



**Rushcliffe**

Clinical Commissioning Group



**Nottingham City**

Clinical Commissioning Group



**Nottingham North and East**

Clinical Commissioning Group



**Nottingham West**

Clinical Commissioning Group

# **Managing Conflicts of Interest Policy**

## **2018 - 2019**

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CONTROL RECORD			
<b>Reference Number</b>	<b>Version</b> 0.1	<b>Status</b> DRAFT	<b>Author</b> Head of Corporate Governance and Assurance
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			<b>Team</b> Corporate Governance and Assurance
<b>Title</b>	Managing Conflicts of Interest Policy		
<b>Amendments</b>	N/A		
<b>Purpose</b>	To support a culture of openness and transparency in business transactions and to set out the CCGs' requirements regarding conflicts of interests, ensuring that all individuals are aware of their responsibilities.		
<b>Superseded Documents</b>	<ul style="list-style-type: none"> <li>• NHS Nottingham City CCG Conflicts of Interest Policy</li> <li>• NHS Nottingham North and East Conflicts of Interest Policy</li> <li>• NHS Nottingham West CCG Conflicts of Interest Policy</li> <li>• NHS Rushcliffe CCG Conflicts of Interest Policy</li> </ul>		
<b>Audience</b>	All employees of the four Greater Nottingham CCGs (including all individuals working within the CCGs in a temporary capacity, including agency staff, seconded staff, students and trainees, and any self-employed consultants or other individuals working for the CCGs under contract for services), individuals appointed to the Governing Bodies and its committees, all member GP practices (single-handed practitioners, practice partners, or their equivalent ;or where the practice is a company, each Director) and any other individual directly involved with the business or decision-making of the CCG.		
<b>Consulted with</b>	N/A		
<b>Equality Impact Assessment</b>			
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## Contents

	<b>Page</b>	
<b>1</b>	Introduction	1
<b>2</b>	Scope of Policy	2
<b>3</b>	Purpose	3
<b>4</b>	Definitions	3
<b>5</b>	Roles and Responsibilities	4
<b>6</b>	Guiding Principles	4
<b>7</b>	Conflicts of Interest	7
<b>8</b>	Conflicts of Interest Guardian	8
<b>9</b>	Declaring and Registering Interests	8
<b>10</b>	Management of Declared Interests	11
<b>11</b>	Management of Interests Around Meetings	11
<b>12</b>	Transparency in Procurement	14
<b>13</b>	New Models of Care	15
<b>14</b>	Raising Concerns	15
<b>15</b>	Consequences of Non-Compliance	17
<b>16</b>	Equality and Diversity Statement	17
<b>17</b>	Communication, Monitoring and Review	18
<b>18</b>	References and Supporting Documents	18

Appendix A: The seven principles of public life set out by the Committee on Standards in Public Life (The Nolan Principles)

Appendix B: Declarations of Interest Form (Individuals)

Appendix C: Declarations of Interest Form (Bidders/Contractors)

Appendix D: Procurement Template (Commissioning Services from GP Practices)

## 1. Introduction

- 1.1. NHS Nottingham City CCG, NHS Nottingham West CCG, NHS Nottingham North and East CCG and NHS Rushcliffe CCG (hereafter referred to as 'the CCGs') have a responsibility for ensuring that high standards of business conduct are maintained across their organisations and all Governing Body members are expected to show leadership by example in order to successfully influence the behaviour of staff. As such, members of the Governing Bodies and its committees must at all times comply with the expectations set out in the *Standards for members of NHS boards and Clinical Commissioning Group governing bodies in England*.
- 1.2. Conflicts of interest occur when an individual's ability to exercise judgment, or act in a role, is or could be impaired or otherwise influenced by his or her involvement in another role or relationship. The individual does not need to exploit his or her position or obtain an actual benefit, financial or otherwise, for a conflict of interest to occur.
- 1.3. The CCGs are required to manage conflicts of interest as part of their day-to-day activities. The minimum requirements for discharging these duties are set out in Section 14O of the NHS Act 2006 (as amended) and within the NHS Procurement, Patient Choice and Competition (No. 2) Regulations 2013 and Public Contracts Regulations 2015.
- 1.4. Effective handling of conflicts of interest 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 CCG commissioning decisions are robust, fair, transparent and offer value for money. As such, this policy is aligned with the three crucial public service values that are required to underpin the work of the CCGs:
  - **Accountability:** Everything done by those who work in the NHS must be able to stand the test of parliamentary scrutiny, public judgements on propriety, and professional codes of conduct.
  - **Probity:** There should be an absolute standard of honesty in dealing with the assets of the NHS: integrity should be the hallmark of all personal conduct in decisions affecting patients, staff and suppliers, and in the use of information acquired in the course of NHS duties.
  - **Openness:** There should be sufficient transparency about NHS activities to promote confidence between the NHS organisation and its staff, patients and the public.

- 1.5. Failure to manage conflicts of interest could lead to legal challenge resulting in civil or criminal implications for the CCGs and the individual, as well as disciplinary and professional regulatory implications in respect of the individual.
- 1.6 All individuals within the CCGs are required to abide by the Seven Principles of Public Life (as set out by the Committee on Standards in Public Life) shown in **Appendix A**, ensuring that:
- The interests of patients remain paramount at all times.
  - They are impartial and honest in the conduct of their official business.
  - Public funds entrusted to them are used to the best advantage of the service, always ensuring value for money.
  - They do not abuse their official position for personal gain or to the benefit of their family or friends.
  - They do not seek to advantage or further private or other interests in the course of their official duties.
- 1.6. In April 2018, the four CCGs formed the Greater Nottingham Clinical Commissioning Partnership (GNCCP) and established joint governance arrangements and staffing structures. Whilst this policy has been developed for implementation across the GNCCP to ensure a consistent approach and aligned working practices; it is important to remember that the legal requirement for the management of conflicts of interest remains the responsibility of each individual CCG. As such, each CCG will need to continue to be able to demonstrate its own compliance with the national guidance on managing conflicts of interests.

## **2. Scope of Policy**

- 2.1. The CCGs require this policy to be followed by:
- All employees of the CCGs (including all individuals working within the CCGs in a temporary capacity, including agency staff, seconded staff, students and trainees, and any self-employed consultants or other individuals working for the CCGs under contract for services).
  - Individuals appointed to the Governing Bodies and their sub-committees.
  - All member GP practices of each of the Greater Nottingham CCGs (GP Partners, or where the practice is a company, each director).
  - Any other individual directly involved with the business or decision-making of the CCGs.

These are collectively referred to as 'individuals' hereafter.

### 3. Purpose

3.1. The purpose of this policy is to:

- Support a culture of openness and transparency in business transactions and uphold confidence and trust in the NHS.
- Ensure that all individuals are aware of their responsibilities in relation to the CCGs' requirements regarding the management of conflicts of interest.
- Safeguard clinically led commissioning, whilst ensuring objective decision-making.
- Ensure that the CCGs are operating within the legal framework

3.2. This policy supports each CCG's Constitution, Standing Orders, Scheme of Reservation and Delegation and Prime Financial Policies, which set out the statutory and governance framework in which the CCGs operate. All individuals are required to comply with the requirements of the CCGs' Constitutions, Standing Orders, Schemes of Reservation and Delegation and Prime Financial Policies when carrying out their duties and these shall prevail over the requirements of this policy where conflicting advice is given.

3.3. All clinically qualified individuals must also refer to their respective codes of conduct relating to conflicts of interest.

### 4. Definitions

Term	Definition
<b>Conflict of Interest</b>	A conflict of interest can occur when an individual's ability to exercise judgement or act in one role is, or could be, impaired or otherwise influenced by their involvement in another role or relationship.
<b>Actual Conflict of Interest</b>	There is a material conflict between one or more interests.
<b>Potential Conflict of interest</b>	There is the possibility of a material conflict between one or more interests in the future.
<b>Perceived Conflict of Interest</b>	Where an individual could be incorrectly seen to have a conflict of interest, due to false perceptions about their responsibilities, their

Term	Definition
	interests or their relationships.

- 4.1. For the purpose of this policy, the definition of a conflict of interest will be a combination of the above four descriptions, in that:

*A conflict of interest is defined as a set of circumstances by which a reasonable person would consider that an individual's ability to apply judgement, or act, in the context of delivering, commissioning, or assuring taxpayer funded health and care services is, or could be, impaired or influenced by another interest they hold.*

## 5. Roles and Responsibilities

Roles	Responsibilities
<b>The CCG Governing Bodies and their committees</b>	The Governing Bodies, and all committees of the Governing Bodies, are responsible for upholding the principles of good corporate governance and ensuring that the CCGs are acting in the best interests of stakeholders at all times.
<b>The Audit and Governance Committees</b>	The Audit and Governance Committees of each CCG are responsible for reviewing the establishment and maintenance of an effective system of integrated governance and internal control. In particular, the committees are responsible for monitoring compliance with the CCG's Standards of Business Conduct Policies.
<b>The Accountable Officer</b>	The Accountable Officer has overall accountability for the CCGs' management of conflicts of interest.
<b>The Chief Finance Officer</b>	The Chief Finance Officer is responsible for ensuring the adequacy of the CCGs' counter fraud arrangements.
<b>The Corporate Director (supported by the Corporate Governance and Assurance Team)</b>	The Corporate Director is responsible for: <ul style="list-style-type: none"> <li>• The day to day management of conflicts of interest matters and queries;</li> <li>• Maintaining the following registers: <ul style="list-style-type: none"> <li>- Conflicts of Interest Registers.</li> </ul> </li> </ul>

Roles	Responsibilities
<b>as appropriate)</b>	<ul style="list-style-type: none"> <li>- Gifts, Hospitality and Sponsorship Register.</li> <li>- Procurement Decisions Register.</li> <li>• Providing advice, support, and guidance on how conflicts of interest should be managed (see section 8);</li> <li>• Ensuring that appropriate administrative processes are put in place;</li> <li>• Supporting the Conflicts of Interest Guardians to enable them to carry out their roles effectively.</li> </ul>
<b>Conflicts of Interest Guardians</b>	The Conflicts of Interest Guardians are in place to further strengthen the scrutiny and transparency of the CCGs' decision-making processes (section 8 of this policy describes these roles in more detail).
<b>Executive Management Team</b>	Members of the Executive Management Team have an ongoing responsibility for ensuring the robust management of conflicts of interest.
<b>Individuals</b>	All individuals are responsible for complying with this policy and for seeking advice if unsure how it applies to them.

## 6. Guiding Principles

- 6.1. In addition to the Nolan Principles, each CCG observes the following principles of good governance in the way that it conducts its business:
- The Good Governance Standards for Public Services (2004), Office for Public Management (OPM) and Chartered Institute of Public Finance and Accountancy (“CIPFA”).
  - The seven key principles of the NHS Constitution.
  - The Equality Act 2010.
  - The UK Corporate Governance Code.
  - Standards for members of NHS boards and CCG governing bodies in England.
- 6.2. Conflicts of interest are inevitable, but in most cases it is possible to handle them with integrity and probity by ensuring they are identified, declared and managed in an open and transparent way. With this in mind, the CCGs have adopted the following guiding principles for managing conflicts of interest:



- a) **Doing business appropriately:** ensuring that our needs assessments, consultation mechanisms, commissioning strategies and procurement procedures are right from the outset, resulting in conflicts of interest becoming much easier to identify, avoid and/ or manage, because the rationale for all decision-making will be clear and transparent and should withstand scrutiny.
- b) **Being proactive, not reactive:** seeking 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 Bodies or other decision-making bodies.
  - Ensuring individuals receive proper induction and training so that they understand their obligations to declare conflicts of interest.
  - Establishing and maintaining registers of interests and agreeing in advance how a range of possible situations and scenarios will be handled, rather than waiting until they arise.
- c) **Assuming that individuals will seek to act ethically and professionally:** ensuring there are prompts and checks to identify when conflicts occur, supporting individuals to exclude themselves appropriately from decision making.
- d) **Being balanced and proportionate:** identifying and managing conflicts, but not expecting to eliminate them completely.
- e) **Openness:** ensuring early engagement with patients, the public, clinicians and other stakeholders, including Healthwatch Nottingham and Nottingham City's Health and Wellbeing Board, in relation to proposed commissioning plans.
- f) **Responsiveness and best practice:** ensuring that commissioning intentions are based on local health needs and reflect evidence of best practice – securing 'buy in' from local stakeholders to the clinical case for change.
- g) **Transparency and sound record keeping:** documenting clearly the approach taken at every stage in the commissioning cycle so that a clear audit trail is evident, including up to date registers of interests.
- h) **Securing expert advice:** Ensuring that plans take into account advice from appropriate health and social care professionals (e.g. through clinical senates and networks) and draw on commissioning support, for instance around formal consultations and for procurement processes.
- i) **Engaging with providers:** engaging early with both incumbent and potential new providers over potential changes to the services commissioned for the local population.

- j) **Creating clear and transparent commissioning specifications:** reflecting the depth of engagement and setting out the basis on which any contract will be awarded.
- k) **Following proper procurement processes and legal arrangements:** having an unbiased approach to providers and a clear, recognised and easily enacted system for dispute resolution.

## 7. Conflicts of Interest

- 7.1. For individuals from the CCGs' member practices, a conflict of interest can exist when their judgement as a commissioner could be, or could reasonably be perceived to be, influenced and/ or impaired by their own concerns and obligations as a healthcare provider or as an owner, director or shareholder in an organisation doing business with the NHS.
- 7.2. An individual does not need to exploit their position or obtain an actual benefit, financial or otherwise, for a conflict of interest to occur. In fact, a *perception* of wrongdoing, impaired judgement, or undue influence can be as detrimental as any of them actually occurring. It is important to manage these perceived conflicts in order to maintain public trust.
- 7.3. Conflicts of interest include:

Type of Interest	Description
<b>Financial interests</b>	Where an individual may get direct financial benefits from the consequences of a commissioning decision.
<b>Non-financial professional interests</b>	Where an individual may obtain a non-financial benefit from the consequences of a commissioning decision, such as increasing their professional reputation or status or promoting their professional career.
<b>Non-financial personal interests</b>	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.
<b>Indirect interests</b>	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.

- 7.4. The above categories are not exhaustive and each situation must be considered on a case by case basis. Where individuals are unsure whether a situation falling outside of the above categories may give potential for a conflict of interest, they should seek advice from the Corporate Director of their own organisation's Conflicts of Interest Guardian. If in doubt, the individual concerned should assume the existence of a conflict of interest and ensure that it is managed appropriately, rather than ignore it.
- 7.5. Examples of each of the above categories of interest are provided at **Appendix B**.

## **8. Conflicts of Interest Guardian**

- 8.1. Each CCG has appointed its own Audit and Governance Committee Chair as its Conflicts of Interest Guardian. The Conflicts of Interest Guardians will, in collaboration with the Corporate Director:
- Act as a conduit for GP practice staff, members of the public and healthcare professionals who have any concerns with regards to conflicts of interest;
  - Be a safe point of contact for employees or workers of the CCGs to raise any concerns in relation to conflicts of interest, this Policy, or any other policy relating to conflicts of interest;
  - 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.
- 8.2. Where the Conflicts of Interest Guardians (as independent members) are members of the CCGs' Primary Care Commissioning Committees, appropriate safeguards must be put in place in order not to compromise their responsibilities to have due regard to the statutory guidance on managing conflicts of interest and attest on a quarterly and annual basis to NHS England that the CCGs are complying with the guidance.

## **9. Declaring and Registering Interests**

- 9.1. Where an individual has an interest or becomes aware of an interest that could lead to a conflict of interests, whether real or perceived, then this must be declared as soon as they become aware of it, and in any event not later than 28 days after becoming aware.

- 9.2. The CCGs will establish arrangements to ensure that, as a matter of course, declarations of interest are made in the following circumstances:
- a) **On appointment:** Applicants for any appointment to the CCGs or their Governing Bodies will be asked to declare any relevant interests. When an appointment is made, a formal declaration of interests will again be made and recorded.
  - b) **On changing role or responsibility:** When an individual changes their role or responsibilities within the CCGS or its Governing Bodies, any change to the individual's interests should be declared.
  - c) **On any other change of circumstances:** Whenever an individual's 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 sets up a new business or relationship), a further declaration should be made to reflect the change in circumstances. This could involve a conflict of interest ceasing to exist or a new one materialising.
- 9.3. A template Declaration of Interests Form is provided at **Appendix B** for this purpose.
- 9.4. In order to promote confidence in the probity of commissioning decisions and the integrity of those involved, the CCGs will maintain and make publically available a register that detail the interests of:
- All employees of the CCGs (including all individuals working within the CCGs in a temporary capacity; including agency staff, seconded staff, students and trainees, and any self-employed consultants or other individuals working for the CCG under contract for services).
  - Individuals appointed to the Governing Body and its committees.
  - Any other individual directly involved with the business or decision-making of the CCGs.
- 9.5. The CCGs will maintain and publish a separate register that details the interests of:
- All member GP practices (single-handed practitioners, practice partners, or their equivalent; or where the practice is a company, each director.).
- 9.6. The Corporate Director will maintain the Registers of Declared Interests, which will include the following information:
- Name of the person declaring the interest;

- Employing CCG;
- Position within, or relationship with, the CCGs;
- Type of interest;
- Description of the interest;
- The dates to which the interest relates; and
- The actions to be taken to mitigate risk.

- 9.7. To ensure accuracy and consistency across the CCGs, there will be a master version of each Register of Declared Interests. Extracts of the registers (eg. those used for meetings) should always be taken from the master version.
- 9.8. The Registers of Declared Interests will be updated whenever a new or revised interest is declared.
- 9.9. The CCGs will assure themselves on a bi-annual basis that the Register of Declared Interests (for individuals directly involved with the CCGs) is accurate and up-to-date. A request will be sent to all individuals, on behalf of the Corporate Director, asking them to check their entry on the register. Where an individual has no interest to declare, or no interest in addition to those already declared, they must confirm this by way of 'nil return'. **The request is designed to prompt individuals and does not negate the responsibility of individuals to proactively declare, as stipulated in section 8.1 of this policy.**
- 9.10. The CCGs will assure themselves that the Register of Declared Interests of member GP practices is accurate and up-to-date on an annual basis.
- 9.11. Interests will remain on the published Registers of Declared Interests for a minimum of six months after the interest has expired.
- 9.12. A private record of historic interests will be retained for a period of six years after the date on which the interest expired.
- 9.13. Whilst it is recognised that some individuals are more likely than others to have a material influence on how public money is spent; to ensure complete transparency in all of the CCGs' business activities, the Governing Bodies have agreed that the complete Registers of Declared Interests will be published and/or made available if requested.

9.14. The Registers of Declared Interests will be published except in exceptional circumstances or where prohibited by law. Where an individual objects to the publication of information on the Register of Declared Interests they may request in writing that the information is not published. The decision as to whether or not to publish information will be made by the Conflicts of Interest Guardian (of the individuals employing CCG) in consultation with the Corporate Director.

## **10. Management of Declared Interests**

10.1. The Corporate Director is responsible for ensuring that for every interest declared, arrangements are in place to manage the conflict of interests or potential conflict of interests following an assessment of the:

- **Materiality of the interest:** in particular whether the individual (or family member or business partner) could benefit from any of the CCGs' decisions.
- **Extent of the interest:** in particular whether it is related to a business area significant enough that would impact on the individual's ability to make a full and proper contribution to relevant commissioning activities.

10.2. These arrangements will confirm the following:

- When an individual should withdraw from a specified activity, on a temporary or permanent basis.
- Monitoring of the specified activity undertaken by the individual, either by a line manager, colleague or other designated individual.

10.3. All individuals that have declared interests are responsible for ensuring that they understand any requirements for managing their declared interests before participating in any decision-making activities.

10.4. 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 Corporate Director will provide advice on this and decide whether it is necessary for the interest to be declared.

## **11. Management of Interests Around Meetings**

11.1. In advance of any meetings of the Governing Bodies and their committees, the Chair of the meeting will consider, together with members of the Corporate Governance and Assurance Team and Conflicts of Interest Guardian (as appropriate), whether conflicts of interest are likely to arise in relation to any agenda item and how they should be managed. This may include steps to be taken prior to

the meeting, such as ensuring that supporting papers for a particular agenda item are not sent to conflicted individuals.

- 11.2. All agendas for meetings of the Governing Bodies and their committees will be circulated prior to any supporting papers in order to enable individuals to declare any conflicts of interest and for consideration to be given as to how such interests should be managed.
- 11.3. All agendas for meetings of the Governing Bodies their committees will contain a standing item at the commencement of each meeting, requiring members and attendees to declare any interests relating specifically to the agenda items being considered. The Chair of the meeting is then responsible for ensuring that the appropriate course of action is taken on agenda items against which interests have been declared.
- 11.4. In instances where an individual is aware of a conflict, or potential conflict, of interest that has previously been declared, which relates to the scheduled or likely business of the meeting, then the individual concerned will bring this to the attention of the Chair of the meeting, together with details of the required management arrangements.
- 11.5. In instances where an individual is aware of a conflict, or potential conflict, of interest that has not been previously declared, then they will declare this at the start of the meeting. The Chair of the meeting will then determine how this should be managed and inform the individual of their decision, which is likely to involve one the following actions:
  - a) Requiring the individual to withdraw from the meeting for that part of the discussion if the conflict could be seen as detrimental to the CCGs' decision-making arrangements.
  - b) Allowing the individual to participate in the discussion, but not part of the decision making process.
  - c) Allowing full participation in discussion and the decision making process as the potential conflict is not perceived to be material or detrimental to the CCGs' decision-making arrangements.
- 11.6. Where the Chair of any meeting has a personal interest, previously declared or otherwise, in relation to the scheduled or likely business of the meeting, then they are required to make a declaration and the Deputy Chair (or other nominated non-conflicted individual if the Deputy Chair is also conflicted) will act as Chair for the

relevant part of the meeting. Where there is no Deputy Chair, the members of the meeting will select one from the remaining non-conflicted members.

- 11.7. Where arrangements have been confirmed for the management of the conflict, or potential conflict, of interest in relation to the Chair, then the Deputy Chair (or other nominated non-conflicted individual if the Deputy Chair is also conflicted) is required to ensure that these are followed. Where no arrangements have been confirmed, the Deputy Chair (or other nominated non-conflicted individual if the Deputy Chair is also conflicted) shall decide how the conflict is to be managed, and may require the Chair to withdraw from the meeting or part of it.
- 11.8. For previously recorded declarations of interest, steps will be taken to ensure that meeting membership supports decision making as far as is reasonably practicable. However, should a situation arise where more than 50% of members of a meeting are required to withdraw from a meeting, or part of it, due to agreed arrangements for managing conflicts of interest, then the Chair (or their Deputy) will determine whether or not the discussion can proceed. In making this decision the Chair will consider whether the meeting is quorate, in accordance with the number and balance of membership as defined within the relevant Terms of Reference.
- 11.9. Where a quorum cannot be achieved from the membership of the meeting, owing to the arrangements for managing conflicts, or potential conflicts, of interest, the Chair of the meeting will consult with the Corporate Director on the action to be taken. This may include:
- Deferring the item to a future meeting where the quorum can be achieved (if timescales allow).
  - Requiring another of the CCGs' decision-making forums, to progress the item of business.
- Or if this is not possible:
- Inviting on a temporary basis one or more of the following to make up the quorum (where these are permitted members of the Governing Bodies or committee in question) so that the item of business can be progressed:
    - A member of the Nottingham City/Nottinghamshire County Health and Wellbeing Board.
    - A member of a Governing Body of another Clinical Commissioning Group.
- 11.10. Minutes of meetings will record all declarations made, including the following details:
- Who has the interest



- The nature of the interest and why it gives rise to a conflict
- The item(s) on the agenda to which the interest relates
- How the conflict was agreed to be managed
- Evidence that the conflict was managed as intended

It is the responsibility of the Chair of the meeting to ensure that the above information is recorded in the minutes of the meeting.

11.11. The Register of Declared Interests will also be updated for all instances where interests have not been previously declared.

## 12. Transparency in Procurement

12.1. The CCGs recognise the importance in making decisions about the goods and services it procures in a way that does not call into question the motives behind the procurement decision that has been made.

12.2. The CCGs' Governing Bodies have approved a Procurement Policy which ensures that:

- All relevant clinicians (not just members of the CCGs) and potential providers, together with local members of the public, are engaged in the decision-making processes used to procure services.
- Service redesign and procurement processes are conducted in an open, transparent, non-discriminatory, and fair way.
- All potential bidders/contractors are requested to declare relevant interests as part of every procurement process (see **Appendix C**).

12.3. The Procurement Policy also sets out a number of specific safeguards that have been established for all instances where the CCG is commissioning services that could potentially be provided by a GP practice (or consortium of practices). In these instances, a number of factors are required to be considered as set out in the Procurement Template at **Appendix D**. These safeguards are designed to maintain confidence and trust between patients and GPs, enabling the CCGs and their GP member practices to demonstrate that they are acting fairly and transparently, and that members of the CCGs will always put their duty to patients before any personal financial interest.

12.4. In the interests of transparency, the CCGs will maintain and make publicly available a register of procurement decisions taken, which will include:

- a) The details of the decision.
- b) Who was involved in making the decision.
- c) A summary of any conflicts of interest in relation to the decision and how this was managed.

### **13. New Models of Care**

- 13.1. In terms of new models of care, there may be individuals with roles in both the CCGs and a new care model provider/potential provider. The CCGs should identify these conflicts of interest as soon as possible and manage them in accordance with this policy.
  
- 13.2. Where a member of staff participating in a meeting has dual roles, for example a role within the CCGs and a role with a new care model provider organisation, but it is not considered necessary to exclude them from the whole or any part of a CCG meeting, he or she should ensure that the capacity in which they continue to participate in the discussions is made clear and correctly recorded in the meeting minutes. Where it is appropriate for them to participate in decisions they must only do so if they are acting in their CCG role.
  
- 13.3. The CCGs will take all reasonable steps to ensure that employees, committee members, contractors and others engaged under contract with them are aware of the requirement to inform the CCGs if they are employed or engaged in, or wish to be employed or engaged in, any employment or consultancy work in addition to their work with the CCGs. This could apply to new care model arrangements or any other organisation which may conflict with their role in the CCGs.
  
- 13.4. The CCGs should identify as soon as possible where staff might be affected by the outcome of a procurement exercise, e.g., they may transfer to a provider (or their role may materially change) following the award of a contract. This should be treated as a relevant interest, and the CCGs will ensure it is managed as a potential conflict. This conflict of interest arises as soon as individuals are able to identify that their role may be personally affected.

### **14. Raising Concerns**

- 14.1. It is the duty of every individual to speak up about genuine concerns in relation to the management of conflicts of interest. If an individual has any such concerns then they should not ignore such suspicions; however, nor should they seek to investigate the matter themselves.

- 14.2. In respect of individuals who are employees or workers of the CCGs regard should be had to the CCGs' Voicing Concerns (Whistleblowing) Policy. In the case of an employee or worker of another organisation they should consider the provisions within that organisations' whistleblowing policy when reporting a suspected breach.
- 14.3. Where an individual has concerns in relation to the management of conflicts of interest they should raise this with the Conflicts of Interest Guardian (of their employing CCG) and/ or the Corporate Director.
- 14.4. At the time of raising the concern, the individual should state whether they wish to remain anonymous whilst the concern is being investigated.
- 14.5. If an individual has any particular concerns as to confidentiality then they may raise the matter solely with the Conflicts of Interest Guardian who will initially discuss the matter with the individual and consider how to retain confidentiality between themselves and the individual. The Conflicts of Interest Guardian should be seen as a safe point of contact where matters can be raised on a confidential basis.
- 14.6. The concern will be investigated by the Conflicts of Interest Guardian Corporate Director. The individual raising the concern will be asked to provide detail of their concern. The Conflicts of Interest Guardian and Corporate Director will consider the concern and take such further steps as considered appropriate on a case by case basis to investigate the concern.
- 14.7. The decision as to the outcome of the investigation will be made by the Corporate Director. In the event that a breach of this policy is identified the Corporate Director will consider, on a case by case basis, any further action required taking into account all of the circumstances of the case, and with reference to this policy.
- 14.8. All concerns raised will be reported to the relevant CCGs' Audit and Governance Committee as the investigation progresses and as to the final outcome of the investigation. Any identified breach will be reported to the relevant CCGs' Audit and Governance Committee, including any action taken.
- 14.9. Where a breach is identified, the Corporate Director will be responsible for reporting the breach to NHS England. A confidential record of the breach will be retained by the Corporate Director.
- 14.10. An anonymised record of breaches of this policy will be made available on the CCGs websites.

## 15. Consequences of Non-Compliance

15.1. Failure to comply with this policy can result in serious consequences for the CCGs and any individuals concerned, including:

- **Civil Implications** – if conflicts of interest are not effectively managed then the CCGs could face civil challenges to decisions it makes.

In the case of breaches occurring during a service re-design or procurement exercise, for example, this could result in legal challenge to the decision of the CCGs which could result in the award of contract being overturned, lead to damages claims against the CCGs, and require a further procurement process.

- **Criminal Implications** – potential criminal proceedings could result from a failure to manage conflicts of interest for offences such as fraud, bribery and corruption. This could have implications for the CCGs and linked organisation, and the individuals who are engaged by them.

Reference should be made to the CCGs' Fraud, Corruption and Bribery Policy.

- **Disciplinary Implications** – the CCGs will view instances of non-compliance with this policy as serious and may take disciplinary action against individuals. This may result in dismissal or removal from office.

All individuals who fail to disclose any relevant interests or who otherwise breach the CCGs' policies relating to the management of conflicts of interest will be subject to investigation and, where appropriate, disciplinary action.

- **Professional Regulatory Implications** – statutorily regulated healthcare professionals working for, or engaged by, the CCGs are under professional duties imposed by their relevant regulator to act appropriately with regard to conflicts of interest.

15.2. Where it is considered that such a healthcare professional has acted improperly, the relevant CCG will report them to the appropriate regulator so that such concerns may be investigated. Such individuals may be subject to fitness to practise proceedings and could, if appropriate, be struck off by their regulator as a result.

## 16. Equality and Diversity Statement

16.1. The CCGs are committed to commissioning services which embrace diversity and that promote equality of opportunity including the aims of the public sector equality duty.

16.2. As employers, we are committed to equality of opportunity and to valuing diversity within our workforce. Our goal is to ensure that these commitments are embedded in our day-to-day working practices with our population, colleagues and partners.

16.3. We will provide equality of opportunity and will not tolerate unlawful discrimination on grounds of age, disability, gender identity, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex, sexual orientation, or as a result of being any of the following: people with carer responsibilities, people experiencing economic and social deprivation, vulnerable migrants, homeless people, sex workers or gypsies and travellers.

## **17. Communication, Monitoring and Review**

17.1. The CCGs will establish effective arrangements for communicating the requirements of this policy. This will include:

- All employees of the CCGs and all individuals appointed to its Governing Bodies and its committees completing annual mandatory conflicts of interest training.
- Bi-annual reminders of the existence and importance of this policy via internal communication methods.

17.2. The implementation of this policy, and the effectiveness of the arrangements detailed within it, will be monitored by the Audit and Governance Committees on a bi-annual basis. This will include, as a minimum, details of the Register of Declared Interests and Register of Procurement Decisions being presented for review and scrutiny.

17.3. This policy will be reviewed by the Governing Bodies annually or in light of any legislative changes or best practice guidance.

17.4. Any individual who has queries regarding the content of this policy, or has difficulty understanding how this policy relates to their role, should contact the CCGs' Corporate Director.

## **18. References and Supporting Documents**

18.1. This policy should be read in conjunction with the following corporate documents and supporting national guidance documents:

- The Constitutions of each CCG (including their Standing Orders, Scheme of Reservation and Delegation and Prime Financial Policies)
- Policy on Fraud, Corruption and Bribery
- Voicing Concerns (Whistleblowing) Policy

- Gifts, Hospitality and Sponsorship Policy (including guidance on Working with the Pharmaceutical Industry)
- Procurement Policy
- Respective professional Codes of Conduct
- Managing Conflicts of Interest: Revised Statutory Guidance for CCGs (June 2017)
- Standards for members of NHS boards and Clinical Commissioning Group governing bodies in England (November 2012)
- The Healthy NHS Board: Principles for Good Governance (2010)
- Good Medical Practice - Financial interests in institutions providing care or treatment (2008)
- Code of Conduct for NHS Managers (2002)

## Appendix A – The seven principles of public life set out by the Committee on Standards in Public Life (The Nolan Principles)

<b>Selflessness</b>	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.
<b>Integrity</b>	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.
<b>Objectivity</b>	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.
<b>Accountability</b>	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.
<b>Openness</b>	Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
<b>Honesty</b>	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.
<b>Leadership</b>	Holders of public office should promote and support these principles by leadership and example.

## Appendix B – Template Declaration of Interests Form

<b>Name:</b> ppen				
<b>Position within, or relationship with, the GNCCP.</b>				
<b>Employing CCG</b>				
<b>Detail of interests held (complete all that are applicable):</b>				
<b>Type of Interest*</b> <small>*See reverse of form for details</small>	<b>Description of Interest (including for indirect Interests, details of the relationship with the person who has the interest)</b>	<b>Date interest relates From &amp; To</b>		<b>Actions to be taken to mitigate risk (to be agreed with line manager or a senior CCG manager)</b>

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

**Please remember that the CCGs are obliged to publish the information that you provide on the CCGs' websites. If you have any concerns about this, please raise these when returning your declaration and explain why you consider that the information you supply should not be made publicly available.**

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.

[Hard copy documents to be signed by individual and their line manager, as appropriate. Check boxes to be completed where electronic declarations are completed.]

**Please return to the Corporate Governance and Assurance Team at [GNCCP.interests.nhs.net](mailto:GNCCP.interests.nhs.net)**



## Types of interest

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

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

## Appendix C – Template Declaration of Conflict of Interests for Bidders/Contractors

### Declarations:

<b>Name of Relevant Organisation:</b>	
<b>Interests</b>	
<b>Type of Interest</b>	<b>Details</b>
<b>Provision of services or other work for the CCG or NHS England</b>	
<b>Provision of services or other work for any other potential bidder in respect of this project or procurement process</b>	
<b>Any other connection with the CCG or NHS England, whether personal or professional, which the public could perceive may impair or otherwise influence the CCGs or any of its members' or employees' judgements, decisions or actions</b>	

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

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

Signed:

On behalf of:

Date:

## Appendix D – Procurement Checklist

Service:	
Question	Comment/Evidence
<p>How does the proposal deliver good or improved outcomes and value for money – what are the estimated costs and the estimated benefits? How does it reflect the CCGs’ proposed commissioning priorities? How does it comply with the CCGs’ commissioning obligations?</p>	
<p>How have you involved the public in the decision to commission this service?</p>	
<p>What range of health professionals have been involved in designing the proposed service?</p>	
<p>What range of potential providers have been involved in considering the proposals?</p>	
<p>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)?</p>	
<p>What are the proposals for monitoring the quality of the service?</p>	
<p>What systems will there be to monitor and</p>	

<b>Service:</b>	
Question	Comment/Evidence
publish data on referral patterns?	
Have all conflicts and potential conflicts of interests been appropriately declared and entered in registers which are publicly available? Have you recorded how you have managed any conflict or potential conflict?	
Why have you chosen this procurement route? <sup>1</sup>	
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 aware of any contract?	

<b>Additional question when qualifying a provider on a list or framework or pre selection for tender (including but not limited to any qualified provider) or direct award (for services where national tariffs do not apply)</b>	
How have you determined a fair price for the service?	

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<sup>1</sup> Taking into account all relevant regulations (eg the NHS (Procurement, patient choice and competition) (No 2) Regulations 2013 and guidance (eg that of Monitor).

**Additional question 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?	
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**Additional question 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?	