

# Standards of Business Conduct and Declarations of Interest Policy CO19



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### Version Control

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**Accessible Information Standards**

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## **1. Introduction, aims and objectives**

- 1.1 For the purposes of this policy, NHS Sunderland Clinical Commissioning Group will be referred to as 'the CCG'.
- 1.2 The purpose of this policy is to ensure exemplary standards of business conduct are adhered to, as public servants, by governing body members, committee and sub-committee members and employees of the CCG (as well as individuals contracted to work on behalf of the CCG or otherwise providing services or facilities to the CCG such as those within commissioning support services). Through this policy individuals will be aware of their own responsibilities as well as the CCG's responsibilities as corporate bodies (including the constituent Member Practices). The Policy also sets out the responsibilities of the CCG as an employer, especially in light of the individual and corporate obligations set out in the Bribery Act 2010.
- 1.3 Importantly, the policy draws attention to the consequences of non-compliance with its requirements which may include disciplinary action and/or legal action.
- 1.4 The production of this policy draws on the wide range of guidance issued over the years for NHS bodies in relation to this important matter and to guidance published specifically for clinical commissioning groups.

## **2. Guidance and legal framework**

- 2.1 The NHS Management Executive published guidance, 'Standards of Business Conduct for NHS Staff', (HSG (93) 5), which remains extant and which provides specific guidance on:
  - The standards of conduct expected of all NHS staff where their private interests may conflict with their public duties
  - The steps which NHS employers should take to safeguard themselves and the NHS against conflicts of interest.

Specifically, it makes it clear that it is the responsibility of staff to ensure that they are not placed in a position which risks, or appears to risk, conflict between their private interests and their NHS duties.

- 2.2 The Department of Health's document, 'Code of Conduct for NHS Managers', (October 2002), provides guidance on core standards of conduct expected of NHS managers to act in the best interests of the public and patients/clients to ensure that decisions are not improperly influenced by gifts or inducements. Professional codes of conduct governing health care professionals are also pertinent. Similarly, the General Medical Council's guidance, 'Leadership and Management for All Doctors' (March 2012), details the standards and expectations required of clinicians in leadership and management positions.

## Official

2.3 CCGs should observe the principles of good governance as set out in:

- The Nolan Principles
- The Good Governance Standards for Public Services (2004), Office for Public Management (OPM) and Chartered Institute of Public Finance and Accountancy (CIPFA) sets out the principles of good governance.
- The seven key principles of the NHS Constitution
- The Equality Act 2010
- The UK Corporate Governance Code

2.4 The underpinning legal framework is provided by the Bribery Act 2010, which repeals the Prevention of Corruption Act, and which;

- creates two general offences covering the offering, promising or giving of an advantage, and requesting, agreeing to receive or accepting an advantage,
- creates a new offence of failure by a commercial organisation to prevent a bribe being paid for or on its behalf (it will be a defence though if the organisation has adequate procedures in place to prevent bribery),
- Bribery is defined as giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly or to reward that person for having already done so. Best Practice Update on Conflicts of Interest Management (Feb 2019)

2.4 The Bribery Act 2010 came into force on 1 July 2011 and repeals previous corruption legislation. The Act has introduced the criminal offences of offering and receiving a bribe. It also places specific responsibility on organisations to have in place adequate procedures to prevent bribery and corruption taking place.

Bribery can generally be defined as offering, promising or giving a financial or other advantage to influence others to use their position in an improper way (i.e. to obtain a business advantage). A benefit can be money, gifts, rewards etc. and does not have to be of substantial financial value. No actual gain or loss has to be made.

A person has committed a criminal offence of offering a bribe even if the offer is declined, as does a person who accepts a bribe even if they don't receive it.

A bribe does not have to be in cash; it may be the awarding of a contract, provision of a gift, hospitality or sponsorship or another benefit.

Anyone found guilty of either offering or receiving a bribe could face a custodial sentence of up to 10 years imprisonment.

## Official

Corruption is generally considered as an umbrella term covering various activity and behaviour including bribery, kickbacks, favours, corrupt preferential treatment or cronyism. Corruption can be broadly defined as the offering or acceptance of inducements, gifts, favours, payment or benefit-in-kind which may influence the action of any person. Corruption does not always result in a loss. The corrupt person may not benefit directly from their deeds; however, they may be unreasonably using their position to give some advantage to another.

All staff are reminded that they should be transparent in respect of recording any gifts, hospitality or sponsorship.

Section 7 of the Bribery Act 2010 introduced a new corporate offence of 'failure of commercial organisations to prevent bribery'. The CCG can be held liable when someone associated with it bribes another in order to obtain or retain business for the organisation and be subject to an unlimited fine. However, the CCG will have a defence if it can demonstrate that it had adequate procedures in place designed to prevent bribery.

The Act applies to everyone associated with the CCG who performs services on its behalf, or who provides the organisation with goods or services. This includes anyone working for or with the CCG, such as employees, agents, subsidiaries, contractors and suppliers.

Employees of the CCG must not request or receive a bribe from anybody, nor imply that such an act might be considered. This means they will not agree to receive or accept a financial or other advantage from a former, current or future client, business partner, contractor or supplier or any other person as an incentive or reward to perform improperly their function or activities.

More information on the Bribery Act 2010 can be found at the following website address: <https://www.legislation.gov.uk/ukpga/2010/23/crossheading/general-bribery-offences>

- 2.5 Section 25 of the Health and Social Care Act 2012 imposes duties on CCGs in relation to maintaining registers of interest and managing conflicts of interest. Section 14O of the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012) ('the Act') sets out the minimum requirements of what both NHS England and CCGs must do in terms of managing conflicts of interest.
- 2.6 The guidance in the Health and Social Care Act 2012 is supplemented by the procurement specific requirements set out in the National Health Service (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013 and the Public Services (Social Value) Act 2012. Further guidance has been set out in *Managing Conflicts of interest: statutory guidance for CCGs (June 2017)*<sup>1</sup> published by NHS England and issued under sections 14O and 14Z8 of the Act.

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<sup>1</sup> <https://www.england.nhs.uk/publication/managing-conflicts-of-interest-revised-statutory-guidance-for-ccgs-2017/>

<sup>2</sup> <https://www.england.nhs.uk/wp-content/uploads/2017/02/guidance-managing-conflicts-of-interest-nhs.pdf>

## Official

This supersedes the previously issued NHS England guidance for CCGs. The guidance has been updated to ensure it is fully aligned with the cross system conflicts of interest guidance – Managing Conflicts of interest in the NHS: Guidance for Staff and Organisations<sup>2</sup> published in February 2017 and the ‘Managing Conflicts of Interest: Revised Statutory Guidance for CCGs 2017’.

- 2.7 The aims of the guidance are to:
- Safeguard clinically led commissioning, whilst ensuring objective investment decisions
  - Enable commissioners to demonstrate that they are acting fairly and transparently and in the best interests of their patients and local populations
  - Uphold confidence and trust in the NHS
  - Support commissioners to understand when conflicts (whether actual or potential) may arise and how to manage them if they do
  - Be a practical resource and toolkit with scenarios and a web link to comprehensive case studies to help CCGs identify conflicts of interest and appropriately manage them
  - Ensure that CCGs operate within the legal framework.
- 2.8 This policy has been produced taking into account all of the current guidance and legal framework.

### **3. Application of public service values and principles to the NHS**

- 3.1 Public service values must be at the heart of the NHS. High standards of corporate and personal conduct, based on recognition that patients come first, have been a requirement throughout the NHS since its inception. Moreover, since the NHS is publicly funded it is accountable to Parliament for the services it provides and for the effective and economic use of taxpayers’ money.
- 3.2 The Code of Conduct: Code of Accountability in the NHS (Appointments Commission/DOH - 2nd Rev: 2004) defines three crucial public service values which must underpin the work of the health service:
- **Accountability** – everything done by those who work in the NHS must be able to stand the test of parliamentary scrutiny, public judgements on propriety and professional codes of conduct.
  - **Probity** – there should be an absolute standard of honesty in dealing with the assets of the NHS: integrity should be the hallmark of all personal conduct in decisions affecting patients, staff and suppliers, and in the use of information acquired in the course of NHS duties.
  - **Openness** – there should be sufficient transparency about NHS activities to promote confidence between the NHS body and its staff, patients and the public.

## Official

- 3.3 Following the findings of the Nolan Committee in 1994, a set of recommendations was published by the government setting out 'seven principles of public life' which apply to all in the public service and which are embodied within the CCG's Constitution. These are attached in appendix A.
- 3.4 Standards for members of NHS boards and clinical commissioning groups governing bodies in England have also been set out by the Professional Standards Authority for health and social care which members of the governing body and members of committees should observe in conduct of the CCG's business. The standards can be viewed via the following link:

<http://www.professionalstandards.org.uk/publications/detail/standards-for-members-of-nhs-boards-and-clinical-commissioning-group-governing-bodies-in-england>.

## 4. **Appointments, roles and responsibilities**

### 4.1 **NHS employers**

The CCG is responsible for ensuring that the requirements of this policy and supporting documents are brought to the attention of all employees and contractors and that machinery is put in place for ensuring that the guidelines are effectively implemented. These responsibilities are particularly important given the corporate responsibility set out in the Bribery Act for organisations to ensure that their anti-corruption procedures are robust.

Such awareness will be promoted in:

- A clause in written statements of terms and conditions of employment
- Publication on the CCG's website for staff.

### 4.2 **NHS staff**

NHS staff are expected to:

- Ensure that the interests of patients remain paramount at all times
- Be impartial and honest in the conduct of their official business
- Use the public funds entrusted to them to the best advantage of the service, always ensuring value for money
- Register with the CCG any interest outside the workplace which could be construed as affecting any part of their work within the CCG.

It is also the responsibility of staff to ensure that they do not:

- Abuse their official position for personal gain or to benefit their family or friends;
- Seek to advantage or further private business or other interests, in the course of their official duties



## Official

It is the responsibility of all staff to raise any concerns regarding staff business conduct. All NHS staff should ensure that they are not placed in a position that risks, or appears to risk, conflict between their private interests and their NHS duties.

### **4.3 Member practices, governing body and committee/sub-committee members and individuals acting on behalf of the CCG**

Governing Body, committee/sub-committee members and individuals acting on behalf of the CCG (and its constituent member practices), must act in accordance with this policy in circumstances whether they are either employed fully by the CCG, hold appointments with the CCG, are employed on a sessional basis or on an honorary contract, or provide services under a service level agreement with the CCG.

Member practices and individuals of those individual practices acting on their behalf in exercise of the CCG's commissioning functions must act in accordance with this policy.

### **4.4 North of England Commissioning Support (NECS) staff**

Whilst working on behalf of the CCG, NECS staff will be expected to comply with all policies, procedures and expected standards of behaviour within the CCG, however they will continue to be governed by all policies and procedures.

### **4.5 Candidates for appointment**

Candidates for any appointment with the CCG must disclose in writing if they are related to or in a significant relationship with (e.g. spouse or partner) any governing body member or employee of the CCG. The NHS Jobs application form requests this information and therefore must be disclosed before submission.

A member of an appointment panel which is to consider the employment of a person to whom he/she is related must declare the relationship before an interview is held.

Candidates for any appointment with the CCG shall, when applying, also disclose cases where they or their close relatives or associates have a controlling and/or significant financial interest in a business (including a private company, public sector organisation, other NHS employer and/or voluntary organisation), or in any other activity or pursuit, which may compete for an NHS contract to supply either goods or services to the CCG.

#### **4.6 Canvassing for appointments**

It is acknowledged that informal discussions concerning an advertised post can be part of the recruitment process. Canvassing or lobbying of CCG employees, governing body members or any members of an appointments committee, either directly or indirectly, shall disqualify a candidate. This shall not preclude a member from giving a written reference or testimonial of a candidate's ability, experience or character for submission to an appointments panel. Jobs will be awarded on the merit of the individual candidate and not through any such canvassing or lobbying.

#### **4.7 Appointing governing body or committee members and senior employees**

On appointing governing body, committee or sub-committee members and senior staff, the CCG will, on a case by case basis, consider whether conflicts of interest should exclude individuals from being appointed to the relevant role. General principles are reflected in the CCG's constitution.

#### **4.8 Lay members**

By statute the CCG must have at least two lay members on the Governing Body. The revised guidance '*Managing conflicts of interest: revised statutory guidance for CCGs 2017*' recommends a minimum of 3 lay members.

Where there are difficulties in recruiting additional lay members the CCG may share lay members with other CCGs in the same sustainability and transformation partnership area.

#### **4.9 Conflicts of interest guardian**

The CCG has appointed a conflicts of interest guardian (akin to a Caldicott guardian). This role is undertaken by the audit chair and is supported by the head of corporate affairs who has responsibility for the day-to-day management of conflicts of interest matters and queries. The head of corporate affairs keeps the conflicts of interest guardian well briefed on conflicts of interest matters and issues arising.

## Official

The conflicts of Interest guardian, in collaboration with the head of corporate affairs will:

- Act as a conduit for GP practice staff, members of the public and healthcare professionals who have any concerns with regards to conflicts of interest
- Be a safe point of contact for employees or workers of the CCG to raise any concerns in relation to this policy
- Support the rigorous application of conflict of interest principles and policies;
- Provide independent advice and judgement where there is any doubt about how to apply conflicts of interest policies and principles in an individual situation
- Provide advice on minimising the risks of conflicts of interest.

Whilst the conflicts of interest guardian has an important role within the management of conflicts of interest, executive members of the governing body have an ongoing responsibility for ensuring the robust management of conflicts of interest. All employees, governing body and committee members and member practices will continue to have individual responsibility in playing their part on an ongoing and daily basis.

### **4.10 Primary care commissioning committee chair**

To ensure appropriate oversight and assurance and to ensure the audit chair's position as conflicts of interest guardian is not compromised, the audit chair should not hold the position of chair of the primary care commissioning committee. This is because CCG audit chairs would conceivably be conflicted in this role due to the requirement that they attest annually to the NHS England Board that the CCG has:

- Had due regard to the statutory guidance on managing conflicts of interest
- Implemented and maintained sufficient safeguards for the commissioning of primary care.

CCG audit chairs can however serve on the primary care commissioning committee provided appropriate safeguards are put in place to avoid compromising their role as conflicts of interest guardian. Ideally the audit chair would also not serve as vice chair of the primary care commissioning committee. However, if this is required due to specific local circumstances (for example where there is a lack of other suitable lay candidates for the role), this will need to be clearly recorded and appropriate further safeguards may need to be put in place to maintain the integrity of their role as conflicts of interest guardian in circumstances where they chair all or part of any meetings in the absence of the primary care commissioning committee chair.

## 5. **Gifts and hospitality**

### 5.1 **Gifts**

#### 5.1.1 **Overarching Principle**

Employees of the CCG, individuals of member practices, governing body and committee members and individuals acting on behalf of the CCG must not accept any fee or reward for work done whilst on CCG duty other than that agreed under their terms and conditions of employment. Situations where the acceptance of gifts could give rise to conflicts of interest should be avoided. CCG staff and members should be mindful that even gifts of a small value may give rise to perceptions of impropriety and might influence behaviour if not handled in an appropriate way.

CCG staff should not accept gifts that may affect, or be seen to affect, their professional judgment. This overarching principle should apply in all circumstances.

Any personal gift of cash or cash equivalents (e.g. vouchers, tokens, offers of remuneration to attend meetings whilst in a capacity working for or representing the CCG) must always be declined, whatever their value and whatever their source, and the offer which has been declined must be declared to the head of corporate affairs (who has designated responsibility for maintaining the register of gifts and hospitality) and recorded on the register.

Any offers of gifts, hospitality or sponsorship should be recorded in accordance with section 6.

#### 5.1.2 **Gifts**

A 'gift' is defined as any item of cash or goods, or any service, which is provided for personal benefit, free of charge or at less than its commercial value.

All gifts of any nature offered to CCG staff, governing body and committee members and individuals within GP member practices by suppliers or contractors linked (currently or prospectively) to the CCG's business should be declined, whatever their value. Gifts from suppliers or contractors doing business (or likely to do business) with the CCG should be declined, whatever their value (subject to this, low cost branded promotional aids may be accepted and not declared where they are under the value of a common industry standard of £6<sup>2</sup>). The person to whom the gifts were offered should also declare the offer to the head of corporate affairs so the offer which has been declined can be recorded on the register.

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<sup>2</sup> The ABPI Code of Practice for the Pharmaceutical Industry: <http://www.pmcpa.org.uk/thecode/Pages/default.aspx>

## Official

Gifts offered from other sources (e.g. patients, families, service users) may be accepted if they are under a value of £50 and do not need to be declared to the head of corporate affairs nor recorded on the register.

Gifts valued at £50 or over should be treated with caution and only be accepted on behalf of an organisation (i.e. to an organisation's charitable funds), not in a personal capacity and must be declared to the head of corporate affairs and recorded on the register.

A common sense approach should be applied to the valuing of gifts (using an actual amount, if known, or an estimate that a reasonable person would make as to its value).

Multiple gifts from the same source over a 12 month period (including gifts under £6) should be treated in the same way as single gifts of £50 or over where the cumulative value exceeds £50 or over.

In cases of doubt, advice should be sought from the line manager, head of corporate affairs or chief officer or the gift should be politely declined.

## 5.2 Hospitality

Delivery of services across the NHS relies on working with a wide range of partners (including industry and academia) in different places and, sometimes, outside of 'traditional' working hours. As a result, CCG staff will sometimes appropriately receive hospitality. Staff receiving hospitality should always be prepared to justify why it has been accepted, and be mindful that even hospitality of a small value may give rise to perceptions of impropriety and might influence behaviour.

Hospitality means offers of meals, refreshments, travel, accommodation and other expenses in relation to attendance at meetings, conferences, education and training events etc.

### 5.2.1 Overarching principles

- CCG staff should not ask for or accept hospitality that may affect, or be seen to affect, their professional judgment
- Hospitality must only be accepted when there is a legitimate business reason and it is proportionate to the nature and purpose of the event
- Particular caution should be exercised when hospitality is offered by actual or potential suppliers or contractors, these can be accepted if modest and reasonable, but individuals should always obtain senior approval and declare these.

### 5.2.2 Meals and refreshments

Meals and refreshments under a value of £25 may be accepted and need not be declared. If they are of a value between £25 and £75 they may be accepted and must be declared.

Multiple offers from the same source over a 12 month period (including meals and refreshments under £25) should be treated in the same way as a single offer of hospitality over a value of £75 where the cumulative value exceeds £75.

Over a value of £75 should be refused unless (in exceptional circumstances) senior approval is given. A clear reason should be recorded on an organisation's register(s) of interest as to why it was permissible to accept. A common sense approach should be applied to the valuing of meals and refreshments (using an actual amount, if known, or an estimate that a reasonable person would make as to its value).

### 5.2.3 Travel and accommodation

Modest offers to pay some or all of the travel and accommodation costs related to attendance at events may be accepted and must be declared. Offers which go beyond modest, or are of a type that the CCG itself might not usually offer, need approval by senior staff (e.g. the head of corporate affairs) and should only be accepted in exceptional circumstances and must be declared. A clear reason should be recorded on the register(s) of interest as to why it was permissible to accept travel and accommodation of this type.

A non-exhaustive list of examples includes:

- Offers of business class or first class travel and accommodation (including domestic travel); and
- Offers of foreign travel and accommodation.

## 5.3 **Payment for speaking at a meeting/conference**

Should a member of staff, member practices, governing body and committee members and individuals acting on behalf of the CCG, be asked to speak at an event relating to CCG business for which a payment is offered and it is delivered in working hours then there are two choices open to the member of staff which must be agreed with their line manager:

- The payment should be credited to the CCG
- The member of staff takes annual leave or unpaid leave and the payment is made to the member of staff as a private matter between the organisation making the payment and the individual member of staff. The member of staff remains responsible for any tax liability which arises.

## 5.4 Commercial sponsorship

- 5.4.1 CCG staff, governing body and committee members and GP member practices may be offered commercial sponsorship for courses, conferences, post/project funding, meetings and publications in connection with the activities which they carry out for or on behalf of the CCG or their GP practices.
- 5.4.2 All such offers (whether accepted or declined) must be declared and recorded, and the head of corporate affairs should be contacted for advice on whether or not it would be appropriate to accept any such offers. If such offers are reasonably justifiable and otherwise in accordance with statutory guidance then they may be accepted.
- 5.4.3 For the purpose of this policy, commercial sponsorship is defined as including *“[NHS funding] from an external source, including funding of all, or part of, the costs of a member of staff, NHS research, staff training, pharmaceuticals, equipment, meeting rooms, costs associated with meetings, meals, gifts, hospitality, hotel and transport costs (including trips abroad), provision of free services (speakers), buildings or premises”*.
- 5.4.4 In all these cases, CCG employees, member practices, governing body and committee members and individuals acting on behalf of the CCG must declare sponsorship or any commercial relationship linked to the supply of goods or services and be prepared to be held to account for it. This should be recorded in the hospitality, gifts or sponsorship register (see section 6).
- 5.4.5 Offers of commercial sponsorship to CCG employees, member practices, governing body and committee members and individuals acting on behalf of the CCG can be accepted during CCG time if deemed appropriate following discussion and approval with either the chief officer or head of corporate affairs. However any payments associated with the offer **must** be made direct to the CCG and not to the individual themselves.
- 5.4.6 Payments to individuals for commercial sponsorship can only be made when this is undertaken by the individual in their own time and not in CCG time (i.e. outside of normal contracted hours).
- 5.4.7 Where such collaborative partnerships involve a pharmaceutical company, the proposed arrangements must also comply fully with the relevant regulations and the CCG's commercial sponsorship and joint working with the pharmaceutical industry policy.
- 5.4.8 As a general rule, sponsorship arrangements involving the CCG will be at a corporate, rather than individual level.

## Official

- 5.4.9 Acceptance of commercial sponsorship must not in any way compromise commissioning decisions of the CCG or be dependent on the supply of goods or services. Sponsors should have no influence over the content of an event, meeting, seminar publication or training. The company logo can be displayed on materials, but no advertising or promotional information should be displayed. Materials should contain a disclaimer which states that sponsorship of the material does not imply that the CCG endorses any of the company's products or services. No information should be supplied to a company for their commercial gain unless there is a clear benefit to the NHS.
- 5.4.10 All CCG employees, member practices, governing body and committee members and individuals acting on behalf of the CCG should discuss the implications, with their line manager, head of corporate affairs or chief officer, before accepting an invitation to speak at a meeting organised by a pharmaceutical company. The company should have no influence over the content of any presentation made by the CCG's employee/representative. It should be made clear that CCG's presence does not imply that the CCG endorses any of the company's products or services.
- 5.4.11 Under no circumstances will the CCG agree to 'linked deals' whereby sponsorship is linked to future purchase of particular products or to supply from particular sources.
- 5.4.12 During dealings with sponsors there must be no breach of confidentiality or data protection legislation and, as a rule, information which is not in the public domain should not normally be supplied.
- 5.4.13 Organisations external to the CCG or NHS may also sponsor posts or research. However, there is potential for conflicts of interest to occur, particularly when research funding by external bodies does or could lead to a real or perceived commercial advantage, or if sponsored posts cause a conflict of interest between the aims of the sponsor and the aims of the organisation particularly in relation to procurement and competition. There needs to be transparency and any conflicts of interest should be well managed. For further information, please see Managing Conflicts of Interest in the NHS: Guidance for staff and organisations.

## 5.7 Placing of orders and contracts

- 5.7.1 Fair and open competition between prospective contractors or suppliers for CCG contracts (including where the CCG is commissioning a service through any qualified provider) is a requirement of NHS standing orders and of European Court directives on public purchasing for works and supplies. This means that:
- No private, public or voluntary organisation or company which may bid for CCG business should be given any advantage over its competitors, such as advance notice of CCG requirements. This applies to all potential contractors, whether or not there is a relationship between them and the CCG, such as a long-running series of previous contracts.



## Official

- Each new contract should be awarded solely on merit, taking into account the requirements of the CCG and the ability of the contractors to fulfil them.
- No special favour is to be shown to current or former employees or their close relatives or associates in awarding contracts to private or other businesses run by them or employing them in any capacity. Contracts may be awarded to such businesses when they are won in fair competition against other tenders, but scrupulous care must be taken to ensure that the selection process is conducted impartially, and that staff who are known to have a relevant interest play no part in the selection.

5.7.2 All staff, member practices, governing body, committee members and individuals acting on behalf of the CCG, in contact with suppliers and contractors (including external consultants), and in particular those who are authorised to sign orders or place contracts for goods, materials or services, are expected to adhere to professional standards of a kind set out in the ethical code of the Institute of Purchasing and Supply (attached at ppendix B). They are also required to declare any interest if they are participating in a specific procurement and tendering processes.

### 5.8 Partnership governance

The CCG should ensure effective arrangements are put in place for the governance of partnerships. The increasing development of partnership based approaches to the commissioning and delivery of care place further emphasis on the necessity for strong governance and performance management in partnership working arrangements. In this respect, there needs to be a clear approach to ensure and demonstrate that investment in partnerships delivers effective and appropriate outcomes for the local population.

As part of an effective governance and assurance process the CCG should satisfy itself that managing conflicts of interests and the principles of this policy are applied to partnership working.

### 5.9 Private transactions

Individual staff, member practices, governing body and committee members and individuals acting on behalf of the CCG, must not seek or accept preferential rates or benefits in kind for private transactions carried out with companies with which they have had, or may have, official dealings on behalf of the CCG. (This does not apply to concessionary agreements negotiated with companies by NHS management, or by recognised staff interests, on behalf of all staff – for example, NHS staff benefits schemes).

## 5.10 Employees' outside employment

5.10.1 The standard contract used across the CCG sets out terms concerning outside employment: 'you shall not be employed by any other person, firm or company, without the express permission of the CCG. If you have employment other than your employment with the CCG, you must write to your line manager, giving details of the hours and days worked and duties carried out, seeking agreement that this work will not be detrimental to your employment within the CCG'.

5.10.2 Any employee who may be considering outside employment should discuss this in the first instance with their line manager before undertaking the employment.

5.10.3 Employees should be advised not to engage in outside employment during any periods of sickness absence from the CCG. To do so may lead to a referral being made to the local counter fraud specialist for investigation which may lead to criminal and/or disciplinary action in accordance with the Counter-fraud, bribery and corruption policy.

5.10.4 The CCG will take all reasonable steps to ensure that employees, committee members, contractors and others engaged under contract are aware of the requirement to inform the CCG if they are employed or engaged in, or wish to be employed or engage in, any employment or consultancy work in addition to their work with the CCG (for example, in relation to new care model arrangements) . The purpose of this is to ensure that the CCG is aware of any potential conflict of interest. Examples of work which might conflict with the business of the CCG, including part-time, temporary and fixed term contract work, include:

- Employment with another NHS body
- Employment with another organisation which might be in a position to supply goods/services to the CCG
- Directorship of a GP federation or non-executive roles
- Self-employment, including private practice, charitable trustee roles, political roles and consultancy work in a capacity which might conflict with the work of the CCG or which might be in a position to supply goods/services to the CCG.

In the case of new care models, it is perhaps likely that there will be individuals with roles in both the CCG and new care model provider/potential provider. These conflicts of interest should be identified as soon as possible, and appropriately managed locally. The position should also be reviewed whenever an individual's role, responsibility or circumstances change in a way that affects the individual's interests. For example where an individual takes on a new role outside the CCG, or enters into a new business or relationship, these new interests should be promptly declared and appropriately managed in accordance with the statutory guidance.

## **5.11 Donations in relation to the organisation**

- 5.11.1 Employees must check with their line manager or director before making any requests for donations to clarify appropriateness and/or financial or contractual consequences of acquisition. Requests for equipment or services should not be made without the express permission of a senior manager.
- 5.11.2 Donations/gifts from individuals, charities, companies (as long as they are not associated with known health-damaging products) – often related to individual pieces of equipment or items – provide additional benefits to patients but may have resource implications for the CCG. Further guidance regarding charitable funds and gifts and donations can be requested from the chief finance officer.
- 5.11.3 Any gifts to the organisation should be receipted and a letter of thanks should be sent.

## **5.12 Donations to an individual**

- 5.12.1 Personal monetary gifts to an employee or appointed member should be politely but firmly declined. Where a member of staff is a beneficiary to a Will of a patient who has been under their care, the member of staff must inform their line manager of the gift or gifts so that consideration can be given to whether or not it is appropriate in all the circumstances for that member of staff to retain the gift or gifts in order to avoid subsequent claims by the beneficiaries to the estate of inducement, reward or corruption.
- 5.12.2 In order to determine whether the bequest should be accepted it may be necessary to have the gift valued and where the gift has a value over a certain amount for the gift to either be returned to the estate or the gift to be donated to a charity of the member of staff's choice. Where the gift is to be returned to the estate and the trustees of the estate are of the view having regards to all the circumstances that the member of staff should retain the gift regardless of its value, it may be appropriate for the trustees to provide a disclaimer for future claims against the gift to avoid subsequent claims on the gift or allegations of inducement or reward being made against the member of staff or the CCG at some point in the future.

### **5.13 Rewards for Initiative**

- 5.13.1 The CCG will identify potential intellectual property rights (IPR), as and when they arise, so that they can protect and exploit them properly, and thereby ensure that they receive any rewards or benefits (such as royalties), in respect of work commissioned from third parties, or work carried out by individuals in the course of their NHS duties. Most IPR are protected by statute; e.g. patents are protected under the Patents Act 1977 and copyright (which includes software programmes) under the Copyright Designs and Patents Act 1988. To achieve this, NHS organisations and employers should build appropriate specifications and provisions into the contractual arrangements which they enter into before the work is commissioned, or begins. They should always seek legal advice if in any doubt, in specific cases.
- 5.13.2 With regard to patents and inventions, in certain defined circumstances the Patents Act gives employees or individuals in the course of their duties a right to obtain some reward for their efforts, and the CCG will see that this is effected. Other rewards may be given voluntarily to employees or other individuals who, within the course of their employment or duties, have produced innovative work of outstanding benefit to the NHS.
- 5.13.3 In the case of collaborative research and evaluative exercises with manufacturers, the CCG will obtain a fair reward for the input it provides. If such an exercise involves additional work for a CCG employee or individual outside that paid for by the CCG under his or her contract of employment, or sessional arrangements, arrangements will be made for some share of any rewards or benefits to be passed on to the employee(s) or individuals concerned from the collaborating parties. Care will, however, be taken that involvement in this type of arrangement with a manufacturer does not influence the purchase of other supplies from that manufacturer.
- 5.13.4 The CCG's intellectual property policy should be adhered to.

## **6. Recording of gifts, hospitality and sponsorship**

- 6.1 Gifts, hospitality and sponsorship will be recorded in a central register in accordance with the guidelines. The form at appendix C should be completed and returned to the head of corporate affairs promptly so that the details can be recorded on the central register. Failure to notify the CCG may lead to disciplinary action against a member of staff.
- 6.2 Where gifts, hospitality or sponsorship are offered, but declined, the offer should still be recorded using the form at appendix C.
- 6.3 All hospitality or gifts declared must be transferred to a register of gifts and hospitality using the template at appendix E.

- 6.4 It is acknowledged that there may be circumstances where hospitality may be offered by an organisation, as an integral element of a strategic partnership relationship. A fund should be established so that the CCG may meet the costs of that hospitality, thus enabling the benefits to the strategic relationship, but not compromising compliance with the standards of business conduct. Acceptance of such hospitality and associated funding agreement will be authorised by the chief officer and recorded in the register of hospitality, gifts and sponsorship.

## **7. Declaration of interests**

### **7.1 Identification and definition of conflicts of interest`**

- 7.1.1 A conflict of interest occurs where an individual's ability to exercise judgement, or act in a role, that could be or is seen to be impaired or otherwise influenced by his or her involvement in another role or relationship. In some circumstances, it could be reasonably considered that a conflict exists even when there is no actual conflict. In these cases it is important to still manage these perceived conflicts in order to maintain public trust.
- 7.1.2 A conflict of interest is defined as 'a set of circumstances by which a reasonable person would consider that an individual's ability to apply judgement or act, in the context of delivering, commissioning, or assuring taxpayer funded health and care services is, or could be, impaired or influenced by another interest they hold'.<sup>3</sup>
- 7.1.3 Conflicts of interest can arise in many situations, environments and forms of commissioning, with an increased risk in primary care commissioning, out-of-hours commissioning and involvement with integrated care organisations and new care models such as multi-speciality community providers, primary and acute care systems or other arrangements of a similar scale and scope, as clinical commissioners may here find themselves in a position of being both commissioner and provider of services. Conflicts of interest can arise throughout the whole commissioning cycle from needs assessment to procurement exercises, to contract award and monitoring.
- 7.1.4 Where an individual, i.e. an employee, member of the CCG, a member of the governing body, or a member of its committees or sub-committees has an interest, or becomes aware of an interest which could lead to a conflict of interest in the event of the CCG considering an action or decision in relation to that interest, that must be considered as a potential conflict, and is subject to the provisions of the CCG's constitution and this policy.

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<sup>3</sup> Managing conflicts of interests in the NHS: Guidance for staff and organisations, 2017

## Official

### 7.1.5 Interests can be captured in four different categories:

- **Financial interests:** This is where an individual may get direct financial benefits from the consequences of a commissioning decision. This could, for example, include being:
  - A director, including a non-executive director, or senior employee in a private company or public limited company or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations. This includes involvement with a potential provider of a new care model
  - A shareholder (or similar ownership interests), a partner or owner of a private or not-for-profit company, business, partnership or consultancy which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations
  - A management consultant for a provider
  - A provider of clinical private practice.

This could also include an individual being:

- In secondary employment
  - In receipt of secondary income from a provider
  - In receipt of a grant from a provider
  - In receipt of any payments (for example honoraria, one-off payments, day allowances or travel or subsistence) from a provider
  - In receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role
  - Having a pension that is funded by a provider (where the value of this might be affected by the success or failure of the provider).
- **Non-financial professional interests:** This is where an individual may obtain a non-financial professional benefit from the consequences of a commissioning decision, such as increasing their professional reputation or status or promoting their professional career. This may, for example, include situations where the individual is:
    - An advocate for a particular group of patients
    - A GP with special interests e.g., in dermatology, acupuncture etc.
    - A member of a particular specialist professional body (although routine GP membership of the RCGP, British Medical Association (BMA) or a medical defence organisation would not usually by itself amount to an interest which needed to be declared)
    - An advisor for the Care Quality Commission (CQC) or the National Institute for Health and Care Excellence (NICE)
    - A medical researcher engaged in a research role
    - The development and holding of patents and other intellectual property rights which allow staff to protect something that they create, preventing unauthorised use of products or the copying of protected ideas
    - GPs and practice managers, who are members of the governing body or committees of the CCG, should declare details of their roles and responsibilities held within their GP practices.

## Official

- Non-financial personal interests: This is where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit. This could include, for example, where the individual is:
  - A voluntary sector champion for a provider
  - A volunteer for a provider
  - A member of a voluntary sector board or has any other position of authority in or connection with a voluntary sector organisation
  - Suffering from a particular condition requiring individually funded treatment
  - A member of a lobby or pressure group with an interest in health.
- Indirect interests: This is where an individual has a close association with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest in a commissioning decision (as those categories are described above) for example a:
  - Spouse / partner
  - Close relative e.g., parent, grandparent, child, grandchild or sibling
  - Close friend
  - Business partner.

A declaration of interest for a 'business partner' in a GP partnership should include all relevant collective interests of the partnership, and all interests of their fellow GP partners (which could be done by cross referring to the separate declarations made by those GP partners, rather than by repeating the same information verbatim).

Whether an interest held by another person gives rise to a conflict of interests will depend upon the nature of the relationship between that person and the individual, and the role of the individual within the CCG. Paragraph 16 of the statutory guidance provides further information.

Note that the declaration of interest form in use sets out the range of interests as a reminder of the types of interests which should be declared.

## 7.2 Questions to ask when declaring Interests

In determining what needs to be declared, individuals should ask themselves the following questions:

- Am I, or might I be, in a position where I or my family or associates gain from the connection between my private interests and my employment with the CCG?
- Do I have access to information which could influence purchasing decisions?
- Could my outside interest be in any way detrimental to the CCG or to patient's interests?
- Do I have any other reason to think I may be risking a conflict of Interest?

## Official

If in doubt, the individual concerned should assume that a potential conflict of interest exists.

### 7.3 Declaring and registering interests

7.3.1 It is a requirement of the relevant legislation (Section 14O(3) of the 2006 Act, as amended by the Health and Social Care Act 2012) for the CCG to maintain registers of the interests of:

- All CCG employees, including:
  - All full and part time staff
  - Any staff on sessional or short term contracts
  - Any students and trainees (including apprentices)
  - Agency staff
  - Seconded staff.

In addition, any self-employed consultants or other individuals working for the CCG under a contract for services should make a declaration of interest in accordance with this policy, as if they were CCG employees.

Members of the governing body: All members of the CCG's committees, sub-committees/sub-groups, including:

- Co-opted members
- Appointed deputies
- Any members of committees/groups from other organisations.

Where the CCG is participating in a joint committee alongside other CCGs, any interests which are declared by the committee members should be recorded on the register(s) of interest of each participating CCG.

All members of the CCG (i.e. each practice): This includes each provider of primary medical services which is a member of the CCG under Section 14O (1) of the 2006 Act.

Declarations should be made by the following groups:

- GP partners (or where the practice is a company, each director)
- Any individual directly involved with the business or decision-making of the CCG.



## Official

7.3.2 The CCG will need to ensure that, as a matter of course, declarations of interest are made and regularly confirmed or updated. All persons referred to above must declare any interests as soon as reasonable practicable and by law within 28 days after the interest arises. Further opportunities include;

- On appointment: Applicants for any appointment to the CCG or its governing body or any committees should be asked to declare any relevant interests. When an appointment is made, a formal declaration of interests should again be made and recorded.
- At meetings: All attendees should. All attendees are required to declare their interests as a standing agenda item for every governing body, committee, sub-committee or working group meeting, before the item is discussed. Even if an interest is recorded in the register of interests, it should be declared in meetings where matters relating to that interest are discussed. Declarations of interest and action taken to manage that conflict of interest at the meeting should be recorded in minutes of meetings. A template for recording minutes of the meeting is appended to this policy at appendix H.

In the case of governing body and its committees, any known interests should also be recorded on the chair's checklist and be provided to the chair before the meeting. They should also be included on the report's front cover sheet. (the chair's checklist and report cover sheet meet the requirements for recording interests during meetings, as provided in the 2017 Managing Conflicts of Interest Statutory Guidance)

The chair of a meeting of the CCG's governing body or any of its committees, sub-committees or groups has ultimate responsibility for deciding whether there is a conflict of interest and for taking the appropriate course of action in order to manage the conflict of interest.

- When prompted by the CCG: Because of their role in spending taxpayers' money, CCGs should ensure that, at least annually, everyone are prompted to update their declarations of interest, or make a nil return where there are no interests or changes to declare.
- On changing role, responsibility or circumstances: Whenever an individual's role, responsibility or circumstances change in a way that affects the individual's interests (e.g., where an individual takes on a new role outside the CCG or enters into a new business or relationship), a further declaration should be made to reflect the change in circumstances as soon as possible, and in any event within 28 days. This could involve a conflict of interest ceasing to exist or a new one materialising.

## Official

- 7.3.4 Individuals will declare any interest that they have, in relation to a decision to be made in the exercise of the commissioning functions of the CCG, in writing to the Chief Officer, as soon as they are aware of it and in any event no later than 28 days after becoming aware. The CCG must record the interest in the appropriate registers as soon as the CCG becomes aware of it.
- 7.3.5 The CCG must ensure that, when members declare interests, this includes the interests of all relevant individuals within their own organisations (e.g. partners in a GP practice), who have a relationship with the CCG and who would potentially be in a position to benefit from the CCG's decisions.
- 7.3.6 Where an individual is unable to provide a declaration in writing, for example, if a conflict becomes apparent in the course of a meeting, they will make an oral declaration, and provide a written declaration as soon as possible thereafter.
- 7.3.7 The chief officer will ensure that the registers of interest are reviewed annually and updated as necessary.
- 7.3.8 In addition, all governing body and executive members' appointments are offered on the understanding that they subscribe to the 'Codes of Conduct and Accountability in the NHS'.
- 7.3.9 The declaration of interest proforma for completion by members of the group, governing body members, members of a committee or sub-committee of the group or governing body, and employees within the CCG is available at appendix D.
- 7.3.10 Failure to notify the CCG of an appropriate conflict of interest, additional employment or business may lead to disciplinary action against the member of staff and/or criminal action (including prosecution) under the relevant legislation.
- 7.3.11 An interest should remain on the public register for a minimum of six months after the interest has expired and the CCG will retain a private record of historic interests for a minimum of 6 years after the date on which it expired. The published register will state that historic interests are retained by the CCG for the specified timeframe and details of whom to contact to request this information.

## 7.4 Managing conflicts of interest: general

- 7.4.1 Members of the groups, committees or sub-committees of the group, the governing body and its committees or sub-committees and employees will comply with the arrangements determined by the CCG for managing conflicts or potential conflicts of interest as set out in this policy.
- 7.4.2 The chief officer will ensure that for every interest declared, either in writing or by oral declaration, arrangements are in place to manage the conflict of interests or potential conflict of interests, to ensure the integrity of the group's decision making processes.

## Official

- 7.4.3 They will write to the relevant individual with the arrangements for managing the specific conflict of interest or potential conflicts of interest, within a week of declaration. The arrangements will confirm the following:
- when an individual should withdraw from a specified activity, on a temporary or permanent basis;
  - monitoring of the specified activity undertaken by the individual, either by a line manager, colleague or other designated individual.
- 7.4.4 Where an interest has been declared, either in writing or by oral declaration, the declarer will ensure that before participating in any activity connected with the exercise of the CCG's commissioning functions, they have received confirmation of the arrangements to manage the conflict of interest or potential conflict of interest from the chief officer.
- 7.4.5 Declaration of Interests is, in addition, an agenda item on all governing body and committee agendas. Declarations should be made with regard to any specific agenda items. If a conflict of interest is established with regard to a specific agenda item, the conflict of interest should be recorded in the minutes and published in the registers. Similarly, any new offers of gifts or hospitality (whether accepted or not) which are declared at a meeting must be included on the CCG's register of gifts and hospitality to ensure it is up-to-date.
- 7.4.6 Where an individual member, employee or person providing services to the CCG is aware of an interest which:
- Has not been declared, either in the register or orally, they will declare this at the start of the meeting
  - Has previously been declared, in relation to the scheduled or likely business of the meeting, the individual concerned will bring this to the attention of the chair of the meeting, together with details of arrangements which have been confirmed for the management of the conflict of interests or potential conflict of interests.
- 7.4.7 The chair of the meeting will then determine how this should be managed and inform the member of their decision. Where no arrangements have been confirmed, the chair of the meeting may require the individual to withdraw from the meeting or part of it. They will not be able to vote on the issue under any circumstances. Where a prejudicial interest is identified, that person must leave the room during the discussion of the relevant item, and cannot seek to improperly influence the decision in which they have a prejudicial interest. The chair's decision will be final in the matter and the individual will then comply with these arrangements, which must be recorded in the minutes of the meeting.

## Official

- 7.4.8 Where the chair of any meeting of the groups, including committees or sub-committees, or the governing body, including committees and sub-committees of the governing body, has a personal interest, previously declared or otherwise, in relation to the scheduled or likely business of the meeting, they must make a declaration and the deputy chair will act as chair for the relevant part of the meeting. Where arrangements have been confirmed for the management of the conflict of interests or potential conflicts of interests in relation to the chair, the meeting must ensure these are followed. Where no arrangements have been confirmed, the deputy chair may require the chair to withdraw from the meeting or part of it. Where there is no deputy chair, the members of the meeting will select one.
- 7.4.9 Any declarations of interests, and arrangements agreed in any meeting of the groups, including committees or sub-committees, or the governing body, including committees and sub-committees of the governing body, will be recorded in the minutes. The interest must be subsequently reported to the designated governance lead for recording in the register.
- 7.4.10 Where more than 50% of the members of a meeting are required to withdraw from a meeting or part of it, owing to the arrangements agreed for the management of conflicts of interests or potential conflicts of interests, the chair (or deputy) will determine whether or not the discussion can proceed in accordance with the provisions of the CCG's constitution.
- 7.4.11 In making this decision the chair will consider whether the meeting is quorate, in accordance with the number and balance of membership set out in the CCG standing orders. Where the meeting is not quorate, owing to the absence of certain members, the discussion will be deferred until such time as a quorum can be convened. Where a quorum cannot be convened from the membership of the meeting, owing to the arrangements for managing conflicts of interest or potential conflicts of interests, the chair of the meeting shall consult with the chief officer on the action to be taken.
- 7.4.12 In any transaction undertaken in support of the exercise of the CCG's commissioning functions (including conversations between two or more individuals, e-mails, correspondence and other communications), individuals must ensure, where they are aware of an interest, that they conform to the arrangements confirmed for the management of that interest. Where an individual has not had confirmation of arrangements for managing the interest, they must declare their interest at the earliest possible opportunity in the course of that transaction, and declare that interest as soon as possible thereafter. The individual must also inform either their line manager (in the case of employees), the head of corporate affairs or the chief officer of the transaction.
- 7.4.13 The chief officer will take such steps as deemed appropriate, and request information deemed appropriate from individuals, to ensure that all conflicts of interest and potential conflicts of interest are declared.

## **7.5 Managing conflicts of interest throughout the commissioning cycle**

- 7.5.1 Conflicts of interest need to be managed appropriately throughout the whole commissioning cycle. At the outset of a commissioning process, the relevant interests of all individuals involved should be identified and clear arrangements put in place to manage any conflicts of interest. This includes consideration as to which stages of the process a conflicted individual should not participate in, and, in some circumstances, whether that individual should be involved in the process at all.
- 7.5.2 In designing service requirements attention should be given to public and patient involvement at every stage of the commissioning cycle.
- 7.5.3 It is good practice to engage relevant providers, especially clinicians, in confirming that the design of service specifications will meet patient needs. This may include providers from the acute, primary, community, and mental health sectors, and may include NHS, third sector and private sector providers. Such engagement, done transparently and fairly, is entirely legal. However, conflicts of interest, as well as challenges to the fairness of the procurement process, can arise if a commissioner engages selectively with only certain providers (be they incumbent or potential new providers) in developing a service specification for a contract for which they may later bid. CCGs should be particularly mindful of these issues when engaging with existing / potential providers in relation to the development of new care models.
- 7.5.4 Provider engagement should follow the three main principles of procurement law, namely equal treatment, non-discrimination and transparency. This includes ensuring that the same information is given to all at the same time and procedures are transparent. This mitigates the risk of potential legal challenge.
- 7.5.5 Specifications should be clear and transparent, reflecting the depth of engagement, and set out the basis on which any contract will be awarded.
- 7.5.6 Anyone seeking information in relation to procurement, or participating in a procurement, or otherwise engaging with the CCG in relation to the potential provision of services or facilities to the CCG, will be required to make a declaration of any relevant conflict / potential conflict of interest.
- 7.5.7 Anyone contracted to provide services or facilities directly to the CCG will be subject to the same provisions of the CCG's constitution and this policy in relation to managing conflicts of interests. This requirement will be set out in the contract for their services.

## Official

- 7.5.8 The CCG must comply with two sets of procurement regulations when commissioning healthcare services: the NHS procurement legislation, and the European procurement Legislation:
- The NHS procurement regulations– the NHS (Procurement, Patient Choice and Competition (No.2)) Regulations 2013: made under S75 of the 2012 Act; apply only to NHS England and CCGs; enforced by NHS Improvement
  - The European procurement regulations– Public Contracts Regulations 2015 (PCR 2105): incorporate the European Public Contracts Directive into national law; apply to all public contracts over the threshold value currently £615,278); enforced through the Courts.
- 7.5.9 The procurement template (appendix I) should be used to complete the register of procurement decisions and to provide evidence of the CCG’s deliberations on conflicts of interest.
- 7.5.10 The CCG must maintain a register of procurement decisions taken including;
- The details of the decision
  - Who was involved in making the decision
  - A summary of any conflicts of interest in relation to the decision and how this was managed
  - The award decision taken
- 7.5.11 The register should be updated whenever a procurement decision is taken and must be made publically available by;
- Ensuring that the register is available in a prominent place on the website
  - Making the register available upon request for inspection at the CCG’s headquarters
- 7.5.12 The management of conflicts of interest applies to all aspects of the commissioning cycle, including contract management.
- 7.5.13 Any contract monitoring meeting needs to consider conflicts of interest as part of the process i.e., the chair of a contract management meeting should invite declarations of interests; record any declared interests in the minutes of the meeting; and manage any conflicts appropriately and in line with this guidance. This equally applies where a contract is held jointly with another organisation such as the local authority or with other CCGs under lead commissioner arrangements. A template for recording minutes of contract meetings is at appendix H.
- 7.5.14 The individuals involved in the monitoring of a contract should not have any direct or indirect financial, professional or personal interest in the incumbent provider or in any other provider that could prevent them, or be perceived to prevent them, from carrying out their role in an impartial, fair and transparent manner.

7.5.15 All work-streams should complete a conflict of interest assessment form to help focus their thinking when considering provider management procurement/service developments. This will be reviewed by the chief finance officer and head of corporate affairs for discussion with the conflicts of interest guardian if necessary and will help inform quarterly conflicts of interest reports and annual audits. This form is at appendix J.

#### 7.5.16 New Models of Care

There will be occasions where a conflict of interest is profound and acute. In such scenarios, such as where an individual has a direct financial interest which gives rise to a conflict (for example secondary employment or involvement with an organisation which benefits financially from contracts for the supply of goods and services to a CCG or aspires to be a new care model provider), CCGs will need to consider whether, practically, such an interest is manageable at all. This can arise in relation to both clinical and non-clinical members/roles.

If an interest is not manageable, the appropriate course of action is to ensure the circumstances which gave rise to the conflict do not persist. This may require an individual to step down from a particular role and/or move to another role within the CCG or terminate an appointment if the individual refuses to step down.

Where a member of CCG staff participating in a meeting has dual roles, such as a role with the CCG and a role with a new care model provider organisation, but it is not considered necessary to exclude them from the whole or any part of a CCG meeting, the chair of the meeting should ensure that the capacity in which they continue to participate in the discussions is made clear and correctly recorded in the meeting minutes. Where it is appropriate for the individual(s) to take part in any decision-making, they must only do so if they are acting in their CCG role.

The CCG takes all reasonable steps to ensure that employees, committee members, contractors and others engaged under contract with it are aware of the requirement to inform the CCG if they are employed or engaged in, or wish to be employed or engaged in, any employment or consultancy work in addition to their work with the CCG (for example, in relation to new care model arrangements).

### **7.6 Primary care commissioning committees and sub-committees**

7.6.1 Each CCG with joint or delegated primary care co-commissioning arrangements must establish a primary care commissioning committee for the discharge of their primary medical services functions. This committee should be separate from the governing body. The interests of all primary care commissioning committee members must be recorded on the CCG's register(s) of interests.

## Official

The primary care commissioning committee should:

- For joint commissioning, take the form of a joint committee established between the CCG (or CCGs) and NHS England
- In the case of delegated commissioning, be a committee established by the CCG.

7.6.2 As a general rule, meetings of the primary care commissioning committee, including the decision-making and deliberations leading up to the decision, should be held in public unless the CCG has concluded it is appropriate to exclude the public where it would be prejudicial to the public interest to hold that part of the meeting in public.

7.6.3 CCGs (and NHS England with regards to joint arrangements) can agree the full membership of their primary care commissioning committees, within the following parameters:

- The primary care commissioning committee must be constituted to have a lay and executive majority, where lay refers to non-clinical. This ensures that the meeting will be quorate if all GPs had to withdraw from the decision-making process due to conflicts of interest
- The primary care commissioning committee should have a lay chair and lay vice chair (see section 4.10 for further information)
- GPs can, and should, be members of the primary care commissioning committee to ensure sufficient clinical input, but must not be in the majority. CCGs may wish to consider appointing retired GPs or out-of-area GPs to the committee to ensure clinical input whilst minimising the risk of conflicts of interest
- A standing invitation must be made to the CCG's local HealthWatch representative and a local authority representative from the local health and wellbeing board to join the primary care commissioning committee as non-voting attendees, including, where appropriate, for items where the public is excluded for reasons of confidentiality
- Other individuals could be invited to attend the primary care commissioning committee on an ad-hoc basis to provide expertise to support with the decision-making process.

7.6.4 In the interest of minimising the risks of conflicts of interest, it is recommended that GPs do not have voting rights on the primary care commissioning committee. The arrangements do not preclude GP participation in strategic discussions on primary care issues, subject to appropriate management of conflicts of interest. They apply to decision-making on procurement issues and the deliberations leading up to the decision.



7.6.5 Whilst sub-committees or sub-groups of the primary care commissioning committee can be established e.g., to develop business cases and options appraisals, ultimate decision-making responsibility for the primary medical services functions must rest with the primary care commissioning committee. As an additional safeguard, it is recommended that sub-groups submit their minutes to the primary care commissioning committee, detailing any conflicts and how they have been managed. The primary care commissioning committee should be satisfied that conflicts of interest have been managed appropriately in its sub-committees and take action where there are concerns.

## **7.7 Managing conflicts of interests: local CCG incentive schemes**

GP practice members will be required to declare an interest in any discussions at governing body or committee meetings relating to local incentive schemes (LIS) which relate to their GP practice. Whilst GP practice members may participate in discussions at those meetings regarding the recommendations for development of the LIS, they shall withdraw from any decisions regarding approval of the scheme. Any approval of payments to GP practices under the LIS will be made (as a minimum) by the chief officer together with the chief finance officer, or their nominated representatives in line with the CCG's financial scheme of delegation.

## **7.8 Raising concerns and breaches**

Individuals who have concerns regarding conflict of interest or ethical misconduct either in respect of themselves or colleagues should raise it in the first instance with their line manager. Alternatively, they can raise it as an issue using the raising concerns at work policy or contacting the conflict of interest guardian, as outlined in section 4.9 of this policy. If the concern relates to any suspected fraudulent practice, staff should follow the advice given in section 10 of this document.

The CCG has agreed a process for managing breaches of this policy, which includes:

- How the breach is recorded
- How it is investigated
- The governance arrangements and reporting mechanisms
- Links to the raising concerns at work policy and HR policies
- Communications and management of any media interest
- When to notify NHS England and how
- Process for publishing the breach on the CCG website

The CCG will publish anonymised details of breaches on its website.

## 7.9 Publication of registers

The CCG will publish the register(s) of interest and register(s) of gifts and hospitality of decision-making staff and the register of procurement decisions in a prominent place on the CCG's website and also as part of the annual report and annual governance statement. A web link is acceptable.

In exceptional circumstances, where the public disclosure of information could give rise to a real risk of harm or is prohibited by law, an individual's name and/or other information may be redacted from the publicly available register(s). Where an individual believes that substantial damage or distress may be caused, to him/herself or somebody else by the publication of information about them, they are entitled to submit a written request that the information is not published. Decisions must be made by the conflicts of interest guardian for the CCG, who should seek appropriate legal advice where required, and the CCG should retain a confidential un-redacted version of the register(s).

## 8. Confidentiality

- 8.1 Employees, CCG members, members of the governing body, or a member of a committee or a sub-committee of the CCG or its governing body should be particularly careful using or making public, internal information of a confidential nature, particularly regarding details covered under the Data Protection Act 1998 or other legislation whether or not disclosure is prompted by the expectation of personal gain.
- 8.2 Disclosure of information which counts as 'official: sensitive commercial in confidence and which might prejudice the principle of a purchasing system based on fair competition may be subject to scrutiny and disciplinary or criminal action or both.
- 8.3 This does not affect the CCG's grievance or complaints procedures in terms of freedom of expression and is not intended to restrict any of the freedoms protected under Article 10 of the Human Rights Act 1998. It is designed to complement professional and ethical rules, guidelines and codes of conduct on an individual's freedom of expression.
- 8.4 An employee or individual who has exhausted all the locally established procedures, including reference to the raising concerns at work policy, and who has taken account of advice which may have been given, may wish to consult their MP or the Secretary of State for Health in confidence. Extreme caution should be exercised by anyone considering contacting the media.
- 8.5 Section 43B (1) of the Public Interest Disclosure Act 1998 provides protection for disclosure of information where the reasonable belief of the worker making the disclosure, tends to show that:

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- a. A criminal offence has been committed, is being committed or is likely to be committed,
- b. That a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,
- c. That a miscarriage of justice has occurred, is occurring or is likely to occur,
- d. That the health or safety of any individual has been, is being or is likely to be endangered,
- e. That the environment has been, is being or is likely to be damaged, or
- f. That information tending to show any matter falling within points a. to e. has been, is being or is likely to be deliberately concealed.

8.6 Protection from disclosure to the media is highly unlikely to be given, if the person making the disclosure has not exhausted all internal and external avenues.

8.7 Any employee, member of the governing body, or a member of a committee or a sub-committee of the governing body making a disclosure to the media should be mindful that any information that they provide may be misinterpreted thus undermining their genuine concern and potentially wrongly threatening the reputation of colleagues and the CCG. In addition, if they choose to contact the media and the disclosure is not protected by the Public Interest Disclosure Act 1998 their actions might constitute misconduct and will be considered in accordance with the CCG's disciplinary policy and procedure.

## 9. **Use of resources**

All managers are required (under the Code of Conduct for NHS Managers) to use the resources available to them in an effective, efficient and timely manner having proper regard to the best interests of the public and patients.

## 10. **Fraud/Theft**

If you suspect theft, fraud, or other untoward events taking place at work you should:

- Make a note of your concerns
- In the case of theft contact your local security management specialist
- In the case of fraud contact the local counter fraud specialist or the chief finance officer

You can also report to the national NHS Fraud and Corruption Reporting Line on 0800 028 40 60 or [www.reportnhsfraud.nhs.uk/](http://www.reportnhsfraud.nhs.uk/)

Staff should not be afraid of raising concerns and will not experience any blame or recrimination as a result of making any reasonably held suspicion known.

If staff have any concerns about any of the issues raised in this document, they should contact their line manager, head of corporate affairs or associate director of OD and workforce

**11. Non-compliance with policy**

Failure to notify the CCG of an appropriate conflict of interest, additional employment or business may lead to disciplinary action against the individual including potential dismissal or removal from office in accordance with the CCG's disciplinary policy and procedure and/or criminal action (including prosecution) under the relevant legislation.

A review of lessons learned will be conducted by the chief officer (as accountable officer) following any incident of non-compliance with this policy and the report to be reviewed by the audit committee.

If conflicts of interest are not effectively managed, CCGs could face civil challenges to decisions they make. In extreme cases, staff and other individuals could face personal civil liability, for example a claim for misfeasance in public office.

Failure to manage conflicts of interest could lead to criminal proceedings including for offences such as fraud, bribery and corruption. This could have implications for CCGs and linked organisations, and the individuals who are engaged by them.

Concerns can be raised using the Raising Concerns at Work Policy or contacting the Conflict of Interest Guardian, as outlined in section 4.9 of this policy. If the concern relates to any suspected fraudulent practice, staff should follow the advice given in section 10 of this document.

The CCG has agreed a process for managing breaches of this policy (summarised at appendix M).

**12. Internal audit**

The CCG will undertake an audit of conflicts of interest management as part of the internal audit, on an annual basis.

The results of the audit will be reflected in the annual governance statement and should be discussed in the end of year governance meeting with NHS regional teams.

**13. Conflicts of interest training**

The CCG will ensure that training is offered to all employees, governing body members and members of CCG committees, sub-committees and practice staff with involvement in CCG business on the management of conflicts of interest. This ensures staff and others within the CCG understand what conflicts are and how to manage them effectively. This training is mandatory and must be completed annually.

Completion rates will be recorded as part of the annual conflicts of interest audit.

**14. Linked policies/guidance**

- NHS England: Managing Conflicts of Interest: Statutory Guidance for CCGs: 2017
- CCG Constitution
- NHS England: Standards of Business Conduct Policy 2013<sup>4</sup>
- Standards for members of NHS Boards and Clinical Commissioning Group Governing Bodies in England published by the Professional Standards Authority for Health and Social Care 2012<sup>5</sup>
- ABPI Code of Professional Conduct relating to hospitality/gifts from pharmaceutical/external industry
- CO06 Counter-Fraud, Bribery and Corruption Policy
- Raising Concerns at Work policy
- Guidance to staff on completion of travel and subsistence claims
- CO09 Intellectual Property and Revenue Sharing Policy
- Research Governance Policy
- CO24 Commercial Sponsorship and Joint Working with the Pharmaceutical Industry Policy
- Secondary Employment guidance as referred to in the standard contract of employment for staff with their respective CCG 2016
- Code of Conduct and Code of Accountability for NHS Boards 2013
- Institute of Purchasing and Supply
- Ethical code of the Institute of Purchasing and Supply (appendix B).
- NHSE Managing Conflicts of Interest CCG Case Study;  
<https://www.england.nhs.uk/publication/managing-conflicts-of-interest-ccg-case-studies/>
- NHSE Management of Conflict of Interest Summary Guides for specific roles;  
<https://www.england.nhs.uk/publication/conflicts-of-interest-summary-guides/>

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<sup>4</sup> <http://www.england.nhs.uk/wp-content/uploads/2012/11/stand-bus-cond.pdf>

<sup>5</sup> <http://www.professionalstandards.org.uk/docs/psa-library/november-2012---standards-for-board-members.pdf?sfvrsn=0>

**15. Further information**

If there are any queries on declaration of interests, acceptance or registering of gifts etc. the Chief Finance Officer, Chief Officer, CCG Governance Lead and Conflict of Interest Guardian can be contacted for further information.

**16. Monitoring, review and archiving**

**16.1 Monitoring**

The chief officer will ensure there is in place for monitoring the dissemination and implementation of this policy. Monitoring information will be recorded in the policy database.

**16.2 Review**

16.2.1 The head of corporate affairs will ensure that this policy document is reviewed in accordance with the timescale specified at the time of approval. No policy or procedure will remain operational for a period exceeding three years without a review taking place.

16.2.2 Staff who become aware of any change which may affect a policy should advise their line manager as soon as possible. The Governing Body will then consider the need to review the policy or procedure outside of the agreed timescale for revision.

16.2.3 For ease of reference for reviewers or approval bodies, changes should be noted in the 'version control' table on the second page of this document.

Please note: If the review consists of a change to an appendix or procedure document, approval may be given by the sponsor director and a revised document may be issued. Review to the main body of the policy must always follow the original approval process.

**16.3 Archiving**

The head of corporate affairs will ensure that archived copies of superseded policy documents are retained in accordance with Records Management: NHS Code of Practice for Health and Social Care 2016.

## 17. Equality Impact Assessment

As a public body organisation we need to ensure that all our strategies, policies, services and functions, both current and proposed have given proper consideration to equality and diversity, do not aid barriers to access or generate discrimination against any protected groups under the Equality Act 2010 (Age, Disability, Gender Reassignment, Pregnancy and Maternity, Race, Religion/Belief, Sex, Sexual Orientation, Marriage and Civil Partnership, Carers and Health Inequalities).

A screening process can help judge relevance and provides a record of both the process and decisions made.

This screening determines relevance for all new and revised strategies, policies, projects, service reviews and functions.

Completed at the earliest opportunity it will help to determine:

- The relevance of proposals and decisions to equality, diversity, cohesion and integration.
- Whether or not equality and diversity is being/has already been considered for due regard to the Equality Act 2010 and the Public Sector Equality Duty (PSED).
- Whether or not it is necessary to carry out a full Equality Impact Assessment.

### Name(s) and role(s) of person completing this assessment:

Role: Governance and Assurance Manager, NECS

### Title of the service/project or policy:

Standards of Business Conduct Policy.

Is this a:

Strategy / Policy

Service Review

Project

If other, please specify:

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### What are the aim(s) and objectives of the service, project or policy:

The purpose of this policy is to ensure exemplary standards of business conduct are adhered to, as public servants, by Governing Body members, committee and sub-committee members and employees of the CCG (as well as individuals contracted to work on behalf of the CCG or otherwise providing services or facilities to the CCG such as those within commissioning support services). The policy covers managing conflicts of interest in accordance with statutory guidance.

### Who will the project/service /policy / decision impact?

Consider the actual and potential impacts:

- Staff
- service users/patients
- other public sector organisations
- voluntary / community groups / trade unions
- others, please specify:



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<b>Questions</b>	<b>Yes</b>	<b>No</b>
Could there be an existing or potential impact on any of the protected characteristic groups?		X
Has there been or likely to be any staff/patient/public concerns?		X
Could this piece of work affect how our services, commissioning or procurement activities are organised, provided, located and by whom?		X
Could this piece of work affect the workforce or employment practices?		X
Does the piece of work involve or have an impact on: <ul style="list-style-type: none"> <li>• Eliminating unlawful discrimination, victimisation and harassment</li> <li>• Advancing equality of opportunity</li> <li>• Fostering good relations</li> </ul>		X

**If you have answered no to the above and conclude that there will not be a detrimental impact on any equality group caused by the proposed policy/project/service change, please state how you have reached that conclusion below:**

This policy outlines the process of managing conflicts of interest in accordance with statutory guidance.

**Governance, ownership and approval**

Please state here who has approved the actions and outcomes of the screening		
<b>Name</b>	<b>Job title</b>	<b>Date</b>
Governing Body	N/A	November 2019

## Appendix A

### The Nolan Principles on Standards in Public Life

The Nolan Committee was set up in 1994 to examine concerns about standards of conduct of all holders of public office, including arrangements relating to financial and commercial activities, and make recommendations as to any changes in arrangements which might be required to ensure the highest standards of propriety in public life. The committee published '*seven principles of public life*', which it believes should apply to all those operating in the public sector. These principles should be adopted by CCG staff and are as follows:

#### **Selflessness**

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.

#### **Integrity**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

#### **Objectivity**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

#### **Accountability**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

#### **Openness**

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

#### **Honesty**

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

#### **Leadership**

Holders of public office should promote and support these principles by leadership and example.

All staff will be expected to adopt these principles when conducting official business for and on behalf of the CCG so that appropriate ethical standards can be demonstrated at all times.

**Institute of Purchasing and Supply (IPS) – Ethical Code**  
(Reproduced by permission of IPS)

**1. Introduction**

The code set out below was approved by the Institute's Council on 26 February 1977 and is binding on IPS members.

**2. Precepts**

Members shall never use their authority or office for personal gain and shall seek to uphold and enhance the standing of the Purchasing and Supply profession and the Institute by:

- a. Maintaining an unimpeachable standard of integrity in all their business relationships both inside and outside the organisations in which they are employed
- b. Fostering (the highest possible standards of professional competence amongst those for whom they are responsible
- c. Optimising the use of resources [or which they are responsible to provide the maximum benefit to their employing organisation
- d. Complying both with the letter and the spirit of:
  - i. the law of the country in which they practise
  - ii. such guidance on professional practice as may be issued by the Institute from time to time
  - iii. contractual obligations;
- e. Rejecting any business practice which might reasonably be deemed improper.

**3. Guidance**

In applying these precepts, members should follow the guidance set out below:

- a. Declaration of interest: any personal interest which may impinge or might reasonably be deemed by others to impinge on a member's impartiality in any matter relevant to his or her duties should be declared.
- b. Confidentiality and accuracy of information: the confidentiality of information received in the course of duty should be respected and should never be used for personal gain; information given in the course of duty should be true and fair and never designed to mislead.

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- c. Competition: while bearing in mind the advantages to the member's employing organisation of maintaining a continuing relationship with a supplier, any relationship which might, in the long term, prevent the effective operation of fair competition should be avoided.
- d. Business gifts: business gifts other than items of very small intrinsic value such as business diaries or calendars should not be accepted.
- e. Hospitality: modest hospitality is an accepted courtesy of a business relationship. However, the recipient should not allow him or herself to reach a position whereby he or she might be deemed by others to have been influenced in making a business decision as a consequence of accepting such hospitality; the frequency and scale of hospitality accepted should not be significantly greater than the recipient's employer would be likely to provide in return.
- f. When it is not easy to decide between what is and is not acceptable in terms of gifts or hospitality, the offer should be declined or advice sought from the member's superior.

Template Declaration of interests for CCG members and employees

<b>Name:</b>				
<b>Position within, or relationship with, the CCG (or NHS England in the event of joint committees):</b>				
<b>Detail of interests held (complete all that are applicable):</b>				
<b>Type of Interest*</b> <small>*See reverse of form for details</small>	<b>Description of Interest (including for indirect Interests, details of the relationship with the person who has the interest)</b>	<b>Date interest relates From &amp; To</b>		<b>Actions to be taken to mitigate risk</b> <small>(to be agreed with line manager or a senior CCG manager)</small>

*The information submitted will be held by the CCG for personnel or other reasons specified on this form and to comply with the organisation’s policies. This information may be held in both manual and electronic form in accordance with the Data Protection Act 1998. Information may be disclosed to third parties in accordance with the Freedom of Information Act 2000 and published in registers that the CCG holds.*

I confirm that the information provided above is complete and correct. I acknowledge that any changes in these declarations must be notified to the CCG as soon as practicable and no later than 28 days after the interest arises. I am aware that if I do not make full, accurate and timely declarations then civil, criminal, or internal disciplinary action may result.

I **do / do not [delete as applicable]** give my consent for this information to published on registers that the CCG holds. If consent is NOT given please give reasons:

**Signed:**

**Date:**

**Signed:** \_\_\_\_\_ **Position:** \_\_\_\_\_  
**(Line Manager or Senior CCG Manager)**

**Date:**

Please return to <insert name/contact details for team or individual in CCG nominated to provide advice, support, and guidance on how conflicts of interest should be managed, and administer associated administrative processes>

## Types of interest

Type of Interest	Description
<b>Financial Interests</b>	<p>This is where an individual may get direct financial benefits from the consequences of a commissioning decision. This could, for example, include being:</p> <ul style="list-style-type: none"> <li>• A director, including a non-executive director, or senior employee in a private company or public limited company or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations;</li> <li>• A shareholder (or similar owner interests), a partner or owner of a private or not-for-profit company, business, partnership or consultancy which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations.</li> <li>• A management consultant for a provider;</li> <li>• In secondary employment (see paragraph 56 to 57);</li> <li>• In receipt of secondary income from a provider;</li> <li>• In receipt of a grant from a provider;</li> <li>• In receipt of any payments (for example honoraria, one off payments, day allowances or travel or subsistence) from a provider</li> <li>• In receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role; and</li> <li>• Having a pension that is funded by a provider (where the value of this might be affected by the success or failure of the provider).</li> </ul>
<b>Non-Financial Professional Interests</b>	<p>This is where an individual may obtain a non-financial professional benefit from the consequences of a commissioning decision, such as increasing their professional reputation or status or promoting their professional career. This may, for example, include situations where the individual is:</p> <ul style="list-style-type: none"> <li>• An advocate for a particular group of patients;</li> <li>• A GP with special interests e.g., in dermatology, acupuncture etc.</li> <li>• A member of a particular specialist professional body (although routine GP membership of the RCGP, BMA or a medical defence organisation would not usually by itself amount to an interest which needed to be declared);</li> <li>• An advisor for Care Quality Commission (CQC) or National Institute for Health and Care Excellence (NICE);</li> <li>• A medical researcher.</li> </ul>
<b>Non-Financial Personal Interests</b>	<p>This is where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit. This could include, for example, where the individual is:</p> <ul style="list-style-type: none"> <li>• A voluntary sector champion for a provider;</li> <li>• A volunteer for a provider;</li> <li>• A member of a voluntary sector board or has any other position of authority in or connection with a voluntary sector organisation;</li> <li>• Suffering from a particular condition requiring individually funded treatment;</li> <li>• A member of a lobby or pressure groups with an interest in health.</li> </ul>
<b>Indirect Interests</b>	<p>This is where an individual has a close association with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest in a commissioning decision (as those categories are described above). For example, this should include:</p> <ul style="list-style-type: none"> <li>• Spouse / partner;</li> <li>• Close relative e.g., parent, grandparent, child, grandchild or sibling;</li> <li>• Close friend;</li> <li>• Business partner.</li> </ul>

Template Register of interests for CCGs

Name	Current position (s) held- i.e. Governing Body, Member practice, Employee or other	Declared Interest- (Name of the organisation and nature of business)	Type of Interest			Is the interest direct or indirect?	Nature of Interest	Date of Interest		Action taken to mitigate risk
			Financial Interests	Non-Financial Professional Interests	Non-Financial Personal Interests			From	To	
-										
-										
-										

Template Declarations of gifts and hospitality

Recipient Name	Position	Date of Offer	Date of Receipt (if applicable)	Details of Gift / Hospitality	Estimated Value	Supplier / Offeror Name and Nature of Business	Details of Previous Offers or Acceptance by this Offeror/ Supplier	Details of the officer reviewing and approving the declaration made and date	Declined or Accepted?	Reason for Accepting or Declining	Other Comments

*The information submitted will be held by the CCG for personnel or other reasons specified on this form and to comply with the organisation's policies. This information may be held in both manual and electronic form in accordance with the Data Protection Act 1998. Information may be disclosed to third parties in accordance with the Freedom of Information Act 2000 and published in registers that the CCG holds.*

I confirm that the information provided above is complete and correct. I acknowledge that any changes in these declarations must be notified to the CCG as soon as practicable and no later than 28 days after the interest arises. I am aware that if I do not make full, accurate and timely declarations then civil, criminal, professional regulatory or internal disciplinary action may result.

I **do / do not (delete as applicable)** give my consent for this information to published on registers that the CCG holds. If consent is NOT given please give reasons:

**Signed:**

**Date:**

**Signed:**

**Position:**

**Date:**

**(Line Manager or a Senior CCG Manager)**

Please return to <insert name/contact details for team or individual in CCG nominated to provide advice, support, and guidance on how conflicts of interest should be managed, and administer associated administrative processes>



Template: Register of gifts and hospitality

Name	Position	Date of offer	Declined or Accepted?	Date of Receipt (if applicable)	Details of Gift /Hospitality	Estimated Value	Supplier / Offeror Name and Nature of business	Reason for Accepting or Declining

Template declarations of interest checklist

Under the Health and Social Care Act 2012, there is a legal obligation to manage conflicts of interest appropriately. It is essential that declarations of interest and actions arising from the declarations are recorded formally and consistently across all CCG governing body, committee and sub-committee meetings. This checklist has been developed with the intention of providing support in conflicts of interest management to the Chair of the meeting- prior to, during and following the meeting. It does not cover the requirements for declaring interests outside of the committee process.

Timing	Checklist for Chairs	Responsibility
<p>In advance of the meeting</p>	<ol style="list-style-type: none"> <li>1. <b>The agenda</b> to include a standing item on declaration of interests to enable individuals to raise any issues and/or make a declaration at the meeting.</li> <li>2. <b>A definition of conflicts of interest</b> should also be accompanied with each agenda to provide clarity for all recipients.</li> <li>3. <b>Agenda</b> to be circulated to enable attendees (including visitors) to identify any interests relating specifically to the agenda items being considered.</li> <li>4. <b>Members should contact the Chair</b> as soon as an actual or potential conflict is identified.</li> <li>5. <b>Chair to review a summary report from preceding meetings</b> i.e., sub-committee, working group, etc., detailing any conflicts of interest declared and how this was managed.</li> </ol> <p><b>A template for a summary report</b> to present discussions at preceding meetings is detailed below.</p> <ol style="list-style-type: none"> <li>6. <b>A copy of the members' declared interests</b> is checked to establish any actual or potential conflicts of interest that may occur during the meeting.</li> </ol>	<p>Meeting Chair and secretariat</p> <p>Meeting Chair and secretariat</p> <p>Meeting Chair and secretariat</p> <p>Meeting members</p> <p>Meeting Chair</p> <p>Meeting Chair</p>

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<p><b>During the meeting</b></p>	<p><b>7. Check and declare the meeting is quorate</b> and ensure that this is noted in the minutes of the meeting.</p> <p><b>8. Chair requests members to declare any interests in agenda items-</b> which have not already been declared, including the nature of the conflict.</p> <p><b>9. Chair makes a decision</b> as to how to manage each interest which has been declared, including whether / to what extent the individual member should continue to participate in the meeting, on a case by case basis, and this decision is recorded.</p> <p><b>10. As minimum requirement, the following should be recorded in the minutes of the meeting:</b></p> <ul style="list-style-type: none"> <li>• Individual declaring the interest;</li> <li>• At what point the interest was declared;</li> <li>• The nature of the interest;</li> <li>• The Chair’s decision and resulting action taken;</li> <li>• The point during the meeting at which any individuals retired from and returned to the meeting - even if an interest has not been declared;</li> <li>• <b>Visitors in attendance</b> who participate in the meeting must also follow the meeting protocol and declare any interests in a timely manner.</li> </ul> <p>A template for recording any interests during meetings is detailed below.</p>	<p>Meeting Chair</p> <p>Meeting Chair</p> <p>Meeting Chair and secretariat</p> <p>Secretariat</p>
<p><b>Following the meeting</b></p>	<p><b>11.</b> All new interests declared at the meeting should be promptly updated onto the declaration of interest form;</p> <p><b>12.</b> All new completed declarations of interest should be transferred onto the register of interests.</p>	<p>Individual(s) declaring interest(s)</p> <p>Designated person responsible for registers of interest</p>

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### Template for recording any interests during meetings

Report from <insert details of sub-committee/ work group>	
Title of paper	<insert full title of the paper>
Meeting details	<insert date, time and location of the meeting>
Report author and job title	<insert full name and job title/ position of the person who has written this report>
Executive summary	<include summary of discussions held, options developed, commissioning rationale, etc.>
Recommendations	<include details of any recommendations made including full rationale>  <include details of finance and resource implications>
Outcome of Impact Assessments completed (e.g. Quality IA or Equality IA)	<Provide details of the QIA/EIA. If this section is not relevant to the paper state 'not applicable'>
Outline engagement – clinical, stakeholder and public/patient:	<Insert details of any patient, public or stakeholder engagement activity. If this section is not relevant to the paper state 'not applicable'>
Management of Conflicts of Interest	<Include details of any conflicts of interest declared>  <Where declarations are made, include details of conflicted individual(s) name, position; the conflict(s) details, and how these have been managed in the meeting>  <Confirm whether the interest is recorded on the register of interests- if not agreed course of action>
Assurance departments/ organisations who will be affected have been consulted:	<Insert details of the people you have worked with or consulted during the process : Finance (insert job title) Commissioning (insert job title) Contracting (insert job title) Medicines Optimisation (insert job title) Clinical leads (insert job title) Quality (insert job title) Safeguarding (insert job title) Other (insert job title)>
Report previously presented at:	<Insert details (including the date) of any other meeting where this paper has been presented; or state 'not applicable'>
Risk Assessments	<insert details of how this paper mitigates risks- including conflicts of interest>

Template to record interests during the meeting

Meeting	Date of Meeting	Chairperson (name)	Secretariat (name)	Name of person declaring interest	Agenda Item	Details of interest declared	Action taken

**Template for recording minutes**

**XXXX Clinical Commissioning Group  
Primary Care Commissioning Committee Meeting**

**Date:** 15 February 2016  
**Time:** 2pm to 4pm  
**Location:** Room B, XXXX CCG

**Attendees:**

Name	Initials	Role
Sarah Kent	SK	XXX CCG Governing Body Lay Member (Chair)
Andy Booth	AB	XXX CCG Audit Chair Lay Member
Julie Hollings	JH	XXX CCG PPI Lay Member
Carl Hodd	CH	Assistant Head of Finance
Mina Patel	MP	Interim Head of Localities
Dr Myra Nara	MN	Secondary Care Doctor
Dr Maria Stewart	MS	Chief Clinical Officer
Jon Rhodes	JR	Chief Executive – Local Healthwatch

**In attendance from 2.35pm**

Neil Ford                      NF                      Primary Care Development Director

Item No	Agenda Item	Actions
1	<b>Chairs welcome</b>	
2	<b>Apologies for absence</b>  <apologies to be noted>	
3	<p><b>Declarations of interest</b></p> <p><i>SK reminded committee members of their obligation to declare any interest they may have on any issues arising at committee meetings which might conflict with the business of XXX clinical commissioning group.</i></p> <p><i>Declarations declared by members of the Primary Care Commissioning Committee are listed in the CCG’s Register of Interests. The Register is available either via the secretary to the governing body or the CCG website at the following link: <a href="http://xxxccg.nhs.uk/about-xxx-ccg/who-we-are/our-governing-body/">http://xxxccg.nhs.uk/about-xxx-ccg/who-we-are/our-governing-body/</a></i></p> <p><b>Declarations of interest from sub committees.</b> <i>None declared</i></p> <p><b>Declarations of interest from today’s meeting</b></p>	

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	<p><i>The following update was received at the meeting:</i></p> <ul style="list-style-type: none"> <li>• <i>With reference to business to be discussed at this meeting, MS declared that he is a shareholder in XXX Care Ltd.</i></li> </ul> <p><i>SK declared that the meeting is quorate and that MS would not be included in any discussions on agenda item X due to a direct conflict of interest which could potentially lead to financial gain for MS.</i></p> <p><i>SK and MS discussed the conflict of interest, which is recorded on the register of interest, before the meeting and MS agreed to remove himself from the table and not be involved in the discussion around agenda item X.</i></p>	
<p><b>4</b></p>	<p><b>Minutes of the last meeting &lt;date to be inserted&gt; and matters arising</b></p>	
<p><b>5</b></p>	<p><b>Agenda Item &lt;Note the agenda item&gt;</b></p> <p><i>MS left the meeting, excluding himself from the discussion regarding xx.</i></p> <p><b>&lt;conclude decision has been made&gt;</b></p> <p><b>&lt;Note the agenda item xx&gt;</b></p> <p><i>MS was brought back into the meeting.</i></p>	
<p><b>6</b></p>	<p><b>Any other business</b></p>	
<p><b>7</b></p>	<p><b>Date and time of the next meeting</b></p>	

Procurement checklist

<b>Service:</b>	
<b>Question</b>	<b>Comment/ Evidence</b>
<b>1. How does the proposal deliver good or improved outcomes and value for money – what are the estimated costs and the estimated benefits? How does it reflect the CCG’s proposed commissioning priorities? How does it comply with the CCG’s commissioning obligations?</b>	
<b>2. How have you involved the public in the decision to commission this service?</b>	
<b>3. What range of health professionals have been involved in designing the proposed service?</b>	
<b>4. What range of potential providers have been involved in considering the proposals?</b>	
<b>5. How have you involved your Health and Wellbeing Board(s)? How does the proposal support the priorities in the relevant joint health and wellbeing strategy (or strategies)?</b>	
<b>6. What are the proposals for monitoring the quality of the service?</b>	
<b>7. What systems will there be to monitor and publish data on referral patterns?</b>	
<b>8. Have all conflicts and potential conflicts of interests been appropriately declared and entered in registers?</b>	
<b>9. In respect of every conflict or potential conflict, you must record how you have managed that conflict or potential conflict. Has the management of all conflicts been recorded with a brief explanation of how they have been managed?</b>	
<b>10. Why have you chosen this procurement route e.g., single action tender?<sup>6</sup></b>	

<sup>6</sup>Taking into account all relevant regulations (e.g. the NHS (Procurement, patient choice and competition) (No 2) Regulations 2013 and guidance (e.g. that of Monitor).



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<p><b>11. What additional external involvement will there be in scrutinising the proposed decisions?</b></p>	
<p><b>12. How will the CCG make its final commissioning decision in ways that preserve the integrity of the decision-making process and award of any contract?</b></p>	
<p><b>Additional question when qualifying a provider on a list or framework or pre selection for tender (including but not limited to any qualified provider) or direct award (for services where national tariffs do not apply)</b></p>	
<p><b>13. How have you determined a fair price for the service?</b></p>	
<p><b>Additional questions when qualifying a provider on a list or framework or pre selection for tender (including but not limited to any qualified provider) where GP practices are likely to be qualified providers</b></p>	
<p><b>14. How will you ensure that patients are aware of the full range of qualified providers from whom they can choose?</b></p>	
<p><b>Additional questions for proposed direct awards to GP providers</b></p>	
<p><b>15. What steps have been taken to demonstrate that the services to which the contract relates are capable of being provided by only one provider?</b></p>	
<p><b>16. In what ways does the proposed service go above and beyond what GP practices should be expected to provide under the GP contract?</b></p>	
<p><b>17. What assurances will there be that a GP practice is providing high-quality services under the GP contract before it has the opportunity to provide any new services?</b></p>	

**Template: Procurement decisions and contracts awarded**

Ref No	Contract/Service title	Procurement description	Existing contract or new procurement (if existing include details)	Procurement type – CCG procurement, collaborative procurement with partners	CCG clinical lead (Name)	CCG contract manager (Name)	Decision making process and name of decision making committee	Summary of conflicts of interest noted	Actions to mitigate conflicts of interest	Justification for actions to mitigate conflicts of interest	Contract awarded (supplier name & registered address)	Contract value (£) (Total) and value to CCG	Comments to note

To the best of my knowledge and belief, the above information is complete and correct. I undertake to update as necessary the information.

Signed:

On behalf of:

Date:

Please return to <insert name/contact details for team or individual in CCG nominated for procurement management and administrative processes>

Template Register of procurement decisions and contracts awarded

Ref No	Contract/ Service title	Procurement description	Existing contract or new procurement (if existing include details)	Procurement type – CCG procurement, collaborative procurement with partners	CCG clinical lead	CCG contract manager	Decision making process and name of decision making committee	Summary of conflicts of interest declared and how these were managed	Contract Award (supplier name & registered address)	Contract value (£) (Total)	Contract value to CCG

Template Declaration of conflict of interests for bidders/contractors

<b>Name of Organisation:</b>		
<b>Details of interests held:</b>		
<b>Type of Interest</b>	<b>Details</b>	
Provision of services or other work for the CCG or NHS England		
Provision of services or other work for any other potential bidder in respect of this project or procurement process		
Any other connection with the CCG or NHS England, whether personal or professional, which the public could perceive may impair or otherwise influence the CCG's or any of its members' or employees' judgements, decisions or actions		
<b>Name of Relevant Person</b>	[complete for all Relevant Persons]	
<b>Details of interests held:</b>		
<b>Type of Interest</b>	<b>Details</b>	<b>Personal interest or that of a family member, close friend or other acquaintance?</b>
Provision of services or other work for the CCG or NHS England		
Provision of services or other work for any other potential bidder in respect of this project or procurement process		
Any other connection with the CCG or NHS England, whether personal or professional, which the public could perceive may impair or otherwise influence the CCG's or any		

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<b>of its members' or employees' judgements, decisions or actions</b>		
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To the best of my knowledge and belief, the above information is complete and correct. I undertake to update as necessary the information.

Signed:

On behalf of:

Date:

Conflict of Interest Assessment			
Project		Estimated value	
Workstream			
Decision making point	Manager/CO or CFO/Executive Committee/Primary Care Commissioning Committee/Governing Body		

Affected GP/ Practices/managers	Conflict of interest details	How is conflict to be managed?*(see examples given below) and WHY this method is chosen.	Value of contract to GP/Practice?

**Proposed approach** – subsidiary meetings where proposal is to be developed/discussed?

**Where is clinical advice required?** (Specification development? Procurement strategy? Anywhere else?) (NB: evaluation criteria must not involve CCG clinicians) Ensure that all advice/points raised by clinicians have been recorded in the minutes of the meeting.

**If conflicts don't allow for involvement of CCG clinicians, how will clinical involvement be gained?**

**If there are significant conflicts of interest, how will we triangulate the advice/points raised by clinicians? (e.g. national benchmarking/NICE/'external' clinician/other CCG practice/Other?)**

**\*Examples of how conflicts can be managed:**  
 Continued involvement in discussion.  
 Consideration of whether appropriate to review draft documents.  
 Exclude from all discussions but be present when they are taking place.  
 To not be in the room when conflict-related discussions are being held.  
 Consideration of whether appropriate to be involved in decision making  
 Excluded from room when decision made.  
 Not receive relevant documentation/reports/minutes (until what stage?)  
 Broaden discussions to include all clinicians in cases where the conflict may be receiving information at an earlier stage than other potential providers.

<b>Assessment completed by:</b>	<b>Date:</b>
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<b>Reviewed by Chief Officer and Head of Corporate Affairs</b>	<b>Date:</b>
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Reference number:	Discussed with Col Guardian:
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**Appendix M Process in the event of a breach of COI policy**

