

CONFLICTS OF INTEREST POLICY

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POLICY AMENDMENTS

Amendments to the Policy will be issued from time to time. A new amendment history will be issued with each change.

Version #	Issued by	Nature of Amendment	Approved by	Approved Date	Date on Intranet
1	CSU	Original	n/a		n/a
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3	Associate Director of Corporate Services	Declaration of Interests and Secondary Employment/Private Practice Form 2016/17			07.07.16
4	Corporate Services Manager	General amendments in line with new NHS England guidance for Conflicts of Interest			
4		Change to Annual review of policy from 2 year review (NHSE Guidance)			
4		Expanded on definition of an interest (NHSE Guidance)			
4		Addition of Principles section (NHSE Guidance)			
4		Request declarations of interest for new applicants (NHSE Guidance)			
4		Change to 6 monthly review of declarations of interest from annual review (NHSE Guidance)			
4		Further detail regarding roles and responsibility including COI Guardian and PCCC Chair (NHSE Guidance)			
4		Identified need to request declarations from bidders in procurement process (NHSE Guidance)			
4		Identified need to include actions taken to mitigate risk of declarations on register (NHSE)			
4		Publication of Declarations of interest for all staff Band 8 and above including CoCR (NHSE Guidance)			
4		Gifts and Hospitality removed from Business Conduct Policy and included in COI Policy			
4		Reduction in small token gifts amount to £10			
4		Publication of Gifts and Hospitality for all staff Band 8 and above including CoCR (NHSE Guidance)			

Version #	Issued by	Nature of Amendment	Approved by	Approved Date	Date on Intranet
4		Guidance added regarding recording COI at minutes			
4	Corporate Services Manager	Secondary employment removed from Business Conduct Policy and included in COI Policy			
4		Change to process of raising concerns regarding COIs			
4		Change to process regarding managing breaches of COI Policy			
4		Training amended to include statutory annual COI training delivered via NHSE CBLs (Autumn 2016) (NHSE Guidance)			
4		Included annual internal audit of COI (NHSE Guidance)			
4		Revised DOI Form (NHSE Guidance)			
4		Included the following appendices: Declaration of gifts and hospitality form and register template Templates for recording COIs at meetings (Agenda and minutes) Procurement Checklist Meeting Checklist			
4.1		Corporate Services Manager	Added in reference to how to report fraud in Section 16		
4.2	Corporate Services Manager	Amended due to further revision to COI Guidance from NHSE	Audit and Governance Committee	21/07/17	
4.2	Corporate Services Manager	Scope amended to remove the necessity for 'GPs and other staff within the CCG's member practices are not required to declare offers/receipt of gifts and hospitality which are unconnected with their role or involvement in the CCG Amended COI definition as per revised guidance	Audit and Governance Committee	21/07/17	
4.2	Corporate Services Manager	Amended COI definition as per revised guidance	Audit and Governance Committee	21/07/17	
4.2	Corporate Services Manager	Review of Declarations of Interest changed from 6 monthly to annually. Amended COI definition as per revised guidance	Audit and Governance Committee	21/07/17	
4.2	Corporate Services Manager	Introducing what group of staff constitutes decision makers for the purpose of publishing their declarations	Audit and Governance Committee	21/07/17	
4.2	Corporate Services Manager	Reduction in the level of value for promotional material from £10 - £6	Audit and Governance Committee	21/07/17	
4.2	Corporate Services Manager	Inclusion of £50 limit for non-suppliers for gifts which do not need to be declared	Audit and Governance	21/07/17	

Version #	Issued by	Nature of Amendment	Approved by	Approved Date	Date on Intranet
			Committee		
4.2	Corporate Services Manager	Amend to sponsorship section	Audit and Governance Committee	21/07/17	
4.2	Corporate Services Manager	Term <i>Secondary Employment</i> changed to <i>Outside Employment</i>	Audit and Governance Committee	21/07/17	
4.2	Corporate Services Manager	Updated section on procurement	Audit and Governance Committee	21/07/17	
4.2	Corporate Services Manager	Included definition of 'breaches'	Audit and Governance Committee	21/07/17	
5.1	Corporate Services Manager	Replace reference to Data Protection Act with Data Protection regulations (various places)	Audit and Governance Committee		
5.1	Corporate Services Manager	Added in reference to third lay member acting as Deputy Chair of the PCCCC (Section 8.5)	Audit and Governance Committee		
5.1	Corporate Services Manager	Added in reference to the declarations of gifts and hospitality standard agenda item on Committee/Staff Meeting agendas (Section 13) and updated the template agenda (Appendix E)	Audit and Governance Committee		

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1 INTRODUCTION

CCGs are required to make arrangements to manage conflicts of interest and potential conflicts of interest to ensure they do not affect, or appear to affect, the integrity of the CCG's decision-making processes. This includes the provision of clear guidance to members and employees on what might constitute a conflict of interest, together with examples of situations that may arise. This policy sets out those arrangements, based on Section 8 of its Constitution and taking account of the relevant statutory requirements and guidance documents outlined in Section 16. The CCG is committed to reviewing the policy on an annual basis in line with NHS England guidance.

“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 & governance, CCGs should be able to avoid these risks.” (*RCGP & NHS Confederation's briefing paper on managing conflicts of interest September 2011*).

CCGs now have the opportunity to take on the responsibility for the commissioning of primary care services. This could expose them to a greater risk of conflicts of interest, both real and perceived, especially if they are opting to take on delegated budgets and functions from NHS England. NHS Scarborough and Ryedale CCG (SRCCG) believes that co-commissioning will provide further opportunities for improving quality and reducing variation, and will enable the CCG to commission new models of primary care which meet the needs of the patient population and have opted to assume delegated commissioning – and assume full responsibility for the commissioning of general practice services in the region.

In addition to the specific arrangements in this policy, the CCG will embody public service values and principles in all its business transactions as outlined in the separate Policy on Business Conduct supplemented by Prime Financial Policies.

2 ENGAGEMENT

During preparation for the establishment of SRCCG the Governing Body consulted with the member practices and the Local Medical Committee (YORLMC) about the CCG Policy on Business Conduct and Management of Conflicts of Interest. A policy was adopted in November 2012 and this supported the SRCCG Constitution.

During the first year of SRCCG a programme of policy review has taken place and it is suggested that two separate policies are adopted setting out the CCG position and processes for Business Conduct

The Audit and Governance Committee and the Governing Body will review the draft policy and liaise with the Local Medical Committee (YORLMC) prior to approval being sought from the Council of Members.

3 IMPACT ANALYSES

3.1 Equality

As a result of performing the analysis, the policy does not appear to have any adverse effects on people who share *Protected Characteristics* and no further actions are recommended at this stage. The supporting paperwork is attached to the policy when presented for approval and will be available with the policy on the CCG's website.

3.2 Sustainability

As a result of performing the analysis, the policy does not have any effects in terms of sustainability. The supporting paperwork is attached to the policy when presented for approval and will be available with the policy on the CCG's website.

3.3 Bribery Act 2010

The Bribery Act is particularly relevant to this policy. The CCG has a responsibility to ensure that all staff are made aware of their duties and responsibilities arising from the Bribery Act 2010 which came into force on 1 July 2011.

Under the Bribery Act 2010, it is a criminal offence to:

- Bribe another person by offering, promising or giving a financial or other advantage to induce them to perform improperly a relevant function or activity, or as a reward for already having done so; and
- Be bribed by another person by requesting, agreeing to receive or accepting a financial or other advantage with the intention that a relevant function or activity would then be performed improperly, or as a reward for having already done so.

These offences can be committed directly or by and through a third person and, in many cases, it does not matter whether the person knows or believes that the performance of the function or activity is improper.

It is therefore extremely important that staff adhere to this and other related policies and documentation (as detailed on the CCG's website) when considering whether to offer or accept gifts and hospitality and/or other incentives.

All individuals should be aware that in committing an act of bribery they may be subject to a penalty of up to 10 years imprisonment, an unlimited fine, or both. They may also expose the organisation to a conviction punishable with an unlimited fine because the organisation may be liable where a person associated with it commits an act of bribery.

Individuals should also be aware that a breach of this Act, or of this policy, renders them liable to disciplinary action by the CCG whether or not the breach leads to prosecution. Where a material breach of this guidance is found to have occurred, the likely sanction will be loss of employment and superannuation rights.

Further information on the Bribery Act can be found at www.opsi.gov.uk/acts.

4 SCOPE

This policy applies to:

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, 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.

GPs and other staff within the CCG's member practices are not required to declare offers/receipt of gifts and hospitality which are unconnected with their role or involvement in the CCG, and this statutory guidance does not apply to such situations.

5 POLICY PURPOSE & AIMS

The CCG recognises that conflicts of interest are unavoidable and therefore has in place arrangements to seek to manage them. The measures outlined in this policy are aimed at ensuring that decisions made by the CCG will be taken, and seen to be taken, uninfluenced by external or private interests, specifically

- Ensure that the CCG and clinicians in commissioning roles demonstrate they are acting fairly and transparently and in the best interest of their patients and local populations;
- Ensure that the CCG operates within the legal framework;
- Safeguard clinically led commissioning, whilst ensuring objective investment decisions;
- Provide the public, providers, Parliament and regulators with confidence in the probity, integrity and fairness of commissioners' decisions;
- Provide support and information for individuals in order that they understand when actual or potential conflicts may arise and how they will be managed.

In addition, the policy sets out:

- The additional factors that need to be addressed when commissioning primary medical care services, either under joint commissioning or delegated commissioning arrangements. This includes factors to consider when drawing up plans for services that might be provided by GP practices and also includes the necessary aspects of the make-up of the decision-making committee which must have a lay and executive member majority;
- The steps that the CCG will take to assure our Integrated Audit and Governance Committee, Health and Wellbeing Board, NHS England and,

where necessary, our auditors, that these services are appropriately commissioned from GP practices;

- Procedures for decision-making in cases where all the GPs (or other practice representatives) sitting on a decision-making group have a potential financial interest in the decision.

6 DEFINITIONS

A conflict of interest occurs where 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 by another interest they hold.'

The individual does not need to exploit his or her position or obtain an actual benefit, financial or otherwise. A potential for competing interests and/or a perception of impaired judgement or undue influence can also be a conflict of interest.

The important things to remember are that:

- A perception of wrong doing, impaired judgement or undue influence can be as detrimental as any of them actually occurring;
- If in doubt, it is better to assume a conflict of interest and manage it appropriately rather than ignore it;
- For a conflict to exist, financial gain is not necessary.
- For the purposes of Regulation 6 of the NHS (Procurement, Patient Choice and Competition (No 2) Regulations 2013, a conflict will arise when an individual's ability to exercise judgment or act in their role in the commissioning of services is impaired or influenced by their interests in the provision of those services. (Monitor – Substantive guidance on the Procurement, Patient Choice & Competition Regulations (December 2013))

In line with NHS England *Managing Conflicts of Interest: Revised Statutory Guidance for CCGs*, a conflict of interest will include (but is not necessarily limited to):

- Financial interests: This is where an individual may get direct financial benefits from the consequences of a commissioning decision. 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.

- 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.
- 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)

Examples of interests that will be deemed to be relevant and material are included in the Declaration of Interest form and guidance, Appendix A.

Further examples and case studies are available from NHS England at:

<https://www.england.nhs.uk/commissioning/wp-content/uploads/sites/12/2016/06/coi-case-studies-jun16.pdf>

7 PRINCIPLES

The CCG CCGs observes the principles of good governance in the way they do business. These include:

- The Nolan Principles¹
- The Good Governance Standards for Public Services (2004), Office for Public Management (OPM) and Chartered Institute of Public Finance and Accountancy (CIPFA)²
- The seven key principles of the NHS Constitution³
- The Equality Act 2010⁴
- The UK Corporate Governance Code⁵
- Standards for members of NHS boards and CCG governing bodies in England⁶

8 ROLES / RESPONSIBILITIES / DUTIES

It is the responsibility of Council of Members, Governing Body, Committee Members, Locality Forums & CCG Staff (including any agency and seconded

¹ The 7 principles of public life <https://www.gov.uk/government/publications/the-7-principles-of-public-life>

² The Good Governance Standards for Public Services , 2004, OPM and CIPFA <http://www.opm.co.uk/wpcontent/uploads/2014/01/Good-Governance-Standard-for-Public-Services.pdf>

³ The seven key principles of the NHS Constitution <http://www.nhs.uk/NHSEngland/thenhs/about/Pages/nhscoreprinciples.aspx>

⁴ The Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15/contents>

⁵ UK Corporate Governance Code <https://www.frc.org.uk/Our-Work/Codes-Standards/Corporate-governance/UKCorporate-Governance-Code.aspx>

⁶ Standards for members of NHS boards and CCG governing bodies in England <http://www.professionalstandards.org.uk/publications/detail/standards-for-members-of-nhs-boards-and-clinicalcommissioning-group-governing-bodies-in-england>

staff) to ensure that they are fully aware of their responsibilities under this policy and that they fully compliant at all times.

8.1 The Appointment of Governing Body Members

On appointing governing body, committee or sub-committee members and senior staff, the CCG will consider whether conflicts of interest should exclude individuals from being appointed to the relevant role.

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

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

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

8.2 Audit and Governance Committee

The Audit and Governance Committee will review the arrangements for the declaration and management of conflicts of interest and provide assurances, on a report highlighting issues to increase assurances, to the Governing Body that adequate systems and processes are in place to ensure compliance, especially in relation to the development of new services/contracts or changes to existing services/contracts.

8.3 Audit and Governance Committee Chair and Accountable Officer

The Audit and Governance Committee Chair and the Accountable Officer will be responsible for providing direct formal attestation to NHS England that the CCG has complied with statutory guidance. This attestation will subsequently form part of an annual certification. The CCG's approach to the management

of conflicts of interest will also be considered on an on-going basis as part of CCG assurance, as prescribed and amended by NHS England.

8.4 Audit and Governance Committee Chair and Associate Director of Corporate Services

The Audit and Governance Committee Chair is a lay member and will undertake the role of the Conflicts of Interest Guardian. This role will be supported by the Associate Director of Corporate Governance, who has responsibility for the day-to-day management of conflicts of interest matters and queries and will keep the Conflicts of Interest Guardian well briefed on conflicts of interest matters and issues arising.

The Conflicts of Interest Guardian and the Associate Director for Corporate Services will:

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

8.5 Primary Care Co-Commissioning Committee Chair and Deputy Chair

The Primary Care Co-Commissioning Committee Chair and deputy chair are lay members. These are different lay members to that of the Audit and Governance Committee to ensure appropriate oversight and assurance, and to ensure the CCG audit chair's position as Conflicts of Interest Guardian is not compromised.

8.6 CCG Staff

CCG employed staff are advised not to engage in outside employment which may conflict with their NHS work. They are advised to tell their employer if they think they may be risking a conflict of interest in this area and the declaration can be made on the form at Appendix A.

All individuals covered by the scope of this policy are also required to declare any relevant personal or business interests of their spouse, civil partner,

cohabitee, family member or any other relationship (including friendship) which may influence or may be perceived to influence their judgement.

Individuals will declare any interests, in writing, as soon as they are aware of it and in any event no later than 28 days after becoming aware. A form to be used for this purpose is included at Appendix A

Where an individual is unable to provide a declaration in writing, for example, if a conflict becomes apparent in the course of a meeting, they will make an oral declaration at the meeting, and provide a written declaration as soon as possible thereafter. The declaration will be recorded in the minutes of the meeting

Even if an interest has already been declared, it should be declared at the start of any meeting where matters relating to that interest are discussed and this should be In relation to any item on the agenda members of the meeting are reminded of the need to declare:

- i. any interests which are relevant or material to the CCG;
- ii. any changes in interest previously declared; or
- iii. any pecuniary interest (direct or indirect) on any item on the agenda.

Any declaration of interest should be brought to the attention of the Chair in advance of the meeting or as soon as they become apparent in the meeting. For any interest declared the minutes of the meeting must record:

- i. the name of the person declaring the interest;
- ii. the minute number to which the interest relates;
- iii. the nature of the interest and the action taken;
- iv. be declared under this section and at the top of the agenda item which it relates to

Individuals applying for posts at the CCG or seeking appointment to the Governing Body and any of its committees and sub committees will be required to declare any potential conflicts of interest during the appointment process. Where a question arises as to whether this may impact on the ability to appoint individuals, further guidance should be sought from the CCG Chair, the Chair of the Audit and Governance Committee or the Chief Officer.

In any transaction undertaken in support of the CCG's commissioning functions (including conversations between two or more individuals, e-mails, correspondence and other communications), individuals must ensure, where they are aware of an interest, that they conform to the management arrangements for conflicts of interest.

If in doubt, an individual should assume that a potential conflict of interest exists. Transparency demands that individuals are explicitly and clearly aware of their responsibilities and duties in this context. Should there be any doubt about the relevance of an interest, this should be discussed with the Chair of the Governing Body, Chair of the Audit and Governance Committee or the Chief Officer which will result in a recommended course of action.

9 IDENTIFICATION AND MANAGEMENT OF CONFLICTS OF INTEREST

The CCG will make arrangements to ensure individuals declare any conflict or potential conflict in relation to a decision to be made by the group as soon as they become aware of it, and in any event within 28 days. CCGs must record the interest in the registers as soon as they become aware of it.⁷

All persons referred to in Section 4 must declare any interests as soon as reasonably practicable and by law within 28 days after the interest arises (this could include an interest an individual is pursuing). Further opportunities to make declarations include:

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

Annually – Declarations of interest will be obtained from all relevant individuals annually and where there are no interests or changes to declare, a “nil return” will be recorded.

At meetings - All attendees are required to declare their interests as a standing agenda item for every governing body, committee, sub-committee before the item is discussed. Declarations of interest are recorded in minutes of meetings.

On changing role, responsibility or circumstances - Whenever an individual's role, responsibility or circumstances change in a way that affects the individual's interests, a further declaration should be made to reflect the change in circumstances as soon as possible and in any event within 28 days. It is individual's responsibility to make a further declaration as soon as possible and in any event within 28 days, rather than waiting to be asked.

The form to be used for the declaring of interests is included at Appendix A and details the types of interests to be declared as defined in Section 6 of this policy.

⁷ National Health Service Act 2006 (as amended by the Health and Social Care Act 2012) section 140(3)

This form should be completed and returned to the Corporate Services Team at scrccg.corporateservices@nhs.net.

Where an individual is unable to provide a declaration in writing, for example, if a conflict becomes apparent in the course of a meeting, they will make an oral declaration at the meeting, and provide a written declaration as soon as possible. A record of the declaration will be included in the minutes of the meeting.

There may also be a unique perceivable conflict of interest in relation to an individual agenda item. This should also be declared and noted.

As part of a procurement process, it is good practice to ask bidders to declare any conflicts of interest. This allows commissioners to ensure that they comply with the principles of equal treatment and transparency. When a bidder declares a conflict, the commissioners must decide how best to deal with it to ensure that no bidder is treated differently to any other. A template form for the declaring of interests from bidders/contractors is available at Appendix J.

10 REGISTERS OF INTEREST

The Associate Director of Corporate Services, supported by the Corporate Services Team, on behalf of the Chief Officer, will maintain registers of all relevant and material interests and positions of influence declared by:

- All CCG employees (including agency staff)
- Members of the CCG's Governing Body, committees and sub committees (including co-opted members and members from other organisations)
- GP Partners/directors who are members of the CCG
- Any individual directly involved with the business or decision-making of the CCG.

A template register is available at Appendix B. The register will include actions to be taken to mitigate risk - these should be agreed with the individual's line manager or a senior manager within the CCG.

Registers will be published on the CCG's website with the exception of staff below grade 8 who do not have a position of influence on any CCG committee or sub-committee. All information may have to be disclosed, if requested under the Freedom of Information Act.

Declared interests of the Council of Council of Clinical Representatives, the Governing Body and its committees will be published in the CCG's Annual Report and Accounts.

Where an individual changes role or responsibility within the CCG, or the Governing Body, any change to the individuals interests should be declared.

Interests will remain on the public register for a minimum of 6 months after the interest has expired. In addition, the CCG will retain a private record of historic interests for a minimum of 6 years after the date on which it expired. The CCG's published register of interests should state that historic interests are retained by the CCG for the specified timeframe, with details of whom to contact to submit a request for this information.

Registers will be reviewed annually by the Audit and Governance Committee with an assurance report provided to the Governing Body, to include explanations of any concerns and how these were managed.

Any changes/additions to declarations registered should be notified to the Corporate Services Team as soon as possible after the change occurs and promptly recorded in the register(s).

11 MANAGING CONFLICTS OF INTEREST AT MEETINGS

The CCG will make arrangements for managing conflicts of interest, and potential conflicts of interest, in such a way as to ensure that they do not, and do not appear to, affect the integrity of the group's decision-making.

Where no previous declaration has been made, the Chair of the meeting will determine how this should be managed, in line with the management arrangements and may require the individual to withdraw from the meeting or part of it. The agreed actions should be recorded in the minutes.

11.1 Interests of the Chair of a Meeting

Where the Chair of a meeting has a relevant interest, whether previously declared or not, in relation to the scheduled or likely business of the meeting, the Deputy Chair will act as Chair for the relevant part of the meeting and may require the Chair to withdraw for that part of the discussion. If there is no deputy Chair, the meeting will select one and the meeting must ensure that arrangements for the management of the conflict of interest are followed.

11.2 Effects of withdrawal

Where 50% of members of a meeting are required to withdraw, the Chair (or deputy) will determine whether or not the discussion can proceed. This decision will be based on whether the meeting is quorate, as set out in Standing Order 3.2.5 (in relation to the Governing Body) and in line with the terms of reference (for all other meetings). Where a quorum cannot be convened the Chair will consult with the Audit and Governance Committee

Chair to ensure timely management of the issue. Possible actions are set out in Section 8.4.10 of the Constitution.

11.3 Recording of Interests in Minutes

Any arrangements made or agreed in a meeting will be recorded in the minutes.

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 agenda and template minutes are available at Appendix E and Appendix F.

A Declarations of Interest Meeting Checklist and log is available at Appendix H and provides full details of the management of Declarations of Interests at meetings. Further details are outlined in Section 8.4 of the Constitution.

11.4 Decision Log

A register of decisions made at CCG committees is maintained by the Corporate Services Team.

When significant decisions are made (normally decisions requiring a vote) details of the decision should be sent to the Corporate Services Team at SCRCCG.CorporateServices@nhs.net who will log the details.

A template of the decision log can be found at Appendix I.

12 DECLARATIONS IN RELATION TO PROCUREMENT

12.1 Key Legislation

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

- The NHS procurement regime – the NHS (Procurement, Patient Choice and Competition (No.2)) Regulations 2013: made under S75 of the 2012

Act; apply only to NHS England and CCGs; enforced by NHS Improvement; and

- The European procurement regime – Public Contracts Regulations 2015 (PCR 2105): incorporate the European Public Contracts Directive into national law; apply to all public contracts over the threshold value (€750,000, currently £589,148); enforced through the Courts. The general principles arising under the Treaty on the Functioning of the European Union of equal treatment, transparency, mutual recognition, non-discrimination and proportionality may apply even to public contracts for healthcare services falling below the threshold value if there is likely to be interest from providers in other member states.

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

The National Health Service (Procurement, Patient Choice and Competition) (No.2) Regulations 2013/23 state:

CCGs must not award a contract for the provision of NHS health care services where conflicts, or potential conflicts, between the interests involved in commissioning such services and the interests involved in providing them affect, or appear to affect, the integrity of the award of that contract; and CCGs must keep a record of how it managed any such conflict in relation to NHS commissioning contracts it has entered into.

Paragraph 24 of PCR 2015 states:

Contracting authorities shall take appropriate measures to effectively prevent, identify and remedy conflicts of interest arising in the conduct of procurement procedures so as to avoid any distortion of competition and to ensure equal treatment of all economic operators”. Conflicts of interest are described as “any situation where relevant staff members have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure

12.2 Managing Conflicts of Interest throughout the Commissioning Cycle

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

The CCG should identify and appropriately manage any conflicts of interest that may arise where staff are involved in both the management of existing contracts and the procurement of related / replacement contracts.

The CCG should also identify as soon as possible where staff might transfer to a provider (or their role may materially change) following the award of a contract. This should be treated as a relevant interest, and the CCG should ensure they manage the potential conflict.

Those involved in procurement exercises for and on behalf of the organisation should keep records that show a clear audit trail of how conflicts of interest have been identified and managed as part of procurement processes. At every stage of procurement steps should be taken to identify and manage conflicts of interest to ensure and to protect the integrity of the process.

A Summary of key aspects of the guidance on managing conflicts of interest relating to commissioning of new care models is available in Appendix L – Summary of key aspects of the guidance on managing conflicts of interest relating to commissioning of new care models.

CCG's Procurement Policy, approved by the Governing Body outlines how the CCG ensures that its procurement process is robust and compliant with statutory requirements including conflicts of interest.

Where the CCG commissions services from GP practices, the general safeguards will be supplemented by additional safeguards which form the separate guidance entitled '*Towards Establishment: Creating responsive and accountable CCGs together with Technical Appendix 1 – Managing conflicts of interest (NHS Commissioning Board February 2012)*'.

A procurement checklist provided in Appendix G, sets out factors that the CCG will address when drawing up their plans to commission general practice services.

Where CCG employees listed in Section 4 are to be part of the tender evaluation panel or decision making process regarding the award of a contract, any potential conflict of interest must be declared at the earliest opportunity. Failure to do so could result in the procurement process being declared invalid and possible suspension of the relevant individual from the CCG.

The CCG recognises the importance in making decisions about the services it procures in a way that does not call into question the motives behind the procurement decision that has been made.

The CCG's Procurement Policy includes specific reference to conflicts of interest and will ensure that:

- a) all relevant clinicians (not just members of the CCG) and potential providers, together with local members of the public, are engaged in the decision-making processes used to design and re-design services;
- b) service redesign and procurement processes are conducted in an open, transparent, non-discriminatory and fair way

Where a relevant and material interest or position of influence exists in the context of the specification for, or award of, a contract the individual will be expected to:

- Declare the interest
- Ensure that the interest is recorded in the register
- Only take part in discussions as part of extended membership meetings to involve other major stakeholders in the service being discussed
- Not have a vote in relation to the specification or award.

Individuals will be expected to declare any interest early in the procurement process if they are to be a potential bidder in that process. In addition, where someone is to be part of the tender evaluation panel or decision making process regarding the award of the contract, any potential conflict of interest must be declared at the earliest opportunity. Failure to do so could result in the procurement process being declared invalid and possible suspension of the relevant individual from the CCG.

Potential conflicts will vary to some degree depending on the way in which a service is being commissioned e.g.:

- Where a CCG is commissioning a service through **Competitive Tender** (i.e. seeking to identify the best provider or set of providers for a service) a conflict of interest may arise where GP practices or other providers in which CCG members have an interest are amongst those bidding.
- Where the CCG is commissioning a service through **Any Qualified Provider** a conflict could arise where one or more GP practices (or other providers in which CCG members have an interest) are amongst the qualified providers from whom patients can choose. Guidance within the GMC's core guidance Good Medical Practice (2006) and reiterated in its document Conflicts of Interest (2008) Indicates, in such cases, that:

"You must act in your patients best interests when making referrals and when providing or arranging treatment of care.

You must not ask for or accept any inducement, gift or hospitality which may affect or be seen to affect the way you prescribe, treat or refer patients. You must not offer such inducements to colleagues:

- if you have financial or commercial interest in organisations providing healthcare or in pharmaceutical or other biomedical companies, these interests must not affect the way you prescribe for, treat or refer patients;
- if you have a financial or commercial interest in an organisation to which you plan to refer a patient for treatment or investigation, you must also tell the patient about your interest. When treating NHS patients you must also tell the healthcare provider.”

The GMC also provides the following general guidance:

- you may wish to note on the patient’s record when an unavoidable conflict of interest arises; and
- if you have a financial interest in an institution and are working under an NHS employers’ policy you should satisfy yourself, or seek other assurance from your employing or contracting body, that systems are in place to ensure transparency and to avoid, or minimise the effects of, conflicts interest. You must follow the procedures governing the schemes.

The CCG will also adhere to all relevant regulations and principles which pertain to NHS Procurement and UK/EU Competition Law, including the NHS (Procurement, Patient Choice and Competition) Regulations 2013.

Where a conflict of interest is declared as part of a contract management meeting the process identified in Section 11 should be followed to allow for the transparency and scrutiny of decisions.

Appendix K provides further guidance regarding managing conflicts of interest in the commissioning cycle.

As part of a procurement process, it is good practice to ask bidders to declare any conflicts of interest. This allows commissioners to ensure that they comply with the principles of equal treatment and transparency. When a bidder declares a conflict, the commissioners must decide how best to deal with it to ensure that no bidder is treated differently to any other. A template form for the declaring of interests from bidders/contractors is available at Appendix J.

13 DECLARATIONS AND REGISTERING OF GIFTS AND HOSPITALITY

13.1 Declarations of Gifts and Hospitality

The CCG maintains a register of gifts and hospitality. Individuals listed in Section 4 are responsible for considering 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.

In most instances it is for the individual to use their judgement to avoid situations which compromise, or which could appear to compromise, their integrity. A guiding principle to what is acceptable is whether disclosure of the 'benefit' would cause embarrassment to the CCG or the individual.

If there is any doubt, advice should be sought from the line manager and line managers should seek advice from the Chief Officer, Chief Finance Officer or the Associate Director of Corporate Services.

Declarations of Gifts and Hospitality should be made as soon as possible using the form at Appendix C - Declarations of Gifts and Hospitality and returned to the Corporate Services team at:

SCRCCG.CorporateServices@nhs.net

As Declarations of Gifts and Hospitality item is also included on the template Agenda for Committees and Staff meetings to remind staff to declare anything they have received.

13.2 Gifts

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

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

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

Gifts relates of items of little financial value (less than £6) such as promotional aids, diaries, calendars, stationery and other gifts acquired from meetings, events or conferences, and items such as flowers and small tokens of appreciation from members of the public to staff for work well done. Gifts of this nature do not need to be declared to the team or individual who has designated responsibility for maintaining the register of gifts and hospitality, nor recorded on the register.

Gifts above £50 can only be accepted on behalf of an organisation. 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.

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 declined, 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 maintaining the register of gifts and hospitality and recorded on the register.

13.3 Hospitality

To be acceptable, hospitality must be secondary to the purpose of the meeting or event. The level of hospitality offered in these circumstances should be appropriate and not out of proportion to the occasion, e.g., a meal during the course of an event or visit away from base. Hospitality cannot in these circumstances be extended to spouses / partners.

There is a presumption that offers of hospitality which go beyond modest should be politely refused.

- Hospitality of a value below £25- may be accepted and need not be declared.
- Hospitality 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 and a reason recorded on the 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).

13.4 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.

Utmost discretion should be exercised in accepting offers of hospitality from contractors or their representatives, other organisations or individuals concerned with the supply of goods or services. Individuals should be especially cautious of accepting small items of value, or hospitality over that afforded in a normal meeting environment (e.g. beverages) during a procurement process or from bidders/potential bidders. This avoids any potential claim of unfair influence, collusion or canvassing.

Individuals need to be aware that accepting hospitality may compromise their strict independence and impartiality. If in doubt, advice should be sought from the line manager. Further advice is available from the Chief Finance Officer, the Chief Officer or the Associate Director of Corporate Services,

All offers of hospitality, whether accepted or not, must be reported on the relevant form (Appendix C - Declarations of Gifts and Hospitality) as soon as reasonably practicable..

13.5 Commercial Sponsorship

Offers of funding from private companies for events (e.g. training events for clinicians), which may include the provision of hospitality, must adhere to the following principles:

- 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 such offers (whether accepted or declined) must be declared so that they can be included on the CCG's register of interests. If such offers are reasonably justifiable and otherwise in accordance with this statutory guidance then they may be accepted;
- Acceptance of commercial sponsorship should not in any way compromise commissioning decisions of the CCG or be dependent on the purchase or supply of goods or services. Sponsors should not have any influence over the content of an event, meeting, seminar, publication or training event;

Organisations external to the CCG or NHS may also sponsor posts or research. However, there is potential for conflicts of interest to occur, particularly when research funding by external bodies does or could lead to a real or perceived commercial advantage, or if sponsored posts cause a conflict of interest between the aims of the sponsor and the aims of the organisation, particularly in relation to procurement and competition.

13.6 Registers of Gifts and Hospitality

Details of all gifts and hospitality declared will be incorporated as soon as possible, into a register maintained by the Corporate Affairs Team on behalf of the Chief Officer. A template register is available at Appendix D - Register of Gifts and Hospitality Template.

The register will be reviewed quarterly by the Audit and Governance Committee, with an assurance report provided annually to the Governing Body.

Registers will be published on the CCG's website with the exception of staff below grade 8 who do not have a position of influence on any CCG committee or sub-committee. All information may have to be disclosed, if requested under the Freedom of Information Act.

14 OUTSIDE EMPLOYMENT

The CCG considers that any work with the CCG is an employee's principal employment with the exception of GP Governing Body members, Primary Care Manager on the Governing Body, Lay Members, Independent Contractors, Secondary Care Doctor, GPs working in specialist or advisory roles and Lead Nurse where appropriate.

The CCG has statutory duties under the Working Time Regulations to ensure that the 48 hour Working Time Directive is not breached by its employees. To fulfil this duty the CCG must ensure that staff are not working in excess of 48 hours a week in their CCG job or in a combination of their CCG job and any other employment (including other NHS and non-NHS employment).

Individuals are required to inform the CCG if they are engaged in or wish to engage in outside employment and/or private practice in addition to their work with the CCG. Other employment should be declared on the Declarations of Interest Form at Appendix A. Completed forms should be sent to the Corporate Affairs Team at SCRCCG.CorporateServices@nhs.net. Should there be a change in circumstances then an updated form must be completed by the individual as soon as practicable. Copies should be retained on personal files.

Should any concerns arise regarding other employment / private practice then these will be discussed with the individual. Whilst the CCG will not unreasonably raise a concern, it is acknowledged that there may be occasions where the other employment/private practice presents a conflict of interest or conflict of duty that cannot be adequately managed. In these circumstances it will not be permissible for the situation causing the conflict to continue.

Staff must ensure that their manager is aware of any other employment even if the other employment hours are greater than those for the CCG. All proposed other employment should be discussed with the manager before commencement.

Staff are advised not to engage in outside employment which may conflict with their NHS work or be detrimental to it. Examples of work which might conflict with the business of the CCG include:

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

Any manager who feels that any other employment may be conflicting with their duties for the CCG, should discuss it immediately with their Director and / or HR.

Managers must review declarations around other employment within the PDR process and ensure that individuals make any relevant declarations to keep their information up to date. New staff will be asked about other employment during the induction process.

The CCGs requires that individuals obtain prior permission to engage in outside employment, and reserves the right to refuse permission where it believes a conflict will arise which cannot be effectively managed.

15 RAISING CONCERNS AND BREACHES

There will be situations when interests will not be identified, declared or managed appropriately and effectively. This may happen innocently, accidentally, or because of the deliberate actions of staff or organisations. For the purposes of this guidance these situations are referred to as '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. Individuals should not ignore their suspicions or investigate themselves. Concerns should be raised with the Associate Director of Corporate Services.

Any concerns or potential breaches should be notified immediately and staff should not try to investigate it themselves. Staff can raise concerns or alleged breaches via the Whistleblowing Policy or with any of the following:

- Chief Officer
- Conflicts of Interest Guardian / Lay Member Chair of the Audit and Governance Committee
- Freedom to Speak Up Guardian
- Associate Director of Corporate Services

Any suspicions or concerns of acts of fraud or bribery can also be reported online via <https://reportnhsfraud.nhs.uk> or via the NHS Fraud and Corruption Reporting Line on 0800 0284060

15.1 Reporting Breaches

Any CCG employee who is concerned that there has been a breach of the Conflicts of Interest Policy, should in the first instance report their concerns to the Conflicts of Interest Guardian who will initiate an investigation of the complaint.

Anyone who wishes to report a suspected or known breach of the policy, who is not an employee or worker of the CCG, should also ensure that they comply with their own organisation's whistleblowing policy, since most such policies should provide protection against detriment or dismissal.

The CCG's Conflicts of Interest Guardian will refer to and comply with other relevant CCG policies such as the CCG's Whistle Blowing Policy and Anti-Fraud, Bribery and Corruption Policy as well as take into account other relevant regulations such as Data Protection regulations and The Privacy and E-Communications Regulations.

Some breaches will also need to be included as part of the CCGs Improvement and Assessment Framework quarterly return for the probity and corporate governance indicator.

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

Case Studies of the different types of conflicts of interest which could arise in the CCG are available on the NHS England website at:

<https://www.england.nhs.uk/commissioning/wp-content/uploads/sites/12/2016/06/coi-case-studies-jun16.pdf>

15.2 Impact of non-compliance

15.2.1 Civil Implications

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

15.2.2 Criminal implications

Failure to manage conflicts of interest could lead to criminal proceedings including for offences such as fraud, bribery and corruption. This could have implications for CCGs and linked organisations, and the individuals who are engaged by them. Please refer to the CCG's Anti-Fraud, Bribery and Corruption Policy.

15.2.3 Disciplinary implications

Individuals who fail to disclose any relevant interests or who otherwise breach the CCG's Conflicts of Interest Policy will be subject to investigation and, where appropriate, to disciplinary action. The outcomes of such action may, if appropriate, result in the termination of their employment or position with the CCG.

15.2.4 Professional regulatory implications

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

16 IMPLEMENTATION

Following approval by the Council of Members, this policy will be distributed to the CCG Senior Leadership Team for dissemination to all their staff and to the Council of Members, the Governing Body, Committee and Sub Committee Members and Practice Managers.

17 TRAINING & AWARENESS

All CCG employees are required to complete annual Conflicts of Interest on line training which is being developed by NHS England and will be available by the end of 2016. This must be completed by 31 January of each year.

This policy will be made available to all Members and staff via the CCG's website. Notice of all approved policies placed on the website will be included in CCG briefing processes. The policy will be brought to the attention of all new Members and staff via the induction process.

Advice on this policy can be obtained from the Chief Officer, Associate Director of Corporate Services, Chair of the Audit and Governance Committee or the Corporate Services Manager.

18 MONITORING & AUDIT

The CCG is required to undertake an annual internal audit of its management of Conflicts of Interest the results of which should be discussed in the end of year governance meeting with NHS regional teams.

The Audit and Governance Committee will keep under review the arrangements for the management of conflicts of interest, annually review the registers of interest and provide an annual assurance report to the Governing Body.

19 POLICY REVIEW

This policy will be reviewed in two years. Earlier review may be required in response to exceptional circumstances, organisational change or relevant changes in legislation/guidance, as instructed by the senior manager responsible for this policy'.

20 REFERENCES

- Managing Conflicts of Interest in CCGs – NHS Federation & RCGP Centre for Commissioning
- BMA's Ensuring Transparency & Probity Guidance
- Institute of Chartered Secretaries & Administrators Chartered Secretaries Guidance Note 100618 June 2010
- NHS Wirral Commissioning/Procurement of Health Services Appendix D – Approvals Process
- Section 140 of the 2006 Health Act, as inserted by section 25 of the 2012 Act
- Towards Establishment: Creating responsive and accountable CCGs together with Technical Appendix 1 – Managing conflicts of interest (NHS Commissioning Board February 2012)
- Bribery Act 2010
- Policy on Business Conduct & Management of Conflicts of Interest – template for CCGs developed by Internal Auditor, North Yorkshire Service.

21 ASSOCIATED DOCUMENTS

- Scarborough & Ryedale CCG's Constitution
- Procurement Policy
- Policy on Business Conduct
- Local Anti-Fraud, Bribery & Corruption Policy
- Induction Policy
- Whistleblowing Policy
- Policy and Guidance for Joint Working and Commercial Sponsorship with the Pharmaceutical Industry

APPENDICES

Appendix A - Declaration Of Interests & Outside Employment / Private Practice Form

The form below is also available on the CCG website at:

<http://www.scarboroughryedaleccg.nhs.uk/publications/policies-2/>

And on the CCG Y drive at:

<Y:\SCARCCG\Admin\MEETINGS\2. Declarations of Interest Log>

Please complete the form after referring to the guidance notes attached. Please tick the following statements that apply.

DECLARATION OF INTERESTS & SECONDARY EMPLOYMENT/PRIVATE PRACTICE FORM

Please complete the form after referring to the guidance notes attached. Please tick the following statements that apply

Name	
Position within or relationship with the CCG.	
Practice/Organisation	
Base	
Committee/Sub Committee Member	

	I have no interests to declare
	I am not aware of any relevant interests of close associates (as defined in the guidance notes)
	I wish to declare my interests recorded overleaf
	I wish to declare the interests of close associates (as defined in the guidance notes) recorded overleaf

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

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

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:

				Review Date			
Signature		Date					
Line Manager Signature		Date					

Type of Interest	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
Financial Interests - This is where an individual may get direct financial benefits from the consequences of a commissioning decision.				
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				
A shareholder (or similar owner interests), a partner or owner of a private or not-for-profit company, business, partnership or consultancy which is doing, or which is likely, or possibly seeking to do, business with health or social care				
A management consultant for a provider				
In secondary employment (include hours per week)				
In receipt of secondary income from a provider				
In receipt of a grant from a provider;				
In receipt of any payments (for example honoraria, one off payments, day allowances or travel or subsistence) from a provider				
In receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role				
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.				
An advocate for a particular group of patients				
A GP with special interests e.g., in dermatology, acupuncture etc				
A member of a particular specialist professional body (although routine GP membership of the RCGP, BMA or a medical defence organisation would not usually by itself amount to an interest which needed to be declared)				
An advisor for Care Quality Commission (CQC) or National Institute for Health and Care Excellence (NICE)				
A medical researcher.				
Non-Financial Personal Interests - This is where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit.				
A voluntary sector champion for a provider				
A volunteer for a provider				
A member of a voluntary sector board or has any other position of authority in or connection with a voluntary sector organisation				
Suffering from a particular condition requiring individually funded treatment				
A member of a lobby or pressure groups with an interest in health				
Indirect interests: This is where an individual has a close association with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest in a commissioning decision (as those categories are described above)				
<ul style="list-style-type: none"> • Spouse/Partner • Close relative (parent, grand-parent, child, grandchild or sibling) • Close friend • Business Partner 				

Guidance Notes

- Section 8 of the CCG Constitution and its related Business Conduct and Conflicts of Interest Policies require CCG Shadow Board Members, Council of Members, Members of its Committees and Sub-Committees, CCG staff and individuals working on behalf of the CCG to declare interests which are relevant and material and any positions of influence they hold or are held by a family member, close friend or other acquaintance, in the categories outlined below.
- If there are no interests to declare a nil return must be submitted and the word 'Nil' entered against each category.
- Declarations should be made within 28 days of a relevant event occurring.
- Any changes to declarations should also be made within 28 days of a relevant event occurring by completing and submitting a new declaration form.
- Any changes should be reported at the start of each Committee/Sub Committee meeting. This will be a standing agenda item at all meetings, including CCG staff meetings.
- Members and employees completing this form must provide sufficient detail of each interest so that a member of the public would be able to understand clearly the sort of financial or other interest the member has and the circumstances in which a conflict of interest might arise.
- If in doubt as to whether a conflict of interest could arise, a declaration of the interest should be made.
- Details of directorships of companies and organisations likely or possibly seeking to do business with the NHS will be published in the CCG's annual report.
- All declarations (apart from those of employees on Grades below 8) - will be published on the CCG's website.
- Please return to Adèle Birch via scan to adelebirch@nhs.net or by post to

Corporate Services Team
NHS Scarborough and Ryedale CCG
York House
Scarborough Town Hall St Nicholas Street
Scarborough
YO112HG

Appendix C - Declarations of Gifts and Hospitality

Recipient Name	Position	Date of Offer	Date of Receipt (if applicable)	Details of Gift / Hospitality	Estimated Value	Supplier / Offeror Name and 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 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 Data Protection regulations. 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.

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 the Corporate Services Team at SCRCCG.CorporateServices@nhs.net

Appendix D - Register of Gifts and Hospitality Template

Name	Position	Date of offer	Declined or Accepted?	Date of Receipt (if applicable)	Details of Gift /Hospitality	Estimated Value	Supplier / Offeror Name and Nature of business	Reason for Accepting or Declining

Appendix E – Agenda Template

COMMITTEE TITLE
COMMITTEE DATE AND TIME
COMMITTEE LOCATION

Item Number	Item	Enclosure / Verbal	Led by
	Apologies for Absence	Verbal	Chair
Governance Arrangements			
	<p>Declarations of Interest <i>In relation to any item on the agenda of the meeting members are reminded of the need to declare:</i></p> <ul style="list-style-type: none"> (i) any interests which are relevant or material to the CCG; (ii) any changes in interest previously declared; or (iii) any pecuniary interest (direct or indirect) on any item on the agenda. <p><i>Any declaration of interest should be brought to the attention of the Chair in advance of the meeting or as soon as they become apparent in the meeting. For any interest declared the minutes of the meeting must record:</i></p> <ul style="list-style-type: none"> (i) the name of the person declaring the interest; (ii) the agenda item number to which the interest relate; (iii) the nature of the interest; (iv) be declared under this section and at the top of the agenda item which it relates too; 	Verbal	Chair
	<p>Quoracy <i>Insert Quoracy information from terms of reference</i></p>	Verbal	Chair
	<p>Gifts and Hospitality –</p> <p><i>Members are reminded of the need to declare the offer and acceptance/refusal of gifts or hospitality in the CCG’s public register.</i></p>	Verbal	Chair
	<p>Minutes of the previous meeting INSERT DATE</p>	Enclosure	Chair
	<p>Action Tracker (Matters arising from the Minutes) <i>(The Action Tracker should replace the need to go through the complete minutes for matters arising)</i></p>	Enclosure	Chair
General			
	Any Other Business	Verbal	Chair
	<p>Date, time and location of next Meeting</p> <p>The next meeting will be held on <i>Date</i> at <i>time</i> at <i>Location</i></p>		

Appendix F – Minutes Template

Item No	Agenda Item	Actions
1	Chairs welcome	
2	Apologies for absence <apologies to be noted>	
3	<p>Declarations of interest</p> <p>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.</p> <p>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/</p> <p>Declarations of interest from sub committees. None declared</p> <p>Declarations of interest from today’s meeting</p> <p>The following update was received at the meeting: With reference to business to be discussed at this meeting, MS declared that he is a shareholder in XXX Care Ltd.</p> <p>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.</p> <p>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.</p>	
4	Minutes of the last meeting <date to be inserted> and matters arising	
5	<p>Agenda Item <Note the agenda item></p> <p>MS left the meeting, excluding himself from the discussion regarding xx.</p> <p><conclude decision has been made></p> <p><Note the agenda item xx></p> <p>MS was brought back into the meeting.</p>	
6	Any other business	
7	Date and time of the next meeting	

Appendix G – 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? ⁸	
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?	

⁸Taking 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).

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?

Appendix H – Template declarations of interest checklist

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

Timing	Checklist for Chairs	Responsibility
In advance of the meeting	<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>
During the	7. Check and declare the	Meeting

Timing	Checklist for Chairs	Responsibility
meeting	<p>meeting is quorate and ensure that this is noted in the minutes of the meeting.</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. • A template for recording any interests during meetings is detailed below. 	<p>Chair</p> <p>Meeting Chair</p> <p>Meeting Chair and secretariat</p> <p>Secretariat</p>

Timing	Checklist for Chairs	Responsibility
Following the meeting	<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>

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>

Appendix J - 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		

Appendix K - Management of Conflicts of Interest in Commissioning Cycle - Guidance

Notes:

- The illustrations given below should not be considered to be prescriptive in every instance.
- These are guidelines and both the materiality of the conflict and the significance of the issue should be considered carefully by the Chair in deciding on how to manage the conflict.
- It is the responsibility of the Chair to review the agenda and operate caution in terms of deferment or referral if necessary.
- Chairs to also consider potential conflicts of interest arising from verbal reports.
- Links should be considered to strategy direction eg is the introduction of a LES in line with the strategy?
- If significant/complete conflict of interest at a locality level the matter could be referred to the CCG for decision.

Interest	Pecuniary (Self, partner or close associate)	Personal (Self)	Personal (Partner or close associate)	Competing Loyalties
Needs assessment	Fully participate	Fully participate	Fully participate	Fully participate
Decide priorities	Discuss but cannot vote	Discuss and vote	Discuss and vote	Discuss and vote
Review commissioning proposals	Remain but cannot speak or vote	Remain but cannot speak or vote	Remain but cannot speak or vote	Discuss and vote
Design services (ensure a fully inclusive process)	Discuss and vote	Discuss and vote	Discuss and vote	Discuss and vote
Review prioritised business cases	Leave the room	Remain but cannot speak or vote (unless interest is deemed not prejudicial)	Remain but cannot speak or vote (unless interest is deemed not prejudicial)	Discuss and vote
Procurement/contracting	Leave the room	Remain but cannot speak or vote (unless interest is deemed not prejudicial)	Remain but cannot speak or vote (unless interest is deemed not prejudicial)	Discuss and vote
Performance Management	Remain but cannot speak or vote (unless significant and then leave the room)	Remain but cannot speak or vote (unless significant and then leave the room)	Remain but cannot speak or vote (unless significant and then leave the room)	Discuss and vote
Review Health Outcomes	Fully participate	Fully participate	Fully participate	Fully participate

Appendix L – 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 models⁹, 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

⁹ 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.

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

7. Where a member of CCG staff participating in a meeting has dual roles, for example a role with the CCG and a role with a new care model provider organisation, but it is not considered necessary to exclude them from the whole or any part of a CCG meeting, he or she should ensure that the capacity in which they continue to participate in the discussions is made clear and correctly recorded in the meeting minutes, but where it is appropriate for them to participate in decisions they must only do so if they are acting in their CCG role.
8. CCGs should take all reasonable steps to ensure that employees, committee members, contractors and others engaged under contract with them are aware of the requirement to inform the CCG if they are employed or engaged in, or wish to be employed or engaged in, any employment or consultancy work in addition to their work with the CCG (for example, in relation to new care model arrangements).
9. CCGs should identify as soon as possible where staff might be affected by the outcome of a procurement exercise, e.g., they may transfer to a provider (or their role may materially change) following the award of a contract. This should be treated as a relevant interest, and CCGs should ensure they manage the potential conflict. This conflict of interest arises as soon as individuals are able to identify that their role may be personally affected.
10. Similarly, CCGs should identify and manage potential conflicts of interest where staff are involved in both the contract management of existing contracts, and involved in procurement of related new contracts.

Governance arrangements

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

12. We know that some CCGs are adapting existing governance arrangements and others developing new ones to manage the risks that can arise when commissioning new care models. We are therefore, not recommending a “one size fits” all governance approach, but have included some examples of governance models which CCGs may want to consider.
13. The principles set out in the general statutory guidance on managing conflicts of interest (paragraph 19-23), including the Nolan Principles and the Good Governance Standards for Public Services (2004), should underpin all governance arrangements.
14. CCGs should consider whether it is appropriate for the Governing Body to take decisions on new care models or (if there are too many conflicted members to make this possible) whether it would be appropriate to refer decisions to a CCG committee.

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

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