



Glasgow

mgtmmccartney@gmail.com

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## CONFLICTS OF INTEREST

# “You have to be above reproach”: why doctors need to get better at managing their conflicts of interest

The UK has a transparency problem with doctors’ conflicts of interests; this summer a public consultation will revisit the issue. But, behind the scenes, declaring and managing conflicts is a complex business that can lead to more questions than answers, finds **Margaret McCartney**

Margaret McCartney *GP and freelance journalist*

Does the public have the right to know who is paying their doctor and whether financial relationships and other interests could influence their decisions and judgments? The human cost of hidden interests was painfully illustrated in a national review into harmful side effects from medicines and medical devices such as vaginal mesh. Julia Cumberlege, who led the Independent Medicines and Medical Devices Safety Review, which reported in 2020,<sup>1</sup> heard evidence from hundreds of women and found the lack of transparency on display “frankly scandalous.” These women, she tells *The BMJ*, had trusted their surgeon, “only to suffer life changing and irreversible harm from the pelvic mesh that was inserted by those surgeons.”

“We heard evidence that manufacturers influenced doctors and incentivised and rewarded them, and that the women who trusted these doctors were not aware of that. We heard women say that, if they had known about this, they would have thought twice about the treatment that was being recommended,” she says.

The review recommended that the General Medical Council hold a list of financial and non-pecuniary interests for all doctors and that industry declare all payments to doctors. This call for a central, open, and mandatory disclosure system—as already exists in the United States—is not new but brought the UK one step closer to a more transparent environment for patients. This summer the government has committed to a public consultation on the disclosure of industry payments to the healthcare sector ahead of possible legislation.<sup>2</sup>

But is transparency enough to reduce the effects of bias on patients, or does it risk being a bureaucratic fig leaf? Being able to go online and look up whether a practitioner has been paid by a drug or devices company, for example, is one thing, but knowing about it doesn’t necessarily mitigate the potential to cause harm, says Pauline Allen, professor of health services organisation at the London School of Hygiene and Tropical Medicine, who has researched the management of conflicts of interest in primary care.<sup>3</sup>

“Making a declaration about your conflict doesn’t make it go away. You still have a conflict of interest. It’s just that everybody knows you have a conflict,” she explains. In the case of mesh, women would have had to know to ask for information on conflicts and

then to consider the potential effects in the context of being offered surgery in a stressed, often time poor NHS.

Asking a doctor to declare interests before joining advisory committees or making board level decisions is all well and good, but the standard of declaration differs between organisations. Declaration could even—counter intuitively—cause net harm. Early psychological research, for example, indicates that people might trust information from “honest” brokers—even if their information risks being biased.<sup>4</sup>

## Transparency first

There is research evidence showing that financial ties to industry are associated with prescribing decisions. Research in the US, for example, has linked recommendations to prescribe opioids to financial relations with manufacturers.<sup>5</sup> Research I led found that media commentators, usually doctors, who recommended screening for atrial fibrillation (against the recommendation of the UK National Screening Committee), typically had direct or indirect financial links to drug companies, who in turn stand to benefit from increased prescribing.<sup>6</sup> We found that, although disclosures of interest could be found using public sources, they were almost always absent from the media reporting views on screening. This means that journalists either didn’t ask for them or asked for but didn’t report them.

So transparency might be present, but its effects are limited if useful information isn’t presented where it matters. Disclosure UK,<sup>7</sup> set up by the Association of the British Pharmaceutical Industry in 2016, is a register of payments made to individual and patient and healthcare organisations but is voluntary, meaning that many declarations go undeclared.<sup>8</sup>

## NICE leads the way

The practice adopted by the National Institute for Health and Care Excellence (NICE) is more meaningful than the Association of the British Pharmaceutical Industry’s approach. NICE has an extensive policy on declarations of interest and had a “substantial review” of its policy on advisory committees agreed in 2018 after public consultation. Chairs of topic specific guideline committees are not allowed “any direct interests (financial, non-financial, professional, or personal) that relate to the services, interventions, products, or delivery

of care to be considered within the scope of the guideline.” NICE goes further, saying that it might be inappropriate for chairs to have relevant “indirect interests,” including when a close family member could potentially gain financially from the person’s work with NICE.<sup>9</sup>

Susan Bewley has chaired many NICE committees over the past decade. “A lot of people don’t understand that it’s about both the actual risk of bias and also public perception,” says Bewley, emeritus professor of obstetrics and women’s health at King’s College London. “Expertise is valuable, so it’s only natural that many organisations might want to access or pay for it. However, institutions need protecting, so that their decisions are seen to be reliable, strong, and trustworthy.”

Bewley has observed continuous improvement on NICE’s processes around the declaration, investigation, and judgments about managing conflicts. “When appointing people now, we don’t just ask about commercial fees and consultancies or private practice, but the detail of what that involves. How much and what kind of medicolegal work? Are their publications and research going to appear in the systematic review? It’s not fair to ask an investigator to objectively judge the quality of their own work. When people are conflicted, they are recused and asked to leave the room, so they are excluded from decision making,” she says. In other words, declarations are, or can be, further interrogated for relevance.

“People are asked for a statement of interests. None of us should be asked to mark our own homework. So, by making third party decisions about who does, and does not, have a relevant conflict for a specific decision, we ensure that the individuals cannot be accused of bias, and the institution is protected.” She describes situations in which panels have had to be re-run because of an undeclared or unrecognised conflict and others in which individuals have been deemed expert enough to give presentations to NICE, but were only allowed to be advisers as they were too conflicted to be full panellists making decisions.

Lisa Bero, professor of medicine and public health at the University of Colorado, USA, agrees that self-judgment is bad practice. “There is much evidence that people cannot evaluate their own conflicts of interest. Committee chairs are integral to committee decisions, so they should be free of [conflicts of interest] completely. They could be involved in or aware of decisions about [conflicts] of other committee members, but they should not be making the decisions without external input.”

For Bero, evaluating conflicts of interest depends on the accurate and complete disclosure of relevant financial interests, but there is a concern that, when declaring, people use the specification of “related” or “relevant” interests as a loophole. “Declarations should be relevant to the topic, as understood by the average person. For a modified, anonymised, but real example: I had someone argue to me that a patent they had was not relevant to the topic of neuromuscular control because it affected a particular muscle twitch fibre, but not others that were the topic of the paper in question. It still seemed relevant to me, from the general reader perspective. If you had to be an expert in neuromuscular anatomy to understand the patent, then I would lean on the side of declaring.”

Research into the way conflicts of interest were managed in (now defunct) clinical commissioning groups in England shows inconsistency and confusion among individuals about how to manage their interests.<sup>3</sup> Katherine Checkland, professor of primary care at the University of Manchester, conducted the research with Pauline Allen, of the London School of Hygiene and Tropical Medicine. She describes how declarations were used to try and fix structural problems inherent in the creation of clinical

commissioning groups—people effectively commissioning services from themselves—but, “it was very clear in the research we did on primary care commissioning that no one really knew how to manage conflicts, and they thought: if we keep declaring it’ll all be fine.”

The researchers attended commissioning meetings to observe how conflicts were managed. Checkland saw how people were trying to follow guidance, saying things like “Should we leave the room now? Are we supposed to be taking part in this decision? Maybe we can stay in the room as long as we don’t vote?”

“The guidance from NHS England was focused on transparency, and people found it confusing,” she says. Clear instruction about actual management of conflicts was lacking, and, fundamentally, people do not always have insight into when they are conflicted. Allen says: “We found chairs saying things like ‘GPs are ultimately trustworthy people and, therefore, you know, can rise above conflicts and make decisions’”

Both Allen and Checkland think this approach is inherently unsafe. “You have got to start further back,” says Allen. “It’s no good starting with declarations. You have to think carefully about the composition of the decision making group and what kind of decisions are going to be made—and you have to make sure there are going to be sufficient people capable of making non-conflicted decisions.” They agree that insight cannot be assumed. “Some people take declarations very, very personally and feel quite anxious and threatened by it,” says Checkland. “People with less insight can think: my interests are not going to affect me.”

This reflects other research I led, in which we found enormous disparities in the quality of reporting of individual healthcare professionals’ declarations of interests—from the meticulous disclosure of small non-recurrent gifts from patients for handmade fudge or knitted hats to opaque statements like “Grant sponsored by industry” and “Nine patents currently held, details available on request.”<sup>10</sup> Without a consistent approach, some people will probably over-declare and others, potentially more conflicted, will do the opposite. Cumberlege points out: “We managed to persuade the government to add a provision in the Health and Care Act 2022, which gives the secretary of state the power to require such disclosures from manufacturers. That provision has not been brought into effect yet. It needs to be.” NHS England is currently piloting new systems of declarations. But unless these can actually reduce the negative effects of conflicts, they will be wasted.

### Screening for interests

Decisions on what is or isn’t a conflict can be finely balanced. When Mike Richards took over as chair of the UK National Screening Committee, for example, the role demanded that he have no interests “that may conflict with his or her responsibilities.”<sup>11</sup> He declared his involvement with Grail, an American biotechnology company that produces a multi-cancer detection test, currently in trial in the NHS, and his trusteeship with Cancer Research UK. He subsequently stepped down from Grail. After his interview he provided details of the other work that he was doing including being senior counsel to a healthcare consultancy called Incisive Health (now renamed Evoke Incisive Health).<sup>12 13</sup> The consultancy’s clients include the Global Lung Cancer Coalition,<sup>14</sup> a coalition of patient organisations, funded by multiple drug companies, who actively campaign for lung cancer screening.

When I asked the UK National Screening Committee about whether this was a conflict with Richard’s role as chair, a spokesperson said in a statement by email that the interests had been reviewed by the committee’s secretariat and officials from Department for Health and Social Care before his first meeting as chair. They went on: “Where an interested observer might perceive a conflict, Professor Richards and [the department] agreed appropriate mitigations.”

At a meeting of the committee in June last year, there was an agenda item about lung cancer screening, and “no concern was raised by the secretariat or any members of the committee,” the spokesperson said. “It was felt that, in this instance, a fair and informed observer would not conclude there was a real possibility of bias in respect of Professor Mike Richards chairing the meeting.” Richards had also confirmed that his role at Incisive Health does not relate to screening but other aspects of cancer and oncology. These “information barriers,” in addition to the mitigation strategy outlined, ensure any potential conflicts of interest were “effectively managed,” said the spokesperson.

Richards agreed in a statement that there should be “robust processes for assessing the interests of all members and for identifying and managing possible perceived conflicts of interests early, in a way that does not cloud the committee’s judgement.” He added, “That exists for the UK National Screening Committee and is also why it is important its recommendations are made collectively, not by any one individual.”

### Should media doctors have conflicts of interest—even if declared?

Listen to the podcast interview with Chris and Xand van Tulleken at <https://thebmjpodcast.podbean.com>

Provenance and peer review: Commissioned; not peer reviewed.

Competing interest: MM has written and campaigned around conflicts of interest for decades, some of this has been paid journalism. She is also an applicant for grants related to research around conflicts of interest.

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