

**NHS CORBY CLINICAL COMMISSIONING GROUP
NHS NENE CLINICAL COMMISSIONING GROUP**

**Conflicts of Interest (including Gifts and
Hospitality) Policy**

| | |
|---|---|
| Policy Title | Conflicts of Interest (including Gifts and Hospitality) Policy |
| Policy Reference | CA02 |
| Author's name & Title: | Emma Follis, Corporate Services and Governance Manager |
| Sponsor's name & Title: | Stuart Rees, Joint Chief Finance Officer |
| Review date: | July 2020 |
| Supersedes: | NHS Corby CCG Conflicts of Interest (including Gifts and Hospitality Policy) V 3.0 (CA02C) NHS Nene CCG Conflicts of Interest (including Gifts and Hospitality Policy) V 3.0 (CA02N) |
| Description: | NHS Corby CCG and NHS Nene CCG Conflict of Interest Policy (including Gifts and Hospitality) |
| Audience: | All Staff of NHS Corby CCG and NHS Nene CCG (including members of the Governing Body), All contractors, Bidders and members of the CCGS |
| Approved by NHS Corby CCG and NHS Nene CCG Audit and Risk Committees meeting in Common | 23 July 2019 |
| Approved by the NHS Corby CCG and NHS Nene CCG Governing Bodies meeting in Common | 20 August 2019 |

Document History

| | | | |
|---------------------|--|--------------|----------------|
| Approved by: | NHS Corby CCG and NHS Nene CCG Audit and Risk Committees in Common | Date: | 23 July 2019 |
| Ratified by: | NHS Corby CCG and NHS Nene CCG Nene CCG Governing Bodies in Common | Date: | 20 August 2019 |

Version control

| Name | Date | Version | Reason | Status |
|--------------------------------|----------------------|------------------------|---|-------------------------------------|
| <i>Person making the entry</i> | <i>Date of entry</i> | <i>Version control</i> | <i>New /revision /consultation etc</i> | <i>Draft/for approval/ approved</i> |
| Emma Follis | July 2019 | 1.0 | Revision of two CCG policies to joint policy. | Approved. |

Contents

| | | |
|-----------|--|----|
| 1. | Introduction..... | 6 |
| 2. | Aims | 7 |
| 3. | Identifying an Interest | 7 |
| 3.1. | Financial interests | 7 |
| 3.2. | Non-financial Professional interests | 8 |
| 3.3. | Non-financial Personal interests | 8 |
| 3.4. | Indirect interests | 8 |
| 4. | Declaring a conflict of interest | 9 |
| 4.1. | When relevant persons will be expected to declare an interest..... | 9 |
| 4.2. | When the CCGs will prompt relevant persons to declare an interest..... | 10 |
| 5. | Recording a conflict of interest | 10 |
| 5.1. | The CCG's registers..... | 10 |
| 5.2. | Data protection | 11 |
| 6. | Managing conflicts of interest..... | 12 |
| 6.1. | Managing Interests at Meetings..... | 12 |
| 6.2. | Appointment of governing body members and senior employees | 14 |
| 6.3. | Secondary employment..... | 14 |
| 7. | Gifts or Hospitality given and received | 14 |
| 8. | Procurement issues..... | 16 |
| 8.1. | Conflicts, procurement and contract monitoring | 16 |
| 8.2. | Procurement issues and competition..... | 17 |
| 9. | Roles and Responsibilities | 19 |
| 9.1. | All relevant persons | 19 |
| 9.2. | The Deputy Director of Corporate Affairs | 19 |
| 9.3. | The Conflicts of Interest Guardians | 20 |

| | | |
|------------|---|----|
| 10. | Training | 20 |
| 11. | Success Criteria/monitoring the effectiveness of this policy | 21 |
| 12. | Breaches of this policy and the impact of non-compliance | 21 |
| | ANNEX A – Types of interests and examples | 24 |
| | Annex B - DECLARATION OF INTEREST FORM FOR MEMBERS AND EMPLOYEES | 26 |
| | Annex C - DECLARATION of GIFTS OR HOSPITALITY FORM..... | 29 |
| | Annex D – REGISTER OF INTEREST TEMPLATES | 31 |
| | Annex E – DECLARATION OF CONFLICT OF INTERESTS FOR BIDDERS / CONTRACTORS..... | 33 |
| | ANNEX F – PROCUREMENT CHECKLIST AND REGISTER OF PROCUREMENT DECISIONS | 35 |
| | ANNEX G – THE PRINCIPLES OF GOOD GOVERNANCE..... | 39 |
| | ANNEX H – TEMPLATE FOR THE RECORDING THE MINUTES OF MEETING... .. | 43 |
| | ANNEX I – SUMMARY OF KEY ASPECTS OF THE GUIDANCE ON MANAGING CONFLICTS OF INTEREST RELATING TO COMMISSIONING OF NEW CARE MODELS... .. | 46 |

1. Introduction

This policy sets out how NHS Corby Clinical Commissioning Group and NHS Nene Clinical Commissioning Group (“the CCGs”) will manage conflicts of interest in accordance with:

- Its Constitutions
- The relevant legislative framework set out in s.14O and 14Z8 of the National Health Service Act 2006 (“the NHS Act”);
- NHS England Guidance – Managing Conflicts of Interests in the NHS: Revised Statutory Guidance for CCGs 2017;
- The principles of good governance, including the Nolan Principles, as set out in Annex G.

A **conflict of interest** occurs where an individual’s ability to exercise judgment in an act or role is or could be impaired or otherwise influenced by their involvement in another role or relationship.

Conflicts of interest can arise in any area of the CCG’s business, and throughout the commissioning cycle. In particular, there is a heightened risk in areas such as primary care commissioning, where the CCG’s clinical commissioners are taking/assisting decisions which may directly affect them as providers.

This policy is directly relevant to:

- All CCG staff, including all full and part time staff, staff on short terms contracts, student and trainees, agency staff and seconded staff.
- Any self-employed consultants or persons working for the CCGs under a contract for services.
- Members of the governing bodies and members of any committees or sub-committees.
- Member practices and all employees including GP partners, locums, practice managers and nurses.

Any person falling into the above categories will be known as “the relevant person” (collectively “all relevant persons”). The activities and behaviours of all relevant persons can affect the good governance and reputation of the CCGs, and thereby the ability to effectively work to improve the health of the people of Northamptonshire.

This policy is also applicable to those who provide or wish to become providers of services for the CCGs.

2. Aims

This policy will assist in ensuring that the CCGs meet the following aims:

- Ensuring that the CCGs act, and takes decisions, fairly and transparently, and in the best interests of the public.
- Ensuring that all relevant persons act in the best interests of the CCGs, and in accordance with the CCGs' constitutions and terms of establishment created by NHS England.
- Maintaining public confidence in decision making. Successful commissioning depends on maintaining the confidence and respect of the local community, patients, providers and Parliament. Reputation is a key tool for commissioners and robust management of conflicts of interest is necessary to maintain confidence in the CCGs' decision making. For example, GPs' parallel roles in commissioning and direct service provision cause them to be at particular risk of an actual or perceived conflict of interest.
- Protecting both the CCGs and all relevant persons from any impropriety or appearance of impropriety, and demonstrate transparency and fairness to the public and other interested parties.

3. Identifying an Interest

Any relevant person should declare an interest in any circumstances where their ability to exercise judgment in an act or role is or could be impaired or otherwise influenced by their involvement in another role or relationship. In particular, individuals should declare an interest which falls within the following four categories (fuller guidance and examples are provided at Annex A):

3.1. Financial interests

The most easily recognisable form of interest arises when a relevant person obtains, or is perceived to obtain, a direct financial benefit through the business of the CCGs (over and above the agreed remuneration and terms of service package agreed by the remuneration committee). This most obvious example is if a relevant person was a director of a provider organisation.

3.2. Non-financial Professional interests

This is where a relevant person 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 could include where the conflicted person is a trustee of a voluntary organisation that is bidding for a contract.

3.3. Non-financial Personal interests

This is where a relevant person 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 can include a situation where an individual works as a volunteer for a provider.

3.4. Indirect interests

This is where a relevant person 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. A “close association” will include close family, partners, close friends and business partners. For example, Governing Body members being involved in a decision to award a contract to an organisation where the member’s spouse is a director.

As a rule the following should always be declared:

- Directorships, including non-executive directorships, held in private companies or public limited companies (who do, will or could conduct their business in the field of health and social care);
- Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business within the CCGs;
- Any intention to take up secondary employment;
- Shareholdings of companies in the field of health and social care;
- Positions of authority in an organisation (e.g. charity or voluntary organisation) in the field of health and social care;
- Any connection with a voluntary or other organisation contracting for NHS services;
- Research funding/grants that may be received by the individual or any organisation they have an interest or role in;

- Any other role or relationship which the public could perceive would impair or otherwise influence the individual's judgement or actions in their role within the CCGs.

4. Declaring a conflict of interest

Under s.14O (3) of the NHS Act, all relevant persons are expected to declare an interest as soon as reasonably practicable, and in any event **within 28 days** of the date they become aware of the interest.

4.1. When relevant persons will be expected to declare an interest

Relevant persons are expected to declare an interest at the following points:

- Before their appointment
- Wherever the relevant person's circumstances change in a way that affects the individual's interests (e.g. an individual takes on a new role outside of the group 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. This declaration should be made as soon as reasonably practicable and in any event within 28 days of the date that the relevant person became aware of the change.
- Quarterly, in line with the CCG's prompts.
- At the start of each meeting attended, in relation to any items on the agenda at the start of each members' meeting and Governing Body or committee meeting

A declaration of interests form is provided for this purpose (Annex B) listing the types of interest to be declared. To be effective, the declaration of interests form must be completed prior to appointment, then updated at least quarterly and when any material changes occur.

In relation to the bidding process, the declaration of interest form (Annex E) must be completed at the time of bid initiation process.

All contractors appointed by or acting on behalf of the CCGs must declare their relevant interest using form provided in (Annex E)

The Deputy Director of Corporate Affairs is available to support any relevant persons over conflict of interest issues, and the Conflicts of Interest Guardians are available to provide independent advice where there is doubt as to how to apply this policy or when any person has concerns as to how this policy is being implemented. It is

important that all relevant persons feel free to raise conflict of interest issues, both as they pertain to themselves and as they pertain to colleagues. It is important that discussions around conflict of interest are properly aired and that all feel free to challenge others, and be challenged themselves, in the best interests of the good governance and reputation of the CCGs.

Conflicts or potential conflicts need to be decided on a case-by- case basis, and it is not useful to draw an arbitrary line around materiality. A possible conflict relating to a small amount of business can nevertheless be significant depending on context and type. The safest approach is to refrain from behaviours and actions that may appear to constitute a conflict of interest (so far as is possible), and declare any potential conflicts (where necessary discussing with others whether such a conflict exists or is material). It is important to record all such discussions in case of later challenge.

4.2. When the CCGs will prompt relevant persons to declare an interest

Relevant persons will be prompted by the CCG to declare any interests at the following points; however it remains the relevant person's responsibility to promptly declare an interest at any point where necessary:

- Upon appointment to the role and/or at the point of agreeing a contract for services (for contractors/self-employed individuals);
- The CCGs will send a reminder to all relevant persons once a quarter that they need to provide a declaration. Where the individual has nothing to declare, a "nil return" should be recorded.
- At the start of each meeting all individuals present will be asked to declare if they have any interest in the business being discussed. Interests should be declared and recorded in the minutes, even when these have already been recorded in the register.

5. Recording a conflict of interest

5.1. The CCGs' registers

In accordance with s. 14O (1), the CCGs will maintain and publish one or more registers of the interests of:

- The members of the CCGs;
- The members of the Governing Body;
- The members of the CCG committees and sub committees and members of the governing bodies committees and sub committees; and

- Its employees

A template of the register that will be maintained is provided in Annex D of this policy, along with a template of the register for gifts and hospitality. In addition, a separate register of all contracts and procurement is shown at Annex F.

All interests declared will be promptly transferred to the correct CCG register by the Board Secretary.

All registers will be published on the relevant CCG website (www.corbyccg.nhs.uk or www.neneccg.nhs.uk), under the Governing Body section and will be published as part of the CCG's Annual Reports and Annual Governance Statements.

If the interest is declared at a meeting, the following information must be included in the minutes:

- Who has the interest;
- The nature of the interest and why it gives rise to a conflict;
- Which items on the agenda the interests relate to;
- How the conflict was agreed to be managed; and
- Evidence that the conflict was managed as intended.

A template for recording minutes of the meeting is attached at Annex H.

5.2. Data protection

The information in the registers will be processed in accordance with data protection principles as set out in the General Data Protection Regulation (EU) 2016/679, the Data Protection Act 2018 and all other applicable laws relating to data protection. Data will be processed only for the purposes of this policy and to ensure that the conflicted person acts in the best interests of the CCG and the public and patients the CCG was established to serve. The information provided will not be used for any other purpose, unless otherwise fair and lawful.

Upon signing the declaration form at Annex B, the relevant person will have to confirm whether they consent to their data being processed for the purposes set out in this policy and published on the appropriate CCG website.

In exceptional circumstances, where public disclosure of information could give rise to a real risk of harm or is otherwise prohibited by law, an individual's name and/or other identifying information may be redacted from the publically available register. This

must be approved by the Joint Chief Finance Officer, who will seek legal advice and advice from the Conflicts of Interest Guardian as appropriate.

6. Managing conflicts of interest

In accordance with s.14O(4) the CCGs must make arrangements for managing conflicts and potential conflicts in a way as to ensure that they do not, and do not appear to, affect the integrity of the CCGs' decision making process.

Recording a conflict of interest does not automatically suggest either any impropriety or that an individual may not be part of a given decision or process. Neither does recording a conflict absolve the individual or CCGs from appropriately managing the conflict situation.

Outside of the particular circumstances set out below (i.e. conflicts declared at meetings), all relevant persons should discuss with their line manager what should be done to mitigate a conflict. Advice can be sought from the Conflicts of Interest Guardian and issues should be escalated to the appropriate Governing Body and Joint Accountable Officer as appropriate. Unless conflicted, the Joint Accountable Officer will have the final say in what actions must be taken to mitigate a conflict.

6.1. Managing Interests at Meetings

In advance of any meeting, so far as is practicable, the Chair should consider, in light of the information in the registers of interests, what conflicts are likely to arise and how they should be managed.

The Chair can seek support from the Deputy Director of Corporate Affairs and Conflicts of Interest Guardians.

The Chair of the meeting ultimately has the responsibility for deciding whether there is a conflict and taking the appropriate course of action to manage the conflict. If the Chair has the conflict, then the Vice Chair is responsible for managing the conflict. If both Chair and Vice Chair are conflicted, it falls to the non-conflicted members to decide how to manage the conflict. In any of these situations, the relevant persons can consult the Conflicts of Interest Guardian.

The appropriate course of action will depend on the circumstances. The Chair (or Vice Chair or other members) will decide on the most appropriate course of action, which could include a decision that:

- Acknowledging the interest in itself and ensuring that all individuals are aware is sufficient, and no other action needs to be taken (this is only likely to be appropriate where it is decided that the interest is immaterial or irrelevant to the discussion).
- The conflict suggests that it is not appropriate for the individual concerned to be part of the decision-taking, but may remain present while the issue at hand is debated to inform the discussion (this will often be the case when clinical input is required to inform the decision, but clinical members are conflicted in the actual decision).
- The conflict would be best managed if the individual removed themselves from any discussion about the issue (being either part of the meeting or the whole meeting/series of meetings) and/or did not receive any information about the matter at hand
- The conflict is so significant that without other action it would not be appropriate for the individual concerned to remain in the position they hold. The CCG may decide that temporary removal from office is sufficient, or it may be that the conflict is so significant that it is not possible for the individual concerned to remain in post

It is the responsibility of the relevant CCG Chair (for NHS Corby CCG this is the Clinical Chair, for NHS Nene CCG this is the GP Chair) to monitor quorum. Should the withdrawal of the conflicted person result in the loss of quorum, the item cannot be decided upon at that meeting. It may be that the agenda item has to be postponed until quorum can be achieved without conflict. The Chair of the meeting may appoint a designated officer to ensure quorum will be sustained and decision is followed after discussions.

Where GP clinical input is required and all relevant clinical Governing Body members have declared an interest which preclude them from taking any part in the discussion/decision the Chair or Vice Chair can request relevant clinicians from outside the immediate CCG areas (without conflict) to attend the meeting to ensure there is appropriate GP clinical input in the decision making process to improve patient care services. (This option would be used on very rare occasions).

Where appropriate, clinical advice may be sought from the non-GP clinical members of the Governing Body or clinicians from other CCGs acting as an advisory group.

All interests recorded must have a record of mitigating actions taken in relation to that interest. These should be recorded on the CCG Registers of Interests template at Annex D.

6.2. Appointment of governing body members and senior employees

The CCGs will assess the materiality of the interest and, in particular, whether the relevant person could benefit (in any way) from any decision that the CCGs might make.

In making its decision, the CCGs will determine the extent of the interest, the nature of the proposed role and whether the interest relates or could relate to the proposed role.

In general, any individual who has a material interest in an organisation which does or is likely to provide substantial services to the CCGs will not be appointed to be a member of the CCG Governing Bodies, or a committee or sub-committee of the CCG if the nature/extent of their interest is such that they would likely need to exclude themselves from decision making on a regular basis. The reasoning behind this rule is that it would limit the relevant person's ability to effectively perform that role.

6.3. Secondary employment

All relevant persons must declare if they wish to take part in secondary employment to allow the CCGs to be aware of any potential conflict that may arise.

Any relevant person will require express permission from an Executive Director to engage in secondary employment. The CCGs reserve the right to refuse permission where it has reasonable grounds to believe that a conflict may arise.

7. Gifts or Hospitality given and received

All staff should be aware that gifts, hospitality and expenses may be used as a method of bribery.

All gifts (defined as any items of cash, goods or services provided for personal benefit at less than its commercial value) offered to any relevant person by a potential or actual supplier or contractor should be declined, except for gifts of low value up to £6, such as promotional items which can be accepted. The offer must be recorded on the appropriate register. Where a gift cannot be refused best practice defines that these should be given to charity, this must be recorded on the register to reflect this.

Gifts from any other sources should be declined if accepting them could give rise to a perception of bias. Gifts of under £50 can be accepted from non-suppliers and non-contractors and do not need to be declared. Gifts with a value of over £50 can be accepted on behalf of the CCGs but not in a personal capacity and must be recorded on the appropriate register.

Any gift or offers of remuneration (otherwise than by the CCGs) to attend meetings on behalf of the CCGs must always be declined. The offer must be recorded on the appropriate register.

Hospitality should only be accepted where the relevant person(s) can demonstrate that to do so would benefit the NHS or CCGs. Generally accepting hospitality under £25 or equivalent will be considered acceptable and will not generally need to be recorded; however this is dependent on the nature of the hospitality. Hospitality between £25 and £75 can be accepted but must be declared and recorded. Relevant persons are asked to take a common sense approach and approach the Deputy Director of Corporate Affairs if they have any queries.

Offers of hospitality over £75 should not be accepted without authorisation from the Joint Chief Finance Officer and all offers of hospitality over this amount will be recorded.

Where an offer/acceptance of a gift or hospitality needs to be recorded (see above), the recipient of the gift/hospitality is obliged to inform the Deputy Director of Corporate Affairs who will make a record of the gift or hospitality on the appropriate register. Such records will be reviewed by the NHS Corby CCG and NHS Nene CCG Audit and Risk Committees on a six monthly basis. All gifts or hospitality received must be recorded in the gifts and hospitality register using the declaration form at Annex C of this policy.

Gifts and hospitality will be recorded on the CCG's register of gifts and hospitality, which will be maintained by the Deputy Director of Corporate Affairs on behalf of the Joint Accountable Officer. In accordance with s.14O (2) of the NHS, the registers will be accessible by the public and inspection of the register of members' interests will be encouraged, as appropriate.

All offers of commercial sponsorship must be recorded. No offers of commercial sponsorship will be accepted without prior approval of the Joint Chief Finance Officer.

Gifts should never be purchased out of the CCGs' budget. Hospitality provided by the CCG should be limited to what is sensible and normal (i.e. light refreshments at a meeting).

8. Procurement issues

8.1. Conflicts, procurement and contract monitoring

The CCGs are subject to an additional obligation under the National Health Service (Procurement, Patient Choice and Competition) (No.2) Regulations 2013 ("the Regulations") to "*not award a contract for the provision of NHS health care services where conflicts, or potential conflicts, between the interests involved in providing them affect, or appear to affect, the integrity of the award of that contract*".

Where a relevant person has any interest in the context of the specification for, or award of, a contract the conflicted person will be expected to act in accordance with the procedures set out above and:

- Declare the interest
- Ensure that the interest is recorded in the register
- (Where necessary) withdraw from discussion on the specification, and/or or award
- Not have a vote in relation to the specification or award, or any formal role in the procurement process.

The conflicted person will be expected to declare any interest early in any procurement process if they are to be a potential bidder in that process (using the form provided in Annex E). Failure to do this could result in the procurement process being declared invalid and possible suspension of the relevant member from the group.

Bidders will be asked to declare any conflicts of interest when making their bid using the form provided at Annex E. It will often not be appropriate to include this information on the register of interests, as it would compromise the bidder's anonymity. However, a new copy of the register at Annex C will be completed for each conflict and retained on the CCG's files.

Potential conflicts will vary to some degree depending on the way in which a service is being commissioned, for example:

- Where a group is commissioning a service through Competitive Tender (i.e. seeking to identify the best provider or set of providers for a service) a conflict of interest may arise where GP practices or other providers in which group members have an interest are amongst those bidding.
- Where the group is commissioning a service through Any Qualified Provider (AQP) a conflict could arise where one or more GP practices (or other providers in which group members have an interest) are amongst the qualified providers from whom patients can choose. In case of AQP process in specific, additional assessment and identification of potential or actual conflict is undertaken in line with the CCG's procurement strategy and policy.

The CCGs will use the template at Annex F to record any decisions on conflict of interest which relate to the procurement process.

The CCGs will maintain a register of procurement decisions, in the form included at Annex F. The information from the template form at Annex F will be transferred by the Corporate Services & Governance Manager to the register of procurement decisions.

Conflicts of interest must be considered as part of the process for contract monitoring, through the process set out above at 6.1. The individuals involved in the monitoring of a contract should not have any interest (as defined above) in the incumbent provider, or any other provider that could prevent them or be perceived to prevent them from carrying out their role in an impartial and fair manner. A template for recording minutes of the contract meeting is included at Annex H.

8.2. Procurement issues and competition

Competition law places responsibilities on corporate bodies around fairness and transparency when preparing tenders or procurements. This is relevant to conflict of interest, where the CCG needs to ensure that all potential bidders for procurements or tenders to be led by the CCG have an equal and fair opportunity to make a bid for that work. In particular the CCGs (including CCG members and staff) should not behave in a way that:

- Gives one potential bidder for a contract any material advantage over others, including through having access to privileged or commercial information not available to all; or

- Shapes an offer for tender or procurement in a way that advantages or disadvantages an organisation that might bid for the service

These issues are particularly complex where the CCGs need to take technical advice from potential bidders for a service, or where the CCGs wish to involve possible suppliers in shaping strategy or service specifications.

It is important that the CCGs balance an inclusive approach to partnership working, gaining the best technical input and advice and at the same time acting in a fair manner and complying with competition law. Where potential suppliers feel a conflict of interest may have been created and one supplier advantaged over others they may apply for a judicial review around the procurement process. This may lead to a situation where the best possible suppliers for a service the CCG wishes to commission for are unable to bid, because the CCG has created a conflict of interest in the way it has behaved.

For these reasons, all relevant persons need to be very sensitive over commercial information, including when participating in open or invited forums at which service developments and CCGs strategies are discussed. To help manage the conflicting balances of obtaining the best possible advice and not creating an advantage to particular supplier(s) the following principles need to be observed:

- When setting up service development working groups, or holding a forum where external colleagues are invited to comment on strategy or service specifications (directly or indirectly) then no particular favour should be shown to colleagues from one organisation over another. All organisations with a useful and valid contribution who may potentially be a supplier for service should have the opportunity to provide input
- In running any such advisory groups or open forums, a careful note should be made of any information shared with potential suppliers, so that at a later date this information can also be made available to others developing a tender response. In other words, if one potential supplier in the course of providing technical advice to the CCGs has access to information, this should be openly shared with all other potential suppliers should a tender or procurement be later issued
- The CCGs should be especially mindful of creating a situation where by taking technical advice it does not create a procurement that rules out suppliers not asked to provide advice by specifying one particular type of solution

- The guiding principles are to be even handed when involving potential suppliers, and ensuring that information is always equally available to all who could be potential suppliers to the CCGs. Suppliers' days can be a very useful way of identifying potential suppliers and of creating an even playing field in terms of sharing information.

9. Roles and Responsibilities

9.1. All relevant persons

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

All relevant persons must declare any relevant and material interests, and any gifts or hospitality offered and received in connection with their role in the CCGs. All relevant persons should also declare any perceived conflicts of interests that might affect the work of the CCGs, in line with this policy using the declaration form provided at Annex B.

Declaration of interest is an on-going and dynamic process. All relevant persons should declare interests that arise as time goes by. Circumstances will change and potentially create new conflicts of interest.

All relevant persons should declare any interests of family members or close associates that could be perceived to create a conflict of interest, and whether any past or current associations with individuals could likewise create such a perception.

If in any doubt relevant persons should seek guidance from the Deputy Director of Corporate Affairs or the relevant Conflicts of Interest Guardian. In these circumstances, it is sensible to record this discussion and review the situation at regular intervals.

9.2. The Deputy Director of Corporate Affairs

The Deputy Director of Corporate Affairs is responsible for:

- The day-to day management of conflicts of interest matters and queries;
- Maintaining the CCG's registers of interests, gifts and hospitality;

- Supporting the Conflicts of Interest Guardians to enable them to carry out their roles effectively;
- Providing advice, support, and guidance to all relevant persons on how conflicts of interest should be managed; and
- Ensuring that appropriate administrative processes are put in place to identify, manage and record interests.

The Deputy Director of Corporate Affairs can be contacted via Neil.Boughton@nhs.net

9.3. The Conflicts of Interest Guardians

The Chairs of each Audit Committee will be designated as the Conflicts of Interest Guardian for the appropriate CCG. The Conflicts of Interest Guardians will be responsible for:

- Acting as a conduit for members of the public who have any concerns with regards to conflicts of interest;
- Being a safe point of contact for whistleblowing;
- Supporting the rigorous application of conflict of interest principles and policies;
- Providing independent advice and judgment where there is any doubt about how to apply conflicts of interest policies and principles in an individual situation;
- Providing advice on minimising the risks of conflicts of interest.

The Conflicts of Interest Guardian for NHS Corby & Nene CCG can be contacted on 01536 560420/ 01604 651348 or richard.moore2@nhs.net

9.4. The Joint Accountable Officer

Unless the Joint Accountable Officer is conflicted, he or she will have the final decision in how to manage conflicts of interests (outside of meetings), and in the action to be taken when a serious breach of the policy has been reported.

10. Training

Staff will be provided with training on conflicts of interest as appropriate to their level during induction and at a regular interval.

In particular, all relevant persons will have to complete online mandatory training, provided for by NHS England.

11. Success Criteria/monitoring the effectiveness of this policy

Each year the CCGs Governing Bodies will discuss the CCG's management of conflict of interest, and the effectiveness of this policy in maintaining the good reputation of the CCGs and good procurement practice. The Governing Bodies will ask the Audit and Risk Committees to review the effectiveness of this policy, and assure the Governing Bodies around the robustness of the mechanisms put in place to maintain good governance (such as the conflict of interest recording mechanisms).

The CCGs will ensure an independent review by internal audit and the Local Counter Fraud Specialist (LCFS) of conflicts interest management is undertaken on an annual basis.

The results of the audit will be presented in the CCG's annual governance statements and will form an agenda item at the end of year governance meetings.

This policy will be reviewed annually or revisions made earlier as required to reflect changes in law and guidance.

12. Breaches of this policy and the impact of non-compliance

All relevant persons have a duty to report concerns and suspected or actual breaches of this policy.

The Bribery Act 2010 came into force in April 2011. This legislation:

- Makes it a criminal offence to give or offer a bribe, or to request, offer to receive or accept a bribe, whether in the UK or abroad (the measures cover bribery of a foreign public official);
- Makes it an offence for a director, manager or officer of a business to allow or turn a blind eye to bribery within the organisation; and
- Introduces a corporate offence of failure to prevent bribery by persons working on behalf of a commercial organisation.

Any breach of this policy will be taken seriously and may result in the subject being referred to the CCG's Local Counter Fraud Specialist (LCFS) for investigation. Breach of policy could result in criminal prosecution and/or disciplinary action up to and including dismissal, as outlined within the CCG's Disciplinary Policy.

Under the Bribery Act 2010, officers of any organisation may be prosecuted personally if they are found to be guilty of consenting or conniving in the commission of bribery, with penalties of up to ten years imprisonment, fines or both. This Policy is based on the provisions of the above legislation and guidance. Staff should be aware that a breach may render them liable to prosecution and may also lead to loss of their employment and pension rights in the NHS.

In the first instance, concerns should be reported to the appropriate Conflicts of Interest Guardian, who will treat all concerns as confidential. Staff should also consider the content of the CCG's policy on whistleblowing which can be accessed via the CCG shared drive or via the intranet.

If any relevant person feels unable to report the conflict internally, they can report the concern either:

- Contact the Local Counter Fraud Specialist, Antony Upton on 07484040694
- By calling the NHS Fraud and Corruption Reporting line on 0800 028 40 60
- Online at www.cfa.nhs.uk/reportfraud

The Conflict of Interests Guardian will take a decision as to how to proceed with the investigation, escalating the issues to the Governing Bodies and Joint Accountable Officer as appropriate, whilst continuing to provide advice. The decision will take account of the "seriousness" of the breach which will include factors such as:

- The point at which the breach was reported and how long the breach has been going on for (i.e. did the conflicted person participate in one meeting or the entire decision process?);
- The effect of the breach (i.e. has a contract been awarded by a person who is conflicted? Has there been little practical effect?);
- The likely public perception of the breach – would this harm public confidence?

The decision may involve:

- The Conflicts of Interest Guardian or the Joint Accountable Officer may reporting to the breach to NHS England if it is judged to be sufficiently serious;
- The breach may also be reported to the Local Counter Fraud Specialist (details provided above), if there is a suggestion of actual or potential fraud;
- Instigation of the CCG's disciplinary process in line with its disciplinary policy;
- The relevant person being removed from office or position within the CCG; and
- If the relevant person is a member of a regulated profession, the CCGs may be obliged to report that person to their regulator.

In the worst cases, breaches of this policy may result in criminal proceedings, culminating in a fine or imprisonment.

Breaches of the policy will be recorded by the CCGs. Following investigation, the breach will be reported on the CCG's website.

Northamptonshire Clinical Commissioning Groups

ANNEX A – Types of interests and examples

| Type of Interest | Description |
|--|--|
| <p>Financial Interests</p> | <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). |
| <p>Non-Financial Professional Interests</p> | <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. |

| | |
|--|---|
| <p>Non-Financial Personal Interests</p> | <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. |
| <p>Indirect Interests</p> | <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. |

Northamptonshire Clinical Commissioning Groups

Annex B - DECLARATION OF INTEREST FORM FOR MEMBERS AND EMPLOYEES

NHS Corby Clinical Commissioning Group and NHS Nene Clinical Commissioning Group

Member / employee/ governing body member / committee or sub-committee member (including committees and sub-committees of the governing body) declaration form: financial and other interests

This form is required to be completed in accordance with the CCG's Constitution and section 14O of *The National Health Service Act 2006*.

Notes:

- If any assistance is required in order to complete this form, please contact the Board Secretary on Sarah.McKenzie8@nhs.net
- The completed form should be sent by email to the Board Secretary: Sarah.McKenzie8@nhs.net . A signed hard copy must also be provided
- Any changes to interests declared must also be registered as soon as practicable and in any event within 28 days by completing and submitting a new declaration form.
- The register will be published on the relevant CCG's web-site, under Governing Body section
NHS Corby CCG www.corbyccg.nhs.uk
NHS Nene CCG www.neneccg.nhs.uk
- Any relevant person – and in particular members and employees of the CCGs - must provide sufficient detail of the interest, and the potential for conflict with the interests of the CCGs and the public for whom they commission services, to enable a lay person to understand the implications and why the interest needs to be registered.
- If there is any doubt as to whether or not a conflict of interests could arise, a declaration of the interest must be made

DECLARATION OF INTEREST FORM

To be completed by Employee(s)/ Governing Body Member(s)/ Committee or Sub- Committee member(s) (including Committees and Sub-Committees of the Governing Body): (All must complete this form, including nil returns)

| Name: | | | | | |
|---|-------------------------|----------------------------|--------------------|---------------------------|----|
| Position within or relationship within the CCG or NHS England in the event of joint committees | | | | | |
| Type of interest | Description of Interest | Financial or Non-financial | Direct or indirect | Dates interest relates to | |
| | | | | From | To |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

The information submitted will be held by the CCGs 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 2018. Information may be disclosed to third parties in accordance with the Freedom of Information Act 2000 and published in registers that the CCG holds

Mitigation of Risk

Should I recognise I have a conflict of interest regarding an item I will notify the chair in good time or in any event at the start of the meeting or as soon as it becomes apparent and this will be managed in line with the Conflicts of Interest policy.

I can confirm that the information provided above is complete and correct. I acknowledge that any changes in these declarations must be notified to the Board Secretary (sarah.mckenzie8@nhs.net) no later than 28 days after the interest arises.

I acknowledge that if I plan to undertake secondary employment which may be perceived or may result in a conflict of interest I will notify the Board. 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** give my consent for this information to be published on registers that the CCGs hold. If consent is NOT given please give reasons:

| |
|--|
| |
|--|

| | |
|-----------------------------|--|
| Name (Please Print): | |
| Signed: | |
| Date: | |

Annex C - DECLARATION of GIFTS OR HOSPITALITY FORM

NHS Corby Clinical Commissioning Group

NHS Nene Clinical Commissioning Group

DECLARATION of GIFTS OR HOSPITALITY FORM

| Recipient Name | Position | Date of Offer | Date of Receipt (if applicable) | Details of Gift/ Sponsorship / Hospitality | Estimated Value | Supplier / Offeror Name and Nature of Business | Details of Previous Offers or Acceptance by this Offeror/ Supplier | Approval Given – Yes/ No and by whom | Declined or Accepted? | Reason for Accepting or Declining | Other Comments |
|----------------|----------|---------------|---------------------------------|--|-----------------|--|--|--------------------------------------|-----------------------|-----------------------------------|----------------|
| | | | | | | | | | | | |
| | | | | | | | | | | | |

The information submitted will be held by the CCGs 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 2018. Information may be disclosed to third parties in accordance with the Freedom of Information Act 2000 and published in registers that the CCGs hold.

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

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

Signed:

Date:

Signed:

Position:

Date:

Northamptonshire Clinical Commissioning Groups

Annex D – REGISTER OF INTEREST TEMPLATES

NHS Corby Clinical Commissioning Group
NHS Nene Clinical Commissioning Group

This Register of Interests includes all interests declared by all relevant persons.

In accordance with the CCG's constitution and section 14O of *The National Health Service Act 2006*, the CCG's Joint Accountable Officer must be informed of any interest which may lead to a conflict with the interests of the CCGs and the public for whom they commission services in relation to a decision to be made by the CCGs, that needs to be included in the Registers within 28 days of the individual becoming aware of the potential for a conflict. The Registers will be updated regularly (at no more than 3-monthly intervals).



Corby

Clinical Commissioning Group



Nene

Clinical Commissioning Group

Northamptonshire Clinical Commissioning Groups

NHS Corby Clinical Commissioning Group NHS Nene Clinical Commissioning Group Register of Interests

| 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) | Nature of Interest | | | | Is the Interest Indirect or Direct | Date of Interest | | Action taken to mitigate risk | |
|------|---|--|--------------------|---------------|-----------------------|---------------|------------------------------------|-------------------|------|-------------------------------|----|
| | | | Financial Interest | Non-Financial | Professional Interest | Non-Financial | | Personal Interest | From | | To |
| | | | | | | | | | | | |
| | | | | | | | | | | | |
| | | | | | | | | | | | |

Annex E – DECLARATION OF CONFLICT OF INTERESTS FOR BIDDERS / CONTRACTORS

**NHS Corby Clinical Commissioning Group
NHS Nene Clinical Commissioning Group**

Bidders/potential contractors/service providers declaration form: financial and other interests

This form is required to be completed in accordance with the CCG's Constitution.

Notes:

- All potential bidders/contractors/service providers, including sub-contractors, members of a consortium, advisers or other associated parties (Relevant Organisation) are required to identify any potential conflicts of interest that could arise if the Relevant Organisation were to take part in any procurement process and/or provide services under, or otherwise enter into any contract with, the CCGs.
- If any assistance is required in order to complete this form, then the Relevant Organisation should contact the Corporate Services & Governance Manager: emma.follis@nhs.net
- The completed form should be sent to: emma.follis@nhs.net
- Any changes to interests declared either during the procurement process or during the term of any contract subsequently entered into by the Relevant Organisation and the CCG must notified to the CCG by completing a new declaration form and submitting it to: emma.follis@nhs.net
- Relevant Organisations completing this declaration form must provide sufficient detail of each interest so that a member of the public would be able to understand clearly the sort of financial or other interest the person concerned has and the circumstances in which a conflict of interest with the business or running of the CCGs might arise.
- If in doubt as to whether a conflict of interest could arise, a declaration of the interests should be made.
- In relation to Procurement the CCG are compliant with the CSU Procurement Policy, which is further supported by the Conflict of Interests and Confidentiality agreement which is a mandatory requirement of all new procurement projects.

Interests that must be declared (whether such interests are those of the Relevant Person themselves or of a family member, close friend or other acquaintance of the Relevant Person), include the following:

- the Relevant Organisation or any person employed or engaged by or otherwise connected with a Relevant Organisation (Relevant Person) has

- provided or is providing services or other work for the CCG;
- a Relevant Organisation or Relevant Person is providing services or other work for any other potential bidder in respect of this project or procurement process;
- the Relevant Organisation or any Relevant Person has any other connection with the CCGs, 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.

Declarations of Bidders/Potential Contractors/Service Providers:

| | |
|---|----------------|
| 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 CCGs 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.

| | |
|---|--|
| Name of organisation (Please Print): | |
| Signed on behalf of organisation: | |
| Name of individual on behalf of organisation: | |
| Date: | |

Northamptonshire Clinical Commissioning Groups

ANNEX F – PROCUREMENT CHECKLIST AND REGISTER OF PROCUREMENT DECISIONS

Procurement checklist

| ¹Service: | |
|---|--------------------------|
| 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? | |

| | |
|--|--|
| <p>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?</p> | |
| <p>Why have you chosen this procurement route?²²</p> | |
| <p>What additional external involvement will there be in scrutinising the proposed decisions?</p> | |
| <p>How will the CCGs make its final commissioning decision in ways that preserve the integrity of the decision-making process and award of any contract?</p> | |
| <p>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)</p> | |
| <p>How have you determined a fair price for the service?</p> | |
| <p>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</p> | |
| <p>How will you ensure that patients are aware of the full range of qualified providers from whom they can choose?</p> | |
| <p>Additional questions for proposed direct awards to GP providers</p> | |
| <p>What steps have been taken to demonstrate that the services to which the contract relates are capable of being provided by only one provider?</p> | |

| | |
|---|--|
| | |
| 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).

Register of procurement decisions

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

Northamptonshire Clinical Commissioning Groups

Annex G – Principles of Good Governance

1. The Seven Principles of Public Life (known as the Nolan Principles)

The ‘Nolan Principles’ set out the ways in which holders of public office should behave in discharging their duties. The seven principles are:

- i. **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.
- ii. **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.
- iii. **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.
- iv. **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.
- v. **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.
- vi. **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.
- vii. **Leadership** – Holders of public office should promote and support these principles by leadership and example.

Source: *The First Report of the Committee on Standards in Public Life* (1995)¹

2. The Good Governance Standards of Public Services

The Good Governance standards state that good governance means:

- Focusing the organisation's purpose and on outcomes for citizens and service users;
- Performing effectively in clearly defined functions and roles;
- Promoting values for the whole organisation and demonstrating the values of good governance through behaviour;
- Taking informed, transparent decisions and managing risk;
- Developing the capacity and capability of the governing body to be effective; and
- Engaging stakeholders and making accountability real.

3. The Seven Key Principles of the NHS Constitution

The seven key principles of the NHS Constitution are as follows:

- (i) The NHS provides a comprehensive service, available to all;

37

- (ii) Access to NHS services is based on clinical need, not an individual's ability to pay;
- (iii) The NHS aspires to the highest standards of excellence and professionalism;
- (iv) The patient will be at the heard of everything the NHS does;
- (v) The NHS works across organisational boundaries;
- (vi) The NHS is committed to providing best value for taxpayers' money; and
- (vii) The NHS is accountable to the public, communities and patients that it serves.

4. The Equality Act 2010 and s.14T of the NHS Act 2006

NHS bodies and local authorities are subject to the Public Sector Equality Duty (“**PSED**”) under section 149 of the Equality Act 2010, while CCGs must also meet the separate duty in section 14T of the NHS Act to reduce inequalities in terms of patient access and outcomes.

The PSED requires that:

“(1) A public authority must, in the exercise of its functions, have due regard to the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.”

Relevant protected characteristics in this context are:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation

Meanwhile, the section 14T duty to reduce inequalities in terms of patient access and outcomes goes beyond the protected characteristics, and includes matters such as socio-economic factors.

Northamptonshire Clinical Commissioning Groups

Annex H – Template for recording the minutes of meetings

Northamptonshire Clinical Commissioning Groups

Primary Care Co-Commissioning Committee Meeting

Date:

Time:

Location:

Attendees

XXXXXX

XXXXXX

| Item No | Agenda Item | Actions |
|---------|---|---------|
| 1 | Chairs welcome | |
| 2 | Apologies for absence <apologies to be noted> | 43 |

3 **Declarations of interest**

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.

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

Declarations of interest from sub committees.

None declared

Declarations of interest from today's meeting

The following update was received at the meeting:

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

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

| | | |
|---|--|--|
| 4 | Minutes of the last meeting <date to be inserted> and matters arising | |
| 5 | Agenda Item <Note the agenda item> <i>MS removed himself from the meeting and sat in the public gallery, excluding himself from the discussion regarding xx.</i> <conclude decision has been made> | |
| 6 | Any other business | |
| 7 | Date and time of the next meeting | |

Annex I Summary of key aspects of the guidance on managing conflicts of interest relating to commissioning of new care models

Introduction

1. Conflicts of interest can arise throughout the whole commissioning cycle from needs assessment, to procurement exercises, to contract monitoring. They arise in many situations, environments and forms of commissioning.
2. Where CCGs are commissioning new care models ²⁸, particularly those that include primary medical services, it is likely that there will be some individuals with roles in the CCG (whether clinical or non-clinical), that also have roles within a potential provider, or may be affected by decisions relating to new care models. Any conflicts of interest must be identified and appropriately managed, in accordance with this statutory guidance.
3. This annex is intended to provide further advice and support to help CCGs to manage conflicts of interest in the commissioning of new care models. It summarises key aspects of the statutory guidance which are of particular relevance to commissioning new care models rather than setting out new requirements. Whilst this annex highlights some of the key aspects of the statutory guidance, CCGs should always refer to, and comply with, the full statutory guidance.

Identifying and managing conflicts of interest

4. The statutory guidance for CCGs is clear that any individual who has a material interest in an organisation which provides, or is likely to provide, substantial services to a CCG (whether as a provider of healthcare or provider of commissioning support services, or otherwise) should recognise the inherent conflict of interest risk that may arise and should not be a member of the governing body or of a committee or sub-committee of the CCG.

²⁸ Where we refer to 'new care models' in this note, we are referring to any Multi-speciality Community Provider (MCP), Primary and Acute Care Systems (PACS) or other arrangements of a similar scale or scope that (directly or indirectly) includes primary medical services.

5. In the case of new care models, it is perhaps likely that there will be individuals with roles in both the CCG and new care model provider/potential provider. These conflicts of interest should be identified as soon as possible, and appropriately managed locally. The position should also be reviewed whenever an individual's role, responsibility or circumstances change in a way that affects the individual's interests. For example where an individual takes on a new role outside the CCG, or enters into a new business or relationship, these new interests should be promptly declared and appropriately managed in accordance with the statutory guidance.
6. There will be occasions where the conflict of interest is profound and acute. In such scenarios (such as where an individual has a direct financial interest which gives rise to a conflict, e.g., secondary employment or involvement with an organisation which benefits financially from contracts for the supply of goods and services to a CCG or aspires to be a new care model provider), it is likely that CCGs will want to consider whether, practically, such an interest is manageable at all. CCGs should note that this can arise in relation to both clinical and non-clinical members/roles. If an interest is not manageable, 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 and may require the CCG to take action to terminate an appointment if the individual refuses to step down. CCGs should ensure that their contracts of employment and letters of appointment, HR policies, 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.
7. Where a member of CCG staff participating in a meeting has dual roles, for example a role with the CCG and a role with a new care model provider organisation, but 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, but where it is appropriate for them to participate in decisions they must only do so if they are acting in their CCG role.
8. 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 employed or engaged in, or wish to be employed or engaged in, any employment or consultancy work in addition to their work with the CCG (for example, in relation to new care model arrangements).

9. 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 CCGs should ensure they manage the potential conflict. This conflict of interest arises as soon as individuals are able to identify that their role may be personally affected.
10. Similarly, CCGs should identify and manage potential conflicts of interest where staff are involved in both the contract management of existing contracts, and involved in procurement of related new contracts.

Governance arrangements

11. Appropriate governance arrangements must be put in place that ensure that conflicts of interest are identified and managed appropriately, in accordance with this statutory guidance, without compromising the CCG's ability to make robust commissioning decisions.
12. We know that some CCGs are adapting existing governance arrangements and others developing new ones to manage the risks that can arise when commissioning new care models. We are therefore, not recommending a "one size fits" all governance approach, but have included some examples of governance models which CCGs may want to consider.
13. The principles set out in the general statutory guidance on managing conflicts of interest (paragraph 19-23), including the Nolan Principles and the Good Governance Standards for Public Services (2004), should underpin all governance arrangements.
14. CCGs should consider whether it is appropriate for the Governing Body to take decisions on new care models or (if there are too many conflicted members to make this possible) whether it would be appropriate to refer decisions to a CCG committee.
15. Where a CCG has full delegation for primary medical services, CCGs could consider delegating the commissioning and contract management of the entire new care model to its Primary Care Commissioning Committee. This Committee is constituted with a lay and executive majority, and includes a requirement to invite a Local Authority and Healthwatch representative to attend (see paragraph 97 onwards of the CCG guidance).

16. Should this approach be adopted, the CCG may also want to increase the representation of other relevant clinicians on the Primary Care Commissioning Committee when new care models are being considered, as mentioned in Paragraph 98 of this guidance. The use of the Primary Care Commissioning Committee may assist with the management of conflicts/quorum issues at governing body level without the creation of a new forum/committee within the CCG.

Paragraphs 17-24 not included as the CCG has an established Primary Care Co-Commissioning Joint Committee.

Provider engagement

25. 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. CCGs should be particularly mindful of these issues when engaging with existing / potential providers in relation to the development of new care models and CCGs must ensure they comply with their statutory obligations including, but not limited to, their obligations under the National Health Service (Procurement, Patient Choice and Competition) (No 2) Regulations 2013 and the Public Contracts Regulations

Further support

26. If you have any queries about this advice, please contact: england.co-commissioning@nhs.net.