplinary and/or civil sanctions – against anyone associated with WBCCG who is found to be involved in any bribery or corruption activities.

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

GIFTS AND INDUCEMENTS

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

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

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

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

5.14 Gifts in the form of promotional aids and prizes, whether related to a particular product or general utility, may be distributed to members of the health professions and to appropriate administrative staff, provided that the gift or prize is inexpensive and relevant to the practice of their profession or employment. In these circumstances an 'inexpensive' gift means one which has cost no more than £25.00 (excluding VAT). Examples of acceptable gifts include pens, diaries, calendars, windscreen scrapers, etc.

5.15 Specifically in the case of Pharmaceutical Companies, CCG Members and independent contractors should be aware of the Association of British Pharmaceutical Industry (ABPI) code of practice which clearly sets out the industry standard. The Medicines (Advertising) Regulations 1994 highlights potential criminal offences relating to the offering or accepting of inappropriate inducements and hospitality.

5.16 Any cash or cash equivalents (e.g. gift tokens) received, no matter how small, should be passed on to the CCG Chief Finance Officer. Cash can be paid to an agreed charity if it is not appropriate to return it, and tokens can be used for the benefit of all staff for a purpose agreed by the CCG Governing Body.

CASUAL GIFTS

- 5.17 Casual gifts offered by contractors, patients or others, e.g. at Christmas time, may not be in any way connected with performance of duties so as to constitute an offence under the Bribery Act. Such gifts should, nevertheless, be politely but firmly refused, and recorded, subject to the guidance below.
- 5.18 Articles of low intrinsic value such as diaries or calendars, or small tokens of gratitude from patients or their relatives, need not necessarily be refused. (Intrinsic value is regarded as £25.00 excluding VAT.) Particular consideration should, however, be given to the risk of casual gifts being repeatedly offered from a particular source in any 12 month period.
- 5.19 Any casual gifts received, other than those shown above, will be given to the person for whom they are intended. That person should acknowledge receipt of the gift and inform the donor that the item cannot be received personally but agree an appropriate way to ensure that all staff benefit from the gift (e.g. raffle it off in a raffle open to all staff).
- 5.20 A record of ALL casual gifts received, accepted or declined, should be included on the hospitality register pro-forma (Appendix 1).

RECEIPT AND PROVISION OF HOSPITALITY

- 5.21 This policy only applies to hospitality funded from the CCG's own resources.
- 5.22 Hospitality should not be considered as the 'norm' when conducting business, it should only be provided when necessary and where there is a clear business reason. It is not justifiable to provide hospitality solely to reciprocate hospitality received on some previous occasion.
- 5.22 With the exception of Governing Body, Senior Leadership, Clinical Leadership Team meetings and CCG staff training/staff briefing, that span across a lunch break, refreshments should not be provided at meetings attended solely by staff of the CCG. Meetings that involve visitors (ie. individual's external to the CCG) can be provided with appropriate non-alcoholic refreshments at the discretion and authorisation of the CCG manager concerned.
- 5.23 Refreshments should not be extended to spouses of staff or guests unless the circumstances fully justify this and it is authorised by the Chief Finance Officer.

RECEIPT OF HOSPITALITY

- 5.24 Hospitality is an influential marketing activity. Modest hospitality, provided it is normal and reasonable in the circumstances (e.g. lunches in the course of working visits), may be acceptable.

- 5.25 Pharmaceutical companies are permitted to provide appropriate hospitality to members of the health professions and appropriate administrative staff in association with scientific and promotional meetings, scientific congresses and other such meetings. Hospitality must be secondary to the business purpose of the meeting. The level of hospitality offered must be appropriate and not out of proportion to the occasion and the costs involved must not exceed that level which the recipients would normally adopt when paying for themselves. It must not extend beyond members of the health professions or appropriate administrative staff.
- 5.26 The provision of hospitality includes the payment of reasonable, actual travel costs that a company may provide to sponsor a delegate to attend a meeting. The payment of travel expenses and the like for persons accompanying the delegate is not permitted. The payment of reasonable honoraria and reimbursement of out of pocket expenses, including travel, for speakers, is permissible. Payments should be maybe to WBCCG, rather than the employee particularly where the event takes place during normal working hours and/or where the attendance at the event is directly associated with the employee's role and duties on behalf of WBCCG.
- 5.27 Staff and CCG Members should be ever mindful of the potential position they find themselves and the CCG in, when inappropriate or excessive hospitality is offered. Integrity and honesty must be maintained at all times.
- 5.28 Staff should ask themselves the question as to whether the hospitality offered could be construed as an inducement, or improper reward for expending NHS resources with a particular company, or in a particular manner. [Apply the 'Newspaper Test': Would the average person feel embarrassed or compromised if they read about the hospitality they had offered (or received) in a newspaper?]
- 5.29 Meetings/events organised for groups of doctors, other health professionals and/or for administrative staff which are wholly or mainly of a social or sporting nature are unacceptable.
- 5.30 CCG Members and staff should decline all other offers of hospitality or entertainment not referred to above. Where there are exceptional circumstances, or if any doubt exists, they should seek the advice of the Accountable Officer or Chief Finance Officer.
- 5.31 Any hospitality or entertainment offered to a CCG Member or an employee of the CCG during the performance of his/her official duties, should be disclosed to the Accountable Officer for approval before acceptance and before an entry is made in the register provided for this purpose. All hospitality or entertainment offered, whether accepted or declined, must be recorded on the Register for the Receipt of Casual Gifts and Provision and Receipt of Hospitality using the Casual Gifts/Hospitality Register pro-forma (Appendix 1).

5.32 The Register for the Receipt of Casual Gifts and Provision and Receipt of Hospitality is held by the Personal Assistant to the Accountable Officer. A copy of the Casual Gifts / Hospitality Register pro-forma (Appendix 1).

CONCLUSION

5.33 The purpose of this document is to emphasise that all Board Members and staff of the CCG are accountable for achieving the best possible healthcare within the resources available and to advise them to consider fully the implications of their actions in respect of the various probity issues contained in this policy.

5.34 In all cases, responsibility for notifying the CCG Accountable Officer of any receipt of hospitality or gifts lies firmly with the Member/employee concerned.

5.35 Employees are advised that failure to disclose such items could constitute a disciplinary offence. Employees, therefore, should seek the advice of their Director or declare the interest immediately, should any doubt exist. In certain circumstances, non-disclosure may also be referred to the Local Counter Fraud Specialist for further investigation.

6 Equality, Diversity & Human Rights Impact Assessment

6.1 The CCG is committed to promoting Equality, Diversity Strategy 2013- 2016.

6.2 It is important to address, through consultation, the diverse needs of our community, patients, their carers and our staff. This will be achieved by working to the values and principles set out in the CCG's Equality, Diversity and Human Rights Strategic Framework.

6.3 To enable the CCG to meet its legislative duties and regulatory guidance, all new and revised procedural documents, services and functions are to undertake an impact assessment to ensure that everyone has equality of access, opportunity and outcomes regarding the activities. Contact the Governance Team for support to complete an initial assessment. Upon completion of the assessment, Governance will assign a unique EqIA Registration Number. The CCG undertakes Equality Impact Assessments to ensure that its activities do not discriminate on the grounds of:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

6.4 Before any committee, group or forum validate a strategy, policy or procedural document an EqIA Registration Number will be required. This policy has been impact assessed EqIA 28/13

7 Consultation & Approval Process

7.1 Consultation

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

7.2 Approval

The approval pathway for this policy is the Corporate Governance Committee. The policy is due for Review in August 2018 or earlier if current legislation is amended.

8 Dissemination & Implementation

8.1 Dissemination: Following approval of this policy it will be made available through Sharepoint. All managers must familiarise themselves with this policy and ensure that relevant staff are also aware and have the required training.

8.2 Implementation: Awareness will be raised regarding the changes to or introduction of this policy via the Governing Body, Committee and Team meetings. If any members of staff require training on this policy, they should speak to the Chief finance Officer in the first instance.

9 Monitoring Compliance

9.1 The Assistant Director of Governance is responsible for monitoring compliance with the Policy. This will be completed on an annual basis and reported to the Corporate Governance Committee.

10 Standards & Key Performance Indicators

10.1 This policy must be reviewed at least every three years or when there are significant changes in the policy or the associated legal acts.

10.2 This policy will be monitored for effectiveness by self-assessment against any external accreditation that is applicable and may be subject to review by internal audit.

11 References & Bibliography

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

Equality Act 2010

12 Associated CCG Documents & Useful Contacts

Anti-Fraud Bribery and Corruption Policy 2013.

Equality & Diversity Strategy 2012- 2016.

Wigan Borough Clinical Commissioning Group Constitution.

Wigan Borough Clinical Commissioning Group Governance Framework Equality Impact Assessment Framework 2010.

For further information and support on this policy contact: Assistant Chief Finance Officer – Financial Control and Governance

Appendix 1



**Wigan Borough
Clinical Commissioning Group**

Declaration Form - Gifts and Hospitality

NAME OF RECIPIENT:			
DIRECTORATE AND POST HELD:			
DATE OF OFFER:			
NATURE OF GIFT, INDUCEMENT OR HOSPITALITY:			
NAME AND ADDRESS OF OFFERER:			
HOW LINKED TO ROLE AT CCG:			
ACCEPTED/DECLINED (and your reasons for doing so):			
COMMENTS (any additional comments felt useful to note):			
Signed:			
Date :			
AUTHORISATION OF LINE MANAGER:			
Signed:	Designation:		
Date:	Directorate:		
AUTHORISATION OF RELEVANT DIRECTOR:			
Signed:	Designation:		
Date:	Directorate:		
For Office Use			
ENTRY IN REGISTER	Yes / No:	Date:	By:
REVIEWED BY ACCOUNTABLE OFFICER ON:			

NOTE:

This form must be completed when gifts (other than articles of low value such as diaries or calendars) or hospitality are accepted or declined. The completed and signed form must be returned to the Corporate Office, WBCCG.