

Standards of Business Conduct and Conflicts of Interest Policy (including Hospitality, Gifts and Sponsorship)

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South Lincolnshire Clinical Commissioning Group

Version control sheet

Standards of business conduct and conflicts of interest policy (including hospitality, gifts and sponsorship policy)

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| 1 | February 2014 | J Ellis-Fenwick | Amended from NHSL policy | Numerous amendments made around Conflicts of Interest, Hospitality, the Bribery Act and Personal Conduct |
| 2 | December 2014 | J Ellis-Fenwick | Amended in light of NHS England guidance issued in December 2014 | Policy strengthened to reflect new arrangements around co-commissioning |
| 3 | September/ October 2016 | J Ellis-Fenwick | Amended in light of NHS England guidance issued in June 2016. | Policy strengthened to reflect updated NHS England guidance on managing conflicts of interest |
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South Lincolnshire CCG

Policy Statement

Standards of business conduct and conflicts of interest policy (including hospitality, gifts and sponsorship policy)

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| Background | All staff have a personal responsibility to make sure that they are not placed in a position which risks, or appears to risk, a conflict between their private interests and their NHS duties or allegations of their official position. |
| Statement | <p>This policy informs staff and Lay Members about:</p> <ul style="list-style-type: none">• the personal requirements they must observe before accepting any hospitality, gifts of inducement• guidelines to maintain the highest standards of probity and to provide assurance that any relationships entered lead to clear benefit for the NHS |
| Responsibilities | <p>Compliance with the policy will be the responsibility of all CCG staff.</p> <p>The policy is intended to help staff to recognise and accept this responsibility and to ensure a register of acceptances and refusals is maintained.</p> |
| Training | The CCG maintains a responsibility to raise awareness of the process to all staff. Particular attention should be paid to ensuring that the issues are raised to new staff through the induction process. |
| Dissemination | Website and Email |
| Resource implication | <p>This policy is intended to ensure staff are aware of the need to act impartially in all of their work</p> <ul style="list-style-type: none">• Protect all staff against the possibility of accusations of corruptive practice• Uphold the established principles of business conduct within the NHS and the public sector• Uphold the reputation of South Lincolnshire CCG and its staff in the way it conducts its business• Uphold the principles of openness |

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South Lincolnshire Clinical Commissioning Group

1. Introduction

This policy sets out clear and robust procedures on how NHS South Lincolnshire Clinical Commissioning Group will manage conflicts of interest. This policy should be read in conjunction with the following documents:

- Managing conflicts of interest: Statutory guidance for clinical commissioning groups (NHS England June 2017).
- Managing conflicts of interest in the NHS: Guidance for staff and organisations.
- NHS Clinical Commissioners, Royal College of General Practitioners and British Medical Association – Shared principles on conflicts when CCGs are commissioning from member practices (December 2014)
- Standards for members of NHS Board and CCG Governing Bodies in England
- 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
- NHS (Procurement, Patient Choice and Competition (No2)) Regulations 2013
- CCG HR policies

2. Background

South Lincolnshire CCG is responsible for the stewardship of significant public resources when making decisions about the commissioning of health and social care services. In order to ensure and be able to evidence that these decisions secure the best possible services for the population it serves, the CCG must demonstrate accountability to relevant stakeholders (particularly the public), and probity and transparency in the decision-making process.

A key element of this assurance involves management of conflicts of interest with respect to any decisions made. South Lincolnshire CCG manages conflicts of interest as part of its day-to-day activities. Effective handling of such conflicts is crucial for the maintenance of public trust in the commissioning system. Importantly, it also serves to give confidence to patients, providers, parliament and tax payers that South Lincolnshire CCG commissioning decisions are robust, fair, transparent and offer value for money.

'If conflicts of interest are not managed effectively by CCGs, confidence in the probity of commissioning decisions and the integrity of clinicians involved could be seriously undermined. However, with good planning and governance, CCGs should be able to avoid those risks' (Royal College of General Practitioners' (RCGP) and NHS Confederation's briefing paper on managing conflicts of interest, September 2011).

The policy has been developed in accordance with guidance issued by NHS England in June 2017.

3. Aims of the Policy

Successful commissioning depends on maintaining the confidence and respect of the local community. Reputation is a key tool for commissioners, and it is critical that the GP's parallel roles in commissioning and direct service provision are not seen to be effected by any factors which might damage public confidence.

The aim of this policy is to protect both the organisation and the individuals involved from any appearance of impropriety and demonstrate transparency to the public and other interested parties.

This policy is intended to:

- Ensure staff are aware of the need to act impartially in all of their work
- Protect all staff against the possibility of accusations of corruptive practice
- Uphold the established principles of business conduct within the NHS and the public sector
- Uphold the reputation of South Lincolnshire CCG and its staff in the way it conducts its business
- Ensure staff do not contravene the requirements of the Bribery Act 2010
- Uphold the principles of openness

The intention of this policy is to maintain the highest standards of probity and to provide assurance that any relationships entered lead to clear benefit for the NHS, and that they represent value for money. In order for this to be achieved the process must be conducted in the context of openness and within the Code of Conduct for NHS Managers.

This policy reflects the seven principles of the Nolan Committee (the 7 principles of public life):

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty and
- Leadership

4. Scope of the Policy

4.1 Staff

At South Lincolnshire CCG we use the skills of many different people, all of whom are vital to our work. This includes people of differing employment terms, who for the purposes of this policy we refer to as 'staff' and are listed below:

This policy will apply to:

- All CCG employees, including full and part-time staff, staff on sessional or short term contracts, students or trainees (including apprentices), agency and seconded staff
- All prospective employees – who are part-way through recruitment
- Contractors and sub-contractors of CCG business
- All members of the Governing Body, including Committee, Sub-Committee, Co-opted members, appointed deputies, advisory group members (who may not be directly employed or engaged by the organisation) and any members of Committees/groups from other organisations
- All members of the CCG (i.e. each practice) including GP partners (or where the practice is a company, each director) and any individual involved with the business or decision-making of the CCG.

4.2 Implementation

The CCG will ensure that all employees and decision-makers are aware of the existence of this policy by:

- An introduction to the policy being given during local induction for new starters to the CCG;
- An annual reminder of the existence and importance of the policy delivered via internal communication methods; and
- An annual reminder to update declaration forms sent to all members of the Governing Body and any other committee, sub-committee, or decision-making or advisory group.

Individuals to whom this policy applies will be personally responsible for ensuring that they:

- Are familiar with its provisions;
- Do not knowingly place themselves in a position which creates a potential conflict between their individual and personal interests and their CCG duties;
- Comply with the procedures set out in the policy including making declarations of potential or actual conflicts of interest where necessary; and
- Attend any conflict of interest training made available to them including training offered by NHS England as referred to below.

If applicable, individuals should also refer to their respective professional codes of conduct relating to conflicts of interest.

The CCG will view instances where this policy is not followed as serious and may take disciplinary action against individuals, which may result in removal from office in accordance with the provisions of the CCG's constitution and/or dismissal. The following CCG policies (as amended) will apply to breaches of this policy where appropriate:

- Whistleblowing Policy
- Disciplinary Policy

Where appropriate the CCG will support its Lay Members in participating in any governance training programmes offered by NHS England.

4.3 Training

All CCG employees, Governing Body Members, Committee and Sub-Committee members and practice staff involved with CCG business will complete the NHS England mandatory on-line Conflicts of Interest training at Induction and then on an annual basis.

5. What are conflicts of Interest?

For the purpose of this policy a conflict of interest is defined as:

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

A conflict of interest may be:

Actual – there is a material conflict between one or more interests.

Potential – there is the possibility of a material conflict between one or more interests in the future.

Staff may hold interests for which they cannot see potential conflict. However, caution is always advisable because others may see it differently and perceived conflicts of interest can be damaging. All interests should be declared where there is a risk of perceived improper conduct.

Interests fall into the following 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 of 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. This includes involvement with a potential provider of a new care model.
 - 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 or
 - A provider of clinical private practice.

This could also include an individual being:

- In employment outside of the CCG;
 - In receipt of secondary income;
 - 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 e.g. in dermatology, acupuncture etc.;
 - An active member of a particular specialist professional body (although routine GP membership of the RCGP, BMA or a medical defence organisation would not usually in itself amount to an interest which needs to be declared);
 - An advisor for the Care Quality Commission (CQC) or the National Institute for Health and Care Excellence (NICE);
 - Engaged in a research role.
 - Development and holding of patents and other intellectual property rights which allow staff to protect something that they create, preventing unauthorised use of products or the copying of protected ideas; or
 - GPs and Practice Managers, who are Members of the Governing Body or Committees of the CCG, should declare details of their roles and responsibilities 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 for 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 and care.

- **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:
 - Spouse / Partner;
 - Close relative e.g. parent, grandparent, child, grandchild or sibling;
 - Close friend; or
 - Business partner.

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

Whether an interest held by another person gives rise to a conflict of interest will depend upon the nature of the relationship between that person and the individual, and the role of the individual within the CCG.

It should be noted that:

- **The above categories and examples are not exhaustive** and the CCG will exercise discretion on a case by case basis;
- **The possibility of the perception of wrongdoing**, impaired judgement or undue influence shall also be considered a conflict of interest for the purposes of this Policy and should be declared and managed accordingly; and
- **Where there is doubt as to whether a conflict of interest exists**, it should be assumed that there is a conflict of interest and declared and managed accordingly.

Where an individual has any queries with respect to conflicts of interest they should seek advice from the CCG Corporate Secretary.

6. Identification, Declaration and Review of Interests

The NHS Act 2006 as amended by the Health and Social Care Act 2012 states that CCGs must make arrangements to ensure individuals declare any conflict or potential conflict in relation to a decision to be made by the CCG as soon as they become aware of it and in any event within 28 days.

The Accountable Officer has overall accountability for the CCG’s management of conflicts of interest.

Declarations should be made:

- On appointment of an individual to the CCG, its Governing Body or any committee or sub-committee or other advisory or decision-making group or panel;
- At meetings - all attendees shall be asked to declare any interest they have in any agenda item at the start of the meeting and before it is discussed or as soon as it becomes apparent, even if the same interest has previously been declared in the Register or at another meeting. This is a standard agenda item for CCG meetings. Declarations of interest will be recorded in minutes of the meetings. A template is provided at Appendix Four.
- Annually.
- At the beginning of a new project/piece of work.
- On an individual changing role or responsibility within a CCG or its Governing Body; and on any other change of circumstances that affects the individual’s interests (e.g. where the individual takes on a new role outside the CCG or sets up a new business or relationship). This could involve a conflict of interest ceasing to exist or a new one materialising.

If staff members are in doubt as to whether an interest is material then they should declare it, so that it can be considered.

Where the new role or outside employment may be perceived to be, or will result in, a conflict of interest, prior approval must be sought from the individual's line manager. The CCG reserves the right to refuse permission where it believes a conflict will arise which cannot be effectively managed.

Individuals will declare any interest that they have, in relation to the exercise of the commissioning functions of the CCG as soon as they become aware of it and in any event no later than 28 days after becoming aware. Any changes to interests declared must also be registered within 28 days of the relevant event, or knowledge of a relevant event, by completing and submitting a new declaration form.

Where an individual is unable to provide a declaration in writing, for example, if a conflict becomes apparent during the course of a meeting, they must make an oral declaration before witnesses, and provide a written declaration as soon as possible thereafter.

Members and employees of the CCG and/or NHS England completing the declaration form must provide sufficient detail of each interest so that a member of the public would be able to clearly understand the sort of financial or other interest the member or employee has and the circumstances in which a conflict of interest with the business or running of the CCG and/or NHS England might arise, the potential implications and why the interest needs to be registered.

Where members declare interests, this shall include the interests of all relevant individuals within their organisation (e.g. partners or practice managers in a GP practice) who have a relationship with the CCG and/or NHS England and who would potentially be in a position to benefit from the CCG's decisions.

The declaration of interest form is attached at Appendix One and includes information on the types of interest to be declared.

If any assistance is required in order to complete the declaration form, then the member or employee should contact the CCG Corporate Secretary, NHS South Lincolnshire CCG.

7. Register of Interests

The CCG shall keep and maintain a Register of Interests (the 'Register') of all those interests declared. Conflicts of interests shall be reported to the CCG Corporate Secretary/Manager who shall update the Register whenever a new or revised interest is declared. The CCG Corporate Secretary must ensure that the Register includes sufficient information about the nature of the interest and the details of those holding the interest.

The CCG keeps a Register of Interests for the following:

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

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

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

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

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

7.1 Decision Making Staff

Some staff members are more likely than others to have a decision making influence on the use of taxpayers' money, because of the requirements of the role. For the purposes of this policy these people are referred to as 'decision making staff'.

The following non-exhaustive list describes decision making staff members in South Lincolnshire CCG to be:

- All Governing Body members;
- Members of advisory groups which contribute to direct or delegated decision making on the commissioning or provision of taxpayer funded services such as working groups involved in service redesign or stakeholder engagement that will affect future provision of services;
- Members of the Primary Care Commissioning Committee (PCCC);
- The members of other Committees of the CCG e.g. Audit Committee, Remuneration etc.
- Members of new care models/joint provider/commissioning groups/committees
- Members of procurement (sub) Committees;
- Those at Agenda for Change band 8d and above
- Management, administrative and clinical staff who have the power to enter into contracts on behalf of the CCG; and
- Administrative and clinical staff involved in decision making concerning the commissioning of services, purchasing of good, medicines, medical devices or equipment, and formulary decisions.

The Register shall be formally reviewed on an annual basis to ensure that the Register is accurate and up to date, or earlier where relevant and published on the CCG's website at www.southlincolnshireccg.nhs.uk or upon request, addressed to the CCG Corporate Secretary at the CCG's headquarters.

Any interest will remain on the public register for a minimum of six months after the interest has expired. In addition the CCG will retain a private record of historic interests for a minimum of six years after the date on which it expired. The CCG will retain a private record of historic interests for a minimum of six years after the date on which it expired.

The Register of Interests template is attached at Appendix Two.

8. Appointing Governing Body or Committee Members

South Lincolnshire CCG shall consider whether conflicts of interest should exclude individuals from being appointed to the Governing Body or to a committee or sub-committee of the CCG.

Such consideration shall be made on a case by case basis depending on the nature and extent of the interest, in particular whether the individual (or a family member) could benefit from any decisions made and whether the interest relates to such a significant area of business such that the individual would be unable to make a full and proper contribution.

Any individual who has a material interest in an organisation which provides or is likely to provide substantial business to a CCG (either as a provider of healthcare or commissioning support services) shall not be a member of the Governing Body.

9. Role of Lay Members

CCG Lay Members play a critical role in CCGs, providing scrutiny, challenge and an independent voice in support of robust decision-making and management of conflicts of interest. They also Chair a number of CCG Committees, including the Audit Committee and Primary Care Commissioning Committee.

By statute, CCGs must have at least two Lay Members (one of whom must have qualifications, expertise or experience such as to enable the person to express informed views about financial management and audit matters and serve as Chair of the Audit Committee), and the other knowledge of the geographical area covered in the CCG's Constitution such as to enable the person to express informed views about the discharge of the CCG's functions.

National guidance also stipulates that the Primary Care Commissioning Committee must have a Lay Chair and Lay Vice Chair.

10. Conflicts of Interest Guardian

To further strengthen scrutiny and transparency of the CCGs decision-making processes, all CCGs should have a Conflicts of Interest Guardian (akin to a Caldicott Guardian). This role should be undertaken by the Chair of the Audit Committee and in South Lincolnshire CCG this is the Lay Member, Governance.

In collaboration with the CCG's Governance Lead the Conflicts of Interest Guardian:

- Will act as a conduit for GP Practice staff, members of the public and healthcare professionals who have any concerns with regard to conflicts of interest;
- Will be a safe point of contact for employees or workers of the CCG to raise any concerns in relation to this Policy;
- Will support the rigorous application of conflict of interest principles and policies;
- Will provide independent advice and judgment where there is any doubt about how to apply conflicts of interest policies and principles in an individual situation;
- Will provide advice on minimising the risks of conflicts of interest.

11. Primary Care Commissioning Committee Chair

The Chair and Vice Chair of the Committee shall be a Lay Member.

The Lay Member, Governance (Audit Committee Chair) is a member of the Primary Care Commissioning Committee, but does not have the role of Chair or Vice Chair of the Committee as this could conceivably compromise the role of Conflicts of Interest Guardian.

12. Outside Employment

Outside employment means employment and other engagements, outside of formal employment arrangements. This can include directorships, non-executive roles, self-employment, consultancy work, charitable trustee roles, political roles and roles within not-for-profit organisations, paid advisory positions and paid honorariums which relate to bodies likely to do business with an organisation. (Clinical private practice is considered separately in section 32).

- Staff should declare any existing outside employment on appointment, and any new outside employment when it arises.
- Where a risk of conflict of interest is identified, the general management actions outlined in this guidance should be considered and applied to mitigate risks.
- Where contracts of employment or terms and conditions of engagement permit, staff may be required to seek prior approval from an organisation to engage in outside employment.
- Organisations may also have legitimate reasons within employment law for knowing about outside employment of staff, even this does not give rise to risk of a conflict. Nothing in this guidance prevents such enquiries being made.

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 including paid advisory positions and paid honorariums which relate to bodies likely to do business with the CCG;
- Directorship e.g. of a GP federation or non-executive roles;
- Self-employment, including private practice, charitable trustee roles, political roles and consultancy work, 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 NHS.

Staff should declare any existing outside employment on appointment, and new outside employment when it arises.

Permission to engage in outside employment/private practice will be required and the CCG reserves the right to refuse permission where it believes a conflict will arise which cannot be effectively managed.

The following information should be declared:

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

13. Governance and decision-making processes

The CCG will review, on an annual basis, its governance structures for managing conflicts of interest to ensure that the arrangements reflect current guidance and are appropriate, particularly in relation to any co-commissioning roles which the CCG proposes to undertake. This will include consideration of the following:

- The make-up of its Governing Body and committee structures (including, where relevant, the approach set out below for decision-making in delegated commissioning of primary care).

- Whether there are sufficient management and internal controls to detect breaches of the CCG's Standards of Business Conduct and Conflict of Interests Policy, including appropriate external oversight and adequate provision for whistleblowing.
- How non-compliance with policies and procedures relating to conflicts of interest is being managed (including how this will be addressed when it relates to contracts already entered into). As well as actions to address non-compliance, the CCG will have procedures in place to review any lessons to be learned from such cases by the CCG's Audit Committee conducting an incident review.
- Reviewing and revising approaches to the CCG's register of interests.
- Whether any training or other programmes are required to assist with compliance, including participation in the training offered by NHS England.

14. Procedure for Meetings

The principles and general provisions for managing conflicts of interest and transparency prior to and during meetings and procuring services are set out in section nine of the South Lincolnshire CCG Constitution.

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 it. Where the Chair is conflicted the Vice Chair is responsible for deciding the appropriate course of action.

To support the CCG Chair in their role a Declarations of Interest checklist is attached at Appendix Three.

15. Minute Taking

It is imperative that the CCG ensures complete transparency in its decision-making processes through robust record-keeping. If any conflicts of interest are declared or otherwise arise in a meeting, the Chair must 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 template for recording minutes of the meeting can be found at Appendix Four.

16. 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.

16.1 Designing service requirements

The CCG recognises the way in which services are designed can either increase or decrease the extent of perceived or actual conflicts of interest. Public and patient involvement in commissioning decisions supports transparent and credible commissioning decisions.

The CCG is supported by its Patient Council, which includes representatives from each of the Patient Participation Groups. The Patient Council helps shape the CCGs commissioning decisions.

It is good practice to engage with clinicians in ensuring that service specifications will meet patients' needs. Provider engagement follows 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.

Engagement helps to share the requirement to meet patient need but the CCG will ensure that it does not gear the requirement in favour of any particular provider(s). If appropriate the advice of an independent clinical adviser on the design of a service will be obtained.

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

Specifications will be clear and transparent, reflecting the depth of engagement, and set out the basis on which any contract will be awarded.

16.2 Procurement and awarding grants

NHS England and CCGs must comply with two different regimes of procurement law and regulation when commissioning healthcare services: NHS (Procurement, Patient Choice and Competition) (No.2) Regulations 2013 (PPCCR 2013); and the Public Contracts Regulations 2015 (PCR 2015):

- Made under Section 75 of the 2012 Act; apply only to NHS England and CCGs; enforced by NHS Improvement; and
- The PCR 2015: apply to all public contracts enforced through the Courts.

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

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.

Complete transparency around procurement will provide:

- Evidence that the CCG is seeking and encouraging scrutiny of its decision- making process;
- A record of the public involvement throughout the commissioning of the service;
- A record of how the proposed service meets local needs and priorities for partners such as the Health and Wellbeing Boards, local Healthwatch and local communities;
- Evidence to the Audit Committee and internal and external auditors that a robust process has been followed in deciding to commission the service, in selecting the appropriate procurement route, and in addressing potential conflicts.

A procurement checklist is attached at Appendix Five. This sets out the factors that the CCG should address when drawing up plans to commission services.

17. Register of Procurement Decisions

The CCG shall keep and maintain a Register of Procurement decisions and Contracts Awarded (the 'Register of Procurement Decisions and Contracts Awarded').

The Register of Procurement Decisions and Contracts Awarded must record details of any procurement decisions taken, either for the procurement of a new service or any extension or material variation of a current contract. It must include details of the decision, who was involved in making the decision, a summary of any conflicts of interest in relation to the decision and how these were managed by the CCG, and the award decision taken.

Notification of Procurement Decisions and Contract Awards must be made via the form at Appendix Six and submitted to the Commissioning Support Services (CSU) Contracting and Procurement Team for recording on the Register.

The Template Register of procurement decisions and contracts awarded is attached at Appendix Seven.

The Register of Procurement Decisions and Contracts awarded shall be published on the CCG's website.

18. Contract Monitoring

The management of conflicts of interest applies to all aspects of the commissioning cycle, from needs assessment, to procurement exercises to contract management and monitoring.

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

19. Role of commissioning support

The CCG acknowledges that it is prohibited from delegating commissioning decisions to an external provider of commissioning support. However, the CCG shall ensure that it seeks and receives appropriate technical support to decide the most appropriate procurement route, undertake procurements and manage contracts in ways that manage conflicts of interest and preserve integrity of decision-making.

The CCG shall ensure that it:

- Determines and signs off the specification and evaluation criteria; and
- Makes the decision and/or signs off on the decision on which providers to invite to tender; and
- Makes the final decision on the selection of the provider.

20. Contractors and people who provide services to the CCG

Anyone seeking information in relation to procurement, or participating in procurement, or otherwise engaging with the CCG in relation to the potential provision of services or facilities to the CCG, will be required to make a declaration of any relevant conflict / potential conflict of interest. This will include anyone working for the CCG on a voluntary basis who may or may not be in receipt of expenses and/or subsistence payments (for example Patient Congress Members; members of patient or procurement panels).

Anyone contracted to provide services or facilities directly to the CCG will be required to make a declaration of any relevant conflict / potential conflict of interest and this requirement will be set out in the contract for their services. A template is provided at Appendix Eight.

21. Provisions relating to Primary Care Commissioning

South Lincolnshire under 14Z9 of the NHS Act 2006 has delegated responsibility for the oversight of Primary Care Commissioning.

The South Lincolnshire CCG Primary Care Commissioning Committee (PCCC) shall make procurement decisions relating to the commissioning of primary medical services. The CCG shall ensure that the membership of the Committee, which has been established to make commissioning decisions regarding primary medical services, shall be constituted so as to ensure that lay and executive members are in the majority (where lay refers to non-clinical).

Conflict of interest issues shall be considered on an individual case basis. Where a Committee would not be quorate because of conflicts of interest, the PCCC Chair may invite, on a temporary basis additional Lay Members, CCG members, GP representatives from other CCG areas, non-GP clinical representative, Healthwatch, Public Health and Health and Wellbeing Board representatives to make up the quorum so that the committee can progress the item of business.

The Primary Care Commissioning Committee shall adhere to any additional guidance issued by NHS England in relation to management of conflicts of interest in the context of delegated primary medical care commissioning.

The arrangements for primary medical care decision making will 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 scope and responsibilities of the PCCC are clearly defined in its approved Terms of Reference.

22. Additional provisions where GP's Practices are potential providers

Where Member GP Practices are potential providers of services to be commissioned, whether in the context of delegated commissioning arrangements or otherwise, the CCG shall use the "Procurement" template as set out in the Procurement Policy.

23. Preserving integrity of decision-making process when all or most GPs have an interest in a decision

In accordance with the general provisions above, where certain members have a material interest, they shall be excluded from relevant parts of meetings, or join in the discussion but not participate in the decision-making itself (i.e. not have a vote).

If all of the GPs or other practice representatives on a decision-making body could have a material interest in a decision, particularly where the CCG is proposing to commission services on a single tender basis from all GP practices in the area, or where it is likely that all or most practices would wish to be qualified providers for a service under Any Qualified Provider (AQP) the CCG shall:

- Consider co-opting individuals from a Health and Wellbeing Board or one or more members of the Governing Body of another CCG onto the Governing Body, or inviting the Health and Wellbeing Board or another CCG to review the proposal, to provide additional scrutiny (though the voting rights of any invitees shall be in accordance with the provisions of the CCG's constitution);
- By exception, and if all other options have been exhausted, refer the decision to the Governing Body and exclude all GPs or other practice representatives with an interest from the decision-making process;
- Ensure that rules on being quorate at meetings (set out in the CCG's Constitution) enable decisions to be made; and
- Plan ahead to recognise when items on meeting agendas that require decisions to be made are coming up that the agreed processes for ensuring they remain quorate are implemented.

The Chair (or their deputy where relevant) may, depending on the nature of the conflict, allow GPs or other practice representatives to join in the Committee or Governing Body's discussion (but not vote) about the proposed decision.

GPs shall comply with the latest guidance published by the General Medical Council (GMC) from time to time including Good Medical Practice (2013) and any supplementary guidance.

24. Providing reassurance

The CCG shall address the issues raised in the Procurement template when drawing up its plans to commission a service for which member GP Practices may be potential providers and set these out when complying with their duty in relation to public involvement.

This will provide appropriate assurance:

- That the CCG is seeking and encouraging scrutiny of its decision-making process; and
- That the proposed service meets local needs and priorities; and
- That a robust process has been followed in deciding to commission the service, in selecting the appropriate procurement route, and in addressing potential conflicts; and
- For NHS England in their role as assurers of any co-commissioning arrangements.

In designing service requirements the CCG shall engage relevant providers in confirming that the design of service specifications will meet patient need and such engagement will follow the three main principles of procurement law, namely equal treatment, non-discrimination and transparency.

A procurement checklist is attached at Appendix Five.

25. Transparency of contracts and GP Earnings

All contracts, including the value of the contracts, shall be published on the CCG's website as required by legislation.

In addition, where the CCG decides to commission services through AQP, the CCG will publish on its website the type of services that it commissions and the agreed price for each service. Further information, as to the providers who qualify to provide the service shall be publically available.

In line with commitments on transparency of GP earnings, the CCG is required to follow any requirements for the provisions of details of GPs' contractual earnings from the CCG for publication on GP practice websites.

26. Gifts

This section applies to all individuals listed in sections 4.1 and 7 of this policy.

Overarching principles

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

Any personal gift of cash or cash equivalents (e.g. vouchers, tokens, offers of remuneration to attend meetings whilst in a capacity working for or representing the CCG) must always be declared, whatever their value and whatever their source, and the offer which has been declined must be declared to the team or individual who has designated responsibility for maintain the register of gifts and hospitality and recorded on the register.

All the individuals listed in section 4.1 need to consider the risks associated with accepting offers of gifts, hospitality and entertainment when undertaking activities for or on behalf of the CCG or their GP practice.

This is especially important during procurement exercises, as the acceptance of gifts could give rise to real or perceived conflicts of interests, or accusations of unfair influence, collusion or canvassing.

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”*.

Gifts from Suppliers or Contractors

Gifts from suppliers or contractors doing business (or likely to do business) with the CCG should be declined, whatever their value (subject to this, low cost branded promotional aids may be accepted and not declared where they are under the value of a common industry standard of £6). The person to whom the gifts were offered should also declare the offer to the team or individual who has delegated responsibility for maintaining the register of gifts and hospitality so the offer which has been declined can be recorded register.

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

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

The CCG's form for declaring “Gifts and Hospitality” is provided at Appendix Nine.

The Register of Gifts and Hospitality template is attached at Appendix Ten.

27. Hospitality

Delivery of services across the NHS relies on working with a wide range of partners (including industry and academia) in different places and, sometimes, outside of 'traditional' working hours. Staff receiving hospitality should always be prepared to justify why it has been accepted, and be mindful that even hospitality of a small value may give rise to perceptions of impropriety and might influence behaviour.

Hospitality means offers of meals, refreshments, travel, accommodation, and other expenses in relation to attendance at meetings, conferences, education and training events etc.

Overarching principles

- CCG staff should not ask for or accept hospitality that may affect, or be seen to affect, their professional judgement;
- Hospitality should only be accepted when there is a legitimate business reason and it is proportionate to the nature and purpose of the event;
- Particular caution should be exercised when hospitality is offered by actual or potential suppliers or contractors, these can be accepted if modest and reasonable, but individuals should always obtain senior approval and declare these.

Meals and Refreshments

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

Travel and Accommodation

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

What should be declared:

- Staff name and their role with the organisation.
- A description of the nature and value of the hospitality including the circumstances.
- Date of receipt.
- Any other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this guidance).

28. Sponsored events

Sponsorship of NHS events by external parties is valued. Offers to meet some or part of the costs of running an event secures their ability to take place, benefiting NHS staff and patients. Without this funding there may be fewer opportunities for learning, development

and partnership working. However, there is potential for conflicts of interest between the organiser and the sponsor, particularly regarding the ability to market commercial products or services. As a result there should be proper safeguards in place to prevent conflicts occurring.

When sponsorships are offered, the following principles must be adhered to:

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

All declarations made under this section must be made promptly and within no more than 10 working days of the date of the offer. A declaration form is at Appendix Eleven.

29. Other forms of sponsorship

29.1 Sponsored research

Research is vital in helping the NHS to transform services and improve outcomes. Without sponsorship of research some beneficial projects might not happen. More broadly, partnerships between the NHS and external bodies on research are important for driving innovation and sharing best practice.

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

The CCG will retain written records of sponsorship of research, in line with the above principles and rules.

Staff should declare:

- their name and their role with the organisation
- a description of the nature of their involvement in the sponsored research
- relevant dates

- any other relevant information (e.g. what, if any, benefit the sponsor derives from the sponsorship, action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this guidance)

29.2 Sponsored posts

Sponsored posts are positions with an organisation that are funded, in whole or in part, by organisations external to the NHS.

- Staff who are establishing the external sponsorship of a post should seek formal prior approval from their organisation.
- Rolling sponsorship of posts should be avoided unless appropriate checkpoints are put in place to review and confirm the appropriateness of arrangements continuing.
- Sponsorship of a post should only happen where there is written confirmation that the arrangements will have no effect on purchasing decisions or prescribing and dispensing habits. For the duration of the sponsorship, auditing arrangements should be established to ensure this is the case. Written agreements should detail the circumstances under which organisations have the ability to exit sponsorship arrangements if conflicts of interest which cannot be managed arise.
- Sponsored post holders must not promote or favour the sponsor's specific products, and information about alternative products and suppliers should be provided.
- Sponsors should not have any undue influence over the duties of the post or have any preferential access to services, materials or intellectual property relating to or developed in connection with the sponsored posts.

The CCG will retain written records of sponsorship of posts, in line with the above principles and rules.

Staff should declare any other interests arising as a result of their association with the sponsor, in line with the content in the rest of this guidance.

30. Shareholdings and other ownership issues

Holding shares or other ownership interests can be a common way for staff to invest their personal time money to seek a return on investment. However, conflicts of interest can arise when staff personally benefit from this investment because of their role within an organisation.

Staff should declare, as a minimum, any shareholdings and other ownership interests in a publicly listed, private or not-for-profit company, business, partnership or consultancy which is doing, or might be reasonably expected to do, business with the organisation.

Where shareholdings or other ownership interests are declared and give rise to the risk of conflicts of interest then the general management actions outlined in this policy should be considered and applied to mitigate risks.

There is no need to declare shares or securities held in collective investment or pension funds or units of authorised unit trusts.

What should be declared:

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

31. Patents

The development and holding of patents and other intellectual property rights allows staff to protect something that they create, preventing unauthorised use of products or the copying of protected ideas.

Staff should declare patents and other intellectual property rights they hold (either individually, or by virtue of their association with a commercial or other organisation), including where applications to protect have started or are on-going, which are, or might be reasonably expected to be, related to items to be procured or used by their organisation.

Staff should seek prior permission from their organisation before entering into any agreement with bodies regarding product development, research, work on pathways, etc, where this impacts on the organisation's own time, or uses its equipment, resources of intellectual property.

Where holding of patents and other intellectual property rights give rise to a conflict of interest then the general management actions outlined in this guidance should be considered and applied to mitigate risks.

What should be declared:

- Staff name and their role within the organisation.
- A description of the patent or other intellectual property right and its ownership.
- Relevant dates.
- Other relevant information (e.g. action taken to mitigate against a conflict, detail of any approvals given to depart from the terms of this policy).

32. Loyalty interests

As part of their jobs staff members need to build strong relationships with colleagues across the NHS and in other sectors. These relationships can be hard to define as they may often fall in the category of indirect interests.

Loyalty interests should be declared by staff involved in decision making where they:

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

What should be declared:

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

33. Donations

A donation is a charitable financial payment, which can be in the form of direct cash payment or through the application of a will or similar directive.

- Acceptance of donations made by suppliers or bodies seeking to do business with an organisation should be treated with caution and not routinely accepted. In exceptional circumstances a donation from a supplier may be accepted but should always be declared. A clear reason should be recorded as to why it was deemed acceptable, alongside the actual or estimated value.
- Staff should not actively solicit charitable donations unless this is a prescribed or expected part of their duties for an organisation, or is being pursued on behalf of that organisation's registered charity (if it has one) or other charitable body and is not for their own personal gain.
- Staff must obtain permission from their organisation if in their professional role they intend to undertake fundraising activities on behalf of a pre-approved charitable campaign.
- Donations, when received, should be made to a specific charitable fund (never to an individual) and a receipt should be issued.
- Staff wishing to make a donation to a charitable fund in lieu of a professional fee they receive may do so, subject to ensuring that they take personal responsibility for ensuring that any tax liabilities related to such donations are properly discharged and accounted for.

34. Clinical Private Practice

Service delivery in the NHS is done by a mix of public, private and not-for-profit organisations. The expertise of clinicians in the NHS is in high demand across all sectors and the NHS relies on the flexibility that the public, private and not-for-profit sectors can provide. It is therefore not uncommon for clinical staff to provide NHS funded care and undertake private practice work either for an external company, or through a corporate vehicle established by themselves.

Existing provisions in contractual arrangements make allowances for this to happen and professional conduct rules apply. However, these arrangements do create the possibility for conflicts of interest arising. Therefore, these provisions are designed to ensure the existence of private practice is known so that potential conflicts of interest can be managed. These provisions around declarations of activities are equivalent to what is asked of all staff in section 25 on Outside Employment.

Clinical staff should declare all private practice on appointment, and/or any new private practice when it arises* including:

- where they practice (name of private facility)
- what they practice (specialty, major procedures).
- when they practice (identified sessions/time commitment)

*Hospital Consultants are already required to provide their employer with this information by virtue of Para.3 Sch. 9 of the Terms and Conditions – Consultants (England) 2003:

https://www.bma.org.uk/-/media/files/pdfs/practical_advice_at_work/contracts/consultanttermsandconditions.pdf

Clinical staff should (unless existing contractual provisions require otherwise or unless emergency treatment for private patients is needed):

- Seek prior approval of their organisation before taking up private practice.
- Ensure that, where there would otherwise be a conflict or potential conflict of interest, NHS commitments take precedence over private work.**
- Not accept direct or indirect financial incentives from private providers other than those allowed by Competition and Markets Authority guidelines:
https://assets.publishing.service.gov.uk/media/542c1543e5274a1314000c56/Non-Divestment_Order_amended.pdf

Hospital Consultants should not initiate discussions about providing their Private Professional Services for NHS patients, nor should they ask other staff to initiate such discussions on his or her behalf.**

What should be declared:

- Staff name and their role with the organisation.
- A description of the nature of the private practice (e.g. what, where and when you practice, sessional activity, etc).
- Relevant dates.
- Any other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this guidance).

35. Personal Conduct

Lending or borrowing

The lending or borrowing of money between staff should be avoided, whether informally or as a business, particularly where the amounts are significant.

It is a particularly serious breach of discipline for any member of staff to use their position to place pressure on someone in a lower payband, a business contact, or a member of the public to loan them money.

Gambling

No member of staff may bet or gamble when on duty or on NHS and CCG premises, with the exception of small lottery syndicates or sweepstakes related to national events such as the World Cup or Grand National among immediate colleagues.

Trading on official premises

Trading on official premises is prohibited, whether for personal gain or on behalf of others. Canvassing within the office by, or on behalf of, outside bodies or firms (including non NHS CCG interests of staff or their relatives) is also prohibited. Trading does not include small tea or refreshment arrangements solely for staff.

Collection of money

Charitable collections must be authorised by the CCG Corporate Secretary. Other flag day appeals are not permitted. Collection tins and boxes must not be placed in offices.

With line management agreement collections may be made among immediate colleagues and friends to support small funding raising initiatives (e.g. Jeans for Genes Day and Children in Need) and raffle tickets and sponsored events. Permission is not required for informal collections amongst immediate colleagues on an occasion like retirement, marriage, new job or birthdays.

Bankrupt or insolvent staff

Any member of staff who becomes bankrupt or insolvent must inform their line manager and Human Resources as soon as possible. Staff who are bankrupt or insolvent cannot be employed in posts that involve duties which might permit the misappropriation of public funds or involve the handling of money.

Arrest or conviction

A member of staff who is arrested and refused bail or convicted of any criminal offence must inform their line manager and Human Resources.

Political activities

Any political activity should not identify an individual as an employee of the CCG. Conferences or functions run by a party political organisation should not be attended in an official capacity, except with prior written permission from the Chief Officer.

On matters affecting the work of the CCG, staff members should not make political speeches without first discussing it with the Chief Officer of the CCG.

Social Media

If staff use social networking sites (such as Twitter and Facebook), they should ensure that they have read and fully understood the Computer Systems Use Policy and Social Media Protocol.

36. Prime Financial Policies and Scheme of Reservation and Delegation

All CCG staff must carry out their duties in accordance with the CCG's Prime Financial Policies and Scheme of Reservation and Delegation. These documents set out the statutory and governance framework in which the CCG operates and there is considerable overlap between the contents of this policy and the provisions of the CCG's Prime Financial Policies and Scheme of Reservation and Delegation. CCG staff must at all times refer to and act in accordance with these documents and the CCG Constitution to ensure the correct processes are followed. In the event of any doubt, CCG staff should seek advice from their line manager or the CCG Corporate Secretary. In the event of any conflict arising between the details of this policy and the Prime Financial Policies and Scheme of Reservation and Delegation, the provisions of these documents and the CCG Constitution will prevail.

37. Prevention of Corruption and the Bribery Act 2010

The Bribery Act 2010 replaces the fragmented and complex offences at common law, and in the Prevention of Corruption Acts 1889-1916. This broadly defines the two sections below:

- Two general offences of bribery – 1) Offering or giving a bribe to induce someone to behave, or to reward someone for behaving, improperly and 2) requesting or accepting a bribe either in exchange for acting improperly, or where the request or acceptance is itself improper;
- The new corporate offence of negligently failing by a company or limited liability partnership to prevent bribery being given or offered by an employee or agent on behalf of that organisation.

Any suggestion or suspicion of corruption or fraudulent practice should be reported to the Local Counter Fraud Specialist – as detailed in the Countering Fraud and Corruption Policy.

38. Raising concerns and reporting 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 must not ignore their suspicions or investigate themselves, but rather speak to the CCG Corporate Secretary, the CCG's governance lead or the Conflict of Interest Guardian.

Any non-compliance with this policy must be reported to the CCG Corporate Secretary, the CCG's governance lead or the Conflict of Interest Guardian, and will be treated in confidence so far as is practical and in line with the CCG's Whistleblowing Policy.

The CCG Corporate Secretary, or any other senior officer identified by the Conflict of Interest Guardian shall assess the breach and formally arrange for it to be investigated. The purpose of the investigation shall be to establish:

- If a breach has actually occurred.
- The nature of the breach.
- The impact of the breach.
- The arrangements in place at that time that could have prevented a breach.
- The learning as a consequence.
- What remedial action is required.
 - What other policies may need to be considered to address the breach (e.g. but not limited to, HR or Whistleblowing).

The findings will be reported to the Conflicts of Interest Guardian who will then submit the findings to the Audit Committee. The Audit Committee has responsibility for determining the most appropriate course of action.

Any breaches must be reported promptly to the NHS England Local Area Team Managing Director and published on the CCG's website in anonymised form and in accordance with NHS England statutory guidance.

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

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.

39. Equality and Diversity Statement

South Lincolnshire CCG is committed to ensuring that it treats its employees fairly, equitably and reasonably and that it does not discriminate against individuals or groups on the basis of their ethnic origin, physical or mental abilities, gender, age, religious beliefs, sexual orientation, gender reassignment, marriage or civil partnership, pregnancy or maternity of race.

Any concerns or issues with the contents of this policy, or difficulties understanding how the policy relates to individuals in their roles should be directed to the CCG Corporate Secretary.

40. Monitoring Compliance and Effectiveness of the Policy

This policy will be reviewed on a yearly basis by the CCG Corporate Secretary and Governing Body. All groups and individuals to whom this policy applies will be reminded of its contents and Register of Interests on an annual basis. The CCG Corporate Secretary will take any action necessary as highlighted by the review.

As part of the Improvement and Assessment Framework (IAF) the Conflicts of Interest Guardian/Audit Committee Chair and Accountable Officer must provide formal direct attestation to NHS England that South Lincolnshire CCG has complied with the statutory guidance as part of a quarterly and annual self-certification. To enable the attestation to be made the Conflicts of Interest Guardian/Audit Committee Chair and Accountable Officer may seek appropriate evidence as required to support this.

Conflicts of Interest Management will also be the subject of an independent review by the CCG's Internal Audit Team.

Declaration of interest for CCG members and employees

| Name | | | | |
|---|---|---------------------------------|--|---|
| Position within, or relationship with the CCG (or NHS England in the event of joint committees) | | | | |
| Detail of interests held (complete all that are applicable) | | | | |
| Type of interest* *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 organisations' 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, in the case of 'decision making staff' (as defined in the statutory guidance on managing conflicts of interest for CCGs) may be published in registers that the CCG holds.

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

Decision making staff should be aware that the information provided in this form will be added to the CCG's registers which are held in hardcopy for inspection by the public and published on the CCG's website.

Decision making staff must make any third party whose personal data they are providing in this form aware that the personal data will held in hardcopy for inspection by the public and published on the CCG's website and must inform the third party that the CCG's privacy policy is available on the CCG's website. If you are not sure whether you are a 'decision making' member of staff, please speak to your line manager before completing this form.

This paragraph applies to decision making staff only. 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:

Signed:

Signed:

(Line Manager or Senior CCG Manager)

Position:

Date:

Date:

Please return to: CCG Corporate Secretary, South Lincolnshire CCG, Eventus, Northfields Industrial Estate, Sunderland Road, Market Deeping, PE6 8FD or via email at Julie.ellis-fenwick@southlincolnshireccg.nhs.uk

Types of conflicts of interest

| Type of Interest | Description |
|--------------------------------------|---|
| Financial Interest | <p>This is where an individual may get direct financial benefits from the consequences of a commissioning decision. This could, for example, include being:</p> <ul style="list-style-type: none"> • 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. This includes involvement with a potential provider of a new care model; • 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; or • A provider of clinical private practice. <p>This could also include an individual being:</p> <ul style="list-style-type: none"> • In employment outside of the CCG; • In receipt of secondary income; • 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 | <p>This is where an individual may obtain a non-financial professional benefit from the consequences of a commissioning decision, such as increasing their professional reputation or status or promoting their professional career. This may, for example, include situations where the individual is:</p> <ul style="list-style-type: none"> • An advocate for a particular group of patients; • A GP with special interests e.g., in dermatology, acupuncture etc.: • An active member of a particular specialist professional body (although routine GP membership of the Royal College of General Practitioners (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); • Engaged in a research role; • The development and holding of patents and other intellectual property rights which allow staff to protect something that they create, preventing unauthorised use of products or the copying of protected ideas; or • 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 | <p>This is where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit. This could include, for example, where the individual is:</p> <ul style="list-style-type: none"> • A voluntary sector champion for a provider; • A volunteer for a provider; • A member of a voluntary sector board or has any other position of authority in or connection with a voluntary sector organisation; • Suffering from a particular condition requiring individually funded treatment; • A member of a lobby or pressure group with an interest in health and care. |
| Indirect Interests | <p>This is where an individual has a close association with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest in a commissioning decision (as those categories are described above). This should include:</p> <ul style="list-style-type: none"> • Spouse/Partner • Close relative e.g. parent, grandparent, child, grandchild or sibling. • Close friend • Business partner |

Template declarations of interest checklist

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

| Timing | Checklist for Chairs | Responsibility |
|---|---|---|
| <p>In advance of the meeting</p> | <ol style="list-style-type: none"> 1. The agenda to include a standing item on declaration of interests to enable individuals to raise any issues and/or make a declaration at the meeting. 2. A definition of conflicts of interest should also be accompanied with each agenda to provide clarity for all recipients. 3. Agenda to be circulated to enable attendees (including visitors) to identify any interests relating specifically to the agenda items being considered. 4. Members should contact the Chair as soon as an actual or potential conflict is identified. 5. Chair to review a summary report from preceding meetings i.e., sub-committee, working group, etc., detailing any conflicts of interest declared and how this was managed. A template for a summary report to present discussions at preceding meetings is detailed below. 6. A copy of the members' declared interests is checked to establish any actual or potential conflicts of interest that may occur during the meeting. | <p>Meeting Chair and secretariat</p> <p>Meeting Chair and secretariat</p> <p>Meeting Chair and secretariat</p> <p>Meeting members</p> <p>Meeting Chair</p> <p>Meeting Chair</p> |
| <p>During the meeting</p> | <ol style="list-style-type: none"> 7. Check and declare the meeting is quorate and ensure that this is noted in the minutes of the meeting. | <p>Meeting Chair</p> |

| | | |
|-------------------------------------|--|---|
| | <p>8. Chair requests members to declare any interests in agenda items- which have not already been declared, including the nature of the conflict.</p> <p>9. Chair makes a decision as to how to manage each interest which has been declared, including whether / to what extent the individual member should continue to participate in the meeting, on a case-by-case basis, and this decision is recorded.</p> <p>10. As minimum requirement, the following should be recorded in the minutes of the meeting:</p> <ul style="list-style-type: none"> • Individual declaring the interest; • At what point the interest was declared; • The nature of the interest; • The Chair’s decision and resulting action taken; • The point during the meeting at which any individuals retired from and returned to the meeting - even if an interest has not been declared. • Visitors in attendance who participate in the meeting must also follow the meeting protocol and declare any interests in a timely manner. <p>A template for recording any interests during meetings is detailed below.</p> | <p>Meeting Chair</p> <p>Meeting Chair and secretariat</p> <p>Secretariat</p> |
| <p>Following the meeting</p> | <p>11. All new interests declared at the meeting should be promptly updated onto the declaration of interest form;</p> <p>12. All new completed declarations of interest should be transferred onto the register of interests.</p> | <p>Individual(s) declaring interest(s)</p> <p>Designated person responsible for registers of interest</p> |

Template for recording any interests during meetings

| Report from <insert details of sub-committee/ work group> | |
|---|--|
| Title of paper | <insert full title of the paper> |
| Meeting details | <insert date, time and location of the meeting> |
| Report author and job title | <insert full name and job title/ position of the person who has written this report> |
| Executive summary | <include summary of discussions held, options developed, commissioning rationale, etc.> |
| Recommendations | <include details of any recommendations made including full rationale> <include details of finance and resource implications> |
| Outcome of Impact Assessments completed (e.g. Quality IA or Equality IA) | <Provide details of the QIA/EIA. If this section is not relevant to the paper state 'not applicable'> |
| Outline engagement – clinical, stakeholder and public/patient: | <Insert details of any patient, public or stakeholder engagement activity. If this section is not relevant to the paper state 'not applicable'> |
| Management of Conflicts of Interest | <Include details of any conflicts of interest declared> <Where declarations are made, include details of conflicted individual(s) name, position; the conflict(s) details, and how these have been managed in the meeting> <Confirm whether the interest is recorded on the register of interests- if not agreed course of action> |
| Assurance departments/ organisations who will be affected have been consulted: | <Insert details of the people you have worked with or consulted during the process : Finance (insert job title) Commissioning (insert job title) Contracting (insert job title) Medicines Optimisation (insert job title) Clinical leads (insert job title) Quality (insert job title) Safeguarding (insert job title) Other (insert job title)> |
| Report previously presented at: | <Insert details (including the date) of any other meeting where this paper has been presented; or state 'not applicable'> |
| Risk Assessments | <insert details of how this paper mitigates risks- including conflicts of interest> |

Template to record interests during the meeting

| Meeting | Date of Meeting | Chairperson (name) | Secretariat (name) | Name of person declaring interest | Agenda Item | Details of interest declared | Action taken |
|---------|-----------------|--------------------|--------------------|-----------------------------------|-------------|------------------------------|--------------|
| | | | | | | | |
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Template for recording minutes

**South Lincolnshire Clinical Commissioning Group
Primary Care Commissioning Committee Meeting**

Date: 15 February 2016
Time: 2pm to 4pm
Location: Room B, XXXX CCG

Attendees:

| Name | Initials | Role |
|------------------|-----------------|---|
| Sarah Kent | SK | XXX CCG Governing Body Lay Member (Chair) |
| Andy Booth | AB | XXX CCG Audit Chair Lay Member |
| Julie Hollings | JH | XXX CCG PPI Lay Member |
| Carl Hodd | CH | Assistant Head of Finance |
| Mina Patel | MP | Interim Head of Localities |
| Dr Myra Nara | MN | Secondary Care Doctor |
| Dr Maria Stewart | MS | Chief Clinical Officer |
| Jon Rhodes | JR | Chief Executive – Local Healthwatch |

In attendance from 2.35pm

Neil Ford NF Primary Care Development Director

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

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

Procurement checklist

| Service: | |
|---|-------------------|
| Question | Comment/ Evidence |
| 1. How does the proposal deliver good or improved outcomes and value for money – what are the estimated costs and the estimated benefits? How does it reflect the CCG’s proposed commissioning priorities? How does it comply with the CCG’s commissioning obligations? | |
| 2. How have you involved the public in the decision to commission this service? | |
| 3. What range of health professionals have been involved in designing the proposed service? | |
| 4. What range of potential providers have been involved in considering the proposals? | |
| 5. How have you involved your Health and Wellbeing Board(s)? How does the proposal support the priorities in the relevant joint health and wellbeing strategy (or strategies)? | |
| 6. What are the proposals for monitoring the quality of the service? | |
| 7. What systems will there be to monitor and publish data on referral patterns? | |
| 8. Have all conflicts and potential conflicts of interests been appropriately declared and entered in registers? | |
| 9. In respect of every conflict or potential conflict, you must record how you have managed that conflict or potential conflict. Has the management of all conflicts been recorded with a brief explanation of how they have been managed? | |

| | |
|---|--|
| 10. Why have you chosen this procurement route e.g., single action tender?¹ | |
| 11. What additional external involvement will there be in scrutinising the proposed decisions? | |
| 12. How will the CCG make its final commissioning decision in ways that preserve the integrity of the decision-making process and award of any contract? | |
| Additional question when qualifying a provider on a list or framework or pre selection for tender (including but not limited to any qualified provider) or direct award (for services where national tariffs do not apply) | |
| 13. How have you determined a fair price for the service? | |
| Additional questions when qualifying a provider on a list or framework or pre selection for tender (including but not limited to any qualified provider) where GP practices are likely to be qualified providers | |
| 14. How will you ensure that patients are aware of the full range of qualified providers from whom they can choose? | |
| Additional questions for proposed direct awards to GP providers | |
| 15. What steps have been taken to demonstrate that the services to which the contract relates are capable of being provided by only one provider? | |
| 16. In what ways does the proposed service go above and beyond what GP practices should be expected to provide under the GP contract? | |
| 17. What assurances will there be that a GP practice is providing high-quality services under the GP contract before it has the opportunity to provide any new services? | |

¹Taking into account all relevant regulations (e.g. the NHS (Procurement, patient choice and competition) (No 2) Regulations 2013 and guidance (e.g. that of Monitor).

Appendix Six

Template: Procurement decisions and contracts awarded

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

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

Signed:

On behalf of:

Date:

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

Template Register of Procurement decisions and contracts awarded

| Ref No | Contract/ Service title | Procurement description | Existing contract or new procurement (if existing include details) | Procurement type – CCG procurement, collaborative procurement with partners | CCG clinical lead | CCG contract manger | Decision making process and name of decision making committee | Summary of conflicts of interest declared and how these were managed | Contract awarded (supplier name & registered address) | Contract value (£) (Total) | Contract value (£) to CCG |
|--------|-------------------------|-------------------------|--|---|-------------------|---------------------|---|--|---|----------------------------|---------------------------|
| | | | | | | | | | | | |
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Template Declaration of conflict of interests for bidders/contractors

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

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

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

Signed:

On behalf of:

Date:

Template Declaration of gifts and hospitality

| Recipient Name | Position | Date of Offer | Date of Receipt (if applicable) | Details of Gift/Hospitality | Estimated Value | Supplier/Offeror Name & Nature of Business | Details of Previous Offers or Acceptance by this Offeror/Supplier | Details of the officer reviewing and approving the declaration made and date | Declined or Accepted? | Reason for Accepting / Declining | Other Comments |
|----------------|----------|---------------|---------------------------------|-----------------------------|-----------------|--|---|--|-----------------------|----------------------------------|----------------|
| | | | | | | | | | | | |
| | | | | | | | | | | | |

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

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

This paragraph applies to decision making staff only. 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:

Signed:

Signed:

(Line Manager or Senior CCG Manager)

Position

Date:

Date:

Please return to: CCG Corporate Secretary, South Lincolnshire CCG, Eventus, Northfields Industrial Estate, Sunderland Road, Market Deeping, PE6 8FD or via email at Julie.ellis-fenwick@southlincolnshireccg.nhs.uk

Declarations of commercial sponsorship

| Recipient Name | Position | Date of Offer | Date of Receipt (if applicable) | Details of sponsorship | Estimated Value | Supplier/Offeror Name and Nature of Business | Details of Previous Officers or Acceptance by this Offeror/Supplier | Details of the officer reviewing and approving the declaration made and date | Declined or Accepted | Reason for Accepting or Declining | Other Comments |
|----------------|----------|---------------|---------------------------------|------------------------|-----------------|--|---|--|----------------------|-----------------------------------|----------------|
| | | | | | | | | | | | |
| | | | | | | | | | | | |

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

I confirm that the information provided above is complete and correct. I acknowledge that any changes in these declarations must be notified to the CCG as soon as practicable and no later than 5 working days after the interest arises. I am aware that if I do not make full, accurate and timely declarations then civil, criminal professional regulatory or internal disciplinary action may result.

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

Signed: _____ **Date:** _____

Signed: _____ **Position:** _____ **Date:** _____

(Line Manager or a Senior CCG Manager)

Please return to: CCG Corporate Secretary, South Lincolnshire CCG, Eventus, Northfields Industrial Estate, Sunderland Road, Market Deeping, PE6 8FD or via email at Julie.ellis-fenwick@southlincolnshireccg.nhs.uk

Appendix Twelve

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

Introduction

1. Conflicts of interest can arise throughout the whole commissioning cycle from needs assessment, to procurement exercises, to contract monitoring. They arise in many situations, environments and forms of commissioning.
2. Where CCGs are commissioning new care models², 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.
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.

² 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.

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.

Primary Care Commissioning Committee

15. Where a CCG has full delegation for primary medical services, CCGs could consider delegating the commissioning and contract management of the entire new care model to its Primary Care Commissioning Committee. This Committee is constituted with a lay and executive majority, and includes a requirement to invite a Local Authority and Healthwatch representative to attend (see paragraph 97 onwards of the CCG guidance).
16. Should this approach be adopted, the CCG may also want to increase the representation of other relevant clinicians on the Primary Care Commissioning Committee when new care models are being considered, as mentioned in Paragraph 98 of this guidance. The use of the

Primary Care Commissioning Committee may assist with the management of conflicts/quorum issues at governing body level without the creation of a new forum/committee within the CCG.

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.