NHS
Bolton Clinical Commissioning Group

Managing Conflict of Interests Policy

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Target Audience	**CCG Governing Body Members CCG staff Members of Committees/Groups GP Membership**
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Cross Reference with: This policy should be read in conjunction with other relevant documents, guidance and policies	**Code of Conduct Policy, Standing Orders, Prime Financial Policies, Anti-Fraud, Bribery and Corruption Policy, Procurement Strategy, Disciplinary Policy.**

The CCG is committed to an environment that promotes equality, embraces diversity and respects human rights both within our workforce and in service delivery. This document should be implemented with due regard to this commitment.

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Approved documents are valid for use after their approval date and remain in force beyond any expiry of their review date until a new version is available.

Version Control Sheet

Version	Date	Reviewed By	Comment
Draft v0.1	Nov 13	Board	Board Development session 8/11/13
Draft v0.1	Nov 13	Executive	13/11/13 and approved.
Final v1.0	Nov 13		On CCG web.
Draft v0.2	Aug 16	CoI Committee/ Executive/ Board	Further to the publication of the revised statutory guidance, a review has been undertaken and changes made to update current policy.
Final v2.0	Nov 16	Board	Final approval.
Final v3.0	Sept 17	CoI Committee	Minor changes to add in new care models guidance following revised national guidance received.

Analysis of Effect completed:	By:	Date:

Contents

Appendices:

References and supporting documents:

- Managing Conflicts of Interest: Revised Statutory Guidance for CCGs June 2016.
- Managing Conflicts of Interest: Statutory Guidance for CCGs, December 2014.
- Code of Conduct: Managing Conflicts of Interest where GP practices are potential providers of CCG commissioned services, October 2012.
- Towards Establishment, Creating Responsive and Accountable Clinical Commissioning Groups (and technical Appendix 1): Code of Conduct, February 2012.
- Standards for Members of NHS Boards and Clinical Commissioning Group Governing Bodies in England, Professional Standards Authority, November 2012.

1. Introduction

This policy sets out how NHS Bolton Clinical Commissioning Group (CCG) will manage conflicts of interest arising from the operation of the CCG's business. It applies to:-

- Members of the Governing Body.
- All members of the CCG's committees, sub-committees, sub-groups (including co-opted members/appointed deputies and members of committees/groups from other organisations) and where the CCG is participating in a joint committee alongside other CCGs (recording interests for each participating CCG on individual registers).
- All members of the CCG (ie: each practice GP partner and any individual directly involved with the business or decision-making of the CCG).
- All CCG employees (full time/part time staff/sessional/short term contracts/students and trainees/agency staff and seconded staff/self employed consultants or other individuals working for the CCG under a contract for services).

To ensure there can be confidence in the probity of commissioning decisions and the integrity of those involved with the work of the CCG.

Healthcare professionals have always had to manage competing interests, and it is not possible to avoid conflicts of interest; they are inevitable in many aspects of public life. By recognising where and how they arise and dealing with them appropriately, commissioners will be able to ensure proper governance, robust decision making and appropriate decisions about the use of public money.

The Governing body of NHS Bolton CCG has ultimate responsibility for all actions carried out by staff and committees throughout the CCG's activities. This responsibility includes the stewardship of significant public resources and the commissioning of healthcare services to benefit the local community.

1.1 Statement of Intent

The CCG is determined to ensure the organisation inspires confidence and trust amongst its patients, staff, partners, funders, suppliers and the public by demonstrating integrity and avoiding any potential or real situations of undue bias or influence in the decision-making of the CCG.

The primary aims of the Conflicts of Interest Policy is to raise awareness and provide guidance to staff regarding the declaration process and timescales for doing so. The policy also aims to set out what the CCG expects of all staff working for it and is fully endorsed by the Executive as well as the Board.

2. Definition

A conflict of interest occurs where an individual's ability to exercise judgement or act in one role is or could be impaired or otherwise influenced by his or her involvement in another role or relationship. In some circumstances, it could be reasonably considered that a conflict exists even when there is no actual conflict. In these cases it is important to still manage these perceived conflicts in order to maintain public trust.

Conflicts of interest can arise in many situations, environments and forms of commissioning, with an increased risk in primary care commissioning, out of hours commissioning and involvement with integrated care organisations, as clinical commissioners may here find

themselves in a position of being at once commissioner and provider of services. Conflicts of interest can arise throughout the whole commissioning cycle from needs assessment, to procurement exercises, to contract monitoring.

Interests can be captured in four different categories:

Financial Interests:

This is where an individual may get direct financial benefits from the consequences of a commissioning decision. This could, 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 (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 may be in a position to supply goods/services to the CCG).
- In receipt of a 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 and 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 eg. in dermatology, acupuncture etc.
- A member of a particular specialist professional body (although routine GP membership of the RCGP, British Medical Association (BMA) or a medical defence organisation would not usually by itself amount to an interest which needed to be declared).
- An advisor for the Care Quality Commission (CQC) or the National Institute for Health and Care Excellence (NICE).
- A medical researcher.

GPs and practice managers 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.

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.

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 (in those categories previously described) for example:

- Spouse/partner.
- Close relative, eg: parent, grandparent, child, grandchild or sibling.
- Close friend.
- 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 interest of their fellow GP partners (which could be done by cross referring to the separate declarations made by those GP partners, rather than repeating the same information).

3. Principles

This section sets out a series of principles for those who are serving as members of the Governing Body, members of the CCG's committees/groups or take decisions where they are acting on behalf of the public or spending public money.

The principles of good governance will be observed at all times when carrying out CCG business and will include observing:

- The Nolan Principles.
- The Good Governance Standards for Public Services (2004), Office for Public Management (OPM) and Chartered Institute of Public Finance and Accountancy (CIPFA).
- The seven key principles of the NHS Constitution.
- The Equality Act 2010.
- The UK Corporate Governance Code.
- Standards for members of NHS boards and CCG governing bodies in England.

The underpinning principles for managing conflicts of interest within the CCG are to ensure that:

- The CCG is able to do business appropriately.
- Conflicts of interest are managed proactively not reactively.
- A balanced and proportionate approach is maintained.
- The CCG is transparent, documenting clearly the approach and decisions taken at every stage in the commissioning cycle.
- An environment and culture is created where individuals feel supported and confident in declaring relevant information and raising any concerns.

Further examples of conflicts of interests considered to be the most likely scenarios which the CCG will face, is provided in Appendix A. The list is indicative rather than definitive and in each case the example has been categorised as "significant" or "fundamental", based upon definitions as follows:

A **fundamental interest** would require the CCG member to withdraw from the meeting room completely, and take no part in the debate or the decision-making process.

A **significant interest** would allow the CCG member to remain in the meeting, and to participate in the discussion, but to abstain from taking part in the decision-making process.

4. Statutory Requirements

Section 14O of the National Health Service Act, 2006, inserted by the Health and Social Care Act 2012, sets out that each 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.
- Publish or make arrangements to ensure that members of the public have access to these registers on request.
- Make arrangements to ensure individuals declare any conflict or potential conflict in relation to a decision to be made by the group, and record them in registers as soon as they become aware of it, and within 28 days, and
- Make arrangements, set out in the CCG's Constitution, for managing conflicts of interest, and potential conflicts of interest in such a way as to ensure that they do not affect the integrity of the CCG's decision-making process.

The NHS (Procurement, Patient Choice and Competition) Regulations 2013 set out that commissioners:

- Must manage conflicts of interest 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.
- Must have appropriate records of how they have managed any conflicts in individual cases.

This is set out in the CCG's Constitution (Part 8, paragraph 8.6 Transparency in Procuring Services).

5. Scope of Policy

This policy applies to all Governing Body members, members of the CCG's committees and groups, all GP partners and any individuals directly involved in CCG business or decision making and employees (permanent, temporary, full and part time) of NHS Bolton CCG. It will be the subject of an annual review and if necessary amendments made as and when required. Members of the above groups will be supplied with a copy of this policy on appointment.

The Governing Body has a legal obligation to act in the best interest of NHS Bolton CCG, and in accordance with the CCG's Constitution and terms of establishment created by NHS England.

6. Appointments, roles and responsibilities in the CCG

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

Secondary employment

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.

The CCG will require 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. The CCG has clear and robust organisational policies in place to manage issues arising from secondary employment. In particular, it is unacceptable for pharmacy advisers or other advisers, employees or consultants to the CCG on matters of procurement to themselves be in receipt of payments from the pharmaceutical or devices sector.

Appointing governing body or committee members and senior employees

On appointing governing body, committee or sub-committee members and senior staff, the CCG will consider whether conflicts of interest should exclude individuals from being appointed to the relevant role. This will be considered on a case-by-case basis.

The CCG will assess the materiality of the interest, in particular whether the individual (or any person with whom they have a close association (as listed in the 4 different categories on pages 6 and 7 of the policy) could benefit (whether financially or otherwise) from any decision the CCG might make. This will be particularly relevant for governing body, committee and sub-committee appointments, but will also be considered for all employees and especially those operating at senior level.

The CCG will also determine the extent of the interest and the nature of the appointee's proposed role within the CCG. If the interest is related to an area of business significant enough that the individual would be unable to operate effectively and make a full and proper contribution in the proposed role, then that individual would not be appointed to the role.

Any individual who has a material interest in an organisation which provides, or is likely to provide, substantial services to a CCG (whether as a provider of healthcare or commissioning support services, or otherwise) should recognise the inherent conflict of interest risk that may arise and should not be a member of the governing body or of a committee or sub-committee of the CCG, in particular if the nature and extent of their interest and the nature of their proposed role is such that they are likely to need to exclude themselves from decision-making on so regular a basis that it significantly limits their ability

to effectively perform that role. Specific considerations in relation to delegated or joint commissioning of primary care are set out below.

CCG lay members

Lay members play a critical role in the CCG, providing scrutiny, challenge and an independent voice in support of robust and transparent decision-making and management of conflicts of interest. They chair a number of CCG committees, including the Audit Committee, Conflicts of Interest Committee and Primary Care Commissioning Committee.

Conflicts of Interest Committee

The Conflicts of Interest Committee is established in accordance with the CCG's governing body's constitution, standing orders and scheme of delegation.

The purpose of the Committee is to provide assurance to the Governing Body that robust arrangements are in place to manage conflicts of interest within the organisation and that the CCG maintains the highest standards of probity and transparency, as defined by Section 8 of NHS Bolton CCG's Constitution.

Conflicts of Interest Guardian

To further strengthen scrutiny and transparency of the CCGs' decision-making processes, the CGG has a Conflicts of Interest Guardian (akin to a Caldicott Guardian). This role is undertaken by the CCG audit chair, as audit chairs already have a key role in conflicts of interest management. The Conflicts of Interest Guardian is supported by the Board Secretary regarding the day to day management of conflicts of interest matters and queries.

The Conflicts of Interest Guardian, in collaboration with the CCG's Board Secretary will:

- 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.

Whilst the Conflicts of Interest Guardian has an important role within the management of conflicts of interest, executive members of the CCG's governing body have an on-going responsibility for ensuring the robust management of conflicts of interest, and all CCG employees, governing body and committee members and member practices will continue to have individual responsibility in playing their part on an ongoing and daily basis.

Primary Care Commissioning Committee Chair

The primary care commissioning committee has a lay chair and lay vice chair. To ensure appropriate oversight and assurance, and to ensure the CCG audit chair's position as Conflicts of Interest Guardian is not compromised, the audit chair will not hold the position of chair of the primary care commissioning committee. This is because CCG audit chair would conceivably be conflicted in this role due to the requirement that they attest annually to the NHS England Board that the CCG has had due regard to the

statutory guidance on managing conflicts of interest; and implemented and maintained sufficient safeguards for the commissioning of primary care.

7. Duties and Responsibilities

7.1 Maintenance of a Register

The Board Secretary, on behalf of the CCG Chair, will maintain a register of interests declared by the CCG Governing Body Members and employees, together with the date that the interest was declared. The register of interests will be refreshed every three months and an annual check will be carried out to ensure that the register is accurate and up to date. The Register of Interest should be maintained for:-

- All CCG employees including full/part time, sessional or short term contracts (including clinical leads), 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 including 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 a 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 of interest of each participating CCG.
- GP Membership which includes each provider of primary medical services which is a member of the CCG under Section 140(1) of the 2006 Act and includes GP partner (or where the practice is a company, each director) and any individual directly involved with the business or decision-making of the CCG.

7.2 Publication of Registers

The Register of Interests (including the Register of Gifts and Hospitality) will be published as part of the CCG's Annual Report and Annual Governance Statement. The register will be made available upon request either by post or email, and can also be accessed from the CCG's website. An interest will remain on the public register for a minimum of 6 months after the interest has expired. In addition, the CCG retains a private record of historic interests for a minimum of 6 years after the date on which it expired. The CCG's public register of interests states that historic interests are retained by the CCG for the specified timeframe.

The CCG will also publish on the website the Register of Gifts and Hospitality and the Register of Procurements.

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 information is not published. Such requests must be made in writing. Decisions not to publish information will be made by the CCG's Conflicts of Interest Guardian who may seek appropriate legal advice where required, and the CCG will retain a confidential un-redacted version of the register(s).

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 the publication. This is done through the quarterly update to all individuals.

8. Declaring Interest

8.1 On appointment

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

Where there is the potential for a conflict of interest with regard to an individual post, ie: the Board Nurse and Secondary Care Consultant posts, these are highlighted within the adverts for the posts and used as part of the shortlisting process. All posts will only be offered subject to a number of checks and on offer of a post, one of the forms the successful candidate will be required to complete is a declaration of interest.

8.2 Quarterly

The CCG has a system in place to satisfy themselves on a quarterly basis that the register of interests is accurate and up to date. Confirmation is obtained from all relevant individuals every quarter that their declarations of interest is accurate and up to date. Where there are no interests or changes to declare, a “nil return” is recorded.

8.3 Annually

All interests should be confirmed annually.

8.4 On Changing Role, Responsibility or circumstance

Whenever an individual’s role, responsibility or circumstances change in a way that affects the individual’s interests (eg. where an individual takes on a new role outside the CCG or enters into a new business or relationship), a further declaration should be made to reflect the change in circumstances as soon as possible, and in any event within 28 days. This could involve a conflict of interest ceasing to exist or a new one materialising. For all individuals who are required to make a declaration of interest, It is their responsibility to make a further declaration as soon as possible and in any event within 28 days rather than waiting to be asked if their circumstances have changed.

9. Managing conflicts of interest at meetings

9.1 Chairing arrangements and decision-making processes

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

In the event that the chair of a meeting has a conflict of interest, the vice chair is responsible for deciding the appropriate course of action in order to manage the conflict of interest. If the vice chair is also conflicted then the remaining non conflicted voting members of the meeting should agree between themselves how to manage the conflict(s).

In making such decisions, the chair (or vice chair or remaining non-conflicted members as above) may wish to consult with the Conflicts of Interest Guardian or another member of the governing body.

It is good practice for the chair, with support of the Board Secretary and, if required, the Conflicts of Interest Guardian, to proactively consider ahead of meetings what conflicts are likely to arise and how they should be managed, including taking steps to ensure that supporting papers for particular agenda items of private sessions/meetings are not sent to conflicted individuals in advance of the meeting where relevant.

To support chairs in their role, the will be given access to the declaration of interest checklists for Chairs prior to meetings, which will include details of any declarations of conflicts which have already been made by members of the group. The declaration of interest checklist for chairs can be found on the K Drive/CCG document templates/governance templates.

The chair will ask at the beginning of each meeting if anyone has any conflicts of interest to declare in relation to the business to be transacted at the meeting. Each member of the group should declare any interests which are relevant to the business of the meeting whether or not those interests have previously been declared. Any new interests which are declared at a meeting must be included on the CCG's relevant register of interests to ensure it is up to date. Similarly, any new offers of gifts or hospitality (whether accepted or not) which are declared at a meeting must be included on the CCG's register of gifts and hospitality to ensure it is up-to-date.

It is the responsibility of each individual member of the meeting to declare any relevant interests which they may have. However, should the chair or any other member of the meeting be aware of facts or circumstances which may give rise to a conflict of interests but which have not been declared then they should bring this to the attention of the chair who will decide whether there is a conflict of interest and the appropriate course of action to take in order to manage the conflict of interest.

When a member of the meeting (including the chair or vice chair) has a conflict of interest in relation to one or more items of business to be transacted at the meeting, the chair (or vice chair or remaining non-conflicted members where relevant as described above) must decide how to manage the conflict. The appropriate course of action will depend on the particular circumstances, but could include one or more of the following:

- Where the chair has a conflict of interest, deciding that the vice chair (or another non-conflicted member of the meeting if the vice chair is also conflicted) should chair all or part of the meeting;
- Requiring the individual who has a conflict of interest (including the chair or vice chair if necessary) not to attend the meeting;
- Ensuring that the individual concerned does not receive the supporting papers or minutes of the meeting which relate to the matter(s) which give rise to the conflict;
- Requiring the individual to leave the discussion when the relevant matter(s) are being discussed and when any decisions are being taken in relation to those matter(s). In private meetings, this could include requiring the individual to leave the room and in public meetings to either leave the room or join the audience in the public gallery;
- Allowing the individual to participate in some or all of the discussion when the relevant matter(s) are being discussed but requiring them to leave the meeting when any decisions are being taken in relation to those matter(s). This may be appropriate where, for example, the conflicted individual has important relevant knowledge and experience of the matter(s) under discussion, which it would be of benefit for the

meeting to hear, but this will depend on the nature and extent of the interest which has been declared;
- Noting the interest and ensuring that all attendees are aware of the nature and extent of the interest, but allowing the individual to remain and participate in both the discussion and in any decisions. This is only likely to be the appropriate course of action where it is decided that the interest which has been declared is either immaterial or not relevant to the matter(s) under discussion. The conflicts of interest case studies referred to in Appendix A include examples of material and immaterial conflicts of interest.

9.2 Primary care commissioning committees and sub-committees

NHS Bolton CCG has level 3 delegated commissioning arrangements in place. This enables the CCG to assume responsibility for commissioning general practice services. The CCG has established a primary care commissioning committee for the discharge of their primary medical services functions. The declarations of interest from the committee members are recorded on the CCG's register of interests.

Meetings of the primary care commissioning committee, including the decision-making and deliberations leading up to the decision, are held in public unless the committee has concluded it is appropriate to exclude the public where it would be prejudicial to the public interest to hold that part of the meeting in public. Examples of where it may be appropriate to exclude the public include:
- Information about individual patients or other individuals which includes sensitive personal data is to be discussed;
- Commercially confidential information is to be discussed, for example the detailed contents of a provider's tender submission;
- Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings is to be discussed;
- To allow the meeting to proceed without interruption and disruption.

9.3 Membership of primary care commissioning committee

The primary care commissioning committee is constituted to have a lay and executive majority. This ensures that the meeting will be quorate if all GPs had to withdraw from the decision making process due to conflicts of interest.

The primary care commissioning committee has a lay chair and lay vice chair (the local Health Watch representative). The Committee also has a local GP and Practice Manager representative and a GP representative from out of the area to ensure sufficient clinical input, who are not in the majority and a non-voting member. A representative from the Local Authority is also a member of the committee. Other individuals are invited to attend the primary care commissioning committee on an ad-hoc basis to provide expertise to support with the decision-making process.

9.4 Primary care commissioning committee decision-making processes and voting arrangements

The primary care commissioning committee is a decision-making committee, which has been established to exercise the discharge of the primary medical services functions. The quorum requirements for committee meetings includes a majority of lay and executive members in attendance with eligibility to vote.

In the interest of minimising the risks of conflicts of interest, GPs do not have voting rights on the primary care commissioning committee. The arrangements do not preclude GP participation in strategic discussions on primary care issues, subject to appropriate management of conflicts of interest. They apply to decision-making on procurement issues and the deliberations leading up to the decision.

The CCG has also established a primary care operational group to develop business cases and option appraisals. Ultimate decision-making responsibility for the primary medical services functions rests with the primary care commissioning committee. The Chair of the group is the Associate Director of Primary Care and Health Improvement.
A report on the discussions held at the Operational Group meetings are presented to each meeting of the primary care commissioning committee, which detail any conflicts and how they have been managed.

9.5 Minute-taking

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

- Who has the interest;
- The nature of the interest and why it gives rise to a conflict, including the magnitude of any interest;
- The items on the agenda to which the interest relates;
- How the conflict was agreed to be managed; and
- Evidence that the conflict was managed as intended (for example

recording the points during the meeting when particular individuals left or returned to the meeting). A declarations of interest checklist for PAs is available on the K drive/CCG document templates/governance templates.

10. Managing Conflicts of Interest throughout the commissioning cycle

Conflicts of interest need to be managed appropriately throughout the whole commissioning cycle. At the outset of a commissioning process, the relevant interests of all individuals involved should be identified and clear arrangements put in place to manage any conflicts of interest. This includes consideration as to which stages of the process a conflicted individual should not participate in, and, in some circumstances, whether that individual should be involved in the process at all. The conflicts of interest case studies include examples of this.

10.1 Designing service requirements

The way in which services are designed can either increase or decrease the extent of perceived or actual conflicts of interest. Particular attention should be given to public and patient involvement in service development. Public involvement supports transparent and credible commissioning decisions. It should happen at every stage of the commissioning cycle from needs assessment, planning and prioritisation to service design, procurement and Monitoring. The CCG has a legal duty under the Act to properly involve patients and the public in their respective commissioning processes and decisions.

10.2 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.

Provider engagement should follow the three main principles of procurement law, namely equal treatment, non-discrimination and transparency. This includes ensuring that the same information is given to all at the same time and procedures are transparent. This mitigates the risk of potential legal challenge. As the service design develops, it is good practice to engage with a range of providers on an on-going basis to seek comments on the proposed design e.g. via the commissioners website and/or via workshops with interested parties (ensuring a record is kept of all interaction). There is guidance available from NHS Improvement on the use of provider boards in service design. NHS Improvement is the organisation which brings together Monitor and the NHS Trust Development Authority, and is a combination of the continuing statutory functions and legal powers vested in those.

Engagement should help to shape the requirement to meet patient need, but it is important not to gear the requirement in favour of any particular provider(s). If appropriate, the advice of an independent clinical adviser on the design of the service should be secured.

10.3 Specifications

Commissioners should seek, as far as possible, to specify the outcomes that they wish to see delivered through a new service, rather than the process by which these outcomes are to be achieved. As well as supporting innovation, this helps prevent bias towards particular providers in the specification of services. However, they also need to ensure careful consideration is given to the appropriate degree of financial risk transfer in any new contractual model.
Specifications should be clear and transparent, reflecting the depth of engagement, and set out the basis on which any contract will be awarded.

10.4 Procurement and awarding grants

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

NHS England and NHS Bolton CCG comply with two different regimes of procurement law and regulation when commissioning healthcare services: the NHS procurement regime, and the European procurement regime:

- The NHS procurement regime – the NHS (Procurement, Patient Choice and Competition (No.2)) Regulations 2013: made under S75 of the 2012 Act; apply only to NHS England and CCGs; enforced by NHS Improvement; and
- The European procurement regime – Public Contracts Regulations 2015 (PCR 2105): incorporate the European Public Contracts Directive into national law; apply to all public contracts over the threshold value (€750,000, currently £589,148); enforced through the Courts. The general principles arising under the Treaty on the Functioning of the European

Union of equal treatment, transparency, mutual recognition, non-discrimination and proportionality may apply even to public contracts for healthcare services falling below the threshold value if there is likely to be interest from providers in other member states.

Whilst the two regimes overlap in terms of some of their requirements, they are not the same, so compliance with one regime does not automatically mean compliance with the other.

The National Health Service (Procurement, Patient Choice and Competition) (No.2) Regulations 201323 state:

CCGs must not award a contract for the provision of NHS health care services where conflicts, or potential conflicts, between the interests involved in commissioning such services and the interests involved in providing them affect, or appear to affect, the integrity of the award of that contract; and CCGs must keep a record of how it managed any such conflict in relation to NHS commissioning contracts it has entered into. [As set out in paragraph 113
below, details of this should also be published by the CCG.]

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

Paragraph 24 of PCR 2015 states: “Contracting authorities shall take appropriate measures to effectively prevent, identify and remedy conflicts of interest arising in the conduct of procurement procedures so as to avoid any distortion of competition and to ensure equal treatment of all economic operators”. Conflicts of interest are described as “any situation where relevant staff members have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure”.
The Procurement, Patient Choice and Competition Regulations (PPCCR) place requirements on commissioners to ensure that they adhere to good practice in relation to procurement, run a fair, transparent process that does not discriminate against any provider, do not engage in anti-competitive behaviour that is against the interest of patients, and protect the right of patients to make choices about their healthcare. Furthermore the PPCCR places requirements on commissioners to secure high quality, efficient NHS healthcare services that meet the needs of the people who use those services. The PCR 2015 are focused on ensuring a fair and open selection process for providers.

An obvious area in which conflicts could arise is where a CCG commissions (or continues to commission by contract extension) healthcare services, including GP services, in which a member of the CCG has a financial or other interest. This may most often arise in the context of co-commissioning of primary care, particularly with regard to delegated commissioning, where GPs are current or possible providers.

10.5 Register of procurement decisions

The CCG maintains a register of procurement decisions taken, either for the procurement of a new service or any extension or material variation of a current contract. The procurement register is publicly available on the CCG website and available upon request for inspection at the CCG’s headquarters.

10.6 Declarations of interests for bidders/contractors

As part of a procurement process, it is good practice to ask bidders to declare any conflicts of interest. NHS Bolton CCG undertakes this process. This allows commissioners to ensure that they comply with the principles of equal treatment and transparency. When a bidder declares a conflict, the commissioners must decide how best to deal with it to ensure that no bidder is treated differently to any other.

It will not usually be appropriate to declare such a conflict on the register of procurement decisions, as it may compromise the anonymity of bidders during the procurement process. However, commissioners should retain an internal audit trail of how the conflict or perceived conflict was dealt with to allow them to provide information at a later date if required. Commissioners are required under regulation 84 of the Public Contract Regulations 2015 to make and retain records of contract award decisions and key decisions that are made during the procurement process (there is no obligation to publish them). Such records must include "communications with economic operators and internal deliberations" which should include decisions made in relation to actual or perceived conflicts of interest declared by bidders. These records must be retained for a period of at least three years from the date of award of the contract.

10.7 Contract Monitoring

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

The individuals involved in the monitoring of a contract should not have any direct or indirect financial, professional or personal interest in the incumbent provider or in any other provider that could prevent them, or be perceived to prevent them, from carrying out their role in an impartial, fair and transparent manner.

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

11. CCG Improvement and Assessment Framework

NHS England is introducing a new Improvement and Assessment Framework for CCGs from 2016/17 onwards. The management of conflicts of interest is a key indicator of the new framework. As part of the new framework, CCGs will be required on a quarterly and annual basis to confirm via self-certification:

- That the CCG has a clear policy for the management of conflicts of interest in line with the statutory guidance and a robust process for the management of breaches;
- That the CCG has a minimum of three lay members;
- That the CCG audit chair has taken on the role of the Conflicts of Interest Guardian;
- The level of compliance with the mandated conflicts of interest on-line training, as of 31 January annually.

- Has processes in place to ensure individuals declare any interests which may give rise to a conflict or potential conflict, ensuring accurate and up to date registers are complete for conflicts of interest, procurement decisions and gifts and hospitality.
- Has made these registers available on the website and upon request.
- Is aware of any breaches of its policies and procedures in relation to the management of conflicts of interest and how many.

12. Internal Audit

In addition to the above, there is a requirement for each CCG to undertake an annual internal audit on the management of conflicts of interest to provide further assurance about the degree of compliance with the statutory guidance.

The results of the audit will be reflected in the CCG's annual governance statement and discussed in the end of year governance meeting with NHS regional teams.

13. Raising concerns and breaches

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 Conflicts of Interest Guardian on these matters.

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

Effective management of conflicts of interest requires an environment and culture where individuals feel supported and confident in declaring relevant information, including notifying any actual or suspected breaches of the rules.

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

13.1 Reporting breaches

The CCG has a clear process for managing known or suspected breaches of their conflicts of interest policy. The process is detailed below:

- Breach reported to the Chief Officer or Conflicts of Interest Guardian.
- Breach reviewed by the Chief Officer and Conflicts of Interest Guardian.
- Breach reported to the Conflicts of Interest Committee for further consideration/action as required.

Arrangements are in place so that all such notifications will be dealt with on a strictly confidential basis at all times in accordance with the CCG's policies and applicable laws, and the person making such disclosures should expect an appropriate explanation of any decisions taken as a result of any investigation. Furthermore, providers, patients and other third parties can make a complaint to NHS Improvement in relation to a commissioner's conduct under the Procurement Patient Choice and Competition Regulations. The

regulations are designed as an accessible and effective alternative to challenging decisions in the courts.

Anyone who wishes to report a known or suspected breach of the policy who is not an employee or worker of the CCG, should also ensure they comply with their own organisation's whistleblowing policy.

13.2 Fraud or Bribery

Any suspicions or concerns of acts of fraud or bribery can be reported online via https://www.reportnhsfraud.nhs.uk/ or via the NHS Fraud and Corruption Reporting Line on 0800 0284060. This provides an easily accessible and confidential route for the reporting of genuine suspicions of fraud within or affecting the NHS. All calls are dealt with by experienced trained staff and any caller who wishes to remain anonymous may do so.

13.3 Impact of non-compliance

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

13.4 Civil implications

If conflicts of interest are not effectively managed, CCGs could face civil challenges to decisions they make. For instance, if breaches occur during a service re-design or procurement exercise, the CCG risks a legal challenge from providers that could potentially overturn the award of a contract, lead to damages claims against the CCG, and necessitate a repeat of the procurement process. This could delay the development of better services and care for patients, waste public money and damage the CCG's reputation. In extreme cases, staff and other individuals could face personal civil liability, for example a claim for misfeasance in public office.

13.5 Criminal implications

Failure to manage conflicts of interest could lead to criminal proceedings including for offences such as fraud, bribery and corruption. This could have implications for CCGs and linked organisations, and the individuals who are engaged by them. The Fraud Act 2006 created a criminal offence of fraud and defines three ways of committing it:

- Fraud by false representation;
- Fraud by failing to disclose information; and,
- Fraud by abuse of position.

Bribery is generally defined as giving or offering someone a financial or other advantage to encourage that person to perform their functions or activities. The Bribery Act 2010 reformed the criminal law of bribery, making it easier to tackle this offence proactively in both the public and private sectors. It introduced a corporate offence which means that commercial organisations, including NHS bodies, will be exposed to criminal liability, punishable by an unlimited fine, for failing to prevent bribery. The offences of bribing another person, being bribed and bribery of foreign public officials can also be committed by a body corporate. The Act repealed the UK's previous anti-corruption legislation (the Public Bodies Corrupt Practices Act 1889, the Prevention of Corruption Acts of 1906 and 1916 and the common law offence of bribery) and provides an updated and extended framework of offences to cover bribery both in the UK and abroad.

13.6 Disciplinary implications

The CCG will ensure that individuals who fail to disclose any relevant interests or who otherwise breach the CCG's rules and policies relating to the management of conflicts of interest are subject to investigation and, where appropriate, to disciplinary action. CCG staff, governing body and committee members in particular should be aware that the outcomes of such action may, if appropriate, result in the termination of their employment or position with the CCG.

13.7 Professional regulatory implications

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

14. Conflicts of interest training

The CCG will ensure that training is offered to all employees, governing body members, members of CCG committees and sub-committees and practice staff with involvement in CCG business on the management of conflicts of interest. This is to ensure staff and others within the CCG understand what conflicts are and how to manage them effectively.

The training will be completed on a yearly basis to raise awareness of the risks of conflicts of interest and to support staff in managing conflicts of interest. The annual training will be mandatory and will need to be completed by all individuals by the 31st January of each year.

The CCG will record their completion rates as part of their annual conflicts of interest audit.

15. Managing Conflicts to protect the integrity of the decision-making process

To support the CCG to deliver its statutory requirements, the following features will need to be integral to the commissioning of all services. They will be particularly important at the key commissioning decision making points leading up to and after the actual procurement of services and in deciding whether to go out to procurement.

- **Openness**: ensuring early engagement with patients, the public and health and wellbeing boards in relation to proposed commissioning plans.
- **Transparency**: a clearly documented approach to be taken at each stage of the commissioning cycle.
- **Responsive and best practice**: commissioning intentions are based on local health needs and reflect evidence of best practice – securing "buy in" from patients and clinicians to the clinical case for change.
- **Securing expert advice**: ensure that plans take account of advice from appropriate health and social car professionals eg. through the clinical senate and networks, and draw on commissioning support eg. for more formal consultations and for procurement processes.
- **Engaging with Providers**: early engagement with both incumbent and potential new providers over potential changes to the commissioned services for the local population.

- **Create clear and transparent commissioning specifications**: that reflect the depth of engagement and set out the basis on which any contract will be awarded.
- **Follow proper procurement processes**: and legal arrangements, including even handed approach to providers.
- **Ensure sound record keeping, including an up to date register of interests**: applying best practice in sound record keeping, making appropriate information available and accessible, and maintaining a register of interest with a clear system for declarations of interests.
- **Dispute resolution**: having systems for resolving disputes, clearly set out in advance.

16. Compliance

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.

17. Review

The Board Secretary will ensure this document is reviewed in accordance with the review date.

The policy will be reviewed earlier should the CCG become aware of changes in practice, changes to statutory requirements, revised professional or clinical standards and local/national directives that affect, or could potentially affect the policy.

Appendix A

Examples of Conflicts of Interest

The following examples are considered to be the most likely scenarios which CCG Governing Body Members will face, albeit that the list is indicative rather than definitive. In each case, the example has been categorised as "significant" or "fundamental", based upon definitions as follows.

A "**fundamental interest**" would require the CCG member to withdraw from the meeting room completely, and take no part in the debate or the decision-making process.

A "**Significant interest**" would allow the CCG member to remain in the meeting, and to participate in the discussion, but to abstain from taking part in the decision-making process.

In certain circumstances, the categorisation of interest will be determined by materiality, and this will need to be determined on a case-by-case basis by the Chair of the meeting concerned.

Example 1:

- Consideration of a contract with the Out of House Service Provider. The CCG member has an interest the **owner/director** of the service provider.

Action:

- This is a fundamental interest and the member should withdraw from the debate and not vote on the decision.

Example 2:

- Consideration of a contract with the Out of Hours Service Provider. The CCG member is an **employee** of the service provider.

Action:

- The member should consider their own circumstances as to whether they have a significant conflict of interest; this should be assessed on a case by case basis.

Example 3:

- Consideration of a contract in an area where the CCG member is currently employed as a "GP with Special Interests".

Action:

- The member should consider their own circumstances as to whether they have either a "fundamental" or "significant" conflict of interest; this should be assessed on a case by case basis and the appropriate action taken as to whether they participate in the discussion or vote.

Example 4:

- Consideration of a contract for services for which GP Practices have AQP status.

Action:

- This is a fundamental interest therefore the member should withdraw from the debate and not vote on the decision.

Example 5:

- Consideration of a contract where the AQP listing includes private companies or voluntary organisations whose governing body includes CCG Governing Body Members.

Action:

- This is a fundamental interest therefore the member should withdraw from the debate and not vote on the decision.

Example 6:

- Governing Body/committee to discuss implementation of a Local Enhanced Services Scheme for which all GP Practices have AQP status, and benefit equally from its implementation.

Action:

- This would constitute a significant interest, the members may participate in the discussion but not vote.

Example 7:

- Governing Body/committee to discuss implementation of an Incentive Scheme for which all GP Practices have AQP status, and benefit equally from its implementation.

Action:

- This would constitute a significant interest, the members may participate in the discussion but not vote.

Example 8:

- Governing Body is being asked to accept and agree minutes of the Remuneration and Terms of Service Committee, at which payments to a specific staff group have been proposed.

Action:

- This would constitute a fundamental interest therefore the member should withdraw from the debate and not vote on the decision.

Example 9:

- Governing Body/committee is discussing the allocation of IT resources to individual practices from the IT Hardware Budget.

Action:

- This would constitute a significant interest however; the member should consider their own circumstances to determine whether this constitutes a “fundamental” interest in their own circumstances. This should be assessed on a case by case basis as to whether it is appropriate to participate in the discussion and the deciding vote.

Further information on case studies/examples can be found at:
https://www.england.nhs.uk/commissioning/wp-content/uploads/sites/12/2016/06/coi-case-studies-jun16.pdf

Appendix B

PROCEDURE FOR MAINTAINING THE DECLARATIONS OF INTEREST REGISTER

1. **The CCG will maintain a register of relevant and material interests of:**
   - **All governing body members**
   - **Members of committees and sub-committees**
   - **All employees**
   - **GP Membership**
2. **On appointment, individuals will be given a copy of the CCG Managing Conflicts of Interest Policy.**
3. **Having familiarised themselves with the Policy they will complete the Declaration of Understanding and confirm in writing, to the CCG Board Secretary their relevant and material interests (referring to sections 3 and 5 of the policy for guidance). This should be returned no later than 14 days after receipt.**
4. **Where there are no relevant and material interests, the form should be completed with a nil response and returned within the same timescale.**
5. **The Board Secretary must be informed of any changes to the individuals registered interest as soon as possible and, in any event within 28 days.**
6. **The Register will be reviewed on an annual basis by the Governing Body and regularly monitored by the Conflicts of Interest Committee.**
7. **The Register will be included as part of the CCGs Annual Report.**

Interests need to be declared in advance or as soon as possible and, in any event, within 28 days.

Appendix C

Declaration of Interests form

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

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

Notes:

- Each CCG must make arrangements to ensure that the persons mentioned on this form declare any interest which may lead to a conflict with the interests of the CCG and the public for whom they commission services in relation to a decision to be made by the CCG.
- A declaration must be made of any interest likely to lead to a conflict or potential conflict as soon as the individual becomes aware of it, and within 28 days.
- If any assistance is required in order to complete this form, then the individual should contact the Board Secretary, Joanne Taylor on 462028 or email joanne.taylor@bolton.nhs.uk .
- The completed signed form should be sent to the Board Secretary, details as above.
- Any changes to interests declared must also be registered within 28 days by completing and submitting a new declaration form.
- The register will be published on the CCG's website.
- Any individual – and in particular members and employees of the CCG - must provide sufficient detail of the interest, and the potential for conflict with the interests of the CCG and the public for whom they commission services, to enable a lay person to understand the implications and why the interest needs to be registered.
- If there is any doubt as to whether or not a conflict of interests could arise, a declaration of the interest must be made.

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

- roles and responsibilities held within member practices;
- directorships, including non-executive directorships, held in private companies or PLCs;
- ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the CCG;
- shareholdings (more than 5%) of companies in the field of health and social care;
- a position of authority in an organisation (e.g. charity or voluntary organisation) in the field of health and social care;
- any connection with a voluntary or other organisation contracting for NHS services;
- research funding/grants that may be received by the individual or any organisation in which they have an interest or role;
- any other role or relationship which the public could perceive would impair or otherwise influence the individual's judgement or actions in their role within the CCG.

Declaration of interests form for CCG members and employees

Name:	
Position within, or relationship with, the CCG (or NHS England in the event of joint committees):	

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

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

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 declare that the information I have given on this form is correct and complete and I will not create a conflict of interest between my NHS duties/employment and an external body/organisation or my personal business interests. I consent to the disclosure of information on this form to be reviewed by the CCG's Auditors and understand that the form may also be reviewed for the purpose of fraud prevention and detection by NHS Anti-Fraud Specialists. I agree to submit further notices in order to bring up to date information given in this notice and will and I will declare any interest I acquire after the date of this notice as soon as practicable and no later than 28 days after the interest arises. I am aware that if I do not make full, accurate and timely declarations then civil, criminal, or internal disciplinary action may result.

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

Signed: **Date**:

Signed: **Position:** **Date:**
(Line Manager or Senior CCG Manager)

Please return to the Board Secretary, 2nd Floor, St Peters House or email to joanne.taylor14@nhs.net

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.

Appendix D

GIFTS, HOSPITALITY AND COMMERCIAL SPONSORSHIP DEFINITION

Register of Gifts and Hospitality

The Register of Gifts and Hospitality should be maintained for:-

- All CCG employees including full/part time, sessional or short term contracts (including Clinical Leads), 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 including 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 a CCG is participating in a joint committee alongside other CCGs, any gifts and hospitality which are declared by the committee members should be recorded on the register of each participating CCG.
- GP Membership which includes each provider of primary medical services which is a member of the CCG under Section 140(1) of the 2006 Act and includes GP partner (or where the practice is a company, each director) and any individual directly involved with the business or decision-making of the CCG.

On appointment, individuals will be given a copy of the CCG Managing Conflicts of Interest Policy. This will include a copy of the declarations form for completion for any gifts and hospitality received.

It is the responsibility of the individual to complete and submit information on the declarations form on occasions where they have been offered gifts or hospitality.

The declarations form must be submitted within 14 days of the offer/acceptance of gift or hospitality

The declarations form for gifts and hospitality is attached at Appendix B.

Gifts:

A gift is defined as any item of cash or goods, or any service, which is provided for personal benefit, free of charge or at less than its commercial value.

All gifts of any nature offered to CCG staff, governing body and committee members and individuals within GP member practices by suppliers or contractors linked (currently or prospectively) to the CCG's business should be declined, whatever their value. The person to whom the gifts were offered should also declare the offer to the Board Secretary so the offer which has been declined can be recorded on the register.

Gifts offered from other sources should also be declined if accepting them might give rise to perceptions of bias or favouritism, and a common sense approach should be adopted as to whether or not this is the case.

The only exceptions to the presumption to decline gifts relates to items of little financial value (ie. less than £10) such as diaries, calendars, stationery and other gifts acquired from meetings, events or conferences, and items such as flowers and small tokens of appreciation from members of the public to staff for work well done. Gifts of this nature do not need to be declared to the Board Secretary nor recorded on the register.

Any personal gift of cash or cash equivalents (eg. vouchers, tokens, offers of remuneration to attend meetings whilst in a capacity working for or representing the CCG) must always be declined, whatever their value and whatever their source, and the offer which has been declined must be declared to the Board Secretary for maintaining the register of gifts and hospitality and recorded on the register.

There may be occasions that, on registering the gift, it is deemed that the gift should be returned.

Hospitality:

A blanket ban on accepting or providing hospitality is neither practical nor desirable from a business point of view. However, individuals should be able to demonstrate that the acceptance or provision of hospitality would benefit the NHS or CCG.]

Modest hospitality provided in normal and reasonable circumstances may be acceptable, although it should be on a similar scale to that which the CCG might offer in similar circumstances (eg. tea, coffee, light refreshments at meetings). A common sense approach should be adopted as to whether hospitality offered is modest or not. Hospitality of this nature does not need to be declared to the Board Secretary nor recorded on the register, unless it is offered by suppliers or contractors linked (currently or prospectively) to the CCG's business in which case all such offers (whether or not accepted) should be declared and recorded.

There is a presumption that offers of hospitality which go beyond modest or of a type that the CCG itself might offer, should be politely refused. A non-exhaustive list of examples include:

- Hospitality of a value above £40; and
- In particular, offers of foreign travel and accommodation.

There may be some limited and exceptional circumstances where accepting the types of hospitality referred to in this paragraph may be contemplated. Express prior approval should

be sought from a senior member of the CCG (Chief Finance Officer) before accepting such offers, and the reasons for acceptance should be recorded in the CCG's Register of Gifts and Hospitality. Hospitality of this nature should be declared to the Board Secretary and recorded on the register, whether accepted or not.

In addition, particular caution should be exercised where hospitality is offered by suppliers or contractors linked (currently or prospectively) to the CCG's business. Offers of this nature can be accepted if they are modest and reasonable but advice should always be sought from a senior member of the CCG (Chief Finance Officer) as there may be particular sensitivities, for example if a contract re-tender is imminent. All offers of hospitality from actual or prospective suppliers or contractors (whether or not accepted) should be declared and recorded.

You should refuse hospitality of any kind which might reasonably be seen to compromise your personal judgement or integrity, and which could be perceived as seeking to exert influence to obtain preferential consideration.

Hospitality must be secondary to the purpose of the meeting and should not be out of proportion to the occasion, nor exceed that level which the recipients would normally adopt when paying for themselves, or that which could be reciprocated by the NHS.

Hospitality should not extend beyond those whose role it makes appropriate for them to attend the meeting.

Where meetings are sponsored by external sources this fact must be disclosed in the papers relating to the meeting and in any published proceedings, and should be recorded on a commercial sponsorship form for inclusion in the CCG's register

Any trade stand or display must be outside the meeting room. Industry representatives should be excluded from internal meetings about CCG business. (This does not include formal CCG meetings which are open to members of the public).

All offers of hospitality with a value of £40 or more must be declared on the gifts and hospitality form and entered in the CCG's Register of Gifts and Hospitality.

Commercial Sponsorship:

CCG staff, governing body, committee and sub-committee members and GP member practices may be offered commercial sponsorship for courses, conferences, post/project funding, meetings and publications in connection with the activities which they carry out for or on behalf of the CCG or their GP practices. All such offers (whether accepted or declined) must be declared so that they can be included on the CCG's register of interests, and the Board Secretary will provide advice, support and guidance on how conflicts of interest should be managed and whether or not it would be appropriate to accept any such offers. If such offers are reasonably justifiable and otherwise in accordance with this statutory guidance, then they may be accepted.

Prior approval should be sought from the individual's line manager before accepting any form of sponsorship.

Notwithstanding the above, acceptance of commercial sponsorship should not in any way compromise commissioning decisions of the CCG or be dependent on the purchase or supply of goods or services. Sponsors should not have any influence over the content of an event, meeting, seminar, publication or training event. The CCG will not endorse individual companies or their products. The fact of sponsorship does not mean that the CCG endorses a company's product or service. During dealings with sponsors, there must be no breach of patient or individual confidentiality or data protection legislation. Furthermore, no information should be supplied to a company for their commercial gain unless there is a clear benefit to the NHS. As a general rule, information which is not in the public domain should not normally be supplied.

Notes:

The register of Gifts and Hospitality will be presented periodically to the Audit Committee, regularly monitored through the Conflicts of Interest Committee and reviewed annually by the Governing Body. As such, the register is a document within the public domain and the details will be a matter of public knowledge.

If employees or members have any doubts or require advice on receipt of gifts this can be done in the first instance via their line manager or Board Secretary, and legal advice may be sought when required.

Any breach of this policy, or the acceptance of gifts in circumstances whereby the employee or member has not acted with absolute impartiality, integrity, and honesty will be investigated and may result in disciplinary action. Staff or members may face criminal action under the Bribery Act 2010. Professional conduct rules and the Local Anti-Fraud, Bribery and Corruption Policy will also apply.

It should be noted that it is not appropriate to use CCG funds to purchase gifts or floral tributes for staff or members, although the Chief Officer may authorise this in exceptional circumstances.

Appendix E

Declaration Form – Gifts and Hospitality

<table>
<tr><td>NAME OF RECIPIENT:</td><td>DIRECTORATE AND POST HELD:</td></tr>
<tr><td rowspan="2">DATE OF OFFER AND DATE RECEIVED:

DETAILS: (inc. travel, destination, accommodation, meals and whether in own or CCG time).</td><td>NATURE OF GIFT OR HOSPITALITY:</td></tr>
<tr><td>ESTIMATED COST:

(NB: If this is not completed, an estimated cost will be provided by the finance department).</td></tr>
<tr><td>NAME, ADDRESS & NATURE OF BUSINESS OF OFFERER:</td><td>HOW LINKED TO ROLE AT CCG:</td></tr>
<tr><td>ACCEPTED/DECLINED (and your reasons for doing so):</td><td>Signed:……..

Date: ……</td></tr>
<tr><td colspan="2">DETAILS OF PREVIOUS OFFERS OR ACCEPTANCE BY THIS OFFERER/SUPPLIER:</td></tr>
<tr><td colspan="2">COMMENTS (any additional comments felt useful to note):</td></tr>
<tr><td colspan="2">ADDITIONAL SCRUTINY:
Before accepting the gift/hospitality, please explain and consider the implications in particular whether this gives any potential rise to any conflicts now and in the future and, if so, how these will be managed – PLEASE DETAIL BELOW:</td></tr>
<tr><td colspan="2">Signed: ……

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

I do/do not (delete as applicable) give my consent for this information to be published on registers that the CCG holds. If consent is NOT given, please give reasons:
AUTHORISATION OF LINE MANAGER: (Required before accepting gifts or hospitality) **Signed: …… Designation: ……..** **Date: …… Directorate: ……** **Countersigned by: ……** **(Chief Finance Officer)**

For office use

ENTRY IN REGISTER	**YES/NO:**	**DATE:**	**BY:**
REVIEW BY LINE MANAGER ON:			

NOTES:

This form must be completed when gifts (other than articles of low value such as diaries or calendars) or hospitality are accepted or declined.

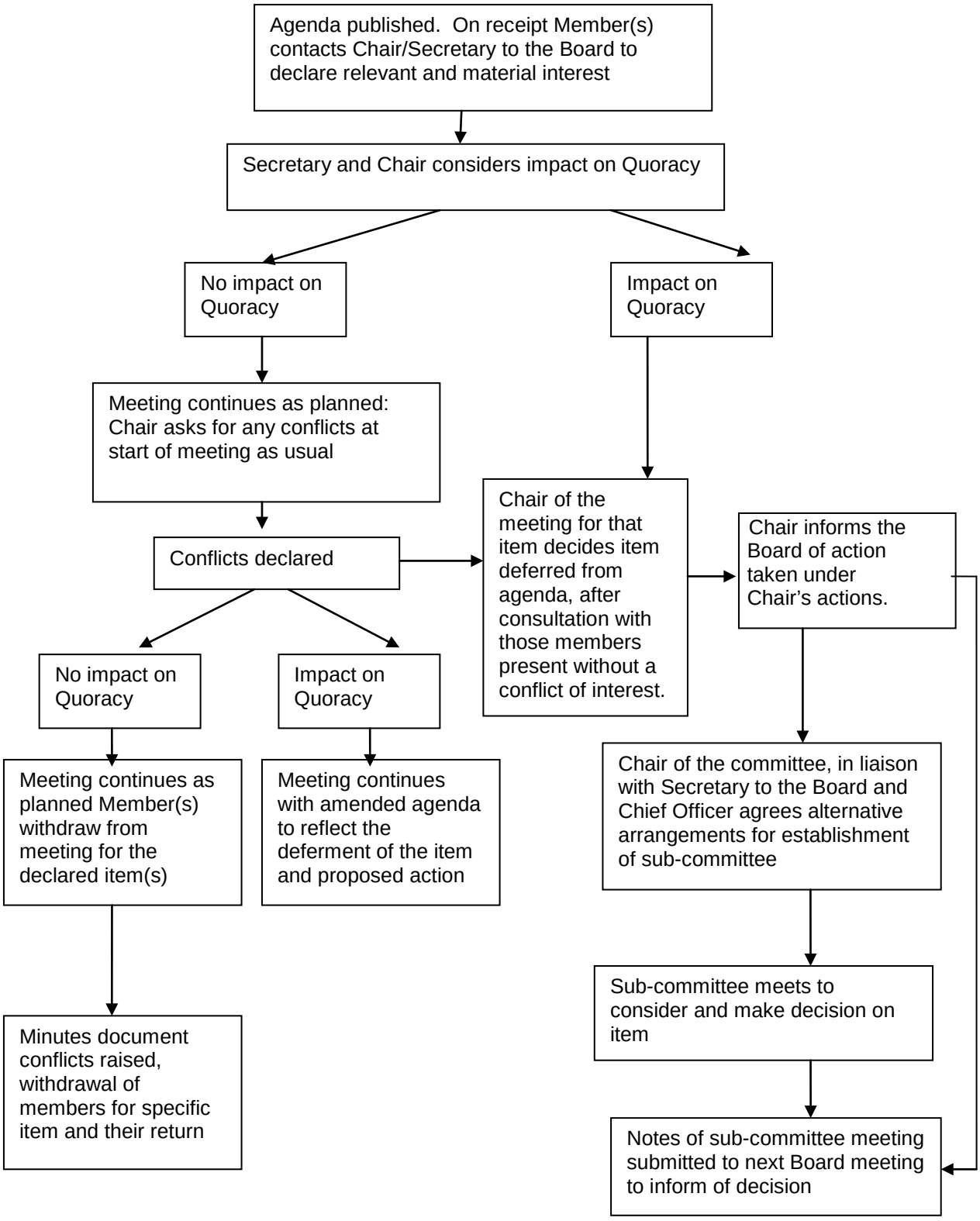
The information submitted will be held by the CCG for personnel or other reasons specified on this form and to comply with the organisation's policies. This information may be held in both manual and electronic form in accordance with the Data Protection Act 1998.

Information may be disclosed to third parties in accordance with the Freedom of Information Act 2000 and published in registers that the CCG holds.

The completed and signed form must be returned to the Board Secretary, NHS Bolton CCG, St Peters House, Silverwell Street, Bolton, BL1 1PP.

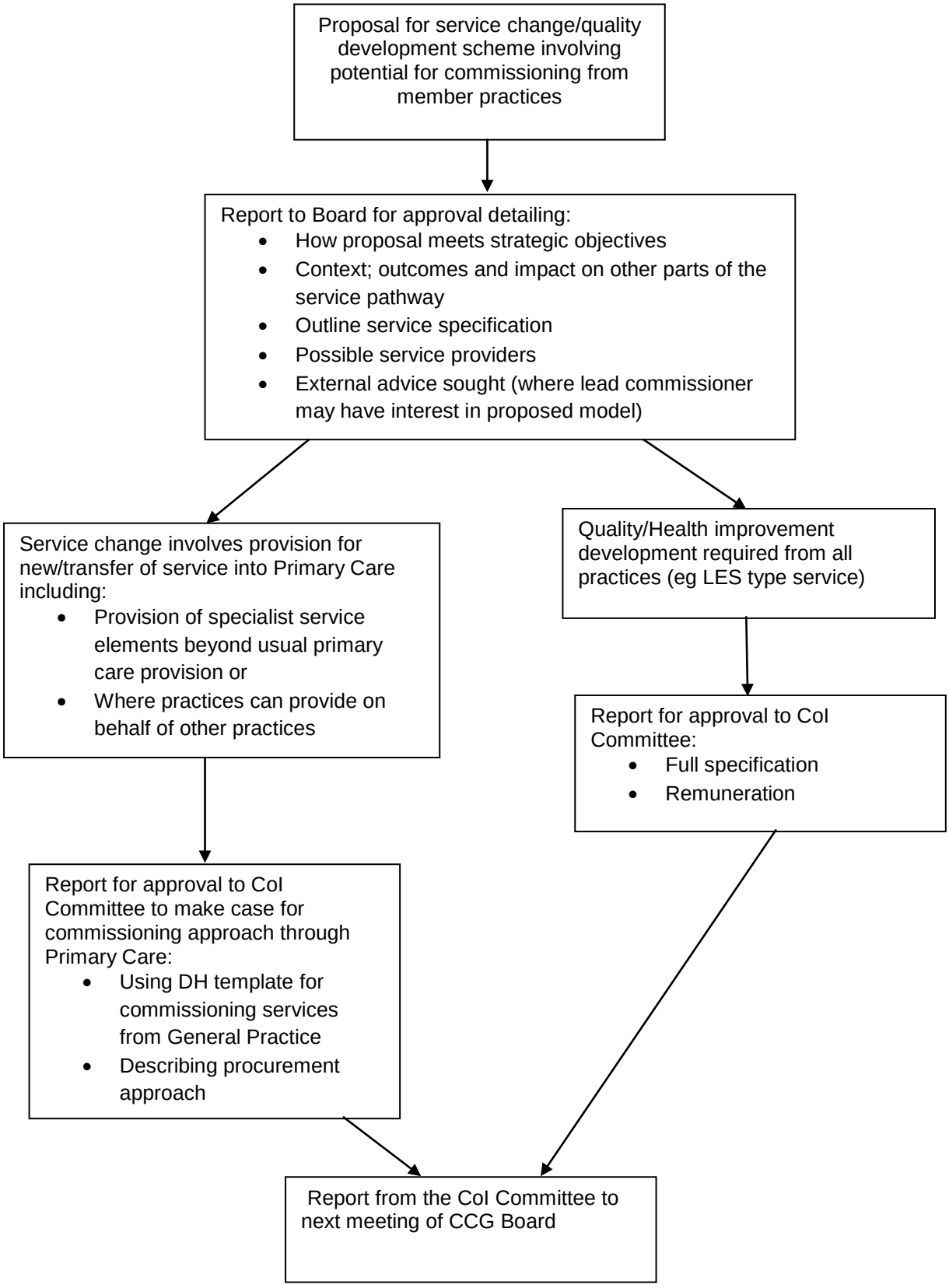
Appendix F

PROCEDURE FOR MANAGING CONFLICTS DECLARED AT BOARD, COMMITTEES AND SUB-COMMITTEES



Appendix G

COMMISSIONING SERVICES FROM MEMBER PRACTICES



Appendix H

SPECIFIC GUIDANCE ISSUED TO NEW BOARD MEMBERS

All CCG Governing Body Members are required to declare any relevant and material personal or business interests and any relevant and material personal or business interests of their spouses, civil partner; cohabite; family member or any other relationship which may influence or may be perceived to influence their judgement.

Examples of interest that will be deemed to be relevant and material include:-

- Roles and responsibilities held within member practices.
- Directorships including non-executive directorships, held in private companies or PLCs.
- Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the CCG.
- Shareholdings (more than 5%) of companies in the field of health and social care.
- A position of authority in an organisation (eg. a charity or voluntary organisation) in the field of health and social care.
- Any connection with a voluntary or other organisation contracting for NHS services.
- Research funding/grants that may be received by the individual or any organisation in which they have an interest or role.
- Any other role or relationship which the public could perceive would impair or otherwise influence the individual's judgement or actions in their role within the CCG.

Where an individual changes role or responsibility within the CCG, any change to the individual's interest should be declared. Wherever an individual's circumstances change in a way that affects the individual's interests (eg. where an individual takes on a new role outside of 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.

In the case of the Registered Nurse and the Secondary Care Consultant, if they become an employee or member (including shareholder) of, or a partner in/with:

(a) A person who is a provider of primary medical services for the purposes of Chapter A2 of the 2006 Act; or
(b) A body which provides any relevant service to a person for whom the CCG has responsibility.

They have a statutory interest which, on declaration, debars them from continuing as members of the CCG Governing Body.

There are similar scenarios in the governing legislation which debar individuals from becoming, or continuing as, CCG lay members, or governing body members at all. If these scenarios occur, such as election to Parliament or to a member role in a Local Authority, again the event and consequent declaration would debar the individual concerned from continuing as a Governing Body member.

A waiver will apply in relation to the disability to participate in the proceedings of the CCG on account of a pecuniary interest.

It will apply to:

(i) A member of NHS Bolton CCG who is a healthcare professional, within the meaning of regulation 5(5) of the Regulations, and who is providing or performing or assisting in the provision or performance of
   a. Services under the National Health Service Act 1977; or
   b. Services in connection with a pilot scheme under the National Health Service (Primary Care) Act 1997;

(ii) Where the pecuniary interest of the member in the matter which is the subject of consideration at a meeting at which s/he is present:-
   a. Arises by reason only of the member's role as such a professional providing or performing, or assisting in the provision or performance of, those services to those persons;
   b. Has been declared by the relevant chair as an interest which cannot reasonably be regarded as an interest more substantial than that of the majority of other persons who:-
      i. Are members of the same profession as the member in question;
      ii. Are providing or performing, or assisting in the provision or performance of, such of those services as s/he provides or performs, or assists in the provision or performance of, for the benefit of persons for whom the CCG is responsible.
      iii. Conditions which apply to the waiver and the removal of having a pecuniary interest.

The removal is subject to the following conditions:

   a. The member must disclose their interest as soon as practicable after the commencement of the meeting and this must be recorded in the minutes;
   b. The relevant Chair must consult the Chief Officer before making a declaration in relation to the member in question.

In the case of a meeting of the CCG:

   a. The member may take part in the consideration or discussion of the matter which must be subjected to a vote and the outcome recorded; but
   b. May not vote on any question with respect to it.

Appendix I

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

Introduction

1. Conflicts of interest can arise throughout the whole commissioning cycle from needs assessment, to procurement exercises, to contract monitoring. They arise in many situations, environments and forms of commissioning.

2. Where CCGs are commissioning new care models[1], particularly those that include primary medical services, it is likely that there will be some individuals with roles in the CCG (whether clinical or non-clinical), that also have roles within a potential provider, or may be affected by decisions relating to new care models. Any conflicts of interest must be identified and appropriately managed, in accordance with this statutory guidance.

3. This annex is intended to provide further advice and support to help CCGs to manage conflicts of interest in the commissioning of new care models. It summarises key aspects of the statutory guidance which are of particular relevance to commissioning new care models rather than setting out new requirements. Whilst this annex highlights some of the key aspects of the statutory guidance, CCGs should always refer to, and comply with, the full statutory guidance.

Identifying and managing conflicts of interest

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

5. In the case of new care models, it is perhaps likely that there will be individuals with roles in both the CCG and new care model provider/potential provider. These conflicts of interest should be identified as soon as possible, and appropriately managed locally. The position should also be reviewed whenever an individual's role, responsibility or circumstances change in a way that affects the individual's interests. For example where an individual takes on a new role outside the CCG, or enters into a new business or relationship, these new interests should be promptly declared and appropriately managed in accordance with the statutory guidance.

[1] 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.

6. There will be occasions where the conflict of interest is profound and acute. In such scenarios (such as where an individual has a direct financial interest which gives rise to a conflict, e.g., secondary employment or involvement with an organisation which benefits financially from contracts for the supply of goods and services to a CCG or aspires to be a new care model provider), it is likely that CCGs will want to consider whether, practically, such an interest is manageable at all. CCGs should note that this can arise in relation to both clinical and non-clinical members/roles. If an interest is not manageable, the appropriate course of action may be to refuse to allow the circumstances which gave rise to the conflict to persist. This may require an individual to step down from a particular role and/or move to another role within the CCG and may require the CCG to take action to terminate an appointment if the individual refuses to step down. CCGs should ensure that their contracts of employment and letters of appointment, HR policies, governing body and committee terms of reference and standing orders are reviewed to ensure that they enable the CCG to take appropriate action to manage conflicts of interest robustly and effectively in such circumstances.

7. Where a member of CCG staff participating in a meeting has dual roles, for example a role with the CCG and a role with a new care model provider organisation, but it is not considered necessary to exclude them from the whole or any part of a CCG meeting, he or she should ensure that the capacity in which they continue to participate in the discussions is made clear and correctly recorded in the meeting minutes, but where it is appropriate for them to participate in decisions they must only do so if they are acting in their CCG role.

8. CCGs should take all reasonable steps to ensure that employees, committee members, contractors and others engaged under contract with them are aware of the requirement to inform the CCG if they are employed or engaged in, or wish to be employed or engaged in, any employment or consultancy work in addition to their work with the CCG (for example, in relation to new care model arrangements).

9. CCGs should identify as soon as possible where staff might be affected by the outcome of a procurement exercise, e.g., they may transfer to a provider (or their role may materially change) following the award of a contract. This should be treated as a relevant interest, and CCGs should ensure they manage the potential conflict. This conflict of interest arises as soon as individuals are able to identify that their role may be personally affected.

10. Similarly, CCGs should identify and manage potential conflicts of interest where staff are involved in both the contract management of existing contracts, and involved in procurement of related new contracts.

Governance arrangements

11. Appropriate governance arrangements must be put in place that ensure that conflicts of interest are identified and managed appropriately, in accordance with this statutory guidance, without compromising the CCG's ability to make robust commissioning decisions.

12. We know that some CCGs are adapting existing governance arrangements and others developing new ones to manage the risks that can arise when commissioning new care models. We are therefore, not recommending a "one size fits" all governance approach, but have included some examples of governance models which CCGs may want to consider.

13. The principles set out in the general statutory guidance on managing conflicts of interest (paragraph 19-23), including the Nolan Principles and the Good Governance Standards for Public Services (2004), should underpin all governance arrangements.

14. CCGs should consider whether it is appropriate for the Governing Body to take decisions on new care models or (if there are too many conflicted members to make this possible) whether it would be appropriate to refer decisions to a CCG committee.

<u>Primary Care Commissioning Committee</u>

15. Where a CCG has full delegation for primary medical services, CCGs could consider delegating the commissioning and contract management of the entire new care model to its Primary Care Commissioning Committee. This Committee is constituted with a lay and executive majority, and includes a requirement to invite a Local Authority and Healthwatch representative to attend (see paragraph 97 onwards of the CCG guidance).

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

17. 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) 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

b) 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

18. 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.

19. 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).

20. 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

21. 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.

22. 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).

23. 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.

24. 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

25. It is good practice to engage relevant providers, especially clinicians, in confirming that the design of service specifications will meet patient needs. This may include providers from the acute, primary, community, and mental health sectors, and may include NHS, third sector and private sector providers. Such engagement, done transparently and fairly, is entirely legal. However, conflicts of interest, as well as challenges to the fairness of the procurement process, can arise if a commissioner engages selectively with only certain providers (be they incumbent or potential new providers) in developing a service specification for a contract for which they may later bid. CCGs should be particularly mindful of these issues when engaging with existing / potential providers in relation to the development of new care models and CCGs must ensure they comply with their statutory obligations including, but not limited to, their obligations under the National Health Service (Procurement, Patient Choice and Competition) (No 2) Regulations 2013 and the Public Contracts Regulations 2015.

Further support

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