



Wirral Clinical Commissioning Group

CONFLICTS OF INTEREST POLICY

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Conflicts of Interest Policy

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1. Introduction

- 1.1 Good governance is critical in the design and operation of a Clinical Commissioning Group (CCG) in order that it acts transparently, manages conflicts of interest and has the proper checks and balances in place to provide assurance that decisions are taken in ways that protect patients' best interests, promote continuous improvements in quality and provide assurance that public money is well managed.
- 1.2 Governance arrangements need to combine the public accountability of an organisation responsible for improving quality and outcomes, and spending public money wisely, with the flexibility, culture and ways of working of a member-led organisation.
- 1.3 All staff have a personal responsibility to make sure that they are not placed in a position which risks, or appears to risk, a conflict between their private interests and their NHS duties.
- 1.4 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.
- 1.5 In addition to complying with NHS England's "Managing Conflicts of Interest: Revised Statutory Guidance for CCGs", CCGs are also required to adhere to relevant guidance issued by professional bodies on conflicts of interest, including the British Medical Association (BMA) the Royal College of General Practitioners and the General Medical Council (GMC), and to procurement rules including The Public Contract Regulations 2015 and the National Health Service (procurement, patient choice and competition) (no.2) regulations 2013, as well as the Bribery Act 2010.

2. Definition of an interest

- 2.1 A conflict of interest occurs where an individual's ability to exercise judgement, or act in a role is, could be, or is seen to be impaired or otherwise influenced by his or her involvement in another role or relationship. In some circumstances, it could be reasonably considered that a conflict exists even when there is no actual conflict. In these cases, it is important to still manage these perceived conflicts in order to maintain public trust.
- 2.2 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 both a commissioner and provider of services. Conflicts of interest can arise throughout the whole commissioning cycle from needs assessment, to procurement exercise, to contract monitoring.
- 2.3 Interests can be captured in four different categories:
 - i. **Financial interests:** This is where an individual may receive direct financial benefits from the consequences of a commissioning decision (including commissioning, procurement and contracting). This could, for example, include being:

- a. 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.
- b. 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.
- c. A management consultant for a provider or supplier.

This could also include an individual being:

- a. In secondary employment
 - b. In receipt of secondary income from a provider or supplier
 - c. In receipt of a grant from a provider
 - d. In receipt of any payments (for example honoraria, one-off payments, day allowances or travel or subsistence) from a provider or supplier
 - e. 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
 - f. Having a pension that is funded by a provider or supplier (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:
- a. An advocate for a particular group of patients
 - b. A GP with special interests e.g., in dermatology, acupuncture etc.
 - c. 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
 - d. An advisor for the Care Quality Commission (CQC) or the National Institute for Health and Care Excellence (NICE)
 - e. A medical researcher.

GPs and practice managers, who are members of the Governing Body or committees of the CCG, should also 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. A voluntary section champion for a provider
 - b. A volunteer for a provider
 - c. A member of a voluntary sector board or has any other position of authority in or connection with a voluntary sector organisation
 - d. Suffering from a particular condition requiring individually funded treatment
 - e. 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:
 - a. Spouse / partner
 - b. Close relative e.g., parent, grandparent, child, grandchild or sibling
 - c. Close friend
 - d. Business partner.

3. Principles and purpose of the policy

3.1 This policy is intended to:

- Ensure staff are aware of the need to act impartially in all of their work
- Protect all staff against the possibility of accusations of corruptive practice
- Uphold the established principles of business conduct within the NHS and the public sector
- Uphold the reputation of NHS Wirral CCG and its staff in the way it conducts its business
- Ensure staff do not contravene the requirements of the Bribery Act 2010
- Uphold the principles of openness
- Uphold the Nolan Principles (the 7 principles of Public Life)

3.2 This policy will describe the types of conflict of interest that might face professionals involved in the CCG and highlight how conflicts of interest will be managed to mitigate.

4. Management of conflicts of interest

- 4.1 Conflicts of interest are a common and sometimes unavoidable part of the delivery of healthcare. As such, it may not be possible or desirable to eliminate the risks of conflicts. Instead, it may be preferable to recognise the associated risks and put measures in place to manage the conflicts appropriately when they do arise.
- 4.2 The CCG is required to include an annual audit of conflicts of interest management within internal audit plans. This will be arranged between the Audit Chair / Conflicts of Interest Guardian of the CCG and Mersey Internal Audit Agency, to ensure that this process is embedded within the CCG.

5. Appointments and roles and responsibilities in the CCG

- 5.1 All staff have responsibility to appropriately manage conflicts of interest.

Secondary employment

- 5.2 The CCG 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 CCG. The purpose of this is to ensure that the CCG is aware of any potential conflict of interest. Examples of work which might conflict with the business of the CCG, including part-time, temporary and fixed term contract work include:

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

Staff members are required to advise the Corporate Affairs Manager should they engage in secondary employment to ensure this is recorded and appropriately managed.

Appointing Governing Body or committee members and senior employees

- 5.3 On appointing Governing Body, committee or sub-committee members and senior staff, the CCG will consider whether conflicts of interest should exclude individuals from being appointed to the relevant role. This will be considered on a case-by-case basis; however, the CCG's constitution will also reflect the CCG's general principles.
- 5.4 The CCG will assess the materiality of the interest, whether the individual (or any person with whom they have a close association) could benefit from any decision the CCG might make. This will be particularly relevant for Governing Body, committee and sub-committee appointments, but will also be considered for all employees and especially those operating at senior level.

5.5 The CCG will also determine the extent of the interest and the nature of the appointee's proposed role within the CCG. 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 should not be appointed to the role.

5.6 Any individual who has a material interest in an organisation which provides, or is likely to provide, substantial services to a CCG (whether as a provider of healthcare or 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 a regular basis that it significantly limits their ability to effectively perform that role.

Chief Officer (Accountable Officer)

5.7 The CCG's (Chief Officer) Accountable Officer has overall accountability for the CCG's management of conflicts of interest, however, this responsibility is delegated to the Director of Primary Care and Corporate Affairs.

Director of Primary Care and Corporate Affairs / Corporate Affairs Manager

5.8 The CCG's Director of Primary Care and Corporate Affairs and Corporate Affairs Manager have responsibility for:

- The day-to-day management of conflicts of interest matters and queries
- Maintaining the CCG's register(s) of interest and the other registers referred to in this 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; and
- Ensuring that appropriate administrative processes are put in place
- Ensuring there are appropriate governance structures in place for the effective management of conflicts of interest.

Conflicts of Interest Guardian

5.9 The role of the Conflicts of Interest Guardian is undertaken by the CCG's Lay Member – Governance & Audit (Audit Committee Chair). The Conflicts of Interest Guardian has responsibility for the following:

- To act as a conduit for GP practice staff, members of the public and healthcare professionals who have any concerns with regards to conflicts of interest
- Be a safe point of contact for employees or workers of the CCG to raise any concerns in relation to this policy
- Support the rigorous application of conflict of interest principles and policies

- Provide independent advice and judgment 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

All staff

5.5 All staff have the responsibility to ensure that the Corporate Affairs Manager is updated with any declarations of interest, in line with this policy.

6. Timescales for declaring interests

6.1 The Corporate Affairs Manager’s role is to ensure that, as a matter of course, declarations of interest are made and regularly confirmed or updated each six months. An example of the template declaration of interest form is available in appendix A.

6.2 Declarations of interest should be made 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 CCG (including Governing Body) or any committee should be asked to declare any relevant interests. When an appointment is made, a formal declaration of interests should again be made and recorded.

Six-monthly:

The CCG has a system in place to ensure that on a six-monthly basis the register of interests is reviewed and updated. Declarations of interest will be obtained from all relevant individuals every six months and where there are no interests or changes to declare, a “nil return” will 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 and how it is decided that they should be managed will be recorded in minutes of meetings. Further information with regards to this and the templates to be used are available in appendices E and F.

On changing role, responsibility of 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 of 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. The CCG will ensure, via this policy, that individuals make a declaration of interest if their circumstances change, and that it is their responsibility to make a further declaration as soon as possible and in any

event within 28 days, rather than waiting to be asked. It is also highlighted to staff, via this policy, that notifications should be made to the Corporate Affairs Manager.

7. Declaring interests

7.1 A register(s) of interest will be maintained for:

- **All CCG employees**, including:
 - Any 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 should also make a declaration of interest in accordance with this policy.

- **Members of the governing body:** All members of the CCG's committees, sub-committees / sub-groups, including:
 - Co-opted members
 - Appointed deputies; and
 - Any members of committees / groups from other organisations.

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

- **All members of the CCG (i.e., each GP Practice)**

This includes each provider of primary medical services which is a member of the CCG under Section 140 (1) of the 2006 Act. Declarations should be made by all GPs employed within a Practice across Wirral.

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7.2 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.

8. Register(s) of Gifts and Hospitality

8.1 The CCG will maintain one or more registers of gifts and hospitality for individuals listed within section 7.1. The CCG will ensure that robust processes are in place to ensure that such individuals do not accept gifts or hospitality or other benefits, which might reasonable be seen to compromise their professional judgement or integrity.

8.2 The individuals listed within section 7.1 will need to consider the risks associated with accepting offers of gifts, hospitality and entertainment when

undertaking activities for or on behalf of the CCG or their GP Practice. This is especially important during procurement exercises, as the acceptance of gifts could give rise to real or perceived conflicts of interests, or accusations of unfair influence, collusion or canvassing.

9. Gifts

- 9.1 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.
- 9.2 All gifts of any nature offered to CCG staff, Governing Body and committee members or individuals within GP member practices by suppliers or contractors linked (currently or prospectively) to the CCG's business should be declined, whatever their value. The person to whom the gifts were offered should also declare the offer to the Corporate Affairs Manager for maintaining the register of gifts and hospitality so the offer which has been declined can be recorded on the register.
- 9.3 Gifts offered from other sources should also be declined if accepting them might give rise to perceptions of bias or favouritism, and a common sense approach should be adopted as to whether or not this is the case. Gifts of low value (up to £6) from suppliers or contractors, such as promotional items, can be accepted and do not need to be declared to the Corporate Affairs Manager, nor recorded on the register. However, all other gifts from suppliers or contractors must be declined or declared.
- 9.4 Gifts under £50 can be accepted from non-suppliers and non-contractors, and do not need to be declared. Gifts with a value of over £50 can be accepted on behalf of an organisation, but not in a personal capacity and must be declared.
- 9.5 Any personal gifts of cash or cash equivalents (e.g. vouchers, tokens, offers of remuneration to attend meetings whilst in a capacity working for or representing the CCG) must always be declined, whatever their value and whatever their source and the offer which has been declined must be declared to the Corporate Affairs Manager.

10. Hospitality

- 10.1 Individuals should be able to demonstrate that the acceptance or provision of hospitality would benefit the NHS or the CCG.
- 10.2 Modest hospitality provided in normal and reasonable circumstances may be acceptable, although it should be on a similar scale to that which the CCG might offer in similar circumstances (e.g., tea, coffee, light refreshments at meetings). A common sense approach should be adopted as to whether hospitality offered is modest or not. Hospitality of this nature does not need to be declared to the team or individual who has designated responsibility for maintaining the register of gifts and hospitality, nor recorded on the register, unless it is offered by suppliers or contractors linked (currently or prospectively) to the CCG's business in which case all such offers (whether or not accepted) should be declared and recorded.

- 10.3 There is a presumption that offers of hospitality which go beyond modest or of a type that the CCG itself might offer, should be politely refused. A non-exhaustive list of examples includes:
- Hospitality of a value of above £25; and
 - Offers of foreign travel and accommodation
- 10.4 Hospitality under £25 can be accepted and does not need to be declared. Hospitality between £25 and £75 can be accepted but must be declared. If the value of the hospitality is over £75, it must be declared and should be refused unless senior approval is given.
- 10.5 There may be some limited and exceptional circumstances where accepting the types of hospitality referred to within this paragraph may be contemplated. Express prior approval should be sought from a senior member of the CCG (e.g. The Chief Officer or Director of Primary Care and Corporate Affairs) before accepting such offers, and the reasons for acceptance should be recorded in the CCG's register of gifts and hospitality. Hospitality of this nature should be declared to the Corporate Affairs Manager, and recorded on the register, whether accepted or not. In addition, caution should be exercised where hospitality is offered by suppliers or contractors linked (currently or prospectively) to the CCG's business. Offers of this nature can be accepted if they are modest and reasonable but advice should always be sought from the Director of Primary Care and Corporate Affairs or Corporate Affairs Manager as there may be particular sensitivities, for example if a contract re-tender is imminent. All offers of hospitality from actual or prospective suppliers or contractors (whether or not accepted) should be declared and recorded.

11. Commercial sponsorship

- 11.1 CCG staff, Governing Body and committee members, and GP member practices may be offered commercial sponsorship for courses, conferences, post / project funding, meetings and publications in connection with the activities which they carry out for or on behalf of the CCG or their GP Practices. All such offers (whether accepted or declined) must be declared so that they can be included on the CCG's register of interests, and the Director of Primary Care and Corporate Affairs and Corporate Affairs Manager will provide advice, support and guidance on how conflicts of interest should be managed and advise as to whether or not it would be appropriate to accept any such offers. If such offers are reasonable justifiable and otherwise in accordance with this statutory guidance then they may be accepted, but advice and guidance should be sought prior to acceptance, from the Director of Primary Care and Corporate Affairs.
- 11.2 Notwithstanding the above, acceptance of commercial sponsorship should not in any way compromise commissioning decisions of the CCG or be dependent on the purchase or supply of goods or services. Sponsors should not have any influence over the content of an event, meeting, seminar, publication or training event. The CCG should not endorse individual companies or their products. It is important to note that the fact of sponsorship does not mean that the CCG endorses a company's products or services. During dealings with sponsors there must be no breach of

patient or individual confidentiality or data protection legislation.

- 11.3 Furthermore, no information should be supplied to a company for their commercial gain unless there is a clear benefit to the NHS. As a general rule, information which is not in the public domain should not normally be supplied.

12. Sponsored events

- 12.1 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, benefiting 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.

- 12.2 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 event 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 or the main purpose of the event;
- The involvement of a sponsor in an event should always be clearly identified in the interest of openness
- CCGs should 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 the event
- Staff should declare involvement with arranging sponsored events to their CCG.

- 12.3 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 organisations, particularly in relation to procurement and competition. There needs to be transparency and any conflicts of interest should be managed.

13 Declaration of offers and receipt of gifts and hospitality

- 13.1 A draft template for declaring gifts and hospitality can be found within appendix C. The template gifts and hospitality register can be found within appendix D.

13.2 All hospitality or gifts declared must be promptly transferred to a register of gifts and hospitality that will be maintained by the Corporate Affairs Manager. This also includes any gifts and hospitality declared at meetings.

14. Publication of registers

1.1 The CCG is required to publish the register(s) of interest and register(s) of gifts and Hospitality, and the Register of procurement decisions these are available on the CCG's website

<https://www.wirralccg.nhs.uk/About%20Us/Whos-Who.htm>

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

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

14.4 The register(s) of interests (including the register of gifts and hospitality) will be published as part of the CCG's Annual Report and Annual Governance Statement which are available on the CCG's website:

<https://www.wirralccg.nhs.uk/About%20Us/annual-report-annual-accounts.htm>

15. Managing conflicts of interests at meetings

15.1 The CCG is required to consider:

- The make-up of the Governing Body and committee structures and processes for decision making
- Whether there are sufficient management and internal controls to detect breaches of this policy, including appropriate external oversight and adequate provision for raising concerns
- 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

- 15.2 The Chair of the CCG's Governing Body or any of its committees, sub-committees or groups has ultimate responsibility for deciding whether there is a conflict of interest and for taking the appropriate course of action in order to manage the conflict of interest.
- 15.3 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).
- 15.4 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.
- 15.5 It is good practice for the chair, with support of the CCG's Director of Primary Care and Corporate Affairs / Corporate Affairs Manager and, if required, the Conflicts of Interest Guardian, to proactively consider ahead of meetings what conflicts are likely to arise and how they should be managed, including taking steps to ensure that supporting papers for particular agenda items of private sessions/meetings are not sent to conflicted individuals in advance of the meeting where relevant.
- 15.6 To support the chair in their role, they should have access to the declaration of interests checklist prior to meetings, which should 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 within appendix E.
- 15.7 The chair should 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 should declare any interests which are relevant to the business of the meeting whether or not those interests have previously been declared. Any new interests which are declared at a meeting must be included on the CCG's relevant register of interests to ensure it is up to date.
- 15.8 Similarly, any new offers of gifts or hospitality (whether accepted or not) which are declared at a meeting must be included on the CCG's register of gifts and hospitality.
- 15.9 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 interest, but which have not been declared, then they should bring this to the attention of the chair who will decide whether this is a conflict of interest and the appropriate course of action in order to manage the conflict of interest.
- 15.10 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 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 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 the extend 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.

16. Managing conflicts of interest throughout the commissioning cycle

16.1 Conflicts of interest are required 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

16.2 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.

16.3 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

- 16.4 It is good practice to engage relevant providers, especially clinicians, in confirming that the 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 engaged 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.
- 16.5 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.
- 16.6 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 commissioner's website and/or via workshops with interested parties (ensuring a record is kept of all interaction).
- 16.7 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.

Specifications

- 16.8 The CCG should seek, as far as possible, to specify the outcomes 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 bids towards particular providers in the specification of services. However, it is important to also ensure careful consideration is given to the appropriate degree of financial risk transfer in any new contractual model.
- 16.9 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

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

that should be recorded.

16.11 NHS England and CCGs are required to comply with two different regimes of procurement law and regulation when commissioning healthcare services: the NHS procurement regime, and the European procurement regime:

- The NHS procurement regime – the NHS (Procurement, Patient Choice and Competition (No.2)) Regulations 2013: made under S75 of the 2012 Act; apply only to NHS England and CCGs; enforced by NHS Improvement; and

16.12 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 conflict, 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 the 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.”

16.13 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 is focussed on ensuring a fair and open selection process for providers.

16.14 An example of how this could arise is where a 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.

- 16.15 A procurement checklist is included within Appendix H which sets out factors that the CCG should address when drawing up plans to commission general practice services.
- 16.16 The CCG is also required to make the evidence of the management of conflicts of interest publicly available and the relevant information from the procurement template should be used to complete the register of procurement decisions. Complete transparency around procurement will provide:
- Evidence that the CCG is seeking and encouraging scrutiny of its decision-making process
 - A record of the public involvement throughout the commissioning of the service
 - A record of how the proposed service meets local health 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.

Register of procurement decisions

- 16.17 The CCG needs 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 CCG clinical lead, the CCG contract lead, 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.
- 16.18 The register of procurement decisions must be updated whenever a procurement decision is taken and these updates must be provided to the Corporate Affairs Manager.
- 16.19 The CCG's Corporate Affairs Manager is required to ensure that the register is available on the public facing website and ensure this is available upon request for inspection at the CCG's headquarters.
- 16.20 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 development and possible procurements are transparent and available for the public to see.

17. Raising concerns

- 17.1 If an individual has a concern regarding a potential conflict of interest, this should be raised in the first instance with the Director of Primary Care and

Corporate Affairs. The Director of Primary Care and Corporate Affairs will then assess the appropriate course of action, including seeking third party advice and investigating the concern formally. Any concerns raised will be dealt with in accordance with the CCG's Whistleblowing Policy and any relevant HR policies.

18. Breach of conflicts of interest policy

- 18.1 If there is deemed to be a breach of the conflicts of interests policy, this should be reported in the first instance to the Director of Primary Care and Corporate Affairs. Any breaches will be included in the Director of Primary Care and Corporate Affairs Governing Body report, which in itself is published on the CCG's website. Any breach would also be disclosed to NHS England. Any breaches will be dealt with in line the CCG's Whistleblowing Policy and any relevant HR policies. Disclosure will be supported, where appropriate, by the CCG's Head of Communications and Engagement.

19. Fraud, Bribery and Corruption

Staff must be aware of and act in accordance with this policy, and understand that in certain circumstances breach of this policy could potentially result in criminal proceedings being brought against individuals, the CCG, and linked organisations. Policy breach could also result in civil legal challenge.

The CCG does not tolerate acts of fraud, bribery or corruption committed against it or in the wider NHS.

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.

In simple terms fraud can be defined as theft by deception. An offender's conduct must be dishonest and their intention must be to make a gain, or a cause a loss (or the risk of a loss) to another; the offence includes where the fraudster fails to get what they intended through their fraud, the focus being on the dishonest intention.

The **Bribery Act 2010** makes it easier to tackle this offence in public and private sectors. A bribe is a financial or other advantage intended to induce or reward the 'improper performance' of a person's official public functions or work activities. Generally, this means offering or receiving something of value to influence a transaction that someone should not do (although offences include offering, promising, giving, requesting, accepting, or agreeing to accept).

Bribery 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 unless they can prove that they had in place adequate proportionate procedures designed to prevent bribery occurring on its behalf.

Fraud and Bribery are criminal offences and carry maximum sentences of 10 years imprisonment and/or unlimited fines.

Corruption is where the integrity or honesty of a person, government, company or organisation is manipulated for personal gain. It is an umbrella term covering several different offences, including bribery.

NHS staff have a right and duty to raise legitimate concerns in the public interest about malpractice or wrongdoing at work; this includes criminal offences. The CCG expects that staff do not ignore their suspicions, but report as soon as possible. Staff should not initiate their own investigations or discuss with others as this could jeopardise any formal investigation.

The CCG's Director of Primary Care and Corporate Affairs is available to provide advice in relation to raising concerns:

Paul Edwards
Director of Primary Care and Corporate Affairs
0151 541 5453
Pauledwards4@nhs.net

There are several ways to report reasonable suspicions of fraud, bribery or corruption; you do not need solid proof or evidence to raise concerns, and you can remain anonymous if you wish.

Internal channels:

Lead Anti-Fraud Specialist (AFS), Alun Gordon
Tel: 0151 285 4550
Email: alun.gordon@miaa.nhs.uk

Chief Financial Officer, Mark Chidgey
Tel: 0151 651 0011
Email: mark.chidgey@nhs.net

Whistleblowing Policy and Procedure (Raising Concerns at work) (NB this includes options to raise concerns externally in certain situations)

External channels:

National Fraud and Corruption Reporting Line: 0800 020 4060 (freephone 24/7 powered by Crimestoppers)

Online reporting form at <https://cfa.nhs.uk/>

This is a national service independent to the rest of the NHS. User rights are protected, and information is treated confidentially. Users can update their referral at a later date if they wish to.

For further guidance and information refer to the CCG's Whistleblowing Policy and Procedure (Raising Concerns at work) and the Fraud, Bribery and Corruption Policy, located on the intranet.

APPENDIX A – Declaration of interests form for CCG members and employees

Name:	
Position within, or relationship with, the CCG	

(or NHS England in the event of joint committees):

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Details of interests held (complete all that are applicable):

Type of interest (see reverse of form for details)	Description of interest (including for indirect interests, details of the relationship with the person who has the interest)	Date interest relates From & To		Actions to be taken to mitigate risk (to be agreed with line manager or a senior CCG manager)

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

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

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:

--

Signed:

Date:

Signed:

Position:

Date:

(Please return completed form to the Corporate Affairs Manager)

Types of interest

Type of Interest	Description
Financial Interests	<p>This is where an individual may get direct financial benefits from the consequences of a commissioning decision. This could, for example, include being:</p> <ul style="list-style-type: none"> • A director, including a non-executive director, or senior employee in a private company or public limited company or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations; • A shareholder (or similar owner interests), a partner or owner of a private or not-for-profit company, business, partnership or consultancy which is doing, or which is likely, or possible seeking to do, business with health or social care organisations. • A management consultant for a provider • In secondary employment • In receipt of secondary income from a provider • GP partners • In receipt of a grant from a provider • In receipt of any payments (for example honoraria, one off payments, day allowances or travel or subsistence) from a provider • In receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role • Having a pension that is funded by a provider (where the value of this might be affected by the success or failure of the provider)
Non-Financial Professional Interests	<p>This is where an individual may obtain a non-financial benefit from the consequences of a commissioning decision, such as increasing their professional reputation or status or promoting their professional career. This may, for example, include situations where the individual is:</p> <ul style="list-style-type: none"> • 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, BMA or a medical defence organisation would not usually by itself amount to an interest which needed to be declared); • An advisor for Care Quality Commission (CQC) or National Institute for Health and Care Excellence (NICE); • A medical researcher
Non-Financial Personal Interests	<p>This is where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit. This could include, for example, where the individual is:</p> <ul style="list-style-type: none"> • A voluntary section 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;

	<ul style="list-style-type: none"> • A member of a lobby or pressure groups with an interest in health.
Indirect Interests	<p>This is where an individual has a close association with an individual who has a financial interest or non-financial professional interest or a non-financial personal interest in a commissioning decision (as those categories are described above). For example, this should include:</p> <ul style="list-style-type: none"> • Spouse / partner; • Close relative e.g. parent, grandparent, child, grandchild or sibling; • Close friend; • Business partner.

APPENDIX C – Template declarations of gifts and hospitality

Recipient Name	Position	Date of offer	Date of Receipt (if applicable)	Estimated Value	Supplier / Offeror Name and Nature of Business	Details of previous Offers or Acceptances by this offeror / supplier	Details of the officer reviewing and approving the declaration made and date	Declined of Accepted?	Reason for Accepting or Declining	Other comments

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

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

I do / do not (delete as applicable) give my consent for this information to be published on 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 <insert name / contact details for team or individual in CCG nominated to provide advice, support, and guidance on how conflicts of interest should be managed, and administer associated administrative processes>

Appendix E - 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
In advance of the meeting	<p>1. The agenda to include a standing item on declarations of interests to enable individuals to raise any issues and/or make a declaration at the meeting.</p>	Meeting Chair and secretariat
	<p>2. A definition of conflicts of interest should also be accompanied with each agenda to provide clarity for all recipients.</p>	Meeting Chair and secretariat
	<p>3. Agenda to be circulated to enable attendees (including visitors) to identify any interests relating specifically to the agenda items being considered.</p>	Meeting Chair and secretariat
	<p>4. Members should contact the Chair as soon as an actual or potential conflict is identified.</p>	Meeting members
	<p>5. Chair to review a summary report from preceding meetings i.e., sub-committee, working group etc., detailing any conflicts of interest declared and how this was managed.</p>	Meeting Chair
	<p>A template for a summary report to present discussions preceding meetings is detailed below.</p> <p>6. A copy of the members' declared interests is</p>	Meeting Chair

	checked to establish any actual or potential conflicts of interest that may occur during the meeting.	
During the meeting	<p>7. Check and declare the meeting is quorate and ensure that this is noted in the minutes of the meeting.</p> <p>8. Chair requests members to declare any interests in agenda items – which have not already been declared, including the nature of the conflict.</p> <p>9. Chair makes a decision 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. As minimum requirement, the following should be recorded in the minutes of the meeting:</p> <ul style="list-style-type: none"> • 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 	<p>Meeting Chair</p> <p>Meeting Chair</p> <p>Meeting Chair and secretariat</p> <p>Secretariat</p>

	<p>attendance who participate in the meeting must also follow the meeting protocol and declare in interests in a timely manner.</p>	
<p>Following the meeting</p>	<p>11. All new interests declared at the meeting should be promptly updated onto the declaration of interest form;</p> <p>12. All new completed declarations of interest should be transferred onto the register of interests.</p>	<p>Individual(s) declaring interest(s)</p> <p>Corporate Affairs Manager</p>

Appendix F – Template for recording any interests during meetings

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

Appendix G – Template to record interests during the meeting

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

Appendix H – Procurement checklist

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

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 aware 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 service 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?	
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 I – Procurement decisions and contracts awarded

Ref No	Contract / Service title	Procurement Description	Existing contract or new procurement, collaborative with partners	CCG Clinical Lead (NAME)	CCG Contract Manager (NAME)	Decision making proves and name of decision making committee	Summary of conflicts of interest noted	Actions to mitigate conflicts of interest	Justification for actions to mitigate conflicts of interest	Contract awarded (supplier name & registered address)	Contract value (£) (Total and value to CCG)	Comments to note

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

Signed:

On behalf of:

Date:

Please return to the Corporate Affairs Manager

Appendix K – Template Declaration of conflict of interests for bidders / contractors

Name of Organisation:		
Details of interests held:		
Type of Interest	Details	
Provision of services or other work for the CCG or NHS England		
Provision of services or other work for any other potential bidder in respect of this project or procurement process		
Any other connection with the CCG or NHS England, whether personal or professional, which the public could perceive may impair or otherwise influence the CCG's or any of its members' or employees' judgements, decision 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 L – Summary of key aspects of the guidance on managing conflicts of interest relating to commissioning of new care models

Introduction

1. Conflicts of interest can arise throughout the whole commissioning cycle from needs assessment to procurement exercises, to contract monitoring. They arise in many situations, environments and forms of commissioning.
2. Where CCGs are commissioning new care models, particularly those that include primary medical services, it is likely that there will be some individuals with roles in the CCG (whether clinical or non-clinical), that also have roles within a potential provider, or may be affected by decisions relating to new care models. Any conflicts of interest must be identified and appropriately managed, in accordance with this statutory guidance.
3. This annex is intended to provide further advice and support to assist the CCG to manage conflicts of interest in the commissioning of new care models. It summarises the key aspects of the statutory guidance which are of particular relevance to commissioning new care models rather than setting out new requirements.

Identifying and managing conflicts of interest

4. The statutory guidance for CCGs is clear that any individual who has a material interest in an organisation which provides, or is likely to provide, substantial services to a CCG (whether as a provider of healthcare or provider of 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.
5. In the case of new care models, it is perhaps likely that there will be individuals with roles in both the CCG and new care model provider / potential provider. These conflicts of interest should be identified as soon as possible, and appropriately managed locally. The position should also be reviewed whenever an individual's role, responsibility or circumstances change in a way that affects the individual's interests. For example, where an individual takes on a new role outside of the CCG, or enters into a new business or relationship, these new interests should be promptly declared and appropriately managed in accordance with statutory guidance.
6. There will be occasions where the conflict of interest is profound and acute. In such scenarios (such as where an individual has a direct financial interest which gives rise to a conflict e.g., secondary employment or involvement with an organisation which benefits financially from contracts for the supply of goods and services to a CCG or aspires to be a new care model provider), therefore the CCG will need to consider whether, practically, such an interest is manageable at all. To note, this can arise in relation to both clinical and non-clinical members / roles. If an interest is not manageable, the appropriate course of action could be to refuse to allow

the circumstances which gave rise to the conflict to persist. This may require an individual to step down from a particular role and/or move to another role within the CCG and may require the CCG to take action to terminate the employment, if the individual refuses to step down. The CCG should ensure that contracts of employment and letters of appointment, HR policies, Governing Body and committee terms of reference and standing orders are reviewed to ensure they enable the CCG to take appropriate action to manage conflicts of interest robustly and effectively in such circumstances.

7. Where a member of staff participating in a meeting has dual roles, for example a role with the CCG and a role with a new care model provider organisation, but is not considered necessary to exclude them from the whole or any part of a CCG meeting, 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, but where it is appropriate for them to participate in decisions they must only do so if they are acting in their CCG role.
8. The CCG should 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 engaged in, any employment or consultancy work in addition to their work with the CCG (for example, in relation to new care model arrangements).
9. The CCG should identify, as soon as possible, where staff might be affected by the outcome of a procurement exercise, e.g. they may 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 CCGs should ensure they manage the potential conflict. This conflict of interest arises as soon as individuals are able to identify that their role may be personally affected.
10. Similarly, the CCG should identify and manage conflicts of interest where staff are involved in both the contract management of existing contracts, and involved in procurement of related new contracts.

Governance arrangements

11. Appropriate governance arrangements must be put in place that ensure that conflicts of interest are identified and managed appropriately, in accordance with NHS England's Statutory Guidance 2017: Managing Conflicts of Interest, without comprising the CCG's ability to make robust commissioning decisions.
12. The CCG should consider whether it is appropriate for the Governing Body to take decisions on new care models or (if there are too many conflicted members to make this possible) whether it would be appropriate to refer decisions to a CCG committee.

Provider engagement

13. It is good practice to engage relevant providers, especially clinicians, in confirming that the design of service specifications 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 in developing a service specification for a contract for which they may later bid. The CCG should be particularly mindful of these issues when engaging with existing / potential providers in relation to the development of new care models and CCGs must ensure they comply their statutory obligations including, but not limited to, their obligations under the National Health Service (Procurement, Patient Choice and Competition) (no 2) Regulations 2013 and the Public Contracts Regulations 2015.