CONFLICTS OF INTEREST POLICY
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Prior to Approval, this Policy Document was circulated to the following for consultation:

- The Senior Leadership Team
- Audit Committee

Following Approval this Policy Document will be circulated to:

- CCG Council of Members
- CCG Governing Body Members
- CCG staff
- Agency/Support staff working for NHS Trafford CCG

Published on the CCG’s internet and intranet

### VERSION CONTROL

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1.0 INTRODUCTION

1.1 NHS Trafford Clinical Commissioning Group ("the CCG") strives to achieve the highest standards of business conduct at all times and is committed to conducting its business with honesty and impartiality. One of the overriding objectives of the CCG is to ensure that decisions made by the CCG are both taken and seen to be taken without any possibility of the influence of external or private interest.

1.2 The Governing Body of the CCG has ultimate responsibility for all actions carried out by staff and Committees throughout the CCG’s activities. This responsibility includes the stewardship of significant public resources and the commissioning of healthcare services to the local community. The Governing Body is therefore determined to ensure the organisation inspires confidence and trust amongst its patients, staff, partners, funders and suppliers by demonstrating integrity and avoiding any potential or real situations of undue bias or influence in the decision making of the CCG.

1.3 The Governing Body’s Audit Committee is responsible for ensuring that there is an effective system in place to manage and to protect the reputation of the CCG arising from conflicts or potential conflicts of interest.

1.4 A conflict of interest occurs where an individual’s ability to exercise judgement or act in a role is, or could be seen to be, impaired or otherwise influenced by involvement in another role or relationship(s).

1.5 The Accountable Officer has overall responsibility for the CCG’s management of conflicts of interest. The Accountable Officer will oversee arrangements to ensure that the CCG’s register of interests is publicly accessible and will advise on how declarations should be made and how interests are managed. The Accountable Officer will develop procedures for managing those interests that are common to a number of individuals or to specific activities of the CCG.

1.6 There is a need to continually review how conflicts of interest are managed within the CCG as a result or any new policies / guidance issued in the changing NHS landscape.

1.7 This policy sets out how the CCG will manage conflicts and potential conflicts of interest. This policy equally applies to those who may be placed in a conflict of interest position. Its purpose is to

a) ensure that the individuals covered by this policy know what to do when a conflict of interest arises or where there is a potential conflict of interest;

b) ensure that the CCG is able to demonstrate to external parties that it has appropriate arrangements in place to deal with conflicts of interest;

c) ensure that individuals covered by this policy are protected from any appearance
of impropriety.

1.8 This Conflict of Interest Policy respects the seven principles of public life promulgated by the Nolan Committee. The seven principles are:

- **Selflessness** - Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.

- **Integrity** - Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

- **Objectivity** - In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

- **Accountability** - Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

- **Openness** - Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

- **Honesty** - Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

- **Leadership** - Holders of public office should promote and support these principles by leadership and example.

2.0 **SCOPE OF THE POLICY**

2.1 The CCG’s Conflict of Interest Policy applies to the following people:

a) Members of the CCG, including GP partners and directors, and any individual directly involved with the business of the CCG and decision making.

b) Members of the Governing Body.

c) Members of the CCG’s Committees, or of the Committees or Sub-Committees of its Governing Body.

d) Those involved in commissioning, contracting and procurement processes and decision making.

e) Clinicians working on behalf of the CCG who work in a substantive role in the community.

f) Its employees, including seconded or temporary staff, or staff working for the
CCG under a contract of service or in an advisory capacity.

2.2 The Policy shall be applied:

a) in any meeting which takes place in the course of conducting the CCG’s business;

b) when a new employee commences employment within the CCG;

c) in all written material created and / or communicated in the course of conducting
the CCG’s business, whether such material is electronically submitted or not; and

d) in any other work undertaken for, or on behalf of, the CCG.

3.0 STATUTORY RESPONSIBILITIES

3.1 Section 14O of the National Health Service Act 2016 (as amended by the Health and
Social Care Act 2012) sets out the minimum requirements of what both NHS England
and CCGs must do in terms of conflicts of interest.

3.2 In June 2017, ‘Managing conflicts of interest: revised statutory guidance for CCG’s 2017’
was issued by NHS England under Sections 14O and 14Z8 of the Act, which CCGs
must comply with.

3.3 All CCG employees, Governing Body members, Committee and Sub-Committee
members, GP Representatives on the Council of Members, GP Clinical Leads, and any
other practice staff involved in CCG business, are required to complete mandatory online
conflicts of interest training provided by NHS England and / or other regulators as
required.

3.4 The CCG is required to complete a conflicts of interest indicator to assess the CCG’s
compliance with the requirements of the ‘Managing conflicts of interest: revised statutory
guidance for CCGs 2017’. The indicator is to be completed and submitted to the Greater
Manchester NHS England Area Team on a quarterly and annual basis.

4.0 DEFINITION OF AN INTEREST

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

4.2 A conflict of interest may be:

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<td>There is a material conflict between one or more interests.</td>
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4.3 Interests fall into the four categories outlined below. A benefit may arise from the making of
a gain or the avoidance of a loss:
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. This includes involvement with a potential provider of a new care model;

- A shareholder (or similar ownership interests), a partner or owner of a private or not-for-profit company, business, partnership or consultancy which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations;

- A management consultant for a provider; or

- A provider of clinical private practice.

This could also include an individual being:

- In employment outside of the CCG;

- In receipt of secondary income;

- In receipt of a grant from a provider;

- In receipt of any payments (for example honoraria, one-off payments, day allowances or travel or subsistence) from a provider;

- In receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role; and

- Having a pension that is funded by a provider (where the value of this might be affected by the success or failure of the provider).

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.;

- An active member of a particular specialist professional body (although
routine GP membership of the Royal College of General Practitioners (RCGP), British Medical Association (BMA) or a medical defence organisation would not usually by itself amount to an interest which needed to be declared);

- An advisor for the Care Quality Commission (CQC) or the National Institute for Health and Care Excellence (NICE);
- Engaged in a research role;
- Involved with the development and holding of patents and other intellectual property rights which allow staff to protect something that they create, preventing unauthorised use of products or the copying of protected ideas; or

GPs 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 and care.

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 commissioning decision (as those categories are described above) for example, a:

- Spouse / partner;
- Close family member or relative e.g., parent, grandparent, child, grandchild or sibling;
- Close friend or associate; or
- Business partner.
A declaration of interest for a “business partner” in a GP partnership should include all relevant collective interests of the partnership, and all interests of their fellow GP partners (which could be done by cross referring to the separate declarations made by those GP partners, rather than by repeating the same information verbatim).

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

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

5.0 PRINCIPLES FOR MANAGING CONFLICTS OF INTEREST

5.1 The Code of Accountability in the NHS states ‘Public service values must be at the heart of the National Health Service. High standards of corporate and personal conduct based on a recognition that patients come first has been a requirement throughout the NHS since its inception. Moreover, since the NHS is publicly funded, it must be accountable to Parliament for the services it provides and for the effective and economical use of taxpayers’ money.

There are three crucial public service values which must underpin the work of the health service:

- **Accountability** - everything done by those who work in the NHS 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: 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 NHS duties.

- **Openness** - there should be sufficient transparency about NHS activities to promote confidence between the NHS organisation and its staff, patients and the public.'

5.2 The CCG is subsequently required to put in place general safeguards to manage conflicts of interests, including:

- Arrangements for declaring and managing interests.

- Maintaining a register of interests.

- Publishing or make arrangements for the public to access registers of interests.
• Excluding individuals from decision-making where a conflict arises.

• Engagement with a range of potential providers in service redesign.

• Ensuring that CCG employees, Governing Body members, Committee members and Practice staff involved in CCG business complete mandatory online conflicts of interest training provided by NHS England and that it’s appropriately monitored.

5.3 There is also a need for individuals to adhere to the relevant guidance issued by professional bodies on conflicts of interest including the British Medical Association (BMA), the Royal College of General Practitioners (RCPG), the General Medical Council (GMC), and any other professional bodies relevant to the individual.

5.4 This policy is part of the CCG’s wider governance arrangements and is included in the Governance Handbook. As part of the CCG’s continuing commitment to managing conflicts of interest, further guidance and best practice will be utilised to continuously improve processes.

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

6.0 CONFLICTS OF INTEREST GUARDIAN

6.1 To further strengthen scrutiny and transparency of the CCG’s decision making processes, the CCG has a Conflicts of Interest Guardian who is the Audit Committee Chair. The Conflicts of Interest Guardian will be the point of contact for conflicts of interest queries or issues and will be supported by the CCG’s Governance Lead.

7.0 GIFTS AND HOSPITALITY

Gifts

7.1 Staff in the NHS offer support during significant events in people’s lives. For this work they may sometimes receive gifts as a legitimate expression of gratitude. We should be proud that our services are so valued. But situations where the acceptance of gifts could give rise to conflicts of interest should be avoided. CCG staff and members should be mindful that even gifts of a small value may give rise to perceptions of impropriety and might influence behaviour if not handled in an appropriate way.

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

7.3 Overarching principles:

• CCG staff should not accept gifts that may affect, or be seen to affect, their professional judgement. This overarching principle should apply in all circumstances;
• Any personal gift of cash or cash equivalents (e.g. vouchers, tokens, offers of remuneration to attend meetings whilst in a capacity working for or representing the CCG) must always be declined, whatever their value and whatever their source, and the offer which has been declined must be declared to the Governance Team who has designated responsibility for maintaining the register of gifts and hospitality and recorded on the register.

7.4 Gifts from suppliers or contractors:

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

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

• CCG staff should not ask for any gifts;

• Modest gifts under a value of £50 may be accepted and do not need to be declared (however, the CCG recommends that all gifts be declared as best practice);

• Gifts valued at over £50 should be treated with caution and only be accepted on behalf of an organisation (i.e. to an organisation’s charitable funds), not in a personal capacity. These should be declared by staff;

• A common sense approach should be applied to the valuing of gifts (using an actual amount, if known, or an estimate that a reasonable person would make as to its value);

• Multiple gifts from the same source over a 12 month period should be treated in the same way as single gifts over £50 where the cumulative value exceeds £50.

Hospitality

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

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

7.8 Overarching principles:
CCG staff should not ask for or accept hospitality that may affect, or be seen to affect, their professional judgement;

Hospitality must only be accepted when there is a legitimate business reason and it is proportionate to the nature and purpose of the event;

Particular caution should be exercised when hospitality is offered by actual or potential suppliers or contractors. These can be accepted if modest and reasonable, but individuals should always obtain senior approval and declare these.

7.9 Meals and refreshments:

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

7.10 Travel and Accommodation:

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

8.0 SPONSORED EVENTS

8.1 Sponsorship of NHS events by external parties is valued. Offers to meet some or part of the costs of running an event secures their ability to take place, benefiting NHS staff and patients. Without this funding there may be fewer opportunities for learning, development and partnership working. However, there is potential for conflicts of interest between the organiser and the sponsor, particularly regarding the ability to market commercial
products or services. As a result there should be proper safeguards in place to prevent conflicts occurring.

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

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

Other forms of sponsorship:

8.3 Organisations external to the CCG or NHS may also sponsor posts or research. However, there is potential for conflicts of interest to occur, particularly when research funding by external bodies does or could lead to a real or perceived commercial advantage, or if sponsored posts cause a conflict of interest between the aims of the sponsor and the aims of the organisation, particularly in relation to procurement and competition. If this situation arises the CCG will ensure transparency, and that any conflicts of interest are well managed.

9.0 DECLARING AN INTEREST

9.1 As a general principle, anyone working for, or on behalf of, the CCG, who is involved in taking decisions or is able to influence a decision, must declare their interests to the CCG.

9.2 Individuals who believe that their circumstances may give rise to a potential conflict of interest are required to declare this in order to preserve the integrity of the CCG and its processes.

9.3 Governing Body members and employees are required to declare any relevant and
material interests, and any gifts or hospitality offered and received in connection with their role in the CCG. Interests that may impact on the work of the Governing Body and should be declared include:

9.3.1 Any Directorships of companies likely to be engaged with the business of the CCG;

9.3.2 Previous or current employment or consultancy positions;

9.3.3 Voluntary or remunerated positions, such as trusteeship, local authority positions, other public positions;

9.3.4 Membership of professional bodies or mutual support organisations;

9.3.5 Investments in unlisted companies, partnerships and other forms of business, major shareholdings and beneficial interests;

9.3.6 Gifts or hospitality offered to you by external bodies and whether this was declined or accepted in the last twelve months; and

9.3.7 any other conflicts that are not covered by the above.

The four categories of interests are outlined in more detail in section 4 of this Policy. The CCG’s declaration of interests form is provided in appendix 1.

9.4 It is important that Governing Body members and all CCG staff, including General Practitioners, declare any conflicts of interest that arise in the course of conducting NHS business (as outlined in section 4 of this Policy).

9.5 In determining whether they may have a conflict of interest, individuals should consider whether there may be a perception of wrongdoing, impaired judgement, or undue influence if they participated in making a decision. If in doubt, the individual would be expected to assume that a conflict of interest exists.

9.5 The CCG will maintain registers of the interests of the following individuals:

a) Members of the CCG (i.e. each practice), including GP Partners (or where the practice is a company, each director) and any individual directly involved with the business of the CCG and decision making.

b) Members of the CCG’s Governing Body.

c) Members of the CCG’s Committees, or of the Committees or Sub-Committees of its Governing Body.

d) Its employees, including seconded, temporary staff or staff working for the CCG under a contract of service or in an advisory capacity.

9.6 The registers will be reviewed as a minimum on an annual basis.
9.7 Declarations of interest must be made as soon as reasonably practicable and by law within 28 days after the interest arises (this could include an interest an individual is pursuing).

9.8 The CCG must retain a private record of historic interests for a minimum of 6 years after the date in which it expired.

9.9 The registers of interest and gifts and hospitality of decision making staff will be published on the CCG’s website as well as being available to view at Trafford CCG’s main office.

10.0 GOVERNING BODY

10.1 The Governing Body of the CCG has a statutory responsibility to act in the best interests of the CCG as a whole, in accordance with the CCG’s Constitution and terms of establishment with the NHS Commissioning Board, to avoid situations where there may be conflicts of interest.

10.2 Conflicts of interest may create problems such as inhibiting free discussion, which could;

- Result in decisions or actions that are potentially not in the interests of the CCG and the public it was established to serve, and / or;

- Create the impression that the CCG has acted improperly.

10.3 A conflicts of interest register for Governing Body members shall be maintained and published on the CCG website. It is therefore imperative that conflicts of interests or suspected conflicts of interests are reported through the process identified in this policy.

10.4 The information provided will be processed in accordance with data protection principles as set out in the Data Protection Act 2018. Data will be processed only to ensure that Governing Body members act in the best interests of the CCG and the public and patients the CCG was established to serve. The information provided will not be used for any other purpose. Signing the declaration form will also signify consent to data being processed for the purposes set out in this policy.

10.5 The Governing Body will have a minimum of two lay members in place to support conflicts of interest management within the CCG.

11.0 PRIMARY CARE COMMISSIONING COMMITTEE

11.1 A Primary Care Commissioning Committee (PCCC) was established to discharge the CCG’s primary medical services function. A conflicts of interest register for PCCC members shall be maintained and published on the CCG website.

11.2 To manage conflicts of interest appropriately, the membership of the PCCC will consist of a lay and executive member majority. The Chair and Vice-Chair of the committee will be lay members.

12.0 NEW MODELS OF PRIMARY CARE
12.1 In terms of New Models of Primary Care, it is likely some individuals will have roles with the CCG and the new care model provider / potential provider. The CCG has a responsibility to identify and manage these conflicts of interest as soon as they become apparent.

12.2 To manage conflicts of interest appropriately where a member of staff participating in a meeting has dual roles, he or she must ensure that the capacity in which they participate in the discussions is made clear. In situations deemed appropriate for this member of staff to participate in the decision making process, they must only do so whilst acting in the capacity of their role with the CCG. The officer supporting these meetings will ensure these details are recorded in the meeting minutes.

12.3 The CCG has a responsibility to identify as soon as possible where staff might be affected by the outcome of a procurement exercise following the award of a contract and manage the potential conflict in accordance with statutory guidance.

12.4 Following the award of a contract the CCG will consider the governance arrangements in terms of the commissioning and contract management of the new model of primary care.

13.0 MANAGING CONFLICTS OF INTEREST

13.1 All individuals are required to declare their conflict of interest or perceived conflict of interest as soon as it becomes apparent by reporting it to the Governance Team. The Governance Team will conduct an annual review of the conflict of interests policy and the reporting made from all personnel as a result, requiring updates where required.

13.2 It is good practice for Committee Chairs to proactively consider what conflicts are likely to arise at meetings and what course of action should be taken. If required, the Chair can liaise with the Conflicts of Interest Guardian.

13.3 To support the managing of conflicts of interest at meetings, Committee Chairs have access to a conflicts of interest checklist that is available at appendix three of the policy.

13.4 Any individual who changes role or responsibility within the CCG is required to complete and submit a new conflicts of interest form within 28 days.

13.5 If an individual’s circumstances change (e.g. where an individual takes on a new role outside of the CCG, or sets up a new business or relationship), they are required to make a further declaration to reflect any changes to their conflicts of interest within 28 days.

13.6 Members of the CCG’s Governing Body, its Committees and Sub-Committees are required to declare any interests at the start of each meeting. This will be a standing item on all agenda.

13.7 Any declarations of interest will be captured in the minutes of the meeting, and where material to the discussion at that point in the agenda the member may be required to withdraw from discussions pertaining to that agenda item at the Chair’s discretion and the register of interests updated accordingly.

13.8 Individuals who have declared an interest should not chair or lead discussions on the
relevant items at the meetings of the Council of Members, Governing Body, their Committees or Sub-Committees, or any advisory / working groups.

13.9 Where the Chair of the meeting declares an interest in an item on the agenda, then the Vice-Chair will Chair for that item.

13.10 If the Vice-Chair has also declared an interest then the remaining members in attendance will nominate a member to Chair the meeting. This will be recorded in the minutes.

13.11 Minutes of meetings shall record which member has an interest, the nature of the interest and why it gives rise to a conflict, the items on the agenda to which the interest relates, how the conflict was agreed to be managed and evidence that the conflict was managed as intended. This will include whether an individual with an interest was allowed to remain in the room whilst the item giving rise to conflict was addressed; whether they contributed to the discussion or if at any time the individual was asked to leave the meeting. Subject to arrangements that may have been agreed with the Accountable Officer, or approved by the Governing Body, and recorded prior to the meeting, the decision on whether an individual with a conflict is allowed to stay and listen or contribute to the meeting, is at the discretion of the Chair of the meeting.

13.12 When it is known in advance that a meeting will be inquorate due to the number of declared interests in a matter under discussion at that meeting, the Chair will seek advice from the Accountable Officer on how the matter should be handled and if necessary, the matter shall be deferred until a future meeting when a quorum can be reached. In the event of a meeting not achieving its quorum, due to the declared interests of its members, it may be necessary to invite other individuals to sit on a specially convened Committee or to refer the matter requiring consideration to the CCG’s Governing Body. The Accountable Officer will advise on the appropriate course of action.

13.13 Individuals who have declared an interest may not vote on items in which they have an interest and may, at the discretion of the Chair, be asked to leave the room during any voting process. It may be possible that the individual concerned does not receive the supporting papers or minutes that relate to this matter.

13.14 Individuals shall confirm on appointment that they will not misuse their position or the information acquired in the course of their work on behalf of the CCG to further their own interests.

13.15 Independent external mediation will be used where conflicts or potential conflicts of interest cannot be resolved through usual procedures.

14.0 PROCUREMENT

14.1 ‘Procurement’ relates to any purchase of goods, services or works, and the term ‘procurement decision’ should be understood in a wide sense to ensure transparency of decision making around the spending of public funds.

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

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

14.3 The CCG will maintain a register of procurement decisions taken, including details of the decision, who was involved in making the decision and a summary of any conflicts of interest in relation to the decision and how this was managed by the CCG, as well as the award decision taken.

14.4 The Procurement Register will be updated as and when a procurement decision is taken by the CCG. The register will be published on the CCG’s website and will be available upon request at the CCG’s headquarters.

14.5 The CCG recognises the importance of making decisions about the services it procures in a way that does not call into question the motives behind the procurement decision that has been made. The CCG will procure services in a manner that is open, transparent, non-discriminatory and fair to all potential providers.

The CCG has a Procurement Policy, approved by its Governing Body, which promotes:

a) The engagement of all relevant clinicians (not just members of the CCG) and potential providers, together with local members of the public, in the decision-making processes used to procure services.

b) Transparency, equal treatment and non-discrimination in its service redesign and procurement processes.

The Procurement Policy is will be published on the CCG website and will be available on request at the CCG’s Headquarters.

14.6 When awarding contracts, the CCG will manage any conflicts and potential conflicts of interest by prohibiting the award of a contract where the integrity of award has been, or appears to have been affected by a conflict.

14.7 In instances when the CCG commissions, or continues to commission by contract extension healthcare services, including GP services, in which a member of the CCG has an interest, the commissioner would be asked to address a number of issues as listed in appendix four. This may often arise in the context of Primary Care Delegated Commissioning arrangements.

15.0 CONTRACT MONITORING

15.1 The management of conflicts of interest applies to all aspects of the commissioning cycle including the CCG’s contract management process.

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

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

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

16.0 CONTRACTORS

16.1 Anyone participating in a procurement exercise, or otherwise engaging with the CCG in relation to the potential provision of services or facilities to the CCG, will be required to make a declaration of interest.

16.2 Anyone contracted to provide services or facilities directly to the CCG will be subject to the same provisions of this policy, and the CCG’s Constitution in relation to managing conflicts of interests.

17.0 BREACHES OF THE POLICY

17.1 The CCG is required to have a robust process in place for managing breaches.

17.2 Anonymised details of the breaches are to be published on the CCG’s website for the purposes of learning and development, which will include details of how the breach will be / was managed and confirmation that these details have been communicated to NHS England.

17.3 Any breaches in relation to conflicts of interest will be recorded on the CCG’s Breaches Register held by the Governance Team which will be investigated in line with the CCG’s Constitution and relevant HR policies and procedures.

17.4 A copy of the Breaches Register will be published on the CCG’s website.

17.5 Dependent on the nature of the breach, this may need to be reported in line with the CCG’s Whistleblowing Policy with the relevant safeguards applied.

17.6 Breaches of the policy may result in disciplinary action in line with the CCG Constitution.

18.0 COMPLAINTS

18.1 Individuals who wish to report suspected or known breaches of this policy should inform the Accountable Officer. All such notifications will be held in strictest confidence and the person notifying the Accountable Officer can expect a full explanation of any decisions taken as a result of the investigation.
### Declaration of Interests

<table>
<thead>
<tr>
<th>Type of Interest*</th>
<th>Description of Interest (including for indirect interests, details of the relationship with the person who has the interest)</th>
<th>Date interest relates From &amp; To</th>
<th>Actions to be taken to mitigate risk (to be agreed with line manager or a senior CCG manager)</th>
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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 2018. Information may be disclosed to third parties in accordance with the Freedom of Information Act 2000 and, in the case of ‘decision making staff’ (as defined in the statutory guidance on managing conflicts of interest for CCGs) may be published in registers that the CCG holds.

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

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

**Signed:**

**Date:**

**Signed:**

**Position:**

**Date:**

(Member of the Governance Team)

Please return to Liz Walker, Governance and Support Services Officer.

E: elizabeth.walker4@nhs.net, T: 0161 912 4532
<table>
<thead>
<tr>
<th>Type of Interest</th>
<th>Description</th>
</tr>
</thead>
</table>
| **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. This includes involvement with a potential provider of a new care model;  
  - A shareholder (or similar ownership interests), a partner or owner of a private or not-for-profit company, business, partnership or consultancy which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations;  
  - A management consultant for a provider; or  
  - A provider of clinical private practice.  
This could also include an individual being:  
  - In employment outside of the CCG (see paragraph 79-81);  
  - In receipt of secondary income;  
  - In receipt of a grant from a provider;  
  - In receipt of any payments (for example honoraria, one-off payments, day allowances or travel or subsistence) from a provider;  
  - In receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role; and  
  - Having a pension that is funded by a provider (where the value of this might be affected by the success or failure of the provider). |
| **Non-Financial Professional Interests** | This is where an individual may obtain a non-financial professional benefit from the consequences of a commissioning decision, such as increasing their professional reputation or status or promoting their professional career. This may, for example, include situations where the individual is:  
  - An advocate for a particular group of patients;  
  - A GP with special interests e.g., in dermatology, acupuncture etc.;  
  - An active member of a particular specialist professional body (although routine GP membership of the Royal College of General Practitioners (RCGP), British Medical Association (BMA) or a medical defence organisation would not usually by itself amount to an interest which needed to be declared);  
  - An advisor for the Care Quality Commission (CQC) or the National Institute for Health and Care Excellence (NICE);  
  - Engaged in a research role;  
  - The development and holding of patents and other intellectual property rights which allow staff to protect something that they create, preventing unauthorised use of products or the copying of protected ideas; or  
  - GPs and practice managers, who are members of the governing body or committees of the CCG, should declare details of their roles and responsibilities held within their GP practices. |
| **Non-Financial Personal Interests** | 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 and care. |
| **Indirect Interests** | This is where an individual has a close association with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest in a commissioning decision (as those categories are described above) for example, a:  
  - Spouse / partner;  
  - Close family member or relative e.g., parent, grandparent, child, grandchild or sibling;  
  - Close friend or associate; or  
  - Business partner. |
Appendix 2

NHS TRAFFORD CLINICAL COMMISSIONING GROUP
MANAGING CONFLICTS OF INTERESTS: COMMISSIONING ACTIVITIES DRAFT
PROCEDURAL INSTRUCTION NO 1

PURPOSE

1. The purpose of this operating procedure is to set out how the CCG intends to manage the interests of those providers with whom it engages to assist it in the development of its commissioning plans. The procedure should be read in conjunction with the CCG’s policy on managing conflicts of interest, which requires anyone working for, or on behalf of, the CCG who is involved in taking decisions, or who is able to influence a decision to declare their interests to the CCG, and with the CCG’s Procurement Policy.

PRINCIPLES

2. The CCG’s commissioning arrangements will comply with the principles of public procurement which are: -

   i) Transparency
   ii) Proportionality
   iii) Non-discrimination
   iv) Equality of treatment

3. The CCG will promote transparency when commissioning services by: -

   i) publishing its commissioning plans
   ii) publishing the services that it is prioritising over the next 12-24 months
   iii) publishing the services that it intends to use competitive procurement process to deliver and those likely to be delivered via single tender actions
   iv) publishing the services currently under review and the scope of their review
   v) notifying providers of existing services of the CCG’s intention to review services that it provides at least nine months in advance if their contract ending
vi) Promoting a patient's right to choose a provider of their choice via its website and via its published materials

MANAGING INTERESTS

4. The CCG’s arrangements for managing conflicts of interests may arise when it engages clinicians, or other representatives of provider organisations, to advise it on its commissioning activities shall be structured around the activities associated with its: -
   i) pre procurement work
   ii) work during procurement
   iii) work following procurement

5. In drawing this distinction, the CCG acknowledges that its engagement with clinicians or representatives from member practices, hospitals or other providers, who have an interest in providing services to the CCG, is likely to differ depending on which stage of the procurement process that the CCG is at. For example, the CCG has determined that it is appropriate in a clinically led membership organisation to engage clinicians with interests in providing services to the CCG (subject to the provisions set out in this procedure) when deciding what to procure but that it would not be appropriate to engage providers with interests during procurement.

6. In managing conflicts or potential conflicts of interests, the CCG will distinguish between those individuals or organisations that have an interest and those that are deemed to have a material interest.

PRE PROCUREMENT ACTIVITIES

7. The pre-procurement phase of the CCG’s commissioning activities comprise: -
   i) generating ideas and options
   ii) solution exploration
   iii) service review
   iv) specification

8. Whilst the procedures set out in this document, should be applied consistently, the effort that the CCG invests to manage conflicts of interest will be proportionate to the value, complexity and risks of the services contracted i.e. greater effort will be made where a combination of higher benefits, costs, savings and quality can be gained.
IDEAS AND SOLUTION EXPLORATION PHASE

9. The CCG will engage with clinicians or other representatives of providers to help generate ideas or options, or to explore solutions which either improve access to services, provide care closer to home, provide additional choices for patients or users or which offer a different model of care to the CCG’s existing arrangements. The structure, and extent to which, consultation takes place with current or potential providers will be influenced by the type of procurement process which is to be undertaken (e.g. open, restricted, or competitive dialogue). Where clinicians, providers or their representatives are engaged in this process they must be asked to complete and sign conflict of interest declaration forms.

10. Clinicians or representatives in this context include providers who may subsequently bid to provide such services, including member practices.

11. In engaging clinicians or representatives during the ‘ideas’ and ‘solution exploration’ phase, the CCG will take steps to ensure that:

   i) providers do not have preferential access to information that would give them a competitive edge in their bid to provide that service

   ii) a provider with a ‘material interest’ is not appointed to a position of influence, including, for example, chairing meetings or conducting research on behalf of the CCG.

   iii) providers who currently provide the services under consideration are invited to contribute to the CCG’s work. It is important however to ensure that the final version of any specification has been approved by the commissioner.

12. In order to mitigate against providers, or the perception of provider’s being given preferential access to information, the CCG will, as soon as practical, actively encourage a range of providers to contribute ideas and solutions to its work. This will include promoting this work on the CCG’s website.

13. All clinicians contributing to the review should declare any interests both current and future and these will be recorded in a log and cross referenced in the minutes of the meeting.

14. The recommendations arising from the review will be recorded in the minutes of meetings and will be available on request (or via the CCG’s website).

SERVICE REVIEW

15. Where the CCG is undertaking a major service review, involving consideration of for example, where and how an existing service may be procured in the future, or where existing contracts are due to expire or to be terminated, which, for example involve a public consultation exercise that has a significant value, benefit or potential savings, the CCG will:
i) appoint a clinical representative to co-ordinate the service review from a provider which does not intend to bid to provide that service in the future.

ii) seek to engage a range of providers in the service review, dependent on the type of procurement process to be undertaken. This may include representatives from the current provider of that service along with other providers who are expected to bid for the service in the future.

16. The CCG will promote a level playing field amongst providers by advertising the review via its website and inviting providers to participate in the review. This may include active participation in the review via for example an advisory CCG or the opportunity for providers to make a written contribution or to attend engagement events.

17. Clinicians or representatives contributing to the review should declare any interests both current and future and these shall be recorded in a log and where appropriate in the minutes of meetings.

18. The recommendations arising from the review will be recorded in the minutes of meetings and will be available on request (or via the CCG’s website).

SPECIFICATION PHASE

19. In drafting specifications the CCG: -

   i) may obtain assistance from (clinicians or representatives from member practices with an interest.

   ii) may not obtain assistance from (clinicians or representatives from) member practices with a material interest.

   iii) may not obtain assistance from clinicians from other organisations which have an interest and from whom the CCG may commission services.

GENERAL

20. The CCG will endeavour to ensure that an individual provider is not afforded preferential treatment or given access to information that could not be made available to other providers, either on their request or via the CCG’s website; or via any electronic tendering software utilised as part of a procurement process.

22. Where an individual provider is likely to be advantaged by their representative’s involvement in the pre-procurement phases of the CCG’s commissioning activities and the CCG cannot provide equality of treatment to other potential providers the CCG will exclude that provider from its pre-procurement work.
23. Providers of services who are interested in bidding for services may contribute to discussions concerning proposals for that service but they will not be able to vote on the proposal.

24. Where the Governing Body or a Committee of the Governing Body, considers it helpful, it may invite Clinicians from providers, with an interest or with a material interest in bidding for services, to participate in discussions concerning the recommendations under consideration, however, where those meetings are held in public, such providers will be excluded from the meeting when the decision is taken concerning the outcome of the review or if they are a member of the Governing Body, they will not be allowed to vote on the proposal.

25. In the circumstances set out in paragraph 11 and 12, the minutes of the meeting will record the reasons for inviting the provider (s) to inform discussions.

DURING PROCUREMENT

26. Clinicians from providers who are competing for services will not be involved in the CCG’s processes for evaluating submissions and/or awarding a service following the decision to procure a service.

27. The CCG will endeavour to avoid a situation where a provider has to be excluded from bidding to provide a service due to their or their representatives' involvement in the decisions to procure that particular service or their participation in the CCG’s commissioning activities. The arrangements for managing conflicts of interests by creating a level playing field for all Providers, or by excluding sole providers of services, during the pre-procurement phase should help to mitigate against this.

POST PROCUREMENT

28. Where a Provider of Services commissioned by the CCG also refers patients to services that it provides under a contract with the CCG (including companies in which the provider has an interest), a condition of that contract will be that the provider informs patients of its interests and promotes the patient’s rights to choose an alternative provider. The provider can do this by displaying information on the contracts that it holds with the CCG in a prominent place where patients can see and read it on its website.
# Declarations of Interest Checklist

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

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<th>Timing</th>
<th>Checklist for Chairs</th>
<th>Responsibility</th>
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| In advance of the meeting | 1. **The agenda** to include a standing item on declaration of interests to enable individuals to raise any issues and/or make a declaration at the meeting.  
2. **A definition of conflicts of interest** should also be accompanied with each agenda to provide clarity for all recipients.  
3. **Agenda** to be circulated to enable attendees (including visitors) to identify any interests relating specifically to the agenda items being considered.  
4. **Members should contact the Chair** as soon as an actual or potential conflict is identified.  
5. Chair to review a **summary report from preceding meetings** i.e., sub-committee, working group, etc., detailing any conflicts of interest declared and how this was managed.  
**A template for a summary report** to present discussions at preceding meetings is detailed below.  
6. **A copy of the members’ declared interests** is checked to establish | Meeting Chair and governance team  
Meeting Chair and governance team  
Meeting Chair and governance team  
Meeting members  
Meeting Chair  
Meeting Chair |
any actual or potential conflicts of interest that may occur during the meeting.

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<th>During the meeting</th>
<th>Meeting Chair</th>
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<tr>
<td>7. Check and declare the meeting is quorate and ensure that this is noted in the minutes of the meeting.</td>
<td>Meeting Chair</td>
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<tr>
<td>8. Chair requests members to declare any interests in agenda items - which have not already been declared, including the nature of the conflict.</td>
<td>Meeting Chair</td>
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<tr>
<td>9. Chair makes a decision as to how to manage each interest which has been declared, including whether / to what extent the individual member should continue to participate in the meeting, on a case-by-case basis, and this decision is recorded.</td>
<td>Meeting Chair and governance team</td>
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<tr>
<td>10. As minimum requirement, the following should be <strong>recorded in the minutes of the meeting</strong>:</td>
<td>Governance team</td>
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<td>• Individual declaring the interest;</td>
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<td>• At what point the interest was declared;</td>
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<td>• The nature of the interest;</td>
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<td>• The Chair’s decision and resulting action taken;</td>
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<tr>
<td>• The point during the meeting at which any individuals retired from and returned to the meeting - even if an interest has not been declared.</td>
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<tr>
<td>• Visitors in attendance who participate in the meeting must also follow the meeting protocol and declare any interests in a timely manner.</td>
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<tr>
<td>A template for recording any interests during meetings is detailed below.</td>
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<th>Following the</th>
<th>Individual(s)</th>
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31
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<tr>
<th>meeting</th>
<th>11. All new interests declared at the meeting should be promptly updated onto the declaration of interest form;</th>
<th>declaring interest(s)</th>
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<td>12. All new completed declarations of interest should be transferred onto the register of interests.</td>
<td>Designated person responsible for registers of interest</td>
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## Declaration of interest checklist

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<thead>
<tr>
<th>Meeting</th>
<th>Date of Meeting</th>
<th>Chairperson (name)</th>
<th>Secretariat (name)</th>
<th>Name of person declaring interest</th>
<th>Agenda Item</th>
<th>Details of interest declared</th>
<th>Action taken</th>
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</table>
## Procurement of Commissioned Healthcare Services

**Service:**

<table>
<thead>
<tr>
<th>Question</th>
<th>Comment/Evidence</th>
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</thead>
<tbody>
<tr>
<td>1. How does the proposal deliver good or improved outcomes and value for money – what are the estimated costs and the estimated benefits? How does it reflect the CCG’s proposed commissioning priorities? How does it comply with the CCG’s commissioning obligations?</td>
<td></td>
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<tr>
<td>2. How have you involved the public in the decision to commission this service?</td>
<td></td>
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<tr>
<td>3. What range of health professionals have been involved in designing the proposed service?</td>
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<tr>
<td>4. What range of potential providers have been involved in considering the proposals?</td>
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<tr>
<td>5. How have you involved your Health &amp; Wellbeing Board(s)? How does the proposal support the priorities in the relevant joint</td>
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<tr>
<td>3</td>
<td>health and wellbeing strategy (or strategies)?</td>
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<tr>
<td>6</td>
<td>What are the proposals for monitoring the quality of the service?</td>
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<tr>
<td>7</td>
<td>What systems will there be to monitor and publish data on referral patterns?</td>
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<tr>
<td>8</td>
<td>Have all conflicts and potential conflicts of interests been appropriately declared and entered in registers which are publicly available? Have you recorded how you have managed any conflict or potential conflict?</td>
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<tr>
<td>9</td>
<td>Why have you chosen this procurement route?</td>
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<tr>
<td>10</td>
<td>What additional external involvement will there be in scrutinising the proposed decisions?</td>
</tr>
</tbody>
</table>
11. How will the CCG make its final commissioning decision in ways that preserve the integrity of the decision-making process and award of any contract?

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).

<table>
<thead>
<tr>
<th>Question</th>
<th>Comment/Evidence</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. How have you determined a fair price for the service?</td>
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</table>

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.

<table>
<thead>
<tr>
<th>Question</th>
<th>Comment/Evidence</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. How will you ensure that patients are aware of the full range of qualified providers from whom they can choose?</td>
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</table>

Proposed direct awards to GP providers.

<table>
<thead>
<tr>
<th>Question</th>
<th>Comment/Evidence</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. What steps have been taken to demonstrate that the services to which the contract relates are capable of being provided by only one provider?</td>
<td></td>
</tr>
</tbody>
</table>
2. In what ways does the proposed service go above and beyond what GP practices should be expected to provide under the GP contract?

3. 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?
Managing conflicts of interest: Case studies
Managing conflicts of interest: Case Studies

Version number: 1

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Prepared by: Commissioning Strategy Directorate

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Managing conflicts of interest case studies

Introduction

NHS England has developed a series of case studies to accompany the revised *statutory guidance on managing conflicts of interest for CCGs*, published in June 2016. 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 could also be used as a training resource for CCGs, to support them in providing advice to their employees and members on what might constitute a conflict of interest. We will also be rolling out mandatory online training on conflicts of interest management in the autumn of 2016.

Conflicts of interest are inevitable in commissioning and it is how we manage them that matters. They can affect anyone working in commissioning and can arise at any stage of the commissioning cycle. This document includes a series of case studies from across the commissioning cycle and examples which involve different commissioning roles.

Each case study describes a scenario that includes one or more conflicts of interest, the associated risks and actions to consider. The actions to consider are based upon the safeguards set out in the *revised statutory guidance on managing conflicts of interest for CCGs*. They are not an exhaustive list of actions and CCGs should consider what further actions would be appropriate in line with their own conflicts of interest policy. These scenarios are focused on issues arising from conflicts of interest and consequently do not purport to cover other issues which may also be relevant, for example, CCGs’ statutory duty to consult with service users and potential service users. Further, the case studies should not be relied on as an alternative to seeking expert advice where this is needed.

Please note, whilst the case studies are based upon the types of conflicts of interest scenarios that could arise in CCGs, they are not real life examples. The names of individuals and organisations used in these case studies are fictional and not a reference to any organisation or person, living or deceased.

This document includes the following case studies:

<table>
<thead>
<tr>
<th>Case study</th>
<th>Stage of the commissioning cycle</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A1:</strong> Assessing the need for, and location of, new community medical centres</td>
<td>Needs assessment</td>
<td>6</td>
</tr>
<tr>
<td><strong>B1:</strong> Strategic planning of primary care services</td>
<td>Strategic planning</td>
<td>8</td>
</tr>
<tr>
<td><strong>C1:</strong> Development of dermatology services</td>
<td>Service planning and design</td>
<td>11</td>
</tr>
<tr>
<td><strong>C2:</strong> Development of an alternative scheme to the Quality and Outcomes Framework (QOF)</td>
<td></td>
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<tr>
<td>Appendix 5</td>
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<tr>
<td><strong>D1:</strong> Re-procurement of an Alternative Provider Medical Services Contract (APMS) in a delegated CCG</td>
<td>Procurement</td>
<td>16</td>
</tr>
<tr>
<td><strong>D2:</strong> Re-procurement of out-of-hours services</td>
<td></td>
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<tr>
<td><strong>D3:</strong> A procurement challenge</td>
<td></td>
<td></td>
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<tr>
<td><strong>E1:</strong> Breach of powers for financial gain</td>
<td>Demand management</td>
<td>23</td>
</tr>
<tr>
<td><strong>F1:</strong> Monitoring of voluntary sector contracts</td>
<td>Contract management</td>
<td>25</td>
</tr>
<tr>
<td><strong>G1:</strong> Recruitment of patient representatives with a conflict of interest</td>
<td>All stages</td>
<td>27</td>
</tr>
<tr>
<td><strong>H1:</strong> Attendance at a provider funded event</td>
<td>All stages: gifts and hospitality</td>
<td>29</td>
</tr>
</tbody>
</table>

NHS England will continue to build a library of conflicts of interest case studies in 2016/17. If you have any scenarios or examples you would like to share to support CCGs’ development, please email: england.co-commissioning@nhs.net.
Managing conflicts of interest: Needs Assessment Case Study

A1: Assessing the need for and location of new community medical centres

<table>
<thead>
<tr>
<th>Context</th>
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</thead>
<tbody>
<tr>
<td>- As part of North County CCG’s strategy to provide more accessible primary care services, the CCG plans to open community medical centres in each of its localities. The medical centres will provide a range of out-of-hospital services.</td>
</tr>
<tr>
<td>- The CCG’s Primary Care Commissioning Committee (PCCC) sets up a working group to undertake a needs assessment and to develop a business case, recommending the range of services to be offered and the location of each medical centre.</td>
</tr>
<tr>
<td>- At a public meeting of the PCCC, the business case and needs assessment is presented by the Chair of the working group.</td>
</tr>
<tr>
<td>- In one locality, the recommendation is to open the medical centre in buildings owned by Dr Adam Brown, a GP governing body and PCCC member. This is because the building’s rent would be cheaper than the rent of alternative sites.</td>
</tr>
<tr>
<td>- The proposed site is next to Dr Brown’s GP practice, which is a prescribing practice. Therefore, there is a high probability that the medical centre would increase business at Dr Brown’s pharmacy.</td>
</tr>
<tr>
<td>- Dr Brown has previously declared that he owned a prescribing practice and the property in question. This is on the CCG’s register of interest.</td>
</tr>
<tr>
<td>- Dr Brown left the PCCC meeting when this matter was discussed.</td>
</tr>
<tr>
<td>Risks</td>
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<td>----------------------------------------------------------------------</td>
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<tr>
<td>• Dr Brown has a <em>direct financial interest</em> in the medical centre being located on his premises.</td>
</tr>
<tr>
<td>• There could be a perception that the CCG has favoured a PCCC member when selecting the location of the medical centre.</td>
</tr>
<tr>
<td>• There is a risk of loss of public confidence and trust in the CCG, as well as legal challenge from the owners of other potential sites, if the conflicts of interest are not managed appropriately.</td>
</tr>
<tr>
<td>• There is also a risk that the personal reputation of Dr Brown will be damaged if his interests are not appropriately declared and managed.</td>
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</tbody>
</table>
### Actions to consider

- All proposals should clearly state whether any conflicts of interest have been identified during the development of the proposal and if so, how they were managed.

- In this case, the appropriate management of the conflicts of interest should include ensuring that:
  
  - Dr Brown’s interests (both his ownership of the prescribing practice and neighbouring property) have been recorded in the CCG’s register of interests and in the minutes of every meeting where this topic was discussed.
  
  - Dr Brown was not part of the working group, and this was recorded in the relevant minutes.
  
  - There are clear and objectively justifiable reasons for selecting the preferred locations for the medical centres, which are included within the working group’s report and referenced in the PCCC’s minutes. The cheaper rent may be one such reason, but it may not be a sufficient reason in itself for selecting one site over another.
  
  - The proposals have been subject to appropriate scrutiny, public and stakeholder engagement, and are in accordance with procurement rules.

- The PCCC should also consider whether there are any other relevant conflicts of interest. For example:
  
  - *Were any of Dr Brown’s partners at the neighbouring practice part of the working group or members of the PCCC?*
  
  - *Would any members of the working group be affected by the relocation of some existing services to the medical centre (i.e., have they got an indirect financial interest)?*

Any additional interests identified should be declared and managed appropriately during the process.

- Provided Dr Brown’s interests (and any other relevant interests) were declared and managed as above, it seems likely that he has acted appropriately and that the CCG will have an audit trail which evidences this.

- However, if the PCCC (led by the Chair) is not satisfied that conflicts of interest have been appropriately managed during the process, then it should defer a decision on this item and specify what remedial steps are required in order to ensure that a fair and transparent decision is taken and can be evidenced.
Managing conflicts of interest: Strategic Planning Case Study

**B1: Strategic planning of primary care services**

<table>
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<tr>
<th>Context</th>
<th>Risks</th>
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<tbody>
<tr>
<td>• East City CCG has recently implemented delegated commissioning of primary medical services. The CCG establishes a Primary Care Commissioning Committee (PCCC), which holds its first meeting to discuss the future development of local primary care services.</td>
<td>• By being present at the meeting, particularly during the discussions about enhanced services, there is a risk (whether actual or perceived) that the proceedings may be influenced by the financial interests of the three GPs, given their involvement with an organisation which may wish to bid to provide those services.</td>
</tr>
<tr>
<td>• Three PCCC members are GPs who have business interests in a private company, Sunflower Health Ltd., which provides some primary medical care services.</td>
<td>• If the GPs have access to information about a future procurement before other potential providers, this could give them an unfair advantage. This may particularly be the case if the item was not discussed in the public session and/or it was not made clear in the papers published prior to the meeting that the PCCC would be discussing the development of enhanced services. This could lead to a costly legal challenge later on by other potential providers.</td>
</tr>
<tr>
<td>• At the start of the meeting, the GPs declare their interests in Sunflower Health Ltd., and the PCCC considers whether it is appropriate for the GPs to be present for all agenda items.</td>
<td>• There is a risk of loss of public confidence and trust in the CCG if the conflicts are not managed appropriately.</td>
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<tr>
<td>• One GP states that as the focus of the meeting is on the future direction of primary care services and the PCCC will not be making any procurement decisions, the GPs should be allowed to contribute to the discussion and should not have to leave the meeting. After discussion, the Chair agrees to proceed on this basis.</td>
<td>• There is a risk of harm to the GPs’ own personal reputations, and to the reputation of East City CCG, if their interests in Sunflower</td>
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</table>
Health Ltd. is not appropriately managed.

- If the GPs gain access to any commercially sensitive information, or are involved in any decision which leads to a procurement in relation to the enhanced services, it is likely that Sunflower Health Ltd. would be unable to participate in any subsequent procurement for those services.

### Actions to consider

- Details of the three GPs’ interests in Sunflower Health Ltd. should be recorded in the minutes of the PCCC meeting and in the CCG’s register of interests.

- As it seems likely that Sunflower Health Ltd. might want to bid in a future procurement exercise, the three GPs should not be involved in any decision or deliberations leading up to a procurement decision regarding the development of primary care services.

- The initial decision to allow the GPs to remain in the meeting was reasonable, because:
  - The GPs are experts in the field of primary care and their input would be valuable to these discussions;
  - It appeared at this point that no decision-making on procurement issues, or deliberations leading up to a procurement decision, were going to take place at the meeting.

- However, the Chair should keep this decision under constant review during the meeting, and should ask the GPs to leave if at any point it becomes appropriate to do so. If this occurs, the time at which they left (and returned to) the meeting should be recorded in the minutes.

- The meeting should be held in public unless commercially sensitive information is being discussed or there is some other reason why it would be prejudicial to the public interest to do so. The agenda should clearly state the purpose of the meeting and nature of the expected discussion and the CCG should ensure it is made available to the public (so any potential providers have the opportunity to attend the meeting).

- If the discussions cease to be at a strategic level and become deliberations leading up to a procurement decision and the Chair asks the GPs to leave, there would be nothing in these circumstances to stop the GPs from joining the audience.

- However, if the published agenda did not indicate that a detailed procurement discussion would take place at the meeting, the Chair should instead defer the discussion to a subsequent meeting at which it is included as an agenda item, so that other potential
providers would have notice and the opportunity to attend as observers.

- If a subsequent meeting is held in private for reasons of commercial sensitivity, the GPs should be asked to leave the meeting for the item where they are conflicted.

- The CCG should consider whether it is appropriate for the three GPs to be members of the PCCC at all, given their interests in Sunflower Health Ltd, and the nature and extent of their interests in the company.
Managing conflicts of interest: Service Planning and Design Case Study

C1: Development of dermatology services

<table>
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<th>Context</th>
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<tbody>
<tr>
<td>• One of South Vale CCG’s priorities is to develop dermatology services. A sub-committee has been asked to prepare a proposal for the development of dermatology services, for sign off at the CCG’s governing body.</td>
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<tr>
<td>• The proposal is independently developed by Clare Davies, a GP partner at Newtown Surgery, which is one of the CCG’s member practices. Dr Davies is not a member of South Vale CCG’s governing body or in any other way directly involved in the activities of the CCG.</td>
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<tr>
<td>• The sub-committee meets to discuss the proposal and agrees to submit it to the next governing body meeting for approval.</td>
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<td>• At the end of the sub-committee meeting, one of the member’s points out that Newtown Surgery would stand to gain if the proposals were approved, since Dr Davies specialises in dermatology services and her practice would be likely to win any tender to provide the new services.</td>
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<tr>
<td>• The sub-committee member is concerned that Dr Davies’ interests were not included on the CCG’s register of interests and had not been noted or discussed at the sub-committee meeting.</td>
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<tr>
<td>• The sub-committee meeting was brought to a close with an action, noted in the minutes, that the Chair would discuss the proposal and concerns with the CCG’s Chief Operating &amp; Accountable Officer and the Clinical Chair immediately after the sub-committee.</td>
<td></td>
</tr>
<tr>
<td>• After reviewing the situation, and discussing the matter with Dr Davies, the AO and Clinical Chair conclude that she did not deliberately breach the CCG’s policy on conflicts of interest, and decide that the sub-committee’s proposals should be put forward for approval by the CCG’s governing body as planned.</td>
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<table>
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<tr>
<th>Risks</th>
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<tbody>
<tr>
<td>• Dr Davies has a <em>direct financial interest</em> in the proposal as a GP partner within Newtown surgery, which is a potential provider of the new dermatology services if the proposal goes ahead.</td>
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<tr>
<td>• If this conflict of interest is not appropriately declared and managed, there will be a risk (whether actual or perceived) that any decision by South Vale CCG’s Governing Body to approve the</td>
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</table>
proposals has been inappropriately influenced by the interests of one of its member practices over and above the interests of other potential providers. This could lead to costly challenges later on by other potential providers.

- There is a risk of loss of public confidence and trust in the CCG as a result, as well as a risk of challenge from other potential providers.
- There is a risk of harm to Dr Davies’ own personal reputation, and to the reputation of the CCG by not having declared her financial interest in the matter.

<table>
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<tr>
<th>Actions to consider</th>
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<tbody>
<tr>
<td>- Although Dr Davies is not a member of South Vale CCG’s governing body or otherwise directly involved in the business of the CCG, she is a GP partner at one of the member practices and she has become involved in the development of dermatology services. This means she should have declared her interests in the CCG’s register of interests and at any meeting where she was present and this topic was discussed.</td>
</tr>
<tr>
<td>- The CCG should consider whether it was appropriate for the AO and Clinical Chair to deal with the concerns regarding conflicts of interest. The matter should have been referred to the CCG’s Head of Governance and, if necessary, the Conflicts of Interest Guardian.</td>
</tr>
<tr>
<td>- The CCG’s governing body should overturn the AO and Clinical Chair’s decision to put the proposals forward at this stage to the governing body for approval, until assurance is received that Dr Davies’ conflict of interest has been appropriately declared and managed.</td>
</tr>
<tr>
<td>- As the proposal was allowed to progress to the governing body, even though the interest of Dr Davies was known, this incident would constitute a breach and the CCG should manage the breach in accordance with its conflicts of interest policy and publish anonymised details of the breach on its website. The CCG will also need to record the breach as part of its Improvement and Assessment Framework quarterly return for the probity and corporate governance indicator.</td>
</tr>
<tr>
<td>- In this case, the appropriate management of the conflict of interests should include ensuring that:</td>
</tr>
<tr>
<td>- The CCG has clear and objectively justifiable reasons for wishing to develop dermatology services, based, for example, on needs assessments and appropriate patient engagement, and that these are recorded in writing.</td>
</tr>
<tr>
<td>- Dr Davies’ financial interest as a partner within a GP practice is recorded in the CCG’s register of interests.</td>
</tr>
</tbody>
</table>
• The interests of Dr Davies’ fellow partners at Newtown Surgery should also be declared and appropriately managed. For example, the partners should also not be involved in any decisions to commission the dermatology service, given that their practice is a potential provider.
• Other specialists and/or potential providers of dermatology services have been involved in the development of the proposals.
• The proposals have been subject to appropriate scrutiny, public and stakeholder engagement, and that any new services are commissioned by the CCG in accordance with procurement rules.

• If Dr Davies has not already done so, she should undertake training on conflicts of interest which should include, as a minimum, the mandatory online training offered by NHS England.
Managing conflicts of interest: Service Planning and Design Case Study

C2: Development of an alternative scheme to the Quality and Outcomes Framework (QOF)

| Context | • Edward Fellows, clinical lead of West Town CCG, presents a business case for an alternative scheme to the Quality and Outcomes Framework (QOF) at the CCG’s Primary Care Commissioning Committee (PCCC). Dr Fellows is enthusiastic about the new scheme and believes it will significantly drive up the quality of care.

• The business case involves maintaining payments to practices for the achievement of national QOF scheme indicators, and paying practices additional monies for meeting indicators in the new local scheme. Dr Fellows explains that he has developed the proposed new scheme by working with practice managers in GP practices from across the CCG. If the proposal goes ahead, existing providers would need to opt into the new scheme.

• The business case states that engagement has taken place with member practices and that this engagement has informed the proposal. However, during the discussion at the PCCC, it becomes apparent that this engagement comprised a series of informal discussions with a select number of practice managers, whom the clinical lead knows well. |

| Risks | • There are various risks in this scenario beyond conflicts of interest management. These relate to procurement, the apparent lack of patient engagement and the risk of challenge if there is any suggestion that participating practices may be paid twice for meeting the same outcomes (via QOF and the new scheme).

• Dr Fellows has an indirect financial interest. There is a risk (whether actual or perceived) that he may have favoured the financial interests of close associates over the interests of other potential providers when developing the plans.

• There is a risk of loss of public confidence and trust in the CCG as a result, as well as challenge from the other potential providers if the conflicts of interest are not managed appropriately.

• There is also a risk that Dr Fellows’ personal reputation will be damaged if his interests are not appropriately declared and managed. |
<table>
<thead>
<tr>
<th>Actions to consider</th>
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<tbody>
<tr>
<td>• It seems unlikely there will be a reason which justifies engagement with only a limited number of potential providers, just because they are personally well known to Dr Fellows. Consequently the PCCC should not approve the business case.</td>
</tr>
<tr>
<td>• The PCCC (led by the Chair) should consider what remedial steps are required in order to ensure that a fair and transparent decision is taken and can be evidenced. This may include appointing a non-conflicted individual to assist with a wider engagement process and ensuring that the proposals have been subject to appropriate scrutiny, public and stakeholder engagement and are in accordance with procurement rules (where applicable).</td>
</tr>
<tr>
<td>• The minutes of the PCCC should record this decision, and minutes of subsequent meetings should make clear who was involved in the discussions, any conflicts of interest and how these were managed in the decision-making process.</td>
</tr>
<tr>
<td>• If the interests of Dr Fellows have been declared and recorded on the register of interest, and the PCCC undertakes remedial steps including the suggested actions stated above, then this would not constitute a material breach as action would have been taken to manage the conflict of interest at an early stage.</td>
</tr>
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Managing conflicts of interest: Procurement Case Study

D1: Re-procurement of an Alternative Provider Medical Services Contract (APMS) in a delegated CCG

- In January 2015, NHS England began to consider options for the re-procurement of an APMS\(^1\) contract for services currently provided by Rose Medical practice. The existing contract was due to expire in September 2016.

- South Eastern CCG implemented delegated commissioning from 1 April 2015. The CCG’s Primary Care Commissioning Committee (PCCC) established a sub-group to review the procurement options in respect of this contract and to recommend a way forward to the PCCC. The members of this sub-group include the locality clinical lead, Dr Yasmin Bindari. Dr Bindari is a GP in one of the CCG’s member practices, Middle Castle Medical Centre.

- At the first meeting of the sub-group, the following procurement options were discussed:
  - Re-procurement of the APMS services;
  - Dispersal of the registered patient list to other GP practices in the vicinity of Rose medical practice who currently hold the contract; and
  - Direct award of the contract to a new provider without running a procurement process, i.e. a non-competitive “single tender waver”.

- At the first meeting of the sub-group, Dr Bindari declares an interest, but states that the practice she works for has no intention of bidding for these services, if it is agreed to procure them.

- Dr Bindari fails to declare that she has a close friend who works as a GP at another member practice (they went to medical school together, attend the same yoga class, their husbands are friends, their children attend the same school and the two families often socialise together), who is very interested in bidding for the service should it be re-procured. Dr Bindari has never declared this friendship because she claims she was not aware that she needed to do so.

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\(^1\) Alternative Provider Medical Services (APMS) contract: this is a contractual route for commissioning primary medical services. It allows the commissioner to contract with ‘any person’ e.g., private sector, voluntary and not-for-profit providers of general medical services, as well as GP practices, NHS trusts and foundation trusts.
<table>
<thead>
<tr>
<th><strong>Risks</strong></th>
<th><strong>Actions to consider</strong></th>
</tr>
</thead>
</table>
| • Dr Bindari has an *indirect financial interest* because her close friend may benefit financially depending on which procurement option is recommended by the sub group.  
• There is a risk of loss of public confidence and trust in the CCG as a result, as well as a risk of challenge from the other potential providers if the conflicts of interest are not managed appropriately.  
• There is a risk that Dr Bindari’s personal reputation will be damaged if her interests are not appropriately declared and managed. | • Dr Bindari should declare her *indirect financial interest* and this information should be included in the CCG’s conflict of interest register and within the minutes of the sub-group’s meetings.  
• The sub-group, led by the Chair, should decide how to manage this conflict of interest. It may be justifiable to allow Dr Bindari (having appropriately declared her interests) to remain part of the sub-group during the initial deliberations, but to require her to withdraw and play no part in the decision-making process on which option to recommend. However, the more prudent option would be to require her to withdraw from the sub-group altogether since its primary purpose is to develop a procurement options appraisal.  
• The decision and the rationale for the decision and (if relevant) the times at which Dr Bindari leaves/re-joins the sub-group’s meeting(s), should all be clearly recorded in the minutes.  
• The PCCC should review the minutes of any previous sub-group meetings and consider whether Dr Bindari’s *indirect financial interest*, arising due to her close friendship with one of the GPs at another surgery, may have impacted on any previous decisions so that the PCCC can consider whether any remedial action needs to be taken.  
• Dr Bindari should be reminded that the interests of close friends can put individuals in a position of being conflicted. If Dr Bindari has not undertaken the mandatory online training on the management of conflicts of interest, she should do so as soon as possible.  
• The CCG should also consider, with advice from the Head of Governance and the Conflicts of Interest Guardian, whether, under its conflicts of interest policy, disciplinary action would be appropriate. |
## Managing conflicts of interest: Procurement Case Study

### D2: Re-procurement of out-of-hours services

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<tr>
<th>Context</th>
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<tr>
<td>• North Western CCG has commenced a re-procurement exercise for out-of-hours (OOH) services in its area. The CCG has established a programme board which reports to the CCG governing body.</td>
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<td>• The programme board’s membership comprises an out-of-county GP with experience of delivering OOH services, a secondary care consultant, a community nurse and three senior managers from across the CCG. The out-of-county GP was invited to join the programme board to ensure there was appropriate clinical input, as all North Western CCG’s GPs were conflicted.</td>
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<td>• On appointment, two members of the programme board declared the following interests:</td>
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<tr>
<td>• Mina Patel, a senior manager who works within the CCG’s engagement and inclusion team, is married to a registered paramedic who is employed by North Western Ambulance Service, which is a potential bidder;</td>
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<tr>
<td>• Kate Lloyd, a manager who is the CCG’s strategy lead, declares that her mother is the clinical director for a social enterprise, Ivy Medical, which may also be a potential bidder.</td>
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<tr>
<td>• The programme board plans to establish an evaluation panel that will make recommendations on the preferred bidder. A paper setting out the programme board’s preferred bidder will be submitted to the CCG’s governing body for a final decision.</td>
</tr>
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<tr>
<th>Risks</th>
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<tbody>
<tr>
<td>• Mina Patel has an <em>indirect financial interest</em>. Whilst it may be unlikely that her husband has any decision-making influence within the North Western ambulance service, there could at the very least be a perception of a conflict of interest.</td>
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<tr>
<td>• Kate Lloyd also has an <em>indirect financial interest</em> as her mother is a senior decision maker within a potential provider, which is likely to have a financial interest in potential new work.</td>
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<tr>
<td>• Because of the nature of the services, a number of the members of the CCG’s governing body are likely to have <em>direct financial interests</em> in the procurement of these services.</td>
</tr>
<tr>
<td>• There is a risk of loss of public confidence and trust in the CCG, as well as challenge from providers, if the interests of Mrs Patel and Ms Lloyd and the members of the governing body are not appropriately declared and managed.</td>
</tr>
</tbody>
</table>
- There is a risk that the personal reputation of those with potential conflicting interests will be damaged if those interests are not appropriately declared and managed.

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<tr>
<th>Actions to consider</th>
<th>At programme board meetings:</th>
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<tr>
<td></td>
<td>If Ivy Medical intends to bid for the OOH contract, Ms Lloyd should leave the programme board, as it seems unlikely she would be able to participate meaningfully in the business of the board.</td>
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<td>If Ivy Medical does not intend to bid for the contract and confirms this in writing, then Ms Lloyd should be permitted to stay on the programme board.</td>
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<td>Mrs Patel should be allowed to remain on the programme board, provided her interests are appropriately declared and managed. Possible options to help manage her conflict of interests could include:</td>
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<td>• requiring her to sign a confidentiality agreement which prevents her from disclosing any confidential information regarding the OOH procurement to her husband;</td>
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<td>• ensuring that she is not part of the evaluation panel that makes recommendations to the programme board on the preferred bidder.</td>
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<td>At governing body meetings (where updates on the procurement are provided to a wider CCG audience which includes GPs):</td>
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<td>• In advance of the meeting, the Chair of the governing body should ensure that any papers about the OOH procurement, not in the public domain, are not circulated to conflicted members. It is important to discuss this with the secretariat so that there is clarity on who should receive the papers in advance of them being issued.</td>
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<td>• It is important that all CCG staff are trained in the management of conflicts of interest and understand how it impacts upon their role. For those providing administrative support to the governing body and sub-groups, they need to understand why some papers may be withheld from certain members for particular agenda items or whole meetings.</td>
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<td>• If the meeting is held in public, the agenda should clearly state the purpose of the item and nature of the expected discussion. The CCG should ensure it is made available to the public in advance, so any other potential providers have the opportunity to attend the meeting.</td>
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</tbody>
</table>
|                     | • If the meeting is held in public, the Chair should ask the conflicted GPs to leave the meeting when this item is discussed, but there would be nothing in these circumstances to stop the GPs from
joining the audience as members of the public, since the discussions and the subsequent minutes will be in the public domain. The time at which they left (and returned to) the meeting as governing body members (rather than members of the public) should be recorded in the minutes.

- If confidential information regarding the procurement is under discussion then that part of the meeting should be held in private. Again, the Chair should ask the conflicted individuals to leave the meeting, and the time at which they left (and returned to) the meeting should be recorded in the minutes.

- An alternative to requiring the programme board to report into the CCG’s governing body would be to consider whether it could report to the Primary Care Commissioning Committee instead. However, the CCG’s governing body would need to check and (if necessary) amend the terms of reference/scheme of delegation for the PCCC to ensure that it has the appropriate authority before proceeding, as the commissioning of OOH services does not fall within the PCCC’s normal remit.
### Managing conflicts of interest: Procurement Case Study

#### D3: A procurement challenge

| Context | • Midshire CCG has recently awarded a contract for a new primary care mental health service to a federation of GP practices, the Shire Federation.  
• The contract was awarded following a six month procurement process. The process was overseen by a small project group. The project group was chaired by Midshire CCG’s contract lead for mental health services and included two other CCG managers and a mental health nurse.  
• The procurement process included an engagement exercise, the development of a specification, an invitation to tender, evaluation of bids against agreed criteria and ratification of the final decision by the governing body.  
• Midshire CCG receives a challenge from a voluntary sector organisation, Bluebell, who felt that the CCG had favoured the federation. Bluebell has seen that the CCG’s register of interests includes a declaration by one of the CCG’s governing body members, Dr Myra Nara, that she is a shareholder in Shire Federation. Bluebell alleges that the CCG has favoured the federation in its decision-making process.  
• Dr Nara was not a member of the project group that oversaw the procurement exercise, but the governing body did receive regular updates on the procurement exercise, signed off the specification and approved the decision to award the contract to the federated GP practices.  
• A review of the procurement process is undertaken by Midshire CCG’s governance lead. This includes a review of the governing body’s minutes. Whilst Dr Nara’s interests are noted in the minutes, they do not detail the full nature of the conflict of interest, who was involved in the discussions or how the conflict was managed. There is no evidence that the situation was managed in line with the CCG’s policy on conflicts of interest.  
• During the review, it becomes apparent that the CCG’s governance lead has not sent any reminders regarding updates to the register of interests for the last ten months. |

| Risks | • Dr Nara has a direct financial interest in the outcome of the procurement because of her role in the Shire Federation. |
- Even if the CCG has undertaken a robust procurement exercise and fully adhered to its conflicts of interest policy, there is insufficient evidence to prove this in its documentation.

- As the register of interests has not been updated in ten months, there is a risk that it does not contain the latest information on declared interests, which could have an impact upon decision-making processes.

- As well as the risk of challenge from other bidders (which has materialised in this case), there is a risk of loss of public confidence and trust in the CCG and a risk of damage to Dr Nara’s professional reputation if the conflicts of interest are not appropriately managed.

### Actions to consider

- The CCG’s Conflicts of Interest Guardian, supported by the CCG governance lead, should interview governing body members to confirm how the conflicts were managed at this particular meeting.

- If satisfactory assurance cannot be obtained that conflicts were dealt with appropriately at the governing body meetings, including clear evidence that:
  - Appropriate safeguards were in place to prevent Shire federation from gaining an unfair advantage by having access to confidential information in relation to the procurement; and
  - Dr Nara was not involved in any decision or deliberations leading up to a procurement decision regarding the award of the contract to the federation;

  then it is likely the procurement exercise would need to be rerun to ensure that a fair and transparent process is carried out. This would be at additional cost to the CCG and would likely delay service delivery.

- If a breach is identified, Midshire CCG must publish it on their website and should also consider potential disciplinary action in accordance with its conflicts of interest policy.

- Although it is an individual’s responsibility to ensure that they declare relevant interests promptly (and in any event within 28 days of the interest arising), the CCG’s Head of Governance should put systems in place to ensure that Midshire CCG’s register of interests is accurate and up-to-date, including requiring declarations of interest (or nil returns) from all relevant individuals at least every six months.
Managing conflicts of interest: Demand Management Case Study

E1: Breach of powers for financial gain

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<th>Context</th>
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<td>• Uptown CCG has a growing waiting list for a number of minor surgery procedures.</td>
<td>• In a confidential governing body meeting, the governing body agree to make one-off payments to private providers to reduce the waiting list. This information is not yet public.</td>
<td>• Following the meeting, Oswald Price, a GP governing body member who was present at the meeting, arranges for letters to be sent to his patients on the waiting list, informing them of a small list of private providers that can offer the service immediately. At the top of the list is Tallom Health Limited, a private business of which Dr Price is a director.</td>
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<tr>
<td>• Dr Price does not inform the patients that he is a director of Tallom Health Ltd., and presents the information in a way that steers the patient to choose Tallom Health Ltd., over the other providers listed.</td>
<td>• Dr Price had previously declared his directorship of Tallom Health Ltd. to the CCG and this is recorded in the CCG’s register of interests. However, he did not declare this interest again at the governing body meeting.</td>
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<th>Risks</th>
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<tr>
<td>• Dr Price has a <strong>direct financial interest</strong> in Uptown CCG’s decision to use private providers to help reduce waiting lists. A failure to properly declare and manage this interest could damage the reputation of the CCG, Dr Price and his GP practice, and his attempts to steer his NHS patients towards Tallom Health Ltd. could lead to challenges from other providers.</td>
<td>• Dr Price is in significant breach of the CCG’s conflicts of interest policy by having used his position for financial gain. This could damage the reputation of the GP, the practice and the CCG. It could damage public trust and weaken patients’ confidence in the independence of healthcare professionals.</td>
<td>• There is a potential risk that an offence of fraud has been committed under section 3 of the Fraud Act 2016 (fraud by failing to disclose information) or section 4 (fraud by abuse of position).</td>
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<tr>
<td>• If the other GPs and staff in the practice are not aware of the GP’s actions, this may result in damage to the practice as a business</td>
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and impact upon the trust and relationships with his colleagues.

- There are also other issues for the CCG and the practice need to consider apart from conflicts of interest, including potential breaches of:
  - The Privacy and E-Communications Regulations 2003;
  - The Data Protection Act by not informing patients that he is a director of the business;

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<tr>
<th>Actions to consider</th>
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<tr>
<td>Dr Price should have declared his interest prior to, or during, the governing body meeting and he should have taken no part in the decision to use private providers to reduce the waiting lists, or in any of the discussions leading up to this decision. His failure to do so, in conjunction with his attempt to use his position for personal financial gain, constitutes a serious breach of the CCG’s conflicts of interest policy.</td>
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<tr>
<td>The CCG should consult their policy on counter fraud and seek advice from their local counter fraud specialist. If fraud is suspected, the CCG should refer the case immediately to NHS Protect, so as not to prejudice any potential investigation. This should form part of the CCG’s section on breaches within their conflicts of interest policy.</td>
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<tr>
<td>Uptown CCG, with guidance from its Conflicts of Interest Guardian, should consider what steps need to be taken in light of this serious breach. This is likely to include issues in relation to procurement law, data protection law, communication with the affected patients, notification to NHS England, and disciplinary action against Dr Price by the CCG and regulatory bodies.</td>
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<tr>
<td>Once the counter fraud specialist and/or the CCG’s Director of Finance has informed the CCG it is safe to do so, the CCG must publish anonymised information about the breach on their website.</td>
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<tr>
<td>The CCG will also need to include the breach as part of their Improvement and Assessment Framework quarterly return for the probity and corporate governance indicator.</td>
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## Managing conflicts of interest: Contract Management Case Study

### F1: Monitoring of voluntary sector contracts

| Context | Amit Bal, senior contract manager for Downswood CCG, leads all contract monitoring meetings for voluntary and community sector organisations which deliver small and grant funded contracts.
|         | At an event in the community, a representative from a small voluntary sector organisation seeks out the CCG’s Chief Operating & Accountable Officer to complain that the CCG unfairly favours one particular voluntary sector service, the Hawthorn Care & Support Centre. They imply that the poor quality of the Hawthorn service is consistently overlooked.
|         | The AO discusses this complaint with Mr Bal. During this discussion Mr Bal discloses that he is married to the Business and Development manager of the Hawthorn Care & Support Centre. He states that he has not declared this information to the CCG as he did not think it was important given the relatively small scale of the services provided by Hawthorn Care and Support Centre and the fact that no payments apart from reimbursement of expenses are made to Hawthorn by the CCG.
| Risk    | Mr Bal has an *indirect, financial personal interest* which he should have declared. It is irrelevant that the service is a voluntary sector provider: there is still a conflict of interest which should be managed so as to avoid the risk (whether actual or perceived) that he has inappropriately influenced the decision-making process for the award of contracts or grants to the third sector.
|         | There is a risk that Mr Bal’s interest could have, or have been perceived to have, impacted upon his contract monitoring role.
|         | There is a potential damage to the CCG’s and Mr Bal’s reputation, risk of challenge by other potential providers and loss of confidence by other organisations and the public in the probity and fairness of commissioners’ decisions.
| Actions to consider | Mr Bal’s interest should be recorded in the CCG’s register of interests.
|         | Mr Bal should not be involved in any decisions, or discussions leading up to decisions, relating to any services which are or may be provided by Hawthorn Care & Support Centre.
- Mr Bal should not take part in contract management meetings with Hawthorn Care & Support Centre.

- In light of the allegation which has been made to the Chief Operating & Accountable Officer and Mr Bal’s failure to declare his interests, a non-conflicted manager should review:
  - the performance of Hawthorn Care & Support Centre against the contract and identify any necessary actions;
  - all contracts or grants awarded to Hawthorn Care & Support Centre to identify who was involved in the process;
  - whether there is any risk that conflicts of interest could have been inappropriately managed.

- Depending on the outcome of the review, the CCG, advised by its Conflicts of Interest Guardian, should consider whether any disciplinary action is required, and whether the breach should be published on the CCG’s website.

- If the contract manager has not undertaken the mandatory online training on managing conflicts of interest, they should do so.
Managing conflicts of interest: Recruitment Case Study

G1: Recruitment of patient representatives with a conflict of interest

<table>
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<tr>
<th>Context</th>
<th>A member of the public, Sarah Thomas, applies to be a patient representative on North County CCG’s service user group, following a recent advert for new members.</th>
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<tbody>
<tr>
<td></td>
<td>• Ms Thomas works for a consultancy company, Pinewood Services Ltd., which provides services to several providers who hold contracts with the CCG.</td>
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<td>• Pinewood Services Ltd. may also become a provider in an impending procurement.</td>
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<tr>
<td>Risks</td>
<td>• Ms Thomas has an <em>indirect financial interest</em> because Pinewood Services Ltd. stands to gain financially from any contracts which have been, or are in future, awarded by the CCG to providers who are clients of the consultancy company.</td>
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<td></td>
<td>• She also has a <em>direct financial interest</em> in light of Pinewood Services Ltd. participation in the forthcoming procurement process, which may result in the company becoming a provider of services directly to the CCG.</td>
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<td></td>
<td>• If Ms Thomas becomes a member of the CCG’s service user group, then any failure to declare and appropriately manage these interests will lead to a risk (whether actual or perceived) that the group carries out its functions in a way which favours the interests of Pinewood Services Ltd. and/or its clients over and above the interests of other providers. This could lead to costly challenges later on by other potential providers.</td>
</tr>
<tr>
<td>Actions to consider</td>
<td>• Before appointment to any role within the CCG, an applicant should be given a form to enable them to declare any interests.</td>
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<td></td>
<td>• North County CCG will need to consider whether Ms Thomas could effectively fulfil the role she has applied for, if steps are taken to manage the conflict of interests.</td>
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<td></td>
<td>• The steps required to manage Ms Thomas’ conflict of interests are likely to involve excluding her from participating in any meetings of the service user group where Pinewood Services Ltd., or any of its clients, or any services provided by them, are under discussion. If, as a result, she was unable to actively participate in many of the group’s discussions, then the CCG should consider not appointing her to this role.</td>
</tr>
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</table>
• If the CCG does appoint her, her interests should be recorded in the CCG’s register of interests and should be declared at all relevant meetings of the service user group.

• The CCG should request declarations of interest during the recruitment process and give advice to recruiting managers on how to manage any conflicts of interest which become apparent. This could include providing advice on when and why someone would be excluded from appointments due to conflicts of interest.
## Managing conflicts of interest: Gifts and Hospitality Case Study

### H1: Attendance at a provider funded event

<table>
<thead>
<tr>
<th>Context</th>
<th>South CCG’s procurement lead Uriah Vadis is invited to an all-day seminar hosted by Daisychain Systems Ltd., which is the CCG’s current IT provider. The seminar is about how technology can deliver improvements in healthcare.</th>
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<td></td>
<td>• A modest buffet lunch is to be provided at the seminar itself, but existing clients of the IT provider, including Mr Vadis, have additionally been invited to an evening dinner consisting of a 4-course meal at a locally renowned restaurant.</td>
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<tr>
<td>Risks</td>
<td>• The acceptance of hospitality could give rise to real or perceived conflict of interests, or accusations of unfair influence, collusion or canvassing with providers.</td>
</tr>
<tr>
<td>Actions to consider</td>
<td>• Mr Vadis should consider whether he can demonstrate that attendance at the seminar and/or the evening dinner would benefit South CCG or the wider NHS. Particular caution should be applied in this case because Daisychain Systems Ltd. is an existing supplier to South CCG. Advice should be sought from a senior manager within the CCG where there is any doubt on what action to take.</td>
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<td>• Given the generic title of the seminar, there may be clinical leads within the CCG who would gain more from attendance than the procurement lead.</td>
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<td>• Provision of a modest buffet lunch to attendees at the seminar is likely to be acceptable if it is on a similar scale to that which the CCG might offer in similar circumstances.</td>
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<td>• Acceptance of the evening dinner invitation is unlikely to be appropriate as it is neither proportionate nor of benefit to the CCG.</td>
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<td>• If the event is close to a potential re-tendering of IT services, then extreme caution should be applied when considering whether or not any representatives from the CCG, especially the procurement lead, should attend. If attendance is favoured then strong consideration should be given to attending similar events offered by other IT suppliers, to avoid accusations of favouring one supplier over another.</td>
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</table>
| | • Should Mr Vadis decides to attend the seminar and buffet lunch
(providing it is deemed to constitute only modest and proportionate hospitality), but to politely decline the evening meal invitation:

- The invitation to attend the seminar (including lunch) will need to be declared and recorded on the CCG’s gifts and hospitality register.

- Refusal of the evening meal invitation should be declared and registered on the CCG’s gifts and hospitality register.