**Document Name: Conflicts of Interest – Guidance for LOCs**

**[Author]:**

**Approved by:**

**[Date]:**

 **[insert name Local Optical Committee]:**

### Conflicts of Interest – Guidance for LOCs

1. **Overview**

A conflict of interest is something that causes a person’s objectivity and decision making to become impaired to the potential detriment of their organisation. Financial gain is not required for conflicts to exist and perceived conflicts can have as much effect as real ones. For LOCs, conflicts of interest can be damaging and risk the reputation of the committee. This LOCSU guidance is designed to remind LOCs of the importance of understanding conflicts of interests and outlines processes to mitigate and manage these. It provides examples of potential conflict of interests, how to prevent and avoid these where possible, how to manage transparently and fairly, and how these should be recorded and outcomes communicated.

While the LOC is empowered to manage conflict of interest scenarios, in the interests of transparency it would be advisable for the committee to call an EGM where changes are made to officer roles as a result of managing potential and real conflicts of interest.

In all cases, the committee should ensure that prompt and clear communications are sent to local contractors and performers and that full transparency is implemented and documented.

LOCs should keep LOCSU informed of developments at all times and ask for direct support where necessary.

1. **LOC Conflict of Interest Fundamentals**
	1. LOC members must comply with law, guidance and good practice in relation to gifts, hospitality and other inducements and actual, potential conflicts of interest.
	2. LOC members must complete a Conflict of Interest Declaration
	Template (Annex A).  Members need to review and confirm interests to the LOC at least annually or following any material change of circumstance within twenty-eight days. Members must note the LOC Model Constitution clause below:

*15.1. Members of the Committee shall declare any interests when standing for election and on appointment to the Committee, as well as at the start of each Committee meeting and relevant item on the agenda.*

* 1. LOCs should endeavour to prevent conflicts of interest before they arise.  Be mindful that perceived conflicts can have an adverse impact as well as actual conflicts.
	2. Where doubt exists, the LOC’s default position should be to assume a conflict and manage this accordingly. This is not so as to create a climate of suspicion and mistrust but to ensure that transparency and accountability are paramount at all times.
	3. The LOC should recognise that individuals may in good faith hold an unrecognised or debatable conflict of interest. While it is important to promote robust conflict of interest prevention and management, an overly prescriptive approach is not desirable—providing that correct procedures are followed at all times.
	4. Notwithstanding 1.5, all members must ensure that they abide by this clause of the LOC Model Constitution:

*15.3. Members of the Committee as elected representatives of registered healthcare professions shall at all times behave in a professional manner and within the normal rules and expectations of commercial and professional confidentiality relating to the work of the Committee. They shall not divulge, act inappropriately upon, or use inappropriately any information obtained by virtue of their membership of the Committee or its work. They shall be demonstrably scrupulous in this regard at all times and, particularly, when they might have an actual or potential personal interest. They shall be reminded of this requirement at each meeting as appropriate. Any infringement of this requirement shall be dealt with, as the Committee judges fit and recorded in the minutes.*

**3. Managing Conflicts**

If the above fundamentals are adhered to, LOCs should be able to resolve most issues. However, in some cases conflict of interest management may be required. In all cases LOCs should keep a conflicts of interest register detailing the conflict, any investigation, outcome, and communication.

Below are some indicative scenarios that may occur from time to time and suggestions for how to manage these:

2.1 An LOC member has not declared a conflict when they should have done:

1. If the LOC member realises this then they should make an immediate declaration to the LOC, explain the omission, and update their Conflict of Interest Declaration Form. The LOC should consider the severity of the omission and the explanation. In many cases the conflict will not have a material effect on the LOC’s work and the member can continue their role in the LOC.

However, where it is felt that the conflict does have a material effect, especially in relation to commissioning of services where the associated LOC Company has contractual obligations to its commissioners, the LOC might feel it necessary to ask the individual to consider their position on the committee. The LOC Model Constitution makes provision for a member of the committee to resign his/her place at any time. In such cases a ‘casual vacancy’ shall be declared. In the event that the member with a conflict is an officer, a replacement should be identified and prepared to assume the departed person’s role, in order to ensure that the LOC does not have an important role gap. For example, a chair could step down and be replaced by a vice chair, or a secretary/treasurer by a suitable person from the membership pool. It is good practice for each officer to have a deputy already identified so that in the event of role changes the deputy is ready to step in quickly in order to avoid a skills gap emerging.

1. Where the individual has intentionally not declared a conflict, which has subsequently emerged from different sources, this is a more serious scenario. The LOC will be within its rights to ask the individual to consider their position on the committee in this case.

2.2 There is a dispute within the committee regarding a perceived conflict

A conflict may be declared to the committee which the committee does not have a unanimous view on. This will take on greater significance when the individual is an officer (chair, vice chair, treasurer, secretary).

The first stage will be for the committee to discuss this openly ensuring that
all views are heard without accusation. It is important to allow for differences of opinion and for all parties to demonstrate good faith at all times. If it is not possible to come to a clear LOC view, then the following options should be considered:

1. The member in question recognises the importance of the LOC’s reputation as a representative body for the local optical sector and to therefore consider whether it is appropriate for them to continue in their position.
2. The member remains part of the committee but to be asked to step outside meetings on particular issues as per the LOC Model Constitution:

15.2. Members of the Committee, having an actual or potential conflict of interest in relation to an issue, shall not engage in discussion, or vote, on that issue.

This will become more challenging when this member is an office holder. If so, a permanent solution along the lines of a) or c) will need to be put into place.

1. Consider co-opting members (the LOC Model Constitution allows for up to three members to be co-opted) in order to fill skills gaps where a casual vacancy has emerged. Where necessary, there is nothing to prevent a co-opted member filling an officer role providing that they are elected by the committee. Alternatively, ensure that each officer has appointed a deputy, preferably prior to any conflict of interest emerging so that the deputy can step in quickly to ensure no skills gap emerges.

2.3 A local contractor/performer or outside organisation believes a conflict of interest exists which the LOC disputes

Where this occurs, the LOC needs to allow the person or outside organisation to give their views. Even where the LOC does not exist it must treat this concern seriously and transparently. This does not mean however that it is obliged to agree with the concern raised. It should detail discussions it takes regarding this concern as part of its investigatory process. It should explain the outcome of this investigation to the enquirer.

In the interests of clarity, a person should not be assumed to be conflicted just based on who their employer is.

1. **LOCSU can be requested to act as a mediator if required.**
2. **Conclusion**

By implementing the above steps and ensuring that all parties recognise that the LOCs are vital bodies incorporated by Act of Parliament and the importance of reputation, LOCs should be able to resolve conflict of interest issues. Above all, LOC members must ensure as a baseline that all LOC members, irrespective of employer or practice type, have the same objective of supporting and driving improvements of/to the local optical sector, and that this is assumed of committee colleagues unless clearly demonstrated otherwise. Remember that LOCSU is available to offer support.

**Annex A - LOC Conflict of Interest Guidance**

**[Insert name]** LOC: Declaration of Conflict of Interests Form

This form is a mandatory document for committee members of [insert name] LOC (“the LOC”) to complete.

As part of the LOC’s activities as the body representing local contractors and performers providing primary ophthalmic services in the LOC’s area, it is essential that committee members of the LOC state any interest or position that they and/or a family member[[1]](#footnote-2) hold in any other organisation participating in NHS commissioning processes in the field of eye health care, or other specialisms in the health and social care sector.

**Declaration of Conflict of Interests Form:**

Please complete the form below in full detailing all information as requested. Mark non-applicable areas as N/A. It is very important that you complete this form accurately as non-disclosed information may affect your ability to perform as a committee member representing the LOC.

Form below:

|  |  |  |
| --- | --- | --- |
|  | **You** | **Family member** |
| *Full name* |  |  |
| *Optical profession (e.g. optometrist/dispensing optician)* |  |  |
| *Position within or involvement withthe LOC* |  |  |
| *Details of position/involvement* |  |  |
| *Positions (including directorships) or any involvement (including shareholdings) with other private or public organisations participating in the NHS Commissioning process in the field of eye health care* |  |  |
| *Positions (including directorships)or involvement (including shareholdings) in any other private or public company operating in the wider health and social care sector*  |  |  |
| *Any other role or relationship including with voluntary organisations you consider would impair or otherwise influence your work with the LOC* |  |  |

I confirm that this **Declaration of Conflict of Interests Form** has been completed to the best of my knowledge. I undertake to update as necessary the information provided and to review the accuracy of the information at least annually or following any material change of circumstances (material change of circumstances being taken as anything that would otherwise have fallen in one of the categories above). I give my consent for the information to be used for the purposes of the LOC’s activities.

Signed: Date:

1. Family member taken as: spouse (spouse to include any person who lives with another person in the same household); mother, father, son, daughter, brother, sister, and grandparents, whether directly related, in laws or stepfamily. [↑](#footnote-ref-2)