

# CONFLICTS OF INTEREST POLICY

## *Including Gifts & Hospitality Policy*

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## CONSULTATION SCHEDULE

Name and Title of Individual	Groups consulted	Date Consulted
Chief Financial Officer		
Chief Operating Officer		
Director Governance Director of Quality	Internal	

## RATIFICATION SCHEDULE

Name of Committee approving Policy	Date
Audit Committees in common	19 <sup>th</sup> Feb 2019
Governing Bodies	26 June 2019

## VERSION CONTROL

Version	Version/Description of amendments	Date	Author/amended by
1	New policy		
2	Revised Policy for the six South Staffordshire CCGs, policy aligned to the North Staffordshire CCG policy.	January 2019	J Chapman
3			
4			

## Impact Assessments – available on request

	Stage	Complete	Comments
Equality Impact Assessment			Covered by EIA on Policy development
Quality Impact Assessment			N/A
Privacy Impact Assessment			N/A

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## **1.0 Introduction**

- 1.1 Managing potential conflicts of interest is essential for protecting the integrity of the overall NHS commissioning system and to protect the Clinical Commissioning Groups, NHS England and GP practices from any perceptions of wrongdoing.

## **2.0 Aims & objectives**

- 2.1 This policy sets out the approach for the NHS Cannock Chase Clinical Commissioning Group, NHS East Staffordshire Clinical Commissioning Group, NHS North Staffordshire Clinical Commissioning Group, NHS Stoke-on-Trent Clinical Commissioning Group (SOTCCG), NHS South East Staffordshire Clinical Commissioning Group and NHS Stafford & Surrounds Clinical Commissioning Group (referred to as the CCGs) to identify, manage and record any potential or actual Conflicts of Interest that may arise as part of the commissioning of healthcare for the residents of North Staffordshire or Stoke-on-Trent whilst providing services locally.
- 2.2 The CCGs are committed to upholding the principles of openness, transparency, fairness and integrity in its role as a commissioner. This will ensure that high standards of corporate governance and personal conduct are displayed by all staff and demonstrate that the principles of good governance as described in the Nolan principles are adhered to.
- 2.3 The CCGs recognise that a potential conflict of interest between the roles of commissioner and provider is a key risk that requires careful management whether this is an indirect conflict, pecuniary or otherwise. These issues need to be overcome to ensure that the CCGs are able to commission a range of community based services to improve quality and outcomes for patients. The provider of services may be a GP practice. The CCGs will need to demonstrate that these services:-
- Clearly meet local health needs and have been planned appropriately;
  - Go beyond the scope of the GP contract;
  - Are appropriately procured in line with legislation.
- 2.4 In accordance with the revised statutory guidance on managing conflicts of interests for CCGs issued by NHSE in June 2017, the CCGs have reviewed and revised their conflict of interest policy and have adopted a joint policy to operate across all six CCGs. The CCGs have also adopted the following model templates for:
- Declarations of interests for CCG members and employees;
  - Register of interests for CCG members and employees;
  - Declarations of gifts and hospitality;
  - Register of gifts and hospitality;
  - Template declarations of interest checklist;
  - Template for recording any interests during meetings;
  - Template to record interests during the meeting;
  - Template for recording minutes ;
  - Procurement checklist;
  - Template register of procurement decisions and contracts awarded;
  - Template declaration of conflicts of interests for bidders / contractors.
- 2.5 In addition to complying with the statutory guidance, CCGs also need to adhere to relevant guidance issued by professional bodies on conflicts of interest, including the British Medical Association (BMA)<sup>i</sup>, the Royal College of General Practitioners<sup>ii</sup> and the General Medical Council (GMC)<sup>1</sup>, and to procurement rules including The Public

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<sup>1</sup> GMC | Good medical practice (2013) [http://www.gmc-uk.org/guidance/good\\_medical\\_practice.asp](http://www.gmc-uk.org/guidance/good_medical_practice.asp) and [http://www.gmcuk.org/guidance/ethical\\_guidance/21161.asp](http://www.gmcuk.org/guidance/ethical_guidance/21161.asp)

Contract Regulations 2015<sup>2</sup> and the National Health Service (procurement, patient choice and competition) (no.2) regulations 2013<sup>3</sup>, as well as the Bribery Act 2010<sup>4</sup>

2.6 This policy also needs to be read in conjunction with each CCGs' constitution and the section *Standards of Business Conduct and Managing Conflicts of Interest*, along with the Anti-Fraud and Bribery Corruption Policy.

2.7 The aim of this policy is to:

- Avoid potential conflicts of interests;
- Manage conflicts of interests where unavoidable;
- Set out the arrangements for managing potential financial conflicts of interest;
- Ensure equity;
- Support openness and transparency;
- Adopt appropriate and proportionate safeguards;
- Build on existing guidance on procurement and competition;
- Ensure that assurance can be given to NHS England when services are commissioned from GP practices that the appropriate processes have been put in place to ensure fairness.

### **3.0 Scope of the Policy**

3.1 The policy applies to:

#### **All CCG employees, including**

- All full and part time staff;
- Any staff on sessional or short term contracts; i.e. Locality Leads, Clinical Associates;
- Any students and trainees (including apprentices);
- Agency staff; and
- Seconded staff.

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

#### **Members of the Governing Body:**

All members of the CCGs committees, sub-committees / sub-groups, including:

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

Where the CCGs are 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 each CCG (i.e., each practice)**

This includes each provider of primary medical services which is a member of each 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);
- Any individual directly involved with the business / decision-making of each CCG.

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<sup>2</sup> The Public Contract Regulations 2015 <http://www.legislation.gov.uk/uksi/2015/102/regulation/57/made>

<sup>3</sup> The NHS (Procurement, Patient Choice and Competition) (No.2) Regulations 2013 <http://www.legislation.gov.uk/uksi/2013/500/contents/made>

<sup>4</sup> The Bribery Act 2010 <http://www.legislation.gov.uk/ukpga/2010/23/contents>

GPs and other staff within the CCGs' member practices are not required to declare offers/receipts of gifts and hospitality to the CCG which are unconnected with their role or involvement with the CCGs, and this statutory guidance does not apply to such situations. However GP staff will need to adhere to other relevant guidance issued by professional bodies.

#### 4.0 Definition of an interest

4.1 NHSE guidance defines a conflict of interest as “a set of circumstances by which a reasonable person would consider that an individual's ability to apply judgement or act, in the context of delivering, commissioning, or assuring taxpayer funded health and care services is, or could be, impaired or influenced by another interest being hold”

A conflict of interest may be :

Actual	Potential
There is a material conflict between one or more interests	There is the possibility of a material conflict between one or more interests in the future

4.2 Staff may hold interest for which they cannot see potential conflict. However, caution is always advisable because others may see it differently. It will be important to exercise judgement and to declare such interests where there is otherwise a risk of imputation of improper conduct. The perception of an interest can be as damaging as an actual conflict of interest.

4.3 Conflicts of interest can arise in many situations, environments and forms of commissioning, with an increased risk in primary care commissioning, out of hours commissioning and involvement with integrated care organisations, as clinical commissioners may here find themselves in a position of being at once commissioner and provider of services. Conflicts of interest can arise throughout the whole commissioning cycle from needs assessment, to procurement exercises, to contract monitoring.

4.4 Interests fall into the four categories outlined below. A benefit may arise from the making of a gain or the avoidance of a loss:

i. **Financial interests:** This is where an individual may get direct financial benefits from the consequences of a commissioning decision. This could, for example, include being:

- A director, including a non-executive director, or senior employee in a private company or public limited company or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations. This includes involvement with a potential provider of a new care model;
- A shareholder (or similar ownership interests), a partner or owner of a private or not-for-profit company, business, partnership or consultancy which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations;
- A management consultant for a provider; or
- A provider of clinical private practice.

This could also include an individual being:

- In employment outside of the CCG (SEE 79-81 secondary employment (13.1-13.2))
  - In receipt of secondary income;
  - 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).
- ii. **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.;
  - An active member of a particular specialist professional body (although routine GP membership of the Royal College of General Practitioners (RCGP), British Medical Association (BMA) or a medical defence organisation would not usually by itself amount to an interest which needed to be declared);
  - An advisor for the Care Quality Commission (CQC) or the National Institute for Health and Care Excellence (NICE);
  - Engaged in a research role;
  - The development and holding of patents and other intellectual property rights which allow staff to protect something that they create, preventing unauthorised use of products or the copying of protected ideas; or.
  - GPs and practice managers, who are members of the Governing Body or committees of the CCGs, should declare details of their roles and responsibilities held within their GP practices.
- iii. **Non-financial personal interests:** This is where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit. This could include, for example, where the individual is:
- A voluntary sector champion for a provider;
  - A volunteer for a provider;
  - A member of a voluntary sector board or has any other position of authority in or connection with a voluntary sector organisation;

- Suffering from a particular condition requiring individually funded treatment;
  - A member of a lobby or pressure group with an interest in health and care.
- iv. **Indirect interests:** This is where an individual has a close association with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest in a commissioning decision (as those categories are described above) for example, a:
- Spouse / partner
  - Close family member or relative e.g., parent, grandparent, child, grandchild or sibling;
  - Close friend or associate;
  - Business partner.

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

Whether an interest held by another person gives rise to a conflict of interests will depend upon the nature of the relationship between that person and the individual, and the role of the individual within the CCGs.

- 4.5 The above categories and examples are not exhaustive and a common sense approach will be adopted. The CCGs will exercise discretion on a case by case basis, including in relation to new model care arrangements, having regard to the principles set out in the next section of this policy, in deciding whether any other role, relationship or interest which would impair or otherwise influence the individual’s judgement or actions in their role within the CCGs. If so, this should be declared and appropriately managed.

## 5.0 Principles

- 5.1 This section sets a series of principles for those who are serving as members of CCG Governing Bodies, CCG committees or take decisions where they are acting on behalf of the public or spending public money.
- 5.2 All staff should observe the principles of good governance in the way they do business. These include:

- The Nolan Principles<sup>5</sup> (as set out in 6.3 below)
- The Good Governance Standards for Public Services (2004), Office for Public Management (OPM) and Chartered Institute of Public Finance and Accountancy (CIPFA)<sup>6</sup>
- The seven key principles of the NHS Constitution<sup>7</sup>

<sup>5</sup> The 7 principles of public life <https://www.gov.uk/government/publications/the-7-principles-of-public-life>

<sup>6</sup> The Good Governance Standards for Public Services , 2004, OPM and CIPFA <http://www.opm.co.uk/wpcontent/uploads/2014/01/Good-Governance-Standard-for-Public-Services.pdf>

<sup>7</sup>The seven key principles of the NHS Constitution <http://www.nhs.uk/NHSEngland/thenhs/about/Pages/nhscoreprinciples.aspx>

- The Equality Act 2010<sup>8</sup>
- The UK Corporate Governance Code<sup>9</sup>
- Standards for members of NHS Boards and CCG Governing Bodies in England<sup>10</sup>

5.3 All individuals with a position in public life should adhere to the 7 principles of public life, which are:

- **Selflessness** – Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends;
- **Integrity** – Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties;
- **Objectivity** – In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit;
- **Accountability** – Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office;
- **Openness** – Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands;
- **Honesty** – Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest;
- **Leadership** – Holders of public office should promote and support these principles by leadership and example.

5.4 In addition, to support the management of conflict of interests, the CCGs will ensure they:

- **Do business appropriately:** Conflicts of interest become much easier to identify, avoid and/or manage when the processes for needs assessments, consultation mechanisms, commissioning strategies and procurement procedures are right from

<sup>8</sup> The Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15/contents>  
UK Corporate Governance Code <https://www.frc.org.uk/Our-Work/Codes-Standards/Corporate-governance/UKCorporate-Governance-Code.aspx>

<sup>9</sup> UK Corporate Governance Code <https://www.frc.org.uk/Our-Work/Codes-Standards/Corporate-governance/UKCorporate-Governance-Code.aspx>

<sup>10</sup> Standards for members of NHS boards and CCG governing bodies in England  
<http://www.professionalstandards.org.uk/publications/detail/standards-for-members-of-nhs-boards-and-clinicalcommissioning-group-governing-bodies-in-england>

the outset, because the rationale for all decision-making will be clear and transparent and should withstand scrutiny;

- **Be proactive, not reactive:** Commissioners should seek to identify and minimise the risk of conflicts of interest at the earliest possible opportunity;
- **Be 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 whilst not being overly constraining, complex or cumbersome.
- **Be transparent:** Document clearly the approach and decisions taken at every stage in the commissioning cycle so that a clear audit trail is evident.
- Create an **environment and culture** where individuals feel supported and confident in declaring relevant information and raising any concerns.

5.5 In addition to the above, the CCGs need to bear in mind:

- 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 manage it appropriately rather than ignore it.
- For a conflict of interest to exist, financial gain is not necessary.

## 6.0 Review of the Policy

6.1 This policy will be reviewed on an annual basis by the CCGs Governance Lead to ensure it is still fit for purpose and any revisions will be reported to the Audit Committees for approval prior to the policy being recommended to each Governing Body for ratification.

## 7.0 Roles and Responsibilities

### ***Accountable Officer***

7.1 The Accountable Officer has overall accountability for the CCG's management of conflicts of interest

### ***Governing Body***

7.2 All those responsibilities set out in section 6 apply to all members of the Governing Body as well as the following:

- Ensure that the CCGs' policies and procedures accurately reflect national guidance and instructions particularly in relation to the procurement of services;
- Ensure that arrangements for audit and audit reporting are open, robust and effective;
- Create and support an environment in which all individuals involved directly or indirectly with the CCGs feel able, encouraged and obliged to be open, honest and upfront about actual or potential conflicts.

### ***All employees and practices of the CCGs***

7.3 It is the responsibility of each member of the CCGs to:

- Ensure that he / she reads and understands the CCGs prime financial policies, constitution and how they apply to him/her;

- Ensure that he / she does not place him / herself in a position where private interests and NHS duties might conflict ;
- Avoid undertaking duties, remunerated or otherwise, outside of his / her employment with the CCGs if there is any actual or potential conflict with, or prejudice of, the standards set out in this document;
- Refuse to accept any casual gifts or inducement by declining politely. Articles of low intrinsic value such as diaries or calendars, or small tokens of gratitude to the value not exceeding **£10** from patients or their relatives, need not necessarily be refused. If in doubt, the line manager should be consulted. If small gifts are accepted a record of this should be made in the gift and hospitality register which is maintained by the Governance Team. Gift and hospitality sheets are also available from the Governance Team.
- Refuse offers of hospitality or entertainment, although modest working lunches such as would be offered by the CCGs would be acceptable,
- Offer any modest hospitality such as a working lunch in the course of working visits. Alcoholic beverages must not be provided.
- Maintain appropriate confidentiality at all times in respect of information to which he / she has access in the course of his / her duties. In particular, he / she will observe the strict rules relating to patient confidentiality, and will not misuse official 'commercial in confidence' information, nor will he / she make it available to other people without consulting the line manager.
- Ensure that he / she always conduct him / herself and provides services in such a way as to up-hold the good name of the NHS and the CCGs.
- Adhere to the CCGs disciplinary rules as set out in its disciplinary policy and procedure.
- Be aware and comply with the provisions of the Bribery Act 2010, as amended from time to time.
- Understand that failure to follow this policy may damage the CCGs and its hard work and so may be viewed as a disciplinary matter, to be dealt with under normal disciplinary procedures, and the penalty could include dismissal.

#### 7.4 **Individuals must not:**

- Use a present or past official position to obtain preferential rates for private deals;
- Attempt to influence the awarding of contracts by any factors other than those set out in standing orders and prime financial policies or otherwise designed to ensure that value for money is obtained.

## **GPs**

7.5 GMC advice recommends that any GP with a responsibility for or involved in commissioning services must:

- Satisfy themselves that all decisions made are fair, transparent and comply with the law
- Keep up to date and follow the guidance and codes of practice that govern the commissioning of services where they work
- Formally declare any financial interest that they, or someone close to them, or their employer has in a provider company, in accordance with the governance arrangements in the jurisdiction where they work
- Take steps to manage any conflict between their duties as a doctor and their commissioning responsibilities, for example by excluding themselves from the decision making process and any subsequent monitoring arrangements.

## **Director of Corporate Services & Governance**

7.6 On behalf of the Accountable Officer the) Director of Corporate Services & Governance will have responsibility for:

- The day-to day management of conflicts of interest matters and queries;
- Maintaining the CCGs register(s) of interest and the other registers referred to in this policy;
- Supporting the Conflicts of Interest Guardian to enable them to carry out the role effectively.
- Providing advice, support, and guidance on how conflicts of interest should be managed;
- Ensure that appropriate administrative processes are put in place;
- Oversee the arrangements for the management of conflicts of interest and will advise the Governing Body as required;
- Review this policy on an annual basis and make recommendations to the Audit Committee and Governing Body for any required changes;
- Ensure that the register(s) of interest is reviewed regularly, and updated as necessary;
- Ensure that for every interest declared, either in writing or by oral declaration, arrangements are in place to manage the conflicts of interest or potential conflicts of interest, to ensure the integrity of the group's decision making process;
- Ensure the gifts and hospitality register is maintained and report to the Audit Committee at least annually on the register;
- Ensure the declarations of interest are published on each CCG website.

## **7.7 Conflict of interest Guardian**

- To strengthen the scrutiny and transparency of the CCGs decision-making processes the CCGs have nominated the Audit Committee Chair of each CCG as the Conflict of Interest Guardian.
- In collaboration with the Governance Lead 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 conflict of interest;
  - Be a safe point of contact of 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.

## **Gifts and Hospitality**

### **8 Gifts**

8.1 Staff in the NHS offer support during significant events in people's lives. For this work they may sometimes receive gifts as a legitimate expression of gratitude. We should be proud that our services are so valued. But situations where the acceptance of gifts could give rise to conflicts of interest should be avoided. CCG staff and members should be mindful that even gifts of a small value may give rise to perception of impropriety and might influence behaviour if not handled in an appropriate way.

8.2 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.

#### **8.3 Overarching principles**

- CCG staff should not accept gifts that may affect, or be seen to affect, their professional judgement. This overarching principle should apply in all circumstances.
- Any personal gift of cash or cash equivalents (e.g. vouchers, tokens, offers of remuneration to attend meetings whilst in a capacity working for or representing the CCG) must always be declined, whatever their value and whatever their source, and the offer which has been declined must be declared to the governance team who maintains the register of gifts and hospitality and recorded on the register.

#### **8.4 Gifts from suppliers or contractors:**

- Gifts from suppliers or contractors doing business (or likely to do business) with the CCGs should be declined, whatever their value (subject to this, low cost branded promotional aids may be accepted and not declared where they are under the value of a common industry standard of £6). The person to whom the gifts were offered should also declare the offer to the governance team so the offer which has been declined can be recorded on the register.

#### **8.5 Gifts from other sources (e.g. patients, families, service users):**

- CCG staff should not ask for any gifts;
- Modest gifts under a value of £50 may be accepted and do not need to be declared;
- Gifts valued at over £50 should be treated with caution and only be accepted on behalf of the CCG and not in a personal capacity. These should be declared by staff;
- A common sense approach should be applied to the valuing of gifts (using an actual amount if known, or an estimate that a reasonable person would make as to its value);
- Multiple gifts from the same source over a 12 month period should be treated in the same way as single gifts over £50 where the cumulative value exceeds £50.

## **9 Hospitality**

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

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

### **9.3 Overarching principles**

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

### **9.4 Meals and Refreshments**

- Under a value of £25 may be accepted and need not be declared;
- Of a value between £25 and £75 may be accepted and must be declared;
- Over a value of £75 should be refused unless (in exceptional circumstances) senior approval is given. A clear reason should be recorded on the CCGs registers(s) of interest as to why it was permissible to accept;
- A common sense approach should be applied to the valuing of meals and refreshments (using an actual amount, if known, or an estimate that a reasonable person would make as to its value).

### **9.5 Travel and accommodation**

- Modest offers to pay some or all of the travel and accommodation costs related to attendance at events may be accepted and must be declared
- Offers which go beyond modest or are of a type that the CCG itself might not usually offer, need approval by senior staff (e.g. the CCG governance lead or equivalent), should only be accepted in exceptional circumstances, and must be declared. A clear reason should be recorded on the CCG's registers (s) of interest as to why it was permissible to accept travel and accommodation of this type.
- A non-exhaustive list of examples includes:
  - Offers of business class or first class travel and accommodation (including domestic travel); and
  - Offers of foreign travel and accommodation

## 9.6. **Sponsored Events**

- Sponsorship of NHS events by external parties is valued. Offers to meet some or part of the costs of running an event secures their ability to take place, benefitting NHS staff and patients. Without this funding there may be fewer opportunities for learning, development and partnership working. However, there is potential for conflicts of interest between the organiser and the sponsor, particularly regarding the ability to market commercial products or services. As a result there should be proper safeguards in place to prevent conflicts occurring.

When sponsorships are offered, the following principles must be adhered to:

- Sponsorship of CCG events by appropriate external bodies should only be approved if a reasonable person would conclude that the events will result in clear benefit for the CCG and the NHS.
- During dealings with sponsors there must be no breach of patient or individual confidentiality or data protection rules and legislation; no information should be supplied to the sponsor from which they could gain a commercial advantage, and information which is not in the public domain should not normally be supplied;
- At the CCG's discretion, sponsors or their representatives may attend or take part in the event but they should not have a dominant influence over the content of the main purpose of the event;
- The involvement of a sponsor in an event should always be clearly identified in the interest of transparency;
- The CCGs will make it clear that sponsorship does not equate to endorsement of a company or its products and this should be made visibly clear on any promotional or other materials relating to the event;
- Staff should declare involvement with arranging sponsored events to the CCG

## 9.7 **Other forms of sponsorship:**

- Organisations external to the CCG or NHS may also sponsor posts or research. However, there is potential for conflicts of interest to occur, particularly when research funding by external bodies does or could lead to a real or perceived commercial advantage, or if sponsored posts cause a conflict of interest between the aims of the sponsor and the aims of the organisation, particularly in relation to procurement and competition. There

needs to be transparency and any conflicts of interest should be well managed.

- Further information is available *Managing conflicts of interest in the NHS: Guidance for staff and organisations*

## 10. Declaring interests and gifts of hospitality

### **Statutory requirements**

CCGs must make arrangements to ensure individuals declare any conflict or potential conflict in relation to a decision(s) to be made by the Group as soon as they become aware of it and in any event within 28 days. The CCGs must record the interest in the register(s) as soon as they become aware of it <sup>11</sup>

10.1 The CCGs need to ensure that as a matter of course, declarations of interest are made and regularly confirmed or updated.

10.2 Declarations of interest and gifts and hospitality should be made by the following.

### **All CCG employees, including**

- All full and part time staff;
- Any staff on sessional or short term contracts; i.e. Locality Leads, Clinical Associates,
- Any students and trainees (including apprentices);
- Agency staff; and
- Seconded staff

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

### **Members of the Governing Body:**

All members of the CCGs committees, sub-committees / sub-groups, including:

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

### **All members of each CCG (i.e., each practice)**

This includes each provider of primary medical services which is a member of each CCG under Section 14O (1) of the 2006 Act. Declarations should be made by the following groups:

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

10.3 GPs and other staff within the CCG's member practices are not required to declare offers/receipts of gifts and hospitality to the CCG which are unconnected with their role or

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<sup>11</sup> National Health Service Act 2006 (as amended by the Health and Social Care Act 2012) Section 140 (3)

involvement with the CCG, and this policy does not apply to such situations. However GP staff will need to adhere to other relevant guidance issued by professional bodies.

- 10.4 Individuals should record any declaration(s) on the declaration of interests form for CCG members and employees (Appendix A)
- 10.5 All persons referred to in paragraph 11.2 below must declare any interests. Declarations of interest must be made available as soon as reasonably practicable and by law within 28 days after the interest arises (this could include an interest an individual is pursuing). Further opportunities to make declarations include:

**On appointment:**

Applicants for any appointment to the CCGs or its Governing Bodies or any committees will be asked to declare any relevant interests. When an appointment is made, a formal declaration of interests will again be made and recorded.

**At meetings:**

All attendees are required to declare their interests as a standing agenda item for every Governing Body, committee, sub-committee or working group meeting, before the item is discussed. Even if an interest has been recorded in the register of interests, it should still be declared in meetings where matters relating to that interest are discussed. Declarations of interest should be recorded in minutes of meetings (see 18 for further advice on record keeping).

**When prompted by their organisation:**

Because of their role in spending taxpayers' money, CCGs should ensure that, at least annually, staff are prompted to update either declarations of interest, or make a nil return where there are no interests or changes to declare.

**On changing role, responsibility or circumstances:**

Whenever an individual's role, responsibility or circumstances change in a way that affects the individual's interests (e.g., where an individual takes on a new role outside the CCG or enters into a new business or relationship, starts a new project/piece of work or may be affected by a procurement decision e.g. of their role may transfer to a proposed new provider)), a further declaration should be made to reflect the change in circumstances as soon as possible, and in any event **within 28 days**. This could involve a conflict of interest ceasing to exist or a new one materialising.

If any individual's circumstances change, it is the individual's responsibility to make a further declaration as soon as possible and in any event **within 28 days**, rather than waiting to be asked.

Individuals must formally notify the Associate Director of Corporate Services located in the Executive Office by completing and submitting an updated declaration of interest form.

## 11 Register(s) of interests and gifts and hospitality

- 11.1 It is a statutory requirement for CCGs to maintain one or more registers of interest of: the members of the group, members of its Governing Body, members of its committees or sub-committees of its Governing Body and its employees. The CCGs must publish,

and make arrangements to ensure that members of the public have access to these registers on request.

- 11.2 Register(s) of interest will be maintained for all those individuals who fall within the scope of this policy, as detailed at 10.2.
- 11.3 All interests declared will be promptly transferred to the relevant CCG register(s) by the governance lead who has designated responsibility for maintaining registers of interest.
- 11.4 The register of interests (Appendix B) will record the following:-

- Name of the person declaring the interest;
- Position within, or relationship with, the CCGs (or NHS England in the event of joint committees);
- Type of interest e.g., financial interests, non-financial professional interests;
- Description of interest, including for indirect interests details of the relationship with the person who has the interest;
- The dates from which the interest relates; and
- The actions to be taken to mitigate risk - these should be agreed with the individual's line manager or a senior manager within the CCGs.

### **Register(s) of Gifts and Hospitality**

- 11.5 The CCGs will maintain a register for the individuals listed in paragraph 11.2 the register will record the following:-
- Recipient's name;
  - Current positions(s) held by the individual (within the CCG)
  - Date of offer and/or receipt ;
  - Details of the gift or hospitality;
  - The estimated value of the hospitality;
  - Details of the supplier/offeror (e.g. their name and the nature of their business);
  - Details of previous gifts and hospitality offered or accepted by this offeror/supplier;
  - Action taken to mitigate against a conflict, details of any approvals given and details of the officers reviewing. Approving the declaration made and date;
  - Whether the offer was accepted or not; and
  - Reasons for accepting or declining the offer

### **Publication of registers**

- 11.6 All staff listed in paragraph 11.2 should declare interest and offers/receipts of gifts and hospitality, but the CCGs recognise that some staff are more likely than others to have a decision making influence on the use of taxpayers money,,, because of the requirements of their role. For the purpose of this policy these people are referred to as '**decision making staff**'
- 11.7 The CCG has defined decision making staff as those staff that have a material influence on how taxpayers' money is spent. The following is a list of those individuals who likely to be decision makers

- All governing body members
- Members of advisory groups which contribute to direct or delegated decision making on the commissioning or provision of taxpayer funded services as working people groups involved in service redesign or stakeholder engagement that will affect future provision of services;
- Members of the primary care commissioning committee (PCCC)
- Members of other committees of the CCG e.g. audit committee, remuneration committee, planning and commissioning committee etc.;
- Members of new care models joint provider/ commissioner groups/committees
- Management, administration and clinical staff who have the power to enter into contracts on behalf of the CCG; and
- Management, administrative and clinical staff involved in decision making concerning the commissioning of services, purchasing of goods, medicines, medical devices or equipment and formulary decisions
- As per the CCGs Scheme of reservation and delegation

11.8 In exceptional circumstances, where the public disclosure of information could give rise to a real risk of harm or is prohibited by law, an individual's name and/or other information may be redacted from the publicly available registers (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 in writing. Decisions not to publish must be made by the Conflict of Interest Guardian for the CCG, who should seek appropriate legal advice where required, and the CCG will retain a confidential un-redacted version of the registers(s).

11.9 The CCG will ensure all decision making staff are aware in advance of publication that the register(s) will be kept, how the information on the registers(s) may be used or shared and the register (s) will be published.

12.10 Staff who are not decision making staff but are still 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 kept and how the information on the register(s) may be used or shared

11.11 The CCG will ensure all staff are aware of its fair processing notice and the contact details of the data protection officer.

11.12 An interest (including offers of gifts and hospitality) of decision making staff shall remain on the public register for a minimum of 6 months after the interest has expired.

11.13 The CCGs are required to retain a private record of historic interests for a minimum of six years after the date on which it expired.

11.14 The CCGs published register of interests will state that historic interests are retained by the CCG for the specified timeframe; a request for this information should be made to the Governance lead.

11.15 The register of interest and gifts and hospitality must be published as part of the CCGs annual report and annual governance statement. A web link to the CCG's registers is acceptable.

## 12 Appointments and roles and responsibilities in the CCG

12.1 Everyone in the CCG has a responsibility to appropriately manage conflicts of interest.

- 12.2 Appointing Governing Body or committee members and senior employees - On appointing Governing Body, committee or sub-committee members and senior staff, the CCGs will need to consider whether conflicts of interest should exclude individuals from being appointed to the relevant role. This will need to be considered on a case-by-case basis but the CCG's constitution should reflect the CCG's general principles.
- 12.3 The CCGs will need to assess the materiality of the interest, in particular whether the individual (or any person with whom they have a close association could benefit (whether financially or otherwise) from any decision the CCGs might make. This will be particularly relevant for Governing Body, committee and sub-committee appointments, but should also be considered for all employees and especially those operating at senior level.
- 12.4 The CCGs will also need to determine the extent of the interest and the nature of the appointee's proposed role within the CCGs. If the interest is related to an area of business significant enough that the individual would be unable to operate effectively and make a full and proper contribution in the proposed role, then that individual shall not be appointed to the role.
- 12.5 Any individual who has a material interest in an organisation which provides, or is likely to provide, substantial services to either CCG or both CCGs (whether as a provider of healthcare, including 'new care model' providers, or healthcare commissioning support services, or otherwise) should recognise the inherent conflict of interest risk that may arise and should not be a member of the Governing Body or of a committee or sub-committee of the CCG, in particular if the nature and extent of their interest and the nature of their proposed role is such that they are likely to need to exclude themselves from decision-making on so regular a basis that it significantly limits their ability to effectively perform that role. Specific considerations in relation to delegated or joint commissioning of primary care are set out below.
- 12.6 The CCGs have set out in their constitution a statement on the conduct expected of individuals involved in the CCG, e.g. members of the Governing Body, members of committees, and employee, which reflects the expectations set out in the Standards for Members of NHS Boards and Clinical Commissioning Groups<sup>12</sup>.

## CCG Lay Members

- 12.7 Lay members play a critical role in CCGs, providing scrutiny, challenge and an independent voice in support of robust and transparent decision-making and management of conflicts of interest. They chair a number of CCG committees, including the Audit Committee and Primary Care Commissioning Committee.
- 12.8 By statute, CCGs must have at least two lay members (one of whom must have qualifications, expertise or experience such as to enable the person to express informed views about financial management and audit matters<sup>13</sup> and serve as the chair of the audit committee<sup>14</sup>; and the other, knowledge of the geographical area covered in the CCGs constitution such as to enable the person to express informed views about the discharge of the CCGs functions<sup>15</sup>). In light of lay members' expanding role in primary

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<sup>12</sup> Standards for Members of NHS Boards and Clinical Commissioning Groups

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

<sup>13</sup> Section 12(3) NHS (CCG) Regulations 2012

[http://www.legislation.gov.uk/uksi/2012/2996/pdfs/uksi\\_20122996\\_en.pdf](http://www.legislation.gov.uk/uksi/2012/2996/pdfs/uksi_20122996_en.pdf)

<sup>14</sup> Section 14(2) NHS (CCG) Regulations 2012

[http://www.legislation.gov.uk/uksi/2012/2996/pdfs/uksi\\_20122996\\_en.pdf](http://www.legislation.gov.uk/uksi/2012/2996/pdfs/uksi_20122996_en.pdf)

<sup>15</sup> Section 12(4) NHS (CCG) Regulations 2012

[http://www.legislation.gov.uk/uksi/2012/2996/pdfs/uksi\\_20122996\\_en.pdf](http://www.legislation.gov.uk/uksi/2012/2996/pdfs/uksi_20122996_en.pdf)

care co-commissioning, a minimum of three CCG lay members will be encouraged to attend the Primary Care Commissioning Committee; the additional third lay member will assume the role of the Chair or Vice-Chair of this committee.

## **Conflicts of Interest Guardian**

- 12.9 To further strengthen scrutiny and transparency of the CCGs' decision-making processes, all CCGs must have a Conflicts of Interest Guardian (akin to a Caldicott Guardian). This role will be undertaken by the CCG Audit Committee Chair, provided they have no provider interests, as audit chairs already have a key role in conflicts of interest management. They will be supported by the CCGs Associate Director of Corporate Services, who will have responsibility for the day-to-day management of conflicts of interest matters and queries. The CCGs Associate Director of Corporate Services (or equivalent) will keep the Conflicts of Interest Guardian well briefed on conflicts of interest matters and issues arising.
- 12.10 The Conflicts of Interest Guardian will, in collaboration with the CCGs Governance Lead.
- 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 the policy;
  - Support the rigorous application of the conflict of interest principles and policies;
  - Provide independent advice and judgement to staff and members where there is any doubt about how to apply conflicts of interest policies and principles in an individual situations.
  - Provide advice on minimising the risks of conflicts of interest
- 12.11 Whilst the Conflicts of Interest Guardian has an important role within the management of conflicts of interest, executive members of the CCGs Governing Body have an on-going responsibility for ensuring the robust management of conflicts of interest, and all CCG employees, Governing Body and committee members and member practices will continue to have individual responsibility in playing their part on an ongoing and daily basis.

## **Primary Care Commissioning Committee Chair**

- 12.12 The Primary Care Commissioning Committee must have a Lay Chair and Lay Vice Chair. To ensure appropriate oversight and assurance, and to ensure each CCG's Audit Committee Chair's position as Conflicts of Interest Guardian is not compromised, the Audit Chair will not hold the position of Chair of the Primary Care Commissioning Committee.
- 12.13 This is because CCG Audit Chairs would conceivably be conflicted in this role due to the requirement that they attest annually to NHS England that each CCG has:
- Had due regard to the statutory guidance on managing conflicts of interest; and
  - Implemented and maintained sufficient safeguards for the commissioning of primary care.
- 12.14 CCG Audit Chairs can however serve on the Primary Care Commissioning Committee, provided appropriate safeguards are put in place to avoid compromising their role as Conflicts of Interest Guardian. Each CCG Audit Chair would also not serve as vice chair of the Primary Care Commissioning Committee, unless by exceptional circumstances.

12.15 If this is required due to specific local circumstances (for example where there is a lack of other suitable lay candidates for the role), this will need to be clearly recorded and appropriate further safeguards may need to be put in place to maintain the integrity of their role as Conflicts of Interest Guardian in circumstances where they chair all or part of any meetings in the absence of the Primary Care Commissioning Committee chair.

### **Outside employment**

12.16 Outside employment means employment and other engagements, outside of formal employment arrangements. The CCGs will take all reasonable steps to ensure that employees, committee members, contractors and others engaged under contract with them 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 CC (for example in relation to new care model arrangements) The purpose of this is to ensure that the CCG is aware of any potential conflict of interest. Examples of work which might conflict with the business of the CCG, including part-time, temporary and fixed term contract work, include:

- Employment with another NHS body;
- Employment with another organisation which might be in a position to supply goods/services to the CCG including paid advisory positions and paid honorariums which relate to bodies likely to do business with the CCG;
- Directorships e.g. of a GP federation or non-executive roles;
- Self-employment, including private practice, charitable trustee roles, political roles and consultancy work in a capacity which might conflict with the work of the CCG or which might be in a position to supply goods/services to the CCG.

The following principles and rules will be adhered to:

12.17 The CCGs will require individuals to obtain prior permission to engage in outside employment, and reserve the right to refuse permission where it believes a conflict will arise which cannot be effectively managed.

12.18 Staff must declare any existing outside employment on appointment, and any new outside employment when it arises;

CCGs should ensure that they have clear and robust organisational policies in place to manage issues arising from secondary employment. In particular, 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.

## **13 Managing conflicts of interest at meetings**

**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 group's decision-making.*

13.1 The CCGs have reviewed their governance structures and policies for managing conflicts of interest to ensure that they reflect NHSE guidance and are appropriate. The CCGs have considered 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 CCGs conflicts of interest policy, including appropriate external oversight and adequate provision for **raising concerns under this policy**;
- 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 by NHS England.

### **Chairing arrangements and decision-making processes**

- 13.2 The chair of a meeting of the CCGs 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.
- 13.3 In the event that the chair of a meeting has a conflict of interest, the vice chair is responsible for deciding the appropriate course of action in order to manage the conflict of interest. If the vice chair is also conflicted then the remaining non-conflicted voting members of the meeting should agree between themselves how to manage the conflict(s).
- 13.4 In making such decisions, the chair (or vice 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.
- 13.5 It is good practice for the chair, with support of the CCGs Associate Director of Corporate Services or equivalent 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.
- 13.6 To support chairs in their role, they will have access to a declaration of interest checklist prior to meetings, which will include details of any declarations of conflicts which have already been made by members of the group. A template declaration of interest checklist has been annexed at Appendix E.
- 13.7 The chair will ask at the beginning of each meeting 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 must 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 CCGs relevant register of interests to ensure it is up-to-date.
- 13.8 Similarly, any new offers of gifts or hospitality (whether accepted or not) which are declared at a meeting must be included on the CCGs register of gifts and hospitality to ensure it is up-to-date.
- 13.9 It is the responsibility of each individual member of the meeting to declare any relevant interests 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.

13.10 When a member of the meeting (including the chair or vice chair) has a conflict of interest in relation to one or more items of business to be transacted at the meeting, the chair (or vice 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 vice chair (or another non-conflicted member of the meeting if the vice 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 vice chair if necessary) not to attend the meeting;
- Ensuring that the individual concerned does not receive 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 either leave the room or 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.
- Where the conflict of interest relates to outside employment and an individual continues to participate in meetings pursuant to the preceding two bullet points, he or she should ensure that the capacity in which they continue to participate in the discussions is made clear and correctly recorded in the meeting minutes. Where it is appropriate for them to participate in decisions they must do so if they are acting in their CCG role.

## 14 Primary Care Commissioning Committees and sub-committees

14.1 There are three models for commissioning primary medical services

- **Greater involvement** is simply an invitation to CCGs to collaborate more closely with their NHS England teams to ensure that decisions taken about healthcare services are strategically aligned across the local health economy.
- **Joint commissioning** enables one or more CCGs to assume responsibility for jointly commissioning primary medical services with their local NHS England team via a joint committee. It is a requirement for each joint committee to have a register of interests

and for the interests of both CCG and NHS England representatives to be included on this register. These interests should also be recorded on the CCGs main register(s) of interests.

- **Delegated commissioning** enables CCGs to assume responsibility for commissioning general practice services.

14.2 Each CCG with joint or delegated primary care co-commissioning arrangements must establish a Primary Care Commissioning Committee for the discharge of their primary medical services functions. This committee should be separate from the CCG Governing Body. The interests of all Primary Care Commissioning Committee members must be recorded on the CCGs register(s) of interests.

14.3 The Primary Care Commissioning Committee will:

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

14.4 As a general rule, meetings of the Primary Care Commissioning Committee, including the decision-making and deliberations leading up to the decision, should be held in public unless the CCG has concluded it is appropriate to exclude the public where it would be prejudicial to the public interest to hold that part of the meeting in public.

Examples of where it may be appropriate to exclude the public include:

- Information about individual patients or other individuals which includes sensitive personal data is to be discussed ;
- Commercially confidential information is to be discussed, for example the detailed contents of a provider's tender submission;
- Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings is to be discussed;
- To allow the meeting to proceed without interruption and disruption.

## 15 Membership of Primary Care Commissioning Committees (for joint and delegated arrangements)

15.1 CCGs (and NHS England with regards to joint arrangements) can agree the full membership of their Primary Care Commissioning Committees, within the following parameters:

- The Primary Care Commissioning Committee must be constituted to have a **lay and executive majority**, where lay refers to non-clinical. This ensures that the meeting will be quorate if all GPs had to withdraw from the decision-making process due to conflicts of interest.
- The Primary Care Commissioning Committee should have a lay chair and lay vice chair (see paragraph 14 for further information).
- **GPs** can, and should, be members of the Primary Care Commissioning Committee to ensure sufficient clinical input, but must not be in the majority. CCGs may wish to consider appointing retired GPs or out-of-area GPs to the committee to ensure clinical input whilst minimising the risk of conflicts of

interest. (and where the committee is commissioning a new care model, the CCG should consider whether that committee has sufficient clinical expertise taking into account the range of services being commissioned, for example having at least one clinician without an interest in a potential new care model care provider (e.g., a recently retired or out of area GP)

- A standing invitation must be made to the CCGs **local HealthWatch** representative and a **local authority representative from the local Health and Wellbeing Board** to join the Primary Care Commissioning Committee as non-voting attendees, including, where appropriate, for items where the public is excluded for reasons of confidentiality.
- Other individuals could be invited to attend the Primary Care Commissioning Committee on an ad-hoc basis to provide **expertise** to support with the decision-making process.

15.2 CCGs could also consider reciprocal arrangements with other CCGs, for example exchanging GP representatives from their respective GP member practices, or sharing lay or executive members, in order to ensure a majority of lay and executive members and to support effective clinical representation within the Primary Care Commissioning Committee.

15.3 Where a CCG is engaged in joint commissioning arrangements alongside NHS England, the joint role of NHS England in decision-making will provide an additional safeguard in managing conflicts of interest. However, CCGs should still satisfy themselves that they have appropriate arrangements in place in relation to conflicts of interest with regard to their own role in the decision-making process. NHS England representatives need to take similar precautions.

### **Primary Care Commissioning Committee decision-making processes and voting arrangements**

15.4 The Primary Care Commissioning Committee is a decision-making committee, which should be established to exercise the discharge of the primary medical services functions. The CCGs have amended their constitutions to include this committee.

15.5 The quorum requirements for Primary Care Commissioning Committee meetings must include a majority of lay and executive members in attendance with eligibility to vote.

15.6 In the interest of minimising the risks of conflicts of interest, GPs will not have voting rights on the Primary Care Commissioning Committee. The arrangements do not preclude GP participation in strategic discussions on primary care issues, subject to appropriate management of conflicts of interest. They apply to decision-making on procurement issues and the deliberations leading up to the decision.

15.7 Whilst sub-committees or sub-groups of the Primary Care Commissioning Committee can be established e.g., to develop business cases and options appraisals, ultimate decision-making responsibility for the primary medical services functions must rest with the Primary Care Commissioning Committee. For example, whilst a sub-group could develop an options appraisal, it should take the options to the Primary Care Commissioning Committee for their review and decision-making. The Chair for any sub-group will not be a GP.

15.8 It is important that conflicts of interests are managed appropriately within sub-committees and sub-groups. As an additional safeguard, it is recommended that sub-groups submit their minutes to the Primary Care Commissioning Committee, detailing any conflicts and

how they have been managed. The Primary Care Commissioning Committee should be satisfied that conflicts of interest have been managed appropriately in its sub-committees and take action where there are concerns.

## 16 **Minute-taking**

16.1 It is imperative that the CCGs ensure complete transparency in their decision-making processes through robust record-keeping.

If any conflicts of interest are declared or otherwise arise in a meeting, the chair must ensure the following information is recorded in the minutes:

- **who has the interest;**
- **the nature of the interest and why it gives rise to a conflict**, including the magnitude of any interest;
- **the items on the agenda to which the interest relates;**
- **how the conflict was agreed to be managed;** and
- **evidence that the conflict was managed as intended** (for example recording the points during the meeting when particular individuals left or returned to the meeting).

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

17.1 Conflicts of interest need to be managed appropriately throughout the whole commissioning cycle. At the outset of a commissioning process, the relevant interests of all individuals involved should be identified and clear arrangements put in place to manage any conflicts of interest. This includes consideration as to which stages of the process a conflicted individual should not participate in, and, in some circumstances, whether that individual should be involved in the process at all.

The CCG must also identify as soon as possible where staff might transfer to a provider (or their role may materially change) following the award of a contract. This should be treated as a relevant interest, and the CCGs must ensure they manage the potential conflict.

### **Designing service requirements**

17.2 The way in which services are designed can either increase or decrease the extent of perceived or actual conflicts of interest. Particular attention should be given to public and patient involvement in service development.

17.3 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. CCGs have legal duties under the Act to properly involve patients and the public in their respective commissioning processes and decisions.

### **Provider engagement**

17.4 It is good practice to engage relevant providers, especially clinicians, in confirming that the design of service specifications will meet patient needs. This may include providers from the acute, primary, community, and mental health sectors, and may include NHS,

third sector and private sector providers. Such engagement, done transparently and fairly, is entirely legal. However, conflicts of interest, as well as challenges to the fairness of the procurement process, can arise if a commissioner engages selectively with only certain providers (be they incumbent or potential new providers) in developing a service specification for a contract for which they may later bid. The CCGs need to be particularly mindful of these issues when engaging with existing/potential providers in relation to the development of new care models.

- 17.5 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.
- 17.6 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<sup>16</sup> has issued guidance on the use of provider boards in service design<sup>16</sup>.
- 17.7 Engagement should 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.
- 17.8 The CCGs need to ensure they meet any obligation to document their decisions including but not limited to, any obligations they have under the National Health Service (Procurement, Patient Choice and Competition) (No 2) Regulations 2013 and the Public contracts Regulations 2015.

## **Specifications**

- 17.9 Commissioners should seek, as far as possible, to specify the outcomes that they wish 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 helps prevent bias towards particular providers in the specification of services. However, they also need to ensure careful consideration is given to the appropriate degree of financial risk transfer in any new contractual model.
- 17.20 Specifications should be clear and transparent, reflecting the depth of engagement, and set out the basis on which any contract will be awarded.

## **Procurement and awarding grants**

- 17.21 The CCGs will need to be able to identify 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" needs to be understood in a wide sense to ensure transparency of decision making on spending public funds.
- 17.22 The decision to use a single tender action, for instance, is a procurement decision and if it results in the commissioner entering into a new contract, extending an existing contract,

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<sup>16</sup> NHS Improvement is the organisation which brings together Monitor and the NHS Trust Development Authority, and is a combination of the continuing statutory functions and legal powers vested in those two bodies, including Monitor's functions in relation to the National Health Service (Procurement, Patient Choice and Competition) (No.2) Regulations 2013 (PPCCR)

or materially altering the terms of an existing contract, then it is a decision that should be recorded.

17.23 The CCGs and NHS England must comply with two different regimes of procurement law and regulation when commissioning healthcare services: the NHS (Procurement, Patient Choice and Competition (No.2)) Regulations 2013: made under S75 of the 2012 Act; apply only to NHS England and CCGs; enforced by NHS Improvement; and

- Public Contracts Regulations 2015 (PCR 2105);; apply to all public contracts enforced through the Courts.

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

17.25 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. [As set out in paragraph 113 below, details of this should also be published by the CCG.]*

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

Paragraph 24 of PCR 2015 states: “Contracting authorities shall take appropriate measures to effectively prevent, identify and remedy conflicts of interest arising in the conduct of procurement procedures so as to avoid any distortion of competition and to ensure equal treatment of all economic operators”. Conflicts of interest are described as “any situation where relevant staff members have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure”.

17.26 The Procurement, Patient Choice and Competition Regulations (PPCCR) place requirements on commissioners to ensure that they adhere 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 PPCCR places requirements on commissioners to secure high quality, efficient NHS healthcare services that meet the needs of the people who use those services. The PCR 2015 are focussed on ensuring a fair and open selection process for providers.

17.27 An obvious area in which conflicts could arise is where either 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 co-commissioning of primary care, particularly with regard to delegated commissioning, where GPs are current or possible providers.

17.28 A procurement template provided in Appendix G, sets out factors that the CCGs should address when drawing up their plans to commission general practice services and provides evidence on the deliberations in respect of conflicts of interest.

17.29 CCGs will be 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 CCGs are 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.

17.30 External services such as commissioning support units (CSUs) can play an important role in helping CCGs 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.

Officers must assure themselves that a CSU's business processes are robust and enable the CCGs 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 CCGs.

17.31 The CCGs cannot, lawfully delegate commissioning decisions to an external provider of commissioning support, the CCGs 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.

## 18 Register of Procurement Decisions

18.1 CCGs need to 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 CCGs clinical lead, the CCGs 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 CCGs; and
- The award decision taken.

18.2 The register of procurement decisions must be updated whenever a procurement decision is taken. A template register is included at Appendix H. 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 should 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 CCGs website; and
- Making the register available upon request for inspection at the CCGs headquarters

Although it is not a requirement to keep a register of services that may be procured in the future, it is good practice to ensure planned service developments and possible procurements are transparent and available for the public to see.

## 19 Declarations of interests for bidders / contractors

19.1 As part of a procurement process, it is good practice to ask bidders to declare any conflicts of interest. This allows commissioners to ensure that they comply with the principles of equal treatment and transparency. When a bidder declares a conflict, the commissioners must decide how best to deal with it to ensure that no bidder is treated differently to any other. A template for a declaration of interests for bidders/ contractors template Appendix I.

19.2 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. However, commissioners must retain an internal audit trail of how the conflict or perceived conflict was dealt with to allow them to provide information at a later date if required. Commissioners are 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.

## 20 Contract Monitoring

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

20.2 Any contract monitoring meeting needs to consider conflicts of interest as part of the process i.e., the chair of a contract management meeting should invite declarations of interests; record any declared interests in the minutes of the meeting; and manage any conflicts appropriately and in line with this guidance. This equally applies where a contract is held jointly with another organisation such as the Local Authority or with other CCGs under lead commissioner arrangements.

20.3 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.

20.4 Officers must be mindful of any potential conflicts of interest when they disseminate any contract or performance information/reports on providers, and manage the risks appropriately.

## 21 CCG improvement and Assessment Framework

21.1 As part of the framework, the CCGs are required on an annual basis to confirm via self certification

- 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 Conflict of Interest guardian;
- The level of compliance with the mandated conflicts of interest on-line training, as at 31 January annually.

21.2 In addition the CCGs are required to report on a quarterly basis via self-certification whether the CCG:

- Has processes in place to ensure individuals declare any interest which may give rise to a conflict of interest or potential conflict as soon as they become aware of it, and in any event within 28 days ensuring accurate up to date registers are complete for:
  - Conflicts of interest;
  - Procurement decisions; and
  - Gifts and hospitality
- Has made these registers available on its website and, upon request, at the CCG's headquarters
- Is aware of any breaches of its policies and procedures in relation to the management of conflicts of interest and how many, including:
  - Confirmation that anonymous details of the breach have been published on the CCG website;
  - Confirmation that they have been communicated to NHS England.

## 22 Internal Audit

22.1 The CCGs are required to undertake an audit of conflicts of interest management as part of their internal audit on an annual basis.

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

## 23 Raising Concerns and Breaches

23.1 It is the duty of every CCG employee, Governing Body member, committee or sub-committee member and GP practice member to speak up about genuine concerns in relation to the administration of the CCGs policy on conflicts of interest management, and to report these concerns. These individuals should not ignore their suspicions or investigate themselves, but rather speak to the designated CCG point of contact for these matters; this is the Conflict of Interest Guardian or the Head of Governance

23.2 Any non-compliance with the CCGs Conflicts of Interest Policy should be reported in accordance with the terms of that policy, and CCGs whistleblowing policy (where the breach is being reported by an employee or worker of the CCGs) or with the whistleblowing policy of the relevant employer organisation (where the breach is being reported by an employee or worker of another organisation).

23.3 Effective management of conflicts of interest requires an environment and culture where individuals feel supported and confident in declaring relevant information, including notifying any actual or suspected breaches of the rules. In particular, the team or

individual designated by the CCGs to provide advice, support, and guidance on how conflicts of interest should be managed, should ensure that organisational policies are clear about the support available for individuals who wish to come forward to notify an actual or suspected breach of the rules, and of the sanctions and consequences for any failure to declare an interest or to notify an actual or suspected breach at the earliest possible opportunity.

- 23.4 All reports of concerns and breaches will be investigated in accordance with the North Staffordshire Clinical Commissioning Group's and Stoke-on-Trent Clinical Commissioning Group's Raising Concerns at Work Policy.
- 23.5 Anonymised details of breaches will be published on the CCGs website for the purpose of learning and development.

## **24 Reporting Breaches**

- 24.1 If any employees, Governing Body members, committee or sub-committee members or GP practice members suspect or are aware of any known breaches of the CCGs Conflicts of Interest Policy they should contact the CCGs designated Conflicts of Interest Guardian in the first instance to raise any concerns.

Any contact with the Conflicts of Interest Guardian is on a strictly confidential basis.

- 24.2 Anyone who wishes to report a suspected or known breach of the policy, who is not an employee or worker of the CCGs, should be aware of their own organisation's whistleblowing policy, since most such policies should provide protection against detriment or dismissal.
- 24.3 All such notifications will be treated with appropriate confidentiality at all times in accordance with the CCGs policies and applicable laws, and the person making such disclosures can expect an appropriate explanation of any decisions taken as a result of any investigation.
- 24.4 Furthermore, 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.

## **25 Fraud or Bribery**

- 25.1 Any suspicions or concerns of acts of fraud or bribery can be reported to the CCGs Local Counter Fraud Specialist or online via <https://www.reportnhsfraud.nhs.uk/> or via the NHS Fraud and Corruption Reporting Line on 0800 0284060.
- 25.2 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.

## **26 Impact of non-compliance**

- 26.1 Failure to comply with the CCGs policies on conflicts of interest management, pursuant to this statutory guidance, can have serious implications for the CCGs and any individuals concerned.

## **27 Disciplinary Implications**

27.1 The CCGs will ensure that individuals who fail to disclose any relevant interests or who otherwise breach the CCGs rules and policies relating to the management of conflicts of interest are subject to investigation and, where appropriate, to disciplinary action. This may include:

- Informal action- such as reprimand or signposting to training and/or guidance;
- Formal action- such as formal warning, the requirement for additional training, rearrangement of duties, redeployment, demotion or dismissal;
- Referring incidents to regulators;
- Contractual action against organisations or staff

## 28 Professional Regulatory Implications

28.1 Statutorily regulated healthcare professionals who work for, or are engaged by, CCGs are under professional duties imposed by their relevant regulator to act appropriately with regard to conflicts of interest). CCGs should report statutorily regulated healthcare professionals to their regulator if they believe that they have acted improperly, so that these concerns can be investigated. These healthcare professionals should be made aware that the consequences for inappropriate action could include fitness to practise proceedings being brought against them, and that they could, if appropriate, be struck off by their professional regulator as a result.

## 29 Civil Sanctions

29.1 If conflicts of interest are not effectively managed, the CCGs could face civil challenges to decisions they make. For instance, if interests were not disclosed that were relevant to the bidding for, or performance of contracts. In extreme cases, staff and other individuals could face personal civil liability, for example a claim for misfeasance in public office.

## 30 Criminal sanctions

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

30.2 The Fraud Act 2006 created a criminal offence of fraud and defines three ways of committing it:

- Fraud by false representation;
- Fraud by failing to disclose information; and,
- Fraud by abuse of position.

30.3 In these cases an offender's conduct must be dishonest and their intention must be to make a gain, or cause a loss (or the risk of a loss) to another. Fraud carries a maximum sentence of 10 years imprisonment and / or a fine and can be committed by a body corporate.

30.4 The Bribery Act 2010 makes it easier to tackle this offence in public and private sectors. Bribery is generally defined as giving or offering someone a financial or other advantage to encourage a person to perform certain activities and can be committed by a body corporate. Commercial organisations (including NHS bodies) will be exposed to criminal liability, punishable by an unlimited fine, for failing to prevent bribery.

30.5 The offences of bribing another person, or being bribed carries a maximum sentence of 10 years imprisonment and / or a fine Court. In relation to a body corporate the penalty for these offences is a fine

### 31. Conflicts of Interest Training

31.1 The CCGs will provide training to all employees, Governing Body members and members of CCG committees and sub-committees on the management of conflicts of interest. This is to ensure staff and others within the CCGs understand what conflicts are and how to manage them effectively.

31.2 All such individuals will have training on the following:

- What is a conflict of interest;
- Why is conflict of interest management important;
- What are the responsibilities of the organisation you work for in relation to conflicts of interest;
- What should you do if you have a conflict of interest relating to your role, the work you do or the organisation you work for (who to tell, where it should be recorded, what actions you may need to take and what implications it may have for your role);
- How conflicts of interest can be managed;
- What to do if you have concerns that a conflict of interest is not being declared or managed appropriately;
- What are the potential implications of a breach of the CCGs rules and policies for managing conflicts of interest?

31.3 NHS England is developing an online training package for CCG staff, Governing Body and committee members. This will be rolled out in 2017. This will need to be completed on a yearly basis to raise awareness of the risks of conflicts of interest and to support staff in managing conflicts of interest.

31.4 The annual training will be **mandatory** and will need to be completed by all staff by **31 January of each year**. The CCGs will be required to record their completion rates as part of their annual conflicts of interest audit.

NHS England will also continue to provide face-to-face training on conflicts of interest to key individuals within CCGs and to share good practice across CCGs and NHS England.

### 32 Equality Impact Assessment

32.1 The CCG is committed to ensure that it treats all employers fairly, equitably and reasonably and that it does not discriminate against individuals or groups on the basis of their ethnic origin, physical or mental abilities, gender, age, religious beliefs or sexual orientation. An equality impact assessment has been completed to go with this policy.



### DECLARATION OF INTEREST FORM – CCG STAFF/MEMBERSHIP

<b>Name/Job Title:</b>				
<b>Employing CCG/Practice</b>				
<b>Detail of Interests Held (complete all that are applicable)</b>				
Type of Interest <small>(see next page for details)</small>	Description of Interest <small>(including for indirect interests, details of the relationship with the person having the interest)</small>	Dates to which the Interest Relates – From / To		Actions to Mitigate Risk <small>(agreed with Line Manager or Senior CCG Manager)</small>
<p><i>This form is required to be completed in accordance with the CCG's Constitution, Section 140 of the NHS Act 2006 and the NHS Procurement, Patient Choice &amp; Competition Regulations 2013. Submitted information will be held by the CCG for personnel or other reasons specified on this form and to comply with CCG policies. Information may be held in both manual and electronic form in accordance with the Data Protection Act 1998; and may be disclosed to third parties in accordance with the Freedom of Information Act 2000 and published in CCG registers.</i></p> <p>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 is 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.</p> <p><b>I do / do not (delete as applicable) give my consent for this information to be published on registers that the CCG holds. If consent is NOT given, please give reasons why:</b></p>				
<b>Signed:</b>		<b>Date:</b>		
<b>Signed / Position</b> <small>(Line Manager or Senior CCG Manager):</small>		<b>Date:</b>		

**Notes:** The types of interests that must be declared (whether such interests are those of the individual themselves or family member, close friend or other acquaintance) include:

<b>Type of Interest</b>	<b>Description</b>
<b>Financial Interests</b>	<p>Where an individual may get direct benefit from the consequences of a commissioning decision, e.g. being:</p> <ul style="list-style-type: none"> <li>• A Director / Non-Exec Director or senior employee in a private company or public limited company or other organisation which is doing, or is likely / possibly seeking to do business with the CCG</li> <li>• A shareholder (or similar owner interest), or partner / owner of a private or not-for-profit company, business, partnership or consultancy which is doing, or is likely / possibly seeking to do business with the CCG</li> <li>• A management consultant for a provider</li> <li>• In secondary employment (including on a part-time, temporary, fixed-term contract basis) with another NHS body, an organisation supplying or likely to supply goods / services to the CCG: including self-employment / private practice, Directorship of a GP Federation</li> <li>• In receipt of secondary income / a grant / any payments (e.g. honoraria, one-off payments, day allowances, travel or subsistence payments) 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>Where an individual may obtain non-financial professional benefit from the consequences of a commissioning decision: e.g. increasing their professional reputation / status or promoting their professional career, and 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 (routine GP membership of the RCGP, BMA or a Medical Defence Organisation would not usually by itself amount to an interest needing to be declared)</li> <li>• An advisor for the CQC or NICE</li> <li>• A medical researcher</li> </ul>
<b>Non-Financial Personal Interests</b>	<p>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, e.g. where the individual is:</p> <ul style="list-style-type: none"> <li>• A Voluntary Sector champion or 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 group with an interest in health</li> </ul>
<b>Indirect Interests</b>	<p>Where an individual has a close association with an individual with a financial, non-financial professional interest or non-financial personal interest in a commissioning decision (as the categories above), e.g. being:</p> <ul style="list-style-type: none"> <li>• A spouse / partner</li> <li>• A close relative: e.g. parent, grandparent, child, grandchild or sibling</li> <li>• A close friend</li> <li>• A business partner</li> </ul>

If any assistance is required in order to complete this form, please contact: The Governance Team; Paul Winter, [paul.winter@northstaffs.nhs.uk](mailto:paul.winter@northstaffs.nhs.uk) Tracey Revill, [tracey.revill@staffordsurroundsccg.nhs.uk](mailto:tracey.revill@staffordsurroundsccg.nhs.uk)

**The completed form should be sent by email to [SASCCG.CentralGovernance@nhs.net](mailto:SASCCG.CentralGovernance@nhs.net) and signed hard copy to:**

Tracey Revill, Governance Manager, CCG HQ, First Floor, Staffordshire Place 2, Stafford, ST16 2LP, [tracey.revill@staffordsurroundsccg.nhs.uk](mailto:tracey.revill@staffordsurroundsccg.nhs.uk)



**Register of Interests**  
**As at**

**Template Register of interests for CCGs**

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

*Note previous versions of the register are available on request in writing to Associate Director of Corporate Services*

**Template for Declaration of gifts and hospitality**

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

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

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

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

**Signed:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
**Signed:** \_\_\_\_\_ **Position:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
 (Line Manager or a Senior CCG Manager)  
 Please return to Associate Director of Corporate Services or Executive Manager



## Appendix E

### Template declarations of interest checklist

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

Timing	Checklist for Chairs	Responsibility
<b>In advance of the meeting</b>	<b>1. 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.	Meeting Chair and secretariat
	<b>2. A definition of conflicts of interest</b> should also be accompanied with each agenda to provide clarity for all recipients.	Meeting Chair and secretariat
	<b>3. Agenda</b> to be circulated to enable attendees (including visitors) to identify any interests relating specifically to the agenda items being considered.	Meeting Chair and secretariat
	<b>4. Members should contact the Chair</b> as soon as an actual or potential conflict is identified.	Meeting members
	<b>5. Chair to review a summary report from preceding meetings</b> i.e., sub-committee, working group, etc., detailing any conflicts of interest declared and how this was managed.	Meeting Chair
	<b>A template for a summary report</b> to present discussions at preceding meetings is detailed below.	Meeting Chair
	<b>6. A copy of the members' declared interests</b> is checked to establish any actual or potential conflicts of interest that may occur during the meeting.	Meeting Chair

<p><b>During the meeting</b></p>	<p>7. <b>Check and declare the meeting is quorate</b> and ensure that this is noted in the minutes of the meeting.</p> <p>8. Chair requests <b>members to declare any interests in agenda items</b>- which have not already been declared, including the nature of the conflict.</p> <p>9. <b>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>10. <b>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 any 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>11. All <b>new interests declared</b> at the meeting should be promptly updated onto the declaration of interest form;</p> <p>12. All new completed declarations of interest should be <b>transferred onto the register of interests</b>.</p>	<p>Individual(s) declaring interest(s)</p> <p>Designated person responsible for registers of interest</p>

## Template for recording any interests during meetings

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





		Action
<b>5.0</b>	<b>Minutes of the last meeting</b>	
<b>6.0</b>	<b>Actions of the last meeting</b>	
<b>7.0</b>		
<b>8.0</b>	<b>Any Other Business</b>	
	There being no further business, the Chair closed the meeting at 16:23	
<b>9.0</b>	<b>Date and time of next meeting in Public</b>	

## Procurement Checklist

<b>Service:</b>	
<b>Question</b>	<b>Comment/ Evidence</b>
<b>1. How does the proposal deliver good or improved outcomes and value for money – what are the estimated costs and the estimated benefits? How does it reflect the CCGs proposed commissioning priorities? How does it comply with the CCGs commissioning obligations?</b>	
<b>2. How have you involved the public in the decision to commission this service?</b>	
<b>3. What range of health professionals have been involved in designing the proposed service?</b>	
<b>4. What range of potential providers have been involved in considering the proposals?</b>	
<b>5. How have you involved your Health and Wellbeing Board(s)? How does the proposal support the priorities in the relevant joint health and wellbeing strategy (or strategies)?</b>	
<b>6. What are the proposals for monitoring the quality of the service?</b>	
<b>7. What systems will there be to monitor and publish data on referral patterns?</b>	
<b>8. Have all conflicts and potential conflicts of interests been appropriately declared and entered in registers?</b>	

<b>9. In respect of every conflict or potential conflict, you must record how you have managed that conflict or potential conflict. Has the management of all conflicts been recorded with a brief explanation of how they have been managed?</b>	
<b>10. Why have you chosen this procurement route e.g., single action tender?<sup>17</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>17</sup>Taking into account all relevant regulations (e.g. the NHS (Procurement, patient choice and competition) (No 2) Regulations 2013 and guidance (e.g. that of Monitor).



**Template: Procurement decisions and contracts awarded**

Ref No	Contract/ Service title	Procurement description	Existing contract or new procurement (if existing include details)	Procurement type – CCG procurement, collaborative procurement with partners	CCG clinical lead (Name)	CCG contract manger (Name)	Decision making process and name of decision making committee	Summary of conflicts of interest noted	Actions to mitigate conflicts of interest	Justificatio n for actions to mitigate conflicts of interest	Contract awarded (supplier name & registered address)	Contract value (£) (Total) and value to CCG	Comm ents 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 Head of Procurement Midlands and Lancashire Commissioning Support Unit

Template Register of procurement decisions and contracts awarded

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

**Annex I: Template Declaration of conflict of interests for bidders/contractors**

Organisation and relevant person

<b>Name of Organisation:</b>	
<b>Details of interests held:</b>	
<b>Type of Interest</b>	<b>Details</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 CCGs or any of its members' or employees' judgements, decisions or actions</b>	

<b>Name of Relevant Person</b>	[complete for all Relevant Persons]	
<b>Details of interests held:</b>		
<b>Type of Interest</b>	<b>Details</b>	<b>Personal interest or that of a family member, close friend or other acquaintance?</b>
<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 CCGs or any of its members' or employees' judgements, decisions or actions</b>		

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:

<sup>i</sup> BMA guidance on conflicts of interest for GPs in their role as commissioners and providers  
<http://www.bma.org.uk/support-at-work/commissioning/ensuring-transparency-and-probity>

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<sup>ii</sup> Managing conflicts of interest in clinical commissioning  
groups:[http://www.rcgp.org.uk/~media/Files/CIRC/Managing\\_conflicts\\_of\\_interest.ashx](http://www.rcgp.org.uk/~media/Files/CIRC/Managing_conflicts_of_interest.ashx)