



*Bradford City Clinical Commissioning Group  
Bradford Districts Clinical Commissioning Group*

# **Conflicts of Interest and Business Conduct Policy**

## Version Control Sheet

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## 1 Introduction

NHS Bradford City Clinical Commissioning Group and NHS Bradford Districts Clinical Group (hereafter known as the CCGs), as commissioners of healthcare, need to manage conflicts of interest in a way that demonstrates transparency, probity and accountability. This is particularly so when dealing with member practices, as, where GPs are both providing and commissioning healthcare, there is increased risk that decisions related to how care is provided and by who, may be influenced by private interests. This may call the probity of the CCGs into question.

The CCGs will manage conflicts of interest appropriately as it is essential to ensure that commissioning decisions made can withstand scrutiny and challenge. This will also protect the CCGs, their staff and GP practices from any perceptions of wrongdoing. This policy will also give confidence to patients, providers, Parliament and tax payers that the CCGs' commissioning decisions are robust, fair, transparent and offer value for money.

The development of the extended role of co-commissioning of primary care services with NHS England area teams reinforces the need for the CCGs to have robust and transparent arrangements in place to actively manage conflicts of interest and protect the integrity of the commissioning system.

This policy is not, nor does it purport to be, a full statement of the law.

### **Statutory Requirement and Guidance on Managing Conflicts of Interest**

There are two separate pieces of legislation that require the CCGs to manage conflicts of interest. These are:

- i. *The Health and Social Care Act 2006 (Section 140, conflicts of interest, of the 2006 Act, as inserted by section 25 of the 2012 Act (Health and Social Care Act 2012))*

This legislation requires the CCGs to make arrangements to manage conflicts of interest, including potential conflicts of interest.

- ii. *The NHS (Procurement, Patient Choice and Competition) Regulations 2013*

This sets out that commissioners must:

- manage conflicts and potential conflicts of interest when awarding a contract by prohibiting the award of a contract when the integrity of the award has been, or appears to have been, affected by a conflict;
  - keep appropriate records of how they have managed any conflicts in individual cases
- iii. NHS England published detailed guidance for CCGs on the discharge of their functions and requires each CCG to have regard to the guidance. This includes:

- *Managing Conflicts of Interests: Guidance for clinical commissioning groups, March 2013. Superseded by the new guidance.*
- *Code of Conduct: Managing conflicts of interest where GP practices are potential providers of CCG-Commissioned services, April 2013.*
- *Managing Conflicts of Interests: Guidance for clinical commissioning groups, version 2 December 2014. Superseded by the new guidance*
- *Managing Conflicts of Interests: Revised Statutory Guidance for clinical commissioning groups. June 2016. NHS England expects all CCGs to fully implement statutory guidance on conflicts of interest management. Where a CCG has decided not to comply with this guidance the reasons for doing so must be set out in the annual conflicts on interest self certification.*

The CCGs' Constitutions define what constitutes a conflict of interest and set out arrangements for the management of conflicts of interest. This should be read in conjunction with this policy.

Managing conflicts of interest appropriately is needed to protect the integrity of the NHS commissioning system and to protect CCGs and GP practices from any perceptions of wrong doing. This ensures that decisions made by the groups will be taken, or seen to be taken, without any possibility of the influence of external or private interest.

## **2 Aims and Objectives**

Conflicts of interest are inevitable in public life. This policy provides advice on recognising where and how conflicts of interest arise and managing these within a proper governance framework to ensure that conflicts of interest do not affect, or appear to affect, the integrity of the CCGs decision-making processes.

This policy establishes how the CCGs will ensure that best practice is followed in managing potential conflicts of interest. The policy further sets out the safeguards which will be put in place by CCGs to ensure transparency, fairness and probity in decision making, including:

- Arrangements for declaring interests
- Maintaining and publishing registers of interests
- Excluding individuals from decision-making when a conflict arises
- Management of breaches of this policy
- Maintaining and publishing registers of procurement decisions
- Engagement with a range of potential providers on service design
- List of contracts and their values to be displayed on CCGs' websites

This policy reflects the seven principles of public life established by the Nolan Committee which are as follows:

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness

- Honesty
- Leadership

The policy further follows the advice from NHS England that conflicts of interest can be managed by:

- Doing business properly
- Being proactive not reactive
- Assuming that individuals will seek to act ethically and professionally, but may not always be sensitive to conflicts of interest
- Being balanced and proportionate

The benefits of managing conflicts of interest are:

- Maintaining confidence and trust between patients and GPs
- Enabling CCGs and member practices to demonstrate that they are acting fairly and transparently and that members of CCGs will always put their duty to patients before any personal financial interest
- Ensuring that CCGs operate within the legal framework

### 3 Policy Statement on Business Conduct and Conflicts of Interest

As statutory NHS bodies the CCGs will embody public service values and principles in all business the organisation conducts. High standards of corporate and personal conduct, based on the principle that patients come first, is a requirement for all members and employees of the CCGs.

The following principles will govern the activities of the CCGs:

**Accountability:** Everything done by members and employees of the CCGs must be able to stand the test of parliamentary scrutiny, public judgements on propriety and professional codes of conduct.

**Probity:** There should be an absolute standard of honesty in dealing with the assets of the NHS and the CCGs. Integrity should be the hallmark of all personal conduct in decisions affecting patients, staff and suppliers, and in the use of information acquired in the course of the CCGs business.

**Transparency:** There should be sufficient transparency about CCGs' activities to promote confidence between the CCGs and their staff, patients and the public.

Employees, members, committee and sub-committee members of the group and members of the governing bodies (and its committees) will at all times comply with the requirements of the constitution in relation to conflicts of interest (see section 8) and will be aware of their responsibilities as outlined in it. They must also comply with the requirements set out in this policy. They should act in good faith and in the interests of the group and should follow the *Seven Principles of Public Life*, set out by the Committee on Standards in Public Life (the Nolan Principles) (see Appendix F of the Constitution).

The CCGs will also observe the principles of good governance set out in:

- The Good Governance Standards for Public Services (2004); Office for Public Management (OPM) and Chartered Institute of Public Finance and Accountancy (CIPFA)
- The Equality Act 2010
- The UK Corporate Governance Code
- Standards for members of NHS boards and CCG governing bodies in England

The CCGs expect that all employees, members, committee and sub-committee members of the group and members of the governing bodies (and their committees) to:

- Ensure that the interests of the public remain paramount at all times
- Be impartial and honest in the conduct of their official business
- Use the public funds entrusted to them to the best advantage of the service, always ensuring value for money
- Comply with the requirements of Constitutions, Standing Orders and Prime Financial Policies and all instructions relating to corporate governance
- Comply with the Department of Health Code of Conduct / Code of Accountability

It is also the responsibility of employees, members, committee and sub-committee members of the group and members of the governing bodies (and their committees) to ensure that they do not:

- Abuse their official position for personal gain or to benefit their family or friends
- Seek to advantage or further private business or other interests in the course of their official duties.

#### **4 Scope of the Policy**

This policy applies to the CCGs and to all employees, members of the CCGs, co-opted members and members of the Governing Bodies and their committees who must comply with the arrangements outlined in this policy.

***Where an individual fails to comply with this policy disciplinary action may be taken or the individual removed from office.***

Furthermore individuals contracted to work on behalf of the CCGs or otherwise providing services or facilities to the group will be made aware of their obligation with regards to declaring interests including potential conflicts of interest. This will be written into their contract for services.

This policy should be read in conjunction with the following policies:

- NHS City CCG Constitution
- NHS Districts CCG Constitution
- NHS City CCG Procurement Policy
- NHS Districts CCG Procurement Policy
- Code of Conduct for NHS Managers

- General Medical Council Good Medical Practice 2006
- Also Anti-Fraud, Bribery & Corruption Policy,
- Whistleblowing & Raising Concerns Policy,
- Code of Business Conduct Policy,
- Disciplinary Policy & Procedure

## 5 Accountability

**Conflicts of Interest Guardian.** This role is undertaken by the CCGs Joint Audit Committee Chair.

The Conflicts of Interest Guardian in collaboration with the CCGs governance lead 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.

**Clinical Commissioning Group Governing Bodies.** The CCG Governing Bodies will oversee this policy and will ensure that there are systems and processes in place to support all member practices and individuals who hold positions of authority or who can make or influence decisions to:

- Declare their interests through a public Register of Interest which is published and made available to the public via the CCGs' websites or on request.
- Declare any relevant interests through discussions and proceedings so that any comments they make are fully understood by all others within that context.
- Ensure that where any conflict could have an effect on any decision or process the individual concerned will have no part in making or influencing the relevant decision.

The Governing Bodies will take such steps as they deem appropriate, and request information they deem appropriate from individuals to ensure that all conflicts of interest and potential conflicts of interest are declared.

**Accountable Officer.** This is the person with overall responsibility for this policy ensuring that a process for managing conflicts of interest is in place.

The Accountable Officer will ensure that for every interest declared, either in writing or by oral declaration, arrangements are put in place to manage the conflict of interest or potential conflict of interest to ensure the integrity of the CCGs decision making process.

Where necessary the Accountable Officer will put in writing to the relevant individual arrangements for managing the conflict of interests or potential conflicts of interest within a week of declaration. This will confirm the following:

- a) When an individual should withdraw from a specified activity, on a temporary or permanent basis;
- b) Monitoring of the specified activity undertaken by the individual, either by a line manager, colleague or other designated individual.

**CCG Governance Manager.** This is the person responsible for maintaining the registers of interests and ensuring that these are publicly available.

**Directors/Heads of Service.** Must ensure that members of staff are aware of this policy and processes to be followed.

**All employees.** To ensure openness and transparency in business transactions, all employees and appointments to the CCGs are required to:

- ensure that the interests of patients remain paramount at all times;
- be impartial and honest in the conduct of their own official business;
- use public funds entrusted to them to the best advantage of the service, always ensuring value for money;
- ensure they do not abuse their official position for personal gain or the benefit of their family or friends;
- ensure that they do not seek to advantage or further private or other interests in the course of their official duties.

It is the responsibility of all employees and appointees to familiarise themselves with this policy and to comply with the provisions of it.

In any transaction undertaken in support of the CCGs exercise of their 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 arrangements confirmed for the management of that interest. Where an individual has not had confirmation of arrangements for managing the interest, they must declare their interest at the earliest possible opportunity in the course of that transaction, and declare that interest as soon as possible thereafter. The individual must also inform either their Director/Head of Service (in the case of employees), or the Chair of the Governing Body, of the transaction.

**CCG Members (Partners of member practices and any individual directly involved with the business or decision making of the CCG)**

Members of the CCGs are required to:

- Declare their interests through a public Register of Interests which is published and made available to the public via the CCGs websites or on request.
- Declare any relevant interests through discussions and proceedings so that any comments they make are fully understood by all others within that context.

- Ensure that where any conflict could have an effect on any decision or process the individual concerned will have no part in making or influencing the relevant decision.

## 6 Principles and General Safeguards

The following general principles and safeguards will apply at all stages of the commissioning process and will be particularly pertinent at key decision points:

- *Doing business appropriately*, i.e. appropriate needs assessment, consultation, commissioning strategies and procurement procedures in place, including clear and transparent commissioning specifications that reflect engagement activities and set out the basis on which any contract will be awarded.
- *Responsive and best practice*, i.e. commissioning intentions are based on local health needs, reflect evidence of best practice and have 'buy-in' from local stakeholders on the clinical case for change.
- *Being proactive not reactive*, minimising the risk of conflict of interests at the earliest possible opportunity e.g. ensuring robust induction and training so that individuals understand their obligations and by being mindful of potential conflicts when appointing / selecting individuals to commissioning roles.
- *Assuming that individuals will seek to act ethically and professionally*, but may not always be sensitive to conflicts of interests or lack awareness of rules and procedures.
- *Being balanced and proportionate*, i.e. rules should be clear and robust but not overly prescriptive or restrictive; decision-making processes should be transparent and fair but not constrained by being overly complex or cumbersome.
- *Being open and transparent*, by ensuring early engagement with all relevant stakeholders in relation to proposed commissioning plans and by clear documenting the approach taken at all stages of the commissioning cycle.
- *Securing expert advice*, by ensuring that commissioning plans take account of advice from appropriate health and social care professionals.
- *Engaging with providers*, via early engagement with both incumbent and potential new providers regarding potential changes to services being commissioned and in ensuring equal treatment, non-discrimination and transparency in aspects of engaging with providers.
- *Ensuring sound-record keeping, including up-to-date Registers of Interests.*
- *A clear, recognised and easily enacted system for dispute resolution*, via the Disciplinary and Grievance Policy for staff, the Constitution for member practices, the standard NHS contract for providers and collaborative agreements with partners.

Where the CCG commissions services from GP practices, the general safeguards described above will be supplemented by additional safeguards to ensure maximum transparency and probity and provide reassurance that commissioning decisions have been made fairly and in the best interests of patients

## 7. Managing Conflicts of Interest

NHS England, in Managing Conflicts of Interest (June 2016), describes a conflict of interest as follows:

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

“For the purposes of Regulation 6 [National Health Service (Procurement, Patient Choice and Competition) (No.2) Regulations 20137], a conflict will arise where an individual’s ability to exercise judgement or act in their role in the **commissioning of services** is impaired or influenced by their interests in the **provision of those services.**”

Monitor - Substantive guidance on the Procurement, Patient Choice and Competition Regulations (December 2013)

As well as direct financial interests, conflicts can arise from an indirect financial interest (e.g. payment to a spouse) or a non-financial interest (e.g. reputation). Conflicts of loyalty may arise (e.g. in respect of an organisation of which the individual is a member or with which they have an affiliation). Conflicts can arise from personal or professional relationships with others, e.g. where the role or interest of a family member, friend or acquaintance may influence an individual’s judgement or actions, or could be perceived to do so. Depending upon the individual circumstances, these factors can all give rise to potential or actual conflicts of interest.

For a commissioner, a conflict of interest may therefore arise when their judgment as a commissioner could be, or be perceived to be, influenced and impaired by their own concerns and obligations as a provider. In the case of a GP involved in commissioning, an obvious example is the award of a new contract to a provider in which the individual GP has a financial stake. However, the same considerations, and the approaches set out in this guidance, apply when deciding whether to extend a contract.

NHS Clinical Commissioners has carried out a review of current guidance on conflicts of interest management and, together with the Royal College of General Practitioners and the British Medical Association, has developed a set of key principles that apply in this context.

CCGs need to provide clear guidance to their members and employees on what might constitute a conflict of interest, providing examples that are likely to arise. The important things to remember are 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 a conflict of interest and manage it appropriately rather than ignore it;
- for a conflict to exist, financial gain is not necessary.

### **Privileged information**

No-one should use confidential information acquired in the pursuit of their role within the CCGs to benefit themselves or another connected person, or create the impression of having done so.

Members of the CCGs, employees and the Governing Bodies should take care not to provide any third party with a possible advantage by sharing privileged, personal or commercial information, or by providing information that may be commercially useful in advance of that information being made available publicly (such as by informing a potential supplier of an up and coming procurement in advance of other potential bidders), or any other information that is not otherwise available and in the public domain.

The CCGs will implement the following processes to ensure that conflicts of interest are managed appropriately within the organisations.

## **7.1 Definition of Conflict of Interest**

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

Conflicts of interest can arise in many situations, environments and forms of commissioning, with an increased risk in primary care commissioning, out-of hours commissioning and involvement with integrated care organisations, as clinical commissioners may here find themselves in a position of being at once commissioner and provider of services. Conflicts of interest can arise throughout the whole commissioning cycle from needs assessment, to procurement exercises, to contract monitoring.

Interests can be captured in four different categories:

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

- A director, including a non-executive director, or senior employee in a private company or public limited company or other organisation which is doing, or which is likely, or possibly seeking

- to do, business with health or social care organisations.
- A shareholder (or similar ownership interests), a partner or owner of a private or not-for-profit company, business, partnership or consultancy which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations.
- A management consultant for a provider.  
This could also include an individual being:
  - In secondary employment
  - In receipt of secondary income from a provider;
  - In receipt of a grant from a provider;
  - In receipt of any payments (for example honoraria, one-off payments, day allowances or travel or subsistence) from a provider;
- In receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role;
- Having a pension that is funded by a provider (where the value of this might be affected by the success or failure of the provider).

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

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

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

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

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

**iv. Indirect interests:** This is where an individual has a close association

with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest in a decision (as those categories are described above) for example, a:

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

A declaration of interest for a “business partner” in a GP partnership should include all relevant collective interests of the partnership, and all 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.

It is not possible, or desirable to define all instances in which an interest may be a real or perceived conflict. It is for each individual to exercise their judgement in deciding whether to register any interests that may be construed as a conflict. If any individual is unsure as to whether an interest should be declared then that individual should seek advice from the CCG Governance Manager, the Accountable Officer or if relevant from the committee chair.

Examples of interests that will be deemed to be relevant will include:

- Roles and responsibilities held within member practices.
- Membership of a Partnership (whether salaried or profit sharing) seeking to enter into any contracts with the CCGs.
- Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the CCGs.
- Directorships, including non-executive directorship held in private or public limited companies seeking to enter into contracts with the CCGs.
- Material Shareholdings of companies in the field of health and social care seeking to enter into contracts with the CCGs.
- Positions of authority in an organisation (e.g. charity or voluntary organisation) in the field of health and social care.
- Any interest that they are (if registered with the General Medical Council (GMC)) required to declare in accordance with paragraph 55 of the GMC’s publication Management for Doctors or any successor guide.
- Any interest that they (if they are registered with the Nursing and Midwifery Council (NMC)) would be required to declare in accordance with paragraph 7 of the NMC’s publication Code of Professional Conduct or any successor Code.
- Any interest which does or might constitute a conflict of interest in relation to the specification for or award of any contract to provide goods or services to the CCGs.

- Any research funding or grants that may be received by the individual or any organisation that they have an interest or role in.
- Any role or relationship which the public could perceive would impair or otherwise influence the individual's judgment or actions in their role within the CCGs.

If there is any doubt the assumption should be made that a conflict of interest occurs. The question of whether or not to declare an interest is an individual judgement.

## 7.2 Secondary Employment

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

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

It is a requirement to obtain prior permission to engage in secondary employment and the CCGs reserve the right to refuse permission where it is believed a conflict will arise which cannot be effectively managed.

In particular it is unacceptable for pharmacy advisers or other advisers, employees or consultants to the CCGs on matters of procurement to themselves be in receipt of payments from the pharmaceutical or devices sector.

## 7.3 Declarations of Interest – When to make a declaration

**Where an individual, (i.e. an employee, CCG member, member of a Governing Body, or a member of a committee or a sub-committee of the CCGs or their Governing Bodies) have an interest, or becomes aware of an interest, which could lead to a conflict of interests in the event of the CCGs considering an action or decision in relation to that interest, that must be considered as a potential conflict and is subject to the provisions of this policy.**

Individuals should take all reasonable steps to identify conflicts of interest that arise or may arise in the course of the CCGs providing any services or the delivery of CCG business.

Declarations of interest must be made as soon as possible or within 28 days of the individual being aware of the conflict.

Individuals should register all relevant interests as described below and should also declare any personal interest when dealing with or discussing a matter to which it is pertinent.

### **On appointment**

Any applicant for appointment to the CCGs and or the governing bodies or any other committees will be requested to declare any relevant interests. When an appointment is made, a formal declaration of interests should again be made or recorded

### **Six-Monthly**

Individuals will also be expected to confirm their interests on a six-monthly basis and the CCG Governance Manager will co-ordinate the process of collating declarations and updating the register. Nil declarations must also be made

### **At meetings**

At meetings all attendees will be asked to declare any interest they have in any agenda items at the start of the meeting or as soon as it becomes apparent. This applies even if the matter is recorded in the Register of Interests. Declarations of interest will be an agenda item at each meeting and any interests declared will be recorded in the minutes. Minutes should clearly specify the nature and extent of the interest, an outline of the discussion, the action taken to manage the conflict and the decisions made with regard to the course of action taken. A written declaration should be made by the individual as soon as possible using the forms within this policy.

Where an interest has been previously declared, in relation to the scheduled or likely business of any meeting where the business to which that interest relates is discussed, the individual concerned will bring this to the attention to the chair of the meeting, together with details of arrangements which have been confirmed for the management of the interest.

### **On changes to role or responsibility**

Where a person's role changes within the CCGs, any change to their interests must be declared.

### **On any other change of circumstances**

Where an individual's circumstances change in a manner that affects their interests a further declaration must be made.

Where an interest has been declared, either in writing or orally, the declarer will ensure that before participating in any activity connected with the CCGs exercise of its commissioning functions, they have received confirmation of the arrangements to manage the conflict of interest or potential conflict of interest from the Accountable Officer

Where an individual is aware of an interest which:

- a) has not been declared, either in writing or orally, they will declare this at the start of the meeting;
- b) has previously been declared, in relation to the scheduled or likely business of the meeting, the individual concerned will bring this to the attention of the Chair of the meeting, together with details of arrangements which have been confirmed for the management of the conflicts of interest or potential conflicts of interests.

Any declarations of interests, and arrangements agreed in any meeting of the CCGs, committees or sub-committees, or the Governing Bodies, the Governing Bodies' committees or sub-committees, will be recorded in the minutes.

If an individual fails to declare an interest that, had it been known, may have affected the decision-making process, disciplinary action or criminal sanctions may be taken.

#### **7.4 Register of Interests**

The CCGs must ensure that, when members declare interests, this includes all the interests of the relevant individuals within their organisation (e.g. GP partners in the GP practice) who have a relationship with the CCGs and who would potentially be in a position to benefit from the CCGs decisions.

The CCGs will maintain a Register of Interests of

- a) the members of the group;
- b) the members of the CCGs Governing Bodies and group committees including Clinical Board;
- c) the members of CCG committees or sub committees and the committees or sub-committees of their Governing Bodies;
- d) its clinical speciality leads; and
- e) its employees.

The Accountable Officer will ensure that the Register of Interests is reviewed regularly and updated as necessary. This Register will be kept up to date by means of a quarterly review in which any changes to interests declared during the preceding 3 months will be promptly incorporated.

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 registers. Where an individual believes that substantial damage or distress may be caused to him / herself or somebody else by the publication of information about them, they are entitled to request that the information is not published. Such requests must be made in writing. Decisions not to publish information must be made by the CCG Conflicts of Interest Guardian who will seek appropriate legal advice where required and the CCG will retain a confidential, un-redacted version of the register.

An interest will remain on the public register for a minimum of six months after the interest has expired. The CCG will also retain a private record of historic interests for a minimum of 6 years after the date on which it expired.

The Register of Interests is held by the CCG Governance Manager on behalf of the Accountable Officer and will be reviewed six monthly to ensure it is accurate and up to date, reported to the Joint Audit and Governance Committee and will be publically available on CCG's websites. The Accountable Officer will make themselves available to provide any advice to any individual who believes they have, or may have, a conflict of interest. Where the Accountable Officer wishes to seek advice on their own interests, she/he should consult the Conflicts of Interest Guardian.

All officers, lay members, co-opted members and CCG Governing Bodies members will be required to complete a Declaration of Interests proforma upon appointment. The Declaration of Interests proforma is attached at Appendix 2.

A Declaration of Interests Flowchart is attached at Appendix 3 to illustrate the process set out within the Policy.

## **7.5 Excluding individuals from meetings or decision making when a conflict of interest arises.**

The Chair of each CCG meeting will have responsibility for deciding where there are conflicts of interest during meetings and the course of action which will be taken. During this situation the Chair may decide to consult with the Accountable Officer on the way forward. All decisions will be recorded in the minutes of meetings.

Where no arrangements have been confirmed regarding the management of the conflict of interests the Chair of the meeting may require the individual to withdraw from the meeting or part of it. The individual will then comply with these arrangements which will be recorded in the minutes of the meeting.

If an individual leaving the meeting impacts upon quoracy the Chair reserves the right to adjourn and reconvene the meeting when appropriate membership can be ensured.

Where the Chair of any meeting of the group, including committees, sub-committees, or the Governing Body and their sub-committees, has a personal interest, previously declared or otherwise, in relation to the scheduled or likely business of the meeting, they must make a declaration and the Deputy Chair will act as Chair for the relevant part of the meeting.

Where arrangements have been confirmed for the management of the conflict of interests or potential conflicts of interests in relation to the Chair, the meeting must ensure these are followed. Where no arrangements have been confirmed, the Deputy Chair may require the Chair to withdraw from the meeting or part of it. Where there is no Deputy Chair or the Deputy Chair is also conflicted, the members of the meeting will select one.

Where more than 50% of the members of a meeting are required to withdraw from a meeting or part of it, owing to the arrangements agreed for the management of conflicts of interests or potential 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 number and balance of membership set out in the CCG's Standing Orders. Where the meeting is not quorate, owing to the absence of certain members, 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 Accountable Officer on the action to be taken.

This may include:

- a) requiring another of the CCG's committees or sub-committees, the Governing Body or the Governing Body's committees or sub-committees (as appropriate) which can be quorate to progress the item of business, or if this is not possible,
- b) inviting on a temporary basis one or more of the following to make up the quorum (where these are permitted members of the Governing Body or committee / sub-committee in question) so that the group can progress the item of business:
  - i) a member of CCG who is an individual;
  - ii) an individual appointed by a member practice to act on its behalf in the dealings between it and the CCGs;
  - iii) a member of a relevant Health and Wellbeing Board;
  - iv) a member of a Governing Body of another CCG.

Any decisions made will be recorded in the minutes of the meeting concerned.

## **7.6 Procurement and Conflicts of Interest (Please also see appendix 7)**

The CCGs recognise the importance of making decisions about the services it procures / commissions in a manner which does not call into question the reasons behind the procurement decision which has been made. The CCGs will commission and procure services in a manner which is open, transparent, fair and non-discriminatory.

The CCG Procurement Policy provides further detail of the procurement processes to be followed.

## **7.7 Member Practices**

The British Medical Association (BMA) has identified that a conflict of interest may arise in the following instances:

- Where GPs may refer their patients to a provider company in which they have financial interest;

- Where GPs make decisions regarding the care of their patients to influence the 'quality premium' they receive through their CCG;
- Where enhanced services are commissioned that could be provided by member practices.

The CCGs will expect that member practices must continue to ensure that patients are referred to the service that they in their professional opinion believe is most appropriate for that patient's condition, whilst responding to the wishes and choices of that patient. Where the most appropriate service to which the patient is referred is also one in which the GP has a vested interest the GP must inform them of this fact, in line with paragraph 79 of the General Medical Council Guidelines 'Good Medical Practice' 2013.

## **7.8 Managing conflicts of interest: contractors and people who provide services to the CCGs**

Anyone seeking information in relation to a procurement, or participating in a procurement, or otherwise engaging with the CCGs in relation to the potential provision of services or facilities to the group, will be required to make a declaration of any relevant conflict / potential conflict of interest.

Bidders will be asked to complete a formal declaration at the invitation to tender stage of the procurement process. This form is enclosed as Appendix 4.

Anyone contracted to provide services or facilities directly to the CCGs will be subject to the same provisions of this policy in relation to managing conflicts of interests. This requirement will be set out in the contract for their services.

## **7.9 Code of Conduct for Managing Conflicts of Interest where GP practices are potential providers of CCG-commissioned services**

### **7.9.1 Factors to address when commissioning services from GP practices**

The attached template at Appendix 5 sets out the factors the CCGs and their Joint Audit and Governance Committee should seek assurance on – and be ready to assure local communities, Health and Wellbeing Boards and auditors – when commissioning services that may potentially be provided by GP practices. Setting out these factors in a consistent and transparent way as part of the planning process will enable the organisation to seek and encourage scrutiny and enable local communities and Health and Wellbeing Boards to raise questions if they have concerns about the approach being taken. Completed templates, or their equivalent, will be made publicly available.

The first set of questions are intended to apply equally to:

- services proposed to be commissioned through competitive tender where GP practices are likely to bid;
- services proposed to be commissioned through an Any Qualified Provider (AQP) approach, where GP practices are likely to be among the qualified providers that offer to provide the service; and
- services proposed to be commissioned through single tender from GP practices.

These questions – most of which are also relevant when commissioning services from non-GP providers – focus on demonstrating that the service meets local needs and priorities and have been developed in an inclusive fashion, involving other health professionals and patients and the public as appropriate. These are matters on which the local Health and Wellbeing Board will clearly wish to take a view.

The question on pricing applies to the AQP and single tender approaches.

There are specific questions on AQP about safeguards to ensure that patients are aware of the range of choices available to them. These requirements apply also to GP practices as providers of services, but it is essential that the CCGs satisfy themselves and others that these safeguards will be in place before commissioning the service.

The remaining questions are specific to single tenders from GP practices and focus on providing assurance that:

- there are no other capable providers, i.e. that this is the appropriate procurement route: where relevant, commissioning support services (CSSs) should ensure that they provide robust advice on this point; and
- the proposed service goes beyond the scope of the services provided by GP practices under their GP contract – this should be discussed with the NHS England area team if they are in any doubt on this point.

### **7.9.2 Providing assurance**

The CCGs will address the factors set out in the template when drawing up plans to commission a service for which GP practices may be potential providers. This will provide appropriate assurance:

- To Health and Wellbeing Boards and to local communities that the proposed service meets local needs and priorities; and
- To the Joint Audit and Governance Committee and, where necessary, external auditors that a robust process has been followed in deciding to commission the service, in selecting the appropriate procurement route, and in addressing potential conflicts.

The CCGs will set these factors out when fulfilling their duty in relation to public involvement.

The factors include involving the Health and Wellbeing Board, in accordance with CCG duties.

### **7.9.3 Preserving integrity of the decision making process when all or most GPs have an interest in a decision**

Where certain members of a decision-making body (be it the governing bodies, their committees or sub-committees, or a committee or sub-committee of the CCGs) have a material interest, they should either be excluded from relevant parts of meetings, or join in the discussion but not participate in the decision-making itself (i.e. not have a vote). In many cases, e.g. where a limited number of GPs have an

interest, it should be straightforward for relevant individuals to be excluded from decision-making.

In other cases, all of the GPs or other practice representatives on a decision-making body could have a material interest in a decision, particularly where it is proposed to commission services on a single tender basis from all GP practices in the area, or where it is likely that all or most practices would wish to be qualified providers for a service under AQP.

Section 5.5 gives details on excluding individuals from meetings or decision-making when conflicts of interests arise.

Depending on the nature of the conflict, GPs or other practice representatives could be permitted to join in the Governing Body's discussion about the proposed decision, but should not take part in any vote on the decision.

### Alternative quoracy arrangements

Where more than 50% of the members of a meeting are required to withdraw from a meeting or part of it, owing to the arrangements agreed for the management of conflicts of interests or potential 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. Where the meeting is not quorate, owing to the absence of certain members, 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 Accountable Officer on the action to be taken. This may include:

- a) requiring another of the Group's committees or sub-committees, the Group's Governing Body or the Governing Body's committees or sub-committees (as appropriate) which can be quorate to progress the item of business, or if this is not possible,
- b) inviting on a temporary basis one or more of the following to make up the quorum (where these are permitted members of the governing body or committee / sub-committee in question) so that the Group can progress the item of business:
  - i) a member of the Group who is an individual;
  - ii) an individual appointed by a member to act on its behalf in the dealings between it and the Group;
  - iii) a member of a relevant Health and Wellbeing Board;
  - iv) a member of a governing body of another clinical commissioning group.

These arrangements must be recorded in the minutes.

#### 7.9.4 Primary Care Co-Commissioning

Where the CCGs undertake joint or delegated co-commissioning, procurement decisions relating to primary care will be undertaken by a sub-committee of the Governing Body. This will:

- Take the form of a joint committee established between the CCG and NHS England in the case of joint commissioning.
- Take the form of a committee established by the CCG in the case of delegated co-commissioning.

In either case, the membership of the committee will ensure that the majority is held by lay and executive members (provided they are not GPs or have any other related conflicts of interests). The Chair and Deputy Chair of the committee will be lay members, however, the CCG Audit Committee Chair / CCG Conflicts of Interest Guardian is excluded from being appointed as the Chair of this Committee.

Provision will be made for the committee to have the ability to call on additional lay or CCG members when required (e.g. to remain quorate). The committee could also include GP representatives from other CCG areas and non-GP clinical representatives.

There will be a standing invitation for representatives of the CCG's local Healthwatch and Health and Wellbeing Board to attend committee meetings, although they will not form part of the membership of the committee. As the CCG covers two local authority areas, the CCG will agree with them which Healthwatch and Health and Wellbeing Board will be represented.

As a general rule, meetings of the committee, including the decision-making and the deliberations leading up to the decision, will be held in public (unless the CCG has concluded it is appropriate to exclude the public).<sup>1</sup>

The CCG may wish to include decisions on other commissioning matters within the remit of the committee. They may also wish to designate an existing committee to incorporate these responsibilities within their remit, provided the membership and chairing arrangements comply with the requirements outlined above or that when dealing with primary care procurement issues, the participating membership and chairing arrangements are adjusted to meet these requirements.

The CCG may establish sub-committees or sub-groups of the Primary Care Commissioning Committee (or equivalent body). However, ultimate decision-making

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<sup>1</sup> As per the process for governing body meetings in paragraph 8(3) Schedule 1A of the NHS Act 2006 (as amended). In joint commissioning arrangements, NHS England should follow the process in the Public Bodies (Admission to Meetings) Act 1960.

responsibility for primary medical services functions must remain with the Primary Care Commissioning Committee.

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

### **7.9.5 Transparency - publication of contracts**

Details of all contracts, including the value of the contracts, will be published on the CCGs websites as soon as contracts are agreed. Where it is decided to commission services through AQP we will publish on the CCGs' websites the type of services we are commissioning and the agreed price for each service.

Such details should be set out in the annual report. Where services are commissioned through an AQP approach, we will ensure that there is information publicly available about those providers who qualify to provide the service.

### **7.9.6 Role of commissioning support organisations (CSO)**

The CCG contracts for commissioning support for a number of CCG functions. Members of staff from the CSO are often in a position to influence the decisions of the CCG. As such, the CCG will require the CSO, to provide on a regular basis, a register of interests for senior members of staff supporting the CCGs

Where a CSO supports the CCG in undertaking procurement, the CSO will help to demonstrate that the CCG is acting fairly and transparently by assessing whether providers meet pre-qualifying criteria and which provider provides best value for money against the specification and evaluation criteria. However, the CCGs will:

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

### **7.10 Raising Concerns and reporting Breaches**

It is the duty of all those to whom this policy applies to speak up about genuine concerns in relation to the application and administration of the CCG's Policy on Conflicts of Interest. Any concerns or suspicions should be raised with the CCG's Governance Manager or the CCG Conflicts of Interest Guardian (the Audit Committee Chair). If concerns or suspicions relate to the CCG's Senior Governance Manager or Conflicts of Interest Guardian, they should be reported to the Accountable Officer.

CCG employees should refer to the CCG Whistleblowing and Raising Concerns Policy for further guidance.

Should someone other than a CCG employee wish to report a concern in relation to the CCG's conflict of interest management, they are advised to refer also to their own organisation's whistleblowing policy for guidance

Any breaches or potential breaches identified will be immediately notified to the CCG Conflicts of Interest Guardian and will fully investigated by the CCG Governance Manager or, if more appropriate, independently by the CCG's internal auditors or legal advisors. Full and confidential records of any investigation will be maintained. Reports arising from the investigation of breaches or potential breaches of the conflict of interest policy and any resulting actions to be taken will be approved by the CCG Conflicts of Interest Guardian.

The CCG Governance Manager will ensure that any breaches of this policy identified are reported to the CCG Audit Committee, along with a lessons learnt review.

All material breaches of this policy identified will also be reported:

- To NHS England (Regional Director).
- Anonymously on the CCG website.
- To the relevant regulator where a breach of this policy relates to a regulated healthcare professional.

When determining the materiality of a breach, the following points will be considered:

- The nature, seriousness and consequences of the breach;
- Has anyone gained an unfair advantage as a result of the breach?
- Has any final decision been made that was contaminated by the breach? When was that decision made? This has a potential impact in relation to time limits for bringing potential judicial review claims.
- Is there any appearance of bias in the decision-making as a result of the breach, in particular were any financial interests not declared/ not dealt with appropriately?
- Has any legally binding contract been entered into by the CCG as a result of the decision? If so, the following points will be considered:
  - o The length and value of the contract
  - o The consequences of terminating the contract, including considerations of continuity and safety of services to patients and the implications of entering into any interim service provision arrangements.

### **7.11 Managing conflicts of interest on an ongoing basis**

The CCGs will continue to monitor their procedures for managing conflicts of interest to ensure that they continue to remain fit for purpose as the organisation develops.

## **8 Public Sector Equality Duty**

The Equality Act 2010 includes a general legal duty to

- **eliminate unlawful discrimination**, harassment, victimisation and any other conduct prohibited by the Act
- **advance equality of opportunity** between people who share a protected characteristic and people who do not share it
- **foster good relations** between people who share a protected characteristic and people who do not share it

The protected characteristics are:

- age
- disability
- gender reassignment
- marriage or civil partnership (only in respect of eliminating discrimination)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Public bodies have to demonstrate **due regard** to the general duty. This means active consideration of equality must influence the decision/s reached that will impact on patients, carers, communities and staff.

It is no longer a specific legal requirement to carry out an Equality Impact Assessment on all policies, procedures, practices and plans but as described above, the CCGs do need to be able to demonstrate that it has paid due regard to the general duty.

It is not considered necessary to carry out an EIA on this policy. The policy establishes how the CCGs will ensure best practice is followed in managing actual or potential conflicts of interest and sets out the safeguards that will be put in place to ensure transparency, fairness and probity in decision-making. It is not believed that this policy will impact on or affect differently or adversely any of the groups with protected characteristics.

## 9 Implementation and Dissemination

The CCGs will ensure that all employees and decision makers are aware of the existence of this policy.

This policy will, following approval by the governing bodies be disseminated to staff and member practices via the CCG intranet.

All staff will be notified of this policy via the CCG newsletter.

NHS England is currently developing an on-line mandatory training package on conflicts of interest for CCG staff, Governing Body and committee members. This is scheduled to be available from April 2017. Three levels of training are proposed relating to an individual's role and the extent of their involvement with conflicts of interest management. The training package will be undertaken annually and upon

induction for new appointments. Compliance with the uptake of training will form part of the CCG's performance assessment by NHS England.

Face-to-face training for key individuals is also available from NHS England.

Any individuals who consider themselves in need of immediate training or further guidance should contact the Governance Manager.

## **10 Monitoring Compliance with and the Effectiveness of Procedural Documents**

Monitoring compliance of the policy will be via the Joint Audit and Governance Committee and the Accountable Officer will take any action as necessary.

## **11 References**

NHS Commissioning Board 2013 Managing Conflicts of Interest Guidance: Clinical Commissioning Groups (2013, March)

NHS Commissioning Board Code of Conduct: Managing conflicts of interest where GP practices are potential providers of CCG-Commissioned services. (2013, April)

Towards Establishment: Creating Responsive and Accountable Clinical Commissioning Groups, (2012) NHS Commissioning Board

Towards Establishment: Creating Responsive and Accountable Clinical Commissioning Groups, Frequently Asked Questions (2012) NHS Commissioning Board

Managing Conflicts of Interest Technical Appendix 1, (2012) NHS Commissioning Board

Ensuring Transparency and Probity, (2011) British Medical Association  
Managing Conflicts of interests in Clinical Commissioning Groups, (2011) Royal College of General Practitioners / NHS Confederation

Good Medical Practice, (2006) General Medical Committee

NHS Clinical Commissioners, Royal College of General practitioners and British Medical Association Shared principles on conflicts of interest when CCGs are commissioning from member practices.

NHS Bradford City Clinical Commissioning Group Constitution

NHS Bradford Districts Clinical Commissioning Group Constitution

NHS England Managing Conflicts of Interest Guidance (December 2014)

NHS England Managing Conflicts of Interest: Revised Statutory Guidance for CCGs (June 2016)

## **12 Associated Documentation**

NHS Bradford City Clinical Commissioning Group Constitution  
NHS Bradford Districts Clinical Commissioning Group Constitution  
NHS Bradford City Clinical Commissioning Group Procurement Policy  
NHS Bradford Districts Clinical Commissioning Group Procurement Policy  
Code of Conduct for NHS Managers  
General Medical Council Good Medical Practice 2006  
Also Anti-Fraud, Bribery & Corruption Policy,  
Whistleblowing & Raising Concerns Policy,  
Code of Business Conduct Policy,  
Disciplinary Policy & Procedure

**DECLARATION OF INTERESTS FORM**

<b><u>Name:</u></b>			
<b><u>Meeting:</u></b>			
<b><u>Agenda item in which you have an interest</u></b>	<b><u>Type of interest (e.g. Financial Interest*)</u></b>	<b><u>Brief description of your interest</u></b>	<b><u>Agreed arrangements for managing conflict of interest</u></b>

**Signed:** \_\_\_\_\_ **Dated:** \_\_\_\_\_

**Declaration of Interest Form**

This form is required to be completed in accordance with the CCG's Constitution, and s140 of the NHS Act 2006 (as amended by the Health and Social Care Act 2012) and the NHS (Procurement, Patient Choice and Competition) (No2) Regulations 2013 and related guidance.

<b>Name:</b>				
<b>Position within, or relationship with, the CCG (or NHS England in the event of joint committees):</b>				
<b>Detail of interests held (complete all that are applicable):</b>				
<b>Type of Interest*</b> *See reverse of form for details	<b>Description of Interest (including for indirect Interests, details of the relationship with the person who has the interest)</b>	<b>Date interest relates From and To</b>		<b>Actions to be taken to mitigate risk (to be agreed with line manager or a senior CCG manager - see Note 1)</b>

*Note 1: Where deemed possible and necessary, specific actions to mitigate risks will be agreed between individuals and the CCG and / or their line manager and recorded on this form and on the Register of Interests. Please return the form with this field blank; the CCG will get in touch with you if any specific action is required.*

*Note 2: Where there are no interests to declare, please record this above and return the form to the CCG.*

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

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

I do / do not [delete as applicable] give my consent for this information to be published on registers that the CCG holds and on the CCG website (see Note 3 below for details of exceptions to publication). If consent is NOT given please give reasons:

Signed: ..... Date:.....

Signed: ..... Date:.....

Position: .....

**(Line Manager or Senior CCG Manager) the signature of the line manager / Senior CCG Manager is only required if there are specific actions to be agreed to manage the interest declared – and not for ALL forms.**

*Note 3: 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 registers. Where an individual believes that substantial damage or distress may be caused to him / herself or somebody else by the publication of information about them, they are entitled to request that the information is not published. Such requests must be made in writing. Decisions not to publish information must be made by the CCG Conflicts of Interest Guardian who will seek appropriate legal advice where required and the CCG will retain a confidential, un-redacted version of the register.*

Please return completed forms to: **Phil Garnett, Governance Manager,**  
[phil.garnett@bradford.nhs.uk](mailto:phil.garnett@bradford.nhs.uk), Douglas Mill, Bowling Old Lane, Bradford, BD5 7JU

**Emailed forms from an individual's email address will be accepted in lieu of paper copies.**

If you have any queries regarding the completion of this form or as to whether or not an interest should be declared, please contact Phil Garnett, Governance Manager for a confidential discussion.

## Types of Interest

Type of Interest	Description
<b>Financial Interests</b>	<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"> <li>• 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;</li> <li>• 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.</li> <li>• A management consultant for a provider;</li> <li>• In secondary employment (see paragraph 56 to 57);</li> <li>• In receipt of secondary income from a provider;</li> <li>• In receipt of a grant from a provider;</li> <li>• In receipt of any payments (for example honoraria, one off payments, day allowances or travel or subsistence) from a provider</li> <li>• 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</li> <li>• 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).</li> </ul>
<b>Non-Financial Professional Interests</b>	<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"> <li>• An advocate for a particular group of patients;</li> <li>• A GP with special interests e.g., in dermatology, acupuncture etc.</li> <li>• 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);</li> <li>• An advisor for Care Quality Commission (CQC) or National Institute for Health and Care Excellence (NICE);</li> <li>• A medical researcher.</li> </ul>
<b>Non-Financial Personal Interests</b>	<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"> <li>• A voluntary sector champion for a provider;</li> <li>• A volunteer for a provider;</li> <li>• A member of a voluntary sector board or has any other position of authority in or connection with a voluntary sector organisation;</li> <li>• Suffering from a particular condition requiring individually funded treatment;</li> <li>• A member of a lobby or pressure groups with an interest in health.</li> </ul>
<b>Indirect</b>	<p>This is where an individual has a close association with an individual who has a</p>

Type of Interest	Description
<b>Interests</b>	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: <ul style="list-style-type: none"> <li>• Spouse / partner;</li> <li>• Close relative e.g., parent, grandparent, child, grandchild or sibling;</li> <li>• Close friend;</li> <li>• Business partner.</li> </ul>

***If there is any doubt as to whether or not an interest is relevant, a declaration of the interest should be made***

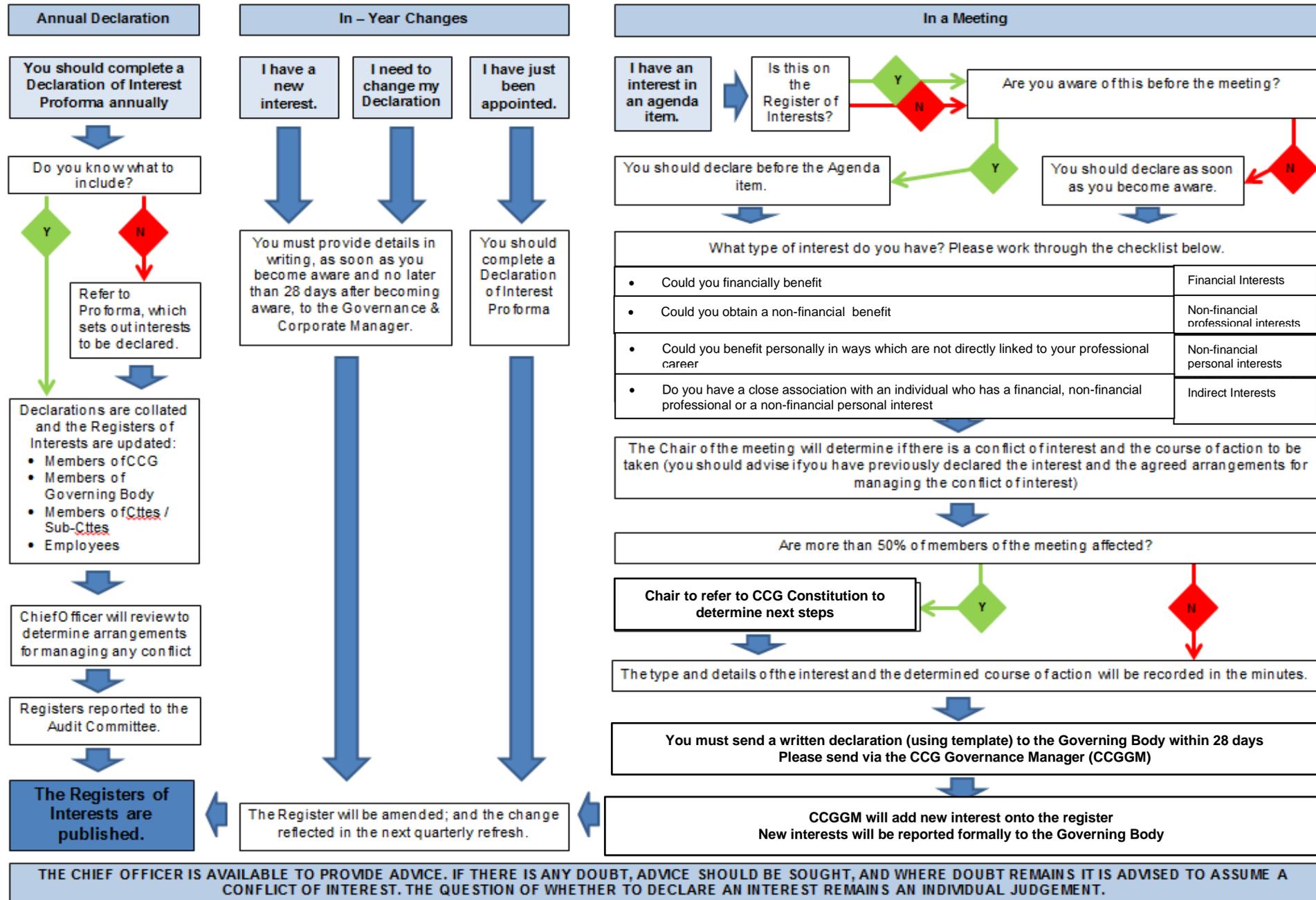
### **CCG Member Register of Interests – Declaring Interests**

1. The Health & Social Care Act 2012, and the CCG's Constitution, requires the CCG to maintain and make publicly available the interests of: the members of the Group; the members of the Governing Body; the members of its committees and sub-committees; and its employees.
2. The registers must include the interests of all the relevant individuals within the organisation (e.g. GP partners in the GP practice) who have a relationship with the CCG and could potentially benefit from the CCG's decisions.
3. The registers will be published on the CCG website at: [www.bradfordcityccg.nhs.uk](http://www.bradfordcityccg.nhs.uk) www,bradforddistrictsccg.nhs.uk Hard copies of the register are also available on request.
4. All members of the Group will be asked to complete a Declaration of Interests form on a bi annual basis. A copy of the form is attached, setting out the categories of interests that you should declare.
5. You should ensure that you provide sufficient detail of each interest so that a member of the public would be able to understand clearly the sort of interest you have, and the circumstances in which a conflict of interest with the business or running of the CCG might arise.
6. The interest may relate to you personally, or can include relevant personal and/or business interests of a family member, close friend or other acquaintance.
7. Please read the attached form carefully and ensure that all interests are declared under the relevant section. In the event that you do not have any interests to declare, please complete the bottom box on the form indicating a 'nil declaration'. Please sign and date your declaration.
8. If your interests change, or you have a new interest, you should notify the CCG in writing as soon as you become aware of it, and no later than 28 days after becoming aware.
9. It is the responsibility of each member to complete the form, and to ensure that any changes to interests are notified.

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 a conflict of interest, and a declaration should be made. The question of whether or not to declare an interest is an individual judgement

For advice and guidance, please contact Phil Garnett, CCG Governance Manager at [phil.garnett@bradford.nhs.uk](mailto:phil.garnett@bradford.nhs.uk),  
01274 237716

Declaration of Interests



**NHS Bradford City CCG  
NHS Bradford Districts CCG**

**Bidders /potential contractors /service providers' declaration form:  
financial and other interests**

This form is required to be completed in accordance with the CCG's Constitutions

**Notes:**

- All potential bidders/contractors/ service providers, including sub-contractors, members of a consortium, advisers or other associated parties (Relevant Organisation) are required to identify any potential conflicts of interest that could arise if the Relevant Organisation were to take part in any procurement process and / or provide services under or otherwise enter into any contract with the CCGs.
- If any assistance is required in order to complete this form then the Relevant Organisation should contact the CCG Governance Manager.
- The completed form should be sent to the CCG Governance Manager.
- Any changes to interests declared either during the procurement process or during the terms of any contract subsequently entered into by the Relevant Organisation and the CCG must be notified to the CCG by completing a new declaration form and submitting to the CCG Governance Manager.
- Relevant organisations completing this declaration 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 person concerned has and the circumstances in which a conflict of interest with the business or running of the CCGs might arise.
- If in doubt as to whether a conflict of interests could arise, a declaration of the interests should be made.
- If information is provided which is untrue or inaccurate, this may lead to disciplinary and/or criminal action.

Interests that must be declared:

- The Relevant Organisation or any person employed or engaged by or otherwise connected with a Relevant Organisation (Relevant Person) has provided or is providing services or other work for the CCGs;
- A Relevant Organisation or Relevant Person is providing services or other work for any other potential bidder in respect of this project or procurement process;
- The Relevant Organisation or any Relevant Person has any other connection with the CCGs, 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, desires or actions whether such interests are those of the Relevant Person themselves or of a family member, close friend or other acquaintance of the Relevant Person.

**NHS Bradford City CCG  
NHS Bradford Districts CCG**

**Bidders / potential contractors / service providers' declaration form: financial and other interests**

<b>Name of Relevant Organisation</b>		
<b>Interests</b>		
<b>Type of Interest</b>	<b>Details</b>	
Provision of services or other work for the CCGs 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 CCGs 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.		

<b>Name of Relevant Person</b>	Complete for all relevant persons	
<b>Interests</b>		
<b>Type of Interest</b>	<b>Details</b>	<b>Personal interest or that of a family member, close friend or other acquaintance</b>
Provision of services or other work for the CCGs		

Provision of services or other work for any other potential bidder in respect of this project or procurement process		
Any other connection with the CCGs 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.		

**NHS Bradford City CCG**  
**NHS Bradford Districts CCG**

(Template to be used when commissioning services that may potentially be provided by GP practices)

<b>Service:</b>	
Question	Comment/Evidence
<b>Questions for all three procurement routes (Competitive tender, AQP, Single tender)</b>	
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 CCG's commissioning obligations?	
How have you involved the public in the decision to commission this service?	
What range of health professionals have been involved in designing the proposed service?	
What range of potential providers have been involved in considering the proposals?	
How have you involved your Health and Wellbeing Board(s)? How does the proposal support the priorities in the relevant joint health and wellbeing strategy (or strategies)?	
What are the proposals for monitoring the quality of the service?	
What systems will there be to monitor and publish data on referral patterns?	
Have all conflicts and potential conflicts of interests been appropriately declared and entered in registers?	

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	
Why have you chosen this procurement route e.g., single action tender? <sup>2</sup>	
What additional external involvement will there be in scrutinising the proposed decisions?	
How will the CCG make its final commissioning decision in ways that preserve the integrity of the decision-making process?	

**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)**

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**

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

**Additional questions for single tenders from GP providers**

What steps have been taken to demonstrate that the services to which the contract relates are capable of being provided by only one provider?

<sup>2</sup> Taking into account all relevant regulations (e.g. the NHS (Procurement, patient choice and competition) (No2) Regulations 2013 and guidance (e.g. that of Monitor)

In what ways does the proposed service go above and beyond what GP practices should be expected to provide under the GP contract?	
What assurances will there be that a GP practice is providing high-quality services under the GP contract before it has the opportunity to provide any new services?	

### **Conflicts of Interest Case Studies**

NHS England has developed a series of case studies to accompany the revised statutory guidance on managing conflicts of interest for CCGs. The case studies are intended to raise awareness of the different types of conflicts of interest that could arise in CCGs and to support CCGs to robustly and effectively identify and manage them. The case studies can be accessed here:

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

## Section 7 of Monitor’s Substantive Guidance on the Procurement, Patient Choice and Competition Regulations

### 7.1 Introduction

This section provides guidance for commissioners on handling conflicts of interest. Regulation 6(1) of the Procurement, Patient Choice and Competition Regulations prohibits commissioners from awarding a contract for NHS health care services where conflicts, or potential conflicts, between the interests involved in commissioning such services and the interests in providing them affect, or appear to affect, the integrity of the award of that contract.

Regulation 6(2) requires commissioners to maintain a record of how any conflicts that have arisen have been managed.

S.140 of the National Health Service Act 2006 includes further requirements relating to conflicts of interest. Guidance on how to comply with these requirements (including managing conflicts of interest) has been published by NHS England and is available on NHS England’s website.

Members of commissioning organisations that are registered doctors will also need to ensure that they comply with their professional obligations, including those relating to conflicts of interest. These are described in the General Medical Council’s guidance, *Good Medical Practice* and *Financial and commercial arrangements and conflicts of interest*. These are available on the General Medical Council’s website.

### 7.2 What is a conflict?

Broadly, a conflict of interest is a situation where an individual’s ability to exercise judgment or act in one role is/could be impaired or influenced by that individual’s involvement in another role.

For the purposes of Regulation 6, a conflict will arise where 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**.

### 7.3 What constitutes an interest?

Regulation 6 of the Procurement, Patient Choice and Competition Regulations makes it clear that an interest includes an interest of:

- a member of the commissioner;
- a member of the governing body of the commissioner;
- a member of the commissioner’s committees or sub-committees, or committees or sub-committees of its governing body; or
- an employee.

Other interests that might give rise to a conflict include the interests of any individuals or organisations providing commissioning support to the commissioner, such as CSUs, who may be in a position to influence the decisions reached by the commissioner as a result of their role.

### 7.4 What interests in the provision of services may conflict with the interests in commissioning them?

A range of interests in the provision of services may give rise to a conflict with the interests in commissioning them, including:

- **Direct financial interest** - for example, a member of a CCG or NHS England who has a financial interest in a provider that is interested in providing the services being commissioned or that has an interest in other competing providers not being awarded a contract to provide those services. Financial interests will include, for example, being a shareholder, director, partner or employee of a provider, acting as a consultant for a provider, being in receipt of a grant from a provider 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).
- **Indirect financial interest** - for example, a member of a CCG or NHS England whose spouse has a financial interest in a provider that may be affected by a decision to reconfigure services. Whether an interest held by another person gives rise to a conflict of interests will depend on the nature of the relationship between that person and the member of the CCG or NHS England. Depending on the circumstances, interests held by a range of individuals could give rise to a conflict including, for example, the interests of a parent, child, sibling, friend or business partner.
- **Non-financial or personal interests** - for example, a member of a CCG or NHS England whose reputation or standing as a practitioner may be affected by a decision to award a contract for services or who is an advocate or representative for a particular group of patients.
- **Professional duties or responsibilities.** For example, a member of a CCG who has an interest in the award of a contract for services because of the interests of a particular patient at that member's practice.

Commissioners will also need to consider whether any previous or prospective roles or relationships may give rise to a conflict of interest. A conflict of interest may arise, for example, where a person has an expectation of future work or employment with a provider that is bidding for a contract.

### **7.5 Conflicts that affect or appear to affect the integrity of an award**

Even if a conflict of interest does not actually affect the integrity of a contract award, a conflict of interest that appears to do so can damage a commissioner's reputation and public confidence in the NHS. Regulation 6 of the Procurement, Patient Choice and Competition Regulations therefore also prohibits commissioners from awarding contracts in these circumstances.

As well as affecting the decision to award a contract and to which provider, a conflict of interest may affect a variety of decisions made by a commissioner during the commissioning cycle in a way that affects, or appears to affect, the integrity of a contract award decision taken at a later point in time. For example, conflicts of interest might affect the prioritisation of services to be procured, the assessment of patients' needs, the decision about what services to procure, the service specification/design, the determination of qualification criteria, as well as the award decision itself.

Conflicts might arise in many different situations. A conflict of interest might arise, for example where the spouse of a staff member of a local area team at NHS England is employed by a provider that is bidding for a contract. A conflict could also arise where a CCG is deciding whether to procure particular services from GP practices in the area or from a wider pool of providers, or where it is deciding whether to

commission services that would reduce demand for services provided by GP practices under the NHS General Medical Services contract.

Depending on the circumstances of the case, there may be a number of different ways of managing a conflict or potential conflict of interest in order to prevent that conflict affecting or appearing to affect the integrity of the award of the contract.

It will often be straightforward to exclude a conflicted individual from taking part in decisions or activities where that individual's involvement might affect or appear to affect the integrity of the award of a contract. The commissioner will need to consider whether in the circumstances of the case it would be appropriate to exclude the individual from involvement in any meetings or activities in the lead up to the award of a contract in relation to which the individual is conflicted, or whether it would be appropriate for the individual concerned to attend meetings and take part in discussions, having declared an interest, but not to take part in any decision-making (not having a vote in relation to relevant decisions). It is difficult to envisage circumstances where it would be appropriate for an individual with a material conflict of interest to vote on relevant decisions.

Where it is not practicable to manage a conflict by simply excluding the individual concerned from taking part in relevant decisions or activities, for example because of the number of conflicted individuals, the commissioner will need to consider alternative ways of managing the conflict. For example, depending on the circumstances of the case, it may be possible for a CCG to manage a conflict affecting a substantial proportion of its members by:

- involving third parties who are not conflicted in the decision-making by the CCG, such as out-of-area GPs, other clinicians with relevant experience, individuals from a Health and Wellbeing Board or independent lay persons; or
- inviting third parties who are not conflicted to review decisions throughout the process to provide ongoing scrutiny, for example the Health and Wellbeing Board or another CCG.

Whether a conflict of interests affects or appears to affect the integrity of a contract award (such that the commissioner may not award the contract) will depend on the circumstances of the case. The list of factors in the box below is not exhaustive, but covers some of the core factors that a commissioner is likely to need to consider in deciding whether it is appropriate to award a contract. See box below.

**Conflicts that affect or appear to affect the integrity of a contract award:  
Examples of factors that a commissioner is likely to need to consider in deciding whether or not it can award a contract:**

- the nature of the individual's interest in the provision of services, including whether the interest is direct or indirect, financial or personal, and the magnitude of any interest;
- whether and how the interest is declared, including at what stage in the process and to whom;
- the extent of the individual's involvement in the procurement process, including, for example, whether the individual has had a significant influence on service design/specification, has played a key role in setting award criteria, has been involved in deliberations about which provider or providers to award the contract to and/or has voted on the decision to award the contract; and

- what steps have been taken to manage the actual or potential conflict (or example, via an external review of the decisions taken throughout the procurement process, including whether a conflict of a member of a CCG has been dealt with in accordance with the CCG's constitution).

### **7.6 Recording how conflicts have been managed**

Regulation 6 of the Procurement, Patient Choice and Competition Regulations also requires commissioners to maintain a record of how any conflicts that have arisen have been managed.

Commissioners will need to include all relevant information to demonstrate that the conflict was appropriately managed. See box below.

#### **Examples of what information a record might contain:**

#### **Commissioners might include the following information in a record of how a conflict of interest has been managed:**

- the nature of the individual's interest in the provision of services, including whether the interest is direct or indirect, financial or personal, and the magnitude of any interest;
- whether and how the interest is declared, including at what stage in the process and to whom;
- the extent of the individual's involvement in the procurement process, including, for example, whether the individual has had a significant influence on service design/specification, has played a key role in setting award criteria, has been involved in deliberations about which provider or providers to award the contract to and/or has voted on the decision to award the contract; and
- what steps have been taken to manage the actual or potential conflict (or example, via an external review of the decisions taken throughout the procurement process, including whether a conflict of a member of a CCG has been dealt with in accordance with the CCG's constitution)

### **Conflicts of Interests Check List for Group / Committee Chairs**

Group / Committee Chairs have responsibility for ensuring the appropriate management of conflicts of interest during the course of CCG meetings. In particular they must ensure:

- They are familiar with the contents of the Registers of Interests as pertinent to their Group or Committee.
- They prepare for the meeting mindful of any actual or potential conflicts of interest that may arise relevant to the business of that meeting. Where conflicts of interest are known in advance, the individual concerned must not receive the supporting papers or minutes of the meeting which relate to the matter(s) which give rise to the conflict.
- That declarations of interest are always an item on the agenda.
- That the meeting is quorate and that this is recorded in the minutes.
- That members are asked to declare any interests that are likely to lead to a conflict or potential conflict that could impact (or has the potential to impact) on any items on the agenda. This should be repeated again at individual item(s) where it is considered a conflict is likely to or could potentially arise.
- Any declaration must be made clearly noted in the minutes both at the start of the meeting and at the relevant item. If there is any doubt as to whether or not a conflict of interest could arise, a declaration should be made and noted in the minutes.
- The minutes must specify how the Chair decided to manage the declared interest, i.e. did the individual(s) concerned:
  - Leave the meeting for the whole of the item
  - Take part in the discussion but not in the decision-making; this may be appropriate where the conflicted individual has important relevant knowledge and experience of the matter under discussion, which it would be of benefit for the meeting to hear.
  - Remain and participate in the discussion and 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 under discussion.

In making this decision the Chair will need to consider the following points:

- the nature and materiality of the decision
- the nature and materiality of the declared interest(s)

- the availability of relevant expertise
  - as a general rule (and subject to the judgement of the Chair), if an interest involves a financial interest or a significant non-financial interest, the individual should be asked to leave the meeting for the whole item
- 
- Any declaration arising during the course of a meeting / individual item must be minuted and action how to handle it agreed by the Chair and recorded in the minutes.
  - Quoracy of the meeting or for individual items must be checked if an interest is declared. If the meeting is no longer quorate (in full or for particular items) or there is insufficient relevant expertise to inform decision-making once those with conflicts of interests are excluded, the Chair must agree how this should be managed, i.e. defer the item / meeting or refer any decisions for particular items(s) to another Committee for consideration and formal approval.