

BOARD PAPER - NHS ENGLAND**Title:**

Managing conflicts of interest

Lead Director: Director

Ian Dodge, National of Commissioning Strategy

Purpose of Paper:

The Board is asked to consider and agree the following proposals:

- **CCG statutory guidance will be strengthened to set out more clearly how conflicts of interest in CCGs should be managed.** The Board are asked to approve the attached document for public consultation;
- **A cross NHS task and finish group**, chaired by Sir Malcolm Grant will be established to develop a full set of rules that can be adopted right across the healthcare system. This will involve new proposals to ensure hospitals, their clinicians, and procurement staff are free from unmanaged conflicts of interest, particularly in respect of drugs and devices paid for by the NHS, including those billed as high-cost “pass through” items to NHS England. It will also help support the shared Carter “rational procurement” agenda. The group will develop proposals for public consultation in the summer;
- **NHS England’s internal conflict of interest policy will be strengthened** to bring in line with best practice elsewhere. This will include more stringent safeguards on the role of interest groups, lobbyists, and commercial organisations in specialised commissioning, including CRGs, CPAG processes, public consultations, the CDF and the annual contracting round.

The Board is invited to:

The Board is asked to approve the proposals set out in this paper.

Managing conflicts of interest

PURPOSE

1. This paper sets out measures to further strengthen protections against inappropriate conduct by suppliers to, providers of and commissioners of NHS care.

OVERVIEW

2. The high-level proposals are:
 - **CCG statutory guidance will be strengthened to set out more clearly how conflicts of interest in CCGs should be managed.** The Board are asked to approve the attached document for public consultation;
 - **A cross system task and finish group**, chaired by Sir Malcolm Grant will be established to develop a full set of rules that can be adopted right across the healthcare system – covering suppliers to the NHS, national NHS organisations, local commissioners and providers. The group will develop proposals for consultation in the summer;
 - **NHS England’s internal conflict of interest policy will also be strengthened to bring in line with best practice elsewhere.**

CONTEXT

3. Recent examples have raised questions about the ways in which conflicts of interest are identified and managed:
 - Staff being paid upwards of £500 a day to attend meetings to essentially be lobbied by industry to adopt their products for use in the NHS;
 - Staff involved in drugs purchasing decisions for NHS bodies who also hold advisory roles with drugs companies;
 - The Carter review found that at one point 650 sales representatives were targeting one hospital in England, with 65 on site at one time. As the review found, it is necessary and desirable for industry to provide clinical support to the NHS, but this support must not be ‘clouded by the need to make sales’;
 - Need for clear safeguards in local CCG commissioning roles
 - The National Audit Office and Public Accounts Committee have called for greater scrutiny and assurance of CCGs’ management of conflicts of interest by NHS England.
4. This issue is not unique to England – figures recently released by the Centre for Medicare and Medicaid in the USA, collected in line with their Sunshine Act showed that in 2014

\$6.5bn worth of payments were made to over 600,000 clinicians by medical product manufacturers and group purchasing organisations.

5. Partnerships between public sector and other organisations are widespread, and many of these arrangements are beneficial to patient care, and NHS England remains wholly committed to clinically-led local commissioning.
6. The aim of this work is not to stop legitimate and beneficial partnership working or stop the receipt of small gifts to healthcare professionals from grateful members of the public. But we do want to strengthen public confidence. We will do this by embedding a robust approach to ensure that the system can:
 - Actively manage conflicts of interest and associated issues of gifts, hospitality, other payments and influence;
 - Provide the public with accessible information so that they can see what is happening and, where appropriate, ask questions;
 - Support staff to ensure that they know what is and is not acceptable – to proactively prevent wrongdoing from occurring. NHS England has recently published its whistleblowing policy and has become a prescribed organisation for whistleblowing. This provides staff with a clear route to raise concerns around conflicts of interest;
 - Take firm and decisive action when organisational or individual wrongdoing is discovered – including where appropriate disciplinary action, criminal action, and professional regulatory action.
7. The proposals set out below taken together are at least as strong as those adopted in other countries and sectors. We believe they are essential to give the public confidence that we are taking serious action to address concerns. In particular the proposals around publication of this level of information move the NHS in line with ‘sunshine’ rules that exist in other countries.

CCG statutory guidance

8. NHS bodies are already legally required to manage conflicts of interest. In December 2014, NHS England developed and published strengthened statutory guidance to support the delegation of primary care commissioning to CCGs from 1 April 2015. An audit of conflicts of interest management in ten co-commissioning arrangements was undertaken in 2015/16 and a summary of the audit findings, along with our management responses (Annex A).
9. A balance needs to be struck between allowing organisations to manage conflicts of interest appropriately in accordance with their statutory duties, and adopting a more prescriptive approach. Following the co-commissioning audit, and feedback from a number of stakeholders including CCG lay members and audit chairs, our recommendations move towards greater prescription – towards a system that provides absolute clarity on the minimum requirements and expectations. We believe that these proposals should be welcomed by CCGs as providing greater clarity, simplicity, and protection.

10. Over the past few months we have been working with senior leaders in CCGs, internal audit colleagues, our legal team and others to put together a package of change reforms to respond to these challenges. We have identified a number of actions we could and should take. From April 2016, we will be consulting on revised statutory guidance to CCGs which will be one vehicle for implementing these changes. The revised statutory guidance for consultation and its annexes are attached to this paper (Annex B and Annex C), along with the cover note to accompany the consultation (Annex D).

11. The core proposals that are subject to consultation are summarised below:

Actions	What we are doing	Why we are doing it
1	We recommend that the number of lay members on the CCG governing body be increased to support with the management of conflicts of interest. We recommend that all CCGs have a minimum of three lay members on the Governing Body , (rather than the two lay members that are required by statute).	Lay members bring valuable scrutiny to decisions involving potentially conflicted members. By increasing the numbers of lay members on the CCG governing body, their voice and influence will be strengthened.
2	We will require the introduction of a conflicts of interest guardian in all CCGs. This role should be undertaken by CCG audit chairs and will be an important point of contact for any conflicts of interest queries or issues.	We recognise that conflicts of interest come in different guises, and that responses to them need to be tailored. By introducing a conflicts of interest guardian, we will strengthen expertise in the CCG and ensure there is a clearer point of contact for any issues which should lead to firmer and more consistent decision-making.
3	We will require all CCGs to include an annual audit of conflicts of interest management within their internal audit plans and to publish the audit findings within their annual end-of-year governance statement.	Assuring in detail the activities of 209 CCGs is a complex and time consuming task. By introducing this requirement, it will be much easier to identify non-compliance with the statutory guidance, so that NHS England's response can be more targeted and effective.
4	We will strengthen the provisions around the management of gifts and hospitality , including the need for prompt declarations and a publicly available register of gifts and hospitality.	There is too little local transparency on this issue. We know that a significant number of CCGs (about 20%) publish information on these issues in relation to all staff. This should be the norm and this action will make it so.
5	We will strengthen the provisions around decision-making when a member of the group is conflicted.	Practices across CCGs are varied – we will set out a prescriptive approach to drive consistency and support CCG staff to challenge inappropriate behaviours.
6	We will require CCGs to have a robust process for managing breaches within their conflict of interest policy and to publish any breaches on the CCG's website , in	The NAO and others have identified that processes for managing conflicts of interest vary across the country – this measure will lead to much needed consistency. By introducing the

	the interests of openness and transparency.	publication requirement, we will throw sunlight on issues around conflicts of interest, so that stakeholders and the wider public can challenge behaviours.
7	There will be a requirement for all CCG staff and the staff of their member practices to complete mandatory online conflicts of interest training , which will be provided by NHS England. The online training will be supplemented by a series of face-to-face training sessions for CCG leads in key decision-making roles.	This requirement will raise awareness of conflicts of interest and the need to manage them appropriately amongst CCG employees and their member practices' staff. It will ensure that staff understand the rules and regulations surrounding conflicts of interest, which will increase compliance.

12. These proposals represent a broad response to the concerns raised. In developing them we have been cognisant of the additional burden on CCGs, most obviously in relation to funding a third lay member. We have tested this with CCGs – firstly there has been strong support for this proposal, and secondly about 30% of CCGs already have 3 or more lay members.
13. Public consultation on the revised guidance will commence for 4 weeks during April 2016. The revised guidance will be published alongside a summary of the recent conflicts of interest audit.
14. Final guidance will be taken to May's Board, with a view to publishing it in early June 2016. CCGs will be required to review their processes in line with the guidance and strengthen them, where required, by the end of November 2016 (6 months after publication). This includes the recruitment of additional CCG lay members.

The Board are asked to approve the attached CCG statutory guidance document for consultation.

A cross system approach

15. Strengthening CCG statutory guidance is an important first step. We are also consulting on a new clause in the NHS standard contract that requires providers to be more transparent than ever before – through disclosing and publishing more information in relation to gifts, hospitality and conflicts of interest associated with delivery of services under the contract. Consultation responses have been supportive of this move – for instance, from the Association of British Healthcare Industries who represent the medical technology sector.
16. NHS England is now proposing we work with system partners to help establish a set of rules that can be applied consistently right across the health system – across all national bodies and agencies including the arms length bodies, professional regulators, local commissioners and NHS providers, and that capture relevant behaviours by suppliers to the NHS including the pharmaceutical and devices industries, and conflicts of interest by hospitals doctors and other staff whose clinical and prescribing decisions affects NHS specialised commissioning and other NHS resources.
17. In order to drive forward this system wide approach, we propose that a cross system task

and finish group chaired by Sir Malcolm Grant is established to develop a set of rules to be adopted across the system. This approach has been agreed by the Five Year Forward View Board comprising the Chief Executives of the Arms' Length Bodies, and the Department of Health. The NHS Confederation is also supportive of the approach and will work as part of the group.

18. This cross system task and finish group will also consider guidance on collaborating with industry, and whether there is a case for aggregation of the information on conflicts which this work will lead to the publication of on a central web platform, akin to the provisions in place in the US following passing of the Sunshine Act.

Operational implementation

19. It is the role of the task and finish group to develop and recommend the operational detail relating to conflicts of interest. As a starting point for discussion we have set out **illustrative examples** for what some of the rules, mechanisms for compliance and sanctions might be:

20. Based on a review of good practice, our starting assumption is that a common set of rules could be established for all organisations, for example:

- Interests (financial and non-financial) will be routinely declared for all relevant staff – through a prescribed process on appointment and through annual positive attestation. This will be supported by a process to ensure that mitigating actions are in place to effectively manage the conflict. These declarations will be published, and routinely updated.

- A ban on the acceptance of gifts from suppliers of goods and services, and a ban on all cash gifts above a de minimis threshold.

- Director level prior approval on hospitality above a given threshold, and an expectation staff should reject hospitality that is offered by organisations concerned with the supply of goods or services.

- For Board, and Board sub-committees, and advisory groups interests and relevant influences should be declared on accepting a role and at the outset of each and every relevant meeting. If issues concern a matter that could be regarded to affect impartiality the individual should not receive papers for or be present for the agenda item.

- If there is a clear and direct conflict an individual should not be offered a place on an advisory board.

21. The detail of the rules will contain de minimis provisions to avoid unnecessary administrative burdens.

22. In developing these rules we recognise that there may be legitimate reasons why organisational policies may have some element of variation from the standard set of rules

in line with their specific roles and responsibilities. The default principle is for consistency, but it will be the role of the task and finish group to determine where variation may be needed, for example building on learning from NICE, MHRA and the CQC where specific conflicts require a dedicated response.

23. In order to support consistent application of these rules each organisation would need develop internal mechanisms to ensure compliance, potentially including:

- Publish its own conflicts of interest policy consistent with these requirements;
- Have a single webpage that makes information publicly available as set out above;
- Establish clear internal communications and mandatory training setting out the rules and expectations;
- Have a system of annual positive attestation so that all relevant staff make a declaration even if they do not have interests;
- Explicitly reference management of conflicts in the Statements of Internal Control;
- Have an internal audit process which explicitly considers the effectiveness of conflict of interest management annually;
- Publish information in relation to breaches identified and resulting action.

24. We also intend to work with professional regulators to consider professional standards around conflict of interest to ensure a truly cross system approach.

25. Ineffective management of conflicts will need to have consequences for organisations and individuals within them. There are a range of sanctions that could apply:

- civil (e.g. risk of legal challenge against organisations for decisions tainted by conflicts);
- criminal (potential for organisations to be fined and individuals imprisoned if actions constitute fraud, bribery or corruption);
- employment law (individuals can be disciplined and dismissed for non-compliance with conflict of interest management policies);
- Professional regulatory (health professionals who don't comply with their ethical duties could have fitness to practise action against them by their regulator, which could result in being prevented from practising).

26. One role of the task and finish group will be to map out the range of actions that would be taken at all levels in response to breaches: individual accountability; organisational governance; and regulatory oversight and sanction.

The Board are asked to agree the proposals for establishing a cross system task and finish group

NHS England policy

27. We will develop and publish an NHS England conflicts of interest policy which includes the core components set out above with a view to having a new system implemented by the summer. This will build on the arrangements Simon Stevens introduced in April 2014 to ensure all national directors declare official meetings, expenses and hospitality. It will also take further steps to ensure that advisory mechanisms in specialised commissioning are

not contaminated by consultees/participants with undeclared or unmanaged conflicts of interest, particularly from the pharmaceutical, devices or provider lobbyist sector.

The Board are asked to agree that this proposal is progressed

Other supporting measures

Rationalising medicines optimisation arrangements

28. NHS England is rationalising the approach to medicines evaluation through the creation of four regional medicines optimisation committees. These committees will work together and ensure medicines evaluation will be done once only and the output shared across the NHS and help support medicines optimisation more generally. This means that local medicines formulary committees will be far less involved in processes that the pharmaceutical industry may seek to influence. It also reduces the wasteful multiple requests for the same information being made by the NHS by the pharma sector. It is expected these principles will be in place by April and the committees operational later in the year.

Industry led codes

29. The Association for British Healthcare Industry (ABHI) and Association for British Pharmaceutical Industry (ABPI) have recently developed strengthened Codes of Practice. These codes are aimed at ensuring industry's activities are ethical, fair and appropriate and ultimately benefit patient care. Whilst essentially voluntary in nature, these codes represent an important step forward to address inappropriate behaviour. We will continue to work with industry as we develop our proposals to ensure alignment, in particular to reduce the risk that individual clinicians seek to hide behind confidentiality opt-outs to obscure their own conflicts of interest.

Credentialing

30. Work being taken forward by third party organisations to accredit third party representatives on hospital sites. While this might impose cost pressure on the system this might nonetheless be seen as another means by which we might increase transparency of interactions between clinicians and industry.

CONCLUSION

31. The Board is asked to consider and agree proposals for managing conflicts of interest, specifically:

- **CCG statutory guidance will be strengthened to set out more clearly how conflicts of in CCGs should be managed.** The Board are asked to approve the attached document for public consultation;
- **A cross system task and finish group**, chaired by Sir Malcolm Grant will be established to develop a full set of rules that can be adopted across the healthcare system. The group will develop proposals for public consultation in the summer;
- **NHS England's internal conflict of interest policy will be strengthened.**

Author: Ian Dodge, National Director of Commissioning Strategy
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Co-commissioning Conflicts of Interest Audit: Summary report

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Co-commissioning Conflicts of Interest Audit: Summary Report

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Executive Summary

1. In September 2015, NHS England commissioned an audit of conflicts of interest management in a sample of ten primary care co-commissioning arrangements. The aim of the audit was to review how the safeguards set out in the *Managing Conflicts of Interest* statutory guidance were operating in practice, share learning and good practice and identify any areas for improvement. The scope of the audit encompassed seven delegated arrangements and three joint arrangements and this report summarises the key learning in support of commissioners' development.
2. The audit found that the *Managing Conflicts of Interest* statutory guidance has been well received by CCGs, with all audit sites having reviewed their processes in line with the statutory guidance. The audit identified a number of examples of good practice, including the inclusion of out-of-area GPs on the Primary Care Commissioning Committee to ensure clinical input into decision-making, whilst minimising the risk of conflicts of interest.
3. The audit report highlights some inconsistencies in the processes established by the audit sites to manage conflicts of interest including:
 - **Governance arrangements**, as some sites had no clearly defined processes for managing conflicts of interest breaches;
 - **Training arrangements**, as not all audit sites had a structured conflicts of interest training programme;
 - **Processes to declare and record conflicts**, including inconsistencies in minute taking and frequency of updating Declarations of Interest.
4. In light of the findings, the report recommends that joint and delegated co-commissioning arrangements:
 - Establish **processes** to ensure that any potential conflicts are identified and effectively managed throughout the full decision making life-cycle, including at sub-committees of the Primary Care Commissioning Committee;
 - Define the procedures to follow when a **breach** is detected;
 - Document procedures to manage conflicts of interest risks relating to **contract monitoring**;
 - Consider the key decisions the Primary Care Commissioning Committee is likely to make and the potential **conflicts of interest scenarios** and how they should be dealt with;

- Ensure members of the public can **access** the most up-to-date version of the Register of Declared Interests and Register of Procurement Decisions;
 - Collate **Declarations of Interest** on at least a quarterly basis, with confirmations provided by all members and employees that their declared interests are up-to-date;
 - Ensure that any declared conflicts of interest are promptly transferred onto the **Register of Interests**;
 - Establish and maintain a **Register of Procurement Decisions** to ensure the transparency of procurement decisions;
 - With regards to joint arrangements, ensure that all joint committee members, including NHS England staff, are included in the **Joint Committee's Register of Declared Interests**;
 - Ensure the **minutes** of primary care commissioning committee detail the nature of any conflict, who had the conflict and how the conflict was managed to ensure full transparency in the decision-making process.
5. The report highlights a number of areas of the statutory guidance where further clarity is needed on the minimum requirements. This will help to reduce the level of variation in processes for managing conflicts of interest. NHS England will be reviewing, updating and consulting on the statutory guidance on managing conflicts of interest in April 2016 , and will publish new and revised guidance in June 2016. The revised guidance will include more examples and templates to further support commissioners with practical implementation of the guidance.
6. CCGs are recommended to review the audit findings and consider and evaluate their current arrangements for managing conflicts of interest and if they could be strengthened.

1. Introduction

1.1 Background

“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”

NHS England (2014) Managing Conflicts of Interest Statutory Guidance for CCGs

7. Commissioners manage conflicts of interest as part of their day-to-day activities. Effective handling of such conflicts is crucial for the maintenance of public trust in the commissioning system. Importantly, it also serves to give confidence to patients, providers, Parliament and tax payers that commissioning decisions are robust, fair, transparent and offer value for money.
8. In 2014, NHS England invited Clinical Commissioning Groups (CCGs) to take on an increased role in the commissioning of general practice (GP) services, through one of three co-commissioning models:
 - **Greater involvement:** where CCGs collaborate more closely with their local NHS England teams in decisions about primary care services;
 - **Joint commissioning:** where one or more CCGs jointly commission GP services with NHS England through a joint committee;
 - **Delegated commissioning:** where CCGs assume full responsibility for the commissioning of GP services.
9. The intention of co-commissioning is to empower and enable CCGs to improve primary care services locally for the benefit of patients and local communities. It aims to bring more clinical leadership into general practice commissioning and enable more local decision making in support of the development of out-of-hospitals services. However, it is recognised that co-commissioning creates risk which needs to be carefully managed.
10. In light of this, in December 2014 NHS England published statutory guidance on *Managing Conflicts of Interest* for CCGs, in collaboration with national partners and regulators. The statutory guidance sets out the minimum requirements of what CCGs must do in respect of managing conflicts of interest, including:
 - Maintain appropriate registers of interests;
 - Publish or make arrangements for the public to access those registers;

- Make arrangements requiring the prompt declaration of interests by members and employees and ensure that these interests are entered into the relevant register;
 - Make arrangements for managing conflicts and potential conflicts of interest e.g. developing appropriate policies and procedures;
 - Have regard to guidance published by NHS England and Monitor on conflicts of interest;
 - Establish a primary care commissioning committee for the discharge of primary medical services functions. This committee must have a lay and executive majority to mitigate the risk of real and perceived conflicts of interest and have a lay chair and lay vice-chair.
11. With regards to NHS England staff, they are bound by the codes set out in the NHS England's Standards of Business Conduct, but are also required to adhere to the statutory guidance when serving on a joint committee with one or more CCGs.
12. When the statutory guidance was published, NHS England agreed to undertake a sample audit to review how the conflicts of interest safeguards were operating in practice, share learning and good practice and identify any areas for further support. This report sets out the key findings from the audit.

1.2 Scope and objectives of the audit

13. In September 2015, NHS England commissioned its internal audit team to evaluate the arrangements for managing conflicts of interest at a non-statistical sample of ten primary care co-commissioning arrangements. This included seven delegated arrangements and three joint commissioning arrangements (where both CCGs' and NHS England's arrangements were reviewed). The aims of the audit were to:
- Understand and evaluate compliance with the statutory guidance on managing conflicts of interest;
 - Identify and report on good practice in managing conflicts of interest across the co-commissioning arrangements visited;
 - Identify areas in the statutory guidance where further clarity was required;
 - Identify and report upon lessons or areas for improvement.

14. The focus of this audit was on the 'design'¹ of mechanisms to manage conflicts of interest in relation to the commissioning of primary care services and how these met the requirements set out in the statutory guidance. The audit focussed on the following areas:

- Governance arrangements;
- Processes to identify and declare conflicts;
- Mechanisms to record, maintain and publish conflicts of interest;
- Commissioning and contract monitoring;
- Processes to identify and manage non-compliance.

15. The audit included a desktop review of key documentation and interviews with CCG and NHS England representatives, as well as Healthwatch, Local Medical Committee and Local Pharmaceutical Committee representatives. The scope did not include the identification of actual or potential conflicts of interest, or confirmation that primary care commissioning decisions were appropriate.

1.3 Purpose of the report

16. The purpose of the report is:

- **To summarise the key findings and lessons from the audit:** Commissioners are encouraged to review their arrangements for managing conflicts of interest in light of the findings and consider whether they need to be enhanced;
- **To set out the next steps and actions for NHS England:** The audit made a number of recommendations for NHS England and the report sets out how NHS England will address these in the refresh of the statutory guidance on managing conflicts of interest.

¹ The audit focussed on whether mechanisms and controls were in place in line with the statutory guidance, which, if operating effectively, would reduce the co-commissioning arrangement's conflicts of interest risk. However, due to the small number of decisions made across the co-commissioning arrangements as a result of the timing of the work, the audit could not perform sufficient work to confirm that those controls and mechanisms were being operated in line with their design. It is proposed that future work is undertaken to evaluate operating effectiveness.

2. Key findings and lessons learned

2.1 Summary of the key findings

17. The statutory guidance on managing conflicts of interest has been well received by CCGs. All audit sites had reviewed and updated their policies for managing conflicts of interest in light of the guidance. In most cases, training had been provided to individuals in decision-making roles, such as members of the Governing Body and the Primary Care Commissioning Committees, on the identification and management of conflicts of interest.
18. There was strong engagement from CCG and NHS England stakeholders in the audit and a strong awareness of the need to effectively manage conflicts of interest and declare and record interests in a timely manner. The audit sites demonstrated a strong awareness of the conflicts of interest risks associated with commissioning primary medical services and had taken steps to review their governance structures and procedures to manage these effectively.
19. All the co-commissioning arrangements audited were implemented on 1 April 2015 and the number of primary care decisions they had taken up to the end of December 2015 varied. Whilst decisions had been made in relation to practice closures, practice mergers, PMS reviews and payments for various GP schemes and projects; at the time of the audit only one co-commissioning arrangement had made a primary care commissioning procurement decision, which resulted in the award of a contract to a provider. The audit therefore focused upon the mechanisms and processes set up to manage conflicts of interest.
20. A number of examples of good practice were identified during the audit, including:
- Some Primary Care Commissioning Committees included either retired GPs or GPs 'co-opted' from another CCG to sit on the committee. This reduced the likelihood of conflicts of interest arising, whilst maintaining clinical input in the decision making process;
 - There was evidence of proactive consideration of conflicts of interest ahead of Primary Care Commissioning Committee meetings, so that Chairs could consider how known conflicts of interest would be managed in advance of the meeting;
 - A number of CCGs had incorporated a review of their general practice co-commissioning arrangements, including management of conflicts of interest, within their internal audit plans.
21. The audit identified a number of inconsistencies in the processes developed to manage conflicts of interest and deliver the requirements set out in the statutory guidance in the following areas:

- **Governance arrangements**, as some sites had no clearly defined processes for managing conflicts of interest breaches;
- **Training arrangements**, as not all audit sites had a structured conflicts of interest training programme;
- **Processes to declare and record conflicts**, including inconsistencies in minute taking.

22. The findings are expanded upon in section 2.2, which also makes recommendations for joint and delegated arrangements moving forward.

2.2 Key learning for joint and delegated co-commissioning arrangements

23. The following section outlines some of the inconsistencies identified in the processes developed to manage conflicts of interest and makes recommendations for co-commissioning arrangements. Section 2.3 summarises the recommendations for NHS England and section 3 how NHS England will seek to address these.

Conflicts of interest policies and processes

24. The statutory guidance requires that there are sufficient management and internal controls to detect breaches of the CCG's conflicts of interest policy, including appropriate external oversight and adequate provision for whistleblowing. Whilst none of the co-commissioning arrangements had identified a breach with regards to their conflicts of interest policy, there was a lack of detail on the procedures to be followed were a breach to be identified, including how any contracts affected by the breach would be managed.

Recommendation 1 - Each co-commissioning arrangement should define the procedures to follow when a breach is detected.

25. Whilst all of the CCG conflicts of interest policies reviewed applied to all activities of the co-commissioning arrangement, most audit sites had not documented specific procedures to manage conflicts of interest with regards to contract monitoring.

Recommendation 2 - Each co-commissioning arrangement should document their procedures to manage conflicts of interest risks related to contract monitoring.

26. The conflicts of interest guidance states that commissioners should agree in advance how a range of possible conflicts of interest scenarios will be handled. The CCG conflicts of interest policies reviewed contained some examples of the types of conflicts of interests that may occur. However, very few case studies were included within the policies to demonstrate how these should be managed.

Recommendation 3 - Co-commissioning arrangements should consider the key decisions the Primary Care Commissioning Committee is likely to make and identify some conflicts of interest scenarios that may arise and agree how they will be dealt with.

Governance arrangements and sub-committees of the Primary Care Commissioning Committees

27. The statutory guidance on managing conflicts of interest sets out how Primary Care Commissioning Committees should be constituted. Out of the ten audit sites, one was not in compliance with the guidance as it had not established a separate Primary Care Commissioning Committee. In addition, there were variations in the composition of Primary Care Commissioning Committees, particularly concerning the inclusion of GP members and their voting rights.

28. The majority of the processes and mechanisms that co-commissioning arrangements had in place to manage conflicts of interests focussed on decision-making at the Primary Care Commissioning Committee. However, often primary care options appraisals and proposals were prepared outside of the Primary Care Commissioning Committee in working groups or sub-committees. Whilst the statutory guidance is applicable to all CCG activities, in most cases, the decision-making committees did not have visibility of, or gain assurance over, the management of conflicts of interest within their supporting groups.

Recommendation 4 - Co-commissioning arrangements should establish processes to ensure that any potential conflicts are identified and effectively managed throughout the full decision making life-cycle, including where tasks are carried out by sub-committees or working groups outside the Primary Care Commissioning Committee. They should ensure that records are maintained to demonstrate this to the Primary Care Commissioning Committee and presented as part of any options papers.

Registers of Declared Interests and Registers of Procurement Decisions

29. The statutory guidance requires that co-commissioning arrangements publish and make arrangements to ensure that members of the public have access to both the Register of Declared Interests and Register of Procurement

Decisions on request, including publishing the Register of Procurement Decisions in the Annual Report and Accounts. The audit found:

- All co-commissioning arrangements had published a Register of Interests on their website, however, for two this was not the current version;
- There was variation on whether a full or partial register was published. For example, some CCGs published a Register of Declared Interests that detailed only Governing Body members, whereas other CCGs published a Register of Declared Interests that detailed Governing Body members, GP members and employees;
- Where a partial register had been published, there were a number of instances where there was no notification to flag to the public that a full register was available upon request;
- In addition, only one audit site had made the Register of Procurement Decisions available in the Annual Report and Accounts.

Recommendation 5 - Co-commissioning arrangements should have suitable arrangements in place to ensure members of the public can access the most up-to-date versions of the Register of Declared Interests and Register of Procurement Decisions.

30. The audit found that co-commissioning arrangements had established a process to send reminders to members and employees to consider whether their interests were up-to-date and to request any updates to be added to the Register of Interests. The frequency of the reminders varied between monthly, quarterly, six-monthly and annually. In addition, four co-commissioning arrangements did not require “nil” responses from employees to confirm they had reviewed their interests and had no changes to declare.

Recommendation 6 - Declarations of interests should be undertaken on at least a quarterly basis, with confirmations provided by all CCG employees, members, of the governing body and its committees and sub-committees that their declared interests are up-to-date.

31. Only six of the co-commissioning arrangements had established a Register of Procurement Decisions, even though CCGs should have a Register to capture other procurement decisions they are making.

Recommendation 7 - It is important for co-commissioning arrangements to establish and maintain a Register of Procurement Decisions to ensure the transparency of procurement decisions.

32. Two of the three joint committees included in the audit had not required its NHS England members to be included on the Register of Declared Interests. In these instances, pre-existing CCG Registers of Declared Interests were being used and NHS England members of the joint committee had not been added. The joint commissioning arrangement which included NHS England members on its Register of Declared Interests had set up a specific register for the Joint Committee.

Recommendation 8 - To provide increased transparency and ensure easy access to recorded interests, all joint committee members, including NHS England, should be included in the Joint Committee's Register of Declared Interests.

33. Whilst the statutory guidance requires NHS England staff to adhere to the statutory guidance when serving on a joint committee with one or more CCGs, there was sometimes a lack of clarity on whether NHS England members should be subject to, for example, ongoing training and periodic declarations of interests. NHS England members should adhere to the full requirements of the statutory guidance when serving on a joint committee.

Minute taking

34. The statutory guidance states that all decisions, and details of how any conflict of interest issue has been managed, should be recorded in meeting minutes. However, there was considerable variation in the level of detail maintained in the minutes of Primary Care Commissioning Committee meetings to document the identification and management of conflicts of interests. The audit identified a number of instances where the minutes flagged the identification of conflicts in decisions to be made by the committee, but did not detail the nature of the conflict, who had the conflict and how the conflict was managed. For other decisions made, there was no evidence in the minutes to demonstrate that conflicts had been considered to confirm that no conflicts existed.

Recommendation 9 - It is imperative that co-commissioning arrangements maintain full transparency in relation to decisions regarding general practice services through the minutes of primary care commissioning committee meetings.

35. Instances were found where conflicts declared in meetings had not been transferred to the register of interests in a timely manner. Transparency of the management of conflicts in decision making is vital to maintain confidence in the integrity of decision making.

Recommendation 10 - Co-commissioning arrangements should ensure that declared conflicts of interest are promptly transferred to the register of interests.

Conflicts of Interest training

36. The statutory guidance requires CCGs to provide training to their staff to raise awareness of conflicts and what they should do when they are identified. The audit found that:

- Co-commissioning arrangements had not defined the frequency of conflicts of interest training for members and employees;
- Where training had been delivered, this had largely been focussed on members of the Governing Body and those on the Primary Care Commissioning Committees, responsible for making decisions;
- A small number of audit sites had rolled out structured training to all employees. However, two co-commissioning arrangements had not provided any structured training to members or employees, including those on the commissioning committee.

Recommendation 11 - Each co-commissioning arrangement should provide training to members and employees and define the frequency of ongoing training. Consideration should be given to providing more regular training to individuals in 'higher risk' roles e.g. procurement.

37. We recommend that CCGs review the report to consider and evaluate their current arrangements based on the observations raised. Each co-commissioning arrangement should consider whether their processes to manage conflicts of interest can be enhanced.

2.3 Recommendations for NHS England

38. The audit made a number of recommendations for NHS England and how it should consider strengthening the current guidance on managing conflicts of interest. The audit sites requested greater clarity in the statutory guidance on the minimum requirements and expectations of commissioners. This included more clarity on:

- The scope of employees to be included in the **Register of Declared Interests**;
 - The scope of decisions that should be included in the **Register of Procurement Decisions**;
 - The frequency of **confirmations of declared interests** and the requirement to obtain positive confirmation;
 - The minimum standards for documenting potential conflicts and their management in **minutes**, supported by case study examples;
 - Practical applicability of the conflicts of interest statutory guidance for NHS England members of **joint committees**;
 - **Training** requirements on conflicts of interest management; and
 - More guidance on management of conflicts of interest **breaches** and management of conflicts of interests in relation to **contract monitoring**.
39. The audit concluded that greater clarity in these areas would reduce the risk of variability in the development of processes to manage conflicts of interest.
40. In addition, many co-commissioning arrangements reported that they required further support to understand the practical implementation of the statutory guidance within different scenarios. The audit recommended that NHS England facilitates the sharing of knowledge through case studies and worked examples.
41. Section 3 of the report sets out how NHS England will address these recommendations.

3. Next steps

42. NHS England welcomes the findings and recommendations made by the audit. The audit demonstrates that commissioners are taking seriously their responsibilities in relation to conflicts of interest and putting in place processes to ensure that they are appropriately managed.
43. We recognise that there are areas for improvement - both for CCGs and NHS England teams - and will be looking at how we can best support commissioners to address these.
44. We have reviewed the statutory guidance on managing conflicts of interest in light of the audit findings, strengthening the provisions and providing absolute clarity on the minimum standards required. This includes addressing the points of ambiguity outlined in section 2.3. In addition, we have included more

templates and worked examples in the guidance to support commissioners with its practical implementation. Revised guidance will be shared for engagement in April 2016, with a view to publishing final guidance in June 2016.

45. The audit has highlighted a number of examples of good practice for both co-commissioning arrangements. We will look at how we can best facilitate the on-going sharing of learning through case studies and other mechanisms.
46. We will also provide further training to CCG lay members on conflicts of interest management in support of their roles chairing the Primary Care Commissioning Committees. Further information on the training programme can be found [here](#).
47. Finally, our internal auditors will undertake another audit within the 2016/17 financial year in order to follow up on the development of processes to manage conflicts of interest within primary care co-commissioning and to obtain evidence on the on-going operational effectiveness of conflicts of interest management.
48. Below is a summary of the key actions that NHS England will take based on the findings from the audit:

NHS England Actions	Timescale
Review and update the statutory guidance on managing conflicts of interest to take account of the findings and messages from the audit.	February - March 2016
Issue the revised statutory guidance for engagement.	April 2016
Provide national training for CCG lay members on managing conflicts of interest.	February – March 2016 and in 2016/17
Finalise and publish revised statutory guidance on managing conflicts of interest.	June 2016
Continue to obtain feedback from co-commissioning arrangements on conflicts of interest management and facilitate the sharing of knowledge and learning between CCGs.	FY2016/17
Plan a follow up audit of the effectiveness of conflicts of interest management practices within co-commissioning arrangements.	FY2016/17

DRAFT



**MANAGING CONFLICTS
OF INTEREST:
REVISED STATUTORY
GUIDANCE FOR CCGs
Draft for discussion**

Managing Conflicts of Interest: Statutory Guidance for CCGs

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Introduction

“If conflicts of interest are not managed effectively by CCGs, confidence in the probity of commissioning decisions and the integrity of clinicians involved could be seriously undermined. However, with good planning and governance, CCGs should be able to avoid these risks.”

Royal College of General Practitioners’ (RCGP) and NHS Confederation’s briefing paper on managing conflicts of interest, September 2011

1. 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.
2. 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, tax payers, providers and Parliament that CCG commissioning decisions are robust, fair and transparent and offer value for money. Failure to manage conflicts of interest severely undermines public trust in the NHS and can lead to legal challenge and even criminal action in the event of fraud, bribery and corruption.
3. Section 14O of the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012) (“the Act”) sets out the minimum requirements of what both NHS England and CCGs must do in terms of managing conflicts of interest.
4. To support all CCGs to manage these risks, we have issued this guidance as statutory guidance under sections 14O and 14Z8 of the Act. We expect all CCGs to fully implement this guidance. Should any CCGs wish to deviate from any requirement of the guidance for local reasons, they would need to seek prior approval from NHS England.
5. CCGs will also need to adhere to relevant guidance on conflicts of interest, issued by GP professional bodies such as the British Medical Association (BMA)¹, the General Medical Council (GMC)² and the Royal College of General Practitioners (RCGP)³, and to procurement rules including The Public Contract Regulations 2015⁴ and The National Health Service (procurement, patient choice and competition) (no.2) regulations 2013⁵, as well as the Bribery Act 2010⁶.

¹ BMA guidance on conflicts of interest for GPs in their role as commissioners and providers

<http://www.bma.org.uk/support-at-work/commissioning/ensuring-transparency-and-probity>

² GMC | Good medical practice (2013) http://www.gmc-uk.org/guidance/good_medical_practice.asp and http://www.gmc-uk.org/guidance/ethical_guidance/21161.asp

³ Managing conflicts of interest in clinical commissioning groups:

http://www.rcgp.org.uk/~media/Files/CIRC/Managing_conflicts_of_interest.ashx

⁴ The Public Contract Regulations 2015 <http://www.legislation.gov.uk/uksi/2015/102/regulation/57/made>

⁵ The NHS (Procurement, Patient Choice and Competition) (No.2) Regulations 2013

<http://www.legislation.gov.uk/uksi/2013/500/contents/made>

⁶ The Bribery Act 2010 <http://www.legislation.gov.uk/ukpga/2010/23/contents>

6. This guidance aims to:

- Enable CCGs and clinicians in commissioning roles to demonstrate that they are acting fairly and transparently and in the best interest of their patients and local populations;
- Ensure that CCGs operate within the legal framework;
- Safeguard clinically led commissioning, whilst ensuring objective investment decisions;
- Uphold the confidence and trust between patients and GPs;
- Support commissioners to understand when conflicts (whether actual or potential) may arise and how to manage them if they do;
- Be a practical resource and toolkit with scenarios and a web link to comprehensive case studies to help CCGs identify conflicts of interest and appropriately manage them.

7. This guidance supersedes *Managing Conflicts of Interest Statutory Guidance*, which was published in December 2014. We have strengthened the guidance in light of findings from a recent co-commissioning conflicts of interest sample audit, the National Audit Office's (NAO's) report on conflicts of interest management in CCGs,⁷ and feedback received from a range of stakeholders and partners, including CCG lay members and members of the public. We intend to publish separate detailed and comprehensive guidance to specifically address further developments in care models and integrated care organisations that may cause particular challenges with regard to conflicts of interest.

8. The key changes set out in this latest update of the guidance are:

- The recommendation for CCGs to have a minimum of **three lay members** on the Governing Body, in order to support with conflicts of interest management;
- The introduction of a **conflicts of interest guardian** in CCGs. We expect that CCG audit chairs will assume this role, which will be an important point of contact for any conflicts of interest queries or issues;
- The requirement for CCGs to include a robust process for managing any **breaches** within their conflict of interest policy and for any breaches to be published on the CCG's website;
- Strengthened provisions around **decision-making when a member of the governing body, or committee or sub-committee is conflicted**;

⁷ *Managing conflicts of interest in NHS clinical commissioning groups* <https://www.nao.org.uk/report/managing-conflicts-of-interest-in-nhs-clinical-commissioning-groups/>

- Strengthened provisions around the management of **gifts and hospitality**, including the need for prompt declarations and a publicly accessible register of gifts and hospitality;
- A requirement for CCGs to include an **annual audit of conflicts of interest management** within their internal audit plans and to include the findings of this audit within their **annual end-of-year governance statement**;
- A requirement for all CCG staff, governing body and committee members, and GP members to complete **mandatory online conflicts of interest training**, which will be provided by NHS England. The online training will be supplemented by a series of face-to-face training sessions for CCG leads in key decision-making roles.

9. NHS England staff operating under a joint co-commissioning arrangement should adhere to the principles set out in this guidance, as well as NHS England's own internal Standards of Business Conduct and other relevant organisational policies.

10. The guidance is divided into the following parts:

- Definition of an interest;
- Principles;
- Identification and management of conflicts of interest;
- Declaring interests;
- Registers of interest;
- Appointments and roles and responsibilities in the CCG;
- Managing conflicts of interest at meetings;
- Managing conflicts of interest throughout the commissioning cycle;
- CCG improvement and assessment framework and internal audit;
- Raising concerns and breaches;
- Impact of non-compliance;
- Conflicts of interest training.

Definition of an interest

11. An individual does not need to exploit his or her position or obtain an actual benefit, financial or otherwise, for a conflict of interest to occur.
12. Conflicts of interest can arise in many situations, environments and forms of commissioning, with an increased risk in primary care commissioning, out-of-hours commissioning and involvement with integrated care organisations, as clinical commissioners may here find themselves in a position of being at once commissioner and provider of primary medical services. Conflicts of interest can arise throughout the whole commissioning cycle from needs assessment, to procurement exercises, to contract monitoring.
13. Interests can be captured in four different categories:
 - **Financial interests:** This is where an individual may get direct financial benefits from the consequences of a commissioning decision. This could include being:
 - A director, including a non-executive director, or senior employee in a private company or public limited company or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations;
 - A shareholder (of more than [5%] of the issued shares), partner or owner of a private or not for profit company, business or consultancy which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations.
 - A consultant for a provider;
 - In secondary employment (see paragraph 52-53)
 - In receipt of a grant 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 include situations where the individual is:

- An advocate for a particular group of patients;
- A GP with special interests e.g., in dermatology, acupuncture etc.
- A member of a particular specialist professional body (although routine GP membership of the RCGP, British Medical Association (BMA) or a medical defence organisation would not usually by itself amount to an interest which needed to be declared);
- An advisor for the Care Quality Commission (CQC) or the National Institute for Health and Care Excellence (NICE);
- A medical researcher.

GPs and practice managers sitting on the governing body or committees of the CCG should declare details of their roles and responsibilities held within member practices of the CCG.

- **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;
- A member of a political party;
- Suffering from a particular condition requiring individually funded treatment;
- A financial advisor.

- **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). This should include:

- Spouse / partner
- Close relative e.g., parent, [grandparent], child, [grandchild] or sibling;
- Close friend;
- Business partner.

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.

Annex A sets out a non-exhaustive list of examples illustrating possible conflicts for these categories.

14. CCGs should provide clear guidance to their employees, members and governing body and committee members on what might constitute a conflict of interest, providing examples of situations that may arise. A range of conflicts of interest case studies can be found here: **[link to be inserted once guidance is finalised]**.
15. The above categories and examples are not exhaustive and the CCG should exercise discretion on a case by case basis, having regard to the principles set out in the next section of this guidance, in deciding whether any other role, relationship or interest which the public could perceive would impair or otherwise influence the individual's judgement or actions in their role within the CCG should be declared and appropriately managed.

Principles

16. This section sets out a series of principles for those who are elected to CCG governing bodies, serve on CCG committees or take decisions where they are acting on behalf the public or spending public money.
17. CCGs should observe the principles of good governance in the way they do business. These include:
 - The Nolan Principles⁸ (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)⁹;
 - The seven key principles of the NHS Constitution¹⁰;
 - The Equality Act 2010¹¹;
 - The UK Corporate Governance Code¹².
18. All those with a position in public life should adhere to the Nolan principles, which are:

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

⁸ The 7 principles of public life <https://www.gov.uk/government/publications/the-7-principles-of-public-life>

⁹ The Good Governance Standards for Public Services , 2004, OPM and CIPFA <http://www.opm.co.uk/wp-content/uploads/2014/01/Good-Governance-Standard-for-Public-Services.pdf>

¹⁰ The seven key principles of the NHS Constitution <http://www.nhs.uk/NHSEngland/thenhs/about/Pages/nhscoreprinciples.aspx>

¹¹ The Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15/contents>

¹² UK Corporate Governance Code <https://www.frc.org.uk/Our-Work/Codes-Standards/Corporate-governance/UK-Corporate-Governance-Code.aspx>

- **Honesty** – Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest;
- **Leadership** – Holders of public office should promote and support these principles by leadership and example.

19. In addition, to support the management of conflicts of interest, CCGs should::

- **Do business appropriately:** Conflicts of interest become much easier to identify, avoid and/or manage when the processes for needs assessments, consultation mechanisms, commissioning strategies and procurement procedures are right from the outset, because the rationale for all decision-making will be clear and transparent and should withstand scrutiny;
- **Be proactive, not reactive:** Commissioners should seek to identify and minimise the risk of conflicts of interest at the earliest possible opportunity, for instance by:
 - Considering potential conflicts of interest when electing or selecting individuals to join the governing body or other decision-making bodies;
 - Ensuring individuals receive proper induction and training so that they understand their obligations to declare conflicts of interest;
 - Agreeing in advance how a range of possible conflicts of interest situations and scenarios will be handled, rather than wait until they arise.
- **Be balanced and proportionate:** Rules should be clear and robust but not overly prescriptive or restrictive. They should ensure that decision-making is transparent and fair whilst not being overly constraining, complex or cumbersome.
- **Be transparent:** Document clearly the approach and decisions taken at every stage in the commissioning cycle so that a clear audit trail is evident.

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

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

Identification and management of conflicts of interest

20. Conflicts of interest are a common and sometimes unavoidable part of the delivery of health care. As such, it may not be reasonable or desirable to completely eliminate the risk of conflicts. Instead, it will be preferable to recognise the associated risks and put measures in place to identify and manage conflicts when they do arise. As a minimum, CCGs should have robust systems in place to identify and manage conflicts of interest rather than to eliminate them.
21. This will involve encouraging CCG staff, governing body and committee members, and GP member practices to be open, honest and upfront about actual or potential conflicts. Transparency in this regard will lead to effective identification and management of conflicts. The effect should be to make everyone aware of what to do if they suspect a conflict and ensure decision-making is efficient, transparent and fair. As such, CCGs should implement this statutory guidance in a manner that is clear and robust, but not overly prescriptive or complex.
22. CCGs should identify a team or individual - such as e.g., the Head of Governance - within their organisation, with 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 (see paragraph 63 onwards);
 - Providing advice, support, and guidance on how conflicts of interest should be managed; and
 - Ensuring that appropriate administrative processes are put in place.
23. Through this team or individual, CCGs should provide clear guidance to their staff, governing body and committee members, and GP member practices on what might constitute a conflict of interest, including examples of possible conflicts and situations in which a conflict may arise. This may be achieved through training and wide promotion of the CCG's policy on conflicts of interest management. Annex K sets out a conflicts of interest checklist for CCG to follow when developing their conflicts of interest policy.
24. Such a team or individual should be appropriately trained and their identity well publicised so that their expertise can be called up when required.
25. There will be occasions where an individual declares an interest in good faith but, upon closer consideration, it is clear that this does not constitute a genuine conflict of interest. The team or individual who has designated responsibility for maintaining the registers of interest should provide advice on this and decide whether it is necessary for the interest to be declared.

26. There will be other 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) it is likely that CCGs will want to consider whether, practically, such an interest is manageable at all. If it is not, the appropriate course of action may 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. CCGs should ensure that their HR policies, letters of engagement and governing body and committee terms of reference and standing orders are reviewed to ensure that they enable the CCG to take appropriate action to manage conflicts of interest robustly and effectively in such circumstances.
27. The following sections set out the other steps that CCGs should put in place to support the appropriate management of conflicts of interest.

Declaring interests

Statutory requirements

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.

28. CCGs will need to ensure that, as a matter of course, declarations of interest are made and regularly confirmed or updated. A template declaration of interest form is appended at Annex B.
29. All persons referred to in paragraph 32 (Register of Interests) must declare any interests. Such declarations should be made as soon as reasonably practicable after the interest arises, including:

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.

Quarterly:

CCGs should have systems in place to satisfy themselves on a quarterly basis that their register of interests is accurate and up-to-date. Declarations of interest should be obtained from all relevant individuals every quarter 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 (see paragraph 90-91 for further advice on record keeping).

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 should be made clear to all individuals who are required to make a declaration of interests that if their circumstances change, 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 should also be clear who such individuals should formally notify, and how that team or person can be contacted. CCGs may wish to consider including this requirement in employees' contracts.

30. Whenever interests are declared they should be promptly reported to the individual or team within the CCG who has designated responsibility for maintaining the register of interests. This individual should ensure that the register of interests is updated accordingly. Paragraph 34 onwards sets out further information on maintaining a register of interests.

Register(s) of interests

Statutory requirements

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

31. CCGs should maintain one or more registers of interest and one or more registers of gifts and hospitality.

32. Register(s) of interest should be maintained for:

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

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

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

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

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

This includes each provider of primary medical services which is a member of the CCG under Section 14A (1) of the 2006 Act. Declarations should be made by all employees of the practice, regardless of whether they are directly involved with CCG commissioning or not, including:

 - GP partners (or where the practice is a company, each director);
 - GP locums;
 - Practice managers;
 - Practice nurses etc.

33. All interests declared must be promptly transferred to the relevant CCG register(s) by the team or individual who has designated responsibility for maintaining registers of interest. **[Engagement question: our working**

assumption is that individual GP practices should collect this information, record it, and transfer it to their host CCG for wider publication. An alternative view is that practices should collect, record and publish this information themselves on their own websites. Views on the best approach are requested?]

Conflict of Interest registers

34. CCGs should maintain one or more registers detailing actual or potential conflicts of interest pertaining to the individuals listed in paragraph 32 above. A template conflict of interest declaration form and conflict of interest register for use by CCGs are appended at Annexes B and C. These templates can be adapted by CCGs but, as a minimum, they should contain the following information (which constitutes best practice):
- Name of the person declaring the interest;
 - Position within, or relationship with, the CCG (or NHS England in the event of joint committees);
 - Type of interest e.g., financial interests, non-financial professional interests;
 - Description of interest, including for indirect interests details of the relationship with the person who has the interest;
 - Dates interest relates to, from to; and
 - The actions to be taken to mitigate risk, these should be agreed with your line manager.

Gifts and Hospitality registers

35. CCGs should maintain one or more registers of gifts and hospitality for the individuals listed in paragraph 32 above. CCGs should ensure that robust processes are in place to ensure that such individuals do not accept gifts or hospitality or other benefits, which might reasonably be seen to compromise their professional judgement or integrity.
36. All the individuals listed in section 32 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.

Gifts

37. A 'gift' is defined as any item of cash or goods, or any service, which is provided for personal benefit at less than its commercial value.
38. All gifts of any nature offered to CCG staff, governing body and committee members and individuals within GP member practices by suppliers or

contractors linked (currently or prospectively) to the CCG's business should be declined, whatever their value. The person to whom the gifts were offered should also declare the offer to the team or individual who has designated responsibility for maintaining the register of gifts and hospitality so the offer which has been declined can be recorded on the register.

39. 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 to whether or not this is the case. The only exceptions to the presumption to decline gifts relates to items of little financial value (i.e., less than £10) such as diaries, calendars, stationery and other gifts acquired from meetings, events or conferences, and items such as flowers and small tokens of appreciation from members of the public for work well done which may be accepted. Gifts of this nature do not need to be declared to the team or individual who has designated responsibility for maintaining register of gifts and hospitality, nor recorded on the register.
40. **Any personal gift of cash or cash equivalents (e.g. vouchers, tokens, offers of remuneration to attend meetings whilst in a capacity working for or representing the CCG) must always be declined, whatever their value and whatever their source**, and the offer which has been declined must be declared to the team or individual who has designated responsibility for maintaining the register of gifts and hospitality and recorded on the register.

Hospitality

41. A blanket ban on accepting or providing hospitality is neither practical nor desirable from a business point of view. However, individuals should be able to demonstrate the acceptance or provision of hospitality would benefit the NHS or CCG.
42. Modest hospitality provided in normal and reasonable circumstances may be acceptable, although it should be on a similar scale to that which the CCG might offer in similar circumstances (e.g., tea, coffee, light refreshments at meetings). A common sense approach should be adopted to whether or not hospitality offered is modest or not. Hospitality of this nature does not need to be declared to the team or individual who has designated responsibility for maintaining register of gifts and hospitality, nor recorded on the register.
43. Unacceptable hospitality should be politely refused. Particular caution should be applied to:
- Hospitality offered by suppliers or contractors linked (currently or prospectively) to the CCG's business;
 - Hospitality of a value of above £25; and
 - In particular, offers of foreign travel and accommodation.

The presumption is that all such offers should be refused and, if acceptance is contemplated, prior approval from a senior member of CCG staff should be

required. Hospitality of this nature should be declared to the team or individual who has designated responsibility for maintaining the register of gifts and hospitality, and recorded on the register, whether accepted or not.

Commercial sponsorship

44. 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 team or individual designated by the CCG to provide advice, support, and guidance on how conflicts of interest should be managed should provide advice on whether or not it would be appropriate to accept any such offers. If such offers are reasonably justifiable and otherwise in accordance with this statutory guidance then they may be accepted. CCGs should consider whether they wish to adopt a system of prior approval for acceptance of such sponsorship from a member of the CCG with appropriate seniority.
45. Notwithstanding the above, acceptance of commercial sponsorship should not in any way compromise commissioning decisions of the CCG or be dependent on the purchase or supply of goods or services. Sponsors should not have any influence over the content of an event, meeting, seminar, publication or training event. The CCG should not endorse individual companies or their products. It should be made clear that the fact of sponsorship does not mean that the CCG endorses a company's products or services. During dealings with sponsors there must be no breach of patient or individual confidentiality or data protection legislation. Furthermore, no information should be supplied to a company for their commercial gain unless there is a clear benefit to the NHS. As a general rule, information which is not in the public domain should not normally be supplied.

Declaration of offers and receipt of gifts and hospitality

46. A draft template for declaring gifts and hospitality is appended at Annex D. All hospitality or gifts declared must be promptly transferred to a register of gifts and hospitality that all CCGs should maintain. A template gifts and hospitality register for use by CCGs is appended at Annex E. These templates can be adapted by CCGs but, as a minimum, they should contain the following information (which constitutes best practice):
 - Recipient's name;
 - Current position(s) held by the individual (within the CCG);
 - Date of offer and/or receipt;
 - Details of the gifts or hospitality
 - The estimated value of the gifts or hospitality

- Details of the supplier/offeror (e.g. their name and the nature of their business);
- Details of previous gifts and hospitality offered or accepted by this offeror/ supplier;
- Whether the offer was accepted or not; and
- Reasons for accepting or declining the offer.

Publication of registers

47. CCGs should publish the register(s) of interest and register(s) of gifts and hospitality referred to above in a prominent place on the CCG's website.
48. 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). This should be agreed with the team or individual who has designated responsibility for maintaining registers of interest and the Conflicts of Interest Guardian for the CCG, who should seek appropriate legal advice where required, and the CCG should retain a confidential un-redacted version of the register(s).
49. All persons who are required to make a declaration of interests or a declaration of gifts or hospitality should be made aware that the register(s) will be published.
50. The register(s) of interests (including the register of gifts and hospitality) must be published as part of the CCG's Annual Report and Annual Governance Statement.

Appointments and roles and responsibilities in the CCG

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

Secondary employment

52. CCGs 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 engaged in, or wish to engage in, secondary employment in addition to their work with the CCG. The purpose of this is to ensure that the CCG is aware of any potential conflict of interest. Examples of work which might conflict with the business of the CCG include:

- Employment with another NHS body;
- Employment with another organisation which might be in a position to supply goods/services to the CCG; 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.

53. **CCGs should require that express prior permission to engage in secondary employment is required, and reserve the right to refuse permission where it believes a conflict will arise.** CCGs should ensure that they have clear and robust organisational policies in place to manage issues arising from secondary employment. In particular, it is unacceptable for pharmacy advisers or other advisers, employees or consultants to the CCG on matters of procurement to themselves be in receipt of payments from the pharmaceutical or devices sector.

Appointing governing body or committee members and senior employees

54. On appointing governing body, committee or sub-committee members and senior staff, CCGs will need to consider whether conflicts of interest should exclude individuals from being appointed to the relevant role. This will need to be considered on a case-by-case basis but the CCG's constitution should reflect the CCG's general principles.

55. The CCG will need to assess the materiality of the interest, in particular whether the individual (or any person with whom they have a close association as listed in paragraph 32) could benefit (whether financially or otherwise) from any decision the CCG might make. This will be particularly relevant for governing body, committee and sub-committee appointments, but should also be considered for all employees and especially those operating at senior level.

56. The CCG will also need to 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.
57. 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 not be a member of the governing body or of a committee or sub-committee of the CCG if the nature and extent of their interest and the nature of their proposed role is such that they are likely to need to exclude themselves from decision-making on so regular a basis that it significantly limits their ability to effectively perform that role. Specific considerations in relation to delegated or joint commissioning of primary care are set out below.
58. CCGs should set out in their constitution a statement of the conduct expected of individuals involved in the CCG, e.g. members of the governing body, members of committees, and employees, which reflect the safeguards in this guidance. This should reflect the expectations set out in the Standards for Members of NHS Boards and Clinical Commissioning Groups.

CCG lay members

59. Lay members have a critical role in CCGs, providing scrutiny, challenge and an independent voice in support of robust and transparent decision-making and management of conflicts of interest. They chair a number of CCG committees, including the Audit Committee and Primary Care Commissioning Committee.
60. By statute, CCGs must have at least two lay members (one of whom must have qualifications, expertise or experience such as to enable the person to express informed views about financial management and audit matters¹³ and serve as the chair of the audit committee¹⁴; and the other, knowledge of the geographical area covered in the CCG's constitution such as to enable the person to express informed views about the discharge of the CCG's functions¹⁵). In light of their expanding role in primary care co-commissioning, we recommend that all CCGs consider increasing this requirement within their constitution to a minimum of three lay members on their governing body. We would encourage CCGs to consider appointing more than three lay members, if they have the means to do so.
61. Where there are difficulties in recruiting additional lay members, CCGs could consider:

¹³ Section 12(3) NHS (CCG) Regulations 2012

http://www.legislation.gov.uk/uksi/2012/2996/pdfs/uksi_20122996_en.pdf

¹⁴ Section 14(2) NHS (CCG) Regulations 2012

http://www.legislation.gov.uk/uksi/2012/2996/pdfs/uksi_20122996_en.pdf

¹⁵ Section 12(4) NHS (CCG) Regulations 2012

http://www.legislation.gov.uk/uksi/2012/2996/pdfs/uksi_20122996_en.pdf

- 'Sharing' lay members between, for instance, CCGs in the same Sustainability and Transformation area. In such circumstances, CCGs must still ensure that at least one appointed lay member has knowledge of the geographical area covered in the CCG constitution; and/or
- Additional governing body members who are not classified as lay members, so that the statutory eligibility criteria applicable to lay members of the governing body would not apply to those appointments (although these rules would still apply to the minimum of two lay member posts on the governing body).

[Engagement question: what are your views on “sharing” CCG lay members and appointing governing body members who are not classified as lay members]

62. We would encourage all three CCG lay members to attend the Primary Care Commissioning Committee; the additional “third” lay member could assume the role of the Chair or Vice-Chair of this committee.

Conflicts of Interest Guardian

63. To further strengthen scrutiny and transparency of CCGs’ decision-making processes, all CCGs should have a Conflicts of Interest Guardian (akin to a Caldicott Guardian). This role should be undertaken by the CCG audit chair, provided they have no provider interests, as audit chairs already have a key role in conflicts of interest management. They should be supported by the CCG’s Head of Governance or equivalent, who should have responsibility for the day-to-day management of conflicts of interest matters and queries. The CCG Head of Governance (or equivalent) should keep the Conflicts of Interest Guardian well briefed on conflicts of interest matters and issues arising.
64. The Conflicts of Interest Guardian should:

- Act as a conduit for members of the public who have any concerns with regards to conflicts of interest;
- Be a safe point of contact for whistleblowing;
- 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.

65. 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.

Primary Care Commissioning Committee Chair

66. The Primary Care Commissioning Committee (PCCC) must have a lay chair and lay vice chair. To ensure appropriate oversight and assurance, and to ensure the CCG audit chair's position as Conflicts of Interest Guardian is not compromised, the audit chair should not hold the position of chair of the PCCC. This is because CCG audit chairs would conceivably be conflicted in this role due to the requirement that they attest annually to the NHS England Board that the CCG has:
- Had due regard to the statutory guidance on managing conflicts of interest; and
 - Implemented and maintained sufficient safeguards for the commissioning of primary care.
67. CCG audit chairs can however serve on the Primary Care Commissioning Committee, provided appropriate safeguards are put in place to avoid compromising their role as Conflicts of Interest Guardian. Ideally the CCG audit chair would also not serve as vice chair of the PCCC. However, if this is required due to specific local circumstances (for example where there is a lack of other suitable lay candidates for the role), this will need to be clearly recorded and appropriate further safeguards may need to be put in place to maintain the integrity of their role as Conflicts of Interest Guardian in circumstances where they chair all or part of any meetings in the absence of the PCCC chair.

Managing conflicts of interest at meetings

Statutory requirements

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

68. CCGs should review their governance structures and policies for managing conflicts of interest to ensure that they reflect the guidance and are appropriate. This should include consideration of the following:

- The **make-up of their governing body and committee structures** and processes for decision-making;
- Whether there are sufficient management and internal controls to detect **breaches** of the CCG's conflicts of interest policy, including appropriate external oversight and adequate provision for **whistleblowing**;
- How **non-compliance** with policies and procedures relating to conflicts of interest will be managed (including how this will be addressed when it relates to contracts already entered into); and
- Identifying and implementing **training** or other programmes to assist with compliance, including participation in the training offered by NHS England.

Chairing arrangements and decision-making processes

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

70. 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).

71. 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 (see paragraph 63) or another member of the governing body.

72. It is good practice for the chair, with support of the CCG's Head of Governance or equivalent and, if required, the Conflicts of Interest Guardian, to proactively consider ahead of meetings what conflicts are likely to arise and how they should be managed, including taking steps to ensure that supporting papers for

particular agenda items are not sent to conflicted individuals in advance of the meeting where relevant.

73. To support chairs in their role, they should have access to a declaration of interest 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 appended at Annex F.
74. 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.
75. Similarly, any new offers of gifts or hospitality (whether accepted or not) which are declared at a meeting must be included on the CCG's register of gifts and hospitality to ensure it is up-to-date.
76. It is the responsibility of each individual member of the meeting to declare any relevant interests which they may have. However, should the chair or any other member of the meeting be aware of facts or circumstances which may give rise to a conflict of interests but which have not been declared then they should bring this to the attention of the chair who will decide whether there is a conflict of interest and the appropriate course of action to take in order to manage the conflict of interest.
77. 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 some or all of the supporting papers or minutes of the meeting which relate to the matter(s) which give rise to the conflict;
 - Requiring the individual to leave the discussion when the relevant matter(s) are being discussed and when any decisions are being taken

in relation to those matter(s). In private meetings, this could include requiring the individual to leave the room and in public meetings to leave the discussions and join the audience;

- Allowing the individual to participate in some or all of the discussion when the relevant matter(s) are being discussed but requiring them to leave the meeting when any decisions are being taken in relation to those matter(s). This may be appropriate where, for example, the conflicted individual has important relevant knowledge and experience of the matter(s) under discussion, which it would be of benefit for the meeting to hear, but this will depend on the nature and extent of the interest which has been declared;
- Noting the interest and ensuring that all attendees are aware of the nature and extent of the interest, but allowing the individual to remain and participate in both the discussion and in any decisions. This is only likely to be the appropriate course of action where it is decided that the interest which has been declared is either immaterial or not relevant to the matter(s) under discussion.

Primary care commissioning committees and sub-committees

78. There are three co-commissioning models:

- **Greater involvement** in primary care co-commissioning is simply an invitation to CCGs to collaborate more closely with their NHS England teams to ensure that decisions taken about healthcare services are strategically aligned across the local health economy.
- The **joint commissioning** model enables one or more CCGs to assume responsibility for jointly commissioning primary medical services with their local NHS England team via a joint committee. It is a requirement for each joint committee to have a register of interests, and for the interests of both CCG and NHS England representatives to be included on this register. These interests should also be recorded on the CCG's main register(s) of interests.
- **Delegated commissioning** enables CCGs to assume responsibility for commissioning general practice services.

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

80. The PCCC should:

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

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

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

Membership of Primary care Commissioning Committees (for joint and delegated arrangements)

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

- The primary care commissioning committee must be constituted to have a **lay and executive majority**, where lay refers to non-clinical. This ensures that the meeting will be quorate if all GPs had to withdraw from the decision-making process due to conflicts of interest.
- The primary care commissioning committee should have a lay chair and lay vice chair (see paragraph 59 to 62 for further information).
- **GPs** can, and should, be members of the primary care commissioning committee to ensure sufficient clinical input, but must not be in the majority. CCGs may wish to consider appointing retired GPs or out-of-area GPs to the committee to ensure clinical input but minimise the risk of conflicts of interest.
- A standing invitation must be made to the CCG's **local HealthWatch** representative and a **local authority representative from the local Health and Wellbeing Board** to join the primary care commissioning committee as non-voting attendees, including, where appropriate, for items where the public is excluded for reasons of confidentiality.

- Other individuals could be invited to attend the primary care commissioning committee on an ad-hoc basis to provide **expertise** to support with the decision-making process.

83. CCGs could also consider reciprocal arrangements with other CCGs, for example exchanging GP representatives from their respective GP member practices, or sharing lay or executive members, in order to ensure a majority of lay and executive members and to support effective clinical representation within the PCCC.
84. Where a CCG is engaged in joint commissioning arrangements alongside NHS England, the joint role of NHS England in decision-making will provide an additional safeguard in managing conflicts of interest. However, CCGs should still satisfy themselves that they have appropriate arrangements in place in relation to conflicts of interest with regard to their own role in the decision-making process. NHS England representatives need to take similar precautions.

Primary care commissioning committee decision-making processes and voting arrangements

85. The primary care commissioning committee is a decision-making committee, which should be established to exercise the discharge of the primary medical services functions. As such CCGs need to amend their constitution to include this committee.
86. The quorum requirements for PCCC meetings must include a simple majority of lay and executive members in attendance and eligible to vote (i.e., not conflicted).
87. In the interest of minimising the risks of conflicts of interest, it is recommended that GPs do not have voting rights on the Primary Care Commissioning Committee. The arrangements do not preclude GP participation in strategic discussions on primary care issues, subject to appropriate management of conflicts of interest. They apply to decision-making on procurement issues and the deliberations leading up to the decision.

[Engagement note: in developing this guidance, we considered an alternative proposal, which was to not include GPs on the Primary Care Commissioning Committee, but to establish a separate GP-led “Clinical Advisory Sub-Committee” of the Primary Care Commissioning Committee. This sub-committee would be an advisory body without formal decision-making powers, be constituted with a majority of GPs and be consulted in relation to all strategic, needs analysis and service design issues relating to primary care services. We deemed this proposal to be too bureaucratic and resource intensive to administer, but would welcome your feedback during the engagement period.]

88. Whilst sub-committees or sub-groups of the primary care commissioning committee can be established to develop business cases and options appraisals, for instance, ultimate decision-making responsibility for the primary medical services functions must rest with the primary care commissioning committee. For example, whilst a sub-group could develop an options appraisal, it should take the options to the primary care commissioning committee for their review and decision-making. CCGs should carefully consider the membership of sub-groups, ensuring appropriate representation from all providers. They should also consider appointing a lay member as the chair of the group,
89. It is important that conflicts of interests are managed appropriately within sub-committees and sub-groups. As an additional safeguard, it is recommended that sub-groups submit their minutes to the primary care commissioning committee, detailing any conflicts and how they have been managed. The primary care commissioning committee should be satisfied that conflicts of interest have been managed appropriately in its sub-committees and take action where there are concerns.

Minute-taking

90. It is imperative that CCGs ensure complete transparency in their decision-making processes through robust record-keeping. If any conflicts of interest are declared or otherwise arise in a meeting, the chair must ensure the following information is recorded in the minutes:

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

91. An example of good minute keeping is appended at Annex G.

Managing conflicts of interest throughout the commissioning cycle

Designing service requirements

92. The way in which services are designed can either increase or reduce the level of perceived or actual conflicts of interest. Particular attention should be given to public and patient involvement.
93. 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

94. It is good practice to engage relevant providers, especially clinicians, in confirming that the design of service specifications will meet patient needs. This may include providers from the acute, primary, community, and mental health sectors, and may include NHS, third sector and private sector providers. Such engagement, done transparently and fairly, is entirely legal. However, conflicts of interest, as well as challenges to the fairness of the procurement process, can arise if a commissioner engages selectively with only certain providers (be they incumbent or potential new providers) in developing a service specification for a contract for which they may later bid.
95. 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.
96. As the service design develops, it is good practice to engage with a range of providers on an on-going basis to seek comments on the proposed design e.g., via the commissioners website and/or via workshops with interested parties (ensuring a record is kept of all interaction). Monitor has issued guidance on the use of provider boards in service design¹⁶.
97. 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.

¹⁶ Monitor, *Case closure decision on Greater Manchester and Cheshire cancer surgery services, January 2014*
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/284832/ManchesterCaseClosure.pdf

Specifications

98. Commissioners should seek, as far as possible, to specify the outcomes that they wish to see delivered through a new service, rather than the process by which these outcomes are to be achieved. As well as supporting innovation, this helps prevent bias towards particular providers in the specification of services. However, they also need to ensure careful consideration is given to the appropriate degree of financial risk transfer in any new contractual model.
99. 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

100. CCGs will need to be able to recognise and manage any conflicts or potential conflicts of interest that may arise in relation to the procurement of any services or the administration of grants. “Procurement” relates to any purchase of goods, services or works and the term “procurement decision” should be understood in a wide sense to ensure transparency of decision making on spending public funds. The decision to use a single tender action, for instance, is a procurement decision and if it results in the 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.
101. CCGs must comply with two different strands 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) Regulations (No. 2) 2013, issued under section 75 of the Act 17;
- The Public Contract Regulations 2015 (the “PCR 2015”)18; and
- Monitor’s guidance on the Procurement, Patient Choice and Competition Regulations19 .

The European procurement regime:

- EU Procurement rules (as transposed in to law in England and Wales by the Public Contracts Regulations 2006 (although after 18 April 2016 these will only apply to procurement exercises that began before that date) and Public Contracts Regulations 2015)20;

¹⁷ The NHS (Procurement, Patient Choice and Competition) Regulations (No. 2) 2013, issued under section 75 of the HSCA <http://www.legislation.gov.uk/ukxi/2013/500/contents/made>

¹⁸ The Public Contract Regulations 2015 (the “PCR 2015”) http://www.legislation.gov.uk/ukxi/2015/102/pdfs/ukxi_20150102_en.pdf

¹⁹ Monitor, *Substantive guidance on the Procurement, Patient Choice and Competition Regulations*, December 2013

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/283505/SubstantiveGuidanceDec2013_0.pdf

²⁰ EU Procurement rules 2006 http://www.legislation.gov.uk/ukxi/2006/5/pdfs/ukxi_20060005_en.pdf

- The general principles arising under the Treaty on the Functioning of the European Union of equal treatment, transparency, mutual recognition, non-discrimination and proportionality.

102. The National Health Service (Procurement, Patient Choice and Competition) (No.2) Regulations 2013²¹ state:

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

CCGs must keep a record of how it managed any such conflict in relation to NHS commissioning contracts it has entered into. [As set out in paragraph 111 below, details of this should also be published by the CCG.]

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

103. The Procurement, Patient Choice and Competition Regulations also 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.

104. An obvious area in which conflicts 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.

105. A procurement template, provided in Annex H, sets out factors that the CCG should address when drawing up their plans to commission general practice services. We expect the use of this or a similar template to help the CCG in providing evidence of their deliberations on conflicts of interest.

106. CCGs will be required to make the evidence of their management of conflicts 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;

²¹ *The National Health Service (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013*
<http://www.legislation.gov.uk/ukxi/2013/500/contents/made>

- a record of how the proposed service meets local needs and priorities for partners such as the Health and Wellbeing Boards, local Healthwatch and local communities;
 - evidence to the audit committee and internal and external auditors that a robust process has been followed in deciding to commission the service, in selecting the appropriate procurement route, and in addressing potential conflicts.
107. External services such as commissioning support services (CSSs) can play an important role in helping CCGs decide the most appropriate procurement route, undertake procurements and manage contracts in ways that manage conflicts of interest and preserve the integrity of decision-making. When using a CSS, CCGs should have systems to assure themselves that a CSS' business processes are robust and enable the CCG to meet its duties in relation to procurement (including those relating to the management of conflicts of interest). This would require the CSS to declare any conflicts of interest it may have in relation to the work commissioned by the CCG.
108. A CCG cannot, however, lawfully delegate commissioning decisions to an external provider of commissioning support. Although CSSs are likely to play a key role in helping to develop specifications, preparing tender documentation, inviting expressions of interest and inviting tenders, the CCG itself will need to:

- Determine and sign off the specification and evaluation criteria;
- Decide and sign off decisions on which providers to invite to tender; and
- Make final decisions on the selection of the provider.

Register of procurement decisions

109. CCGs need to maintain a register of procurement decisions taken, either for the procurement of a new service or any extension or material variation of a current contract. This must include:

- The details of the decision;
- Who was involved in making the decision (i.e. governing body or committee members and others with decision-making responsibility);
- A summary of any conflicts of interest in relation to the decision and how this was managed by the CCG (see paragraph 114 in relation to retaining the anonymity of bidders); and
- The award decision taken.

110. The register of procurement decisions must be updated whenever a procurement decision is taken. A draft register is included at Annex I. The register of procurement decisions should be made publicly available and easily accessible to patients and the public by:
- Ensuring that the register is available in a prominent place on the CCG's website; and
 - Making the register available upon request for inspection at the CCG's headquarters
111. Although it is not a requirement to keep a register of services that may be procured in the future, it is good practice to ensure planned service developments and possible procurements are transparent and available for the public to see.

Declarations of interests for bidders / contractors

112. As part of a procurement process, it is good practice to ask bidders to declare any conflicts of interest. This allows commissioners to ensure that they comply with the principles of equal treatment and transparency. When a bidder declares a conflict, the commissioners must decide how best to deal with it to ensure that no bidder is treated differently to any other. Please see Annex J for a declaration of interests for bidders/ contractors template.
113. It will not usually be appropriate to declare such a conflict on the register of procurement decisions, as it may compromise the anonymity of bidders during the procurement process. However, commissioners should retain an internal audit trail of how the conflict or perceived conflict was dealt with to allow them to provide information at a later date if required. Commissioners are required under regulation 84 of the Public Contract Regulations 2015 to make and retain records of contract award decisions and key decisions that are made during the procurement process (there is no obligation to publish them). Such records must include "communications with economic operators and internal deliberations" which should include decisions made in relation to actual or perceived conflicts of interest declared by bidders. These records must be retained for a period of at least three years from the date of award of the contract.

Contract Monitoring

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

116. 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.
117. CCGs should be mindful of any potential conflicts of interest when they disseminate any contract or performance information/reports on providers, and manage the risks appropriately.

CCG Improvement and Assessment Framework

118. NHS England is introducing a new Improvement and Assessment Framework for CCGs from 2016/17 onwards. The management of conflicts of interest is a key indicator of the new framework.
119. As part of the new framework, CCGs will be required on an annual basis to confirm via self-certification:
- That the CCG has a clear policy for the management of conflicts of interest in line with the statutory guidance and a robust process for the management of breaches;
 - That the CCG has a minimum of three lay members;
 - That the CCG audit chair has taken on the role of the Conflicts of Interest Guardian;
 - The level of compliance with the mandated conflicts of interest on-line training, as of 31 December annually.
120. In addition, CCGs will be required to report on a quarterly basis via self-certification whether the CCG:
- 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 they have been published on the CCG website;
 - Confirmation that they have been communicated to NHS England.
121. Where a CCG has decided not to comply with this statutory guidance – whether in relation to any of the matters referred to in paragraphs 120 and 121 above or otherwise – they must seek NHS England's permission and include within the self-certification statement the reasons for deciding not to do so.
122. In addition there is a requirement for each CCG to undertake an annual internal audit on the management of conflicts of interest to provide further assurance about the degree of compliance with the statutory guidance (as set out in paragraph 124 onwards). Consideration of the indicator should form part of this audit.

Internal audit

123. All CCGs will need to undertake an audit of conflicts of interest management as part of their internal audit on an annual basis.
124. We will be communicating further guidance on the scope and remit of this audit in due course on NHS England's website. To ensure consistency in approach, NHS England will provide a template for the audit.
125. We would expect in 2016/17 that CCGs complete the audit in quarter three or quarter four of the financial year, to enable the updates in this guidance to be implemented prior to the audit taking place.
126. The results of the audit should be reflected in the CCG's annual governance statement and should be discussed in the end of year governance meeting with NHS regional teams. A template annual governance statement for 2016/17 will be published on NHS England's website soon.
127. The conflicts of interest and procurement registers and registers of gifts and hospitality are also required to form part of the CCG's annual accounts and will thus need to be signed off by external auditors.

Raising concerns and breaches

128. 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, investigate themselves or tell colleagues or others about their suspicions. Any suspicions or concerns can be reported online via www.reportnhs.fraud.nhs.net.
129. All CCGs must have a clear process for managing breaches of their conflicts of interest policy. The process should be detailed in their policy (see Annex K for a checklist of suggested matters to include in the conflicts of interest policy) and should include information on:
 - How the breach should be recorded;
 - How it should be investigated;
 - The governance arrangements and reporting mechanisms;
 - How this policy links to whistleblowing and HR policies;
 - When and who to notify at NHS England; and
 - The process for publishing the breach on the CCG website.
130. CCGs should ensure that employees, governing body members, committee or sub-committee members and GP practice members are aware of how they can report suspected or known breaches of the CCG's conflicts of interest policies, including ensuring that all such individuals are made aware that they should generally contact the CCG's designated Conflicts of Interest Guardian in the first instance to raise any concerns. They should also be advised of the arrangements in place to ensure that they are able to contact the Conflicts of Interest Guardian on a strictly confidential basis.
131. CCGs should also ensure that the Conflicts of Interest Guardian is in a position to cross refer to and comply with other CCG policies on raising concerns, counter fraud, or similar as and when appropriate.
132. All such notifications should be treated with appropriate confidentiality at all times in accordance with the CCG's policies and applicable laws, and the person making such disclosures should expect an appropriate explanation of any decisions taken as a result of any investigation.
133. CCG staff and other relevant individuals should also be encouraged to call the NHS Fraud and Corruption Reporting Line on free phone 0800 028 40 60. This provides an easily accessible and confidential route for the reporting of genuine suspicions of fraud within or affecting the NHS. All calls are dealt with by experienced trained staff and any caller who wishes to remain anonymous may do so.
134. Effective management of conflicts of interest requires an environment and culture where individuals feel supported and confident in declaring relevant information, including notifying any actual or suspected breaches of the rules. In particular, the team or individual designated by the CCG to provide advice, support, and guidance on how conflicts of interest should be managed, should

ensure that organisational policies are clear about the support available for individuals who wish to come forward to notify an actual or suspected breach of the rules, and of the sanctions and consequences for any failure to declare an interest or to notify an actual or suspected breach at the earliest possible opportunity.

Impact of non-compliance

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

Civil implications

136. If conflicts of interest are not effectively managed, CCGs could face civil challenges to decisions they make. For instance, if breaches occur during a service re-design or procurement, 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 waste public money, damage the CCG's reputation and delay the development of better services and care for patients. In extreme cases, staff and other individuals could face personal civil liability, for example a claim for misfeasance in public office.

Criminal implications

137. Failure to manage conflicts of interest could lead to criminal proceedings including for offences such as fraud, bribery and corruption. This could have implications for CCGs and organisations, and the individuals who are engaged by them.
138. 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.
139. An essential ingredient of the offences is that, the offender's conduct must be dishonest and their intention must be to make a gain, or cause a loss (or the risk of a loss) to another. **Fraud carries a maximum sentence of 10 years imprisonment and /or a fine 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.**
140. Bribery is generally defined as giving or offering someone a financial or other advantage to encourage that person to perform their functions or activities. The Bribery Act 2010 reformed the criminal law of bribery, making it easier to tackle this offence proactively in both the public and private sectors. It introduced a corporate offence which means that **commercial organisations, including NHS bodies, will be exposed to criminal liability, punishable by an unlimited fine, for failing to prevent bribery.** The offences of bribing another person, being bribed and bribery of foreign public officials can also be committed by a body corporate. The Act repealed the UK's previous anti-corruption legislation (the Public Bodies Corrupt Practices Act 1889, the Prevention of Corruption Acts of 1906 and 1916 and the common law offence of bribery) and provides an updated and extended framework of offences to cover bribery both in the UK and abroad. 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

141. CCGs should ensure 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 appropriate 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

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

Conflicts of interest training

143. All CCGs must ensure that training is offered to all employees, governing body members, members of CCG committees and sub-committees and member practices on the management of conflicts of interest. This is to ensure staff and others within the CCG and practices understand what a conflict is and how to manage them effectively.

144. All such individuals should have training on the following:

- What is a conflict of interest;
- Why is conflicts 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.

145. NHS England is developing an online training package which all CCG staff, governing body and committee members, as well as member practices' staff, will need to complete on a yearly basis to raise awareness of the risks of conflicts of interest and to support staff to manage conflicts of interest. This will be mandatory and will need to be completed by all staff by 31 December of each year. CCGs will be required to record their completion rates as part of their annual conflicts of interest audit.

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

[Engagement question: What further support would be helpful to assist CCGs to manage conflicts of interest? How can we best ensure our training offers are accessible? What type of training would be most helpful, and how should it be delivered?]

Glossary

The Act: the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012)

BMA: British Medical Association

CASC: Clinical Advisory Sub-Committee

CCG: Clinical Commissioning Group

CIPFA: The Chartered Institute for Public Finance and Accounting

CQC: Care Quality Commission

CSS: Commissioning Support Service

RCGP: Royal College of General Practitioners

GP: General Practitioner

NAO: National Audit Office

NICE: National Institute for Clinical Excellence

OPM: Office for Public Management

PCCC: Primary Care Commissioning Committee

PCR: Public Contract Regulations 2015

Annexes

- Annex A** **Guidance: Potential conflicts of interest scenarios**
A non-exhaustive list of potential situations where conflicts of interest may arise in the context of a CCG's business.
- Annex B** **Template: Declaration of conflicts of interest for CCG members and employees**
For CCG members and employees to complete when declaring any interest(s). The information should be transferred onto the CCG's register of interest(s) promptly.
- Annex C** **Template: Register of conflicts of interests for CCGs**
For CCGs to record all declared interests. Up to date registers should be maintained at all times. The register must be published on the CCG's website and made available at the CCG's head office.
- Annex D** **Template: Declarations of gifts and hospitality**
For CCG members and employees to complete on the offer, whether accepted or declined, of a gift and/or hospitality. The information should be promptly transferred onto the CCG's register of gifts and hospitality. The template should be completed following discussion with your line manager.
- Annex E** **Template: Registers of gifts and hospitality**
For CCGs to record all declared gifts and hospitality. Up-to-date registers should be maintained at all times. The register must be published on the CCG's website and made available at the CCG's head office.
- Annex F** **Template: Declarations of interest checklist**
For the Chair of a governing body, committee and sub-committee meeting. The checklist will assist both the meeting Chair and the secretariat to give due consideration to managing conflicts of interest whilst planning and conducting the meeting. The checklist incorporates templates:
- *for recording any new interests declared during the meeting*
 - *a summary report which should be reviewed by the chair in advance of the meeting to ensure they are aware of all associated discussions which take place at sub-committee and working group levels.*
- With thanks to NHS Fylde and Wyre CCG for their contribution in developing this template.*
- Annex G** **Template: Recording accurate minutes of meeting.**
For CCGs to use to record the minutes of the meeting. The headings should prompt the meeting Chair and secretariat to include declarations of interest as a standard agenda item and record any information accordingly.

Annex H

Template: Procurement

For CCGs to implement when procuring services from providers, to ensure full due consideration is given to the process of procurement.

CCGs are advised to address the factors set out in the procurement template when drawing up their plans to commission general practice services. The procurement template includes a template to record procurement decisions and contracts awarded. The information should be promptly transferred onto the CCG's register of procurement decisions and contracts awarded.

Annex I

Template: Register of procurement decisions and contracts awarded

For CCGs to complete and maintain up to date records of all procurement decisions and contracts. The register must be updated whenever a procurement decision is taken. The register of procurement decisions and contracts awarded should be published on the CCG's website and made available at the CCG's head office.

Annex J

Template: Declaration of interests for bidders/ contractors

For all bidders and/or contractors to declare any potential conflicts of interest that could arise if the Relevant Organisation was to take part in any procurement process and/or provide services under, or otherwise enter into any contract with, the CCG, or with NHS England.

Annex K

Template: Conflicts of interest policy checklist

For CCGs to consider when developing their conflicts of interest policy. The checklist should initiate discussions on all the relevant sections to be included in the conflicts of interest policy. The conflict of interest policy should be reviewed on an annual basis. With thanks to Southwark CCG for their contribution in developing this template.

Financial interests

Examples include:

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

Non-financial professional interests

Examples include:

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

Non-financial personal interests

Examples include:

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

Indirect interests

Examples include:

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

Annex B:

Template: Declaration of conflicts of interest for CCG members and employees

Name:				
Position within, or relationship with, the CCG (or NHS England in the event of joint committees):				
Detail of interests held (complete all that are applicable):				
Type of Interest* <small>*See reverse of form for details</small>	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)

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

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

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

Signed:

Date:

Signed:
(Line Manager)

Position:

Date:

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

Types of conflicts 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 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 (of more than 5% of the issued shares), partner or owner of a private or not for profit company, business or consultancy which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations. • A consultant for a provider; • In secondary employment; • In receipt of a grant 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	<p>This is where an individual may obtain a non-financial professional benefit from the consequences of a commissioning decision, such as increasing their professional reputation or status or promoting their professional career. This may 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 CQC or 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 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; • A member of a political party; • Suffering from a particular condition requiring individually funded treatment; • A financial advisor.
Indirect Interests	<p>This is where an individual has a close association with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest in a commissioning decision (as those categories are described above). 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.

Annex C:

Template: Register of conflicts of interest

Name	Current position (s) held in the CCG i.e. Governing Body member; Committee member; Member practice; CCG employee or other	Declared Interest (Name of the organisation and nature of business)	Type of Interest				Nature of Interest	Date of Interest		Action taken to mitigate risk
			Financial Interest	Non-Financial Professional Interest	Non-Financial Personal Interest	Indirect Interest		From	To	

An Excel version of the template is also available via the link below:



Register of COI
v3.xlsx

Annex D:

Template: Declarations of gifts and hospitality

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

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

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

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

Signed:

Date:

Signed:
(Line Manager)

Position:

Date:

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

Annex E:

Template: Register of gifts and hospitality

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

An Excel version of the template is also available via the link below.



Register of G&H.xlsx

Annex F:

Declarations of interest checklist <the Chair's guide>

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

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

<p>During the meeting</p>	<p>7. 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 attendance who participate in the meeting must also follow the meeting protocol and declare any interests in a timely manner. <p>A template for recording any interests during meetings is detailed below.</p>	<p>Meeting Chair</p> <p>Meeting Chair</p> <p>Meeting Chair</p> <p>Secretariat</p> <p>Secretariat</p>
<p>Following the meeting</p>	<p>11. All new interests declared at the meeting should be promptly be updated onto the declaration of interest form;</p> <p>12. All new completed declarations of interest should transferred onto the register of interests.</p>	<p>Individual(s) declaring interest(s)</p> <p>Designated person responsible for registers of interest</p>

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 public engagement – clinical, stakeholder and public/patient:	<Insert details of any patient, public or stakeholder engagement activity. If this section is not relevant to the paper state 'not applicable'>
Management of Conflicts of Interest	<Include details of any conflicts of interest declared> <Where declarations are made, include details of conflicted individual(s) name, position; the conflict(s) details, and how these have been managed in the meeting> <Confirm whether the interest is recorded on the register of interests- if not agreed course of action>
Assurance departments/ organisations who will be affected have been consulted:	<Insert details of the people you have worked with or consulted during the process : Finance (insert job title) Commissioning (insert job title) Contracting (insert job title) Medicines Optimisation (insert job title) Clinical leads (insert job title) Quality (insert job title) Safeguarding (insert job title) Other (insert job title)>
Report previously presented at:	<Insert details (including the date) of any other meeting where this paper has been presented; or state 'not applicable'>
Risk Assessments	<insert details of how this paper mitigates risks- including conflicts of interest>

Annex G:

Template: Example for recording minutes of the meeting

XXXX Clinical Commissioning Group Primary Care Commissioning Committee Meeting

Date: 15 February 2016
Time: 2pm to 4pm
Location: Cedar Court Hotel

Attendees:

Name	Initials	Role
Sarah Kent	SK	XXX CCG Governing Body Lay Member (Chair)
Andy Booth	AB	XXX CCG Audit Chair Lay Member
Julie Hollings	JH	XXX CCG PPI Lay Member
Carl Hodd	CH	Assistant Head of Finance
Joan Foot	JF	Interim Head of Localities
Dr Jon Smith	JS	Secondary Care Doctor
Dr Marc Stewart	MS	Chief Clinical Officer
Jon Rhodes	JR	Chief Executive – Local Healthwatch

In attendance from 2.35pm

Neil Ford NF Primary Care Development Director

Item No	Agenda Item	Actions
1	Chairs welcome	
2	Apologies for absence <apologies to be noted>	
3	Declarations of interest <i>SK reminded committee members of their obligation to declare any interest they may have on any issues arising at committee meetings which might conflict with the business of XXX clinical commissioning group.</i> <i>Declarations declared by members of the Primary Care Commissioning Committee are listed in the CCG's Register of Interests. The Register is available either via the secretary to the governing body or the CCG website at the following link:</i> http://xxxccg.nhs.uk/about-xxx-ccg/who-we-are/our-governing-body/ Declarations of interest from sub committees.	

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

Annex H:

Template: Procurement checklist

Service:	
Question	Comment/ Evidence
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?	
How have you involved the public in the decision to commission this service?	
What range of health professionals have been involved in designing the proposed service?	
What range of potential providers have been involved in considering the proposals?	
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)?	
What are the proposals for monitoring the quality of the service?	
What systems will there be to monitor and publish data on referral patterns?	
Have all conflicts and potential conflicts of interests been appropriately declared and entered in registers?	

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 reasons?	
Why have you chosen this procurement route? ²²	
What additional external involvement will there be in scrutinising the proposed decisions?	
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)	
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	
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	
What steps have been taken to demonstrate that the services to which the contract relates are capable of being provided by only one provider?	
In what ways does the proposed service go above and beyond what GP practices should be expected to provide under the GP contract?	
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?	

²²Taking into account all relevant regulations (e.g. the NHS (Procurement, patient choice and competition) (No 2) Regulations 2013 and guidance (e.g. that of Monitor).

Template: Procurement decisions and contracts awarded

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

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

Signed:

On behalf of:

Date:

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

Annex I:

Template: Register of procurement decisions and contracts awarded

Ref No	Contract/ Service title	Procurement description	Existing contract or new procurement (if existing include details)	Procurement type – CCG procurement, collaborative procurement with partners	CCG clinical lead	CCG contract manger	Decision making process and name of decision making committee	Contract awarded (supplier name & registered address)	Contract value (£) (Total)	Contract value (£) to CCG

An Excel version of the template is also available via the link below



Register of PD&CA.xlsx

Annex J:

Template: Declaration of conflict of interests for bidders/contractors template

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, decisions or actions	

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

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:

Annex K

Template: Conflicts of interest policy checklist

In accordance with the Health and Social Care Act 2012, there is a legal requirement for Clinical Commissioning Groups (CCGs) to manage the process of conflicts of interest, both actual and perceived. The aim of the conflicts of interest policy checklist is to support CCGs to develop their conflict of interest policy. It is recommended that the CCG makes a commitment to reviewing their conflicts of interest policy (subject to changes) annually to ensure all material is up to date. CCGs should refer to ***Managing Conflicts of Interest: Revised Statutory Guidance for CCGs*** when developing the conflicts of interest policy.

Conflicts of interest policy- checklist	Key areas for consideration
Introduction to the policy	<ul style="list-style-type: none"> • Introduction; • Aims and objectives of the policy; • Consider the CCG's constitution and specified requirements in terms of conducting business appropriately; • Consider the legal requirements in terms of managing conflicts of interest; • Consider any other appropriate regulations; • Scope of the policy <whom the policy applies to> • Commitment to review <include frequency>
Definition of an interest	<ul style="list-style-type: none"> • Definition of an interest: • Types of an interest, including: <ul style="list-style-type: none"> ○ Financial interests; ○ Non-financial professional interests ○ Non-financial personal interests; or ○ Indirect interests where an individual has a close association with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest in a commissioning decision <p>Refer to paragraphs 11 to 15 of the CCG Guidance for further information</p>
Principles	<ul style="list-style-type: none"> • Principles of good governance for consideration, include those set out in the following: <ul style="list-style-type: none"> ○ The Seven Principles of Public Life (commonly known as the Nolan Principles); ○ The Good Governance Standards of Public Services; ○ The Seven Key Principles of the NHS Constitution; ○ The Equality Act 2010.
Declaring conflicts of interest	<ul style="list-style-type: none"> • Consideration should be given to the statutory requirements;

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

	<p>receiving a declaration of gifts and hospitality in line with the guidance;</p> <ul style="list-style-type: none"> • Stipulate publication arrangements for registers of gifts and hospitality in line with the guidance. <p>A register of gifts and hospitality template should be appended to the policy</p>
<p>Roles and responsibilities</p>	<ul style="list-style-type: none"> • Key considerations when appointing governing body or committee members including the following: <ul style="list-style-type: none"> ○ Whether conflicts of interest should exclude individuals from appointment; ○ Assessing materiality of interest; ○ Determining the extent of the interest. • The role of CCG lay members in managing organisational conflicts of interest, including the following: <ul style="list-style-type: none"> ○ Conflicts of interest guardian; ○ Primary Care Commissioning Committee Chair.
<p>Governance arrangements and decision making</p>	<ul style="list-style-type: none"> • Consider the CCG's policy of secondary employment and procedure for declaring details- how will this impact on appointing governing board members; • Define the procedure to be followed in governing body, committee and sub-committee meetings, including: <ul style="list-style-type: none"> ○ Declarations of interest checklist (a template should be appended to the policy); ○ Register of interests declared to be available for the Chair in advance of the meeting; ○ Process for declaring interests during the meeting; ○ Recording minutes of the meeting including interests declared • Procedures to be followed for managing conflicts of interest which arise during a governing body, committee or sub-committee meeting, including, where appropriate: <ul style="list-style-type: none"> ○ Excluding the conflicted individual(s) from any associated discussions and decisions; ○ Actions to be taken if the exclusion affects the quorum of the meeting- including postponing the agenda item until a quorum can be achieved without conflict; ○ Clearly recording the agenda item for which the interest has been declared. <p>See paragraphs 64 to 89 of the CCG Guidance (Managing conflicts of interest at meetings) for further details</p> <ul style="list-style-type: none"> • Consider openness and transparency in decision making processes through: <ul style="list-style-type: none"> ○ Effective record keeping in the form of clear minutes of the meeting. ○ All minutes should clearly record the context of discussions, any decisions and how any conflicts of

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

	<ul style="list-style-type: none"> ○ What is the process for reporting concerns; ○ Who should concerns be raised with; ○ How will concerns be investigated; ○ Who is responsible for making the decision; ○ How do you ensure confidentiality; ○ Reporting requirements.
<p>Breach of conflicts of interest policy</p>	<ul style="list-style-type: none"> • Consider and agree a clear, defined process for managing breaches of the CCG's conflicts of interest policy, including: <ul style="list-style-type: none"> ○ How the breach is recorded; ○ How it is investigated; ○ The governance arrangements and reporting mechanisms; ○ Clear links to whistleblowing and HR policies; ○ Communications and management of any media interest; ○ When and who to notify NHS England; ○ Process for publishing the breach on the CCG website.

DRAFT