Conflicts of Interest Policy

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<tr>
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INTRODUCTION

Clinical commissioning groups (CCGs) manage conflicts of interest as part of their day-to-day activities. Effective handling of conflicts of interest is crucial to give confidence to patients, taxpayers, and healthcare providers that CCG commissioning decisions are robust, fair and transparent and offer value for money.

Although conflicts of interest are inevitable, having processes to appropriately identify and manage them is essential to maintain the integrity of the NHS commissioning system and to protect the CCG, its Governing Body, its employees and member GP practices from allegations and perceptions of wrong-doing. Failure to manage conflicts of interest could lead to legal challenge and even criminal action in the event of fraud, bribery and corruption.

Aims and objectives of the policy

- To safeguard clinically led commissioning, whilst ensuring objective investment decisions;
- To enable the CCG to demonstrate that it is acting fairly and transparently and in the best interests of its patients and local populations;
- To uphold confidence and trust in the NHS;
- To support the CCG, its staff and those who work with it to understand when conflicts (whether actual or potential) may arise and how to manage them if they do;
- Ensure that the CCG operates within the legal framework.

CCG Constitution

The CCG’s constitution includes a statement of the conduct expected of individuals involved in the CCG, - members of the governing body, members of committees, and employees - which reflect the safeguards in the statutory guidance on conflicts of interest. This is supported by the expectations set out in the Standards for Members of NHS Boards and Clinical Commissioning Groups.

Legal requirements

Section 14O of the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012) sets out the minimum requirements for CCGs in terms of managing conflicts of interest.

NHS England has issued statutory guidance for CCGs¹ to further support the management of risks of conflicts of interest and CCGs are expected to fully implement this guidance.

In addition to complying with this guidance, professional bodies have also issued guidance on conflicts of interest which should be adhered to including:

- The British Medical Association: BMA guidance on conflicts of interest for GPs in their role as commissioners and providers

¹ Managing Conflicts of Interest: Revised Statutory Guidance for CCGs June 2017
• The Royal College of General Practitioners: *Managing conflicts of interest in clinical commissioning groups*
• The General Medical Council: *Good Medical Practice (2013)*

Procurement rules should also be adhered to including:

• The Public Contract Regulations 2015
• The National Health Service (procurement, patient choice and competition) (no.2) regulations 2013
• The Bribery Act 2010

**Scope**

This policy will apply to:

• the GP members of the CCG;
• the members of its Governing Body;
• the members of its committees or sub-committees and the committees (including joint committees) or sub-committees of its Governing Body;
• the members of its advisory panels or groups; and
• its employees and individuals working on behalf of the CCG
• any practice staff involved in the business or decision making of the CCG

The CCG will ensure that all employees and decision-makers are aware of the existence of this policy by:

• an introduction to the policy during local induction for new starters to the CCG;
• an annual reminder of the existence and importance of the policy delivered via internal communication methods; and
• an *annual* request to update declaration of interest forms including confirmation of no changes and a nil return where there are no interests

Individuals to whom this policy applies will be personally responsible for ensuring that they:

• are familiar with its provisions;
• do not knowingly place themselves in a position which creates a potential conflict between their individual and personal interests and their CCG duties;
• comply with the procedures set out in the policy including making declarations of potential or actual conflicts of interest where necessary; and
• attend any conflict of interest training made available to them.

**DEFINITION OF AN INTEREST**

A conflict is defined as ‘a set of circumstances for which a reasonable person would consider that an individual’s ability to apply judgement or act, in the context of delivering, commissioning, or assuring taxpayer funded health and care services, is or could be, impaired or influenced by another interest they hold’.
In some circumstances, it could be reasonably considered that a conflict exists even when there is no actual conflict. In these cases it is important to manage these perceived conflicts in order to maintain public trust.

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

Interests can be captured in four different categories:

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.

- A provider of clinical private practice.

This could also include an individual being:
- In secondary employment
- In receipt of secondary income from a provider;
- In receipt of a grant from a provider;
- In receipt of any payments (for example honoraria, one-off payments, day allowances or travel or subsistence) from a provider;
- In receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role; 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

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*New Care Models refer to Multi-speciality Community Providers (MCP), Primary and Acute Care Systems (PACS) or other arrangements of a similar scale and scope.*
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 for example, in dermatology, acupuncture etc.
- A member of a particular specialist professional body (although routine GP membership of the RCGP, British Medical Association (BMA) or a medical defence organisation would not usually by itself amount to an interest which needed to be declared);
- An advisor for the Care Quality Commission (CQC) or the National Institute for Health and Care Excellence (NICE);
- Engaged in a research role.

- Involved in 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.
- A GP or practice manager, who are members of the governing body or committees of the CCG, who 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 in 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.

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 relative - parent, grandparent, child, grandchild or sibling
- Close friend
- Business partner - a declaration of interest for a “business partner” in a GP partnership should include all relevant collective interests of the partnership, and all interests of their fellow GP partners

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

The above categories and examples are not exhaustive and the CCG will exercise discretion on a case by case basis, having regard to the principles set out in this policy.
**PRINCIPLES**

Those who are serving as members of the CCG governing body, CCG committees or take decisions where they are acting on behalf of the public or spending public money will observe a series of principles in the way they do business. These include:

- The Nolan Principles (as set out below)
- The Good Governance Standards for Public Services (2004), Office for Public Management (OPM) and Chartered Institute of Public Finance and Accountancy (CIPFA)
- The seven key principles of the NHS Constitution
- The Equality Act 2010
- The UK Corporate Governance Code
- Standards for members of NHS Boards and CCG Governing Bodies in England

All those with a position in public life should adhere to the Nolan Principles:

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

To support the management of conflicts of interest, the CCG will:

- Do business appropriately
- Be proactive not reactive
- Be balanced and proportionate
- Be transparent
- Create an environment and culture where individuals feel supported and confident in declaring relevant information and raising any concerns

In addition to the above the CCG supports the following statements:

- 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.

**DECLARING CONFLICTS OF INTEREST**

The National Health Service Act 2006 as amended by the Health and Social Care Act 2012 states that CCGs must make arrangements to ensure individuals declare any conflict or potential conflict in relation to a decision to be made by the Group as soon as they become aware of it and in any event **within 28 days**. CCGs must record the interest in the registers as soon as they become aware of it.
The Chief Officer has overall accountability for the CCG’s management of conflicts of interest.

The Head of Governance and Engagement is responsible for the day to day management of conflicts of interest matters and queries including:

- Maintaining the CCG’s register(s) of interest and any other register required by statutory guidance
- 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
- Ensuring that the appropriate administrative processes are put in place
- Ensuring that training is provided including examples of conflicts and situations in which a conflict might arise.

Declarations of interest should be made by all those listed in the Register of Interest section below. Interests must be declared as soon as is reasonably practicable and by law within 28 days after the interest arises. Further opportunities to make declarations include:

- **On appointment**

  Applicants for any appointment to the CCG or its governing body or any committees should be asked to declare any relevant interests. When an appointment is made, a formal declaration of interests should again be made and recorded.

- **Annually**

  CCGs should have systems in place to satisfy themselves on an annual basis that their register of interests is accurate and up-to-date. Declarations of interest should be obtained from all relevant individuals every year and where there are no interests or changes to declare, a “nil return” should be 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.

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

  Whenever an individual’s role, responsibility or circumstances change in a way that affects the individual’s interests (e.g., where an individual takes on a new role outside the CCG or enters into a new business or relationship), a further declaration should be made to reflect the change in circumstances as soon as possible, and in any event within 28 days. This could involve a conflict of interest ceasing to exist or a new one materialising. It is the responsibility of all individuals required to make a declaration, to make a further declaration as soon as possible if their circumstances change, and in any event within 28 days, rather than waiting to be asked.
The Head of Governance and Engagement based at CCG headquarters should be formally notified of any changes and will update the register of interests accordingly.

**REGISTER OF INTERESTS**

CCGs have a statutory requirement to maintain one or more registers of interest of; members of the group, members of the governing body, members of its committees or sub-committees of its governing body and its employees. CCGs must publish and make arrangements to ensure that members of the public have access to, these registers on request.

The CCG keeps a Register of Interests for:

- All CCG employees, including:
  - All full and part time staff;
  - Any staff on sessional or short term contracts;
  - Any students and trainees (including apprentices);
  - Agency staff; and
  - Seconded staff
  - In addition, any self-employed consultants or other individuals working for the CCG under a contract for services will make a declaration of interest in accordance with this guidance, as if they were CCG employees

- Members of the Governing Body

- All members of the CCG's committees, sub-committees/ sub-groups, including:
  - Co-opted members;
  - Appointed deputies;
  - Any members of committees/groups from other organisations.
  - Where the CCG is participating in a joint committee alongside other CCGs, any interests which are declared by the committee members will be recorded on the register(s) of interest of each participating CCG.

- All GP members of the CCG. This includes each provider of primary medical services who is a member of the CCG under Section 14O (1) of the 2006 Act. Declarations will be made by the following groups:
  - GP partners (or where the practice is a company, each director);
  - Any individual directly involved with the business or decision-making of the CCG.

All persons referred to above must declare all actual or potential conflicts of interest to the Head of Governance and Engagement who will transfer interests declared promptly to the relevant register.

An interest should remain on the public register for a minimum of 6 months after the interest has expired. In addition the CCG will retain a private record of historic interests for a minimum of 6 years after the date on which it expired. The CCG's published register of interests states that historic interests are retained by the CCG for the specified timeframe and that requests for this information should be submitted to the Head of Governance and Engagement.
The register includes:

- Name of the person declaring the interest
- Position within, or relationship with, the CCG
- Type of interest
- 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 are to be agreed with the individual’s line manager or senior manager within the CCG

**DECLARATION OF GIFTS AND HOSPITALITY**

The CCG has a Standards for Business Conduct Policy which details the processes in place to ensure that individuals do not accept gifts or hospitality or other benefits which might reasonably be seen to compromise their professional judgement or integrity.

The policy provides a definition of the types of gifts and hospitality and identifies the Head of Governance and Engagement based at CCG headquarters as the nominated person to whom gifts and hospitality declarations should be reported.

Declarations must be completed and returned in a timely manner (generally within 2 weeks). Failure to notify the CCG may lead to disciplinary action against the member of staff.

**MAINTAINING A REGISTER OF GIFTS AND HOSPITALITY**

The CCG maintains a register of gifts and hospitality for the all of the individuals listed in the Register of Interests section above.

The Head of Governance and Engagement will ensure that declarations are promptly transferred to the gifts and hospitality register. Where gifts, hospitality or sponsorship are offered, but declined, the offer should still be recorded in the register.

The Standards for Business Conduct Policy provides more detail on the register for gifts and hospitality.

**PUBLICATION OF REGISTERS**

The CCG publishes the register of interests, the register of gifts and hospitality and the register of procurement decisions (see Managing Conflicts of Interest through the Commissioning Cycle below) on its website. They are also available in hard copy format from the CCG’s Headquarters. The register of interest and the register of gifts and hospitality are published as a minimum annually.

Although all staff listed above should declare interests, the CCG recognises 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. These staff are referred to as ‘decision making staff’.

These staff are:

- All Governing Body members
• Members of all committees and sub-committees, including shared committees
• Members of new care models joint provider/commissioner groups
• Members of procurement committees
• Members of advisory groups which contribute to direct or delegated decision making on the commissioning or provision of taxpayer funded services such as working groups involved in service redesign or stakeholder engagement that will affect future provision of services.
• Staff at Agenda for Change band 8c and above
• Management, administrative and clinical staff who have the power to enter into contracts on behalf of the CCG
• 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.

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

All decision making staff are made aware through this policy and through a fair processing notice that the registers will be published and how the information on the registers may be used or shared. This information will also be provided to individuals identified in the register as a result of being in a relationship with the person making the declaration.

All staff who are not decision making staff but who are still required to make a declaration of interest or a declaration of gifts and hospitality are made aware that the registers are kept and how the information on the registers may be used or shared through a fair processing notice. This information will also be provided to individuals identified in the register as a result of being in a relationship with the person making the declaration.

Interests (including gifts and hospitality) of decision making staff will remain on the public register for a minimum of 6 months. The CCG will retain a private record of historic interests and offers or receipt of gifts and hospitality for a minimum of 6 years after the date on which it expired. The CCG’s published register of interests states that historic interests are retained by the CCG for the specified timeframe. Requests for this information can be made to the Head of Governance and Engagement.

The registers of interests and gifts and hospitality are published as part of the CCG’s Annual Report and Annual Governance Statement by a link to the CCG’s website.

**ROLES AND RESPONSIBILITIES**

**Appointing Governing Body or committee members**

On appointing governing body, committee members and senior staff, the CCG gives consideration to whether conflicts of interest should exclude individuals from being appointed.
Such consideration is made on a case by case basis depending on the nature and extent of the interest, in particular whether the individual (or a family member) could benefit from any decision made and whether the interest relates to such a significant area of business that the individual would be unable to make a full and proper contribution.

Any individual who has a material interest in an organisation which provides or is likely to provide substantial business to a CCG (whether as a provider of healthcare, including ‘new care model’ providers, or healthcare commissioning support services, or otherwise) shall not be a member of the Governing Body or its committees or sub-committees where the nature and extent of their interest 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.

The CCG has ensured that the membership of the committee which has been established to make commissioning decision regarding primary medical services is constituted so as to ensure that the majority is held by lay and executive members. The Chair and Vice Chair of these committees must always be lay members.

**Secondary employment**

The CCG takes 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 CCG [for example in relation to new care model arrangements]. The purpose of this is to ensure that the CCG is aware of any potential conflict of interest.

Examples of work which might conflict with the business of the CCG, including part-time, temporary and fixed term contract work, include:

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

The CCG requires that individuals obtain prior permission to engage in secondary employment, and reserve the right to refuse permission where it believes a conflict will arise which cannot be effectively managed.

Staff should declare any existing outside employment on appointment and any new outside employment when it arises.

It is unacceptable for pharmacy advisors or other advisers, employees or consultants to the CCG on matters of procurement to themselves be in receipt of payments from the pharmaceutical of devices sector.

**CCG Lay Members**

Lay members play a critical role in the CCG, 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.

CCGs by statute are required to have at least two lay members but with the expanding role of primary care commissioning it is recommended to have a minimum of three.

**Conflicts of Interest Guardian**

To strengthen scrutiny and transparency of the CCG’s decision-making processes, the CCG has a Conflicts of Interest Guardian (akin to a Caldicott Guardian). This role is undertaken by the CCG’s Audit Chair and is supported by the Head of Governance and Engagement who keeps Conflicts of Interest Guardian well briefed on conflicts of interest matters and issues arising.

The Conflicts of Interest Guardian in collaboration with the Head of Governance and Engagement:

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

**Primary Care Commissioning Committee Chair**

The Lay Vice Chair of the Governing Body is the Chair of the Primary Care Commissioning Committee and a further Lay Member of the Governing Body is the Vice Chair.

The Lay Member Chair of the Audit Committee is a member of the Primary Care Commissioning Committee, but does not have the role of chair or vice-chair of the committee as this could conceivably compromise the role of Conflicts of Interest Guardian.

**Independent GP Advisor**

The CCG has appointed a GP from outside of the CCG member practice boundary to provide independent advice on the design and procurement of primary care services.

**GOVERNANCE ARRANGEMENTS AND DECISION MAKING**

The CCG has reviewed the governance structures and policies for managing conflicts of interest in the light of the revised statutory guidance and by using the templates contained within the guidance has robust processes in place to ensure compliance.

The chair of a meeting of the CCG’s Governing Body or any of its committees, sub-committees or groups has ultimate responsibility for deciding whether there is a conflict of interest and for taking the appropriate course of action in order to manage it. Where the chair is conflicted the vice chair is responsible for deciding the appropriate course of action.

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).
To support chairs in their role, a declaration of interest checklist is made available prior to meetings which outlines the procedure the Governing Body, committee and sub-committees meetings will adhere to, including:

- **Before the meeting**
  - All agendas include a declaration of interest standing item
  - A definition of conflicts of interest accompany each agenda to provide clarity for members
  - Agendas are circulated in advance together with the process for members to declare interests in agenda items before the meeting
  - Any previous declarations from preceding meetings and how this was managed is made available to the chair
  - The register of declared interests is checked to establish any actual or potential conflicts of interest which may occur
  - Action is determined on managing any conflicts of interest prior to the meeting

- **During the meeting**
  - The register of declared interests is available at the meeting
  - The Chair requests members declare interests in the agenda, including visiting attendees
  - Checks take place that the meeting is quorate, this is declared and noted in the minutes
  - Actions agreed prior to the meeting are outlined to deal with the conflict of interest which might include exclusion from the meeting; non-participating in the discussion and/or decision; supporting papers and minutes not distributed to the conflicted member(s); allowing the member to remain and participate in both the discussion and the decision – this is only likely to be the appropriate course of action where the interest declared is immaterial or not relevant to the matter(s) discussed.
    - Visitors in attendance who participate in the meeting must also follow the meeting protocol and declare any interest in a timely manner
  - If not declared ahead of the meeting the Chair will decide on how the conflict will be managed
  - If exclusion from the meeting affects quoracy, the item should be postponed until a quorum is achieved without conflict
  - Minutes are clear and comprehensive including:
    - Who has the interest
    - The nature of the interest and why it gives rise to a conflict
    - Items on the agenda to which the interest relates
    - How the conflict was agreed to be managed
    - Evidence that the conflict was managed as intended – recording when individuals left or returned to the meeting for example

- **Following the meeting**
  - Any new declarations of interest are captured on a declaration of interest form
  - All new declarations of interest are transferred onto the register of interest
Conflicts of interest need to be managed appropriately throughout the whole commissioning cycle. At the outset of a commissioning process, the relevant interests of all individuals involved should be identified and clear arrangements put in place to manage any conflicts of interest. This includes consideration as to which stages of the process a conflicted individual should not participate in, and, in some circumstances, whether that individual should be involved in the process at all.

**Designing service requirements**

The CCG recognises that the way in which services are designed can either increase or decrease the extent of perceived or actual conflicts of interest. Public and patient involvement in commissioning decisions supports transparent and credible commissioning decisions. Patients and members of the wider public are involved in task and finish groups, steering groups and within the CCG’s governance structure at every stage of the commissioning cycle from needs assessment, planning and prioritisation to service design, procurement and monitoring.

It is good practice to engage with clinicians in ensuring that service specifications will meet patients’ needs. Provider engagement follows 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. The CCG’s Procurement Policy provides more detail on the procurement process.

Engagement helps to shape the requirement to meet patient need but the CCG will ensure that it does not gear the requirement in favour of any particular provider(s).

The CCG has appointed an Independent GP Advisor to provide advice on the design of primary care services in particular.

The CCG will seek, as far as possible, to specify the outcomes that it wishes to see delivered through a new service, rather than the process by which these outcomes are to be achieved. As well as supporting innovation, this helps prevent bias towards particular providers in the specification of services.

Specifications will be clear and transparent, reflecting the depth of engagement, and set out the basis on which any contract will be awarded.

**Legal Requirements, Statutory Regulations and Guidance**

The Procurement Policy details the procurement law and regulation with which the CCG is required to comply. Statutory regulations and guidance states that:

*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.³

Register of Procurement Decisions

The CCG uses the procurement template included in the statutory guidance on conflicts of interest to ensure that the CCG conducts its procurement processes in a clear and transparent way.

In addition, the CCG has a register of procurement decisions which details decisions taken either for the procurement of a new service or any extension or material variation of a current contract. The register includes:

- Details of the decision
- Who was involved in making the decision (including the name of the CCG clinical lead, the CCG contract manager, the name of the decision making committee and the name of any other individuals with decision making responsibility
- A summary of any conflicts of interest in relation to the decision and how this was managed by the CCG
- The award decision taken

The register of procurement decisions is updated whenever a procurement decision is taken and is publicly available:

- In a prominent place on the CCG’s website
- Being available upon request for inspection at the CCG’s headquarters

Commissioning Support

The CCG cannot legally sub-delegate commissioning decisions to an external provider of commissioning support. However, the CCG does ensure that it seeks and receives appropriate technical support to decide the most appropriate procurement route, undertake procurements and manage contracts in ways that manage conflicts of interest and preserve integrity of decision-making. The CCG ensures that it:

- determines and signs off the specification and evaluation criteria;
- makes the decision and/or signs off on the decision on which providers to invite to tender; and
- makes the final decision on the selection of the provider.

Where another CCG or a commissioning support service undertake procurement activity on behalf of the CCG, the CCG ensures that they are compliant with requirements of the regulations in the same way the CCG must be itself.

³ The National Health Service (Procurement, Patient Choice and Competition) (No.2) Regulations 2013
As part of a procurement process, bidders are asked to declare any conflicts of interest. This allows the CCG to ensure they it complies with the principles of equal treatment and transparency.

It is not usually appropriate to declare such a conflict on the register of procurement decisions however the CCG will retain an internal audit trail of how the conflict or perceived conflict is managed in order to be able to provide information at a later date if required.

**Contract Monitoring**

The management of conflicts of interest applies to all aspects of the commissioning cycle, including contract management. All contract monitoring meetings consider conflicts of interest as part of the process and the chair of a contract monitoring meeting follows the procedure detailed above in Governance Arrangements and Decision Making.

This equally applies where a contract is held jointly with another organisation such as the Local Authority or with other CCGs under lead commissioner arrangements.

The individuals involved in the monitoring of a contract should not have any direct or indirect financial, professional or personal interest in the incumbent provider or in any other provider that could prevent them, or be perceived to prevent them, from carrying out their role in an impartial, fair and transparent manner.

The CCG considers any potential conflicts of interest when disseminating any contract or performance information/reports on providers, and manages the risks appropriately.

**RAISING CONCERNS AND BREACHES**

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 CCG’s 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 in accordance with the process outlined below. Any contact made regarding a potential breach will be dealt with on a strictly confidential basis.

**What constitutes a breach?**

A conflict of interest occurs where an individual’s ability to exercise judgement, or act in a role, is or could be impaired or otherwise influenced by his or her involvement in another role or relationship. Conflicts of interest are inherent in the business of CCGs, and as such their management is crucial to give confidence to patients, tax payers, healthcare providers and Parliament that CCG commissioning decisions are robust, fair and transparent and offer value for money.

Due to this, a declared conflict of interest in itself is not a breach of policy or professional code of practice. Rather, a breach occurs when someone who has a conflict of interest decides to disregard their professional and contractual responsibility to the CCG in order to benefit themselves or others, whether directly or indirectly.
Defined process for managing breaches of the policy

Any non-compliance with the CCG’s conflicts of interest policy should be reported immediately in line with the CCG’s Raising Concerns at Work (Whistleblowing) Policy.

- **How to report a breach**

  If an employee has a concern about suspected or known breach of the conflicts of interest policy, they should raise it in the first instance with their line manager.

  If they do not want to approach their line manager, perhaps because they think he or she may be involved or implicated they should contact the CCG Conflicts of Interest Guardian – the Lay Member for Governance on the CCG Governing Body.

  If the individual who wishes to report a suspected or known breach of the policy is not an employee or worker of the CCG, they should ensure that they comply with their own organisation’s whistleblowing policy, since most such policies provide protection against detriment or dismissal.

  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.

  Once raised, the breach will be recorded and investigated thoroughly.

- **How the breach is recorded**

  So that the CCG can investigate the concern fully, the employee should fully describe their concerns in writing. The written concerns will be stored securely by the Head of Governance and will be anonymously transposed into the Register of Breaches.

  The purpose of the CCG’s Raising Concerns at Work (Whistleblowing) Policy, and therefore the process for reporting concerns regarding breaches of conflicts of interest, is to encourage employees to raise concerns about wrongdoing so the CCG can deal with them.

  If employees raise their concerns in accordance with the Public Interest Disclosure Act 1998, where they reasonably suspect malpractice in the workplace relating to the terms of this conflicts of interest policy, they are protected by the law from any recriminations. These disclosures are called “protected disclosures”. Employees are not entitled to this legal protection if they raise concerns that they know to be untrue.

- **How it is investigated**

  Once the employee has reported their concerns, the CCG will decide what investigations need to be carried out and by whom. The extent of the investigation and the timescale will depend on the nature of the alleged breach.

  Depending on the nature of the alleged breach, the CCG may need to involve external advisers to assist the investigation. These might include the police, legal advisers, Counter
Fraud Specialist or any relevant public authority. If that is necessary the reporting employee will be informed.

If the alleged breach relates to fraud, bribery or corruption these will be investigations in accordance with the CCG’s Fraud, Bribery and Corruption Policy.

When the investigation has been completed, the CCG will inform the employee of the findings of the investigation and any steps taken to resolve the matter.

If misconduct is discovered as a result of any investigation, the CCG’s Disciplinary Policy will be used, in addition to any appropriate external measures.

If the employee is not satisfied that their concerns have been properly investigated, they should discuss this with the Chief Officer in the first instance, or if they are unavailable, the Head of Governance.

- **The governance arrangements and reporting mechanisms**

As detailed above the CCG has appointed a Conflicts of Interest Guardian, the Lay Member for Governance on the Governing Body, to strengthen scrutiny and transparency of the CCG’s decision-making processes.

Whilst the Conflicts of Interest Guardian has an important role within the management of conflicts of interest, executive members of the CCG’s 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.

Confirmed breaches of the conflict of interest policy will be reported to the CCG Audit Committee and the Governing Body. Any lessons learnt arising from investigations will be shared with CCG staff as appropriate.

- **Clear links to HR policies**

Individuals who fail to disclose any relevant interests or who otherwise breach the CCG’s rules and policies relating to the management of conflicts of interest will be subject to investigation and disciplinary action in accordance with the CCG’s Disciplinary Policy.

*The CCG will view instances where this policy is not followed as serious and may take disciplinary action against individuals, which may result in removal from office in accordance with the provisions of the CCG’s constitution and/or dismissal.*

- **Communications and management of any media interest**

Any communications with media organisations relating to the alleged breach will be signposted to the Lead for Communications who will work with the Chief Officer to respond appropriately.
- **When and who to notify in NHS England**

The Chief Officer and the Conflicts of Interest Guardian will consider each breach that is reported and, if the consequences of the alleged breach have the potential to negatively impact on the reputation or business of the CCG, the Locality Director - Nottinghamshire & North Derbyshire at NHS England – North Midlands will be informed.

- **Process for publishing the breach on the CCG website**

A register of anonymised breaches of the Conflicts of Interest Policy will be published via the publication scheme on the CCG’s website.

- **What type of breaches should be recorded?**

Appendix J of this policy provides examples of breaches of the policy that should be recorded on the register of breaches.

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**IMPACT OF NON-COMPLIANCE**

Failure to comply with the CCG’s policy on conflicts of interest management, pursuant to this statutory guidance, can have serious implications for the CCG and any individuals concerned.

**Civil implications**

If conflicts of interest are not effectively managed, the CCG could face civil challenges to decisions they make. For instance, if breaches occur during a service re-design or procurement exercise, the CCG risks a legal challenge from providers that could potentially overturn the award of a contract, lead to damages claims against the CCG, and necessitate a repeat of the procurement process. This could delay the development of better services and care for patients, waste public money and damage the CCG’s reputation. In extreme cases, staff and other individuals could face personal civil liability, for example a claim for misfeasance in public office.

**Criminal implications**

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 the CCG and linked organisations, and the individuals who are engaged by them. See Fraud or Bribery section below for further details.

Fraud carries a maximum sentence of 10 years imprisonment and/or a fine if convicted in the Crown Court or 6 months imprisonment and/or a fine in the Magistrates’ Court. The offences can be committed by a body corporate.

The offences of bribing another person, being bribed or bribery of foreign public officials in relation to an individual carries a maximum sentence of 10 years imprisonment and/or a fine if convicted in the Crown Court and 6 months imprisonment and/or a fine in the Magistrates’ Court. In relation to a body corporate the penalty for these offences is a fine.

**Disciplinary implications**

The CCG ensures that individuals who fail to disclose any relevant interests or who otherwise breach the CCG’s rules and policies relating to the management of conflicts of interest are subject to investigation and, where appropriate, to disciplinary action. CCG staff, governing body
and committee members in particular should be aware that the outcomes of such action may, if appropriate, result in the termination of their employment or position with the CCG.

**Professional regulatory implications**
Statutorily regulated healthcare professionals who work for, or are engaged by, the CCG are under professional duties imposed by their relevant regulator to act appropriately with regard to conflicts of interest as described in the Introduction section of this policy. The CCG reports statutorily regulated healthcare professionals to their regulator if they believe that they have acted improperly, so that these concerns can be investigated. Statutorily regulated healthcare professionals are 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.

### FRAUD OR BRIBERY

This policy should be read and operated alongside the CCG’s Fraud, Bribery and Corruption Policy, which is designed to contribute to the CCG’s obligation to ensure adequate measures are in place to prevent fraud; as well as acts of bribery within the meaning of the Bribery Act 2010.

**Fraud**
- The Fraud Act 2006 came into force on the 15 January 2007 and introduced the general offence of fraud. This is broken into three key sections:
  - fraud by false representation;
  - fraud by failing to disclose information;
  - fraud by abuse of position.
- The Fraud Act 2006 created new offences of:
  - possession and making or supplying articles for use in fraud;
  - fraudulent trading (sole traders);
  - obtaining services dishonestly.

**Corruption/Bribery**
- The Bribery Act 2010 created two general offences of bribery:
  - offering or giving a bribe to induce someone to behave, or to reward someone for behaving, improperly; and
  - requesting or accepting a bribe either in exchange for acting improperly, or where the request or acceptance is itself improper
- A new corporate offence:
  - negligent failing by a company or limited liability partnership to prevent bribery being given or offered by an employee or agent on behalf of that organisation

All Individuals working for the CCG are required to be aware of the Bribery Act 2010 and should also refer to the Fraud, Bribery and Corruption Policy of the group for further details.
Reporting Suspicions

All cases of suspected fraud, corruption or bribery must be investigated by an accredited NHS Counter Fraud Specialist appointed by the CCG. Any concerns or suspicions relating to fraud, corruption or bribery must therefore be reported to the group appointed Counter Fraud Specialist. The CCG’s appointed Counter Fraud Specialist is Ian Morris, telephone 0116 225 6120. Email ian.morris7@nhs.net.

Any suspicions or concerns of acts of fraud or bribery can also be reported online via https://www.reportnhsfraud.nhs.uk/ or via the NHS Fraud and Corruption Reporting Line on 0800 028 4060. 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.

MONITORING COMPLIANCE AND EFFECTIVENESS OF THE POLICY

The management of conflicts of interest is a key indicator in the CCG Improvement and Assessment Framework and the CCG is required annually 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 Conflicts of Interest Guardian;
- The level of compliance with the mandated conflicts of interest on-line training, as of 31 January annually.

In addition, the CCG is required to report on a quarterly basis via self-certification that it:

- Has processes in place to ensure individuals declare any interests which may give rise to a conflict 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 HQ.
- Is aware of any breaches of its policies and procedures in relation to the management of conflicts of interest and how many:
  - To include details of how they were managed;
  - Confirmation that anonymised details of the breach have been published on the CCG website;
  - Confirmation that they been communicated to NHS England.

An annual audit of the conflicts of interest management is included in the internal audit workplan. Consideration of this indicator forms part of the audit. The results of this audit are reflected in the CCG’s annual governance statement within the CCG’s Annual Report and Accounts.
TRAINING

Training is offered to all employees, governing body members, members of CCG committees and sub-committees and practice staff with involvement in CCG business on the management of conflicts of interest. This is to ensure staff and others within the CCG understand what conflicts are and how to manage them effectively.

All such individuals should 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 CCG’s rules and policies for managing conflicts of interest.

Mandatory conflicts of interest training must be completed annually by 31 January each year via an online training package for CCG employees.

The CCGs is required to record its completion rates as part of the annual conflicts of interest audit.

DUE REGARD

This policy has been reviewed in relation to having due regard to the Public Sector Equality Duty (PSED) of the Equality Act 2010 to eliminate discrimination; harassment; victimisation; to advance equality of opportunity; and foster good relations between the protected groups.

EQUALITY AND DIVERSITY STATEMENT

NHS Rushcliffe Clinical Commissioning Group (CCG) aims to design and implement policy documents that meet the diverse needs of its services, population and workforce, ensuring that none are placed at a disadvantage over others. It takes into account current UK legislative requirements, including the Equality Act 2010 and the Human Rights Act 1998, and promotes equal opportunities for all. This document has been designed to ensure that no-one receives less favourable treatment due to their personal circumstances, i.e. the protected characteristics of their age, disability, sex (gender), gender reassignment, sexual orientation, marriage and civil partnership, race, religion or belief, pregnancy and maternity. Appropriate consideration has also been given to gender identify, socio-economic status, immigration status and the principles of the Human Rights Act.
In carrying out its function, NHS Rushcliffe CCG must have due regard to the Public Sector Equality Duty (PSED). This applies to all activities for which the CCG is responsible, including policy development, review and implementation.

**REVIEW**

This policy will be reviewed annually by the Audit Committee and approved by the Governing Body.
APPENDIX A – TEMPLATE DECLARATIONS OF INTEREST FOR CCG MEMBERS AND EMPLOYEES

Declaration of Interest
CCG Members and Employees

<table>
<thead>
<tr>
<th>Name:</th>
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<tr>
<td>Position within or relationship with, the CCG:</td>
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Detail of Interests held (complete all that are applicable)

<table>
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<tr>
<th>Type of Interest (see overleaf)</th>
<th>Description of Interest</th>
<th>Date of Interest</th>
<th>Actions to be taken to mitigate risk (to be agreed with line manager or senior CCG manager)</th>
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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 in the case of ‘decision making staff’ (as defined in this statutory guidance on managing conflicts of interest for CCGs) may be published in registers that the CCG holds.

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

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

Signed: ................................ Position: ........................................ Date: ................................

(Line Manager or Senior CCG Manager)

Please return to:

Head of Governance and Engagement
Easthorpe House
165 Loughborough Road
Ruddington
Nottingham
NG11 6LQ
<table>
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<th>Type of Interest</th>
<th>Description</th>
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| Financial interests | This is where an individual may get direct financial benefits from the consequences of a commissioning decision. This could, for example, include being:  
- A director, including a non-executive director, or senior employee in a private company or public limited company or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations. This includes involvement with a potential provider of a new care model;  
- A shareholder (or similar ownership interests), a partner or owner of a private or not-for-profit company, business, partnership or consultancy which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations.  
- A management consultant for a provider.  
- A provider of clinical private practice.  
This could also involve the individual being:  
- In secondary employment  
- In receipt of secondary income from a provider;  
- In receipt of a grant from a provider;  
- In receipt of any payments (for example honoraria, one-off payments, day allowances or travel or subsistence) from a provider;  
- In receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role; and  
- Having a pension that is funded by a provider (where the value of this might be affected by the success or failure of the provider). |
| Non-financial professional interests | This is where an individual may obtain a non-financial professional benefit from the consequences of a commissioning decision, such as increasing their professional reputation or status or promoting their professional career. This may, for example, include situations where the individual is:  
- An advocate for a particular group of patients;  
- A GP with special interests e.g., in dermatology, acupuncture etc.  
- A member of a particular specialist professional body (although routine GP membership of the RCGP, British Medical Association (BMA) or a medical defence organisation would not usually by itself amount to an interest which needed to be declared);  
- An advisor for the Care Quality Commission (CQC) or the National Institute for Health and Care Excellence (NICE);  
- Engaged in a research role.  
- Involved in 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 of the copying of protected ideas.  
- GPs and practice managers, who are members of the governing body or committees of the CCG, should declare details of their roles and responsibilities within their GP Practices. |
| 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. |
<p>| Indirect | This is where an individual has a close association with an individual who has a financial |</p>
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<th><strong>interests</strong></th>
<th>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:</th>
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|              | • Spouse / partner  
|              | • Close relative - parent, grandparent, child, grandchild or sibling  
|              | • Close friend  
|              | • Business partner - a declaration of interest for a “business partner” in a GP partnership should include all relevant collective interests of the partnership, and all interests of their fellow GP partners |

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

The above categories and examples are not exhaustive and the CCG will exercise discretion on a case by case basis, having regard to the principles set out in the Conflicts of Interest Policy.
## APPENDIX B – TEMPLATE REGISTER OF INTERESTS

<table>
<thead>
<tr>
<th>Name</th>
<th>Current position(s) held - i.e. Governing Body, Member practice, Employee or other</th>
<th>Declared Interest - (Name of the organisation and nature of business)</th>
<th>Type of Interest</th>
<th>Action taken to mitigate risk</th>
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<td>Financial Interests</td>
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<td>Non-Financial Personal Interests</td>
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## APPENDIX C – TEMPLATE DECLARATIONS OF GIFTS AND HOSPITALITY

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<thead>
<tr>
<th>Recipient Name</th>
<th>Position</th>
<th>Date of Offer</th>
<th>Date of Receipt (if applicable)</th>
<th>Details of Gift / Hospitality</th>
<th>Estimated Value</th>
<th>Supplier / Offeror Name and Nature of Business</th>
<th>Details of Previous Offers or Acceptance by this Offeror / Supplier</th>
<th>Details of the officer reviewing and approving the declaration made and date</th>
<th>Declined or Accepted?</th>
<th>Reason for Accepting or Declining</th>
<th>Other Comments</th>
</tr>
</thead>
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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 in the case of ‘decision making staff’ (as defined in the statutory guidance on managing conflicts of interest for CCGs) may be 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:

Head of Governance and Engagement
Easthorpe House
165 Loughborough Road
Ruddington
Nottingham
NG11 6LQ
## APPENDIX D – TEMPLATE REGISTER OF GIFTS AND HOSPITALITY

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
<th>Date of offer</th>
<th>Declined or Accepted?</th>
<th>Date of Receipt (if applicable)</th>
<th>Details of Gift/Hospitality</th>
<th>Estimated Value</th>
<th>Supplier / Offeror Name and Nature of business</th>
<th>Reason for Accepting or Declining</th>
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<tbody>
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</tbody>
</table>
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.

<table>
<thead>
<tr>
<th>Timing</th>
<th>Checklist for Chairs</th>
<th>Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>In advance of the meeting</td>
<td><strong>1. The agenda</strong> to include a standing item on declaration of interests to enable individuals to raise any issues and/or make a declaration at the meeting.</td>
<td>Meeting Chair and secretariat</td>
</tr>
<tr>
<td></td>
<td><strong>2. A definition of conflicts of interest</strong> should also be accompanied with each agenda to provide clarity for all recipients.</td>
<td>Meeting Chair and secretariat</td>
</tr>
<tr>
<td></td>
<td><strong>3. Agenda</strong> to be circulated to enable attendees (including visitors) to identify any interests relating specifically to the agenda items being considered.</td>
<td>Meeting Chair and secretariat</td>
</tr>
<tr>
<td></td>
<td><strong>4. Members should contact the Chair</strong> as soon as an actual or potential conflict is identified.</td>
<td>Meeting members</td>
</tr>
<tr>
<td></td>
<td><strong>5. Chair to review a summary report from preceding meetings</strong> i.e., sub-committee, working group, etc., detailing any conflicts of interest declared and how this was managed. A template for a summary report to present discussions at preceding meetings is detailed below.</td>
<td>Meeting Chair</td>
</tr>
<tr>
<td></td>
<td><strong>6. A copy of the members’ declared interests</strong> is checked to establish any actual or potential conflicts of interest that may occur during the meeting.</td>
<td>Meeting Chair</td>
</tr>
<tr>
<td>During the meeting</td>
<td><strong>7. Check and declare the meeting is quorate</strong> and ensure that this is noted in</td>
<td>Meeting Chair</td>
</tr>
<tr>
<td>Timing</td>
<td>Checklist for Chairs</td>
<td>Responsibility</td>
</tr>
<tr>
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<td>----------------</td>
</tr>
<tr>
<td></td>
<td>the minutes of the meeting.</td>
<td></td>
</tr>
<tr>
<td>8.</td>
<td>Chair requests <strong>members to declare any interests in agenda items</strong> - which have not already been declared, including the nature of the conflict.</td>
<td>Meeting Chair</td>
</tr>
<tr>
<td>9.</td>
<td><strong>Chair makes a decision</strong> 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.</td>
<td>Meeting Chair and secretariat</td>
</tr>
</tbody>
</table>
| 10. | As **minimum requirement**, the following should be **recorded in the minutes of the meeting**:  
  - Individual declaring the interest;  
  - At what point the interest was declared;  
  - The nature of the interest;  
  - The Chair’s decision and resulting action taken;  
  - The point during the meeting at which any individuals retired from and returned to the meeting - even if an interest has not been declared;  
  - **Visitors in attendance** who participate in the meeting must also follow the meeting protocol and declare any interests in a timely manner.  
  
  **A template for recording any interests during meetings is detailed below.** | Secretariat |
<p>| 11. | <strong>All new interests declared</strong> at the meeting should be promptly updated onto the declaration of interest form; | Individual(s) declaring interest(s) |
| 12. | <strong>All new completed declarations of interest should be transferred onto the register of interests.</strong> | Designated person responsible for registers of interest |</p>
<table>
<thead>
<tr>
<th>Template for recording any interests during meetings</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Report from</strong> &lt;insert details of sub-committee/ work group&gt;</td>
</tr>
<tr>
<td><strong>Title of paper</strong> &lt;insert full title of the paper&gt;</td>
</tr>
<tr>
<td><strong>Meeting details</strong> &lt;insert date, time and location of the meeting&gt;</td>
</tr>
<tr>
<td><strong>Report author and job title</strong> &lt;insert full name and job title/ position of the person who has written this report&gt;</td>
</tr>
<tr>
<td><strong>Executive summary</strong> &lt;include summary of discussions held, options developed, commissioning rationale, etc.&gt;</td>
</tr>
<tr>
<td><strong>Recommendations</strong> &lt;include details of any recommendations made including full rationale&gt; &lt;include details of finance and resource implications&gt;</td>
</tr>
<tr>
<td><strong>Outcome of Impact Assessments completed (e.g. Quality IA or Equality IA)</strong> &lt;Provide details of the QIA/EIA. If this section is not relevant to the paper state ‘not applicable’&gt;</td>
</tr>
<tr>
<td><strong>Outline engagement – clinical, stakeholder and public/patient:</strong> &lt;Insert details of any patient, public or stakeholder engagement activity. If this section is not relevant to the paper state ‘not applicable’&gt;</td>
</tr>
<tr>
<td><strong>Management of Conflicts of Interest</strong> &lt;Include details of any conflicts of interest declared&gt; &lt;Where declarations are made, include details of conflicted...&gt;</td>
</tr>
</tbody>
</table>

37
| **Assurance departments/organisations who will be affected have been consulted:** | <Insert details of the people you have worked with or consulted during the process:  
Finance (insert job title)  
Commissioning (insert job title)  
Contracting (insert job title)  
Medicines Optimisation (insert job title)  
Clinical leads (insert job title)  
Quality (insert job title)  
Safeguarding (insert job title)  
Other (insert job title)> |
<table>
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<tbody>
<tr>
<td><strong>Report previously presented at:</strong></td>
<td>&lt;Insert details (including the date) of any other meeting where this paper has been presented; or state ‘not applicable’&gt;</td>
</tr>
<tr>
<td><strong>Risk Assessments</strong></td>
<td>&lt;Insert details of how this paper mitigates risks- including conflicts of interest&gt;</td>
</tr>
<tr>
<td>Meeting</td>
<td>Date of Meeting</td>
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<td>---------</td>
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</table>
APPENDIX F – TEMPLATE FOR RECORDING MINUTES

SAMPLE

XXXX Clinical Commissioning Group

Primary Care Commissioning Committee Meeting

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

Attendees:

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

In attendance

<table>
<thead>
<tr>
<th>Name</th>
<th>Initials</th>
<th>Role</th>
</tr>
</thead>
<tbody>
<tr>
<td>Neil Ford</td>
<td>NF</td>
<td>Primary Care Development Director (from 2.35pm)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Item No</th>
<th>Agenda Item</th>
<th>Actions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Chairs welcome</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Apologies for absence</td>
<td></td>
</tr>
<tr>
<td></td>
<td>&lt;apologies to be noted&gt;</td>
<td></td>
</tr>
</tbody>
</table>
Declarations of interest

The Chair reminded committee members of their obligation to declare any interest they may have on any issues arising at committee meetings which might conflict with the business of XXX clinical commissioning group.

Declarations declared by members of the Primary Care Commissioning Committee are listed in the CCG’s Register of Interests. The Register is available either via the secretary to the governing body or the CCG website at the following link: http://xxxccg.nhs.uk/about-xxx-ccg/who-we-are/our-governing-body/

Declarations of interest from sub committees.

None declared

Declarations of interest from today’s meeting

The following update was received at the meeting:

- With reference to business to be discussed at this meeting, MS declared that he is a shareholder in XXX Care Ltd.

The Chair declared that the meeting was quorate and that MS would not be included in any discussions on agenda item X due to a direct conflict of interest which could potentially lead to financial gain for MS.

The Chair and MS discussed the conflict of interest, which was recorded on the register of interest, before the meeting and MS agreed to remove himself from the table and not be involved in the discussion around agenda item X.

Minutes of the last meeting <date to be inserted> and matters arising
| 5 | **Agenda Item** <Note the agenda item>  
MS left the meeting, excluding himself from the discussion regarding xx.  
<conclude decision has been made>  
<Note the agenda item xx>  
MS was brought back into the meeting. |
<table>
<thead>
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<tbody>
<tr>
<td>6</td>
<td>Any other business</td>
</tr>
<tr>
<td>7</td>
<td>Date and time of the next meeting</td>
</tr>
</tbody>
</table>
APPENDIX G – PROCUREMENT CHECKLIST

<table>
<thead>
<tr>
<th>Question</th>
<th>Comment/ Evidence</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. How does the proposal deliver good or improved outcomes and value for money – what are the estimated costs and the estimated benefits? How does it reflect the CCG’s proposed commissioning priorities? How does it comply with the CCG’s commissioning obligations?</td>
<td></td>
</tr>
<tr>
<td>2. How have you involved the public in the decision to commission this service?</td>
<td></td>
</tr>
<tr>
<td>3. What range of health professionals have been involved in designing the proposed service?</td>
<td></td>
</tr>
<tr>
<td>4. What range of potential providers have been involved in considering the proposals?</td>
<td></td>
</tr>
<tr>
<td>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)?</td>
<td></td>
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<tr>
<td>6. What are the proposals for monitoring the quality of the service?</td>
<td></td>
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<tr>
<td>7. What systems will there be to monitor and publish data on referral patterns?</td>
<td></td>
</tr>
<tr>
<td>8. Have all conflicts and potential conflicts of interests been appropriately declared and entered in registers?</td>
<td></td>
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</tbody>
</table>
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?

10. Why have you chosen this procurement route e.g., single action tender?  

11. What additional external involvement will there be in scrutinising the proposed decisions?

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?

**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)**

13. How have you determined a fair price for the service?

**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**

14. How will you ensure that patients are aware of the full range of qualified providers from whom they can choose?

**Additional questions for proposed direct awards to GP providers**

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?

16. In what ways does the proposed service go above and beyond what GP practices should be expected to provide under the GP contract?

---

*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).*
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?
## APPENDIX H - TEMPLATE REGISTER OF PROCUREMENT DECISIONS AND CONTRACTS AWARDED

<table>
<thead>
<tr>
<th>Ref No</th>
<th>Contract/Service title</th>
<th>Procurement description</th>
<th>Existing contract or new procurement (if existing include details)</th>
<th>Procurement type – CCG procurement, collaborative procurement with partners</th>
<th>CCG clinical lead (Name)</th>
<th>CCG contract manager (Name)</th>
<th>Decision making process and name of decision making committee</th>
<th>Summary of conflicts of interest noted</th>
<th>Actions to mitigate conflicts of interest</th>
<th>Justification for actions to mitigate conflicts of interest</th>
<th>Contract awarded (supplier name &amp; registered address)</th>
<th>Contract value (£) (Total)</th>
<th>Contract value (£) to CCG</th>
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</tbody>
</table>
### APPENDIX I – TEMPLATE DECLARATION OF CONFLICTS OF INTEREST FOR BIDDERS/CONTRACTORS

<table>
<thead>
<tr>
<th>Name of Organisation:</th>
<th></th>
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</table>

**Details of interests held:**

<table>
<thead>
<tr>
<th>Type of Interest</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provision of services or other work for the CCG or NHS England</td>
<td></td>
</tr>
<tr>
<td>Provision of services or other work for any other potential bidder in respect of this project or procurement process</td>
<td></td>
</tr>
<tr>
<td>Any other connection with the CCG or NHS England, whether personal or professional, which the public could perceive may impair or otherwise influence the CCG’s or any of its members’ or employees’ judgements, decisions or actions</td>
<td></td>
</tr>
</tbody>
</table>

**Name of Relevant Person**

[complete for all Relevant Persons]

**Details of interests held:**

<table>
<thead>
<tr>
<th>Type of Interest</th>
<th>Details</th>
<th>Personal interest or that of a family member, close friend or other acquaintance?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provision of services or other work for the CCG or NHS England</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Provision of services or other work for any other potential bidder in respect of this project or procurement process</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Any other connection with the CCG or NHS England, whether</td>
<td></td>
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</tbody>
</table>
personal or professional, which the public could perceive may impair or otherwise influence the CCG’s or any of its members’ or employees’ judgements, decisions or actions

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:
APPENDIX J – EXAMPLES OF BREACHES OF THE CONFLICTS OF INTEREST POLICY THAT SHOULD BE RECORDED

- A GP who is member of the Governing Body and Primary Care Commissioning Committee (PCCC) involved in decision making regarding the need for a new medical centre which would be situated in a building they owned. This is a direct financial interest as the GP in question would potentially benefit financially.

- GPs on the PCCC involved in the strategic planning of primary care services, including local enhanced service specifications. The GPs are shareholders in a private company that provides some primary medical services which may have an interest in providing some of those services; hence it could be perceived they have an unfair advantage over other potential providers. This is a direct financial interest.

- A GP presents a business case for an alternative to the Quality and Outcomes Framework at the PCCC. The business case involves maintaining payments to practices for the achievement of national QOF scheme indicators, and paying additional monies for locally defined indicators. Engagement on this proposal comprised of a number of informal discussions with a select few peers.

  The GP in question has an indirect financial interest. There is a risk (whether actual or perceived) that they may have favoured the financial interests of close associates over the interests of other providers when developing the plans.

- In January 2015, NHS England began to consider options for the reprocurement of an APMS contract for services currently provided by a Medical practice. The existing contract was due to expire in September 2016.

  A GP on the PCCC fails to declare that they has a close friend who works as a GP at another member practice (they went to medical school together, attend the same yoga class, their husbands are friends, their children attend the same school and the two families often socialise together), who is very interested in bidding for the service should it be re-procured. The GP has never declared this friendship because she claims she was not aware that she needed to do so.

  The GP in question has an indirect financial interest because their close friend may benefit financially depending on which procurement option approved by the PCCC.

- The CCG has recently awarded a contract for a new primary care mental health service to a federation of GP practices.

  The contract was awarded following a six month procurement process. The process was overseen by a small project group. The project group was chaired by the CCG’s contract lead for mental health services and included two other CCG managers and a mental health nurse.

  The procurement process included an engagement exercise, the development of a specification, an invitation to tender, evaluation of bids against agreed criteria and ratification of the final decision by the governing body.
A GP that was not a member of the project group that oversaw the procurement exercise, but was a member of the governing body which received regular updates on the procurement exercise, signed off the specification and approved the decision to award the contract to the federated GP practices. This GP was a member is a shareholder in the successful federation. A challenge is brought against the CCG as it is perceived that the governing body favoured the federation in its decision making process.

The GPs interests are noted in the minutes, but they do not detail the full nature of the conflict of interest, who was involved in the discussions or how the conflict was managed. There is no evidence that the situation was managed in line with the CCG’s policy on conflicts of interest.

- The CCG has a growing waiting list for a number of minor surgery procedures.

In a confidential governing body meeting, the governing body agree to make one-off payments to private providers to reduce the waiting list. This information is not yet public.

Following the meeting, a GP governing body member who was present at the meeting, arranges for letters to be sent to his patients on the waiting list, informing them of a small list of private providers that can offer the service immediately. At the top of the list is a provider, a private business of which the GP is a director.

The GP does not inform the patients that he is a director of the private provider and presents the information in a way that steers the patient to choose this provider over the other providers listed.

Whilst this interest was recorded on the register of interests, the GP did not declare this interest again at the governing body meeting. The GP has a direct financial interest in the CCG’s decision to use private providers to help reduce waiting lists. The GP should have declared their interest prior to, or during, the governing body meeting and should have taken no part in the decision to use private providers to reduce the waiting lists, or in any of the discussions leading up to this decision. Their failure to do so, in conjunction with their attempt to use their position for personal financial gain, constitutes a serious breach of the CCG’s conflicts of interest policy.

- A member of the public applies to be a patient representative on North the CCG’s service user group following a recent advert for new members.

The applicant works for a consultancy company which provides services to several providers who hold contracts with the CCG. This company may also become a provider in an impending procurement.

The applicant has an indirect financial interest because the consultancy company stands to gain financially from any contracts which have been, or are in future, awarded by the CCG to providers who are clients of the consultancy company.
They also have a direct financial interest in light of the consultancy companies participation in the forthcoming procurement process, which may result in the company becoming a provider of services directly to the CCG.