

## Policy on Conflicts of Interest

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## **Introduction**

1. NICE is expected to achieve and maintain high standards of probity in the way it conducts its business. These standards include impartiality, objectivity and integrity, and the effective stewardship of public funds. Managing potential conflicts of interest is an important part of this process.
2. The effective management of conflicts of interests is an essential element in the development of the guidance and advice that NICE publishes. Without it, professionals and the public will lose confidence in our work.
3. This policy provides guidance on what interests need to be declared, who needs to declare them and when, and what action should be taken to avoid conflicts of interest influencing the conduct of NICE's business. Everyone referred to in this policy should ensure that they and those for whom they have responsibility understand their obligations to disclose all relevant interests.
4. For definitions of key terms used in this document, see the 'Definitions' section below. The forms to be used in declaring or signing off conflicts of interest are in appendices 1, 2 and 3.

## **Related legislation and guidance**

5. The Cabinet Office Code of Conduct for Board members sets out standards to be applied by members of public bodies, including the management of conflicts of interest.
6. In addition, NICE is guided by the Nolan Principles as set out in the Institute's Code of Business Conduct. The principles are: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
7. The Bribery Act 2010 includes the offences of offering and or receiving a bribe. It also places specific responsibility on organisations to have in place sufficient and adequate procedures to prevent bribery and corruption taking place.

## **Scope of the policy**

### ***Who is covered by the policy***

8. This policy applies, in its relevant sections, to the following groups:
  - Board members and employees of NICE
  - Employees of NICE national collaborating centres
  - Committee chairs and members (including co-opted members) and remunerated expert advisers.
  - Appeal panel members.
  - Agency workers and contractors on temporary contracts or employed through an agency to work for NICE.
  - Secondees (those who are seconded to NICE from other organisations).
  - Employees of 'evidence contractors' working directly or indirectly to supply evidence that is used by the guidance-producing advisory bodies.

### ***Recognising a conflict of interest***

9. A conflict of interest arises when the judgement of someone involved in the work of NICE may be compromised, by the financial or other considerations set out in this policy.
10. To avoid public concern that any such interests might prejudice the integrity or impartiality of those involved in the business of NICE, this Code of Practice applies to all those who work at NICE and who are involved in the development of its guidance and the execution of its other functions.
11. The determination as to whether or not a declared interest is in conflict with the work of NICE will involve the application of this policy and will sometimes require careful judgement based on the facts and the nature of the business being conducted. In the event of doubt, it is best determined by considering how the interest will be perceived by an ordinary member of the public.
12. For the avoidance of doubt, the fact that an individual is living with a disease or condition, or has a family member who is in that position, is not regarded as a conflict of interest. (See Definitions for an explanation of 'family member'.)
13. This policy is intended as a guide to the kinds of interests that should be declared and when they should be declared. If in doubt, all interests should be declared.

## **Advisory committee members and appeal panel members**

14. NICE advisory committee members should consider carefully if they have an interest in the matters under review by the committee that might unduly influence their judgement and objectivity. Particular care should be taken if the interest involves any payment or financial inducement from the commercial sector (see Definitions for an explanation of 'commercial sector') or any reputational interest related to positions held in other organisations, publications they have authored or public statements they have made.
15. It is recognised that many committee members will have some interaction with the commercial sector and while this should be declared, it does not necessarily preclude membership of an advisory body or work for NICE. Care should be taken to consider which aspects of the commercial sector definition are relevant to the business under consideration. This policy will guide those who may have such interaction and those who have to make decisions about the circumstances in which such interaction conflicts with their work for NICE.
16. The Chairs of advisory committees are in a special position in relation to the work of their committee and so may not have any specific financial or non-financial personal, non-personal or family interests.
17. The Chairs of advisory committees have discretion over the interpretation and application of this policy in their committees. In the event of uncertainty or where there is an unresolvable disagreement between the chair and a member of the advisory body, the view of the relevant NICE Director or authorised deputy must be sought. This is to ensure that NICE policies and process manuals are fully and consistently applied in the course of guidance production.
18. The Chair of an advisory committee should ensure that the members declare all relevant interests and take advice from senior staff at NICE where necessary. Declarations of interest and associated actions should be recorded to ensure transparency in the way the interest is handled.

### ***Types of interests***

19. Interests can be specific or non-specific and financial or non-financial. Financial interests can be personal or non-personal.
20. The different types of interest are explained below.

### ***Specific and non-specific interests***

21. When evaluating declarations of interest from members of NICE's committees, it is important to decide whether the interest is 'specific' or 'non-specific'.
22. An interest is 'specific' if it refers directly to the matter under discussion.

23. An interest is 'non-specific' if it does not refer directly to the matter under discussion.
24. For the purpose of applying this Code to committee members, the 'matter under discussion' will be defined before the committee is constituted, in the case of topic specific committees, or before a new topic is introduced, in the case of standing advisory bodies. Each programme at NICE will set out its arrangements for ensuring that the matter under consideration is clearly defined and made publicly available.

### ***Personal financial interest***

25. A personal financial interest, for the purposes of this policy, is one where there is or appears to be opportunity for personal financial gain or financial gain to a family member (See Definitions section for definition of 'family members') in the 12 months before joining an advisory committee or during the period of membership of an advisory committee. Financial interest means anything of monetary value, including payments for services, equity interests, including stocks, stock options or other ownership interests and intellectual property rights, including patents, and copyrights and royalties arising from such interests.
26. Examples include:
  - Any consultancy, directorship, position in or work (which is specific to the product or matter being discussed) in the commercial sector that attracts regular or occasional payments or benefits in kind such as hospitality.
  - Clinicians receiving payment from the commercial sector for undertaking a procedure while giving advice on that procedure to NICE.
  - Any fee-paid work commissioned by the commercial sector for which the individual receives payment or financial benefit in kind.
  - Any shareholdings in the commercial sector held by the individual.
  - A financial interest in a company's product that is, or may become, a competitor to the product under consideration.
  - Expenses or hospitality provided by the commercial sector beyond that reasonably required for accommodation, meals and travel to attend meetings and conferences as set out in the NICE Hospitality Policy and Travel and Subsistence Policy.
  - Funds which include investments in the commercial sector that are held in a portfolio where the individual has the ability to instruct the fund manager as to the composition of the fund.

### ***Non-personal financial interest***

27. A non-personal financial interest involves payment or other benefit to a department or organisation in which the individual is employed but which is not received personally, in the 12 months before joining an advisory committee or during the period of membership of an advisory committee.

28. Examples include:

- A grant from a company for the running of a unit or department where the individual is employed.
- A grant or fellowship or other payment to sponsor a post or member of staff in the unit where the individual is employed.
- The commissioning of research or other work by, or advice from, staff who work in a unit where the individual is employed.
- Contracts with, or grants from, NICE.

### ***Personal non-financial interest***

29. A personal non-financial interest in the matters under consideration refers to an opinion on the matters under consideration published in the 12 months before joining an advisory committee or during the period of membership of an advisory committee.

30. Examples include:

- A clear opinion, reached as the conclusion of a research project, about the clinical and/or cost effectiveness of an intervention under review.
- A published statement in which the individual has expressed a clear opinion about the matter under consideration, which could reasonably be interpreted as prejudicial to an objective interpretation of the evidence.
- Authoring or co-authoring a document submitted as an evidence publication to a NICE advisory committee.
- Holding office in a professional organisation (see Definitions for an explanation of 'professional organisations'), charity or advocacy group with a direct interest in the matter under consideration.
- Other reputational risks in relation to a matter under review.

**Special note on competitor interests**

31. If a committee member is aware that a product under consideration is, or may become, a competitor of a product developed, manufactured, sold or supplied by a company in which the member has a current personal financial or family financial interest, they should declare an interest. The chair of the advisory body should consider whether the individual should take part in the proceedings.
  
32. The actions required at advisory committee meetings are set out in the table below.

Type of interest		Action
Personal financial	Specific	Declare and leave the meeting.  In exceptional circumstances the chair may rule that they can attend to answer specific questions
	Non-specific	Declare and participate unless, exceptionally, the chair rules otherwise on advice from NICE
Personal non-financial	Specific	Declare: action is then at the discretion of the chair on advice from NICE, where necessary
	Non-specific	Declare and participate unless, exceptionally, the chair rules otherwise on advice from NICE
Non-personal financial	Specific	Declare and participate unless, exceptionally, the chair rules otherwise on advice from NICE
	Non-specific	Declare and participate unless, exceptionally, the chair rules otherwise, on advice from NICE

## **Board members, permanent and temporary staff at NICE, secondees at NICE and employees of the NICE national collaborating centres, evidence contractors and external experts**

33. Each year, Board members, staff and NICE secondees and employees of NICE national collaborating centres must declare interests which are relevant and material in accordance with NICE's standing orders and this policy. New appointees should make the declaration on appointment.
34. Interests that should be regarded as relevant and material include:
  - Directorships, including non-executive directorships held
  - Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the health or social care sector
  - Majority or controlling share holdings in organisations
  - A position of trust in a charity or voluntary organisation (see the Definitions) connected with the health or social care industry
  - Any connection with a voluntary or other organisation contracting for services with NICE.
35. NICE Board members and staff may not hold or acquire a financial interest, including shares, which can be managed at an individual company level in enterprises engaged in the commercial sector and will be asked to divest themselves of such interests on appointment, or as soon as is practical thereafter. Special arrangements are in place for existing staff employed prior to 16 May 2007 to manage any personal pecuniary interests.
36. Secondees will be required to declare their interests and prior to appointment. Depending on the nature of the interest, the secondment may be refused or the nature of the work they are able to undertake at NICE constrained. Secondees will be able to divest themselves of interests which either prevent or constrain the proposed secondment, if they wish.
37. Where, for a NICE employee, a potential conflict arises involving a family member's financial specific interest and it is impractical to re-arrange the employee's duties, their Director may waive the potential conflict of interest if in their opinion the risks to the efficiency of departmental business are greater than the risks arising from the potential conflict of interest. In all such cases the Director must prepare a conflict of Interest sign-off form stating what action, if any, is appropriate. This will be attached to the individual's declaration of interest form.

38. No special favour should be shown to an individual's family or acquaintances in awarding contracts of employment. All personal and professional relationships with job applicants should be declared except where the relationship can be assumed (for example for internal candidates). The selection process for any contract or position should at all times be objective and impartial.
39. Agency workers and staff on temporary contracts will be asked to declare their conflicts of interest on appointment. They will not be asked to divest themselves of any interests, but the Director responsible for their work may decide to restrict their duties where a conflict of interest arises. Temporary staff are under the same duty of confidentiality as permanent employees.

### **Evidence contractors**

40. Evidence contractors (see Definitions for an explanation of 'evidence contractor') must declare any interests which may conflict with their work for NICE.
41. Evidence contractors retained to fulfil multiple projects must declare any interest that might conflict with their work for NICE in relation to each project at the time the work is referred to them.
42. Potential conflicts relate to both individuals and to the organisation and may fall under any of the categories set out in paragraphs 19-30.
43. The relevant NICE Director or their nominated deputy will be responsible for deciding whether any interest represents a conflict and the impact it may have on the ability of the contractor to fulfil the contract.

### **Expert advisers**

44. Individuals with specific expertise are routinely invited to attend advisory committee meetings. They provide advice to the committee based on their role and experience. They may or may not work in the NHS and they may or may not have paid employment in health or social care, or in the commercial sector.
45. External experts will be asked to declare their interests at the point they are invited to give evidence. Every effort will be made to select experts who do not have a conflict of interest of a kind which would require a member of the committee to withdraw from the discussion, However, the relevant NICE Director has discretion to invite an expert with such a conflict where he or she is the only source of advice available and the work of the committee would be seriously compromised without their testimony.

46. External experts will be required to declare their interests at the beginning of their testimony at each meeting they are invited to attend. These may fall under any of the categories set out in paragraphs 19-30.

## General information

### When interests should be declared

	Declaration on appointment	Annual declaration	Declaration at advisory committee or Board meetings (as appropriate)
<b>NICE board chair and non-executive directors</b>	Yes	Yes	Yes
<b>NICE employees, including temporary staff at NICE</b>	Yes	Yes	Yes
<b>NICE advisory body chair</b>	Yes	Yes	Yes
<b>NICE advisory body member</b>	Yes	Yes	Yes
<b>NCC employee</b>	Yes	Yes	Yes
<b>Evidence contractor</b>	Yes	Yes (for multiple year contracts)	Yes
<b>Expert adviser</b>	yes	Not relevant	Yes

## Recording of interests and their publication

47. A record is kept at NICE of:
- Declarations made by staff and others on appointment, as a new interest arises and through the annual declaration.
  - Declarations recorded in minutes of committee meetings, including details of the interest declared and whether the member took part in the proceedings.
48. Declarations of interest will be made publicly available on NICE’s website, in the form of a statement of annual declarations, through the minutes of advisory bodies or in guidance publications.
49. The period of relevance for all declarations made by members of a NICE advisory committee is 12 months before joining and during the membership of the committee.
50. All declarations of interest are subject to disclosure under the Freedom of Information Act 2000.

## Who to contact for advice

51. If anyone covered by this code is uncertain whether or not an interest should be declared or is unclear on the interpretation of this code of practice, he or she should seek advice as set out in the table below.

Who	Take advice from
Chair of Board	Chair of the Audit and Risk Committee
Board non-executive director	Chair of Board
Chief Executive	Chair of Board
Director	Chief Executive
Chair of advisory body	Centre Director or Programme Director
Member of advisory body	Chair of the advisory body
Employee of NICE, NCC employee, NICE secondee	Relevant director or the Governance Manager
Evidence contractor	Head of department in consultation with Centre Director
Expert Adviser	Chair of the relevant advisory body
Temporary and agency staff	Relevant director or the Governance Manager

## Definitions

**‘Commercial sector’** encompasses:

- Companies, partnerships and individuals who are involved in the development, manufacture, promotion, sale or supply of products or services which are advertised, promoted or marketed as treatments or as products contributing to the promotion or maintenance of good health.
- Companies involved in the sale of products which substantially affect public health, such as the food, alcohol and tobacco industries.
- Trade associations, both in the UK and elsewhere, representing companies involved with such technologies, products and services.
- Private social care providers
- GPs with a financial interest in an associated pharmacy or for-profit firm providing services to their Clinical Commissioning Group
- Companies, partnerships or individuals who are involved in the development and sale of knowledge products relevant to NICE’s Evidence Resources directorate, that are, or may be, used by the NHS

**‘Competitor interest’** refers to an interest in a company which produces a product which is a competitor to the one under consideration in guidance being produced by NICE and whose position is likely to be significantly influenced by the guidance.

**‘Family member’** refers to a spouse or partner living in the same residence as the individual, as well as children and adults (who may or may not be living in the same residence) for whom the individual is legally responsible, (for example, an adult whose full power of attorney is held by the individual).

**‘Members’** includes all advisory body members for the committees and groups

**‘Professional organisation’** includes any organisation engaged in the medical, public health or social care sectors including the medical, nursing and midwifery Royal Colleges, NHS organisations, and universities.

**‘Voluntary organisation’** refers to organisations that are ‘not for profit’ and non-governmental, and includes advocacy groups, charities and community groups.

**‘Evidence contractor’** refers to organisations in the public and private sectors which provide evidence assessment services and methodological support to NICE.

