

## **Confidentiality and disclosure**

### **A guide for applicants, peer reviewers and commissioning panels<sup>1</sup>**

#### **1 Confidentiality of applications**

Applications are considered confidential by the National Institute for Health Research (NIHR) and Policy Research Programme (PRP) Central Commissioning Facilities (CCF); that is, they contain information that is considered critical to an organisation's ongoing operations and could seriously impede them if made public or shared internally. They may also contain material considered personal by the Data Protection Act and will therefore be handled in accordance with this act at all times. Our statement regarding privacy and data protection is available on our research management system: [CCF privacy policy](#).

Information contained within applications must necessarily be divulged to third parties in order to make funding decisions. Disclosure of information within applications is tightly controlled as follows:

The CCF takes all reasonable steps to ensure that the contents of applications are treated as confidential. Application forms and any associated papers are sent to and received by reviewers and commissioning panel members and observers (hereafter panel members) in confidence. Electronic information may be transferred through the secure CCF Research Management System, CCF secure transfer system, SharePoint Portal, or on encrypted, password-protected discs/memory sticks by secure carrier. On limited occasions where none of the preceding methods can be used, electronic information is transferred by email. Paper information is sent by secure carrier.

CCF staff do not disclose or discuss the content of any application submitted with any individuals outside the CCF, the Department of Health (DH) and partner organisations of the NIHR, except peer and lay reviewers, reviewers working in the Research Design Service (RDS) and panel members. Where it occurs, RDS review is not part of the selection process, but is used to monitor uptake of advice given to applicants.

By acting as a reviewer or panel member, individuals are agreeing to treat as confidential all applications sent to them by CCF. They must not disclose the fact that the applicant has applied for a research award nor the content of the application to any other person (including work colleagues) without the prior written consent of the applicant, obtained via CCF. Equally, they must not use the information in the application for any purpose other than providing a review of it to CCF or the panel. In addition, any personal information contained within the application must be treated according to the Data Protection Act and therefore must not be disclosed to any third party, without prior written consent of the individual concerned. For further information, the Information Commissioner's office (ICO) has produced the following comprehensive code of conduct for data sharing: [ICO code of conduct for data](#)

---

<sup>1</sup> For editorial reasons, the word 'panel' has been used throughout; it is interchangeable with board or committee.

[sharing](#).

Applications will not be reviewed by individuals where there is a known conflict of interest. Detailed guidance on what constitutes a conflict of interest and how it is handled can be found in the appendix.

## 2 **Data security**

The CCF stores all electronic information in secure premises and any confidential electronic information removed from secure premises by CCF staff is encrypted and password protected. Reviewers and panel members are expected to maintain this level of electronic data security. In particular, cloud-based services such as Dropbox cannot be assumed secure and should not be used for storage of application forms and meeting papers unless there is a contractual guarantee of security from the provider.

All individuals who are sent copies of applications and any associated documents, whether electronic or paper copies, must ensure that these are not retained indefinitely. In general, paper copies collated as panel papers should be left behind for shredding at the end of the meeting. Electronic records may be retained until contract negotiations for successful applications are completed, after which point they must be deleted.

## 3 **Confidentiality of peer reviews**

Peer reviews are considered confidential. Anonymised reviews will be disclosed to the authors of the application. Peer review scores will be disclosed to the authors of the application, if requested. Any sections of peer review forms which are not disclosed to the authors of the application are indicated to the reviewer. Receipt of the peer review form from the CCF, and subsequent completed return, form a 'mutual confidentiality agreement' covering the response. This information will not be released without prior consent unless it is seen to be overwhelmingly in the public interest, i.e. when the benefits of disclosure outweigh the duty of confidentiality.

## 4 **Confidentiality of peer reviewer identity**

Peer reviewer identity is not disclosed to applicants and anonymous peer reviews are returned to applicants. It may be disclosed to panel members, except where there is a conflict of interest. Lists of those undertaking peer review for CCF are not published.

## 5 **Confidentiality of panel discussions**

Panel discussions are recorded during the meeting and form the basis of the meeting minutes and the feedback/outcome letters to applicants. Comments are not attributed to individual panel members. The minutes are considered confidential and, in most cases, the complete minutes are circulated to panel members, CCF and DH staff involved in the commissioning process. Where there is a conflict of interest, the minutes of discussions of applications are omitted from the copy circulated to the conflicted panel member.

**B** Panel members must not disclose details of discussions or decisions to anyone outside the panel, DH or CCF. Individuals assigned to lead discussion (Lead Assessors or Designated Panel Members) are not disclosed to applicants.

## 6 **Confidentiality of written comments**

Written comments on applications may be submitted by panel members, either if they will be absent from the panel meeting, or if they play a particular role in the discussion (Lead Assessor, Designated Panel Member, etc.) These records are used to aid the CCF Secretariat in writing up the meeting minutes and, in some instances, contract negotiation. They are not disclosed to applicants.

## 7 **Confidentiality of panel member identity**

Panel member (excluding panel observer) identity is not considered confidential. Names and affiliations of panel members (excluding panel observers) may be published on the CCF website and in other relevant documents.

## 8 **Confidentiality - for lay reviewers and lay panel members**

This document applies to lay reviewer and lay panel members. If additional support or advice is needed, please contact the CCF Patient and Public Involvement team: [contact details for CCF Patient and Public Involvement Team](#)

## 9 **Freedom of Information Act**

The Freedom of Information (Fol) Act (2000) applies to public bodies including NIHR. It gives individuals rights to access information held about them by UK government. Any person can make a request under the Act - no restrictions on age, nationality, or place of residence. Any information can be requested - but some information might be withheld to protect various interests which are allowed for by the Act. Research applications and peer review reports are considered to be received in confidence and are therefore covered by the exemption in Section 41 (see below). Exemptions under the Fol Act which may be relevant to information contained in applications and related documents, are given below:

- Section 12 - the Department reserves the right to refuse a request where the cost of researching, extracting or copying the information is disproportionately high (i.e. >£450 or more than 2.5 days work)
- Section 14 - Repeated requests for information or vexatious requests ("vexatious" is undefined in the Act)
- Section 21 - Where information is reasonably accessible to the applicant by other means
- Section 22 - Information intended for future publication - where release would result in the premature publication of research
- Section 23 - Information supplied by, or related to, bodies dealing with security matters
- Section 27 - International relations - where disclosure would, or would be likely to, prejudice relations between the UK and any other state or international organisation, or international court, interests of UK abroad etc
- Section 36(2)b - Prejudice to effective conduct of public affairs - where disclosure would, or would be likely to, inhibit the free and frank provision of advice, or the free and frank exchange of views for purposes of deliberation, or would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs
- Section 38 - Health and Safety - where release might result in the

compromising of physical or mental health, or personal security (includes information involving animal data and other sensitive areas of research).

- Section 40 - Personal information - which is covered by the Data Protection Act, involving the disclosure of personal information
- Section 41 - Information provided in confidence - by a third party
- Section 43 - Commercial interests - where release might result in breach of commercial confidentiality.

Section 21, 23, 36, 40 and 41 exemptions are absolute exemptions i.e. they apply without qualification to information that falls within their scope. The other exemptions listed are qualified exemptions in that they are subject to a public interest test, i.e. they apply only where, on a proper assessment, the balance of the public interest is against disclosure. These cases will be decided by DH.

A summary of how information is handled by the CCF is given in the table on the following page.

<b>Type of information</b>	<b>Disclose to peer reviewers</b>	<b>Disclose to panel members</b>	<b>Disclose to applicants</b>	<b>Disclose to the public if requested under FOI</b>	<b>Published on website and in other programme documents</b>
Peer review	No (other peer reviewers)	Yes	Yes (anonymous)	No	No
Peer reviewer name	No	Yes (if no conflict of interest)	No	No	No
Peer review score	No	Yes	Yes (if requested)	No	No
List of panel members (excluding panel observers)	Yes	Yes	Yes	Yes (publicly available)	Yes
Attendance at meeting, as recorded in minutes (including panel observers)	Yes	Yes	Yes	Yes	Yes (not PRP)
Names of Lead Assessors/ Designated Panel Member	No	Yes	No	No	No
Written comments (from panel members)	No	Yes (if no conflict of interest)	No	No	No

<b>Type of information</b>	<b>Disclose to peer reviewers</b>	<b>Disclose to panel members</b>	<b>Disclose to applicants</b>	<b>Disclose to the public if requested under FOI</b>	<b>Published on website and in other programme documents</b>
Meeting minutes	No	Yes (if no conflict of interest)	Only those parts relating to applicant's own application	No	No
Complete or part applications	Yes (if no conflict of interest)	Yes (if no conflict of interest)	Only applicant's own application	No	Only applicant approved abstracts from successful applications. Includes Principal Investigator name and affiliation.
Ethnicity and disability monitoring information	No	No	Only applicant's own details	No	No

## **Appendix: Handling conflicts of interest**

It is essential that the personal and institutional interests of those involved in reviewing applications do not influence the decision making process. All those involved share responsibility for ensuring this. Accordingly, it is important that panel members or observers (hereafter panel member), and peer reviewers are aware of what constitutes a potential or actual conflict of interest (COI). This is set out in the following document.

## **PANEL MEMBERS**

### **General**

The responsibility for disclosing any COI rests with the panel member concerned and should be declared as soon as the conflict is realised. CCF staff will also identify potential COI. Instances of COI are identified below. In addition, in some specialist/niche areas of research it is likely that avoiding any conflict is impossible. In these cases, the CCF will seek to keep these to a minimum. If a panel member remains in any doubt about a potential COI they should take advice from the chair and the panel at the time. Panel members must decline to act as Lead Assessor/Designated Panel Member where there is a COI. Panel members have a responsibility to return, or to confirm destroyed, any documents they receive related to an application for which they are confirmed as conflicted.

### **Procedure at meetings**

Panel members with COI must leave the room during formal discussion and initial scoring of the application with which they are conflicted. There is no provision for an individual to remain in the room but play no role in the discussion of an application. They must also remain silent if the decision on an application where they have a COI returns to the table and leave the room if asked, or volunteer to do so if the debate appears likely to be reopened. Conflicts of interest will be recorded in the minutes. Where the chair is conflicted, a panel member will be designated as chair for those applications. All declared COI are recorded in the minutes of the meeting.

### **Instances of conflict**

#### **1. Originators and co-applicants**

Originators and co-applicants are always considered conflicted and must follow the procedure above. They may be told the outcome of the discussion at the close of the meeting but must wait for the formal written outcome letter from the CCF Programme Secretariat before sharing this decision with anyone outside the meeting. Assessors' comments (both internal and external) will not be available to the panel member concerned, either within their agenda papers or as tabled papers.

#### **2. Collaborators**

Active collaborators in the proposed research should leave the room while the application is considered. Current collaboration with any applicant in research other than the specific project under consideration or any historical collaboration

with the research team should be declared and the decision whether or not this represents a significant COI is guided by discussion with the CCF and/or chair or other programme authority. It is likely that collaboration in the last 4 years will be considered a COI.

### **3. Panel members from the same institution as the prospective researchers**

Panel members from the same institution as the research team should leave the room if they are closely associated with the department or unit concerned. In many cases, panel members from the same institution will be asked to leave the room as a matter of course. In some circumstances, where there is no close association, the decision whether or not this represents a significant COI is guided by discussion with the CCF and/or chair or other programme authority. A current or recent past line management relationship is always seen as a COI.

### **4. Competitive and commercial interests**

Panel members must never derive academic or commercial competitive advantage from knowledge they acquire in the process of reviewing applications. They are considered conflicted if they are involved in or planning to undertake any academic or commercial activity which is similar to that covered by the application. Panel members must declare anything that would be likely to compromise the independence of their opinion. Examples where declarations must be made are included below:

- personal remuneration (above £5k per year) from organisations including employment, pensions, consultancies, directorships and honoraria
- shareholdings and other financial interests in companies valued greater than £10k or greater than 1% of the issued share capital held by panel members or their close family
- research grants valued above £50k per grant, including major research collaborations, on a competing research topic
- non-financial or unremunerated involvement with organisations, such as directorships of companies or organisations which might benefit from support by the NIHR
- where the panel member has previously acted as a panel member when the application was being considered by another funding body.

This is not an exhaustive list, and panel members are encouraged to declare all potential conflicts. In all cases, the decision whether or not declarations represent a significant COI is guided by discussion with the CCF and/or chair or other programme authority.

### **5. Personal relationships**

Where panel members have a close personal relationship with an applicant they should declare an interest and leave the room when the application is under consideration.

## **PEER REVIEWERS**

### **General**

Wherever possible, COI are avoided through careful selection of reviewers by CCF staff. However, some relationships may not be apparent and so the guidance below should be followed. In addition, in some specialist/niche areas of research it is likely that avoiding any conflict is impossible. In these cases, the CCF will seek to keep these to a minimum. The responsibility for disclosing any COI rests with the peer reviewer concerned and should be declared as soon as the conflict is realised. If there is any doubt about a potential COI, peer reviewers should take advice from the CCF programme manager. Peer reviewers have a responsibility to return, or to confirm destroyed, any documents they receive related to an application for which they are confirmed as conflicted.

## **Instances of conflict**

### **1. Collaborators**

Active and frequent collaborators are considered conflicted. Historical collaboration with the research team should be declared and the decision whether or not this represents a significant COI is guided by discussion with the CCF programme manager. It is likely that collaboration in the last 4 years will be considered a COI.

### **2. Peer reviewers from the same institution as the prospective researchers**

Peer reviewers that are closely associated with the department or unit concerned are conflicted. Where the link is more tenuous, the peer reviewer should not be used unless there is no alternative. A current or recent past line management relationship is always seen as a COI.

### **3. Competitive and commercial interests**

Peer reviewers must never derive academic or commercial competitive advantage from knowledge they acquire in the process of reviewing applications. They are considered conflicted if they are involved in or planning to undertake any academic or commercial activity which is similar to that covered by the application. In all cases, the interest must be declared to the CCF. Peer reviewers must declare anything that would be likely to compromise the independence of their opinion.

### **4. Personal relationships**

Peer reviewers are considered conflicted if they have a close personal relationship with an applicant.

## **LAY REVIEWERS AND LAY PANEL MEMBERS**

Lay reviewers and panel members may have a wide range of involvement activities with NIHR institutions, with clinical research studies carried out in academic institutions, with their local clinical research networks and Research Design Service. Some of this involvement may be temporary; some may require association with a particular research study for a length of time.

Patients and members of the public may be involved in research applications in a number of ways:

- by assisting a research team who may be preparing an application for research funding from one of the programmes
- by taking an active part in assessing applications for research at the assessment stage as a member of a Panel depending on the structure of the programme
- as a public and patient involvement (PPI) reviewer giving the important public and patient perspective on applications offered to the participating programmes.

It is important to consider "conflict of interest" when asked to act as a lay reviewer or panel member for PRP or NIHR programmes. A conflict of interest may arise due to pre-existing involvement with PRP or NIHR programmes. Therefore, if you already work with a clinical research team, a clinical research network or a research design service PPI unit, this involvement must be borne in mind if you are offered other tasks.

If you are asked to review a research application for PRP or an NIHR funding programme it is important for you and for us to know that you can accept the task without compromising any research team with whom you are involved.

Examples of conflict of interest:

- the members of the team who create and design the research study and their co-applicants are always considered to be conflicted for reviewing or assessing that application. For example, your service user group may be planning a submission to an NIHR programme as user-researchers, and your group may be asked to be involved in its design and planning. This would lead to a conflict of interest for all those in that group when the application is being reviewed
- if you are an active collaborator in a proposed research project through involvement in your regional Research Design Service PPI group, or as a member of a patient organisation taking an active part in the planning, design or dissemination of the project, you are conflicted and should withdraw from reviewing it
- if you are a member of a research project steering group, for example, or helping to manage a focus group for the project, or actively involved in the dissemination stage then that would also be a conflict of interest.

Any historical collaboration with the research team should be declared and the decision whether or not this represents a significant conflict of interest can be referred to the CCF Patient and Public Involvement Team, who are also a contact point for any other queries about conflict of interest for lay members and reviewers: contact details for CCF Patient and Public Involvement Team: [contact details for CCF Patient and Public Involvement Team](#)