

Managing conflicts of interest policy

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1. Introduction

1.1 Managing conflicts of interest appropriately is essential for protecting the integrity of the NHS commissioning system and to protect Leeds CCG and GP practices from any perceptions of wrongdoing. Commissioners need the highest level of transparency so they can demonstrate that conflicts of interest are managed in a way that cannot undermine the probity and accountability of the organisation.

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

1.3 A conflict of interest is defined as:

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

1.4 This policy seeks to ensure that conflicts are identified, declared and recorded, and that clear mechanisms exist to manage or diffuse conflicts of interest when they arise. It is also important to acknowledge that conflicts may not always be obvious to, or recognised by, the individuals concerned. Therefore, a policy based on full disclosure regarding competing interests will best safeguard healthcare professionals as they exercise their new commissioning responsibilities. NHS Leeds CCG’s Managing Conflicts of Interest Policy is based on the principle of: **“If in doubt, disclose”**.

1.5 The Health and Social Care Act 2012 places a duty on the NHS Commissioning Board to publish guidance for CCGs on managing conflicts and a duty on CCGs to have regard to such guidance. It also requires that CCGs set out in their constitution their proposed arrangements for managing conflicts of interest. This policy provides more specific, additional safeguards that the CCG has put in place. It reflects the revised statutory guidance for CCGs on Managing Conflicts of Interest, issued by NHS England in June 2017.

1.6 This policy applies to:

- **All CCG employees**, including all full and part-time staff, staff on sessional or short term contracts, students and trainees (including apprentices), agency staff, seconded staff.
- **Members of the CCG’s Governing Body, Committees, Sub Committees and Sub Groups**, including co-opted members, appointed deputies and 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).

- **Members of the CCG** – defined as GP partners (or where the practice is a company, each director) and any individual directly involved with the business or decision making of the CCG.

Who are referred to collectively in this policy as ‘individuals within the CCG’.

2. Definition of an interest

- 2.1 For the purposes of this policy a conflict of interest is defined as “a set of circumstances by which a reasonable person would consider that an individual’s ability to apply judgement or act, in the context of delivering, commissioning, or assuring taxpayer funded health and care services is, or could be, impaired or influenced by another interest they hold” ¹.

- 2.2 A conflict of interest may be:

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

- 2.3 Individuals within the CCG may hold interests for which they cannot see potential conflict. However, caution is always advisable because others may see it differently. It will be important to exercise judgement and to declare such interests where there is otherwise a risk of imputation of improper conduct. The perception of an interest can be as damaging as an actual conflict of interest.
- 2.4 Conflicts of interest can arise in many situations, environments and forms of commissioning, with an increased risk in primary care commissioning, out-of-hours commissioning and involvement with integrated care organisations and new care models, as individuals within the CCG may here find themselves in a position of being both commissioner and provider of services. Conflicts of interest can arise throughout the whole commissioning cycle from needs assessment, to procurement exercises, to contract monitoring. References in this policy to ‘new care models’ refer to Multi-speciality Community Providers (MCP), Primary and Acute Care Systems (PACS) or other arrangements of a similar scale or scope.
- 2.5 Interests fall into the four categories outlined below. A benefit may arise from the making of a gain or the avoidance of a loss:

¹ Managing conflicts of interests in the NHS: Guidance for staff and organisations.2017.
<https://www.england.nhs.uk/wp-content/uploads/2017/02/guidance-managing-conflicts-of-interestnhs.pdf>

2.6 Financial interests

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

- A director, including a non-executive director, or senior employee in a private company or public limited company or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations. This includes involvement with a potential provider of a new care model;
- A shareholder (or similar ownership interests), a partner or owner of a private or not-for-profit company, business, partnership or consultancy which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations;
- A management consultant for a provider;
- A provider of clinical private practice;
- In employment outside of the CCG;
- In receipt of secondary income;
- In receipt of a grant from a provider;
- In receipt of any payments (for example honoraria, one-off payments, day allowances or travel or subsistence) from a provider;
- In receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role;
- 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); or
- Substantively employed by another organisation, i.e. when on secondment.

2.7 Non-financial professional interests

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

- An advocate for a particular group of patients;
- A GP with special interests e.g. in dermatology, acupuncture, etc.;
- An active member of a particular specialist professional body (although routine GP membership of the Royal College of General Practitioners (RCGP), British Medical Association (BMA) or a medical defence organisation would not usually by itself amount to an interest which needed to be declared);
- An advisor for the Care Quality Commission (CQC) or the National Institute for Health and Care Excellence (NICE);
- Engaged in a research role;
- Involved in the development and holding of patents and other intellectual property rights which allow staff to protect something that they create, preventing unauthorised use of products or the copying of protected ideas;

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

2.8 Non-financial personal interests

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

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

2.9 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 described above) for example, a:

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

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

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

2.10 NHS England has published conflicts of interests case studies which are available on its website [here](#).

2.11 The above categories and examples are not exhaustive and a common sense approach should be adopted. Individuals within the CCG should exercise discretion on a case by case basis, including in relation to new care model arrangements, having regard to the principles set out in section 4 of this policy, in deciding whether any other role, relationship or interest may impair or otherwise influence the individual's judgement or actions in their role within the CCG. If so, this should be declared and appropriately managed.

3. Equality statement

- 3.1 This policy applies to all employees, Governing Body and Committee members and members of the NHS Leeds CCGs Partnership irrespective of age, race, colour, religion, disability, nationality, ethnic origin, gender, sexual orientation or marital status, domestic circumstances, social and employment status, HIV status, gender reassignment, political affiliation or trade union membership.
- 3.2 A full Equality Impact Assessment is not considered to be necessary as this policy will not have a detrimental impact on a particular group.

4. Principles

- 4.1 The CCG observes the following principles of good governance:
- The Nolan Principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership²
 - The Good Governance Standards for Public Services (2004), Office for Public Management (OPM) and Chartered Institute of Public Finance and Accountancy (CIPFA)³
 - The seven key principles of the NHS Constitution⁴
 - The Equality Act 2010⁵
 - The UK Corporate Governance Code⁶
 - Standards for members of NHS boards and CCG governing bodies in England⁷
- 4.2 The CCG endorses other principles that can safeguard against conflicts of interest:
- Doing business appropriately;
 - Being proactive about identifying and minimising the risks of conflicts;
 - Being balanced and proportionate in managing conflicts;
 - Being transparent and documenting every stage in the commissioning cycle; and
 - Creating an environment and culture where individuals feel supported and confident in declaring relevant information and raising any concerns.

² The 7 principles of public life <https://www.gov.uk/government/publications/the-7-principles-of-public-life>

³ The Good Governance Standards for Public Services, 2004, OPM and CIPFA
<http://www.opm.co.uk/wp-content/uploads/2014/01/Good-Governance-Standard-for-Public-Services.pdf>

⁴ The seven key principles of the NHS Constitution
<http://www.nhs.uk/NHSEngland/thenhs/about/Pages/nhscoreprinciples.aspx>

⁵ The Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15/contents>

⁶ UK Corporate Governance Code <https://www.frc.org.uk/Our-Work/Codes-Standards/Corporate-governance/UK-Corporate-Governance-Code.aspx>

⁷ 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-andclinical-commissioning-group-governing-bodies-in-england>

4.3 The CCG also recognises that:

- A perception of wrongdoing, impaired judgement or undue influence can be as detrimental as any of them actually occurring.
- If in doubt, it is better to assume the existence of a conflict of interest and manage it appropriately rather than ignore it.
- For a conflict of interest to exist, financial gain is not necessary.

4.4 This policy reflects 'Managing Conflicts of Interests: Revised Statutory Guidance for CCGs 2017' (Issued by NHS England, June 2017). It should be read alongside the following Leeds CCG documents:

- Anti-Fraud, Bribery and Corruption Policy;
- Code of Conduct for NHS Managers, also contained within individual contracts of employment;
- Whistleblowing Policy;
- Working Time Regulations Policy (including Secondary Employment);
- Disciplinary Policy;
- Procurement Policy; and
- Standards of Business Conduct Policy.

5. Roles and responsibilities

5.1 The **Accountable Officer** has overall accountability for the CCG's management of conflicts of interest.

5.2 The **Conflicts of Interest Guardian**, who will be the Chair of the Audit Committee, 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; and
- If an individual requests that information is not included in the public register(s), decide whether the information should be published or not.

5.3 The **Head of Corporate Governance & Risk** has day to day responsibility for managing conflict of interests, including:

- Maintaining the CCG's register(s) of interest and the other registers referred to in this policy;

- Supporting the Conflicts of Interest Guardian to enable them to carry out the role effectively;
- Providing advice, support, and guidance on how conflicts of interest should be managed; and
- Ensuring that appropriate administrative processes are put in place.

- 5.4 All members of the **Governing Body** must act in accordance with this policy and lead by example in acting with the utmost integrity and ensuring adherence to all relevant regulations, policies and procedures.
- 5.5 **Line Managers** are responsible for assisting employees in complying with this policy by ensuring that this policy and its requirements are brought to the attention of employees for whom they are responsible, and that those employees are aware of its implications for their work.
- 5.5 **All individuals within the CCG** are required to be aware of and comply with the policy.
- 5.6 If any individual within the CCG has any doubt about the relevance of an interest, this should be discussed with the Conflicts of Interest Guardian or the Head of Corporate Governance.

6. Declaring interests

- 6.1 All individuals within the CCG must declare any interests that might have any bearing on the work of the CCG:
- a) **on appointment** - applicants for any appointment to the CCG or its Governing Body or any committees should be asked to declare any relevant interests. When an appointment is made, a formal declaration of interests should again be made and recorded.
 - b) **annually** - declarations will be sought from all relevant individuals on an annual basis and where there are no interests or changes to declare, a “nil return” will be recorded.
 - c) **at meetings** - all attendees are required to declare their interests as a standing agenda item for every Governing Body, committee, sub-committee or working group meeting, before the item is discussed. Even if an interest has been recorded in the register of interests, it should still be declared in meetings where matters relating to that interest are discussed. Declarations of interest must be recorded in minutes of meetings.
 - d) **on changing role, responsibility or circumstances** - whenever an individual's role, responsibility or circumstances change in a way that affects the individual's interests (e.g. where an individual takes on a new role outside the CCG, enters into a new business or relationship, starts a new project/piece of work or may be affected by a procurement decision e.g. if their role may transfer to a proposed new provider), a further declaration should be made to reflect the change in circumstances as soon as possible, and in any event within 28 days. This could involve a conflict of interest ceasing to exist or a new one materialising. It is the

individual's responsibility to make a further declaration as soon as possible, rather than waiting to be asked.

- e) if they come to know that the **CCG has entered into (or proposes to enter into) a financial arrangement** in which they or any person connected with them has any interest, direct or indirect.

- 6.2 CCG staff should declare any interests by completing the declaration of interests form at Appendix 1 and submitting this to their Line Manager, within 28 days. Line Managers will record the interests and make a decision on whether the declaration is deemed to require any action to ensure transparency and avoid a conflict of interest. If required, Line Managers should seek advice on appropriate action from the Head of Corporate Governance & Risk and/or Conflicts of Interest Guardian.
- 6.3 Line Managers should hold any interests declared on the individual's personal file. All interests should be declared as and when they arise. Individuals are responsible for ensuring that their registered interests are kept up to date at all times.
- 6.4 Once any arrangements for mitigating the risk have been agreed by the individual's Line Manager, these should be documented on the approved form and submitted to the Head of Corporate Governance & Risk. Such arrangements will specify:
 - whether and when an individual should withdraw from a specified activity, on a temporary or permanent basis; and
 - monitoring of the specified activity undertaken by the individual, either by a line manager, colleague or other designated individual.
- 6.5 Where an individual is unclear about the arrangements for managing the interest, they should seek advice from their Line Manager.
- 6.6 All other individuals should submit declarations directly to the Head of Corporate Governance & Risk using the form at Appendix 1, who will decide, in conjunction with the Conflicts of Interest Guardian, whether any specific arrangements are required to manage the conflicts or potential conflicts declared.
- 6.7 Although the interest may be declared, this does not remove the individual's personal responsibilities of removing themselves from a position or situation which may result in a potential breach of this policy.

7. Register of Interests

- 7.1 Registers will be maintained of the interests of individuals within the CCG, specified in paragraph 1.6.
- 7.2 The registers for all the above will be published on the CCG's website and maintained by the Head of Corporate Governance & Risk. The register(s) will

be reviewed annually, and updated as necessary. For a new declaration, the relevant register will be updated inside 28 days. All individuals within the CCG must submit a nil declaration where they have no interests or changes to declare. All interests will remain on the register for a minimum of 6 months after the interest has expired. The CCG will retain a private record of historic interests for a minimum of 6 years after the date on which it expired.

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

7.4 Registers will include:

- Name of the person declaring the interest;
- Position within, or relationship with, the CCG (or NHS England in the event of joint committees);
- Type of interest e.g., financial interests, non-financial professional interests;
- Description of interest, including for indirect interests details of the relationship with the person who has the interest;
- The dates from which the interest relates; and
- The actions to be taken to mitigate risk - these should be agreed with the individual's line manager or a senior manager within the CCG.

7.5 A template is attached at Appendix 2.

7.6 The register of interests will be reviewed at every Audit Committee meeting. The Governing Body will review the register of interests on an annual basis.

8. Publication of registers

8.1 The CCG will publish the register of interests and gifts and hospitality and the register of procurement decisions described below, in a prominent place on the CCG's website.

8.2 Although all individuals must declare interests, the CCG will only publish the interests of decision makers. Decision makers are defined as follows:

- All governing body members;
- Members of advisory groups which contribute to direct or delegated decision making on the commissioning or provision of taxpayer funded services such as working groups involved in service redesign or stakeholder engagement that will affect future provision of services;
- Members of the Primary Care Commissioning Committee (PCCC);
- Members of other committees of the CCG e.g., audit committee, remuneration committee etc.;
- Members of new care models joint provider / commissioner groups / committees;

- Members of procurement (sub-)committees;
- Individuals on Agenda for Change band 8d and above;
- Management, administrative and clinical staff who have the power to enter into contracts on behalf of the CCG;
- Management, administrative and clinical staff involved in decision making concerning the commissioning of services, purchasing of goods, medicines, medical devices or equipment, and formulary decisions; and
- Management, administrative and clinical staff responsible for processing payments on behalf of the CCG.

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

8.3 All decision making staff will be made aware, in advance of publication, that the register(s) will be kept, how the information on the register(s) may be used or shared and that the register(s) will be published. This will be done by the provision of a fair processing notice that details the identity of the data controller, the purposes for which the registers are held and published, how the information on the register(s) may be used or shared and contact details for the data protection officer. This information will also be provided to individuals identified in the register(s) because they are in a relationship with the person making the declaration.

8.4 All individuals who are not decision makers but who are still required to make a declaration of interest(s) will be made aware that the register(s) will be kept and how the information on the register(s) may be used or shared. This will be done by the provision of a separate fair processing notice that details the identity of the data controller, the purposes for which the register(s) are held, how the information on the register(s) may be used or shared and contact details for the data protection officer. This information will also be provided to individuals identified in the register(s) because they are in a relationship with the person making the declaration.

9. Appointing Governing Body or committee members and senior staff

9.1 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 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.

- 9.2 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.
- 9.3 Any individual who has a material interest in an organisation which provides, or is likely to provide, substantial services to the 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 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.

10. Managing conflicts of interest at meetings

- 10.1 Declarations of interests will be a standing item on all meeting agendas. The chair of a meeting of the CCG's Governing Body or any of its committees, sub-committees or groups has ultimate responsibility for deciding whether there is a conflict of interest and for taking the appropriate course of action in order to manage the conflict of interest. In reaching this decision the chair will seek advice from the Head of Corporate Governance & Risk or their representative, or where there is not one, another senior manager.
- 10.2 In the event that the chair of a meeting has a conflict of interest, the vice chair is responsible for deciding the appropriate course of action in order to manage the conflict of interest. If the vice chair is also conflicted then the remaining non-conflicted voting members of the meeting should agree between themselves how to manage the conflict(s).
- 10.3 In making such decisions, the chair (or vice chair or remaining non-conflicted members as above) may wish to consult with the Conflicts of Interest Guardian or another member of the Governing Body.
- 10.4 It is good practice for the chair, with support of the CCG's Head of Corporate Governance & Risk and, if required, the Conflicts of Interest Guardian, to proactively consider ahead of meetings what conflicts are likely to arise and how they should be managed, including taking steps to ensure that supporting papers for particular agenda items of private sessions/meetings are not sent to conflicted individuals in advance of the meeting where relevant.

- 10.5 Chairs will be provided with a declaration of interests checklist (attached at Appendix 3) with the meeting papers, which will include details of any declarations of interest which have already been made by members of the Governing Body / committee / sub-group.
- 10.6 The chair should ask at the beginning of each meeting if anyone has any conflicts of interest to declare in relation to the business to be transacted at the meeting. Each member of the group should declare any interests which are relevant to the business of the meeting whether or not those interests have previously been declared. Any new interests which are declared at a meeting must be included on the CCG's relevant register of interests to ensure it is up-to-date. Similarly, any new offers of gifts or hospitality which are declared at a meeting must be added to the register of gifts and hospitality.
- 10.7 It is the responsibility of each individual member of the meeting to declare any relevant interests which they may have. However, should the chair or any other member of the meeting be aware of facts or circumstances which may give rise to a conflict of interests but which have not been declared then they should bring this to the attention of the chair who will decide whether there is a conflict of interest and the appropriate course of action to take in order to manage the conflict of interest.
- 10.8 If, after a meeting, the chair or any other member becomes aware that a conflict of interest has not been declared, they should raise this with the Head of Corporate Governance & Risk or Conflicts of Interest Guardian who will consider the appropriate course of action.
- 10.9 When a member of the meeting (including the chair or vice chair) has a conflict of interest in relation to one or more items of business, the chair (or vice chair or remaining non-conflicted members where relevant as described above) must decide how to manage the conflict. The appropriate course of action will depend on the particular circumstances, but could include one or more of the following:
 - Where the chair has a conflict of interest, deciding that the vice chair (or another non-conflicted member of the meeting if the vice chair is also conflicted) should chair all or part of the meeting;
 - Requiring the individual who has a conflict of interest (including the chair or vice chair if necessary) not to attend the meeting;
 - Ensuring that the individual does not receive the supporting papers or minutes of the meeting which relate to the matter(s) which give rise to the conflict;
 - Requiring the individual to leave the discussion when the relevant matter(s) are being discussed and when any decisions are being taken in relation to those matter(s). In private meetings, this could include requiring the individual to leave the room and in public meetings to either leave the room or join the audience in the public gallery;
 - Allowing the individual to participate in some or all of the discussion when the relevant matter(s) are being discussed but requiring them to leave the meeting when any decisions are being taken in relation to those matter(s).

This may be appropriate where, for example, the conflicted individual has important relevant knowledge and experience of the matter(s) under discussion, which it would be of benefit for the meeting to hear, but this will depend on the nature and extent of the interest which has been declared;

- Noting the interest and ensuring that all attendees are aware of the nature and extent of the interest, but allowing the individual to remain and participate in both the discussion and in any decisions. This is only likely to be the appropriate course of action where it is decided that the interest which has been declared is either immaterial or not relevant to the matter(s) under discussion.

10.10 Where the conflict of interest relates to outside employment and an individual continues to participate in meetings pursuant to the preceding two bullet points, 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. Where it is appropriate for them to participate in decisions they must only do so if they are acting in their CCG role.

10.11 Where over half of members withdraw from a part of a meeting – due to the arrangements agreed for the management of conflicts of interests - the chair (or deputy) will determine whether or not the discussion can proceed. In making this decision the chair will consider whether the meeting is quorate in accordance with the required number /balance of membership.

10.12 Where the meeting is not quorate the discussion will be deferred until such time as a quorum can be convened. Where a quorum cannot be convened from the membership of the meeting, owing to the arrangements for managing conflicts of interest or potential conflicts of interests, the chair of the meeting shall consult with the Conflicts of Interest Guardian on the action to be taken. This may include:

- requiring another committee or sub-committee which can be quorate to progress the item of business; or if this is not possible,
- inviting on a temporary basis one or more of the following to make up the quorum (where these are permitted members of the Governing Body or committee / sub-committee in question) so that the group can progress the item of business:
 - a member of the CCG who is interest free;
 - an individual nominated by a member to act on their behalf in the dealings between it and the CCG;
 - a member of a relevant Health and Wellbeing Board;
 - a member of a board/Governing Body for another CCG.

10.13 The minutes will record all declarations of interest and actions taken in mitigation. A minutes template for recording declarations is attached at Appendix 4.

11. Managing conflicts of interest throughout the commissioning cycle

- 11.1 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 an individual should not participate in, and, in some circumstances, whether they should be involved in the process at all. The CCG will 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 will 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 will be treated as a relevant interest, and the CCG will manage the potential conflict.

Designing service requirements

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

Provider engagement

- 11.3 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. Individuals should be particularly mindful of these issues when engaging with existing / potential providers in relation to the development of new care models.
- 11.4 Provider engagement should follow the three main principles of procurement law, namely equal treatment, non-discrimination and transparency. This includes ensuring that the same information is given to all at the same time and procedures are transparent. This mitigates the risk of potential legal challenge.
- 11.5 As the service design develops, it is good practice to engage with a range of providers on an on-going basis to seek comments on the proposed design e.g., via the commissioners website and/or via workshops with interested

parties (ensuring a record is kept of all interaction). NHS Improvement has issued guidance on the use of provider boards in service design.⁸

- 11.6 Engagement should help to shape the requirement to meet patient need, but it is important not to gear the requirement in favour of any particular provider(s). If appropriate, the advice of an independent clinical adviser on the design of the service should be secured.
- 11.7 Individuals should ensure that decisions are documented to ensure that the CCG meets its obligations under, but not limited to, the National Health Service (Procurement, Patient Choice and Competition) (No 2) Regulations 2013 and the Public Contracts Regulations 2015.

Specifications

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

Procurement and awarding grants

- 11.10 The CCG will seek to recognise and manage any conflicts or potential conflicts of interest that may arise in relation to the procurement of any services or the administration of grants. "Procurement" relates to any purchase of goods, services or works and the term "procurement decision" should be understood in a wide sense to ensure transparency of decision making on spending public funds. The decision to use a single tender action, for instance, is a procurement decision and if it results in the CCG entering into a new contract, extending an existing contract, or materially altering the terms of an existing contract, then it is a decision that should be recorded.
- 11.11 NHS England and 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 2015): incorporate the European Public Contracts Directive into national law; apply to all public contracts over the threshold value;

⁸ Monitor, *Case closure decision on Greater Manchester and Cheshire cancer surgery services*, January 2014

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/284832/ManchesterCaseClosure.pdf

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.

11.12 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 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.

11.13 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”.

11.14 The Procurement, Patient Choice and Competition Regulations (PPCCR) place requirements on commissioners to ensure that they adhere to good practice in relation to procurement, run a fair, transparent process that does not discriminate against any provider, do not engage in anti-competitive behaviour that is against the interest of patients, and protect the right of patients to make choices about their healthcare. Furthermore the PPCCR places requirements on commissioners to secure high quality, efficient NHS healthcare services that meet the needs of the people who use those services. The PCR 2015 are focussed on ensuring a fair and open selection process for providers.

11.15 The CCG will use a procurement checklist (see Appendix 5) to record the factors that should be addressed when drawing up its plans to commission services. This will help to evidence the CCG’s deliberations on conflicts of interest. The CCG will make the evidence of its management of conflicts publicly available, and the relevant information from the procurement template will be used to complete the register of procurement decisions. Complete transparency around procurement will provide:

- Evidence that the CCG is seeking and encouraging scrutiny of its decision-making process;

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

11.16 External services such as commissioning support services (CSSs) can play an important role in helping CCGs decide the most appropriate procurement route, undertake procurements and manage contracts in ways that manage conflicts of interest and preserve the integrity of decision-making. The CCG will assure itself that a CSS' business processes are robust and enable the CCG to meet its duties in relation to procurement (including those relating to the management of conflicts of interest). This will require the CSS to declare any conflicts of interest it may have in relation to the work commissioned by the CCG.

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

- Determine and sign off the specification and evaluation criteria;
- Decide and sign off decisions on which providers to invite to tender; and
- Make final decisions on the selection of the provider.

Register of procurement decisions

11.18 The CCG will maintain a register of procurement decisions taken with a value in excess of £100,000, either for the procurement of a new service or any extension or material variation of a current contract. This will include:

- The details of the decision;
- Who was involved in making the decision (including the name of the CCG clinical lead, the CCG contract manager, the name of the decision making committee and the name of any other individuals with decision-making responsibility);
- A summary of any conflicts of interest in relation to the decision and how this was managed by the CCG; and
- The award decision taken.

11.19 The register of procurement decisions will be updated whenever a procurement decision is taken, using the register at Appendix 6. The Procurement, Patient Choice and Competition Regulations 9(1) place a requirement on commissioners to maintain and publish on their website a record of each contract it awards. The register of procurement decisions will be made publicly available and easily accessible to patients and the public by:

- Ensuring that the register is available in a prominent place on the CCG's website; and
- Making the register available upon request for inspection at the CCG's headquarters.

Declarations of interests for bidders / contractors

11.20 As part of the CCG's procurement processes, bidders will be asked to declare any conflicts of interest. This allows the CCG to ensure that it complies with the principles of equal treatment and transparency. When a bidder declares a conflict, the CCG will decide how best to deal with it to ensure that no bidder is treated differently to any other. A declaration of interests for bidders/contractors template is attached at Appendix 7.

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

Contract Monitoring

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

11.23 The individuals involved in the monitoring of a contract should not have any direct or indirect financial, professional or personal interest in the incumbent provider or in any other provider that could prevent them, or be perceived to prevent them, from carrying out their role in an impartial, fair and transparent manner. The CCG will be mindful of any potential conflicts of interest when it disseminates any contract or performance information/reports on providers, and manage the risks appropriately.

12. Raising concerns and breaches

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

- 12.2 It is the duty of every individual within the CCG to speak up about genuine concerns in relation to the management of conflicts of interests, and to report any concerns in accordance with the terms of this policy and the CCG's Whistleblowing Policy or with the whistleblowing policy of the relevant employer organisation (where the breach is being reported by an employee or worker of another organisation). Individuals should not ignore their suspicions or seek to investigate them, but speak to the CCG's Conflict of Interest Guardian or the Head of Corporate Governance.
- 12.3 Where a breach is suspected or has occurred, this will be investigated by the Head of Corporate Governance & Risk who will draw on other expertise available to the organisation such as internal audit. The findings will be shared with the Conflicts of Interest Guardian and the breach formally reported to the Audit Committee.
- 12.4 A review of lessons learned will be conducted by the Head of Corporate Governance & Risk following any incident of non-compliance with this policy and the report reviewed by the CCG's Audit Committee. Anonymised details of breaches will be published on the CCG's website for the purpose of learning and development.
- 12.5 Anyone who wishes to report a suspected or known breach of the policy, who is not an employee or worker of the CCG, should ensure that they comply with their own organisation's whistleblowing policy, since most such policies should provide protection against detriment or dismissal.
- 12.6 All notifications will be treated with appropriate confidentiality at all times, in accordance with the CCG's policies and applicable laws, and the person making such disclosures can expect an appropriate explanation of any decisions taken as a result of any investigation.
- 12.7 Providers, patients and other third parties can make a complaint to NHS Improvement in relation to a commissioner's conduct under the Procurement Patient Choice and Competition Regulations. The regulations are designed as an accessible and effective alternative to challenging decisions in the courts.

Fraud or Bribery

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

Impact of non-compliance

- 12.9 Failure to comply with the CCG's policy on conflicts of interest management can have serious implications for the CCG and any individuals concerned.

Civil implications

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

Criminal implications

- 12.10 Failure to manage conflicts of interest could lead to criminal proceedings including for offences such as fraud, bribery and corruption. This could have implications for CCGs and linked organisations, and the individuals who are engaged by them. The Fraud Act 2006 created a criminal offence of fraud and defines three ways of committing it:
- Fraud by false representation;
 - Fraud by failing to disclose information; and,
 - Fraud by abuse of position.
- 12.11 In these cases, the offender's conduct must be dishonest and their intention must be to make a gain, or cause a loss (or the risk of a loss) to another. Fraud carries a maximum sentence of 10 years imprisonment and /or a fine if convicted in the Crown Court or 6 months imprisonment and/or a fine in the Magistrates' Court. The offences can be committed by a body corporate.
- 12.12 Bribery is generally defined as giving or offering someone a financial or other advantage to encourage that person to perform certain functions or activities. The Bribery Act 2010 reformed the criminal law of bribery, making it easier to tackle this offence proactively in both the public and private sectors. It introduced a corporate offence which means that commercial organisations, including NHS bodies, will be exposed to criminal liability, punishable by an unlimited fine, for failing to prevent bribery.
- 12.13 The offences of bribing another person, being bribed or bribery of foreign public officials in relation to an individual carries a maximum sentence of 10 years imprisonment and/or a fine if convicted in the Crown Court and 6 months imprisonment and/or a fine in the Magistrates' Court. In relation to a body corporate the penalty for these offences is a fine.

Disciplinary implications

- 12.14 Individuals who fail to disclose any relevant interests or who otherwise breach this policy will be subject to investigation and, where appropriate, to disciplinary action in accordance with the CCG's Disciplinary Policy. Individuals should be aware that the outcomes of such action may, if appropriate, result in the termination of their employment or position with the CCG.

Professional regulatory implications

- 12.15 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 CCG will report statutorily regulated healthcare professionals to their regulator if they believe that they have acted improperly, so that these concerns can be investigated. Statutorily regulated healthcare professionals should be made aware that the consequences for inappropriate action could include fitness to practise proceedings being brought against them, and that they could, if appropriate, be struck off by their professional regulator as a result.

13. Conflicts of interest training

- 13.1 The CCG will ensure that training is offered to all individuals within the CCG on the management of conflicts of interest. This is to ensure staff and others within the CCG understand what conflicts are and how to manage them effectively. All individuals within the CCG are required to complete this mandatory training on an annual basis.

Appendix 1: Declaration of interests form

Name:				
Position within, or relationship with, the CCG (or NHS England in the event of joint committees)				
Details of interest held (complete all that are applicable)				
Type of interest (see reverse of form)	Description of interest (including for indirect interests, details of the relationship with the person who has the interest)	Date of interest From & To		Actions to be taken to mitigate risk (if required) <i>To be agreed with line manager (CCG employees only)</i>

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



Leeds

Clinical Commissioning Group

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 am / am not a decision maker [delete as applicable]. If you are band 8d or higher, or undertake any of the activities listed overleaf then you are a decision maker.

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:

Declarer's signature:

Date:

For CCG employees only:

Signature of line manager:

Name:

Position:

Date:

Types of interest

Type of interest	Description
Financial Interests	<p>This is where an individual may get direct financial benefits from the consequences of a commissioning decision. This could, for example, include being:</p> <ul style="list-style-type: none"> • A director, including a non-executive director, or senior employee in a private company or public limited company or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations. This includes involvement with a potential provider of a new care model; • A shareholder (or similar owner interests), a partner or owner of a private or not-for-profit company, business, partnership or consultancy which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations. • A management consultant for a provider; • A provider of clinical private practice; • In employment outside of the CCG; • In receipt of secondary income; • In receipt of a grant from a provider; • In receipt of any payments (for example honoraria, one off payments, day allowances or travel or subsistence) from a provider • In receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role; and • Having a pension that is funded by a provider (where the value of this might be affected by the success or failure of the provider).
Non-Financial Professional Interests	<p>This is where an individual may obtain a non-financial professional benefit from the consequences of a commissioning decision, such as increasing their professional reputation or status or promoting their professional career. This may, for example, include situations where the individual is:</p> <ul style="list-style-type: none"> • An advocate for a particular group of patients; • A GP with special interests e.g., in dermatology, acupuncture etc. • An active member of a particular specialist professional body (although routine GP membership of the 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); • Engaged in a research role; • The development and holding of patents and other intellectual property rights which allow staff to protect something that they create, preventing unauthorised use of products or the copying of protected ideas; or • GPs and practice managers, who are members of the governing body or committees of the CCG, should declare details of their roles and responsibilities held within their GP practices
Non-Financial Personal Interests	<p>This is where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit. This could include, for example, where the individual is:</p> <ul style="list-style-type: none"> • A voluntary sector champion for a provider; • A volunteer for a provider; • A member of a voluntary sector board or has any other position of authority in or connection with a voluntary sector organisation; • Suffering from a particular condition requiring individually funded treatment; • A member of a lobby or pressure group with an interest in health and care.

Indirect Interests	<p>This is where an individual has a close association with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest in a commissioning decision (as those categories are described above). For example, this should include:</p> <ul style="list-style-type: none"> • Spouse / partner; • Close relative e.g., parent, grandparent, child, grandchild or sibling; • Close friend or associate; or • Business partner
Decision Maker	<p>Decision makers are defined as follows:</p> <ul style="list-style-type: none"> • All governing body members; • Members of advisory groups which contribute to direct or delegated decision making on the commissioning or provision of taxpayer funded services such as working groups involved in service redesign or stakeholder engagement that will affect future provision of services; • Members of the Primary Care Commissioning Committee (PCCC); • Members of other committees of the CCG e.g., audit committee, remuneration committee etc.; • Members of new care models joint provider / commissioner groups / committees; • Members of procurement (sub-)committees; • Individuals on Agenda for Change band 8d and above; • Management, administrative and clinical staff who have the power to enter into contracts on behalf of the CCG; • Management, administrative and clinical staff involved in decision making concerning the commissioning of services, purchasing of goods, medicines, medical devices or equipment, and formulary decisions; and Management, administrative and clinical staff responsible for processing payments on behalf of the CCG,

Appendix 2: Register of Interests template

Forename	Surname	Current Position(s) held							Job Title (where applicable)	Employing/Relevant CCG			Name of practice (where applicable)	No Interests Declared	Declared Interest- (Name of the organisation and nature of business)	Type of Interest			Is the Interest direct or Indirect?	Nature of Interest	Date of Interest		Action Taken to Mitigate Risk
		GP CCG Member	Governing Body Member	Other Committee Member	Employee Decision Maker	Employee Non-Decision Maker	Contractor	Practice Manager		Leeds South and East	Leeds North	Leeds West				Financial Interests	Non-Financial Professional Interests	Non-Financial Personal Interests			From	To	

Appendix 3: Declarations of interest checklist for chairs

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

Timing	Checklist for Chairs	Responsibility
In advance of the meeting	1. The agenda to include a standing item on declaration of interests to enable individuals to raise any issues and/or make a declaration at the meeting.	Meeting Chair and secretariat
	2. A definition of conflicts of interest should also be accompanied with each agenda to provide clarity for all recipients.	Meeting Chair and secretariat
	3. Agenda to be circulated to enable attendees (including visitors) to identify any interests relating specifically to the agenda items being considered. A form (see below) will also be circulated on which attendees can record any interests relating to the agenda items.	Meeting Chair and secretariat
	4. Members should return the form to the Chair or Head of Corporate Governance as soon as an actual or potential conflict is identified.	Meeting members
	5. Chair to review a summary report from preceding meetings i.e. sub-committee, working group, etc., detailing any conflicts of interest declared and how this was managed.	Meeting Chair
	6. A copy of the members' declared interests is checked to establish any actual or potential conflicts of interest that may occur during the meeting.	Meeting Chair
During the meeting	7. Chair requests members to	Meeting Chair

	<p>declare any interests in agenda items, including the nature of the conflict.</p> <p>8. 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>9. As minimum requirement, the following should be recorded in the minutes of the meeting:</p> <ul style="list-style-type: none"> • Individual declaring the interest; • At what point the interest was declared; • The nature of the interest; • The Chair's decision and resulting action taken; • The point during the meeting at which any individuals retired from and returned to the meeting - even if an interest has not been declared • Visitors in attendance who participate in the meeting must also follow the meeting protocol and declare any interests in a timely manner 	<p>Meeting Chair</p> <p>Secretariat</p>
Following the meeting	<p>10. All new interests declared at the meeting should be promptly updated onto the declaration of interest form.</p> <p>11. All new completed declarations of interest should be transferred onto the register of interests.</p> <p>12. If, following the meeting, the chair or any other member becomes aware that a conflict of interest has not been declared, they should raise this with the Head of Corporate Governance or Conflicts of Interest Guardian who will consider the appropriate course of action.</p>	<p>Individual(s) declaring interest(s)</p> <p>Designated person responsible for registers of interest</p> <p>Person who becomes aware of the conflict</p>

DECLARATION OF INTERESTS FORM – MEETINGS

Please complete and return this form to the Head of Corporate Governance & Risk prior to the start of the meeting, or at any point at which you become aware of an interest during the meeting.

Name:	
Meeting:	
Date:	

Agenda item in which you have an interest	Type of Interest: <ul style="list-style-type: none"> • Financial • Non Financial Professional • Non Financial Personal • Indirect 	Brief Description of your interest	Arrangement for managing the conflict of interest (to be agreed with the Chair of the meeting)
Signed:			

Appendix 4: Template for recording minutes

Item no	Agenda item	Actions
	<p>Declarations of interest <i>SK reminded committee members of their obligation to declare any interest they may have on any issues arising at committee meetings which might conflict with the business of the CCG.</i></p> <p><i>Declarations are listed in the CCG's Register of Interests. The Register is available via the CCG website at the following link: [link to be inserted]</i></p> <p>Declarations of interest from sub committees <i>None declared</i></p> <p>Declarations of interest from today's meeting <i>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.</i></p> <p><i>SK declared that the meeting is quorate and that MS would not be included in any discussions on agenda item X due to a direct conflict of interest which could potentially lead to financial gain for MS.</i></p> <p><i>SK and MS discussed the conflict of interest, which is recorded on the register of interest, before the meeting and MS agreed to remove himself from the table and not be involved in the discussion around agenda item X.</i></p>	
	<p>Agenda Item <Note the agenda item></p> <p><i>MS left the meeting, excluding himself from the discussion regarding xx.</i></p> <p><conclude decision has been made></p> <p><i>MS was brought back into the meeting.</i></p>	

Appendix 5: Procurement checklist

Service:	
Question	Comment/Evidence
1. How does the proposal deliver good or improved outcomes and value for money- what are 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 considering the proposals?	
4. What range of potential providers have been involved in considering the proposals?	
5. How have you involved the Health and Wellbeing Board? How does the proposal support the priorities in the joint health and wellbeing strategy?	
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 on 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*?	
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 question 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 beyond what GP practices should expect to provide under the GP contract?	
17. What assurances will there be that a GP practice is providing high quality services under the GP contract before it has the opportunity to provide any new services?	

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

Appendix 6: Register of Procurement Decisions Template

Leeds CCGs: Register of Procurement Decisions															
Ref No	Date of Decision	Contract/ Service title	Procurement description	Leeds North	Leeds South and East	Leeds West	Existing contract or new procurement (if existing include details)	Procurement type – CCG procurement, collaborative procurement with partners	CCG clinical lead	CCG contract manager	Decision making process and name of decision making committee	Summary of conflicts of interest declared and how these were managed	Contract Award (supplier name & registered address)	Contract value (£) (Total)	Contract value to CCG

Page 1

Appendix 7 - Template of conflict of interests for bidders /contractors

This page requires completion of details of organisations

Page 2 overleaf requires completion of details of individuals

Name of organisation:	
Details of interest 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 or professional, which the public could perceive may impair or otherwise influence the CCG's or nay of its members or employees' judgments, decisions or actions	

Name of relevant person	<i>(complete for all relevant persons)</i>	
Details of interest 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 or professional, which the public could perceive may impair or otherwise influence the CCG's or any of its members' employees' judgments, decisions or actions		

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

Signed:

On behalf of:

Date:

Appendix 8 - Summary of key aspects of the NHS England statutory 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.

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.

6. There will be occasions where the conflict of interest is profound and acute. In such scenarios (such as where an individual has a direct financial interest which gives rise to a conflict, e.g., secondary employment or involvement with an organisation which benefits financially from contracts for the supply of goods and services to a CCG or aspires to be a new care model provider), it is likely that CCGs will want to consider whether, practically, such an interest is manageable at all. CCGs should note that this can arise in relation to both clinical and non-clinical members/roles. If an interest is not manageable, the appropriate course of action may be to refuse to allow the circumstances which gave rise to the conflict to persist. This may require an individual to step down from a particular role and/or move to another role within the CCG and may require the CCG to take action to terminate an appointment if the individual refuses to step down. CCGs should ensure that their contracts of employment and letters of appointment, HR policies, governing body and committee terms of reference and standing orders are reviewed to ensure that they enable the CCG to take appropriate action to manage conflicts of interest robustly and effectively in such circumstances.
7. Where a member of CCG staff participating in a meeting has dual roles, for example a role with the CCG and a role with a new care model provider organisation, but it is not considered necessary to exclude them from the whole or any part of a CCG meeting, he or she should ensure that the capacity in which they continue to participate in the discussions is made clear and correctly recorded in the meeting minutes, but where it is appropriate for them to participate in decisions they must only do so if they are acting in their CCG role.
8. CCGs should take all reasonable steps to ensure that employees, committee members, contractors and others engaged under contract with them are aware of the requirement to inform the CCG if they are employed or engaged in, or wish to be employed or engaged in, any employment or consultancy work in addition to their work with the CCG (for example, in relation to new care model arrangements).
9. CCGs should identify as soon as possible where staff might be affected by the outcome of a procurement exercise, e.g., they may transfer to a provider (or their role may materially change) following the award of a contract. This should be treated as a relevant interest, and CCGs should ensure they manage the potential conflict. This conflict of interest arises as soon as individuals are able to identify that their role may be personally affected.
10. Similarly, CCGs should identify and manage potential conflicts of interest where staff are involved in both the contract management of existing contracts, and involved in procurement of related new contracts.

Governance arrangements

11. Appropriate governance arrangements must be put in place that ensure that conflicts of interest are identified and managed appropriately, in accordance

with this statutory guidance, without compromising the CCG's ability to make robust commissioning decisions.

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

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.