



**AGENDA ITEM NO: 12.0.**

<b>Meeting Title/Date:</b>	Governing Body - 19 March 2019		
<b>Report Title:</b>	Conflicts of Interest Policy		
<b>Paper Prepared By:</b>	Paul Bell	<b>Date of Paper:</b>	January 2019
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<b>Committees where Paper Previously Presented:</b>			
<b>Background Paper(s):</b>	National Conflict of Interest guidance.		
<b>Summary of Report:</b>	To seek approval for a key governance policy.		
<b>Recommendation(s):</b>	The Governing Body is asked to approve the Conflicts of Interest Policy.		
			<b>Please Select Y/N</b>
<b>Identified Risks:</b> (Record related Assurance Framework or Risk Register reference number)			N
<b>Impact Assessment:</b> (Including Health, Equality, Diversity and Human Rights)			N
<b>Strategic Objective(s) Supported by this Paper:</b>			<b>Please Select (X)</b>
<b>Better Health</b> - improve population health and wellbeing and reduce health inequalities			
<b>Better Care</b> - improve individual outcomes, quality and experience of care			
<b>Delivered Sustainably</b> - create an environment for motivated, happy staff and achieve our control total			X
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# **CONFLICTS OF INTEREST POLICY**

## **(Incorporating Gifts and Hospitality)**

v2

**DOCUMENT CONTROL**

<b>Policy Title:</b>	Conflicts of Interest Policy for Morecambe Bay CCG	
<b>Supersedes:</b>	<p>Previous version of Policy</p> <ul style="list-style-type: none"> <li>• CCG Conflicts of Interest Policy (January 2015) Version Number 1</li> <li>• New NHS guidance issued December 2014</li> <li>• Governing Body update January 2015</li> <li>• New NHS guidance issued June 2016</li> </ul>	
<b>Description of Amendment(s):</b>	Change of organisation name from NHS Protect to NHS Counter Fraud Authority (NHSCFA); inclusion of sentence advising of option to utilise online fraud reporting tool; change of LCFS name / contact details.	
<b>This policy applies to:</b>	Staff, members, Governing Body members, bidders, Primary Care and other contractors, support services, providers, Local Authorities, all other relevant parties, including NHS England.	
<b>Circulation:</b>	All staff, members, contractors (across Primary Care) and organisations associated with the CCG. CCG Website	
<b>Purpose</b>	Policy detailing the requirements of all staff to identify and declare any potential Conflicts of Interest, on a continuing basis whilst employed or acting on behalf of Morecambe Bay CCG and to detail the CCG's responsibility with regard to those declarations.	
<b>Cross reference with:</b>	Associated relevant policies (e.g. Anti-Fraud, Bribery and Corruption Policy, Whistleblowing Policy, Disciplinary Policy, SFI's SOs etc.	
<b>Policy Area:</b>	Corporate	
<b>Version No:</b>	2	
<b>Issued By:</b>	Barbara Carter, Corporate Affairs Manager	
<b>Author:</b>	Kevin Parkinson, Chief Finance Officer/Director of Governance	
<b>Lead Director:</b>	Kevin Parkinson, Chief Finance Officer/Director of Governance	
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<b>Section</b>		<b>Page</b>
1	Policy Statement	5
2	Introduction	5
3	Purpose	7
4	Definitions	8
5	Roles and Responsibilities	10
6	Overarching Principles and Standards of Business Conduct	14
7	Maintaining a Register of Interests	17
8	Declaration of Interests Reporting and Decision Making	19
9	Raising Concerns and Reporting Breaches	21
10	Gifts and Hospitality	22
11	Publication of Registers	24
12	Commercial Sponsorship	24
13	Managing Conflicts of Interest throughout the Commissioning Cycle	24
14	Procurement Procedures	26
15	Whistleblowing	30
16	Anti-Fraud, Bribery and Corruption	30
17	Dissemination and Implementation	30
18	Monitoring and Compliance of Policy	30
19	Assurance and Audit Requirements	30
20	References and Bibliography	32

- Appendix 1 The Seven Principles of Public Life (Nolan Principles)
- Appendix 2 Conflict of Interest Decision Making and Management Flowchart
- Appendix 3 Potential Conflicts of Interest Scenarios
- Appendix 4 Declarations of Conflicts of Interest for CCG Members and Employees
- Appendix 5 Register of Conflicts of Interest
- Appendix 6 Declarations of Gifts and Hospitality
- Appendix 7 Register of Gifts and Hospitality
- Appendix 8 Declarations of Interest Checklist (A Chair's Guide)
- Appendix 9 Reporting Conflicts of Interest in Formal Minutes
- Appendix 10 Recording Conflicts of Interest in Minutes
- Appendix 11 Procurement Checklist
- Appendix 12 Register of Procurement Decisions and Contracts Awarded
- Appendix 13 Declaration of Conflicts of Interest for Bidders/Contractors
- Appendix 14 Conflicts of Interest Policy Checklist

## 1. Policy Statement

- 1.1 NHS Morecambe Bay Clinical Commissioning Group (hereafter referred to as the CCG or organisation) is required to have a nationally approved Constitution as stipulated by the *NHS Act (2006)*. This outlines the recognised legal framework by which the CCG is held accountable. The CCG Governing Body is established to ensure that the organisation inspires confidence and trust amongst all staff, partners, funders, suppliers, contractors and members of the public by demonstrating integrity and avoiding any potential or real situations of undue bias or influence in its decision-making. Failure to comply with the CCG's policies on Conflicts of Interest management can have serious implications for the CCG. Staff who fail to disclose relevant interests or do not comply with this policy will be subject to appropriate disciplinary and/or criminal actions, and where necessary will be referred for investigation to the CCG's nominated Anti-Fraud Specialist.
- 1.2 As a publicly funded body that commissions public services, the CCG recognises that it has a statutory duty to carry out its business appropriately to take a balanced and transparent approach in its duties, to act with integrity, impartiality and honesty and to follow the Seven Principles of Public Life as set out by the Committee on Standards in Public Life (the 'Nolan Principles'). The 'Seven Principles of Public Life' are:
1. Selflessness;
  2. Integrity;
  3. Objectivity;
  4. Accountability;
  5. Openness;
  6. Honesty; and
  7. Leadership.
- 1.3 The definitions of 'The Seven Principles of Public Life' are included in **Appendix 1** of this Policy. This information and further guidance can be obtained from the Public Standards Website which can be accessed using the link provided: <http://www.public-standards.gov.uk>.
- 1.4 All employees (temporary and permanent, full and part-time), members, Governing Body, Committee and sub-Committee members, and other colleagues and those associated with the CCG, should act in accordance and are expected to fully comply with the Standards for members of NHS Boards and Clinical Commissioning Group Governing Bodies in England set out by the Professional Standards Authority which can be accessed using the link below:  
<http://www.professionalstandards.org.uk/docs/default-source/publications/standards/standards-for-members-of-nhs-boards-and-ccgs-2013.pdf?sfvrsn=2>
- 1.5 The NHS England staff who support the CCG are also bound by such codes of practice too as set out in NHS England's standards of business conduct, and in adhering to statutory guidance when they attend relevant Committee meetings etc.
- 1.6 The compliance with and the embedding of these principles and objectives within the CCG takes on even greater significance through the devolution of Primary Care Co-Commissioning to the organisation. This policy reflects those duties and responsibilities and aims to mitigate the potential risks to the CCG.

## 2. Introduction

Managing conflicts of interest robustly and appropriately is essential for protecting the integrity of the overall NHS commissioning system and to protect NHS England (NHSE),

Clinical Commissioning Groups (CCGs), GP Practices, together with its providers, from any actions or perceptions of wrongdoing. Commissioners need the highest levels of standards and transparency so they can demonstrate that conflicts of interest are managed in a way that cannot undermine the probity and accountability of the organisation. This is particularly important for CCGs when dealing with member practices and within the current primary care commissioning environment. This CCG wishes to promote best practice in the way that it undertakes these responsibilities. As part of that approach, a Conflict of Interest Guardian has been designated by the CCG. That role will be undertaken by the CCG's Audit Committee Chair. Robust processes and arrangements are also in place, which define procedures to be followed when a breach is identified. These detailed processes are outlined in the attachments to this Policy.

The need for NHS bodies to identify, robustly and consistently manage conflicts of interest is not new. Healthcare professionals have always had to manage competing interests, for example, when having multiple roles on the former Primary Care Trust Boards, professional executive Committees and practice based commissioning groups, as well as separating their own provider and commissioning functions. This remains particularly critical following the delegated primary care commissioning responsibilities and decision making powers to the CCG. It also reinforces the requirement for all members and individuals to routinely declare their interests and potential conflicts at the start of each meeting.

It will not be possible to avoid conflicts of interest. They are inevitable in many aspects of public life, including the NHS, and especially within the current NHS operations environment as indicated. However, by recognising where and how they arise and then dealing with them appropriately, the CCG will be able to ensure proper governance, robust decision making, appropriate assurance and informed decisions about the use of public money. The embedding of these principles and actions will enable the CCG to operate within that strengthened governance environment and facilitate informed but appropriate decisions.

As indicated at Section 1, the NHS Act 2006 sets out clear requirements of CCGs to make arrangements for managing conflicts of interest and potential conflicts of interest and to ensure they do not affect or appear to affect the integrity of the CCG's decision making processes. This requirement is strengthened for the CCG by the independent overview which is provided by its Audit Committee. Lay Members, in their capacity as members of the Audit Committee will apply that independent view, oversight and scrutiny. This policy will set out the enhanced role of the Chair of Audit Committee in this respect also the Audit Committee Chair is the CCG's designated Conflicts of Interest Guardian.

This Policy is informed by 'Managing Conflicts of Interests; Guidance for Clinical Commissioning Groups' issued by the NHS Commissioning Board on 28 March 2013 and 'Managing Conflicts of Interest: Statutory Guidance for CCGs' issued by NHS England on 18 December 2014. It reflects too 'Managing Conflicts of Interest: Revised Statutory Guidance for CCGs issued by NHS England on 28 June 2016, together with 'Co-Commissioning of Interest Audit: Summary Report' issued 1 April 2016. The latter guidance has built on the initial work reflected by the CCG and has provided further clarity and assurance. It also builds on the principles outlined in the CCG's Constitution.

In addition to the above mentioned guidance and direction, as indicated at paragraph 2.5 above, this policy also reflects upon the local experiences of operating in the present NHS environment, especially the impact and risks identified within Primary Care. The policy also takes into account the operational and strategic requirements, and expectations of the CCG's Primary Care Commissioning Committee.

The CCG will also ensure that it adheres with guidance issued by professional bodies including the British Medical Association, the Royal College of General Practitioners and the General Medical Council.

This policy shall be reviewed annually and following any change in relevant regulations.

### 3. Purpose

The aim of this Policy is to set out the processes and procedures for managing standards of business conduct and conflicts of interest within the CCG and for completeness includes gifts and hospitality arrangements. By ensuring the latter, the CCG strives to achieve tight governance, procedures, appropriate transparency, controls and to have the systems to deal with and communicate relevant actions. This will also proactively support the NHS England Improvement and Assurance Framework requirements. The Policy is required to ensure that all those individuals acting on behalf of the CCG are aware of their obligations in line with the organisation's statutory obligations as required under Section 140 of the *NHS (2006) Act* as inserted by Section 25 of the *Health and Social Care Act (2012)*. This guidance can be accessed using the link provided below:

<http://www.legislation.gov.uk/ukpga/2012/7/part/1/crossheading/further-provision-about-clinical-commissioning-groups/enacted>

Section 140 of the *National Health Service Act 2006*, as inserted by the *Health and Social Care Act 2012* together with the latest national guidance, sets out that the CCG must:

- maintain and update/review one or more registers of interest of the members of the group, members of its Governing Body, members of its Committees, sub-Committees and its employees. This will include Member Practice information and matters relating to Joint Committees and NHS England;
- report, publish, and make clear arrangements to ensure that members of the public have access to these registers in line with national guidance and expectations. These registers will be available on the CCG's website, or to the public on request;
- make arrangements to ensure individuals declare and review any conflict or potential conflict in relation to a decision to be made by the group, and record them in the registers as soon as they become aware of it and, in any event, within 28 days;
- ensure it updates its registers on at least a six monthly basis;
- make arrangements, as set out in this policy and in the Constitution, for managing conflicts of interest and potential conflicts of interest in such a way as to ensure that they do not affect the integrity of the group's decision-making processes. These arrangements must remain clearly defined and be refreshed as and when required.

The NHS (Procurement, Patient Choice and Competition) Regulations 2013, supplemented by the latest NHS England guidance, sets out that commissioners:

- must monitor and manage conflicts and potential conflicts of interest when awarding a contract by prohibiting the award of a contract where the integrity of the award has been or appears to have been affected by a conflict; and
- must keep and publish appropriate records of how they have managed any conflicts in individual cases. Bidders for services will be expected to declare any conflicts of interest. The CCG as part of the procedure must maintain and publish a register of CCG procurement decisions maintaining full transparency of those decisions taken.

CCGs are required to set out in their Constitution how they will comply with these requirements. This policy also covers the additional factors that the CCG should address



when commissioning/procuring primary medical care services under delegated commissioning arrangements. This includes the issues and declaration procedures that the CCG should consider when drawing up plans for services that might be provided by GP Practices. Full transparency on such declarations, the process followed, and their publication, will be maintained. A procurement template is available to support this process.

The purpose of this policy, in addition to references and the requirements within the CCG's Constitution, is to set out how the CCG will comply with the above requirements. The CCG has been proactive in establishing a Primary Care Commissioning Committee to ensure the latest relevant guidance is complied with and robust governance arrangements are in place. The Committee will continue to receive updated recommendations and actions are in place to ensure it proactively reviews and transacts its business in line with best practice and the standards expected.

With regard to the CCG's Primary Care Commissioning Committee, its membership and decision making arrangements will continue to remain under review to ensure proper, robust and appropriate governance is in place.

#### **4. Definitions**

A conflict of interest occurs where an individual's ability to exercise judgement or act in one role is, or could be, impaired or otherwise influenced by his or her involvement in another role or relationship. The individual does not need to exploit his or her position or obtain an actual benefit, financial or otherwise. A potential for competing interests and/or a perception of impaired judgement or undue influence can also be a conflict of interest.

Conflicts can arise from a direct financial interest, but also from indirect financial factors (e.g. payment to a spouse) or a non-financial interest (e.g. kudos or reputation). Conflicts of loyalty may arise (e.g. in respect of an organisation of which the individual is a member or has an affiliation). Conflicts can also arise from personal or professional relationships with others e.g. where the role or interest of a family member, friend or acquaintance may influence an individual's judgement or actions or could be perceived to do so. These are conflicts of interest.

For any individual involved in commissioning, including GPs, a conflict of interest may arise when their own judgement as an NHS commissioner could be, or is perceived to be, influenced and impaired by their own concerns and obligations as a healthcare or related provider, as a member of a particular peer, professional or special interest group, or as a friend of family member. In the case of a GP involved in commissioning within the present NHS environment, an obvious example is the award of a new contract to a provider in which the individual GP has a financial stake. However, the same considerations apply when deciding whether to extend a contract.

The Royal College of GPs (RCGP) and NHS Confederation's briefing paper on Managing Conflicts of Interest (September 2011) states:

*'It is crucial that an interest, and involvement in the local healthcare system, does not also involve a vested interest in terms of financial or professional bias toward or against particular solutions or decisions. The fact that in their provider and gatekeeper roles, GPs and their colleagues, could potentially profit personally (financially or otherwise) from the decisions of a commissioning group of which they are also members, means that questions about their role in the governance of NHS commissioning bodies are legitimate. Failure to acknowledge, identify and address them could result in poor decision making, legal challenge and reputational damage.'*

Pertinent issues and scenarios to bear in mind are:

- a perception of wrongdoing, impaired judgement or undue influence can be as detrimental as any of them actually occurring;
- if in doubt, it is better to assume the existence of a conflict of interest and proactively manage it appropriately through actions, meetings and communications, rather than ignore it; and
- for a conflict to exist, financial gain is not necessary.

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;
- 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;
- a management consultant for a provider;
- 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; and
- 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 Care Quality Commission (CQC) or National Institute for Health and Care Excellence (NICE);
- a medical researcher.

**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; or
- a member of a lobby or pressure groups 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, this should include:

- spouse/partner;
- close relative e.g. parent, grandparent, child, grandchild or sibling;
- close friend; or
- business partner.

The above categories and examples are not exhaustive and the CCG will exercise discretion on a case by case basis, having regard to the principles of governance and codes of conduct that apply to NHS bodies, in deciding whether any role, relationship or interest would impair or otherwise influence the individual's judgement or actions in their role within the CCG.

The CCG will take all reasonable steps to ensure that employees, Committee members, contractors and others engaged under contract with the organisation 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. 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; and
- self-employment including private practice, 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.

The CCG will require that individuals obtain prior permission to engage in secondary employment, and reserve the right to refuse permission where it believes a conflict will arise which cannot be effectively managed. The CCG will ensure that it has a clear and robust approach in place to manage any issues arising from secondary employment. In particular, as an example, it is unacceptable for pharmacy advisers or other advisers, employees or consultants to the CCG on matters of procurement to themselves be in receipt of payments from the pharmaceutical or devices sector.

Wherever possible, any potential conflict of interest should be considered in advance of any relevant meetings, discussions and actions. This will facilitate effective and efficient procedures and enable informed decision making without undue delays occurring. Further details are provided within this Policy.

**5. Roles and Responsibilities**

To support this policy the overall responsibilities of CCG roles are summarised as follows:

### **Accountable Officer**

The Accountable Officer is accountable for all corporate governance processes within the organisation including the management of conflicts of interest; this also includes all related issues including declarations, gifts, hospitality and corporate sponsorship, anti-fraud, bribery and corruption and whistleblowing.

### **Lay Members**

In line with national guidance and recommendations, the CCG has three Lay Members. The Lay Members are responsible for assuring that the appropriate systems, procedures and processes are in place to manage all conflicts of interest, ensuring that an open and transparent approach is maintained to safeguard the integrity of the CCG's decision-making processes. The CCG's Audit Committee provides overview and scrutiny to Conflicts of Interest Policy and procedures. Any issues arising will be reported through the Audit Committee. The Audit Committee Chair (a Lay Member) is the CCG's designated Conflicts of Interest Guardian.

### **Conflicts of Interest Guardian**

To ensure that the CCG has strong scrutiny and transparency in its decision making process, it has a designated Conflicts of Interest Guardian. This role is undertaken by the Audit Committee Chair and is supported by the CCG's Corporate Affairs Manager. The role has responsibility for the day to day management of Conflicts of Interest matters and queries and where any issue or breach occurs.

The Conflicts of Interest Guardian 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.

### **Chairs of Committees, Sub-Committees and Meetings**

Chairs (or nominated Deputy Chairs) will ensure that all meetings are conducted accordingly in line with the CCG's policies and procedures and that at every meeting those present are given the opportunity (both at the start and during the meeting) to declare a conflict of interest in relation to items on the agenda. The Chair (or nominated Deputy Chair) is also responsible for ensuring that due consideration is given to the potential implications of each agenda item and of any declaration made and that all declarations are recorded, accurately recorded in the meeting minutes and managed accordingly. This would include exclusion from relevant parts of the meeting or the withdrawal of voting rights if required. The Chair (or Deputy Chair) would also have the power to refer a decision to the Governing Body Chair or Accountable Officer. Decisions on quoracy at the meetings will be taken by the Chair. The Chair also has the authority as necessary to co-opt individuals from other CCGs or the Health and Wellbeing Board to attend appropriate meetings. The Chair of the meeting will consider the potential for Conflicts of Interest occurring before the meeting however, to mitigate the risks that may arise and therefore to allow prompt, efficient and effective actions and decision

making by that Committee.

### **Primary Care Commissioning Committee**

With the CCG having delegated Primary Care commissioning responsibilities, this Committee of the CCG has a critical role to play in the strategic and operational direction and performance of the organisation, and in the achievement of its duties and responsibilities. However, significant risks of Conflicts of Interest present themselves through the direct work of the Committee, its membership and through its actions.

In order to maintain its purpose, whilst ensuring full transparency, integrity, openness to challenge and effectiveness, the following key principles will be maintained:

- The Committee will have a Lay Member as the Chair and a Lay Member will also act as Vice Chair. It will have a Lay and Executive majority.
- The Audit Committee Chair, who is the designated Conflicts of Interest Guardian for the CCG will not be compromised by holding either of those roles. This will allow independence in taking forward any actions resulting from a Policy breach.
- Unless it would be prejudicial to the public interest the meetings will be held in public (examples of where it may be appropriate to exclude the public would be in respect of sensitive personal issues and data to be discussed, commercially confidential information in respect of legal issues and proceedings or to allow the meeting to proceed without interruption and disruption).
- The Committee will ensure sufficient clinical input, but not in the majority, and consider its membership at all stages, including appointing retired, or out of area GPs.
- The Committee will provide a standing invitation to the CCG's local Healthwatch, and Health and Wellbeing Board representatives.
- The Committee will invite other individuals to attend on an ad hoc basis to provide any required expertise to support informed decision making.
- NHS England representatives on the Committee will comply with this Policy and the standards and Policies in place with NHS England
- As with the indicated arrangements, procedures and requirements of the CCG as set out in this Policy, this Committee, and any sub-Committee it establishes, will be required to fully meet its Conflicts of Interest and related duties, not least being clear in advance of the meeting if potential Conflicts of Interest are likely to arise and impact upon its effectiveness and decision making. The role of the Chair/Vice Chair of this Committee is again vital to its performance.

### **Corporate Services**

The Corporate Services will be responsible for providing advice and/or support to the Lay Members, Chairs of meetings, CCG members, Senior Managers, staff and all other individuals working for or on behalf of the CCG on matters relating to this Policy. The Corporate Affairs Manager is responsible for maintaining and publishing the Register of Interests.

As part of the advice and support provided by Corporate Services to ensure that Members and Staff etc., meet their duties and responsibilities, the following services and opportunities will be made available (these will be supported by appropriate pro forma which follow best practice recommendations):

- The CCG's Committee efficiency and effectiveness review outcomes will continue to be implemented, closely reviewed and refreshed.
- CCG Committee and meeting operating principles, conduct and procedures will be adhered to and supported by the member of Corporate Services administering the respective meeting.
- A meeting agenda will be arranged, discussed, agreed and achieved with the Chair of that meeting in conjunction with Corporate Services. The attendance planned for the meeting, and the potential for any Conflicts of Interest, will be assessed in advance of issuing that agenda and agreeing the attendees.
- The Chair will take appropriate action with Corporate Services to ensure Conflicts of Interest and risks are mitigated in advance of a meeting where necessary and wherever possible. This will include ensuring the meeting is suitably quorate and can make the required and appropriate decisions. This will apply as necessary to both formal and appropriate informal meetings.
- Corporate Services will ensure that all appropriate records, declarations and actions are reflected from relevant meetings and that the formal minutes of the respective meetings are suitably robust, accurate and timely. Any decisions to exclude attendees or to disallow voting rights will be reported and documented. Training in best practice will continue to be made available.
- All meetings will formally request declarations of interest at least at the start of the meeting. Decisions on who stays/leaves meetings will rest with the Chair of the meeting.
- The Corporate Affairs Manager will also ensure that any updates to the CCG Registers are promptly made being reflective of all relevant meeting minutes. The Registers will continue to be routinely reported through Committees and the Governing Body and published in line with the required national guidance and best practice expectations.
- Formal updates of all declarations as required will be coordinated through the Corporate Affairs Manager. Returns will be required from all concerned, including nil returns.
- The CCG's Corporate Affairs Manager will work with executives and officers within the CCG to ensure that formal national requirements, such as the 'sign off' of the CCG's Registers are achieved in conjunction with the CCG's Auditors.
- The Corporate Affairs Manager in conjunction with the Chief Finance Officer/Director of Governance will facilitate appropriate training to the CCG's Governing Body, Committees, sub-Committees and Chairs/Deputy Chairs to support the achievement of the aims and objectives of this policy and in the delivery of the best possible practice. Staff training programmes and communications will also be co-ordinated by the Corporate Affairs Manager. The latter will ensure that Conflicts of Interest awareness and training are incorporated with staff induction programmes.
- Training opportunities and links to NHS England facilities (some of which are mandatory) will be made available and any requirements on staff members will be made explicit.

### **Commissioning, Procurement and Project Managers**

Commissioning, Procurement and Project Managers will ensure compliance to this policy at all times in relation to the areas of work for which they are responsible. The awareness and consideration at all times of procurement issues and the risks associated with Conflicts of Interest in that work, are critical to the achievement of the CCG's aims and objectives. Should

there be any doubt in applying this policy in this respect, guidance and advice should be sought from the Corporate Affairs Manager.

This policy must also be robustly applied as part of any NHS or non NHS provider contract management discussions/meetings. It will be vital to record any Conflicts of Interest and any relevant issues as part of those meetings. These will also form part of any appropriate recording within the CCG's registers and publications.

### **Members of the CCG, Members of the Governing Body, Committee Members and Employees**

Members of the CCG, the Governing Body, Committee members and all members of staff working for or on behalf of the CCG will be expected to fully comply with the requirements of this policy by declaring any interest(s) as required allowing for all conflicts of interests to be managed accordingly, whether such interests are those of the individual themselves or their spouse/partner, close relative, close friend or business partner. The CCG's letters of engagement will reflect these policy requirements. All relevant and material interests will be declared to the CCG in the following circumstances:

- on appointment/election to the CCG;
- six monthly (a formal review with confirmation of no changes);
- at every meeting before the agenda is discussed (and as part of the meeting as circumstances dictate);
- on changing role or responsibility;
- on any other change of circumstances; and
- on becoming aware that the CCG has entered into or proposes entering into a contract in which they or any person connected with them has any financial or other interest, either directly or indirectly.

Individuals must ensure that when they 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 would potentially be in a position to benefit from CCG decisions.

Individuals must provide sufficient detail of the interest, and the potential for conflict with the interests of the CCG and the public for whom they commission services, to enable a lay person to understand the implications and why the interest needs to be registered. Just providing a company name would therefore not constitute sufficient information to inform that judgement.

Further information on reporting declarations of interest is available at Section 8.

### **Members of the Public (Public Declaration)**

The Declaration of Interests Register, Gifts and Hospitality Register and Procurement Register will be made available on request, be published on and be accessed via the CCG's website. This ensures that members of the public have access to the information at all times and that full transparency is ensured. These issues will also be routinely reported through public meetings of the Governing Body.

## **6. Overarching Principles and Standards of Business Conduct**

To support the previously defined Policy and Guidance, the following principles and standards of conduct are also highlighted for clarity and reference.

It is the responsibility of all CCG staff (employees) and volunteers to personally ensure that

they are not, by their conduct or actions, placed in a position which risks, or appears to risk, conflict between their private interests and their NHS duties and responsibilities.

Staff and volunteers should also be aware that the behaviour of immediate family members and partners (either personal or business) could also create potential conflicts.

Interests may be financial, or non-financial (i.e. political or religious). Similarly, the receipt of gifts or hospitality may not be conducive to NHS roles and requirements.

### **Guiding Principle in the Conduct of Public Business**

The NHS, along with other public sector bodies, must be fair, impartial and honest in the conduct of business and decision-making and therefore, staff should act with probity, integrity and transparency at all times, remaining beyond suspicion.

### **The Fraud Act 2006**

The Fraud Act 2006 introduced an entirely new way of investigating and prosecuting fraud. Previously the word 'fraud' was an umbrella term used to cover a variety of criminal offences falling under various legislative Acts. It is now no longer necessary to prove that a person has been deceived, or that the fraud was successfully carried out. The focus is now on the dishonest behaviour of the suspect and their intent to make a gain either for themselves or another; to cause a loss to another; or expose another to a risk of a loss.

There are several specific offences under the Fraud Act 2006, however, there are three primary ways in which it can be committed that are likely to be investigated by the Anti-Fraud Specialist. The offence of fraud can be committed in three ways:

- **Fraud by false representation (Section 2)** – Lying about something using any means, e.g. falsifying a CV or NHS job application form.
- **Fraud by failing to disclose information (Section 3)** – Not saying or disclosing something when you have a legal duty to do so, e.g. failing to declare a conviction, disqualification or commercial interest when such information may have an impact on your NHS role, duties or obligation and where you are required to declare such information as part of a legal commitment to do so.
- **Fraud by abuse of a position (Section 4)** – Abusing a position where there is an expectation to safeguard the financial interests of another person or organisation, e.g. a carer abusing their access to patients monies, or an employee using commercially confidential NHS information to make a personal gain.

It should be noted that all offences under the Fraud Act 2006 occur where the act or omission is committed dishonestly and with intent to cause gain or loss, or expose to a risk of loss. The gain or loss does not have to succeed so long as the intent is there. Successful prosecutions under the Fraud Act 2006 may result in an unlimited fine and/or a potential custodial sentence of up to 10 years.

### **Bribery Act 2010**

Bribery and corruption prosecutions can be brought using specific pieces of legislation:

- Prevention of Corruption Acts 1906 and 1916, for offences committed prior to 1 July 2011; and
- Bribery Act 2010, for offences committed on or after 1 July 2011.

The Bribery Act 2010 reforms the criminal law of bribery, making it a criminal offence to:



- give promise or offer a bribe (Section 1); and/or
- request, agree to receive or accept a bribe (Section 2).

Corruption is generally considered to be an 'umbrella' term covering such various activities as bribery, fraud, money laundering, corrupt preferential treatment, kickbacks, cronyism and embezzlement. Under the Bribery Act 2010 however, bribery is now a series of specific criminal offences.

Generally, bribery is defined as: an inducement or reward offered, promised or provided to someone to perform their functions or activities improperly in order to gain a personal, commercial, regulatory and/or contractual advantage.

Examples of bribery in an NHS context could be a contractor attempting to influence a procurement decision-maker by giving them an extra benefit or gift as part of a tender exercise, or a medical or pharmaceutical company providing holidays or other excessive hospitality to a clinician in order to influence them to persuade their organisation to purchase that company's particular clinical supplies.

A bribe does not have to be in cash, it may involve the awarding of a contract, the provision of gifts, hospitality, sponsorship, the promise of work, a job offer, or some other benefit or favour. The persons making and receiving the bribe may be acting on behalf of others: under the Bribery Act 2010 all parties involved may be prosecuted for a bribery offence.

In addition, the Bribery Act 2010 introduces a new 'corporate offence' (Section 7) of the failure of commercial organisations to prevent bribery. The Department of Health Legal Service has stated that NHS bodies are deemed to be 'relevant commercial organisations' to which the Act applies. As a result, an NHS body may be held liable (and punished with a potentially unlimited fine) when someone 'associated' with it bribes another in order to get, keep or retain business for the organisation. However, the organisation will have a defence and avoid prosecution if it can show it had 'adequate procedures' in place designed to prevent bribery.

Finally, under Section 14 of the Bribery Act 2010, a senior officer of the organisation (e.g. Executive Director, Chief Executive or Chair) would also be liable for prosecution if they consented to or connived in a bribery offence carried out by another. Under such circumstances, as an example, the Chief Officer may be prosecuted for a parallel offence to that brought against the primary perpetrator. Furthermore, the organisation could also be subject to an unlimited fine because of the Chief Officer's consent or connivance.

To reiterate, the Bribery Act 2010 is applicable to NHS organisations including this CCG and consequently it also applies to (and can be triggered by) everyone 'associated' with the CCG who performs services for it, or on its behalf, or who provides the CCG with goods. This includes those who work for and with the CCG, such as employees, agents, subsidiaries, contractors and suppliers (regardless of whether they are incorporated or not). The term 'associated person' has an intentionally wide interpretation under the Bribery Act 2010.

This CCG adopts a zero tolerance attitude towards fraud, bribery and corruption and does not/will not, pay or accept bribes or offers of inducement to or from anyone for any purpose.

The CCG is fully committed to the objective of preventing fraud, bribery and corruption, and will ensure that adequate procedures, which are proportionate to our risks, are in place to prevent fraud, bribery and corruption, which will be regularly reviewed. We will, in conjunction with NHS Counter Fraud Authority (NHSCFA), seek to obtain the strongest penalties (including criminal prosecution, disciplinary and/or civil sanctions) against anyone associated with this CCG, who is found to be involved in any fraud, bribery or corruption activities.

As with the Fraud Act 2006, a conviction under the Bribery Act 2010 may ultimately result in an unlimited fine and/or a custodial sentence of up to 10 years imprisonment.

All individuals working for the CCG should refer to the CCG Policy on 'Anti-Fraud, Bribery and Corruption' for confirmation of the principles under which they should be operating. This Policy continues to be refreshed in line with issued guidance and policy.

### **NHS National Guidance**

In accordance with the NHS England Guidance 'Managing Conflicts of Interest: Statutory Guidance for CCGs, and to reaffirm the previously indicated procedures, there are five key principles that the CCG will adhere to when managing conflicts of interest. These principles are:

- **Doing Business Appropriately**

If commissioners get their needs assessments, consultation mechanisms, commissioning strategies and procurement procedures right from the outset, then conflicts of interest become much easier to identify, avoid and/or manage, because the rationale for all decision-making will be clear and transparent and should withstand scrutiny.

- **Being Proactive not Reactive**

Commissioners should seek to identify and minimise the risk of conflicts of interest at the earliest possible opportunity.

- **Being Balanced and Proportionate**

Rules should be clear and robust but not overly prescriptive or restrictive. They should ensure that decision-making is transparent and fair but not being over constraining complex or cumbersome.

- **Being Transparent**

Documenting clearly the approach and decisions taken at every stage in the commissioning cycle so that a clear audit trail is evident.

- **Creating a Supportive Environment**

Creating an environment and culture where individuals feel supported and confident in declaring relevant information and raising any concerns.

## **7. Maintaining a Register of Interests**

The CCG has to maintain one or more registers of interest and one or more registers of gifts and hospitality. Register(s) of interest will be maintained for:

**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;
- volunteers; and
- 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 guidance, 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; and
- 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 (each Practice)**

This includes each provider of primary medical services which is a member of the CCG under Section 140 (1) of the 2006 Act. Declarations should be made by the following groups:

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

All interests declared must be promptly transferred to the relevant CCG register(s) by the Corporate Affairs Manager who has designated responsibility for maintaining registers of interest.

An interest should remain on the public register for a minimum of six months after the interest has expired. In addition, the CCG must retain a private record of historic interests for a minimum of 6 years after the date on which it expired. The CCG's published register of interests should state that historic interests are retained by the CCG for the specified timeframe with details of whom to contact to submit a request for this information.

All of the above identified will be required to complete a Declaration of Interests Form upon appointment or change to their position. Where there are no interests to declare, a nil return is formally required. Any subsequent interests shall be declared as soon as the individual becomes aware of it and in any event not later than 28 days after becoming aware. The Declaration of Interests Form is attached at **Appendix 4**.

Whenever an interest is declared it will be reported to the CCG's Corporate Affairs Manager and the Register will be updated. When entering an interest on the Register the CCG should ensure that it includes sufficient information about the nature of the interest and the details of those holding the interest to inform scrutiny and oversight.

As part of the reporting requirements, the Corporate Affairs Manager will notify the CCG's Conflicts of Interest Guardian of any interest which may lead to a conflict with the interests of the CCG and the public for whom they commission services. The Conflicts of Interest Guardian, in conjunction with the Accountable Officer, will be responsible for reviewing the submission and for taking the appropriate action(s) as per the requirements of this policy. Any decision or action taken will be required to be reported to the Audit Committee.

The Register of Interests will be formally updated on at least a six monthly basis to ensure that it is accurate and up to date. This will be co-ordinated by the CCG's Corporate Affairs Manager and reported in line with **Appendix 5**. The Register will be updated whenever a new or revised interest is declared.

Declarations of interest made by the CCG Governing Body members will be published within the CCG's Annual Report. The Register will be part of the Annual Report, Annual Governance Statement and require formal sign off and assurance by the CCG's auditors and NHS England.

The Register of Interests will be reported to the Audit Committee annually.

The Register of Interests will be publicly available on the CCG's website and available upon request for inspection at the CCG.

## **8. Declaration of Interests Reporting and Decision Making**

### **Statutory Requirements**

CCGs must make arrangements for managing conflicts of interest, and potential conflicts of interest, in such a way as to ensure that they do not and do not appear to, affect the integrity of the organisation's decision-making.

The CCG has reviewed its governance structures and policies for managing and dealing with conflicts of interest to ensure that they reflect the guidance and are appropriate and robust. This includes consideration of the following:

- the make-up of their Governing Body and Committee structures and processes for decision-making;
- whether there are sufficient management and internal controls to detect breaches of the CCG's Conflicts of Interest Policy, including appropriate external oversight and adequate provision for whistleblowing;
- how non-compliance with policies and procedures relating to conflicts of interest will be managed (including how this will be addressed when it relates to contracts already entered into); and
- identifying and implementing training or other programmes to assist with compliance, including participation in the training offered and mandated by NHS England.

### **Managing Conflicts of Interest at Meetings**

The Chair 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.

In the event that the Chair of a meeting has a conflict of interest, the Deputy Chair is responsible for deciding the appropriate course of action in order to manage the conflict of interest. If the Deputy Chair is also conflicted then the remaining non conflicted voting members of the meeting should agree between themselves how to manage the conflict(s). In making such decisions, the Chair (or Deputy Chair or remaining non conflicted members as above) may wish to consult with the Conflicts of Interest Guardian or another member of the Governing Body.

It is good practice for the Chair, with support of the CCG's Corporate Affairs Manager (and if required, the Conflicts of Interest Guardian) to proactively consider ahead of meetings what conflicts are likely to arise and how they should be managed, including taking steps to ensure that supporting papers for particular agenda items of private sessions/meetings are not sent to conflicted individuals in advance of the meeting where relevant.

To support Chairs in their role, they should have access to a declaration of interest checklist prior to meetings, which should include detail of any declarations of conflicts which have

already been made by members of the group. A template for the declaration of interest checklist refer to **Appendix 8**.

At the beginning of each meeting, as part of the standing item on the agenda, the Chair should ask if anyone has any conflicts of interest to declare in relation to the business to be transacted at the meeting. Each member of the group should declare any interests which are relevant to the business of the meeting whether or not those interests have previously been declared. Any new interests which are declared at a meeting must be included on the CCG's relevant register of interests to ensure it is up-to-date. 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.

It is the responsibility of each individual member of the meeting to declare any relevant interests and facts which they may have. However, should the Chair or any other Member of the meeting be aware of facts or circumstances which may give rise to a conflict of interests but which have not been declared then they should bring this to the attention of the Chair who will decide whether there is a conflict of interest and the appropriate course of action to take in order to manage the conflict of interest.

When a member of the meeting (including the Chair or nominated Deputy Chair) has a conflict of interest in relation to one or more items of business to be transacted at the meeting, the Chair (or nominated Deputy Chair or remaining non-conflicted members where relevant as described above) must decide how to manage the conflict. The appropriate course of action will depend on the particular circumstances, but could include one or more of the following:

- where the Chair has a conflict of interest, deciding that the Deputy Chair (or another non-conflicted member of the meeting if the Deputy Chair is also conflicted) should Chair all or part of the meeting;
- requiring the individual who has a conflict of interest (including the Chair or Deputy Chair if necessary) not to attend the meeting;
- ensuring that the individual concerned does not receive some or all of the supporting papers or minutes of the meeting which relate to the matter(s) which give rise to the conflict;
- requiring the individual to leave the discussion when the relevant matter(s) are being discussed and when any decisions are being taken in relation to those matter(s). In private meetings, this could include requiring the individual to leave the room and in public meetings to leave the discussion and join the audience in the public gallery;
- allowing the individual to participate in some or all of the discussion when the relevant matter(s) are being discussed but requiring them to leave the meeting when any decisions are being taken in relation to those matter(s). This may be appropriate where, for example, the conflicted individual has important relevant knowledge and experience of the matter(s) under discussion, which it would be of benefit for the meeting to hear, but this will depend on the nature and extent of the interest which has been declared;
- noting the interest and ensuring that all attendees are aware of the nature and extent of the interest, but allowing the individual to remain and participate in both the discussion and in any decisions. This is only likely to be the appropriate course of action where it is decided that the interest which has been declared is either immaterial or not relevant to the matter(s) under discussion.

In support of the declarations indicated, all relevant members and staff must be clear and

specific when declaring interests. They should state the agenda item the potential conflict of interest relates to and the nature of that conflict. As indicated the Chair (or nominated Deputy Chair) will then make the decision on the individual member's ongoing participation, and/or decision-making involvement on a case-by-case basis. The decision and agreed action(s) will be accurately recorded in the minutes of the meeting and published in the registers. The Chair (or nominated Deputy Chair) of the meeting may insist that a member leaves the room if they have a significant interest or a direct financial interest in a matter under discussion or join in the discussion but not participate in the decision making itself (but not have a vote). Minutes of the meeting shall detail all declarations made and actions taken by the CCG to address the declaration. This will specifically record who has the interest, the nature of the interest, the item on the agenda, how the conflict was managed and evidence that the conflict was managed as intended. Minutes will also formally record members retiring from and returning to meetings. **Appendix 9** provides an example of good practice in such minute keeping.

If there is any doubt as to whether an interest should be declared, a declaration should be made and/or advice sought from the Conflicts of Interest Guardian in conjunction with the Accountable Officer.

Where more than 50% of the members attending a Governing Body or Committee are prevented from taking a decision because of conflicted interests, the Chair (or nominated Deputy Chair) will determine whether the discussion can proceed or whether it should be deferred. Decisions could still be made by the remaining members of the Governing Body or Committee where the meeting remains quorate. If the meeting is not quorate, the Group's Chair, Conflicts of Interest Guardian or Accountable Officer will decide how the decision should be taken, or whether the decision will be deferred until such time that a quorum can be convened.

Procurement decisions relating to the commissioning of primary medical services will be made by the Primary Care Commissioning Committee. The membership and considerations of this Committee is outlined at Section 5.

Non-compliance – If members, employees or Governing Body members are found to have not declared interests in line with the requirements of this Policy and the CCG's Constitution they may be subject to disciplinary action. Where appropriate this will include reference to the Code of Conduct of the various professional bodies that regulate activities within the NHS. Breaches of this Policy may result in the member being removed from the office in line with the CCG's Constitution. The CCG will conduct an incident review of any cases of non-compliance and review any lessons learned.

If interests are found to have not been declared in respect of anyone seeking information in relation to procurement or participating in a procurement decision, or otherwise engaging with the CCG in relation to the potential provision of services or facilities to the CCG, this may invalidate the procurement process and lead to the cancellation of the engagement.

Public Interest Disclosure Act 1998 requirements are indicated with the following link: <http://www.legislation.gov.uk/ukpga/1998/23/contents>

## **9. Raising Concerns and Managing and Reporting Breaches**

It is the duty of every CCG employee, Governing Body member, Committee or sub-Committee member and GP Practice member to raise genuine concerns in relation to the administration of the CCG's policy on conflicts of interest management, and to report these concerns. These individuals must not ignore their suspicions or investigate themselves but rather speak to the Corporate Affairs Manager or Conflicts of Interest Guardian.

Any non-compliance with this policy must be reported to the Corporate Affairs Manager or Conflicts of Interest Guardian. This can be done in any manner, written, verbal or otherwise and in any way which the reporting individual feels appropriate. Such reports may also be anonymous. In all cases when a breach is reported, it shall be treated on a strictly confidential basis.

Anyone who wishes to report a suspected breach, who is not an employee or worker of the CCG should also ensure that they comply with their own organisation's whistleblowing policy.

The Corporate Affairs Manager, in conjunction with the Conflicts of Interest Guardian will arrange for an investigation of the breach, the outcome of which will be reported to the Audit Committee.

The Corporate Affairs Manager or any other senior officer identified by the Conflicts of Interest Guardian, will undertake an initial investigation of the breach and establish:

- if a breach has actually occurred;
- the nature of that breach;
- the impact of the breach;
- the arrangements in place at that time that could have prevented a breach;
- the learning as a consequence;
- what remedial action is required;
- what other policies may need to be engaged to address the breach (e.g. but not limited to Human Resources, Whistleblowing).

The findings will be reported to the Conflicts of Interest Guardian who will then submit the findings to the Audit Committee. The Audit Committee has responsibility for determining the most appropriate course of action. Breaches will then be reported to the Governing Body.

Anonymised details of breaches will be recorded on a Register of Breaches and published on the CCG's website for the purpose of learning and development.

In the event that the substantiated breach is caused by a primary care contractor (or their employee) and the Audit Committee's view is that the breach is significant in nature as to cause reputational harm, financial detriment or compromise decision making, concerns will be notified to NHS England.

CCG staff and other relevant individuals should also be encouraged where appropriate and necessary to call the NHS Fraud and Corruption Reporting Line on freephone 0800 028 40 60. This provides an easily accessible and confidential route for the reporting of genuine suspicions of fraud within or affecting the NHS. All calls are dealt with by experienced trained staff and any caller who wishes to remain anonymous may do so. Alternatively, concerns may be reported via the online reporting form at: <https://cfa.nhs.uk/reportfraud>

In some instances breaches of the policy may also equate to criminal offences, so in addition CCG staff and other relevant individuals should also consider contacting the CCG's nominated Anti-Fraud Specialist, Kevin Howells, on 07825 732629 / 0161 743 2008 or by email to [kevin.howells@miaa.nhs.uk](mailto:kevin.howells@miaa.nhs.uk).

Providers, patients and other third parties can make a complaint to NHS Improvement in relation to a commissioner's conduct under the Procurement Patient Choice and Competition Regulations. The regulations are designed as an accessible and effective alternative to challenging decisions in the courts.

## **10. Gifts and Hospitality**

The CCG maintains reports and publishes its Gifts and Hospitality Register. The importance of this and the need for complete integrity and transparency is stressed to all concerned.

## **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 the 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. The person to whom the gifts were offered should also declare the offer to the Corporate Affairs Manager (who has the designated responsibility for maintaining the register of gifts and hospitality) so the offer which has been declined can be recorded on the register.

Gifts offered from other sources should also be declined if accepting them might give rise to perceptions of bias or favouritism and a common sense approach should be adopted as to whether or not this is the case. The only exceptions to the presumption to decline gifts relates to items of little financial value (less than £10) such as diaries, calendars, stationery or other gifts acquired from meetings, events or conferences, and items such as flowers and small tokens of appreciation from members of the public for work well done. Gifts of this nature do not need to be declared to the Corporate Affairs Manager, nor recorded on the register.

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 Corporate Affairs Manager and recorded on the register.

## **Hospitality**

Hospitality is generally defined as attendance at a social or leisure event or conference (or an occasion which could be perceived as such an event) where the attendance is being funded by a third party. NHS guidance provides that modest hospitality is an accepted courtesy of a business relationship. The recipient should not allow himself or herself to reach a position where 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 normally be significantly greater than the CCG would be likely to provide in return.

A blanket ban on accepting or providing hospitality is neither practical nor desirable from a business point of view. Individuals should be able to demonstrate how the acceptance or provision of hospitality would benefit the NHS or CCG.

Modest hospitality provided in normal and reasonable circumstances may be acceptable, although it should be on a similar scale to that which the CCG might offer in similar circumstances (e.g. tea, coffee, light refreshments at meetings). A common sense approach should be adopted to whether or not hospitality offered is modest or not. Hospitality of this nature does not need to be declared to the Corporate Affairs Manager, nor recorded on the register, unless it is offered by suppliers or contractors linked (currently or prospectively) to the CCG's business in which case all such offers (whether or not accepted) should be declared and recorded.

Offers of hospitality which go beyond modest or of a type that the CCG itself might offer, should be politely refused. A non-exhaustive list of examples includes:

- hospitality of a value of above £25; and



- in particular, offers of foreign travel and accommodation.

There may be some limited and exceptional circumstances where accepting the types of hospitality referred to in this paragraph may be contemplated. Prior approval should be sought from a senior member of the CCG before accepting such offers and the reasons for acceptance should be recorded in the CCG's register of gifts and hospitality. Hospitality of this nature should be declared to the Corporate Affairs Manager and recorded on the register, whether accepted or not. In addition to this particular caution should be exercised where hospitality is offered by suppliers or contractors linked (currently or prospectively) to the CCG's business. Offers of this nature can be accepted if they are modest and reasonable but advice should always be sought from a senior member of the CCG (e.g. the CCG Governance Lead or equivalent) as there may be particular sensitivities, for example if a contract re-tender is imminent. All offers of hospitality from actual or prospective suppliers or contractors (whether or not accepted) should be declared and recorded.

Further guidance, Gift and Hospitality Declaration Forms are provided at **Appendix 6 and 7** of this Policy. All hospitality or gifts declared must be promptly transferred to this register, which the CCG will maintain. This should also include any gifts and hospitality declared in meetings.

## **11. Publications of Registers**

The CCG will routinely publish the following Registers in full and they will be available on the CCG's website (and additionally available on request):

- CCG Declarations of Interest (including all CCG employees, members of the Governing Body and Member Practices); and
- in exceptional circumstances, where gifts and hospitality declarations and procurement decisions.

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 request that the information is not published. Such requests must be made in writing. Decisions not to publish information 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).

All persons who are required to make a declaration of interest(s) or a declaration of gifts or hospitality will be made aware that the register(s) will be published in advance of publication. This should be done by the provision of a fair processing notice that details the identity of the data controller, the purposes for which the registers are held and published, and contact details for the Data Protection Officer. This information should be provided to individuals identified in the registers because they are in a relationship with the person making the declaration.

The Register of Interests and the Gifts and Hospitality Register will be published as part of the CCG's Annual Report and Annual Governance Statement.

## **12. Commercial Sponsorship Yes via Chief Finance Officer through Corporate Affairs Manager**

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. All such offers of sponsorship should be considered in accordance with the CCG's Policy on Sponsorship and Joint Working with the Pharmaceutical Industry and other Commercial Organisation. Whether sponsorship is accepted or declined it must be declared so that it can be included on the CCG's Register of Interests.

Notwithstanding the above, acceptance of commercial sponsorship should not in any way compromise commissioning decisions of the CCG or be dependent on the purchase or supply of goods or services. Sponsors should not have any influence over the content of an event, meeting, seminar, publication or training event. The CCG should not endorse individual companies or their products. It should be made clear that the fact of sponsorship does not mean that the CCG endorses a company's products or services. During dealings with sponsors there must be no breach of patient or individual confidentiality or data protection legislation. Furthermore, no information should be supplied to a company for their commercial gain unless there is a clear benefit to the NHS. As a general rule, information which is not in the public domain should not normally be supplied.

As a general rule, sponsorship arrangements involving the CCG will be at a corporate, rather than individual level. 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.

All CCG staff should seek prior approval from the Chief Finance Officer/Director of Governance, through the Corporate Affairs Manager before agreeing or accepting any commercial sponsorship. Before entering into any sponsorship agreement, reference should be made to the Department of Health's Policy 'Commercial Sponsorship – Ethical Standards for the NHS'.

### **13. Managing Conflicts of Interest throughout the Commissioning Cycle**

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.

#### **Designing Service Requirements**

The way in which services are designed can either increase or decrease the extent of perceived or actual conflicts of interest. The CCG must ensure that particular attention is given to public and patient involvement in service development. Public involvement supports transparent and credible commissioning decisions. It should happen at every stage of the commissioning cycle from needs assessment, planning and prioritisation to service design, procurement and monitoring. The CCG has a legal duty under the Act to properly involve patients and the public in its respective commissioning processes and decisions.

#### **Provider Engagement**

The CCG will 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.

In line with the principles and business conduct standards outlined in Section 6 of this Policy, the CCG will seek, as far as possible to specify the outcomes that it wishes to see delivered through a new service, rather than the process by which these outcomes are to be achieved. As well as supporting innovation, this will help prevent bias towards particular providers in the specification of services. However, the CCG also needs to ensure careful consideration is given to the appropriate degree of financial risk transfer in any new contractual model. Specifications should be clear and transparent, reflecting the depth of engagement, and set out the basis on which any contract will be awarded.

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.

As the service design develops, it is good practice to engage with a range of providers on an on-going basis to seek comments on the proposed design e.g., via the CCG's website and/or via workshops with interested parties (ensuring a record is kept of all interaction). NHS Improvement has issued guidance on the use of provider boards in service design.

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/284832/ManchesterCaseClosure.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/284832/ManchesterCaseClosure.pdf))

As the service design develops, it is good practice to engage with a range of providers on an on-going basis to seek comments on the proposed design e.g., via the commissioners website and/or via workshops with interested parties (ensuring a record is kept of all interaction). NHS Improvement has issued guidance on the use of provider boards in service design.

Engagement will help to shape the requirement to meet patient need, but it is important not to gear the requirement in favour of any particular provider(s). If appropriate, the advice of an independent clinical adviser on the design of the service should be secured.

## **14. Procurement Procedures**

### **Procurement and Awarding Grants**

The CCG will need to be able to recognise and manage any conflicts or potential conflicts of interest that may arise in relation to the procurement of any services or the administration of grants. 'Procurement' relates to any purchase of goods, services or works and the term 'procurement decision' should be understood in a wide sense to ensure transparency of decision making on spending public funds. The decision to use a single tender action, for instance, is a procurement decision and if it results in the CCG entering into a new contract, extending an existing contract, or materially altering the terms of an existing contract, then it is a decision that should be recorded.

The CCG must comply with two different regimes of procurement law and regulation when commissioning healthcare services: the NHS procurement regime and the European procurement regime:

- the NHS procurement regime – the NHS (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013: made under Section 75 of the 2012 Act; apply only to NHS England and CCGs; enforced by NHS Improvement; and
- the European procurement regime – Public Contracts Regulations 2015 (PCR 2015): incorporate the European Public Contracts Directive into national law; apply to all public

contracts over the threshold value enforced through the Courts. The general principles arising under the Treaty on the Functioning of the European Union of equal treatment, transparency, mutual recognition, non-discrimination and proportionality may apply even to public contracts healthcare services falling below the threshold value if there is likely to be interest from providers in other member states.

Whilst the two regimes overlap in terms of some of their requirements, they are not the same therefore compliance with one regime does not automatically mean compliance with the other.

The National Health Service (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013 state:

*CCGs must not award a contract for the provision of NHS health care services where conflicts or potential conflicts, between the interests involved in commissioning such services and the interests involved in providing them affect, or appear to affect, the integrity of the award of that contract, and*

*CCGs must keep a record of how it managed any such conflict in relation to NHS commissioning contracts it has entered into.*

The Procurement, Patient Choice and Competition Regulations place requirements on the CCG to ensure that it adheres to good practice in relation to procurement, run a fair, transparent process that does not discriminate against any provider, do not engage in anti-competitive behaviour that is against the interest of patients, and protect the right of patients to make choices about their healthcare. Furthermore the regulation places the onus of responsibility on the CCG to secure high quality, efficient NHS healthcare services that meet the needs of the people who use those services. The regulation is focussed on ensuring a fair and open selection process for providers.

An obvious area in which conflicts could arise is where the CCG commissions (or continues to commission by contract extension) healthcare services, including GP services, in which a member of the CCG has a financial or other interest. This may most often arise in the context of the CCG's delegated commissioning of primary care where GPs are current or possible providers.

Procurement templates (**Appendix 11 and 12**) set out factors that the CCG should address when drawing up their plans to commission GP services.

Where a member, employee and person working for and or on behalf of the CCG has the responsibility to lead on commissioning or projects which may result in procurement, this person will be ineligible to apply as a potential provider. Clinicians, and other relevant partners may be involved in supporting commissioning and projects but must declare their interest if they may be a potential provider and will have no involvement in the procurement phase.

All members and employees who are in contact with suppliers and contractors (in particular those who are authorised to sign purchase orders or place contracts for goods or services) must ensure that they are familiar with the CCG's Standing Orders, Prime Financial Policies, Standing Financial Instructions and the CCG Procurement policies and procedures.

The CCG is required to make the evidence of their management of conflicts publicly available and the relevant information from the procurement template will be used to complete the register of procurement decisions. Complete transparency around procurement will provide:

- evidence that the CCG is seeking and encouraging scrutiny of its decision-making process;
- a record of the public involvement throughout the commissioning of the service;
- a record of how the proposed service meets local needs and priorities for partners such as the Health and Wellbeing Boards, local Healthwatch and local communities;
- evidence to the Audit Committee and internal and external auditors that a robust process has been followed in deciding to commission the service in selecting the appropriate procurement route and in addressing potential conflicts.

External services such as Commissioning Support Units (CSUs) play an important role in helping the CCG decide the most appropriate procurement route, undertake procurements and manage contracts in ways that manage conflicts of interest and preserve the integrity of decision-making. When using the CSU, the CCG must be assured that the CSU business processes are robust and enable the CCG to meet its duties in relation to procurement (including those relating to the management of conflicts of interest). This would require the CSU to declare any conflicts of interest it may have in relation to the work commissioned by the CCG.

The CCG cannot however, lawfully delegate commissioning decisions to an external provider of commissioning support. Although the CSU will play a key role in helping to develop specifications, preparing tender documentation, inviting expressions of interest and inviting tenders, the CCG itself will need to:

- determine and sign off the specification and evaluation criteria;
- decide and sign off decisions on which providers to invite to tender; and
- make final decisions on the selection of the provider.

### **Register of Procurement Decisions**

The CCG will maintain a register of procurement decisions taken, either for the procurement of a new service or any extension or material variation of a current contract. This must include:

- the details of the decision;
- who was involved in making the decision (including the name of the CCG clinical lead, the CCG contract manager, the name of the decision making Committee and the name of any other individuals with decision-making responsibility);
- a summary of any conflicts of interest in relation to the decision and how this was managed by the CCG (being mindful in relation to retaining the anonymity of bidders); and
- the award decision taken.

The register of procurement decisions will be updated whenever a procurement decision is taken. A draft register is included at **Appendix 12**. The Procurement, Patient Choice and Competition Regulations 9(1) place a requirement on commissioners to maintain and publish on their website a record of each contract it awards. The register of procurement decisions will be made publicly available and easily accessible to patients and the public by:

- ensuring that the register is available in a prominent place on the CCG's website; and
- making the register available upon request for inspection at the CCG's office.

### **Declarations of Interest for Bidders/Contractors**

As part of a procurement process the CCG will comply with good practice in asking bidders to declare any conflicts of interest. This allows the CCG to ensure that it complies with the

principles of equal treatment and transparency. When a bidder declares a conflict the CCG must decide how best to deal with it to ensure that no bidder is treated differently to any other. A declaration of interests form for bidders/contractors is contained within this Policy.

It will not usually be appropriate to declare such a conflict on the register of procurement decisions, as it may compromise the anonymity of bidders during the procurement process. The CCG should retain an audit trail of how the conflict or perceived conflict was dealt with to allow the CCG to provide information at a later date if required. The CCG is required under regulation 84 of the Public Contract Regulations 2015 to make and retain records of contract award decisions and key decisions that are made during the procurement process (there is no obligation to publish them). Such records must include 'communications with economic operators and internal deliberations' which should include decisions made in relation to actual or perceived conflicts of interest declared by bidders. These records must be retained for a period of at least three years from the date of award of the contract.

### **Contract Monitoring**

The management of conflicts of interest applies to all aspects of the commissioning cycle, including contract management.

Any contract monitoring meeting of the CCG needs to consider conflicts of interest as part of the process, e.g. 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.

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.

The CCG members and staff should be mindful of any potential conflicts of interest when they disseminate any contract or performance information/reports on providers, and manage the risks appropriately.

### **Outside Employment**

Individuals working with the CCG (depending on the detail of their contract regarding outside employment and private practice) are required to inform the CCG if they are engaged, or wish to engage, in outside employment in addition to their work with the CCG. The purpose of this is to ensure that the CCG is aware of any potential conflict of interest with their employment with the CCG. Further details, arrangements and requirements are set out in Section 4.

### **Favouritism in Awarding Contracts**

Fair and open competition between prospective contractors or suppliers for CCG contracts is a requirement of the CCG's Standing Financial Instructions, Standing Orders and the European Community Directives on purchasing. Employees involved in placing or awarding contracts must not unfairly advantage one contractor or competitor over another or show any favoritism in awarding contracts.

### **Reward for Initiatives**

This complex area relates to copyright, patents and new inventions. Legal advice on Intellectual Property should be sought and contractual arrangements drawn up with the CCG

as to how the rewards or benefits (such as royalties) in respect of this work may be allocated e.g. collaborative research projects, before any work is undertaken.

### **Commercial in Confidence**

Employees and members should be careful of using, or making public, internal information of a 'commercial in confidence' nature, particularly if disclosure would prejudice the principle of fair competition.

### **Personal Conduct**

The lending or borrowing of money between staff should be avoided.

It is a particularly serious breach of discipline for any individual to use their position to place pressure on someone (e.g. in a lower pay band, a business contact, or a member of the public) to loan them money.

No member or employee may bet or gamble when on duty or on CCG premises, with the exception of small lottery syndicates or sweepstakes related to national events amongst immediate colleagues such as the World Cup or Grand National. These shall not be regarded as CCG business but the choice of employees.

Any employee, or member, who becomes bankrupt or insolvent, must inform their Manager as soon as possible. Individuals who become bankrupt or insolvent cannot be employed in posts that include duties which might permit the misappropriation of public funds or involve the handling of money.

An employee or member who is arrested and refused bail or convicted of any criminal offence must inform their Manager who will initiate appropriate actions. All members of the CCG must make themselves aware of the Anti-Fraud, Bribery and Corruption Policy. CCG Managers must ensure that they adhere to the NHS Management Code of Conduct at all times.

### **Loyalty Interests**

This relates to the existence of interests which an individual has to two or more organisations or bodies which might give rise to a conflict of interest with regard to their primary duty to the NHS.

## **15. Whistleblowing**

The CCG encourages all individuals to raise any concerns that they may have about the conduct of others in the CCG or the way in which it is managed.

This Policy is to be read in conjunction with the latest CCG Whistleblowing Policy which demonstrates the CCG's commitment to the principle of public accountability, the freedom to have confidence to speak up, particularly in Primary Care, and the ability to raise issues and concerns which will be investigated.

The CCG will investigate genuine and reasonable concerns expressed by employees relating to malpractice within the CCG, and will ensure that employees are not discriminated against or suffer a detriment as a result of making such a disclosure, as laid down by the Public Interest Disclosure Act 1998.

## **16. Anti-Fraud, Bribery and Corruption**

This Policy is to be read in conjunction with the latest CCG Anti-Fraud, Bribery and Corruption Policy which demonstrates the CCG's commitment to addressing the risks of such actions and provides the opportunity for staff to report their issues and concerns, and any suspicions of

fraud, bribery or corruption with the expectation of them being investigated and reported.

## **17. Dissemination and Implementation**

**Dissemination:** All employees and other stakeholders who will be affected by the Policy are proactively informed and made aware of any changes in practice that will result. The Policy will be posted on the CCG's website. The best practice pro-forma attached to this policy are expected to be utilised in the appropriate and necessary situations and are made available for staff and members consideration and use.

**Implementation:** Awareness will be raised regarding the changes to or introduction of this Policy via the Governing Body, Committee structure and team meetings. Wide communication and training opportunity (formal, on-line and 'face to face' as necessary) across the CCG (to all parties concerned) will also be provided. The Corporate Affairs Manager will provide ongoing advice and support as required.

## **18. Monitoring and Compliance of Policy**

The Chief Finance Officer/Director of Governance is responsible for monitoring compliance with the Conflicts of Interest Policy. This will be completed on a six monthly basis and reported to the Audit Committee/Governing Body. The policy will be reviewed and refreshed as required at least on an annual basis.

The CCG's Constitution remains under review for appropriate and required changes, reflecting local services and national guidance.

Completion of declarations and registers will be monitored for compliance:

## **19. Assurance and Audit Requirements**

In line with best practice the CCG will seek to assure itself, together with NHS England, that it is complying with all of its duties, responsibilities and formal requirements under this policy. It will utilise and comply with national assurance procedures and additionally seek its own assurance locally from its Internal Auditors.

The CCG will ensure the following assurance work and duties are undertaken to meet the above overall responsibilities:

- Registers maintained by the CCG, e.g. Declarations of Interest and Gifts and Hospitality for example, will be made available for review and 'sign off' by the CCG's External Auditors as part of the Annual Governance duties. This will include appropriate publication of this information.
- The requirements of this, and other related Policies, and any findings/recommendations will be reflected within the CCG's Annual Report/Annual Governance Statement. This will also be subject to review by the CCG's Auditors.
- An Internal Audit review of the CCG's Policy to meeting Conflicts of Interest requirements and its management of them and of any identified breaches, will be undertaken at least once a year. This will inform the Director of Internal Audit Opinion, year end and governance reports and assurances. This work will be routinely part of the CCG's Audit Plan. The review is expected to be carried out in Q3/Q4 each financial year. The CCG's management of any breaches will be a key component of this review.
- The CCG will be required to confirm the following:
  - that the CCG has a clear policy for the management of conflicts of interest in line with the statutory guidance and a robust process for the management of breaches;



- that the CCG has a minimum of three Lay Members;
- that the CCG Audit Chair has taken on the role of the Conflicts of Interest Guardian;
- a level of compliance with the mandated conflicts of interest on-line training as at 31 January annually.

## 20. References and Bibliography

*Managing Conflicts of Interest (NHS Commissioning Board/NHS England March 2013)*

*The NHS (Procurement, Patient Choice and Competition) Regulations 2013*

*Managing Conflicts of Interest: Statutory Guidance for CCGs issued by NHS England (18 December 2014)*

*Managing Conflicts of Interest: Revised Statutory Guidance for CCG's (June 2016) Co-Commissioning Conflicts of Interest Audit: Summary Report (1 April 2016)*

*The National Health Service (2006) Act as inserted by Section 25 of the Health and Social Care Act (2012)*

<http://www.legislation.gov.uk/ukpga/2012/7/section/25/enacted>

*The Prevention of Corruption Act 1906 and 1916*

<http://www.legislation.gov.uk/ukpga/Edw7/6/34>

<http://www.legislation.gov.uk/ukpga/Geo5/6-7/64>

*The Bribery Act 2010*

<http://www.legislation.gov.uk/ukpga/2010/23/contents>

*Department of Health (HSG 93/5) - Standards of Business Conduct for NHS Staff*

[http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/prodconsum\\_dh/groups/dh\\_digitalassets/@dh/@en/documents/digitalasset/dh4065045.pdf](http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/prodconsum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh4065045.pdf)

*NHS Networks (Gateway Ref: 8926) (2008) - Best Practice Guidance on Joint Working between the NHS and Pharmaceutical Industry and Other Relevant Commercial Organisations*

[http://www.networks.nhs.uk/nhs-networks/joint-working-nhs-pharmaceutical/documents/dh\\_082569.pdf](http://www.networks.nhs.uk/nhs-networks/joint-working-nhs-pharmaceutical/documents/dh_082569.pdf)

*The Prescription Medicines Code of Practice Authority (2012)*

*The Code of Practice for the Pharmaceutical Industry Second 2012 Edition*

<http://www.abpi.org.uk/our-work/library/guidelines/Pages/code-2012.aspx>

*The Department of Health (1994 No. 1932 Whole Instrument) - Medicines (Advertising) Regulations 1994, Regulation 21* <http://www.legislation.gov.uk/uksi/1994/1932/made>

*The Department of Health NHS Appointment Commission (Second revision July 2004) - NHS Code and Accountability for Boards*

[http://www.nhsbsa.nhs.uk/Documents/Sect1-D-Codes\\_of\\_Conduct\\_Acc.pdf](http://www.nhsbsa.nhs.uk/Documents/Sect1-D-Codes_of_Conduct_Acc.pdf)

*The Equality Act 2010*

## **APPENDIX 1: THE SEVEN PRINCIPLES OF PUBLIC LIFE (NOLAN PRICIPLES)**

The 'Seven Principles of Public Life' (also known as the 'Nolan Principles') were defined by the Committee for Standards in Public Life and are:

### **1. 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.

### **2. 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.

### **3. 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.

### **4. 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.

### **5. 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 it.

### **6. 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.

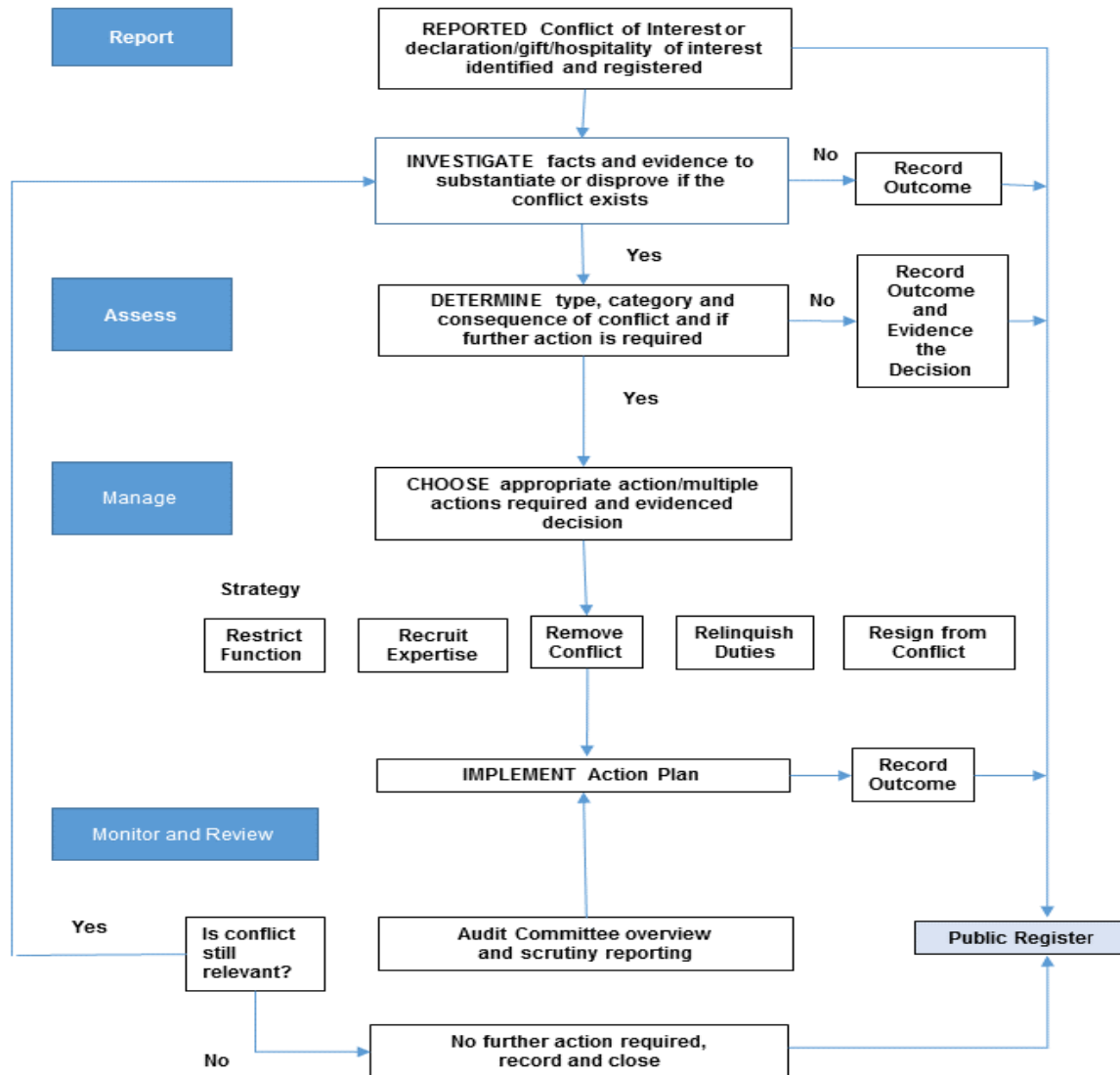
### **7. Leadership**

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

Further information can be obtained via *The Committee on Standards in Public Life* website which can be accessed using the following link:

<http://www.public-standards.org.uk/>

## APPENDIX 2: CONFLICT OF INTEREST DECISION MAKING AND MANAGEMENT FLOWCHART



## **APPENDIX 3: POTENTIAL CONFLICT OF INTEREST SCENARIOS**

### **Financial Interests**

#### **Examples include:**

- An individual has a financial stake in a provider to which the CCG is considering awarding a contract.
- An individual has a financial stake in a provider which delivers services for the CCG and receives payment upon the achievement of a number of contractual indicators.
- An individual leases premises to a pharmaceutical company from which the CCG buys or considers buying drugs.
- A GP Governing Body member works as a locum for an out-of-hours service which the CCG commissions.

### **Non-financial Professional Interests**

#### **Examples include**

- A member of a CCG has an interest in the award of a contract for services because of the interest of a particular patient at that members practice.
- A member of the CCG has an interest in the development of a particular service due to their medical research interests.
- An individual uses their position with the CCG to promote themselves and undertakes unpaid work for an organisation that they may have an interest in being employed by in the future or which would improve their reputation in a particular field of work.
- An individual, responsible for developing the CCG's Primary Care Strategy, is an advocate for a particular group of patients.

### **Non-financial Personal Interest**

#### **Examples include**

- An individual is a trustee of a voluntary organisation seeking to do business with the NHS.
- An individual is a patient of a GP surgery where new services are being considered that could benefit their family members.

### **Indirect Interests**

#### **Examples include**

- A relative has a financial interest in a local care home where the CCG is piloting a more holistic care package.
- A close acquaintance is a shareholder in a drugs company, whose drugs are being reviewed as part of a medicines management review.
- An individual's partner is a local Councilor on the Health and Wellbeing Board.

## APPENDIX 4: DECLARATIONS OF CONFLICTS OF INTEREST 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>				
Type of Interest*	Description of Interest (including for indirect Interests, details of the relationship with the person who has the interest)  <i>Note: Sufficient detail of the interest must be provided to enable a lay person to understand the implications and why the interest needs to be registered</i>	Date Interest Relates		Actions to be taken to mitigate risk (to be agreed with line manager or a Senior CCG Manager)
		From	To	
Financial Interests				
Non-financial Professional Interests				
Non-financial Personal Interests				
Indirect Interests				
<b>*Refer to supplementary information for detail</b>				

*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 reason(s):

Signed:	Date:
Signed:	Date:
Line Manager or Senior CCG Manager	Position:

Please return to **Corporate Affairs Manager**

## SUPPLEMENTARY DETAIL: 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 (refer to paragraphs 56 and 57 of NHS England Revised Statutory Guidance).</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.</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> </ul>

Type of Interest	Description
	<ul style="list-style-type: none"> <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; or</li> <li>• business partner.</li> </ul>



## APPENDIX 5: REGISTER OF CONFLICTS OF INTEREST

Name	Current Position(s) held in the CCG: 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 Interest	Non-Financial Professional Interest	Non-Financial Personal Interest			From	To	

## APPENDIX 6: DECLARATIONS OF GIFTS AND HOSPITALITY TEMPLATE

Recipient Name	Position	Date of Offer	Date of Receipt (if applicable)	Details of Gift/ Hospitality	Estimated Value	Supplier/ Offer or Name and Nature of Business	Details of Previous Offers or Acceptance by this Offer or 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 as 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 reason(s):

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Signed:	Date:
Signed:	Date:
Line Manager or Senor CCG Manager	Position:

Please return to **Corporate Affairs Manager**



## APPENDIX 8: DECLARATIONS OF INTEREST CHECKLIST (A CHAIR’S GUIDE) TEMPLATE

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
<b>In advance of the meeting</b>	<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. A <b>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. Chair to review <b>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.  <b>A template for a summary report</b> to present discussions at preceding meetings is detailed below.</li> <li>6. A <b>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>

Timing	Checklist for Chairs	Responsibility
<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,</b> the following should be <b>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><b>A template for recording interests during meetings</b> 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>Secretariat</p>

**APPENDIX 9: REPORTING CONFLICTS OF INTEREST IN FORMAL MINUTES TEMPLATE**

Meeting	Date of Meeting	Chairperson (name)	Secretariat (name)	Name of Person Declaring Interest	Agenda Item	Detail of Interest Declared	Action Taken

## APPENDIX 10: RECORDING CONFLICTS OF INTEREST IN MINUTES (EXAMPLE)

XXXX Clinical Commissioning Group

Primary Care Commissioning Committee Meeting

Date: 15 February 2016

Time: 2 pm to 4 pm

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 2.35 pm

Neil Ford	NF	Primary Care Development Director
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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></p> <p><i>None declared</i></p>	



	<p><b>Declarations of interest from today's meeting</b></p> <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>	
4	<b>Minutes of the last meeting</b> <date to be inserted> <b>and matters arising</b>	
5	<p><b>Agenda Item</b> &lt;Note the agenda item&gt;</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>	
6	<b>Any other business</b>	
7	<b>Date and time of the next meeting</b>	

## APPENDIX 11: PROCUREMENT CHECKLIST

<b>Service:</b>	
<b>Question</b>	<b>Comment/Evidence</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?	
2. How have you involved the public in the decision to commission this service?	
3. What range of health professionals have been involved in designing the proposed service?	
4. What range of potential providers have been involved in considering the proposals?	
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)?	
6. What are the proposals for monitoring the quality of the service?	
7. What systems will there be to monitor and publish data on referral patterns?	
8. Have all conflicts and potential conflicts of interests been appropriately declared and entered in registers?	
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>10. Why have you chosen this procurement route e.g., single action tender?<sup>1</sup></b>	
<b>11. What additional external involvement will there be in scrutinising the proposed decisions?</b>	
<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>	
<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>	
<b>13. How have you determined a fair price for the service?</b>	
<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>	
<b>14. How will you ensure that patients are aware of the full range of qualified providers from whom they can choose?</b>	
<b>Additional questions for proposed direct awards to GP providers</b>	
<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>	
<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>	
<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>	

<sup>1</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 NHS Improvements).

## APPENDIX 12: REGISTER OF PROCUREMENT DECISIONS AND CONTRACTS AWARDED TEMPLATE

Ref No	Contract/ Service Title	Procurement Description	Existing contract or new procurement (if existing include details)	Procurement type: CCG procurement collaborative procurement with partners	Name of CCG Clinical Lead	Name of CCG Contract Manager	Decision making process and name of decision making Committee	Summary of Conflict of Interest noted and how these were managed	Actions to mitigate conflicts of interest	Justification for actions to mitigate conflicts of interest	Contract awarded (supplier name and 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 **the Corporate Affairs Manager**

**APPENDIX 13: DECLARATION OF CONFLICT OF INTEREST FOR BIDDERS/CONTRACTORS TEMPLATE**

<b>Name of Organisation:</b>	
<b>Details of interests held:</b>	
<b>Type of Interest</b>	<b>Detail</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>	<i>(Complete for all relevant persons)</i>	
<b>Details of interests held:</b>		
<b>Type of Interest</b>	<b>Detail</b>	<b>Personal interest or that of a family member, close friend or other acquaintance?</b>
<b>Provision of services or other work for the CCG or NHS England</b>		
<b>Provision of services or other work for any other potential bidder in respect of this project or procurement process</b>		
<b>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>		

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

Signed:

On behalf of:

Date:

Please return to the **Corporate Affairs Manager**

## APPENDIX 14: CONFLICTS OF INTEREST POLICY CHECKLIST

In accordance with the Health and Social Care Act 2012, there is a legal requirement for Clinical Commissioning Groups (CCGs) to manage the process of conflicts of interest, both actual and perceived.

The aim of the conflicts of interest policy checklist is to support CCGs to develop their conflict of interest policy.

It is recommended that the CCG makes a commitment to reviewing their conflicts of interest policy (subject to changes) annually to ensure all material is up to date. CCGs should refer to ***Managing Conflicts of Interest: Revised Statutory Guidance for CCGs*** when developing the conflicts of interest policy.

Conflicts of Interest Policy Checklist	Key Areas for Consideration
Introduction to the policy	<ul style="list-style-type: none"> <li>• <b>Introduction</b></li> <li>• Aims and objectives of the policy</li> <li>• Consider the <b>CCG's Constitution</b> and specified requirements in terms of conducting business appropriately</li> <li>• Consider the <b>legal requirements</b> in terms of managing conflicts of interest</li> <li>• Consider any other appropriate regulations</li> <li>• <b>Scope of the policy</b> &lt;whom the policy applies to&gt;</li> <li>• <b>Commitment to review</b> &lt;include frequency&gt;</li> </ul>
Definition of an interest	<ul style="list-style-type: none"> <li>• <b>Definition of an interest:</b></li> <li>• <b>Types of an interest</b>, including:               <ul style="list-style-type: none"> <li>• Financial interests;</li> <li>• Non-financial professional interests</li> <li>• Non-financial personal interests; or</li> <li>• Indirect interests 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.</li> </ul> </li> </ul> <p>Refer to paragraphs 13 to 17 of the CCG Guidance for further information</p>
Principles	<ul style="list-style-type: none"> <li>• <b>Principles of good governance</b> for consideration, include those set out in the following:               <ul style="list-style-type: none"> <li>• The <b>Seven Principles of Public Life</b> (commonly known as the Nolan Principles).</li> <li>• The <b>Good Governance Standards of Public Services</b>.</li> <li>• The <b>Seven Key Principles of the NHS Constitution</b>.</li> <li>• The <b>Equality Act 2010</b>.</li> </ul> </li> </ul>
Declaring conflicts of interest	<ul style="list-style-type: none"> <li>• Consideration should be given to the <b>statutory requirements</b>.</li> <li>• Detail the <b>types of interests to be declared</b> - as outlined</li> </ul>

Conflicts of Interest Policy Checklist	Key Areas for Consideration
	<p>in the <i>definition of an interest</i> section.</p> <ul style="list-style-type: none"> <li>• Details of <b>when a conflict of interest should be declared</b>;</li> <li>• State the <b>contact details of the nominated person</b> to whom declarations of interest should be reported to.</li> <li>• Consider <b>visual formats</b> including a <b>flowchart detailing the process</b> of declaring conflicts of interest in various settings i.e. meetings, the transfer of information onto registers of interest, etc.</li> </ul> <p><b>A declaration of interests template should be appended to the policy.</b></p>
Register(s) of conflicts of interest	<ul style="list-style-type: none"> <li>• Consideration should be given to the statutory requirements.</li> <li>• One or more registers of interest should be maintained for the following: <ul style="list-style-type: none"> <li>• all CCG employees;</li> <li>• all members of the CCG;</li> <li>• Members of the Governing Body;</li> <li>• Members of the CCG's Committees and sub-Committees;</li> <li>• any self-employed consultants or other individuals working for the CCG under a contract for services.</li> </ul> </li> <li>• Stipulate the period of time within which registers of interest have to be updated- upon receiving a declaration of interest in line with the guidance.</li> <li>• Stipulate publication arrangements for registers of interests in line with the guidance.</li> </ul> <p><b>A register of interests template should be appended to the policy.</b></p>
Declaration of gifts and hospitality	<ul style="list-style-type: none"> <li>• Consideration should be given to the statutory requirements.</li> <li>• Consideration of risks when accepting gifts and hospitality.</li> <li>• Define acceptable types of gifts and hospitality.</li> <li>• Define the process for reporting gifts and hospitality.</li> <li>• State the contact details of the nominated person to whom declarations of gifts and hospitality should be reported to.</li> </ul> <p><b>A declaration of gifts and hospitality form template should be appended to the policy.</b></p>
Maintaining a register of gifts and hospitality	<ul style="list-style-type: none"> <li>• Consideration should be given to the statutory requirements.</li> <li>• Consideration should be given to the time period for updating the registers of gifts and hospitality upon receiving a declaration of gifts and hospitality in line with the guidance.</li> <li>• Stipulate publication arrangements for registers of gifts and hospitality in line with the guidance.</li> </ul>



Conflicts of Interest Policy Checklist	Key Areas for Consideration
	<p><b>A register of gifts and hospitality template should be appended to the policy</b></p>
<p><b>Roles and responsibilities</b></p>	<ul style="list-style-type: none"> <li>• <b>Key considerations</b> when appointing Governing Body or Committee members including the following: <ul style="list-style-type: none"> <li>• <b>Whether conflicts of interest should exclude</b> individuals from appointment;</li> <li>• <b>Assessing materiality</b> of interest;</li> <li>• <b>Determining the extent</b> of the interest.</li> </ul> </li> <li>• The <b>role of CCG Lay Members</b> in managing organisational conflicts of interest, including the following: <ul style="list-style-type: none"> <li>• <b>Conflicts of Interest Guardian;</b></li> <li>• <b>Primary Care Commissioning Committee Chair.</b></li> </ul> </li> </ul>
<p><b>Governance arrangements and decision making</b></p>	<ul style="list-style-type: none"> <li>• Consider the <b>CCG's policy of secondary employment</b> and procedure for declaring details- how will this impact on appointing governing board members.</li> <li>• <b>Define the procedure</b> to be followed in Governing Body, Committee and sub-Committee meetings, including: <ul style="list-style-type: none"> <li>• <b>Declarations of interest checklist (a template should be appended to the policy).</b></li> <li>• <b>Register of interests declared to be available for the Chair</b> in advance of the meeting.</li> <li>• <b>Process for declaring interests</b> during the meeting.</li> <li>• <b>Recording minutes of the meeting</b> including interests declared.</li> </ul> </li> <li>• <b>Procedures to be followed</b> for managing conflicts of interest which arise during a Governing Body, Committee or sub-Committee meeting, including, where appropriate: <ul style="list-style-type: none"> <li>• <b>excluding the conflicted individual(s)</b> from any associated discussions and decisions;</li> <li>• <b>actions to be taken</b> if the exclusion affects the quorum of the meeting- including postponing the agenda item until a quorum can be achieved without conflict;</li> <li>• <b>clearly recording</b> the agenda item for which the interest has been declared.</li> </ul> </li> <li>• Consider <b>openness and transparency in decision making processes</b> through: <ul style="list-style-type: none"> <li>• effective record keeping in the form of clear minutes of the meeting;</li> <li>• all minutes should clearly record the context of discussions, any decisions and how any conflicts of interest were raised and managed.</li> </ul> </li> </ul> <p><b>A template for recording minutes of the meeting should be appended to the policy.</b></p>

Conflicts of Interest Policy Checklist	Key Areas for Consideration
<b>Managing conflicts of interest throughout the commissioning cycle</b>	<ul style="list-style-type: none"> <li>• Key areas for consideration include the following: <ul style="list-style-type: none"> <li>• <b>Service design</b>, this can either increase or reduce the level of perceived or actual conflicts of interest;</li> <li>• consider <b>public and patient involvement</b> and <b>provider engagement</b> in service design;</li> <li>• consider how you involve PPI in needs assessment, planning and prioritisation to service design, procurement and monitoring;</li> <li>• consider how you will <b>engage relevant providers, especially clinicians</b>, in confirming the design of service specifications ensuring an audit trail/evidence base is maintained;</li> <li>• consider how you ensure provider engagement is in accordance with the three main principles of procurement law, namely <b>equal treatment, non-discrimination and transparency</b>;</li> <li>• are <b>specifications clear and transparent</b>?</li> </ul> </li> <li>• <b>Procurement</b>, are there clear processes to recognise and manage any conflicts or potential conflicts of interest that may arise in relation to procurement <ul style="list-style-type: none"> <li>• consideration should be given to <b>statutory regulations and guidance when procuring</b> and contracting clinical services;</li> <li>• consideration should be given to how you ensure <b>transparency and scrutiny of decisions</b> i.e. keeping records of any conflicts and how these were managed;</li> <li>• maintaining <b>register of procurement decisions</b> detailing decisions taken, either for the procurement of a new service or any extension or material variation of a current contract.</li> </ul> </li> </ul> <p><b>A procurement template and register of procurement decisions should be appended to the policy.</b></p> <ul style="list-style-type: none"> <li>• Contract monitoring, consider conflicts of interest as part of the process i.e., the Chair of a contract management meeting should invite declarations of interests: <ul style="list-style-type: none"> <li>• <b>process for recording</b> any declared interests in the minutes of the meeting; and how these are managed;</li> <li>• consider <b>commercial sensitivity of information</b> i.e. which information should be disseminated.</li> </ul> </li> </ul> <p><b>A template for recording minutes of the contract meeting should be appended to the policy.</b></p>
<b>Raising concerns</b>	<ul style="list-style-type: none"> <li>• Key areas for consideration: <ul style="list-style-type: none"> <li>• <b>when should a concern</b> regarding conflicts of</li> </ul> </li> </ul>

Conflicts of Interest Policy Checklist	Key Areas for Consideration
	<p>interest be reported;</p> <ul style="list-style-type: none"> <li>• what is the <b>process for reporting</b> concerns;</li> <li>• <b>who should concerns be raised with</b>;</li> <li>• how will concerns <b>be investigated</b>;</li> <li>• <b>who is responsible</b> for making the decision;</li> <li>• how do you <b>ensure confidentiality</b>;</li> <li>• <b>reporting requirements</b>.</li> </ul>
Breach of conflicts of interest policy	<ul style="list-style-type: none"> <li>• Consider and agree a clear, <b>defined process for managing breaches of the CCG's conflicts of interest policy</b>, including: <ul style="list-style-type: none"> <li>• <b>how the breach is recorded</b>;</li> <li>• how it is <b>investigated</b>;</li> <li>• the <b>governance arrangements and reporting mechanisms</b>;</li> <li>• clear <b>links to Whistleblowing and HR Policies</b> (these policies to refer);</li> <li>• <b>communications and management of any media interest</b>;</li> <li>• when and who to notify NHS England;</li> <li>• <b>process for publishing the breach</b> on the CCG website.</li> </ul> </li> </ul>