Thinking Differently

NHS
Dudley
Clinical Commissioning Group

CONFLICT OF INTEREST POLICY
(inc Gifts & Hospitality)

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AMENDMENT HISTORY

VERSION	DATE	AMENDMENT HISTORY
V1	February 2013	Policy created
GB/XX/063/V2.0	March 2015	Unique identifier allocated. Amendments to reflect NHS guidance - Managing Conflicts of Interest: Statutory Guidance For CCGs – December 2014
GB/XX/063/V3.0	October 2016	Amendments to reflect NHS England guidance - Managing Conflicts of Interest: Revised Statutory Guidance For CCGs – June 2016 and to reflect the CCGs Declaration of Relationships Policy
GB/XX/063/V4.0	May 2017	Amendments to reflect model policy issued by NHSE in April 2017
GB/XX/063/4.1	June 2017	Further guidance issued by NHSE in relation to New Models of Care. This has been incorporated as Annex 6 and a sentence in section 12.7
GB/XX/063/4.2	March 2018	Refresh in relation to GDPR and also following Audit added Declaration of Interest Checklist and amended Appendices.

REVIEWERS

This document has been reviewed by:

NAME	DATE	TITLE/RESPONSIBILITY	VERSION
Paul Capener	February 2013	Governance adviser	V1
Sue Johnson	March 2015	Deputy Chief Finance Officer	V2
Sue Johnson	October 2016	Deputy Chief Finance Officer	V3
Paul Capener	October 2016	Governance adviser	V3
Emma Smith	October 2016	Governance Support Manager	V3
Paul Capener	November 2016	Governance adviser	V3.1
Paul Capener	May 2017	Governance adviser	V4
Emma Smith	June 2017	Governance Support Manager	V4.1
Emma Smith	March 2018	Governance Support Manager	V4.2

APPROVALS

This document has been approved by:

VERSION	WHERE	DATE
V1	Audit Committee	26 Feb 2013
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NB: The version of this policy posted on the intranet must be a PDF copy of the approved version.

DOCUMENT STATUS

This is a controlled document. Whilst this document may be printed, the electronic version posted on the intranet is the controlled copy. Any printed copies of the document are not controlled.

RELATED DOCUMENTS

These documents will provide additional information

Constitution	CCG Policy
Declaration of Relationships	CCG Policy

Code of Conduct	CCG Policy
Gifts and Hospitality	CCG Policy
Counter Fraud, Bribery and Corruption	CCG Policy
Standards for Business Conduct	CCG Policy
Managing Conflicts of Interest: Statutory Guidance For CCGs – December 2014	NHS England

Contents

POLICY SUMMARY

Adhering to this policy will help to ensure that we use NHS money wisely, providing best value for taxpayers and accountability to our patients for the decisions we take.

As a member of staff you should…	As an organisation we will…
• Familiarise yourself with this policy and follow it. Refer to the guidance for the rationale behind this policy https://www.england.nhs.uk/wp-content/uploads/2017/02/guidance-managing-conflicts-of-interest-nhs.pdf • Use your common sense and judgement to consider whether the interests you have could affect the way taxpayers' money is spent • Regularly consider what interests you have and declare these as they arise. If in doubt, declare. • **NOT** misuse your position to further your own interests or those close to you • **NOT** be influenced, or give the impression that you have been influenced by outside interests • **NOT** allow outside interests you have to inappropriately affect the decisions you make when using taxpayers' money	• Ensure that this policy and supporting processes are clear and help staff understand what they need to do. • Identify a team or individual with responsibility for: o Keeping this policy under review to ensure they are in line with the guidance. o Providing advice, training and support for staff on how interests should be managed. o Maintaining register(s) of interests. o Auditing this policy and its associated processes and procedures at least once every three years. • **NOT** avoid managing conflicts of interest. • **NOT** interpret this policy in a way which stifles collaboration and innovation with our partners

1.0 INTRODUCTION

1.1 All Clinical Commissioning Groups (CCGs) manage conflicts of interest as part of their day to day activities. Effective handling of such conflicts is crucial for the maintenance of public trust in the commissioning system. Importantly, it also serves to give confidence to patients, providers, Parliament and tax-payers that CCG commissioning decisions are robust, fair, transparent and offer value for money.

1.2 This policy reflects

- the seven principles of public life promulgated by the Nolan Committee
- The Good Governance Standards of Public Services
- The seven key principles of the NHS Constitution and
- The Equality Act 2010.

1.3 The aims of this policy are to:

- enable the CCG and clinicians in commissioning roles to demonstrate that they are acting fairly and transparently and in the best interest of their patients and local populations;
- ensure that the CCG operates within the legal framework and its constitution, but without being bound by over-prescriptive rules that risk stifling innovation;
- safeguard clinically led commissioning, whilst ensuring objective investment decisions;
- provide the public, providers, Parliament and regulators with confidence in the probity, integrity and fairness of commissioners' decisions; and
- uphold the confidence and trust between patients and GP, in the recognition that individual commissioners want to behave ethically but may need support and training to understand when conflicts (whether actual or potential) may arise and how to manage them if they do.

1.4 The policy incorporates the safeguards for the management of conflicts of interest set out in NHS England statutory guidance, including:

- the nature of conflicts of interest;
- arrangements for declaring interests;
- maintaining a register of interests;
- keeping a record of the steps taken to manage a conflict;
- excluding individuals from decision-making where a conflict arises; and
- engagement with a range of potential providers on service design.

1.5 In addition, it sets out:

- the additional factors that the CCG must address when commissioning primary medical care services under delegated commissioning arrangements.
- the steps that CCG will take to assure the Audit Committee, Health and Wellbeing Board, NHS England and, where necessary, their auditors, that these services are appropriately commissioned from GP practices;
- procedures for decision-making in cases where all the GPs (or other practice representatives) sitting on a decision-making group have a potential financial interest in the decision;
- arrangements for publishing details of payments to GP practices;
- the potential role of commissioning support services; and
- the supporting role of NHS England.

2.0 WHAT ARE CONFLICTS OF INTEREST?

2.1 A conflict of interest occurs where an individual's ability to exercise judgement, or act in a role, is or could be impaired or otherwise influenced by his or her involvement in another role or relationship. 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.

> "For the purposes of Regulation 6 [*National Health Service (Procurement, Patient Choice and Competition) (No.2) Regulations 2013*[1]], a conflict will arise where an individual's ability to exercise judgement or act in their role in the **commissioning of services** is impaired or influenced by their interests in the **provision of those services**." *Monitor - Substantive guidance on the Procurement, Patient Choice and Competition Regulations (December 2013)*

The CCG uses the following description to define conflicts of interest:

> "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. Such a conflict may be:
> **Potential** – i.e. there is the possibility of a conflict between the two interests in the future
> **Actual** - i.e. there is a relevant and material conflict between the two interests now
> **Perceived** – i.e. an observer could reasonably suspect there to be a conflict of interest regardless of whether there is one or not.
>
> Conflicts can occur with interests held by the individual or their close family members (*), significant other (#), and business partners (dependent on the circumstances and the nature of such relationships)"
>
> * 'Family member' refers to a spouse, civil partner, or partner living in the same residence as the individual, as well as siblings, grandparents, children and adults (who may or may not be living in the same residence) for whom the individual is legally responsible, (for example, an adult whose full power of attorney is held by the individual)
>
> #'significant other' refers to romantic or sexual relationships

2.2 For the purposes of this policy we describe conflicts of interest as taking one of the following forms:

i. **Financial interests:** This is where an individual may get direct financial benefits from the consequences of a commissioning decision. This could, for example, include being:

- A director, including a non-executive director, or senior employee in a private company or public limited company or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations.
- A shareholder (or similar ownership interests), a partner or owner of a private or not-for-profit company, business, partnership or consultancy which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations.
- A management consultant for a provider.

This could also include an individual being:

- In secondary employment

- In receipt of secondary income from a provider
- In receipt of a grant from a provider
- In receipt of any payments (for example honoraria, one-off payments, day allowances or travel or subsistence) from a provider;
- In receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role; and
- Having a pension that is funded by a provider (where the value of this might be affected by the success or failure of the provider).

ii. **Non-financial professional interests:** This is where an individual may obtain a non-financial professional benefit from the consequences of a commissioning decision, such as increasing their professional reputation or status or promoting their professional career. This may, for example, include situations where the individual is:

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

GPs and practice managers, who are members of the governing body or committees of the CCG, should declare details of their roles and responsibilities held within their GP practices.

iii. **Non-financial personal interests:** This is where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit. This could include, for example, where the individual is:

- A voluntary sector champion for a provider;
- A volunteer for a provider;
- A member of a voluntary sector board or has any other position of authority in or connection with a voluntary sector organisation;
- Suffering from a particular condition requiring individually funded treatment;
- A member of a lobby or pressure group with an interest in health.

iv. **Indirect interests:** This is where an individual has a close association with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest in a commissioning decision (as those categories are described above) for example, a:

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

A declaration of interest for a “business partner” in a GP partnership should include all relevant collective interests of the partnership, and all interests of their fellow GP partners (which can be done by cross referring to the separate declarations made by those GP partners, rather than by repeating the same information verbatim).

2.3 It is the aim of Dudley CCG to create an environment where people feel able to voluntarily disclose relationships through its declaration process, including those which may be of a sensitive nature such as romantic or sexual relationships. Therefore, staff are encouraged to

disclose relationships at the earliest opportunity, when a close personal relationship develops (either within the CCG or external organisations/agencies who have involvement with Dudley CCG) and where a conflict of interest could arise. To this end, the CCG has implemented a Declaration of Relationships Policy, which should be read in conjunction with this Conflict of Interest Policy.

3.0 LEGISLATIVE FRAMEWORK

3.1 The starting point is section 14O of the Act. This sets out the minimum requirements in terms of what both NHS England and CCGs must do in terms of managing conflicts of interest. For all CCGs, this means that they must:

- Maintain appropriate registers of interests;
- Publish or make arrangements for the public to access those registers;
- Make arrangements requiring the prompt declaration of interests by the persons specified (members and employees) and ensure that these interests are entered into the relevant register;
- Make arrangements for managing conflicts and potential conflicts of interest (e.g. developing appropriate policies and procedures); and
- Have regard to guidance published by NHS England and Monitor in relation to conflicts of interest.

3.2 Section 14O is supplemented by the procurement specific requirements set out in the National Health Service (Procurement, Patient Choice and Competition) (No.2) Regulations 2013. In particular, regulation 6 requires the following:

- The CCG must not award a contract for the provision of NHS health care services where conflicts, or potential conflicts, between the interests involved in commissioning such services and the interests involved in providing them affect, or appear to affect, the integrity of the award of that contract; and
- The CCG must keep a record of how it managed any such conflict in relation to NHS commissioning contracts it enters into. (As set out below, details of this should also be published by the CCG.)

3.3 An interest is defined for the purposes of regulation 6 as including an interest of the following:

- a member of the CCG;
- a member of the CCG's Board;
- a member of its committees or sub-committees;
- an employee or
- a contractor of services (sub-contractor)

3.4 As with section 14O, regulation 6 sets out the basic framework within which the CCG must operate. The detailed requirements are set out in the guidance issued by Monitor (*Substantive guidance on the Procurement, Patient Choice and Competition Regulations*) and, in particular, section 7 of that statutory guidance.

3.5 Monitor's view is that care must be taken to ensure that conflicts do not affect, or appear to affect, the integrity of the award of commissioning contracts. It is important to ensure that the management of conflicts of interest includes the management of perceived conflicts and that there is an appropriate record of how such issues are managed, particularly in the context of specific procurement decisions. Please see below for further guidance on how such information should be recorded and published. Clear and robust decision making processes must be put in place to deliver co-commissioning and give the public and providers' confidence in the integrity of

the decisions made.

3.6 This Policy is also designed to ensure that the CCG meets its requirements in relation to the NHS England publication “Managing Conflicts of Interest: Revised Statutory Guidance for CCGs (28 June 2016)” and "Managing Conflicts of Interest in the NHS - Guidance for staff and organisations (February 2017)"

4.0 PRINCIPLES AND GENERAL SAFEGUARDS

4.1 The general safeguards that will be needed to manage conflicts of interest will vary to some extent, depending on at what stage in the commissioning cycle decisions are being made. The following principles will be integral to the CCG’s commissioning of all services, including decisions on whether to continue to commission a service, such as by contact extension.

4.2 Conflicts of interest can be managed by:

- **Doing business appropriately**. If commissioners get their needs assessments, consultation mechanisms, commissioning strategies and procurement procedures right from the outset, then conflicts of interest become much easier to identify, avoid and/or manage, because the rationale for all decision-making will be clear and transparent and should withstand scrutiny;

- **Being proactive, not reactive.** Commissioners should seek to identify and minimise the risk of conflicts of interest at the earliest possible opportunity, for instance by:

    - considering potential conflicts of interest when electing or selecting individuals to join the governing body or other decision-making bodies;
    - ensuring individuals receive proper induction and training so that they understand their obligations to declare conflicts of interest.

  They should establish and maintain registers of interests, and agree in advance how a range of possible situations and scenarios will be handled, rather than waiting until they arise.

- **Assuming that individuals will seek to act ethically and professionally, but may not always be sensitive to all conflicts of interest.** Rules should assume people will volunteer information about conflicts and, where necessary, exclude themselves from decision- making, but there should also be prompts and checks to reinforce this;

- **Being balanced and proportionate.** Rules should be clear and robust but not overly prescriptive or restrictive. They should ensure that decision- making is transparent and fair, but not constrain people by making it overly complex or cumbersome;

- **Openness.** Ensuring early engagement with patients, the public, clinicians and other stakeholders, including local Healthwatch and Health and Wellbeing Board, in relation to proposed commissioning plans;

- **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;

- **Transparency.** Documenting clearly the approach taken at every stage in the commissioning cycle so that a clear audit trail is evident;

- **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;

- **Engaging with providers.** Early engagement with both incumbent and potential new providers over potential changes to the services commissioned for a local population;
- **Creating clear and transparent commissioning specifications** that reflect the depth of engagement and set out the basis on which any contract will be awarded;
- **Following proper procurement processes and legal arrangements,** including even-handed approaches to providers;
- **Ensuring sound record-keeping, including up to date registers of interests and procurement decisions;** and
- **A clear, recognised and easily enacted system for dispute resolution.**

4.3 These general processes and safeguards should apply at all stages of the commissioning process, but will be particularly important at key decision points, e.g., whether and how to go out to procurement of new or additional services.

5.0 DECLARATION OF INTERESTS

Statutory requirements
The CCG must make arrangements to ensure individuals declare any conflict or potential conflict in relation to a decision to be made by the group as soon as they become aware of it, and in any event within 28 days. CCGs must record the interest in the registers as soon as they become aware of it.

5.1 All persons referred to in paragraph 6.1 (Register of Interests) must declare any interests. Declarations of interest should be made as soon as reasonably practicable and by law within 28 days after the interest arises.

5.2 The CCG will ensure that, as a matter of course, declarations of interest are made and regularly confirmed or updated. This includes the following circumstances:

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

At meetings:
All attendees are required to declare any interest they have in any agenda item before it is discussed or as soon as it becomes apparent. Even if an interest is declared in the register of interests, it should still be declared in meetings where matters relating to that interest are discussed. Declarations of interest will be recorded in minutes of meetings.

Quarterly:
The CCG has a system in place to satisfy themselves on a quarterly basis that their register of interests is accurate and up to date.

On changing role or responsibility:
Where an individual changes role or responsibility within the CCG or its governing body, any change to the individual's interests should be declared.

On any other change of circumstances:
Wherever 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.

5.4 In keeping with the regulations, individuals who have a conflict should declare this as soon as they become aware of it, and in any event not later than 28 days after becoming aware.

5.5 Whenever interests are declared, they should be reported to the Governance Support Manager, who will then update the register accordingly.

Note: Monitoring compliance with this policy will be considered as part of any legal or professional body investigation. Failure to declare an interest where this policy deems it to be appropriate may result in the board member being removed from office in line with the CCG's Constitution. Failure to comply with this policy will be addressed under the disciplinary processes of the CCG, or otherwise as set out in the CCG's Standing Orders for Members of the Governing Body.

See Annex 1 for Declaration of Interest Template.

6.0 REGISTERING INTERESTS

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

6.1 The CCG will maintain registers of interest (in the form shown at Annex 2) for:

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

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

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

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

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

6.2 All interests declared must be promptly transferred to the relevant CCG register. An interest will remain on the public register for a minimum of 6 months after the interest has expired. In addition, the CCG must retain a private record of historic interests for a minimum of 6 years after the date on which it expired. The CCG's published register of interests will state that historic interests are retained by the CCG for 6 years and this information can be requested from the Governance Support Manager

6.3 The CCG will also maintain a register of procurement decisions taken (in the form provided at Annex 4), including:

- the details of the decision;
    - who was involved in making the decision (i.e. governing body or committee members and others with decision-making responsibility); and
    - a summary of any conflicts of interest in relation to the decision and how this was managed by the CCG.

6.4 The register will be updated whenever a procurement decision is taken.

6.5 In the interests of transparency, the register of interests and the register of decisions will be publicly available and easily accessible to patients and the public including by ensuring that both registers are available in a prominent place on the CCG's website; and making both registers available upon request for inspection at the CCG headquarters. Individuals without internet access will be invited to view the register(s) at the CCG's headquarters.

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

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

6.8 The registers must be published as part of the CCG's annual report and annual governance statement. This will be done using a web link to the registers

7.0 PROCUREMENT ISSUES

7.1 The NHS Act, the Health and Social Care Act ("the HSCA") and associated regulations set out

the statutory rules with which commissioners are required to comply when procuring and contracting for the provision of clinical services. They need to be considered alongside the Public Contract Regulations[2] and, where appropriate, EU procurement rules. Monitor's *Substantive guidance on the Procurement, Patient Choice and Competition Regulations* advises that the requirements within these create a framework for decision making that will assist commissioners to comply with a range of other relevant legislative requirements.

7.2 The Procurement, Patient Choice and Competition Regulations place requirements on commissioners to ensure that they adhere to good practice in relation to procurement, do not engage in anti-competitive behaviour that is against the interest of patients, and protect the right of patients to make choices about their healthcare.

7.3 The regulations set out that commissioners must:

- manage conflicts and potential conflicts of interests when awarding a contract by prohibiting the award of a contract where the integrity of the award has been, or appears to have been, affected by a conflict; and
- keep appropriate records of how they have managed any conflicts in individual cases.

7.4 Commissioning support services (CSSs) can play an important role in helping the CCG to decide the most appropriate procurement route, undertake procurements and manage contracts in ways that manage conflicts of interest and preserve integrity of decision-making. The CCG receives appropriate assurance that a CSS' business processes are robust and enable the CCG to meet its duties in relation to procurement (including those relating to the management of conflicts of interest).

7.5 Where a CCG is undertaking procurement, one way to demonstrate that the CCG is acting fairly and transparently is for the CSSs to prepare and present information on bids, including an assessment of whether providers meet prequalifying criteria and an assessment of which provider provides best value for money.

7.6 A CCG cannot, however, lawfully delegate commissioning decisions to an external provider of commissioning support. Although CSSs are likely to play a key role in helping to develop specifications, preparing tender documentation, inviting expressions of interest and inviting tenders, the CCG itself:

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

8.0 GENERAL CONSIDERATIONS AND USE OF THE PROCUREMENT TEMPLATE

8.1 The most obvious area in which conflicts could arise is where a CCG commissions (or continues to commission by contract extension) healthcare services, including GP services, in which a member of the CCG has a financial or other interest. This may most often arise in the context of co- commissioning of primary care, particularly with regard to delegated or joint arrangements, but may also arise in respect of any commissioning issue where GPs are current or possible providers. The CCG will use the procurement template at **Annex 3** when drawing up commissioning plans for services where this potentially is the case.

8.2 The CCG will make evidence of its deliberations on conflicts publicly available. The template evidences this and supports CCGs in fulfilling their duty in relation to public involvement. It provides appropriate assurance:

- that the CCG is seeking and encouraging scrutiny of its decision-making process;
- to Health and Wellbeing Board, local Healthwatch and to local communities that the proposed service meets local needs and priorities; it will enable them to raise questions if they have concerns about the approach being taken;
- to the Audit & Governance Committee and, where necessary, external auditors, that a robust process has been followed in deciding to commission the service, in selecting the appropriate procurement route, and in addressing potential conflicts; and
- to NHS England in their role as assurers of the co-commissioning arrangements.

9.0 DESIGNING SERVICE REQUIREMENTS

9.1 It is good practice to engage relevant providers, especially clinicians, in confirming that the design of service specifications will meet patient need. Such engagement, done transparently and fairly, is entirely legal. However, conflicts of interest can occur 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.

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

9.3 Such engagement should follow the three main principles of procurement law, namely equal treatment, non-discrimination and transparency. This includes ensuring that the same information is given to all.

9.4 Other steps include:

- advertise the fact that a service design/re-design exercise is taking place widely and invite comments from any potential providers and other interested parties (ensuring a record is kept of all interactions);
- as the service design develops, engage with a wide range of providers on an ongoing basis to seek comments on the proposed design, e.g. via the commissioner's website or via workshops with interested parties;
- use engagement to help shape the requirement to meet patient need but take care not to gear the requirement in favour of any particular provider(s);
- if appropriate, engage the advice of an independent clinical adviser on the design of the service;
- be transparent about procedures;
- ensure at all stages that potential providers are aware of how the service will be commissioned;
- maintain commercial confidentiality of information received from providers.

9.5 When engaging providers on service design, the CCG has ultimate responsibility for service design and for selecting the provider of services. Monitor has issued guidance on the use of provider boards in service design.

9.6 The CCG will also ensure that it has systems in place for managing conflicts of interest on an ongoing basis, by monitoring a contract that has been awarded to a provider in which an individual commissioner has a vested interest.

10.0 APPOINTMENTS AND ROLES AND RESPONSIBILITIES IN THE CCG IN RELATION TO MANAGING CONFLICTS OF INTEREST

10.1 The CCG has arrangements for managing conflicts of interest, and potential conflicts of interest,

in such a way as to ensure that they do not, and do not appear to, affect the integrity of its decision-making.

10.1 The CCG has reviewed its governance structures for managing conflicts of interest to ensure that they reflect current guidance and are appropriate, particularly in relation to co-commissioning. This has entailed consideration of the following:

- the make-up of its governing body and committee structures (including, where relevant, the approach set out below for decision-making in delegated commissioning of primary care);

- whether there are sufficient management and internal controls to detect breaches of the CCG's conflicts of interest policy, including appropriate external oversight and adequate provision for whistleblowing;

- how non-compliance with policies and procedures relating to conflicts of interest will be managed (including how this will be addressed when it relates to contracts already entered into). As well as actions to address non-compliance, the CCG has procedures in place to review any lessons to be learned from such cases, by the CCG's Audit Committee conducting an incident review;

- reviewing and revising approaches to the CCG's registers of interest, together with the introduction of a record of decisions, as set out above;

- Whether any training or other programmes are required to assist with compliance, including participation in training offered by NHS England.

SECONDARY EMPLOYMENT

10.3 The CCG will take all reasonable steps to ensure that employees, committee members, contractors and others engaged under contract with them are aware of the requirement to inform the CCG if they are employed or engaged in, or wish to be employed or engage in, any employment or consultancy work in addition to their work with the CCG. The purpose of this is to ensure that the CCG is aware of any potential conflict of interest. Examples of work which might conflict with the business of the CCG, including part-time, temporary and fixed term contract work, include:

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

10.4 **The CCG requires that individuals obtain prior permission to engage in secondary employment, and reserve the right to refuse permission where it believes a conflict will arise which cannot be effectively managed.** In particular, it is unacceptable for pharmacy advisers or other advisers, employees or consultants to the CCG on matters of procurement to themselves be in receipt of payments from the pharmaceutical or devices sector.

APPOINTING GOVERNING BODY OR COMMITTEE MEMBERS AND SENIOR MANAGERS

10.5 The CCG considers on a case by case basis whether conflicts of interest should exclude individuals from being appointed to the governing body or to a committee or sub-committee of the CCG or governing body, as set out in the CCG's Constitution.

10.6 This includes an assessment of the materiality of the interest, in particular whether the individual (or a family member or business partner) could benefit from any decision the governing body might make. This will be particularly relevant for any profit sharing member of any organisation but will also be considered for all employees and especially those operating at senior or governing body level.

10.7 The extent of the interest also forms part of this consideration process. If it is related to an area of business significant enough that the individual would be unable to make a full and proper contribution to the governing body, that individual cannot become a member of the governing body.

10.8 Any individual who has a material interest in an organisation which provides, or is likely to provide, substantial services to the CCG (either as a provider of healthcare or commissioning support services) cannot be a member of the governing body if the nature of their interest is such that they are likely to need to exclude themselves from decision-making on so regular a basis that it significantly limits their ability to effectively operate as a governing body member. Specific considerations in relation to delegated commissioning of primary care are set out below in section 12.

ROLE OF THE CCG CONFLICTS OF INTEREST GUARDIAN

10.9 The CCG is required to appoint the Chair of the Audit Committee as its Conflict of Interest Guardian. This person will, in collaboration with the CCG Governance Support Manager:

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

ROLE OF THE PRIMARY CARE COMMISSIONING CHAIR

10.10 The Chair of the Primary Care Commissioning Committee has a significant role in ensuring the potential and actual conflicts of interest are appropriately managed within meetings, and any business conducted by its sub-committees and/or sub-groups. This is reflected in section 12 of this policy in relation to the way this committee must conduct its business to safeguard against any interests.

11.0 DECISION-MAKING WHEN A CONFLICT OF INTEREST RISES: GENERAL APPROACHES

11.1 Where certain members of a decision-making body (be it the governing body, its committees or sub-committees, or a committee or sub-committee of the CCG) have a material interest, they should either be excluded from relevant parts of meetings, or join in the discussion but not participate in the decision making itself (i.e., not have a vote).

11.2 The chair of the meeting has responsibility for deciding whether there is a conflict of interest and the appropriate course of corresponding action. In making such decisions, the chair will consult the member of the governing body who has responsibility for issues relating to conflicts of interest. All decisions, and details of how any conflict of interest issue has been managed, should be recorded in the minutes of the meeting and published in the registers.

11.3 The CCG will to decide in advance who will take the chair's role for discussions and decision-making in the event that the chair of a meeting is conflicted, or how that will be decided at a meeting where that situation arises.

11.4 Depending on the nature of the conflict, GPs or other practice representatives could be permitted to join in discussions by the governing body, or such other decision-making body as the CCG has created, about the proposed decision, but should not take part in any vote on the decision.

11.5 In many cases, e.g., where a limited number of GPs have an interest, it is straightforward for relevant individuals to be excluded from decision making. In the context of delegated commissioning, the committee structure set out below in relation to decision making for primary medical care has been designed to ensure that lay member and executive involvement ensures that robust decisions can be taken even where there are actual or potential conflicts of interest identified.

11.6 In some cases, all of the GPs or other practice representatives on a decision making body could have a material interest in a decision, e.g., where the CCG is proposing to commission services on a direct award basis from all GP practices in the area, or where it is likely that all or most practices would wish to be qualified providers for a service under AQP. Where such a situation relates to primary medical services, the arrangements set out below provide a mechanism for decision-making.

11.7 For decision making where such a conflict arises and which are not covered by the primary medical care arrangements, the CCG adopts the following approach:

- where the initial responsibility for the decision does not rest with the governing body, refer the decision to the governing body and exclude all GPs or other practice representatives with an interest from the decision making process, i.e., so that the decision is made only by the non-GP members of the governing body including the lay and executive members and the registered nurse and secondary care doctor;

- where the decision rests with the governing body, consider

    a) requiring another of the Group's committees or sub-committees, which can be quorate to progress the item of business, or if this is not possible,

    b) Inviting on a temporary basis one or more of the following to make up the quorum (where these are permitted members of the Governing Body or committee/sub-committee in question) so that the Group can progress the item of business:

        i) A member of the Group who is an individual
        ii) An individual appointed by a member to act on its behalf in the dealings between it and the Group:
        iii) A member of a relevant Health and Wellbeing Board
        iv) A member of a Governing Body of another clinical commissioning group.

- ensure that rules on quoracy enable decisions to be made. These arrangements must be recorded in the minutes.

11.8 Specific issues and potential approaches in relation to delegated or joint commissioning of primary care are set out below.

12.0 DECISION-MAKING WHEN A CONFLICT OF INTEREST ARISES: PRIMARY MEDICAL CARE

12.1 Procurement decisions relating to the commissioning of primary medical services will be made by a committee of the CCG's governing body.

12.2 The membership of the committee has been constituted so as to ensure that the majority is held by lay and executive members, including non-GP clinical representatives (ie the CCG's secondary care specialist and Governing Body Nurse Lead).

12.3 Any conflicts of interest issues will be considered on an individual basis. The specific composition is included in the terms of reference, and these ensure that the chair and vice-chair must always be lay members of the committee.

12.4 A standing invitation will be made to the CCG's local Healthwatch and Health and Wellbeing Board to appoint representatives to attend commissioning committee meetings, including, where appropriate, for items where the public is excluded from a particular item or meeting for reasons of confidentiality. These representatives do not form part of the membership of the committee.

12.5 As a general rule, meetings of these committees, including the decision making and the deliberations leading up to the decision, will be held in public (unless the CCG has concluded it is appropriate to exclude the public).

12.6 The arrangements for primary medical care decision making do not preclude GP participation in strategic discussions on primary care issues, subject to appropriate management of conflicts of interest. They apply to decision making on procurement issues and the deliberations leading up to the decision.

12.7 The CCG is committed to ensuring that potential and/or actual conflicts of interest are properly managed as it considers new models of care. As such, the CCG will adopt the principles described within Annex K of NHS England's revised statutory guidance for managing conflicts of interest as published in June 2017, and reproduced as Annex 6 of this Policy.

13.0 MANAGEMENT OF INTERESTS – COMMON SITUATIONS

13.1 This section sets out the principles and rules to be adopted by staff in common situations, and what information should be declared.

13.2 **Gifts**

- Staff should not accept gifts that may affect, or be seen to affect, their professional judgement.

Gifts from suppliers or contractors:

- Gifts from suppliers or contractors doing business (or likely to do business) with the CCG should be declined, whatever their value.
- Low cost branded promotional aids such as pens or post-it notes may, however, be accepted where they are under the value of £6[1] in total, and need not be declared.

Gifts from other sources (e.g. patients, families, service users):

[1] The £6 value has been selected with reference to existing industry guidance issued by the ABPI: http://www.pmcpa.org.uk/thecode/Pages/default.aspx

- Gifts of cash and vouchers to individuals should always be declined.
- Staff should not ask for any gifts.
- Gifts valued at over £50 should be treated with caution and where possible declined. In exceptional circumstances these can only be accepted on behalf of Dudley CCG not in a personal capacity. These should be declared by staff.
- Modest gifts accepted under a value of £50 do not need to be declared.
- A common sense approach should be applied to the valuing of gifts (using an actual amount, if known, or an estimate that a reasonable person would make as to its value).
- Multiple gifts from the same source over a 12 month period should be treated in the same way as single gifts over £50 where the cumulative value exceeds £50.

What should be declared

- Staff name and their role with the CCG.
- A description of the nature and value of the gift, including its source.
- Date of receipt.
- Any other relevant information (e.g. circumstances surrounding the gift, action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).
- Gifts that are offered but declined and the reason for declining

13.3 Hospitality

- Staff should not ask for or accept hospitality that may affect, or be seen to affect, their professional judgement.
- Hospitality must only be accepted when there is a legitimate business reason and it is proportionate to the nature and purpose of the event.
- Particular caution should be exercised when hospitality is offered by actual or potential suppliers or contractors. This can be accepted, and must be declared, if modest and reasonable. Senior approval must be obtained.

Meals and refreshments:

- Under a value of £25 - may be accepted and need not be declared.
- Of a value between £25 and £75[2] - may be accepted and must be declared.
- Over a value of £75 - should be refused unless (in exceptional circumstances) senior approval is given. A clear reason should be recorded on the CCG's register(s) of interest as to why it was permissible to accept.
- A common sense approach should be applied to the valuing of meals and refreshments (using an actual amount, if known, or a reasonable estimate).

Travel and accommodation:

- Modest offers to pay some or all of the travel and accommodation costs related to attendance at events may be accepted and must be declared.
- Offers which go beyond modest, or are of a type that the CCG itself might not usually offer, need approval by senior staff, should only be accepted in exceptional circumstances, and must be declared. A clear reason should be recorded on the CCG's register(s) of interest as to why it was permissible to accept travel and accommodation of this type. A non-exhaustive list of examples includes:
- offers of business class or first class travel and accommodation (including domestic travel)
- offers of foreign travel and accommodation.

What should be declared

- Staff name and their role with the CCG.
- The nature and value of the hospitality including the circumstances.

[2] The £75 value has been selected with reference to existing industry guidance issued by the ABPI http://www.pmcpa.org.uk/thecode/Pages/default.aspx

- Date of receipt.
- Any other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).
- Hospitality that is offered but declined and the reason for declining

A gifts and hospitality register will be maintained in the format shown in Annex 5.

13.4 Outside Employment

- Staff should declare any existing outside employment on appointment and any new outside employment when it arises.
- Where a risk of conflict of interest arises, the general management actions outlined in this policy should be considered and applied to mitigate risks.
- Where contracts of employment or terms and conditions of engagement permit, staff may be required to seek prior approval from the organisation to engage in outside employment.

What should be declared

- Staff name and their role with the CCG.
- The nature of the outside employment (e.g. who it is with, a description of duties, time commitment).
- Relevant dates.
- Other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

13.5 Shareholdings and other ownership issues

- Staff should declare, as a minimum, any shareholdings and other ownership interests in any publicly listed, private or not-for-profit company, business, partnership or consultancy which is doing, or might be reasonably expected to do, business with the CCG.
- Where shareholdings or other ownership interests are declared and give rise to risk of conflicts of interest then the general management actions outlined in this policy should be considered and applied to mitigate risks.
- There is no need to declare shares or securities held in collective investment or pension funds or units of authorised unit trusts.

What should be declared

- Staff name and their role with the CCG.
- Nature of the shareholdings/other ownership interest.
- Relevant dates.
- Other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

13.6 Patents

- Staff should declare patents and other intellectual property rights they hold (either individually, or by virtue of their association with a commercial or other organisation), including where applications to protect have started or are ongoing, which are, or might be reasonably expected to be, related to items to be procured or used by the CCG.
- Staff should seek prior permission from the CCG before entering into any agreement with bodies regarding product development, research, work on pathways etc, where this impacts on the organisation's own time, or uses its equipment, resources or intellectual property.
- Where holding of patents and other intellectual property rights give rise to a conflict of interest then the general management actions outlined in this policy should be considered and applied to mitigate risks.

What should be declared

- Staff name and their role with the CCG.
- A description of the patent.
- Relevant dates.

- Other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy)

13.7 Loyalty interests

- Loyalty interests should be declared by staff involved in decision making where they:
- Hold a position of authority in another NHS organisation or commercial, charity, voluntary, professional, statutory or other body which could be seen to influence decisions they take in their NHS role.
- Sit on advisory groups or other paid or unpaid decision making forums that can influence how the CCG spends taxpayers' money.
- Are, or could be, involved in the recruitment or management of close family members and relatives, close friends and associates, and business partners.
- Are aware that the CCG does business with an organisation in which close family members and relatives, close friends and associates, and business partners have decision making responsibilities.

What should be declared

- Staff name and their role with the CCG.
- Nature of the loyalty interest.
- Relevant dates.
- Other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

13.8 Sponsored events

- Sponsorship of events by appropriate external bodies will only be approved if a reasonable person would conclude that the event will result in clear benefit the CCG and the NHS.
- During dealings with sponsors there must be no breach of patient or individual confidentiality or data protection rules and legislation.
- No information should be supplied to the sponsor from whom they could gain a commercial advantage, and information which is not in the public domain should not normally be supplied.
- At the CCG's discretion, sponsors or their representatives may attend or take part in the event but they should not have a dominant influence over the content or the main purpose of the event.
- The involvement of a sponsor in an event should always be clearly identified.
- Staff within the CCG involved in securing sponsorship of events should make it clear that sponsorship does not equate to endorsement of a company or its products and this should be made visibly clear on any promotional or other materials relating to the event.
- Staff arranging sponsored events must declare this to the CCG.

What should be declared

- The CCG will maintain records regarding sponsored events in line with the above principles and rules.

- **13.9 Sponsored research**
- Funding sources for research purposes must be transparent.
- Any proposed research must go through the relevant health research authority or other approvals process.
- There must be a written protocol and written contract between staff, the CCG, and/or institutes at which the study will take place and the sponsoring organisation, which specifies the nature of the services to be provided and the payment for those services.
- The study must not constitute an inducement to prescribe, supply, administer, recommend, buy or sell any medicine, medical device, equipment or service.
- Staff should declare involvement with sponsored research to the CCG.

What should be declared

- The CCG will retain written records of sponsorship of research, in line with the above principles and rules.
- Staff should declare:
    - their name and their role with the CCG.
    - Nature of their involvement in the sponsored research.
    - relevant dates.
    - Other relevant information (e.g. what, if any, benefit the sponsor derives from the sponsorship, action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

13.10 Sponsored posts

- External sponsorship of a post requires prior approval from the CCG.
- Rolling sponsorship of posts should be avoided unless appropriate checkpoints are put in place to review and withdraw if appropriate.
- Sponsorship of a post should only happen where there is written confirmation that the arrangements will have no effect on purchasing decisions or prescribing and dispensing habits. This should be audited for the duration of the sponsorship. A written agreement will be put in place that details the circumstances under which the CCG will have the ability to exit sponsorship arrangements if conflicts of interest which cannot be managed arise.
- Sponsored post holders must not promote or favour the sponsor's products, and information about alternative products and suppliers should be provided.
- Sponsors should not have any undue influence over the duties of the post or have any preferential access to services, materials or intellectual property relating to or developed in connection with the sponsored posts.

What should be declared

- The CCG will retain written records of sponsorship of posts, in line with the above principles and rules.
- Staff should declare any other interests arising as a result of their association with the sponsor, in line with the content in the rest of this policy.

14.0 RECORD KEEPING AND MINUTE TAKING

14.1 As set out above a clear record of any conflicts of interest is kept by the CCG in its register of interests. It also records procurement decisions made, and details of how any conflicts that arose in the context of the decision have been managed. These registers are available for public inspection as detailed above.

14.2 The CCG ensures that details of all contracts, including the contract value, are published on its website as soon as contracts are agreed. Where the CCG decides to commission services through Any Qualified Provider (AQP), the information published on its website includes the type of services being commissioned and the agreed price for each service. Further, the CCG incorporates all such details in its annual report. Where services are commissioned through an AQP approach information is publicly available about those providers who qualify to provide the service.

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

- who has the interest;
- the nature of the interest and why it gives rise to a conflict, including the magnitude of any interest;
- the items on the agenda to which the interest relates;
- how the conflict was agreed to be managed; and

- evidence that the conflict was managed as intended (for example recording the points during the meeting when particular individuals left or returned to the meeting).

15.0 IDENTIFYING AND REPORTING BREACHES

15.1 There will be situations when interests will not be identified, declared or managed appropriately and effectively. This may happen innocently, accidentally, or because of the deliberate actions of staff or other organisations. For the purposes of this policy these situations are referred to as 'breaches'.

15.2 It is the duty of every CCG employee, governing body member, committee or sub-committee member and GP practice member to speak up about genuine concerns in relation to the administration of the CCG's policy on conflicts of interest management, and to report these concerns. These individuals should not ignore their suspicions or investigate themselves, but rather speak to the CCG Conflict of Interest Guardian or Governance Support Manager.

15.3 Any non-compliance with this conflicts of interest policy must be reported in accordance with the terms of this policy, and the CCG's whistle blowing policy (where the breach is being reported by an employee or worker of the CCG) or with the whistle blowing policy of the relevant employer organisation (where the breach is being reported by an employee or worker of another organisation).

15.4 Failure to comply with the CCG's policies on conflicts of interest management, pursuant to statutory guidance, can have serious implications for the CCG and any individuals concerned, which could result in cival, criminal, disciplinary or professional regulatory action.

15.5 The CCG will investigate each reported breach according to its own specific facts and merits, and give relevant parties the opportunity to explain and clarify any relevant circumstances. Following investigation the organisation will:

- Decide if there has been or is potential for a breach and if so the what severity of the breach is.
- Assess whether further action is required in response – this is likely to involve any staff member involved and their line manager, as a minimum.
- Consider who else inside and outside the organisation should be made aware
- The outcome of the investigation will be reported to the Audit & Governance Committee for their consideration and to agree recommended actions.

15.6 Action taken in response to breaches of this policy will be in accordance with the disciplinary procedures of the CCG and could involve organisational leads for staff support (e.g. Human Resources), fraud (e.g. Local Counter Fraud Specialists), members of the management or executive teams and organisational auditors. Breaches could require action in one or more of the following ways:

- Clarification or strengthening of existing policy, process and procedures.
- Consideration as to whether HR/employment law/contractual action should be taken against staff or others.
- Consideration being given to escalation to external parties. This might include referral of matters to external auditors, NHS Protect, the Police, statutory health bodies (such as NHS England, NHS Improvement or the CQC), and/or health professional regulatory bodies.

15.7 Inappropriate or ineffective management of interests can have serious implications for the organisation and staff. There will be occasions where it is necessary to consider the imposition of sanctions for breaches. Sanctions should not be considered until the circumstances surrounding breaches have been properly investigated. However, if such investigations

establish wrong-doing or fault then the CCG can and will consider the range of possible sanctions that are available, in a manner which is proportionate to the breach. This includes:

- Employment law action against staff, which might include
    - Informal action (such as reprimand, or signposting to training and/or guidance).
    - Formal disciplinary action (such as formal warning, the requirement for additional training, re-arrangement of duties, re-deployment, demotion, or dismissal).
- Reporting incidents to the external parties described above for them to consider what further investigations or sanctions might be.
- Contractual action, such as exercise of remedies or sanctions against the body or staff which caused the breach.
- Legal action, such as investigation and prosecution under fraud, bribery and corruption legislation.

15.8 The CCG will report identified breaches to NHS England in accordance with the stipulated CCG Improvement & Assessment Framework requirements for reporting upon conflicts of interest and breaches.

15.9 Anonymised details of breaches to this policy will be published on the CCG's website for the purpose of learning and development.

16.0 REVIEW

16.1 This policy will be reviewed in three years' time unless an earlier review is required. This will be led by the Governance Support Manager

APPENDICES

Appendix 1: Declaration of Interests for Members & Employees

Appendix 2: CCG Register of Interests

Appendix 3: Declaration of Interest Checklist

Appendix 4: Procurement Template

Appendix 5: Register of procurement decisions and contracts awarded

Appendix 6: Register for the receipt of Gifts and provision and receipt of Hospitality

Appendix 7: Summary of key aspects of the guidance on managing conflicts of interest relating to commissioning of new care models

Thinking Differently

NHS Dudley Clinical Commissioning Group

Declaration of Interest Form

This form is required to be completed in accordance with the CCG's Constitution and section 14O of *The National Health Service Act 2006, the NHS (Procurement, Patient Choice and Competition) regulations 2013 and the Substantive guidance on the Procurement, Patient Choice and Competition Regulations.*

Notes:

- Each CCG must make arrangements to ensure that the persons mentioned above declare any interest which may lead to a conflict with the interests of the CCG and /or NHS England and the public for whom they commission services in relation to a decision to be made by the CCG and/or NHS England or which may affect or appear to affect the integrity of the award of any contract by the CCG and/or NHS England.
- Any individual – and in particular members and employees of the CCG and/or NHS England- must provide sufficient detail of the interest, and the potential for conflict with the interests of the CCG and/or NHS England 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.

As part of the CCGs Standards of Business Conduct, members are requires to declare their interest in accordance with the guidelines overleaf. Please detail a personal interest or that of a family member, close friend of other acquaintance.

Name:	Mr/Mrs/Miss/Dr/Other							
Job Title or Relationship with the CCG: ***(or NHS England in the event of joint committees):***						**Start Date** ***(if applicable)***		
Detail of interests held (complete all that are applicable):								
Description of Interest (including for indirect Interests, details of the relationship with the person who has the interest)	**Type of Interest - Please tick as appropriate**				**Date Interest relates to:**		**Actions to be taken to mitigate risk** (to be agreed with line manager or a senior CCG manager)	
	Financial Interest	**Non-Financial Professional Interest**	**Non-Financial Personal Interest**	**Indirect Interest**	**From**	**To**		

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

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

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

Signed:		**Date**:	
Position:			

(Member of staff)

Signed:		**Date:**	
Position:			

(Line Manager)

Please return to the Governance Support Manager or Business Support Manager. **(Version 5)**

Types of interest

Type of Interest	Description
Financial Interests	This is where an individual may get direct financial benefits from the consequences of a commissioning decision. This could, for example, include being: A director, including a non-executive director, or senior employee in a private company or public limited company or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations; 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. A management consultant for a provider; In secondary employment (see paragraph 56 to 57); In receipt of secondary income from a provider; In receipt of a grant from a provider; In receipt of any payments (for example honoraria, one off payments, day allowances or travel or subsistence) from a provider In receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role; and Having a pension that is funded by a provider (where the value of this might be affected by the success or failure of the provider).
Non-Financial Professional Interests	This is where an individual may obtain a non-financial professional benefit from the consequences of a commissioning decision, such as increasing their professional reputation or status or promoting their professional career. This may, for example, include situations where the individual is: An advocate for a particular group of patients; A GP with special interests e.g., in dermatology, acupuncture etc. A member of a particular specialist professional body (although routine GP membership of the RCGP, BMA or a medical defence organisation would not usually by itself amount to an interest which needed to be declared); An advisor for Care Quality Commission (CQC) or National Institute for Health and Care Excellence (NICE); A medical researcher.
Non-Financial Personal Interests	This is where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit. This could include, for example, where the individual is: A voluntary sector champion for a provider; A volunteer for a provider; A member of a voluntary sector board or has any other position of authority in or connection with a voluntary sector organisation; Suffering from a particular condition requiring individually funded treatment; A member of a lobby or pressure groups with an interest in health.
Indirect Interests	This is where an individual has a close association with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest in a commissioning decision (as those categories are described above). For example, this should include: Spouse / partner; Close relative e.g., parent, grandparent, child, grandchild or sibling; Close friend; Business partner.

In accordance with NHS England Conflicts of Interest - Statutory Guidance

Appendix 2: Declarations of Interest Register Template

					Type of Interest					Date of Interest		
Title	First Name	Surname	Job Title	Declared Interest- (Name of the organisation and nature of business)	Financial Interests	Non-Financial Professional Interests	Non-Financial Personal Interests	Is the interest direct or indirect?	Nature of Interest	From	To	Action taken to mitigate risk

Appendix 3: Template declarations of interest checklist

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

Timing	Checklist for Chairs	Responsibility
In advance of the meeting	**1.** **The agenda** to include a standing item on declaration of interests to enable individuals to raise any issues and/or make a declaration at the meeting.	Meeting Chair and secretariat
	2. A **definition of conflicts of interest** should also be accompanied with each agenda to provide clarity for all recipients.	Meeting Chair and secretariat
	3. **Agenda** to be circulated to enable attendees (including visitors) to identify any interests relating specifically to the agenda items being considered.	Meeting Chair and secretariat
	4. **Members should contact the Chair** as soon as an actual or potential conflict is identified.	Meeting members
	5. Chair to review a **summary report from preceding meetings** i.e., sub- committee, working group, etc., detailing any conflicts of interest declared and how this was managed.	Meeting Chair
	A template for a summary report to present discussions at preceding meetings is detailed below.	
	6. A **copy of the members' declared interests** is checked to establish any actual or potential conflicts of interest that may occur during the meeting.	Meeting Chair
During the meeting	**7.** **Check and declare the meeting is quorate** and ensure that this is noted in the minutes of the meeting.	Meeting Chair
	8. Chair requests **members to declare any interests in agenda items**- which have not already been declared, including the nature of the conflict.	Meeting Chair
	9. **Chair makes a decision** as to how to manage each interest which has been declared, including whether / to what extent the individual member should continue to participate in the meeting, on a case-by-case basis, and this decision is recorded.	Meeting Chair and secretariat

	10. **As minimum requirement**, the following should be **recorded in the minutes of the meeting**: • Individual declaring the interest; • At what point the interest was declared; • The nature of the interest; • The Chair's decision and resulting action taken; • The point during the meeting at which any individuals retired from and returned to the meeting - even if an interest has not been declared. • **Visitors in attendance** who participate in the meeting must also follow the meeting protocol and declare any interests in a timely manner. • **A template for recording any interests during meetings** is detailed below.	Secretariat
Following the meeting	**11.** All **new interests declared** at the meeting should be promptly updated onto the declaration of interest form;	Individual(s) declaring interest(s)
	12. All new completed declarations of interest should be **transferred onto the register of interests.**	Designated person responsible for registers of interest

Appendix 4: Procurement Template

To be used when commissioning services from GP practices, including provider consortia or organisations in which GPs have a financial interest.

NHS Dudley Clinical Commissioning Group

Service	
Questions	**Comments/Evidence**
Questions for all three procurement routes	
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? How does the proposal support the priorities in the relevant joint health and wellbeing strategy?	
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 which are publicly available? Have you recorded how you have managed any conflict or potential conflict?	
Why have you chosen this procurement route?	
What additional external involvement will there be in scrutinising the proposed decisions?	
How will the CCG make its final commissioning decision in ways that preserve the integrity of the decision-making process and award of any contract?	

Additional question when qualifying a provider on a list or framework or pre selection for tender (including but not limited to any qualified provider (AQP)) or direct award (for services where national tariffs do not apply)

How have you determined a fair price for the service?

Additional question when qualifying a provider on a list or framework or pre selection for tender (including but not limited to AQP) or direct award where GP practices are likely to be qualified providers

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

Additional questions for proposed direct awards to GP providers

Questions	**Comments/Evidence**
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?	

Appendix 5: Register of Procurement Decision Template

Dudley CCG - Register of Procurement Decisions 2016/2017

The CCG Procurement Register is a register of procurement decisions taken, who was involved in making the decision and a summary of any conflicts of interest in relation to the decision and how this was managed by the CCG.

This allows us to demonstrate that we are acting fairly and transparently and in the best interest of our patients and local population. All CCGs must maintain a register of procurement decisions taken. This is in line with the requirements of the document "Managing Conflicts of Interest: Statutory Guidance for CCGs" published in December 2014 by NHS England

Ref	Contract / Service Title	Procurement Description	Existing Contract or New procurement (if existing include details)	Procurement type - CCG Procurement Collaborative procurment with partners	CCG Clinical Lead (name)	CCG Contract manager (name)	Decision Making process and name of decision making committee	Summary of Conflicts of Interest and how these were managed	Contract Awarded (Supplier name & registered address)	Contract value (£) (Total)	Contract value (£) to CCG

Appendix 6: Register for the receipt of Gifts and provision and receipt of Hospitality

Register for the Receipt of Gifts and Provision & Receipt of Hospitality											
		Dudley CCG		Other body		Details			APPROVAL FOR HOSPITALITY GIVEN AND RECEIVED		
Reference	Date of offer	Offered To CCG (mark as A) By CCG (mark as B)	Name & Position	Name & Position and organisation	(A)ccepted or (D)eclined	Description of the gift or hospitality given / offered / received	Venue (where applicable)	Associated Value (£) Approx. if not known	Approved by	Reasons for offer, Acceptance or Decline	Date
1											
2											
3											
4											
5											
6											

Appendix 7: Summary of key aspects of the guidance on managing conflicts of interest relating to commissioning of new care models

Introduction

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.

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.

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

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.

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.

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

[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.

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.

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.

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).

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.

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

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.

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.

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.

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.

<u>Primary Care Commissioning Committee</u>

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).

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.

If the CCG does not have a Primary Care Commissioning Committee, the CCG might want to consider whether it would be appropriate/advantageous to establish either:

A **new care model commissioning committee** (with membership including relevant non-conflicted clinicians, and formal decision making powers similar to a Primary Care Commissioning Committee ("NCM Commissioning Committee"); or

A separate **clinical advisory committee**, to act as an advisory body to provide clinical input to the Governing Body in connection with a new care model project, with representation from all providers involved or potentially involved in the new care model but with formal decision making powers remaining reserved to the governing body ("NCM Clinical Advisory Committee").

NCM Commissioning Committee

The establishment of a NCM Commissioning Committee could help to provide an alternative forum for decisions where it is not possible/appropriate for decisions to be made by the Governing Body due to the existence of multiple conflicts of interest amongst members of the Governing Body. The NCM Commissioning Committee should be established as a sub-committee of the Governing Body.

The CCG could make the NCM Commissioning Committee responsible for oversight of the procurement process and provide assurance that appropriate governance is in place, managing conflicts of interest and making decisions in relation to new care models on behalf of the CCG. CCGs may need to amend
their constitution if it does not currently contain a power to set up such a committee either with formal delegated decision making powers or containing the proposed categories of individuals (see below).

The NCM Commissioning Committee should be chaired by a lay member and include non-conflicted GPs and CCG members, and relevant non-conflicted secondary care clinicians.

NCM Clinical Advisory Committee

This advisory committee would need to include appropriate clinical representation from all potential providers, but have no decision making powers. With conflicts of interest declared and managed appropriately, the NCM Clinical Advisory Committee could formally advise the CCG Governing Body on clinical matters relating to the new care model, in accordance with a scope and remit specified by the Governing Body.

This would provide assurance that there is appropriate clinical input into Governing Body decisions, whilst creating a clear distinction between the clinical/provider side input and the commissioner decision-making powers (retained by the Governing Body, with any conflicts on the Governing Body managed in accordance with this statutory guidance and constitution of the CCG).

From a procurement perspective the Public Contracts Regulations 2015 encourage early market engagement and input into procurement processes. However, this must be managed very carefully and done in an open, transparent and fair way. Advice should therefore be taken as to how best to constitute the NCM Clinical Advisory Committee to ensure all potential participants have the same opportunity. Furthermore it would also be important to ensure that the advice provided to the CCG by this committee is considered proportionately alongside all other relevant information. Ultimately it will be the responsibility of the CCG to run an award process in accordance with the relevant procurement rules and this should be a process which does not unfairly favour any one particular provider or group of providers.

When considering what approach to adopt (whether adopting an NCM Commissioning Committee, NCM Clinical Advisory committee or otherwise) each CCG will need to consider the best approach for their particular circumstances whilst ensuring robust governance arrangements are put in place. Depending on the circumstances, either of the approaches in paragraph 17 above may help to give the CCG assurance that there was appropriate clinical input into decisions, whilst supporting the management of conflicts. When considering its options the CCG will, in particular, need to bear in

mind any joint / delegated commissioning arrangements that it already has in place either with NHS England, other CCGs or local authorities and how those arrangements impact on its options.

Provider engagement

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 2015.

Further support

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