

**NHS Waltham Forest  
Clinical Commissioning Group  
Standards of business conduct and the  
management of conflicts of interest policy**

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### Document History

Version	Approved	Date
Ist Published	WFCCG Executive Management Team	July 2013
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## 1.0 Introduction to the Policy

### 1.1 Introduction

This policy sets out the standards of business conduct that applies to the individuals working for and on behalf of NHS Waltham Forest Clinical Commissioning Group (CCG) including the CCG's management of conflicts of interest in accordance with clause 8.1.2 of the CCG's constitution. The aim of this policy is to provide transparency and assurance that both the CCG and the individuals involved in the CCG are free from any appearance of impropriety and to demonstrate transparency to the public and other interested parties.

### 1.2 Standards of Business Conduct

The main function of the governing body of the CCG (the Governing Body) is to ensure that the CCG has made appropriate arrangements for ensuring that it complies with its obligations to exercise its functions effectively, efficiently and economically and in the generally accepted principles of good governance. Therefore the Governing Body will ensure that the CCG 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 and protecting the NHS, the CCG and individuals from any appearance of impropriety.

This policy applies to employees of the CCG, member practices and their employees, members of the Governing Body, or a member of a committee or a sub-committee of the CCG or other third parties acting on behalf of the CCG, including suppliers, contractors and temporary staff.

People contracted to provide services or facilities directly to the CCG are subject to the same requirements as this policy and the requirements will be set out in the contract for their services.

The policy should be read in conjunction with the following documents to the extent applicable and relevant, which also set out generic guidelines and responsibilities for NHS organisations and General Practitioners in relation to good governance and conflicts of interests:

- Standards for Members of NHS Boards and Clinical Commissioning Group Governing Bodies in England
- The Good Governance Standard for Public Services
- Code of conduct for NHS Managers 2002
- NHS Code of Conduct and Code of Accountability, 2004
- The Healthy NHS Board: Principles for Good Governance
- General Medical Council: Good Medical Practice 2006
- Code of Conduct: Managing conflicts of interest where GP practices are providers of CCG commissioned services (NHS Commissioning Board, July 2012)
- The Healthy NHS Board: Principles for Good Governance
- General Medical Council: Good Medical Practice 2006
- NHS Code of Confidentiality
- Managing Conflicts of Interest – Technical Appendix 1, 2 February 2012 (Towards Establishment:

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- Creating responsive and accountable clinical commissioning groups)
  - GMC Managing Conflicts of Interests
  - The Bribery Act 2010

All individuals must carry out their duties in accordance with the CCG's Constitution, Standing Orders, Scheme of Reservation and Delegation and Prime Financial Policies. These set out the statutory and governance framework in which the CCG operates and there is considerable overlap between the contents of this policy and provision made within these. Individuals must at all times refer to and act in accordance with the Constitution, Standing Orders, Scheme of Reservation and Delegation and prime financial policies to ensure CCG processes are followed. The requirements of the CCG's constitution, Standing Orders, Scheme of Reservation and Delegation shall prevail over requirements of this policy in the event of any conflict.

The CCG will ensure that all employees and decision-makers are aware of the existence of this policy. Staff should also refer to their respective professional codes of conduct relating to the declaration of conflicts of interest.

### 1.3 Policy Statement

This policy supports a culture of openness and transparency in business transactions. All employees and appointees of the CCG are required to:

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

The CCG will view instances where this policy is not followed as serious and may take disciplinary action against individuals as appropriate, which may result in dismissal from employment or removal from elected positions.

This policy is approved by the Governing Body following periodic review and update or following changes to statutory guidance. Responsibility for incorporating necessary updates to this policy is through the CCGs Head of Governance.

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## 2.0 Principles

As an integral part of its standards of business conduct and in its management of conflicts of interest, the CCG respects the seven principles of public life promulgated by the Nolan Committee and the seven key principles of the NHS Constitution;

- The Seven Principles of Public Life (commonly known as the Nolan Principles):
  - Selflessness
  - Integrity
  - Objectivity
  - Accountability
  - Openness
  - Honesty
  - Leadership.
  
- The Seven Key Principles of the NHS Constitution:
  - The NHS provides a comprehensive service, available to all
  - Access to NHS services is based on clinical need, not an individual's ability to pay
  - The NHS aspires to the highest standards of excellence and professionalism
  - The patient will be at the heart of everything the NHS does
  - The NHS works across organisational boundaries
  - The NHS is committed to providing best value for taxpayers' money
  - The NHS is accountable to the public, communities and patients that it serves

Additionally, in order to support the management of conflicts of interest, WFCCG will:

- Do business appropriately:
  - Ensure that the rationale for all decision-making is clear and transparent and able to withstand scrutiny;
- Be proactive, not reactive:
  - Seek to identify and minimise the risk of conflicts of interest at the earliest possible opportunity by;
    - Considering potential conflicts of interest when electing or selecting individuals to join the governing body or other decision making bodies;
    - Ensuring individuals receive proper induction and training so that they understand their obligations to declare conflicts of interest;
    - Agreeing in advance how a range of possible conflicts of interest situations and scenarios will be handled, rather than waiting until they arise.
- Be balanced and proportionate:
  - Setting rules that are clear and robust but not overly prescriptive or restrictive and ensuring that decision making is transparent and fair whilst not being overly constraining, complex or cumbersome.
- Be transparent:
  - Documenting clearly the approach and decisions taken at every stage in the commissioning cycle so that a clear audit trail is evident.
- Create an environment and culture where individuals feel supported and confident in declaring relevant information and raising any concerns.

## 3.0 Definition of an Interest

### 3.1 Definition of an interest

An individual does not need to exploit his or her position or obtain an actual benefit, financial or otherwise, for a conflict of interest to occur.

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

A conflict of interest may be:

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

Staff may hold interests for which they cannot see potential conflict. However, caution is always advisable because others may see it differently. It will be important to exercise judgement and to declare such interests where there is otherwise a risk of imputation of improper conduct. The perception of an interest can be as damaging as an actual conflict of interest.

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

### 3.2 Types of interest

Interests can be captured in four different categories. A benefit may arise from the making of a gain or the avoidance of a loss:

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

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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
- 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
- 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

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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;
- 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.

The CCG recognises that:

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

## 4.0 Declaring conflicts of interest

### 4.1 Statutory requirement

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

### 4.2 Responsibilities to declare conflicts of interests

The CCG must avoid situations where there may be a potential conflict of interest. Therefore, as is required by section 14O of the 2006 Act, the CCG has arrangements in place to manage conflicts and potential conflicts of interest in order to ensure that decisions it makes are taken, and are seen to be taken, without any possibility of the influence of external or private interest.

The CCG needs to be aware of all situations where an individual has interests outside of his / her Contract of Employment or other involvement with the CCG, where that interest has potential to result in a conflict of interest between the individual’s private interests and their CCG duties.

All decision-makers (ref para 5.3 below) must declare relevant and material interests to the CCG upon appointment, when a new conflict of interest arises, on changing role, responsibility or circumstances, or, upon becoming aware that the CCG has entered into, or proposes entering

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into, a contract in which they or any person connected with them has any financial or material interest, either direct or indirect.

It is the responsibility of all individuals to familiarise themselves with this policy and comply with the provisions set out in it. It is the responsibility of all individuals to ensure that they declare a potential conflict between their private interests and their CCG duties. If any individual has an interest, or becomes aware of an interest, which could lead to a conflict of interests in the event of the CCG considering an action or decision in relation to that interest it will be considered as a potential conflict.

For the removal of doubt this means that if an individual has a conflict of interest he/she must not be involved in procuring, tendering, managing or monitoring a contract in which as an individual associated with the CCG he/she, or may have, an interest.

### 4.3 Declaring conflicts of interest

The Governing Body will ensure that for every interest declared, either in writing or oral declaration, arrangements are in place to manage the conflict of interest or potential conflict of interests, to preserve the integrity of the CCG's decision making process in accordance with clause 8.4.2 of the CCG's constitution.

Individuals will declare any interest that they have, in relation to a decision to be made in the exercise of the commissioning or any other functions of the CCG, in writing to the Governing Body, as soon as they are aware of it and in any event no later than 28 days after becoming aware.

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

Where an individual member, employee or person providing services to the CCG is aware of an interest which:

- a) has not been declared either in the register or orally they will declare this at the start of the meeting, or
- b) has previously been declared in relation to the scheduled or likely business of the meeting,

Then the individual concerned will bring this to the attention of the chair of the meeting, together with arrangements which have been confirmed with the Accountable Officer for the management of the conflict of interest or potential conflict of interest.

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

At least annually, staff will be prompted to update their declarations of interest, or make a nil return where there are no interests or changes to declare.

Individual declarations of interest are recorded on the 'Declarations of conflicts of interest for CCG members and employees' form at Appendix 1.

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Examples of scenarios relating to the declarations of conflicts of interest are presented at Appendix 7

## 5.0 Registers of conflicts of interest

### 5.1 Statutory Requirement

CCGs must maintain one or more registers of interest of: the members of the group, members of its governing body, members of its committees or sub-committees of its governing body, and its employees. CCGs must publish, and make arrangements to ensure that members of the public have access to these registers on request.

### 5.2 Registering Conflicts of Interest

The CCG holds and maintains a register of conflicts and potential conflicts of interest for:

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

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

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

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

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

GPs and other staff within the CCG's member practices are not required to declare offers/receipt of gifts and hospitality to the CCG which are unconnected with their role or involvement with the CCG.

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The Association of the British Pharmaceutical Industry (ABPI), <http://www.abpi.org.uk/our-work/disclosure/Pages/DocumentLibrary.aspx>, have a register of payments (incentives and/or expenses), on a named basis. This register will be cross checked every 6 months (April and September) by the CCG's Medicines Optimisation Team with the CCG's conflicts of interest register in order to ensure that all conflicts are appropriately documented.

### 5.3 Publication of the CCGs Conflicts of Interest register(s)

The CCGs conflicts of interest registers are updated on annual basis (April), including nil- returns, and published as part of the CCG's Annual Report and Annual Governance Statement.

The CCG publishes its conflicts of interest register(s) for all decision making staff on its website and is publically available to all. Decision making staff for the CCG are defined as those groups of staff that have a material influence on how tax payers money is spent. These groups are:

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

The WFCCG Conflicts of Interest Register template is shown at Appendix 2.

## 6.0 Declarations of gifts and hospitalities –

### 6.1 Recording Gifts and Hospitalities

The CCG holds and maintains a register of gifts and hospitalities for all those individuals and groups identified in paragraph 5.2 above. Declarations of receipt of gifts and hospitality should be made as soon as reasonably practicable.

The CCG updates its Gifts and Hospitalities registers on an annual basis (April) and publishes the register(s) of all decision making staff (see para 5.3 above), on its website and is publically available to all.

The CCGs Gifts and Hospitalities registers is published as part of the CCG's Annual Report and Annual Governance Statement.

Gifts and Hospitalities are recorded and managed in line with the CCGs Gifts and Hospitalities and Sponsorship policy.

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All declarations of gifts and hospitalities are reported to the CCGs Director of Financial Strategy. Gifts and Hospitalities are recorded on the form as shown at Appendix 3.

## 6.2 Gifts

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

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 and recorded on the CCGs Gifts and Hospitalities register.

Gifts from suppliers or contractors doing business (or likely to do business) with the CCG should be declined, unless they are in the category of low cost branded promotional aids under the value of £6.

Modest gifts offered from other sources (e.g. patients, families, service users): under a value of £50 may be accepted and do not need to be declared. Gifts valued at over £50 should be treated with caution and only be accepted on behalf of an organisation (i.e. to an organisation's charitable funds), not in a personal capacity, and should be declared. Multiple gifts from the same source over a 12 month period should be treated in the same way.

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 declared and recorded on the register.

Any person(s) acting on behalf of the WFCCG who is associated with an organisation that forms, or is likely to form part of a contractual relationship with a host must declare this information on the WFCCGs declarations of interest register (also see 'Guidance for joint working with the pharmaceutical / commercial industry and sponsorship' issued by North and East London Commissioning Support Unit).

## 6.23 Hospitality

A blanket ban on accepting or providing hospitality is neither practical nor desirable from a business point of view. However, individuals should be able to demonstrate the acceptance or provision of hospitality would benefit the NHS or CCG.

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.

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

**Overarching principles:**

CCG staff should not ask for or accept hospitality that may affect, or be seen to affect, their professional judgement

Hospitality 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.

**Meals and Refreshments:**

Under a value of £25 may be accepted and need not be declared

Of a value between £25 and £75 may be accepted and must be declared

Over a value of £75 should be refused unless (in exceptional circumstances) senior approval is given. A clear reason should be recorded on an organisation's register(s) of interest as to why it was permissible to accept;

**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, 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)
- Offers of foreign travel and accommodation.

## 6.5 Sponsored - Events

Sponsorship of CCG 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 CCG 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.

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### **Overarching Principles:**

Sponsorship of CCG events by appropriate external bodies should only be approved if a reasonable person would conclude that the event will result in clear benefit for the CCG and the NHS

During dealings with sponsors there must be no breach of patient or individual confidentiality or data protection rules and legislation

No information should be supplied to the sponsor from which they could gain a commercial advantage, and information which is not in the public domain should not normally be supplied

At the CCG's discretion, sponsors or their representatives may attend or take part in the event but they should not have a dominant influence over the content or the main purpose of the event; The involvement of a sponsor in an event should always be clearly interest of transparency;

The CCG 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**

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 CCG particularly in relation to procurement and competition. In such situations it is important that transparency and any conflicts or potential conflicts are reported and well managed.

#### ***Working with the Pharmaceutical Industry***

Working closely with pharmaceutical companies in the name of improving drug efficacy and patient outcome is routine for GPs and commissioners alike. Representatives from these companies are likely to contact members and employees of the CCG to promote products or services, or to seek clinical expertise and input, and there are a number of pieces of legislation and guidance on how these relationships can operate. These documents are aimed at pharmaceutical companies as well as NHS personnel. Consult the Working for Industry Policy for further information.

## **7.0 Roles and responsibilities**

### **7.1 Appointing governing body or committee members**

On appointing governing body, committee or sub-committee members and senior staff, the CCG will consider whether conflicts of interest should exclude individuals from being appointed to the relevant role. This will be considered on a case-by-case basis against the general principles defined in the CCGs Constitution.

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

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

Any individual who has a material interest in an organisation which provides, or is likely to provide, substantial services to the CCG should recognise the inherent conflict of interest risk that may arise and should not be a member of the governing body or a committee or sub-committee of the CCG.

The CCG sets out in its constitution a statement of the conduct expected of individuals involved in the CCG. This reflects the expectations set out in the Standards for Members of NHS Boards and Clinical Commissioning Groups.

## 7.2 Conflicts of Interest Guardian

The role of the Conflicts of Interest Guardian is undertaken by the CCG's Audit Committee Chair, provided they have no provider interests.

The Conflicts of Interest Guardian is supported by the CCG's Head of Governance who has responsibility for the day-to-day management of conflicts of interest matters and queries, including maintenance of the CCGs declarations of interest registers.

The Conflicts of Interest Guardian:

- Acts as the conduit for members of the public who have any concerns with regards to conflicts of interest
- Is a safe point of contact for whistleblowing
- Supports the rigorous application of conflict of interest principles and policies
- Provides independent advice and judgment where there is any doubt about how to apply conflicts of interest policies and principles in an individual situation
- Provides advice on minimising the risks of conflicts of interest

Whilst the Conflicts of Interest Guardian has an important role within the management of conflicts of interest, executive members of the CCG's governing body have an on-going responsibility for ensuring the robust management of conflicts of interest, and all CCG employees, governing body and committee members and member practices have individual responsibility in playing their part on an ongoing and daily basis.

## 7.3 Primary Care Commissioning Committee Chair.

The Primary Care Commissioning Committee (PCCC) membership includes a lay chair and lay vice chair. To ensure appropriate oversight and assurance, and to ensure the CCG audit chair's position as Conflicts of Interest Guardian is not compromised, the audit chair will not hold the position of chair of the PCCC. This is because the CCG audit chair could be conflicted in this role due to the requirement that they attest annually to the NHS England Board that the CCG has:

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- Had due regard to the statutory guidance on managing conflicts of interest
  - Implemented and maintained sufficient safeguards for the commissioning of primary care.

The CCG audit chair can serve on the Primary Care Commissioning Committee, provided appropriate safeguards are put in place to avoid compromising their role as Conflicts of Interest Guardian. Ideally the CCG audit chair will also not serve as vice chair of the PCCC. However, if this is required due to specific local circumstances, this will be clearly recorded and appropriate further safeguards put in place to maintain the integrity of their role as Conflicts of Interest Guardian in circumstances where they chair all or part of any meetings in the absence of the PCCC chair.

## **8.0 Governance arrangements and decision making**

### **8.1 Statutory Requirement**

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

### **8.2 Declarations of Interests at meetings**

The agenda (both public and confidential agenda) for meetings of the CCG and also its committees will contain a standing item at the commencement of each meeting, requiring individuals to declare any interests relating specifically to the agenda items being considered. If during the course of a meeting, an interest not previously declared is identified, this shall be declared.

Individuals must be specific when declaring interests. They should state which agenda the potential conflict of interest relates to and the nature of that conflict. Where an interest is significant or when the individual or a connected person has a direct financial interest in a decision the individual should not take part in the discussion or vote on the item and should consider leaving the room when the matter is discussed. The Chair of the meeting may ask that a member leaves the room if they have a significant interest or a direct financial interest in a matter under discussion. For the avoidance of doubt, where the Governing Body is making decisions on Governing Body member remuneration and terms and conditions, whether employees or not, the individual whose remuneration and terms and conditions must leave the room.

The Chair of the meeting will, in discussion with the Accountable Officer, determine how any declared conflicts will be managed and inform the member of their decision. Where no arrangements have been confirmed the Chair of the meeting may require the individual to withdraw from the meeting or part of it. The individual will then comply with these arrangements.

Any declarations of interests, and arrangements agreed in any meeting of the CCG, its committees or sub-committees, or the Governing Body, the Governing Body's committees or sub-committees, will be recorded in the minutes.

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If there is any doubt as to whether an interest should be declared, a declaration should be made and / or advice sought from the Conflicts of Interest Guardian.

In the event of the Governing Body having to decide upon a question in which a Governing Body member has an interest, including a member's remuneration and terms and conditions, all decisions will be made by voting, with a two thirds majority required. A quorum must be present for the discussion and decision; interested parties will not be counted when deciding whether the meeting meets quorum. Interested individuals must not vote on matters affecting their own interests and must leave the room as described above.

All decisions involving a conflict of interest of this nature will be reported in the minutes of the meeting. The report will record:

- the nature and extent of the conflict
- an outline of the discussion
- the actions taken to manage the conflict
- use of the waiver and reasons for its implementation.

Where a Governing Body member benefits from the decision, this will be reported in the annual report and accounts, as a matter of best practice.

A check list to assist both the meeting Chair and the secretariat to give due consideration to managing conflicts of interest whilst planning and conducting a meeting is shown at Appendix 6a.

When a member of the meeting (including the chair or vice chair) has a conflict of interest in relation to one or more items of business to be transacted at the meeting, the chair (or vice chair or remaining non-conflicted members where relevant as described above) must decide how to manage the conflict. The appropriate course of action will depend on the particular circumstances, but could include one or more of the following:

- Where the chair has a conflict of interest, deciding that the vice chair (or another non-conflicted member of the meeting if the vice chair is also conflicted) should chair all or part of the meeting;
- Requiring the individual who has a conflict of interest (including the chair or vice chair if necessary) not to attend the meeting;
- Ensuring that the individual concerned does not receive the supporting papers or minutes of the meeting which relate to the matter(s) which give rise to the conflict;
- Requiring the individual to leave the discussion when the relevant matter(s) are being discussed and when any decisions are being taken in relation to those matter(s). In private meetings, this could include requiring the individual to leave the room and in public meetings to either leave the room or join the audience in the public gallery;
- Allowing the individual to participate in some or all of the discussion when the relevant matter(s) are being discussed but requiring them to leave the meeting when any decisions are being taken in relation to those matter(s). This may be appropriate where, for example, the conflicted individual has important relevant knowledge and experience of the matter(s) under discussion, which it would be of benefit for the meeting to hear, but this will depend on the nature and extent of the interest which has been declared;
- Noting the interest and ensuring that all attendees are aware of the nature and extent of the interest, but allowing the individual to remain and participate in both the discussion and in any decisions. This is only likely to be the appropriate course of action where it is decided that the interest which has been declared is either immaterial or not relevant to

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the matter(s) under discussion. The conflicts of interest case studies include examples of material and immaterial conflicts of interest.

Where the conflict of interest relates to outside employment and an individual continues to participate in meetings pursuant to the preceding two bullet points, he or she should ensure that the capacity in which they continue to participate in the discussions is made clear and correctly recorded in the meeting minutes.

Where it is appropriate for them to participate in decisions they must only do so if they are acting in their CCG role.

### **8.3 Chair responsibility for declaring conflict of interest during a meeting**

Where the Chair of any meeting of the CCG including its committees, sub-committees, or the Governing Body and the Governing Body's committees and sub-committees, has a personal interest, previously declared or otherwise, in relation to the scheduled or likely business of the meeting, they must make a declaration and they should not Chair for that particular item. The deputy chair will act as chair for the relevant part of the meeting. For the avoidance of doubt, where the Governing Body is making decisions on the Chair's remuneration and terms and conditions, whether he/she is an employee or not, the Chair will not chair that item and will leave the room.

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

### **8.4 Dealing with non-quorum meetings resulting from a conflicts of interest**

It is the responsibility of the Conflicts of Interest Guardian to monitor quorum and advise the Chair accordingly to ensure it is maintained throughout the discussion and decision of the agenda item.

Where more than 50% of the members of a meeting are required to withdraw from a meeting or part of it, owing to the arrangements agreed for the management of conflicts of interests or potential conflicts of interests, the Chair (or Deputy) will determine whether or not the discussion can proceed.

In making this decision the Chair will consider whether the meeting is quorate, in accordance with the number and balance of membership set out in the CCG standing orders (i.e. the quorum of the Governing Body shall be 8 of its voting members of whom (subject to Standing Order 4.5.2) one is the Chair or Deputy Chair, another is the Accountable Officer or the Chief Finance Officer, and at least 5 are Clinical Directors). Where the meeting is not quorate, owing to the absence of certain members, the discussion will be deferred until such time as a quorum can be convened. Where a quorum cannot be convened from the membership of the meeting, owing to the arrangements for managing conflicts of interest or potential conflicts of interests, for example the

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remuneration of Clinical Directors, the Chair of the meeting shall consult with the Accountable Officer on the action to be taken.

This may include:

- Delegating responsibility for decision making to a sub-committee, e.g. a decision on remuneration could be delegated to the remuneration committee
  - Requiring another of the CCG committees or sub-committees, the CCG's Governing Body or the Governing Body's committees or sub-committees (as appropriate) which can be quorate to progress the item of business
- or if this is not possible;
- Where there aren't the requisite numbers of members, inviting on a temporary basis one or more of the following to make up the quorum (where these are permitted members of the Governing Body or committee / sub-committee in question) so that the CCG can progress the item of business;
    - A member of the CCG who is an individual
    - An individual appointed by a member to act on its behalf in the dealings between it and the CCG
    - A member of a relevant Health and Wellbeing Board
    - A member of a Governing Body of another clinical commissioning group

These arrangements must be recorded in the minutes.

## 8.5 Conforming to arrangements for managing conflicts of interest

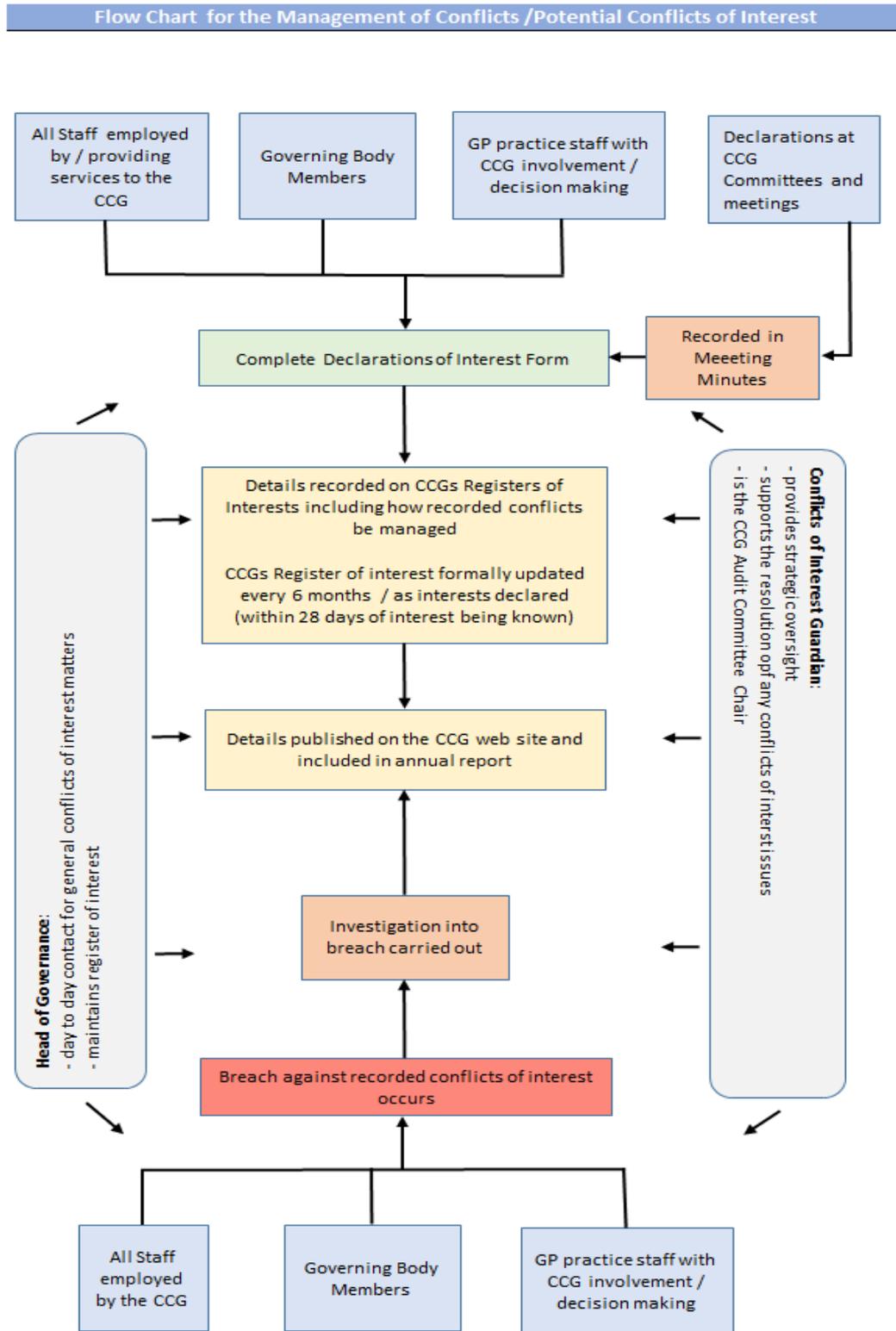
In any transaction undertaken in support of the CCG exercising its commissioning functions (including conversations between two or more individuals, e-mails, correspondence and other communications), individuals will ensure, where they are aware of an interest, that they conform to the arrangements confirmed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

Where an individual has not had confirmation of arrangements for managing the interest, they must declare their interest at the earliest possible opportunity in the course of that transaction, and declare that interest as soon as possible thereafter. The individual must also inform either their line manager (in the case of employees), or the Accountable Officer of the transaction.

The Accountable Officer will take such steps as deemed appropriate, and request information deemed appropriate from individuals, to ensure that all conflicts of interest and potential conflicts of interest are declared.

Figure 1 below shows the flow chart for the management of conflicts and potential conflicts of interest, including when a breach has occurred.

Figure 1



## 8.6 Secondary Employment and Private Practice

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Individuals working with the CCG (depending on the details of their contact as regards outside employment and private practice) are required to inform the CCG if they are engaged or wish to engage in outside employment in addition to their work with the CCG, (for example, in relation to new care model arrangements as described in para 13.0 below). The purpose of this is to ensure that the CCG is aware of any potential conflicts of interest. Examples of work which might conflict with the business of the CCG include:

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

The CCG requires express prior permission to engage in secondary employment and reserve the right to refuse permission where it believes a conflict will arise. In particular, it is unacceptable for pharmacy advisers or other advisers, employees or consultants to the CCG on matters of procurement to themselves be in receipt of payments from the pharmaceutical or devices sector.

Secondary (Outside) employment and private practice must be declared as a potential conflict of interest.

## 8.7 Conflicts of Interest Training

All CCGs employees, governing body members, members of CCG committees and sub-committees and member will undertake mandatory training on an annual basis. This is to ensure that staff and others within the CCG and practices understand what a conflict is and how to manage them effectively.

Training is via an NHS England developed on – line training package designed to raise awareness of the risks of conflicts of interest and to support individuals to manage any such conflicts. The training will focus on;

- What is a conflict of interest
- Why is conflicts of interest management important
- What are the responsibilities of the organisation you work for in relation to conflicts of interest
- What should you do if you have a conflict of interest relating to your role, the work you do or the organisation you work for (who to tell, where it should be recorded, what actions you may need to take and what implications it may have for your role)
- How conflicts of interest can be managed
- What to do if you have concerns that a conflict of interest is not being declared or managed appropriately
- What are the potential implications of a breach

Training will need to be completed by 31 January each year with completion rates recorded as part of the CCGs annual conflicts of interest audit.

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## 8.8 Assurance Process

Management of Conflicts of interest is one element of NHS England's overall assurance assessment process for CCGs. This requires the CCG to submit quarterly self-assessments and an annual self – assessment to NHS England against the effectiveness of its processes for the management of conflicts of interest, details of which are included in the CCGs annual report.

The CCGs internal audit programme, over - seen by the CCGs Audit Committee, includes the management of conflicts of interest.

## 9.0 Managing conflicts of interest throughout the commissioning cycle

### 9.1 Transparency in procurement

*'CCGs must not award a contract for the provision of NHS health care services where conflicts, or potential conflicts, between the interests involved in commissioning such services and the interests involved in providing them affect, or appear to affect, the integrity of the award of that contract*

*CCGs must keep a record of how it managed any such conflict in relation to NHS commissioning contracts it has entered into*

*The National Health Service (Procurement, Patient Choice and Competition Regulations 2013)'*  
The CCG recognises the importance in making decisions about the services it procures in a way that does not call into question the motives behind the procurement decision that has been made. The CCG will procure services in a manner that is open, transparent, non - discriminatory and fair to all potential providers.

The CCG has published a procurement strategy that has been approved by the Governing Body and which ensures that:

- All relevant clinicians (not just members of the CCG) and potential providers, together with local members of the public, are engaged in the decision-making processes used to procure services
- In line with the three main principles of procurement law service redesign and procurement processes are conducted in an open, transparent, non- discriminatory and with equal treatment. This includes ensuring that the same information is given to all.
- Details of contracts, including contract value, are published on the CCG website. This includes details relating to services commissioned through Any Qualified provider (AQP) and details of the providers themselves

The CCG's procurement strategy is available on the CCG's website.

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## 9.2 Register of procurement decisions

The CCG holds and maintains a register of its procurement decisions taken. The register includes:

- The details of the decision
- Who was involved in making the decision i.e. governing body or committee members with decision making responsibility (note: the awarding of a contract is prohibited where the integrity of the award has been, or appears to have been affected by a conflict of interest)
- A summary of any conflicts of interest in relation to the decision and how this is managed by the CCG.
- The award decision taken

The register of procurement decisions is published on the CCG's website and made publically available to all.

The register of procurement decisions forms part of the CCGs annual accounts and is signed through the external auditors processes.

A template for recording the CCGs procurement decisions is shown at Appendix 4.

## 9.3 Procurement decisions relating to primary medical care

Procurement decisions relating to the commissioning of primary medical services through its delegated commissioning arrangements are undertaken by the CCGs Primary Care Commissioning Committee (PCCC) which is a committee of the CCGs Governing Body

The PCCC is constituted to ensure that the majority of its membership is held by lay and executive members. The CCGs Chair and Vice Chair are permanent members of the committee.

There is a standing invitation to representatives of the CCGs local Healthwatch and Health and Wellbeing Board. The representatives do not form part of the membership of the committee albeit they are able to attend commissioning committee meetings, publically held or not

Lay members of the committee undergo a formal training programme developed by NHS England to assist them with their role within the committee

Where appropriate the CCG employs the support of Commissioning Support Services (CSS) in deciding the most appropriate procurement route and to manage conflicts of interest in order to preserve integrity of decision making

Any conflicts of interest that arise in connection with decisions to be made by the PCCC are considered on an individual basis

The arrangements for decisions relating to primary medical care do not preclude GP participation in strategic discussions on primary care issues, subject to the appropriate management of conflicts of interest and detailed in this policy. They apply to decision making on procurement issues and the decision leading up to the decision.

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NHS England provide oversight to the CCG to ensure that the CCG is meeting its statutory duties in its management of conflicts of interest.

Questions to be considered by the PCCC when commissioning services from GP practices, including provider consortia, or organisations in which GPs have a financial interest are shown in the Procurement template at Appendix 5

## 9.4 Declarations of interests for bidders / contractors

As part of a procurement process, it is good practice to ask bidders to declare any conflicts of interest. This allows commissioners to ensure that they comply with the principles of equal treatment and transparency. As such, contractors and people who provide services to the CCG who seek information regarding a procurement, or participating in a procurement, or otherwise engaging with the CCG in relation to the potential services or facilities to the CCG are required to make a declaration of any relevant conflict or potential conflict of interest. Requirements are set out in the information supporting the procurement.

Where a bidder declares a conflict, the CCG will determine how best to deal with it to ensure that no bidder is treated differently to any other. Whilst it is not appropriate to declare such a conflict on the CCGs register of procurement decisions, as it may compromise the anonymity of bidders during the procurement process, the CCG will retain an internal audit trail of how the conflict or perceived conflict was dealt with to allow them to provide information at a later date if required.

Please see Annex 6 for a declaration of interests for bidders and contractors template.

## 9.5 Contract Monitoring

The management of conflicts of interest applies to all aspects of the commissioning cycle, including contract management.

Any contract monitoring meeting hosted by the CCG considers conflicts of interest as part of the meeting process i.e., the Chair of the meeting invites declarations of interests; records any declared interests in the minutes of the meeting; and manages any conflicts appropriately and in line with this policy. This equally applies where a contract is held jointly with another organisation such as the Local Authority or with other CCGs under lead commissioner arrangements.

The CCG is mindful of any potential conflicts of interest when it disseminates any contract or performance information/reports on providers, and takes steps to ensure any risks are managed appropriately.

## 10.0 Raising concerns

It is the duty of every CCG employee, governing body member, committee or sub-committee member and GP practice member to speak up about genuine concerns in relation to the administration of the CCG's policy on conflicts of interest management, including concerns relating to criminal activity and the breach of a legal obligation and to report these concerns. Individuals should not ignore their suspicions, investigate themselves or tell colleagues or others about their suspicions. Any suspicions or concerns should, in the first instance be reported, on a strictly confidential basis, to the CCGs Conflicts of Interest Guardian.

In the absence of the Conflicts of Interest Guardian, the alternative person to handle the concern will be the Lay Member for Public and Patient Engagement, in line with the CCGs Whistleblowing policy.

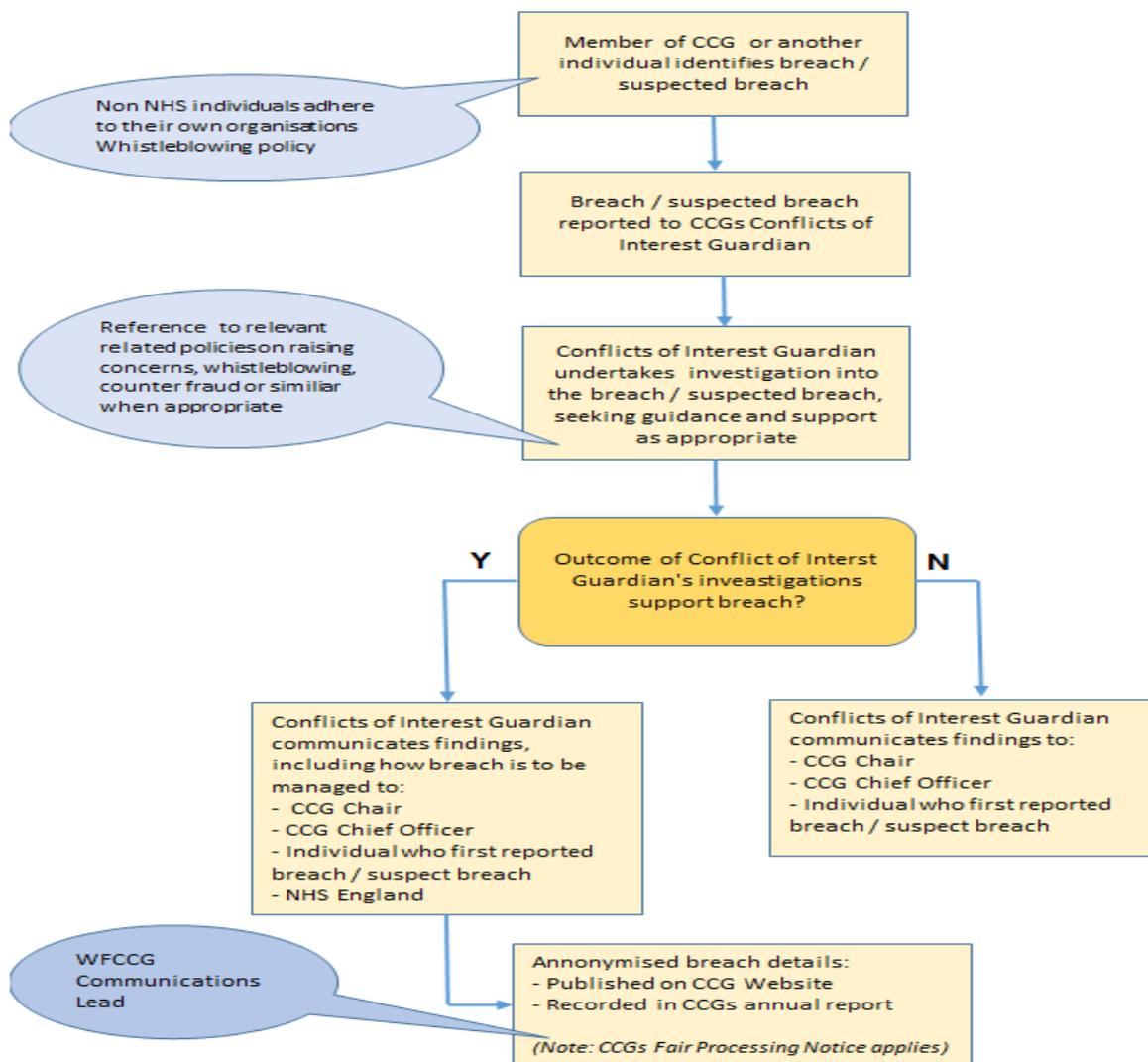
Any suspicions or concerns can also be reported in confidence online via [www.reportnhs.fraud.nhs.net](http://www.reportnhs.fraud.nhs.net) or to the CCGs Local Counter Fraud Specialist, Gemma Higginson, [Gemma.Higginson@rsmuk.com](mailto:Gemma.Higginson@rsmuk.com)

## 11.0 Breach of conflicts of interest policy

### 11.1 Process for the management of breaches and suspected breaches

Figure 2 shows the process for the management of breaches and suspected breaches

**Figure 2:**



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## 11.2 Impact of non-compliance

Failure to comply with the CCGs conflicts of interest management policy can have serious implications for the CCG and individuals concerned. These include:

- Disciplinary sanctions, for example formal warning or the requirement for additional training,
- Professional regulatory sanctions, for example reporting statutorily regulated healthcare professionals to their regulator if there is evidence that they have acted improperly,
- Civil sanctions for example if interests were not disclosed that were relevant to the bidding for, or performance of contracts.
- Criminal sanctions, for example, offences such as fraud, bribery and corruption

## 12.0 Fraud, and Bribery and Counter Fraud Measures

Under the Bribery Act 2010, it is an offence for an organisation to fail to prevent a bribe being paid to obtain or retain business or a business advantage. If a bribery offence is committed, it would be a defence for the organisation if it can demonstrate that it has adequate procedures in place to prevent persons associated with it from committing bribery.

### Associated Persons

An associated person is any person, company, organization or entity that performs a service for the CCG, either in its name or on its behalf. This could include intermediaries such as subsidiaries, clients, business partners, contractors, suppliers, agents, advisors, consultants or other third parties. The use of any such group for the purpose of committing acts of bribery is prohibited.

All organisations and individuals that act on behalf of the CCG shall be selected with care, and all agreements with intermediaries shall be concluded under terms that are in line with this policy. Intermediaries, as well as staff members, will be required to declare any conflicts of interest before commencing a new role or taking on new responsibilities at the CCG.

### Adequate Procedures

Adequate procedures should be proportionate to the bribery risk the organisation faces. In order to understand the level of risk the CCG faces, it is committed to undertaken risk assessments in line with Ministry of Justice guidance. Proportionate procedures will be put in place to mitigate the identified risks. These may include but are not limited to training and communication, policy review and demonstrable commitment to anti-bribery at board and senior management level.

The CCG recognises that the management of declarations of interest and compliance with this policy are important elements for allowing the CCG to demonstrate adequate procedures. Any undeclared and unmanaged interests affect the ability of staff and third parties to conduct their roles in accordance with the best interests of the CCG and the NHS in mind. Furthermore this can expose the CCG to increased risk of bribery, therefore interests must be declared and managed to minimise this risk.

For further guidance please refer to the Anti-Fraud and Bribery policy.

## 13.0 New Care Models

Conflicts of interest can arise throughout the whole commissioning cycle from needs assessment, to procurement exercises, to contract monitoring. They arise in many situations, environments and forms of commissioning.

Where the CCG is commissioning new care models particularly those that include primary medical services, it is likely that there will be some individuals with roles in the CCG (whether clinical or non-clinical), that also have roles within a potential provider, or may be affected by decisions relating to new care models. Any conflicts of interest must be identified and appropriately managed, in accordance with this statutory guidance.

Appendix 14 provide further advice and support to help manage conflicts of interest in the commissioning of new care models. It summarises key aspects of the statutory guidance which are of particular relevance to commissioning new care models rather than setting out new requirements.

## 14.0 Equality and Diversity

The CCG is committed to ensuring that it treats its employees fairly, equitably and reasonably and that it does not discriminate against individuals or groups on the basis of their ethnic origin, physical or mental abilities, gender, age, religious beliefs or sexual orientation.

If you have any concerns or issues with the contents of this policy or have difficulty understanding how this policy relates to you or your role, please contact the CCG Head of Governance.

## 15.0 Related policies and documents

- Whistleblowing Policy
- Gifts Hospitalities and Sponsorship Policy
- Disciplinary Policy
- Anti Fraud and Bribery Policy
- NHS WFCCG Constitution
- Managing Conflicts of Interest: NHS England Statutory Guidance for CCGs
- Working with Industry Policy

## Appendices:

Appendix	Content	Document
Appendix 1	Declarations of conflicts of interest for CCG members and employees	 Declarations of conflicts of interest
Appendix 2	Register of Conflicts of Interest	 Register of conflicts of interest.docx
Appendix 3	Hospitalities, Gifts and Sponsorship declaration form	 Gifts and Hospitalities form.d
Appendix 3a	Register of Hospitalities, Gifts and Sponsorships	 Appendix 3a.docx
Appendix 4	Register of procurement decisions and contract awards	 Register of procurement decisic
Appendix 5	Procurement Template	 Procurement Template.docx
Appendix 6	Declarations of Interest template for bidders and contractors	 Declarations of Interest template fo
Appendix 6a	Declarations of interest checklist <i>(For the chair of a governing body, committee and sub-committee meeting)</i>	 Appendix 6a.docx
Appendix 7	Conflict of interest case studies	 coi-case-studies-jun16.pdf  coi-case-studies.pdf
Appendix 8	Summary Guide for Administration Staff	 summary-coi-guid-admin.pdf
Appendix 9	Summary Guide for Conflicts of Interest Guardians	 summary-coi-guid-coi-guards.pdf

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Appendix 10	Summary Guide for CCG Governance Leads	 summary-coi-guid-governance-leads.pdf
Appendix 11	Summary Guide for GPs in Commissioning Roles	 summary-coi-guid-gp.pdf
Appendix 12	Summary Guide for CCG Lay Members	 summary-coi-guid-lay-membs.pdf
Appendix 13	Summary Guide for Healthwatch members of CCG Primary Care Commissioning Committees	 summary-guid-hlthwtch.pdf
Appendix 14	Key aspects of on managing conflicts of interest relating to commissioning of new care models	 Summary of key aspects of the guide