



Management of Conflicts of Interest Policy NHS Calderdale Clinical Commissioning Group

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4.2	07/09/20	Senior Corporate Governance Officer	Draft	Changes throughout policy to reflect "Head of Corporate Affairs and Governance" no longer being part of the CCG's organisational structure.	Audit Committee

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1. Introduction

“If conflicts of interest are not managed effectively by CCGs, confidence in the probity of commissioning decisions and the integrity of clinicians involved could be seriously undermined. However, with good planning and governance, CCGs should be able to avoid these risks”

RCGP and NHS Confederation: briefing paper on managing conflicts of interest.
September 2011

1.1 Why is it important to manage conflicts of interest?

- To give confidence that commissioning decisions are robust, fair and offer value for money
- To maintain public trust in the Clinical Commissioning Group (CCG) and the NHS
- To protect healthcare professionals
- Failure to manage conflicts of interest could lead to legal challenge and criminal action.

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 perception of wrongdoing, impaired judgement or undue influence can be as detrimental as any of them actually occurring.

Conflicts of interest are inevitable in commissioning and CCGs manage conflicts of interest as part of their day-day activities. It is how they are managed that matters.

Effective handling of such conflicts is crucial for the maintenance of public trust in the commissioning system. It also serves to give confidence to local

people, healthcare providers, parliament and taxpayers that CCG commissioning decisions are robust, fair, transparent and offer value for money. It is essential in order to protect healthcare professionals and maintain public trust in the NHS. Failure to manage conflicts of interest could lead to legal challenge and even criminal action in the event of fraud, bribery and corruption.

NHS Calderdale CCG, as a commissioner of healthcare services, is committed to managing conflicts of interest in a way that demonstrates transparency, probity and accountability. This is particularly important when commissioning services that might be delivered by member practices as providers - ensuring that the approach taken does not affect or appear to affect the integrity of the CCG's decision-making processes. This will enable the CCG to withstand scrutiny and challenge and also protect the CCG, its staff and member practices from any perceptions of wrong doing.

If in doubt, it is better to assume the existence of a conflict of interest and manage it appropriately rather than ignore it.

1.2 Constitutional and statutory requirements

Section 140 of the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012) ("the Act") sets out the minimum requirements expected of CCGs in terms of managing conflicts of interest.

NHS England has also published detailed guidance for CCGs on the discharge of their functions and requires each CCG to have regard to this guidance. This includes:

- Managing Conflicts of Interests: Revised Statutory Guidance for Clinical Commissioning Groups, March 2013, June 2017
- Code of Conduct: Managing Conflicts of Interest where GP Practices are Potential Providers of CCG Commissioned Services, April 2013

NHS England has previously issued statutory guidance on managing conflicts of

interest which takes account of the actual and potential conflicts of interest associated with co- commissioning or the delegation of primary medical services commissioning. However, this has been superseded by the revised statutory guidance of June 2017.

The CCG is also subject to procurement rules set out in the NHS (Procurement, Patient Choice and Competition) Regulations 2013 and the Public Contract Regulations 2015; as well as the Fraud Act 2006 and the Bribery Act 2010. The CCG aims to work in line with the relevant guidance issued by professional bodies on conflicts of interest, including the British Medical Association, the Royal College of General Practitioners and the General Medical Council.

The CCG's Constitution defines what constitutes a conflict of interest and sets out arrangements for their management. This should be read in conjunction with this Policy.

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

2. Aims and Principles

Conflicts of interest are inevitable in public life. The CCG aims to ensure that best practice is followed in managing actual or potential conflicts of interest by:

- Safeguarding clinically led commissioning, whilst ensuring objective commissioning decisions
- Enabling the CCG to demonstrate that it is acting fairly and transparently and in the best interests of its patients and local population
- Upholding the confidence and trust in the NHS
- Operating within the legal framework

The policy sets out the governance framework for the management of conflicts of interest by the CCG.

2.1 Principles

The CCG will observe the principles of good governance in the way that it manages conflicts of interest. These include:

- The Good Governance Standards for Public Services (2004), Office for Public Management (OPM) and Chartered Institute of Public Finance and Accountancy (CIPFA)
- The seven key principles of the NHS Constitution
- The Equality Act 2010
- The UK Corporate Governance Code
- Standards for members of NHS Boards and CCG Governing Bodies in England

In addition, this policy reflects the seven principles of public life established by the Nolan Committee which are as follows:

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

In order to support the management of conflicts of interest, the CCG is committed to:

- **Doing business appropriately:** Conflicts of interest become much easier to identify, avoid and/or manage when the processes for needs assessments, consultation mechanisms, commissioning strategies and procurement procedures are right from the outset, because the rationale for all decision-making will be clear and transparent and should withstand scrutiny;
- **Being proactive, not reactive:** The CCG will seek to identify and minimise the risk of conflicts of interest at the earliest possible opportunity;

- **Being balanced, appropriate and proportionate to the circumstances and context:** Rules aim to be clear and robust but not overly prescriptive or restrictive. They should ensure that decision-making is transparent and fair whilst not being overly constraining, complex or cumbersome.
- **Being transparent:** The CCG aims to document the approach and decisions taken at every stage in the commissioning cycle so that a clear audit trail is evident.
- The CCG will work to create an **environment and culture** where individuals feel supported and confident in declaring relevant information and raising any concerns.

It is also important to bear in mind 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

3. Scope of the Policy

This policy applies to NHS Calderdale CCG and applies to all employees, members of the Governing Body, its committees, Associates and members of the CCG as well as individuals providing services to the CCG. It is expected that all the above will comply with the arrangements outlined in this policy.

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

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

4. Role and Responsibilities

Everyone in the CCG has responsibility to appropriately manage conflicts of interest. Everyone is responsible for familiarising themselves with this policy and to comply with the provisions of it. The specific roles and responsibilities are set out below:

4.1 Governing Body/Audit Committee

The CCG Governing Body, with support from the Audit Committee, will oversee this Policy and will ensure that there are systems and processes in place to support all member practices and individuals who hold positions of authority or who can make or influence decisions to:

- Declare their interests through a Register of Interests which is made available to the public via the CCG's website or on request to the CCG.
- Declare any relevant interests through discussions and proceedings so that any comments they make are fully understood by all others within that context.
- Manage appropriately the business to ensure that the CCG acts with integrity and probity.

The Governing Body will take such steps as it deems appropriate to ensure that it has sufficient clinical expertise without an identified or perception of a conflict of interest in the services being commissioned, for example having at least one clinician without an interest in a potential new care model provider. For example, a recently retired or out of area GP without an admitted or identified interest or perception of interest in the matters under consideration.

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

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

4.2 Conflicts of Interest Guardian

The Chair of the Audit Committee has a lead role as the Conflicts of Interest Guardian, in ensuring that the Governing Body and the wider CCG behaves with the utmost probity at all times. The Conflicts of Interest Guardian will be supported in their role by the CCG Governance Lead (Corporate Systems Manager) and other members of the CCG Governance Team.

The Conflicts of Interest Guardian, in collaboration with the above, will:

- Act as a conduit for GP practice staff, members of the public and healthcare professionals who have any concerns with regards to conflicts of interest;
- Be a safe point of contact for employees or workers of the CCG to raise any concerns in relation to this policy;
- Support the rigorous application of conflict of interest principles and policies;
- Provide independent advice and judgment where there is any doubt about how to apply conflicts of interest policies and principles in an individual situation;
- Provide advice on minimising the risks of conflicts of interest.
- In their role as Chair of the Audit Committee, provide assurance to NHS England annually that the CCG has:
 - Had due regard to the statutory guidance on managing conflicts of interest; and
 - Implemented and maintained sufficient safeguards for the commissioning of primary medical services.

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.

4.3 Governing Body Lay Members

The Governing Body's Lay Members play a critical role in providing scrutiny, challenge and an independent voice in support of robust and transparent decision-making and management of conflicts of interest. The CCG recognises the lay members' expanding role in primary care commissioning by appointing a Governing Body Lay Member as the Chair of the Commissioning Primary Medical Services Committee.

4.4 Commissioning Primary Medical Services Committee (CPMSC)

The CPMSC has been established as a committee of the Governing Body to carry out the functions and decisions relating to the commissioning of primary medical services in order to ensure a clear separation between those decisions that can be taken by the Governing Body including the GP Governing Body members and those where – due to actual or potential conflicts of interest - the GPs need to withdraw. The establishment of such a committee does not preclude GP participation in strategic discussions on primary medical care issues.

The CCG will keep under consideration whether that committee has sufficient clinical expertise that is not conflicted - taking into account the range of services being commissioned, for example, having a recently retired or out of area GP without an admitted or identified interest or perception of interest.

A representative from the Health and Wellbeing Board and from Healthwatch is able to attend the Primary Medical Services Committee as non-voting members.

In order to ensure openness and transparency, the committee meets in public, except where the committee may resolve to exclude the public from a meeting whenever publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted or for other specified reasons.

Sub-groups of the CPMSC

Whilst sub-committees or sub-groups of the primary care commissioning committee can be established e.g., to develop business cases and options appraisals, ultimate

decision-making responsibility for the primary medical services functions rests with the CPMSC. In order to appropriately manage any potential conflicts of interest, the CCG will carefully consider the membership of sub-groups, including whether it is appropriate to appoint a lay member as the chair of the group.

Any sub-groups, where relevant, will submit their minutes to the CPMSC, detailing any conflicts and how they have been managed. The CPMSC needs to be assured that there has been appropriate management of conflicts of interest and will take action as required if there are any concerns.

Chair of the Commissioning Primary Medical Services Committee

In order to manage any real or potential conflicts of interest, the CPMSC has a lay chair and deputy chair. The CPMSC Chair and Deputy Chair will be supported in the management of conflicts of interest in the committee by the Senior Corporate Governance Officer (or, in their absence, the CCG Governance Lead – Corporate Systems Manager).

To provide the necessary safeguards, the Audit Committee Chair, as Conflicts of Interest Guardian will not hold the position of Chair or Deputy Chair of the CPMSC.

4.5 Accountable Officer

The Accountable Officer has overall accountability for the CCG's management of conflicts of interest. The Accountable Officer has overall responsibility for this Policy, ensuring that a process for managing conflicts of interest is in place.

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

4.6 CCG Governance Lead (Corporate Systems Manager) and Corporate Governance Team

The CCG Governance Lead (Corporate Systems Manager) leads the CCG's Governance Team which includes the management of conflicts of interest function within the CCG. The Governance Lead and their team are responsible for:

- The day-to-day management of conflict of interest matters and queries.
- Ensuring that appropriate systems and processes are put in place to support the management of conflicts of interest
- Supporting the Conflicts of Interest Guardian to enable them to carry out their role effectively, ensuring that they are well briefed on conflicts of interest matters and issues arising and supported in investigating potential breaches of the policy as appropriate.
- Providing advice, support and guidance to the Accountable Officer, Chair, Governing Body and committee members, staff and CCG member practices on what might constitute a conflict of interest and how they should be managed
- Ensuring that anonymised details of breaches are published on the CCG's website for the purpose of learning and development.
- Maintaining the CCG's Registers of Interest and Registers of Gifts, Hospitality and Commercial Sponsorship
- The provision of other types of management of conflicts of interest support as described in this policy.

4.7 The Senior Corporate Governance Officer

The CCG's Senior Corporate Governance Officer plays a leading role in the delivery of the Management of Conflicts of Interest function within the CCG.

They will work in support of the CCG's Governance Lead (Corporate Systems Manager) in the delivery of the above responsibilities and the overall management of Conflict of Interest function. This includes their having day-to-day responsibility for the leadership and delivery of the function in accordance with the arrangements for this as set out within this policy.

The Senior Corporate Governance Officer is also responsible for providing support, guidance and training to other members of the Governance Team in relation to the management of conflicts of interest as is required.

4.8 Senior Management Team

The role of the senior management team is to ensure that members of staff are aware of this policy and associated processes.

4.9 All individuals

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

To ensure openness and transparency in business transactions, all employees and appointments to 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 own official business
- use public funds entrusted to them to the best advantage of the service, always ensuring value for money
- ensure they do not abuse their official position for personal gain or the benefit of their family or friends
- ensure that they do not seek to advantage or further, private or other interests in the course of their official duties

4.10. Outside Employment and Public Office

Outside employment and public office means employment and other engagements, outside of formal employment arrangements.

The CCG's Working Time Regulations and Secondary Employment Policy¹ and Procedures sets out the requirement that staff, agency workers and contractors inform the CCG if they are employed or engaged in secondary employment or

¹ NHS Calderdale CCG, Working Time Regulations and Secondary Employment Policy (2014)

consultancy work.

The term secondary employment as set out in the CCG's policy covers:

- Paid employment outside of the organisation.
- Paid employment within the CCG in a different service.
- Voluntary work outside of the organisation.
- Self-employment.
- Bank / Locum / Agency Work / Voluntary work.
- Reservist Occupations.
- Holding public office through election or appointment

During the recruitment process the appointing manager must establish if candidates intend to continue with any secondary employment both inside and outside of Calderdale CCG. If this is the case, it is the responsibility of the appointing manager to consider a number of factors including potential conflicts of interest before agreeing that the secondary work can continue on appointment to the CCG.

Examples of work that might conflict with the business of the CCG include:

- Employment with another NHS body;
- Employment with another organisation which might be in a position to supply goods/services to the CCG including paid advisory positions and paid honoraria which relate to bodies currently doing or likely to do business with the CCG;
- Directorship e.g. of a GP federation or non-executive roles;
- Self-employment, including private practice, charitable trustee roles, political roles and consultancy work in a capacity which might conflict with the work of the CCG or which might be in a position to supply goods/services to the CCG.
- Election to a public office such as a local councilor or Member of Parliament

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

Any employee who wishes to undertake outside employment in addition to their work with the CCG must obtain prior permission from their line manager by completing the Secondary Employment Request Form. Before granting permission to undertake secondary employment, the line manager is required to consider a number of factors including potential direct and indirect conflicts of interest.

The CCG reserves the right to refuse permission where it believes a conflict will arise which cannot effectively be managed.

Failure to declare secondary employment may be dealt with under the CCG's Disciplinary Policy.

New Conflicts of Interest

Individuals have a responsibility to declare any new potential conflicts of interest in relation to their secondary employment. Their line manager must assess the risk of the potential conflict of interest and any management action required to prevent the conflict of interest arising (e.g. removing the staff member from a certain project). If this cannot be avoided and the risk to Calderdale CCG and service delivery is too high, permission to undertake secondary employment may be withdrawn.

4.11 Transactions in support of commissioning functions

In any transaction undertaken in support of the CCG's exercise of its commissioning functions (including conversations between two or more individuals, e-mails, correspondence and other communications), individuals must ensure, where they are aware of an interest, that they comply with the arrangements for managing that interest. Where arrangements for managing the interest have not been put in place, they must declare their interest at the earliest possible opportunity in the course of that transaction. This will enable the interest to be recorded and appropriate management arrangements put in place.

4.12 Commissioning of Support Services

The CCG commissions a number of support services from other providers. These include the provision of Shared Business Support (Finance), Human Resources (HR) and Learning and Development services, Business Intelligence, Data Quality and Information Management and Technology services.

Members of staff from these services are often in a position to influence the decisions of the CCG. As such, the CCG will require these individuals to comply with the arrangements for the declaration and registering of interests in line with this policy.

4.13 Contractors

Individuals contracted to work on behalf of NHS Calderdale CCG or otherwise providing services or facilities to the CCG will be subject to the same provisions of the CCG's Constitution and this policy in relation to managing conflicts of interests. They will be made aware of their obligation to declare actual or potential conflicts of interest. This will be written into their contract for services.

Anyone seeking information in relation to a procurement, participating in a procurement 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.

4.14 Holding public office

Individuals who intend to seek to hold a public office, through either election or appointment, are required to inform their line manager of their intention and to indicate what the role will involve, including identifying any actual or potential conflicts of interest with their role with the CCG. Notification that a person wishes to seek public office should be sought in advance of any application being made to the public body with whom the office holder, if successful, will be associated.

Under no circumstances should the individual make use of privileged information acquired in the pursuit of their role with the CCG in their application, manifesto, any public statement, or during the course of their period of office. Additionally, a holder of a public office should ensure that their role in public office does not require them to approve the allocation of resources to or from the CCG, to negotiate with or engage with the CCG in any other way, to lobby the CCG, and to scrutinise the CCG or hold it to account in any other way.

4.15 Privileged information

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

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

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

5. Managing Conflicts Of Interest

5.1 Definition of conflicts of interest

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’ i.e. there is a material conflict between one or more interests or ‘potential’ i.e. there is the possibility of a material conflict between one or more interests in the future.

Individuals may hold interests for which they cannot see potential conflict. However, caution is always advisable because others may see it differently. It is important to exercise judgement and to declare such interests where there is otherwise a risk of imputation of improper conduct.

Conflicts 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 models², as clinical commissioners may find themselves in a position of being at the same time, the commissioner and provider of services. Conflicts of interest can arise throughout the whole commissioning cycle from needs assessment to procurement exercises to contract monitoring.

It is neither possible nor desirable to define all instances in which an interest may be an actual or perceived conflict, however interests can be captured in four main categories. A benefit may arise from the making of a gain or the avoidance of a loss; or the making of a decision influenced by knowledge which was conflicted knowledge (see Appendix 2 for more detailed examples):

- 1) **Financial interests:** where an individual may receive direct financial benefit or detriment from the consequences of a commissioning decision.

- 2) **Non-financial professional interests:** Where an individual may obtain a non- financial professional benefit or detriment from the consequences of a commissioning decision, such as increasing their professional reputation or status or promoting their professional career.

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

² New Care Models refers to Multi-specialty Community Providers ((MCP), Primary and Acute Care Systems (PACS) or other arrangements of a similar scale or scope.

- 3) **Non-financial personal and political interests:** Where an individual may benefit or suffer a detriment personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit or detriment, this applies equally to any political benefit, including access to material used for lobbying purposes.

- 4) **Indirect Interests:** Where an individual has a close association with an individual who has a financial interest, non-financial professional interest or a non-financial personal interest in a commissioning decision.

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

The CCG will exercise discretion on a case by case basis, having regard to the principles set out in section two of this policy, in deciding whether any other role, relationship or interest would impair or otherwise influence the individual's judgement or actions in their role within the CCG. If so, this should be declared and appropriately managed.

It is for each individual to exercise their judgement as to whether they need to register any interests that may be construed as a potential conflict. However, it is worth bearing in mind that a perception of wrong-doing, impaired judgement or undue influence can be as detrimental as any of them actually occurring. If there is any doubt, it is preferable to assume the existence of a conflict of interest and manage it appropriately.

If any individual is unsure as to whether an interest should be declared then they should seek advice from the CCG's Senior Corporate Governance Officer (or, in their absence, the CCG's Governance Lead – Corporate Systems Manager), or the Chair of Audit Committee in their role as Conflicts of Interest Guardian or the Accountable Officer.

[Here are some examples of case studies developed by NHS England](#)

5.2 Declarations of Interest – When to make a declaration

Where an individual, i.e. the Governing Body, committee or a sub-committee of the CCG or its Governing Body, an employee or CCG member, associate or someone providing services to the CCG has an interest, or becomes aware of an interest, which could lead to a conflict of interest in the event of the CCG considering an action or decision in relation to that interest, that must be considered as a potential conflict and is subject to the provisions of this policy and to the CCG's Constitution.

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

Individuals are not required to declare all the interests that they may have outside of the CCG, but rather those interests which could relate to or could impact on CCG business. Declarations of interest must be made via the CCG's Declaration of Interests Portal either before an application is made to a source of secondary employment (including seeking public office) or if they are already engaged in a secondary activity as soon as they are aware of it and in any event **no later than 7 days** after becoming aware of the conflict³.

Where an interest has been declared, either in writing or orally, the declarer should ensure that before participating in any activity connected with the CCG's exercise of its commissioning functions, they have received confirmation of the arrangements to manage the conflict of interest or potential conflict of interest.

There will be occasions where an individual declares an interest in good faith but, upon closer consideration, it is clear that this does not constitute an actual conflict of interest. The Senior Corporate Governance Officer will, having consulted with the Governance Lead (Corporate System Manager) and Conflict of Interest Guardian, provide advice on this and whether it is necessary for the interest to be declared.

There will be other occasions where the conflict of interest is profound and acute. In such cases (such as where an individual has a direct financial interest or political

interest which gives rise to a conflict, e.g., secondary employment or involvement with an organisation which might benefit financially from contracts with the CCG or political activity that would be advantaged due to access to privileged information). In such situations, the Accountable Officer and Conflict of Interest Guardian with the support of the Governance Lead (Corporate Systems Manager) (or, in their absence, the Senior Corporate Governance Officer), will need to consider whether, practically, such an interest is manageable at all. If it is not, the appropriate course of action may be to refuse to allow the circumstances which gave rise to the conflict to persist. In exceptional circumstances, this may require an individual to step down from a particular role and/or move to another role within the CCG. Any such action would be taken in line with the CCG's HR policies, Constitution and Standing Orders and with the support of the HR team.

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 should make an oral declaration and provide a written declaration as soon as possible thereafter. A proforma is attached to enable individuals to provide such written declarations (see Annex 1: meeting declaration form).

Declarations - Prior to appointment

Any individual seeking employment with the CCG or appointment to the Governing Body, any of its sub-committees or committees of the CCG, or as an Associate/Subject Specialist will be required to declare any potential conflicts of interest during the appointment process. The materiality and extent of any interests/conflicts of interest of potential appointees will be considered as part of the assessment of their suitability for the appointment. Where a question is raised as to whether this could impact upon the ability to make an appointment further guidance should be sought from the Conflict of Interest Guardian and the Governance Lead (Corporate Systems Manager).

Declarations - on appointment

All CCG Governing Body members, advisors to the Governing Body, Associates/Subject Specialists and employees will be required to declare any interests using the CCG's Declaration of Interests Portal upon their appointment to

their position.

They will also be required to complete the 'Fit and Proper Person' checklist as part of their pre-employment checks.

Declaration of interests - On any change of circumstances, role or responsibility

Whenever an individual's role, responsibility or circumstances change in a way that affects the individual's interests (for example, where an individual takes on a new role outside the CCG, enters into a new business or relationship, starts a new project/piece of work or may be affected by a procurement decision e.g. if their role may transfer to a proposed new provider), it is their responsibility to notify the Corporate Governance Officer of the change in circumstances as soon as possible and in any event **within 28 days**. This could involve a conflict of interest ceasing to exist or a new one materialising.

Declarations – Six monthly

All interests must be declared six monthly for the:

- Governing Body
- Senior Management Team (SMT)
- Associates/subject specialists

Governing Body members will also review and update their 'Fit and Proper Person' checklist as part of their declaration of interests at the end of the financial year.

Declarations – at least annually

All interests must be declared at least annually for the:

- CCG members
- All staff other than SMT

The Senior Corporate Governance Officer will be responsible ensuring the coordination of the declaration process. This will be complemented by a quarterly

review to ensure that the register of interests is accurate and up to date. Where there are no interests, a return of “no declarable interests” should be recorded.

Declarations - at meetings

Declarations of interest will be a standing agenda item at each Governing Body, committee or sub- group meeting before the main items on the agenda are discussed.

Even if an interest has been recorded in the register of interests, it should still be declared in meetings where matters relating to that interest are discussed.

Any interests declared will be recorded in the minutes. Minutes will clearly specify the nature and extent of the interest, an outline of the discussion, the action taken to manage the conflict and the decisions made with regard to the course of action taken.

Similarly, any new offers of gifts or hospitality (whether accepted or not) which are declared at a meeting must be included on the CCG’s register of gifts, hospitality and commercial sponsorship to ensure it is up-to-date (see section six).

5.3. Arrangements for Joint Activities, Enterprises and Partnerships

In order to provide the necessary safeguards, in-line with the general principles set-out in sections 1.1 and 2.2 of this document, additional arrangements will need to be put in place for any joint activity, enterprise or partnership that involves the allocation, utilisation and accountability for financial and other resources. This includes any arrangements for the sharing of financial, human and other resources with other parties, and the public representation of such arrangements. The latter point is of particular importance given the requirement for transparency and the clear documentation of approaches and decisions taken at every stage of the commissioning cycle, and with regard to the role of the Accountable Officer (As noted in section 4.5). Whilst normally it will not be necessary to establish any additional organisational arrangements for the scrutiny of any joint activity, it will be necessary in all cases to provide an explicit statement of the nature, scale and operational characteristics of any such activity. This may, for example, make reference to a jointly commissioned service and will indicate the CCG resources allocated to the service, the use to which the

resources have been put and the outturn of any resource utilisation.

In the case of a joint appointment to a senior post, including the Accountable Officer, it will be essential for the post holder, for the duration of the term of the joint post, proactively to identify at the earliest opportunity any actual or potential conflict of interest that may affect the integrity of any decisions of the Calderdale Clinical Commissioning Group in relation to any arrangement between the partner organisation and the CCG and undertake any actions required to comply with any conflict of interest policy or process of the CCG.

5.4 Chairing arrangements and decision-making processes

The Chair of a meeting of the CCG's governing body or any of its committees, sub-committees or sub-groups has ultimate responsibility for deciding whether there is a conflict of interest and for taking the appropriate course of action in order to manage the conflict of interest.

In the event that the Chair of a meeting has a conflict of interest, previously declared or otherwise, in relation to the scheduled or likely business of the meeting, they must make a declaration and the Deputy Chair of the meeting will act as chair for the relevant part of the meeting. Where there is no Deputy Chair present, the members of the meeting will select one of their number to chair the meeting for the item in question.

Where arrangements have been confirmed for the management of the actual or potential conflict of interest in relation to the Chair, the meeting must ensure that these are followed.

In making such decisions, the chair of the meeting may wish to consult with the Conflicts of Interest Guardian and Senior Corporate Governance Officer (or, in their absence, the CCG's Governance Lead - Corporate Systems Manager).

In line with good practice, the Chair with the support of the Lead Officer, Senior Corporate Governance Officer (or, in their absence, the CCG's Governance Lead – Corporate Systems Manager), and where applicable, the Conflicts of Interest Guardian, should seek to proactively consider what conflicts are likely to arise in the

meeting and how they should be managed, including, where appropriate, taking steps to ensure that supporting papers for particular agenda items of private sessions/meetings are not sent to conflicted individuals (see Annex 2: consideration of management of conflicts of interest prior to the meeting template)

To support chairs in their role, a declaration of interest checklist - including details of any existing declarations of conflicts will be made available prior to meetings (see Annex 3: Conflict of Interest Checklist for Chairs).

It is the responsibility of each individual member of the meeting to declare any conflicts of interests in relation to one or more items of business to be transacted at the meeting. Should the Chair or any other member of the meeting be aware of facts or circumstances which may give rise to a conflict of interests but which have not been declared then they should raise this.

The Chair of the meeting will decide whether there is a conflict of interest and the appropriate course of action to take in order to manage the conflict of interest. The appropriate course of action will depend on the particular circumstances, but could include one or more of the following:

- 1) **Noting the interest** and ensuring that all attendees are aware of the nature and extent of the interest **but allowing the individual to remain and participate in both the discussion and in any decisions.**

This is only likely to be the appropriate course of action where it is decided that the interest which has been declared is either immaterial or not relevant to the matter(s) under discussion.

- 2) 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;

In private meetings, this would require the individual to leave the room. When the meeting is being held in public, the individual(s) may be required to push their chairs away from the table to indicate that they are no longer part of the discussion or decision, to join the audience in the public seating area or to leave the room.

- 3) Requiring the individual to leave the discussion when the relevant matter(s) are being considered and when any decisions are being taken in relation to those matter(s).**

In private meetings, this could require the individual(s) to leave the room. When the meeting is being held in public, the individual(s) may be required to push their chairs away from the table to indicate that they are no longer part of the discussion or decision, to join the audience in the public seating area or to leave the room.

- 4) Requiring the individual who has a conflict of interest (including the chair or vice chair if necessary) not to attend the meeting or the relevant part of the meeting;**

This would also include 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.

Where the conflict of interest relates to outside employment and an individual continues to participate in meetings pursuant to paragraph 5.3, he/she should ensure that the capacity in which they continue to participate in the discussions is made clear and accurately recorded in the minutes of the meeting. Where it is appropriate for them to participate in decisions they must only do so if they are acting in their CCG

role.

If an individual leaving the meeting impacts upon quoracy, the Chair is able to manage this in line with the CCG's Constitution, by the use of alternative quoracy arrangements, adjourning the item and reconvening the meeting when appropriate membership can be ensured or in exceptional circumstances suspending standing orders.

The Senior Corporate Governance Officer (or, in their absence, the CCG's Governance Lead – Corporate Systems Manager) and/or the Conflict of Interest Guardian are able to provide advice and support to the Chair and lead officer.

5.5 Recording decisions in the minutes

In order to ensure transparency in the CCG's decision-making processes, the following information will be recorded in the minutes about any conflicts of interest that are declared or otherwise arise in a meeting:

- who has the interest
- the nature of the interest and why it gives rise to a conflict, including the materiality/significance of that interest
- the items on the agenda to which the interest relates
- how the conflict was agreed to be managed; and evidence that the conflict was managed as intended (for example recording the points during the meeting when particular individuals left or returned to the meeting).

5.6 Alternative quoracy arrangements

The CCG's Constitution sets out the circumstances and arrangements for the conduct of business where more than 50% of the members of the Governing Body are required to withdraw from a meeting or part of it, owing to the arrangements agreed by the Governing Body for the management of conflicts of interests or potential conflicts of interests.

6. Gifts, Hospitality and Commercial Sponsorship

6.1 Gifts

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

Principles

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 in an appropriate way.

Any personal gift of cash or cash equivalents (e.g. vouchers, tokens, offers of remuneration to attend meetings whilst in the capacity of 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 via the Declaration of Interest Portal so that it can be recorded on the register.

Gifts from suppliers or contractors doing business or likely to do business with the CCG:

Gifts of low value i.e. **up to £10**, such as promotional items (e.g. diaries, calendars, stationery and other gifts acquired from meetings, events or conferences), can be accepted and do not need to be declared.

Other gifts from suppliers or contractors must be declined and declared via the Declaration of Interest Portal so that it can be recorded on the register.

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

- Staff should not ask for any gifts;
- Gifts of low value i.e. up to £10 can be accepted and do not need to be declared

- Gifts offered from other sources should also be declined if accepting them might give rise to perceptions of bias or favouritism.
- Gifts valued at over £10 should be treated with caution and only be accepted as donation to a CCG nominated charity. These should be declared;
- Multiple gifts from the same source over a 12 month period should be treated in the same way as single gifts over £10 where the cumulative value exceeds £10.

The Senior Corporate Governance Officer (or, in their absence, the CCG's Governance Lead – Corporate Systems Manager) is available to provide advice on queries about such gifts.

Declaring the offer

The individual, to whom the gifts were offered, **even if they have been declined**, should declare the offer via the Declaration of Interest Portal so that the offer can be recorded on the register of gifts and hospitality.

6.2 Hospitality

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.

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

CCG staff or Governing Body members should not ask for nor 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; it should be on a similar scale to that which the CCG might offer in similar circumstances (e.g., tea, coffee, light refreshments at meetings). Hospitality of this nature does not need to be declared nor recorded on the register.

The Senior Corporate Governance Officer (or, in their absence, the CCG's Governance Lead – Corporate Systems Manager) is available to provide advice on queries about offers of hospitality.

Particular caution should be exercised where hospitality is offered by suppliers or contractors linked (currently or prospectively) to the CCG's business. Offers of this nature may be acceptable if they are modest and reasonable but advice should always be sought from the Senior Corporate Governance Officer who having liaised with the Governance Lead (Corporate System Manager) and the CCG's Conflict of Interest Guardian will provide advice on whether or not it would be appropriate to accept any such offers as there may be particular sensitivities, for example if a contract re-tender is imminent.

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 – see below) explicit prior approval has been given. The acceptance together with the rationale for acceptance should be recorded via the CCG's DOI portal.

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 of hospitality which go beyond 'modest' or of a type that the CCG itself might

not usually offer, should be politely refused. Examples include:

- Offers of business class or first class travel and accommodation; and
- Offers of foreign travel and accommodation.

Exceptional circumstances

There may be some limited and exceptional circumstances where accepting the types of hospitality referred to above may be contemplated.

Such offers should be notified to the CCG's Governance Lead (Corporate Systems Manager) in order that explicit prior approval can be sought from the Chief Officer, and Conflict of Interest Guardian. If such offers are considered to be reasonably justifiable and otherwise in accordance with this policy, then they may be accepted.

Hospitality of this nature should be declared to via the Declaration of Interest Portal and recorded on the register of gifts and hospitality, together with whether the offer was accepted or declined and the reasons for this.

6.3 Commercial Sponsorship

CCG staff, governing body and committee members, and GP member practices may be offered commercial sponsorship for courses, conferences, post/project funding, meetings and publications in connection with the activities which they carry out for or on behalf of the CCG or their GP practices.

Sponsoring events

Sponsorship of NHS events by external parties is valued by the NHS. Offers to meet some or part of the costs of running an event secures their ability to take place, benefitting NHS staff and patients. Without this funding there may be fewer opportunities for learning, development and partnership working. However, such sponsorship may be perceived as NHS endorsement of the external party and 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.

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 would result in clear benefit for the CCG and the NHS
- Acceptance of commercial sponsorship should not in any way compromise commissioning decisions of the CCG or be dependent on the purchase or supply of goods or services.
- 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 of an event, meeting, seminar, publication or training event.
- The involvement of a sponsor in an event should always be clearly identified in the interest of transparency.
- The CCG should make it clear that sponsorship does not equate to endorsement of individual companies or their products and this will be made visibly clear on any promotional or other materials relating to the event.
- Staff should declare involvement with arranging sponsored events to their CCG.

All such offers (whether accepted or declined) should be declared via the Declaration

of Interest Portal so that they can be included on the CCG's register of gifts, hospitality and commercial sponsorship. The Senior Corporate Governance Officer, having liaised with the Governance Lead (Corporate System Manager) and the CCG's Conflict of Interest Guardian, will provide advice on whether or not it would be appropriate to accept any such offers.

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 organisation, particularly in relation to procurement and competition. In order to ensure transparency about such arrangements, all such offers (whether accepted or declined) should be declared via the Declarations of Interest Portal. The Senior Corporate Governance Officer, having liaised with the CCG's Governance Lead (Corporate Systems Manager and the Conflict of Interest Guardian will provide advice on whether or not it would be appropriate to accept any such offers.

7. Register

The Governing Body will ensure that all reasonable steps have been taken to obtain declarations of all relevant interests. The Governing Body has delegated authority to the Audit Committee to provide the necessary assurance that the Registers of Interests are reviewed on a regular basis to ensure that they are accurate and updated as appropriate. All interests declared will be transferred to the relevant CCG register by the Corporate Governance Officer as soon as possible and within 28 days of notification (See Annex 4: Register of Interests Template). All reasonable steps will also be taken to obtain updated declarations of interests from all relevant individuals at least annually and where there are no interests to declare, a return of "no declarable interests" will be recorded.

7.1 Registers of Interest

The CCG will maintain Registers of Interest of:

a) **CCG Members** (i.e. each practice)

This includes each provider of primary medical services which is a member of the CCG³. Declaration 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.

b) **Governing Body and committees**

All members of the Governing Body, its committees and the CCG's committees, sub-committees / subgroups, including:

- Appointed deputies
- Any members of the committee/sub-groups from other organisations where the CCG is participating in a joint committee alongside other CCGs. Any interests which are declared by the committee members should be recorded on the register(s) of interest of each participating CCG.

c) **All CCG Employees**

All staff, including those listed below should declare interests and offers/receipt of gifts and hospitality:

- All full and part time staff;
- Any staff on sessional or short term contracts;
- Any students and trainees (including apprentices)
- Agency staff and
- Seconded staff
- Any self-employed consultants or other individuals working for the CCG under a contract for services.

³ S.14O(1) of the NHS Act 2006 as amended

It is recognised that some staff are more likely than others to have a decision-making influence on the use of taxpayers' money, because of the requirements of their role. These individuals are referred to as '**decision making staff**'.

The CCG defines 'decision-making staff' as members the Chief Officer and Chief Finance Officer/Deputy Chief Officer, i.e. the Very Senior Managers (VSMs) who have the power to enter into contracts on behalf of the CCG.

The Declaration of Interests for the VSMs is incorporated into the Register of Interests for the Governing Body and will be available on the website. A copy will also be available on request from the CCG's headquarters.

d) Associates/subject specialists

All Associates/subject specialists engaged under the provisions of the CCG's Associates/subject specialists Policy.

7.2 Register of gifts and hospitality

All gifts or hospitality offered and/or received will be promptly transferred to the register of gifts and hospitality maintained by the Corporate Governance Officer. This will include any gifts and hospitality declared in meetings. (See Annex 5: Register of Gifts, Hospitality and Commercial Sponsorship Template)

The register of gifts and hospitality will be reported to the Audit Committee on at least an annual basis.

7.3 Publication of the registers

The CCG will maintain and publish the registers of interest and gifts and hospitality on the [CCG's website](#); Copies of the registers will also be available on request from the CCG's Headquarters.

A web link to the registers of interest (including the register of gifts and hospitality) will be published as part of the CCG's Annual Report and Annual Governance Statement.

7.4 Public disclosure of information

All individuals who are required to make a declaration of interest will be made aware that the registers will be published in advance of publication. This will be done by inclusion in the CCG's Fair Processing Notice. Individuals making declarations will be responsible for notifying any third party individuals they have identified in the register as a result of their relationship.

Protection of individuals

In exceptional circumstances, where the public disclosure of information could give rise to a real risk of harm or is prohibited by law, an individual's name and/or other information may be redacted from the publicly available register(s).

Where an individual believes that substantial damage or distress may be caused, to him/herself or somebody else by the publication of information about them, they are entitled to request that the information is not published. This can be done via the Declaration of Interest Portal. Decisions not to publish information will be made by the Conflicts of Interest Guardian for the CCG, who will seek appropriate legal advice where required and will be supported by the CCG's Governance Lead - Corporate System Manager and/or Senior Corporate Governance Officer in this. The CCG will retain a confidential record of the request and reasons for upholding as well as un-redacted version of the register.

7.5 Archiving the registers

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

8. Managing Conflicts of Interest Throughout the Commissioning Cycle

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

circumstances, whether that individual should be involved in the process at all.

The CCG should identify as soon as possible where staff might transfer to a provider (or their role may materially change) following the award of a contract. This should be treated as a relevant interest and managed accordingly.

8.1 Designing service requirements

The way in which services are designed can either increase or decrease the extent of perceived or actual conflicts of interest.

CCGs have legal duties under the Act to properly involve patients and the public in their respective commissioning processes and decisions. Calderdale CCG is committed to public and patient engagement in service development in order to support transparent and credible commissioning decisions. Public and patient engagement should happen at every stage of the commissioning cycle from needs assessment, planning and prioritisation service design, procurement and monitoring. The process by which this is achieved is set out in the Public and Patient Engagement and Experience Strategy.

8.2 Provider engagement

The CCG recognises the value of engaging relevant providers, especially clinicians, in confirming that the design of service specifications meets patient needs. This may include providers from the acute, primary, community, and mental health sectors, and may also include NHS, third sector and private sector providers. Such engagement, done transparently and fairly, is entirely legal. However, conflicts of interest, as well as challenges to the fairness of the procurement process, can arise if the commissioner engages selectively with only certain providers (be they incumbent or potential new providers) in developing a service specification for a contract for which they may later bid. The CCG must be particularly mindful of these issues when engaging with existing/potential providers in relation to the development of new care models. In order to manage actual or perceived conflicts of interest arising from such engagement, provider engagement should follow the three main principles of

procurement law, namely equal treatment, non-discrimination and transparency. This includes ensuring that the same information is given to all at the same time and that procedures are transparent. This mitigates the risk of potential legal challenge.

As the service design develops, it is considered good practice to engage with a range of providers on an on-going basis, seeking comments on the proposed design e.g., via the CCG's website and/or via workshops with interested parties.

A record of all such interaction should be kept and if appropriate the advice of an independent clinical advisor on the design of services should be secured.

8.3 Specifications

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

8.4 Procurement and awarding grants

Procurement relates to any purchase of goods, services or works and the term 'procurement decision' includes a decision to use a single tender action. 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 or decision to award a grant.

The CCG will procure services in a manner that is open, transparent, non-discriminatory and fair to all potential providers and compliant in accordance with the main principles of procurement law and prevailing guidance:

- 1) The NHS (Procurement, Patient Choice and Competition Regulations) (no.2) 2013 place requirements on commissioners to ensure that they adhere to good practice in relation to procurement, run a fair, transparent process that does not discriminate against any provider, do not engage in anti-competitive behaviour that is against the interests of patients and protect the right of patients to make choices about their healthcare.

The Regulations require CCGs to:

- Manage conflicts and potential conflicts of interests when awarding a contract by prohibiting the award of a contract where the integrity of the award has been, or appears to have been, affected by a conflict; and
- Keep and publish appropriate records of how any such conflicts have

been managed in relation to NHS Commissioning Contracts entered into.

1) The European procurement regime – Public Contracts Regulations 2015 (PCR 2015) apply to all public contracts over the threshold value (€750,000, currently £589,148)⁴; enforced through the Courts. The focus is on ensuring a fair and open selection process for providers.

2) The PCR require CCGs to:

Take appropriate measures to effectively prevent, identify and remedy conflicts of interest arising in the conduct of procurement procedures in order to avoid any distortion of competition and to ensure equal treatment of all economic operators. A conflict of interest within this context is defined as:

“any situation where relevant staff members have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure”.

One area in which conflicts could arise is where the CCG commissions (or continues to commission by contract extension) healthcare services, including GP services, in which a member of the CCG has a financial or other interest. This may most often arise in the context of commissioning of primary care, particularly with regard to delegated commissioning, where GPs are current or possible providers or in relation to the commissioning of new care models.

Complete transparency around procurement will provide:

- Evidence that the CCG is seeking and encouraging scrutiny of its decision-making process;
- A record of the public involvement throughout the commissioning of the service;
- A record of how the proposed service meets local needs and priorities for

⁴ The general principles of equal treatment, transparency, mutual recognition, non-discrimination and proportionality may apply even to public contracts for healthcare services falling below the threshold value if there is likely to be interest from providers in other member states.

partners such as the Health and Wellbeing Boards, local Healthwatch and local communities;

- Evidence to the Audit Committee and internal and external auditors that a robust process has been followed in deciding to commission the service, in selecting the appropriate procurement route, and in addressing potential conflicts.

A record will be kept of any procurement decision that results in the CCG entering into a new contract, extending an existing contract or materially altering the terms of an existing contract for healthcare services, including GP services.

(See Annex 6: Procurement checklist)

8.5 Declarations of interests for bidders/contractors

As part of the procurement process and in line with good practice, bidders will be asked to complete a formal declaration of interests at the invitation to tender stage of the procurement process. (See Annex 7: Evaluation Panel Member Declaration of Interest Form, Annex 8: Bidders Declaration of Interest Form). This enables the CCG to ensure that it is operating within the principles of equal treatment and transparency. When a bidder declares a conflict, the contracting team will make a decision on how this conflict should be managed. Advice on this can be sought from the Senior Corporate Governance Officer (or, in their absence, the CCG's Governance Lead – Corporate Systems Manager) or the CCG's Conflicts of Interest Guardian.

The internal record of contract award decisions will include any decisions made in relation to the management of actual or perceived conflict declared by bidders. There is no obligation to publish this information as it may compromise the anonymity of bidders during the procurement process. However, the records will be retained for at least three years from the date of award of contract.

8.6 Register of procurement decisions

The CCG will maintain a register of procurement decisions taken, either for the procurement of a new service or any extension or material variation of a current contract. (See Annex 9: Register of Procurement Decisions Template).

The register will be updated whenever a procurement decision is taken.

8.7 Publication of decisions and contracts

In the interests of transparency and in accordance with the Procurement, Patient Choice and Competition Regulations, the register of decisions and details of all contracts, including the value of the contracts, will be published on the CCG website following the agreement of the contract.

Where it is decided to commission services through Any Qualified Provider (AQP), the type of service being commissioned and the agreed price for each service will also be included. The CCG will also ensure that there is information publicly available about those providers who qualify to provide the service.

The register of decisions and details of contracts will be published on the website and made available for inspection, on request to the CCG's headquarters. A web link to the register of procurement decisions will be published as part of the CCG's Annual Report and Annual Governance Statement.

8.8 Contract Monitoring

Any contract monitoring meeting should consider conflicts of interest as part of the process i.e. the chair of a contract management meeting should invite declarations of interest, record any declared interests in the minutes of the meeting and manage any conflicts appropriately, in line with this policy and the statutory guidance on the management of conflicts of interest. This also applies where contracts are held jointly with another organisation such as the Local Authority or with other CCGs under lead commissioner arrangements.

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 any other provider that could prevent them, or be perceived to prevent them from carry out their role in an impartial, fair and transparent manner.

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

9. Raising Concerns and Breaches

9.1 Creating a culture where concerns or breaches can be reported

The effective management of conflicts of interest requires an environment and culture where individuals feel supported and confident in declaring relevant information, including the notification of any actual or suspected breaches of the rules.

The CCG's Governance Lead (Corporate Systems Manager), Senior Corporate Governance Officer and Conflicts of Interest Guardian are able to provide advice, support, and guidance on how conflicts of interest should be managed. They will work ensure that organisational policies are clear about the support available for individuals who wish to report a suspected or known breach of the conflicts of interest policy, and of the sanctions and consequences for any failure to declare an interest or to notify an actual or suspected breach at the earliest possible opportunity.

9.2 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, and to report these concerns.

These individuals should not ignore their suspicions or investigate themselves, but rather speak to the CCG's Governance Lead - Corporate Systems Manager, Accountable Officer or Conflicts of Interest Guardian to raise their concerns.

Concerns can also be raised in writing. The CCG welcomes the raising of concerns and is committed to dealing with them responsibly and professionally. If anyone raises a concern, the matter will always be given serious consideration.

The CCG will treat all disclosures in a confidential and sensitive manner in line with the CCG's policies and applicable laws. The identity of the individual raising the concern may be kept confidential so long as it does not hinder or frustrate any investigation.

9.3 Managing Breaches

All concerns received will be documented by the CCG's Governance Lead (Corporate Systems Manager) and fully investigated to determine if a breach of the Conflict of Interest Policy has occurred. In most instances, the Conflicts of Interest Guardian will investigate the concern, with support from the CCG's Governance Lead (Corporate Systems Manager).

The CCG's Governance Lead (Corporate Systems Manager) will arrange for the notification to NHS England.

The individual making a disclosure will receive an appropriate explanation of any decisions taken as a result of any investigation.

Any non-compliance with the CCG's Conflicts of Interest Policy should be reported and will be handled in line with this policy and the CCG's Whistleblowing Policy (where the breach is being reported by an employee or worker of the CCG). Anyone who wishes to report a suspected or known breach of the policy, who is not an employee or worker of the CCG, should also ensure that they comply with their own organisation's whistleblowing policy, as such policies provide protection against detriment or dismissal.

9.4 Complaints

Providers, patients and other third parties can make a complaint to NHS Improvement in relation to the CCG's conduct under the Procurement, Patient

Choice and Competition Regulations. The regulations are designed as an accessible and effective alternative to challenging decisions in the courts.

9.5 Publicising breaches

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

10. Fraud or Bribery

Any suspicions or concerns of acts of fraud or bribery should not be ignored or investigated by the individual themselves. They should be reported:

- online via www.reportnhsfraud.nhs.uk
- via the NHS Fraud and Corruption Reporting Line on 0800 0284060
- Local Counter Fraud Specialist, Audit Yorkshire, 01924 816098

This provides an easily accessible and confidential route for the reporting of genuine suspicions of fraud within or affecting the NHS. All calls are dealt with by experienced trained staff and any caller who wishes to remain anonymous may do so.

11. Implications of Non-Compliance

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

11.1 Civil implications

If conflicts of interest are not effectively managed, the CCG could face civil challenges to decisions it makes. For instance, if breaches occur during a service re-design or procurement, the CCG risks a legal challenge from providers that could potentially overturn the award of a contract, lead to damages claims against the CCG, and necessitate a repeat of the procurement process.

This could delay the development of better services and care for patients, waste public money and damage the CCG's reputation.

In extreme cases, staff and other individuals could face personal civil liability, for example, a claim for misfeasance in public office.

11.2 Criminal implications

Failure to manage conflicts of interest could lead to criminal proceedings including for offences such as fraud, bribery and corruption. This could have implications for the CCG and linked organisations as well as the individuals who are engaged by them.

The Fraud Act 2006 created a criminal offence of fraud and defines three ways of committing it:

- Fraud by false representation;
- Fraud by failing to disclose information; and,
- Fraud by abuse of position.

An essential ingredient of the offences is that, the offender's conduct must be dishonest and their intention must be to make a gain, or cause a loss (or the risk of a loss) to another. Fraud carries a maximum sentence of 10 years imprisonment and /or a fine if convicted in the Crown Court or 6 months imprisonment and/or a fine in the Magistrates' Court. The offences can be committed by a body corporate.

Bribery is generally defined as giving or offering someone a financial or other advantage to encourage that person to perform their functions or activities. The Bribery Act 2010 contains a corporate offence in which commercial organisations, including NHS bodies, have a criminal liability, punishable by an unlimited fine, for failing to prevent bribery.

The offences of bribing another person, being bribed or bribery of foreign public officials in relation to an individual carries a maximum sentence of 10 years

imprisonment and/or a fine if convicted in the Crown Court and 6 months imprisonment and/or a fine in the Magistrates' Court. In relation to a body corporate the penalty for these offences is a fine.

The CCG's requirements in this area are set out in the Counter-Fraud, Bribery and Corruption Policy. All CCG staff and Governing Body members are required to attend counter-fraud, bribery and corruption awareness training every three years.

11.3 Disciplinary implications

Individuals who fail to disclose any relevant interests or who otherwise breach the CCG's rules and policies relating to the management of conflicts of interest may be subject to investigation and, where appropriate, to disciplinary action in accordance with the CCG's Disciplinary Policy.

CCG staff should be aware that the outcomes of such action may, if appropriate, result in the termination of their employment.

11.4 Professional regulatory implications

Statutorily regulated healthcare professionals who work for, or are engaged by, the CCG are under professional duties imposed by their relevant regulator to act appropriately with regard to conflicts of interest.

The CCG will report statutorily regulated healthcare professionals to their regulator if it is believed that they have acted improperly, so that these concerns can be investigated.

Statutorily regulated healthcare professionals should be aware that the consequences for inappropriate action could include fitness to practice proceedings being brought against them, and that they could, if appropriate, be struck off by their professional regulator as a result.

12. Training

All CCG staff, governing body members and members of CCG committees and sub-committees will be required to complete the annual mandatory training on the

management of conflicts of interest. This is to ensure staff and others within the CCG understand what conflicts are, their responsibilities under the conflicts of interest policy, how to manage conflicts effectively and how to raise concerns about suspected or known breaches.

13. Public Sector Equality Duty

The Equality Act 2010 includes a general legal duty to:

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

The protected characteristics are:

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

Public bodies have to demonstrate **due regard** to the general duty. This means active consideration of equality must influence the decision/s reached that will impact on patients, carers, communities and staff. Appendix 1 contains the Equality Impact Assessment on this policy.

14. Implementation and Dissemination

This policy, following approval by the Governing Body will be disseminated to

staff, governing body members, Associates and member practices.

All staff will be notified of this policy via the CCG's internal communication mechanisms.

15. Monitoring Compliance and Effectiveness Of The Policy

The CCG will continue to monitor its governance structures and procedures for managing conflicts of interest to ensure that they continue to remain fit for purpose.

Monitoring compliance of the policy will be via the Audit Committee. They will be supported in this by an annual internal audit of the processes for the management of conflicts of interest.

The CCG is also required to report to NHS England on a quarterly basis and contain a report in the CCG's Annual Report on the outcome of the annual internal audit.

16. Associated Policies and Guidance

The policy aligns with the following documents:

- NHS England, Managing Conflicts of Interest: Revised Statutory Guidance for CCGs (June 2017)
- NHS Calderdale CCG Constitution
- Anti-Fraud, Bribery and Corruption Policy 2015
- Standards of Business Conduct
- Procurement Policy 2017
- Public and Patient Engagement and Experience Strategy 2016
- Working Time Regulations and Secondary Employment Policy 2014
- Freedom to speak up: raising concerns (whistleblowing) Policy 2016

- Disciplinary Policy and Procedure 2015
- Standards for members of NHS Boards and CCG Governing Bodies in England
- Code of Conduct for NHS Managers
- Ensuring Transparency and Probity, (2011) British Medical Association
- Managing Conflicts of interests in Clinical Commissioning Groups, Royal College of General Practitioners / NHS Confederation, (2011)
- Good Medical Practice, General Medical Committee (2006)

Appendix 1: Equality Impact Assessment

Equality Impact Assessment Tool

Management of Conflicts of Interest Policy

1. Does the policy/guidance affect one group less or more favourably than another on the basis of:

- **Race No**
- **Ethnic origins (including gypsies and travellers) No**
- **Nationality No**
- **Gender No**
- **Culture No**
- **Religion or belief No**
- **Sexual orientation including lesbian, gay and bisexual people No**
- **Age No**
- **Disability - learning disabilities, physical disability, sensory impairment and mental health problems No**

2. Is there any evidence that some groups are affected differently? No

3. If you have identified potential discrimination, are any exceptions valid, legal and/or justifiable?

4. Is the impact of the policy/guidance likely to be negative? No

5. If so, can the impact be avoided?

6. What alternatives are there to achieving the policy/guidance without the impact?

7. Can we reduce the impact by taking different action?

Appendix Two: 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.

Type of Interest	Description
Financial Interests	<p>This is where an individual may get direct financial benefits (or suffer a detriment) from the consequences of a commissioning decision. This could, for example, include being:</p> <ul style="list-style-type: none"> • A director, including a non-executive director, or senior employee in a private company or public limited company or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations. This includes involvement with a potential provider of a new care model. • A shareholder (or similar owner interests), a partner or owner of a private or not- for-profit company, business, partnership or consultancy which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations. • A management consultant for a provider; • In secondary employment; • In receipt of secondary income from a provider; • In receipt of a grant from a provider; • In receipt of any payments (for example honoraria, one off payments, day allowances or travel or subsistence) from a provider • In receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role; and • Having a pension that is funded by a provider (where the value of this might be affected by the

Type of Interest	Description
	<p>success or failure of the provider).</p> <ul style="list-style-type: none"> • A provider of clinical private practice. <p>This could also include an individual being:</p> <ul style="list-style-type: none"> • 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, 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; <p>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).</p>
<p>Non-Financial Professional Interests</p>	<p>This is where an individual may obtain a non-financial professional benefit (or suffer a detriment) from the consequences of a commissioning decision, such as increasing their professional reputation or status or promoting their professional career. This may, for example, include situations where the individual is:</p> <ul style="list-style-type: none"> • An advocate for a particular group of patients; • A GP with special interests e.g., in dermatology, acupuncture etc. • An active member of a particular specialist professional body (although routine GP membership of the RCGP, BMA or a medical defence organisation would not usually by itself amount to an interest which needed to be declared);

Type of Interest	Description
	<p>An advisor for Care Quality Commission (CQC) or National Institute for Health and Care Excellence (NICE);</p> <ul style="list-style-type: none"> • Engaged in a research role; • The development 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. <p>GPs and practice managers, who are members of the Governing Body, committees of the Governing Body or committees of the CCG, or Associates should declare details of their roles and responsibilities held within their GP practices.</p>
<p>Non-Financial Personal and political Interests</p>	<p>This is where an individual may benefit (or suffer a detriment) personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit. This could include, for example, where the individual is:</p> <ul style="list-style-type: none"> • A voluntary sector champion for a provider; • A volunteer for a provider; • A member of a voluntary sector board or has any other position of authority in or connection with a voluntary sector organisation; • Suffering from a particular condition requiring individually funded treatment; <p>A member of a lobby or pressure groups with an interest in health.</p>
<p>Indirect Interests</p>	<p>This is where an individual has a close association with an individual who has a financial interest, a non-</p>

Type of Interest	Description
	<p>financial professional interest or a non-financial personal interest in a commissioning decision (as those categories are described above). For example, this should include:</p> <ul style="list-style-type: none"> • Spouse / partner; • Close family member e.g., parent, grandparent, child, grandchild or sibling; • Close friend or associate • Business partner. <p>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).</p>

Appendix Three: Commissioning New Care Models (NHSE Guidance)

Summary of key aspects of the guidance on managing conflicts of interest relating to commissioning of new care models (NHS England)

Introduction

1. Conflicts of interest can arise throughout the whole commissioning cycle from needs assessment, to procurement exercises, to contract monitoring. They arise in many situations, environments and forms of commissioning.
2. Where CCGs are commissioning new care models⁵, particularly those that include primary medical services, it is likely that there will be some individuals with roles in the CCG (whether clinical or non-clinical), that also have roles within a potential provider, or may be affected by decisions relating to new care models. Any conflicts of interest must be identified and appropriately managed, in accordance with this statutory guidance.
3. This appendix is intended to provide further advice and support to help CCGs to manage conflicts of interest in the commissioning of new care models. It summarises key aspects of the statutory guidance which are of particular relevance to commissioning new care models rather than setting out new requirements. Whilst this appendix highlights some of the key aspects of the statutory guidance, CCGs should always refer to, and comply with, the full statutory guidance.

Identifying and managing conflicts of interest

4. The statutory guidance for CCGs is clear that any individual who has a material interest in an organisation which provides, or is likely to provide, substantial services to a CCG (whether as a provider of healthcare or provider of commissioning support services, or otherwise) should recognise

⁵ new care models' in this note, refers to any Multi-speciality Community Provider (MCP), Primary and Acute Care Systems (PACS) or other arrangements of a similar scale or scope that (directly or indirectly) includes primary medical services

the inherent conflict of interest risk that may arise and should not be a member of the governing body or of a committee or sub-committee of the CCG.

5. In the case of new care models, it is perhaps likely that there will be individuals with roles in both the CCG and new care model provider/potential provider. These conflicts of interest should be identified as soon as possible, and appropriately managed locally. The position should also be reviewed whenever an individual's role, responsibility or circumstances change in a way that affects the individual's interests. For example where an individual takes on a new role outside the CCG, or enters into a new business or relationship, these new interests should be promptly declared and
6. There will be occasions where the conflict of interest is profound and acute. In such scenarios (such as where an individual has a direct financial interest which gives rise to a conflict, e.g., secondary employment or involvement with an organisation which benefits financially from contracts for the supply of goods and services to a CCG or aspires to be a new care model provider), it is likely that CCGs will want to consider whether, practically, such an interest is manageable at all. CCGs should note that this can arise in relation to both clinical and non- clinical members/roles. If an interest is not manageable, the appropriate course of action may be to refuse to allow the circumstances which gave rise to the conflict to persist. This may require an individual to step down from a particular role and/or move to another role within the CCG and may require the CCG to take action to terminate an appointment if the individual refuses to step down. CCGs should ensure that their contracts of employment and letters of appointment, HR policies, governing body and committee terms of reference and standing orders are reviewed to ensure that they enable the CCG to take appropriate action to manage conflicts of interest robustly and effectively in such circumstances.
7. Where a member of CCG staff participating in a meeting has dual roles, for example a role with the CCG and a role with a new care model provider organisation, but it is not considered necessary to exclude them from the whole or any part of a CCG meeting, he or she should ensure that the

capacity in which they continue to participate in the discussions is made clear and correctly recorded in the meeting minutes, but where it is appropriate for them to participate in decisions they must only do so if they are acting in their CCG role.

8. CCGs should take all reasonable steps to ensure that employees, committee members, contractors and others engaged under contract with them are aware of the requirement to inform the CCG if they are employed or engaged in, or wish to be employed or engaged in, any employment or consultancy work in addition to their work with the CCG (for example, in relation to new care model arrangements).
9. CCGs should identify as soon as possible where staff might be affected by the outcome of a procurement exercise, e.g., they may transfer to a provider (or their role may materially change) following the award of a contract. This should be treated as a relevant interest, and CCGs should ensure they manage the potential conflict. This conflict of interest arises as soon as individuals are able to identify that their role may be personally affected.
10. Similarly, CCGs should identify and manage potential conflicts of interest where staff are involved in both the contract management of existing contracts and involved in procurement of related new contracts.

Governance arrangements

11. Appropriate governance arrangements must be put in place that ensure that conflicts of interest are identified and managed appropriately, in accordance with this statutory guidance, without compromising the CCG's ability to make robust commissioning decisions. We know that some CCGs are adapting existing governance arrangements and others developing new ones to manage the risks that can arise when commissioning new care models. We are therefore, not recommending a "one size fits" all governance approach, but have included some examples of governance models which CCGs may want to consider.

12. The principles set out in the general statutory guidance on managing conflicts of interest (paragraph 19-23), including the Nolan Principles and the Good Governance Standards for Public Services (2004), should underpin all governance arrangements.
13. CCGs should consider whether it is appropriate for the Governing Body to take decisions on new care models or (if there are too many conflicted members to make this possible) whether it would be appropriate to refer decisions to a CCG committee.

Commissioning Primary Medical Services Committee (CPMSC)

14. As Calderdale CCG has full delegation for primary medical services, it could consider delegating the commissioning and contract management of the entire new care model to the CPMSC. This Committee is constituted with a lay and executive majority, and includes a requirement to invite a Local Authority and Healthwatch representative to attend⁶.
15. Should this approach be adopted, the CCG may also want to increase the representation of other relevant clinicians on the CPMSC when new care models are being considered, as mentioned in Paragraph 98 of the NHSE guidance. The use of the CPMSC may assist with the management of conflicts/quorum issues at governing body level without the creation of a new forum/committee within the CCG.
16. Alternatively, the CCG might want to consider whether it would be appropriate/advantageous to establish either:
 - a) A **new care model commissioning committee** (with membership including relevant non-conflicted clinicians, and formal decision making powers similar to a Primary Care Commissioning Committee (“NCM Commissioning Committee”)); or
 - b) A separate **clinical advisory committee**, to act as an advisory body to provide

⁶ Managing Conflicts of Interest: Revised Statutory Guidance for CCGs, June 2017, NHSE, para 97 onwards

clinical input to the Governing Body in connection with a new care model project, with representation from all providers involved or potentially involved in the new care model but with formal decision making powers remaining reserved to the governing body (“NCM Clinical Advisory Committee”). NCM Commissioning Committee

17. The establishment of a NCM Commissioning Committee could help to provide an alternative forum for decisions where it is not possible/appropriate for decisions to be made by the Governing Body due to the existence of multiple conflicts of interest amongst members of the Governing Body. The NCM Commissioning Committee should be established as a sub-committee of the Governing Body.
18. The CCG could make the NCM Commissioning Committee responsible for oversight of the procurement process and provide assurance that appropriate governance is in place, managing conflicts of interest and making decisions in relation to new care models on behalf of the CCG. CCGs may need to amend their constitution if it does not currently contain a power to set up such a committee either with formal delegated decision making powers or containing the proposed categories of individuals (see below).
19. The NCM Commissioning Committee should be chaired by a lay member and include non-conflicted GPs and CCG members, and relevant non-conflicted secondary care clinicians.

NCM Clinical Advisory Committee

20. This advisory committee would need to include appropriate clinical representation from all potential providers, but have no decision making powers. With conflicts of interest declared and managed appropriately, the NCM Clinical Advisory Committee could formally advise the CCG Governing Body on clinical matters relating to the new care model, in accordance with a scope and remit specified by the Governing Body.
21. This would provide assurance that there is appropriate clinical input into

Governing Body decisions, whilst creating a clear distinction between the clinical/provider side input and the commissioner decision-making powers (retained by the Governing Body, with any conflicts on the Governing Body managed in accordance with this statutory guidance and constitution of the CCG).

22. From a procurement perspective the Public Contracts Regulations 2015 encourage early market engagement and input into procurement processes. However, this must be managed very carefully and done in an open, transparent and fair way. Advice should therefore be taken as to how best to constitute the NCM Clinical Advisory Committee to ensure all potential participants have the same opportunity. Furthermore, it would also be important to ensure that the advice provided to the CCG by this committee is considered proportionately alongside all other relevant information. Ultimately it will be the responsibility of the CCG to run an award process in accordance with the relevant procurement rules and this should be a process which does not unfairly favour any one particular provider or group of providers.

23. When considering what approach to adopt (whether adopting an NCM Commissioning Committee, NCM Clinical Advisory committee or otherwise) each CCG will need to consider the best approach for their particular circumstances whilst ensuring robust governance arrangements are put in place. Depending on the circumstances, either of the approaches in paragraph 17 above may help to give the CCG assurance that there was appropriate clinical input into decisions, whilst supporting the management of conflicts. When considering its options the CCG will, in particular, need to bear in mind any joint / delegated commissioning arrangements that it already has in place either with NHS England, other CCGs or local authorities and how those arrangements impact on its options.

Provider engagement

24. It is good practice to engage relevant providers, especially clinicians, in confirming that the design of service specifications will meet patient needs. This may include providers from the acute, primary, community, and mental

health sectors, and may include NHS, third sector and private sector providers. Such engagement, done transparently and fairly, is entirely legal. However, conflicts of interest, as well as challenges to the fairness of the procurement process, can arise if a commissioner engages selectively with only certain providers (be they incumbent or potential new providers) in developing a service specification for a contract for which they may later bid. CCGs should be particularly mindful of these issues when engaging with existing / potential providers in relation to the development of new care models and CCGs must ensure they comply with their statutory obligations including, but not limited to, their obligations under the National Health Service (Procurement, Patient Choice and Competition) (No 2) Regulations 2013 and the Public Contracts Regulations 2015.

Further support

25. Further advice and support is available by contacting england.co-commissioning@nhs.net.

Annexes (Templates)

Annex 1 Meeting declaration of interests form

This form must be completed by staff who have an interest in an agenda item. This form may not be accessible to all users if you require this in another format please contact us.

Name:				
Meeting:			Date:	
Agenda item in which you have an interest	Type of interest (e.g. Financial Interest)	Direct or indirect ?	Brief description of your interest	Agreed arrangements for managing conflict of interest
	Financial			
	Non-financial professional			
	Non-financial personal or political			
	Financial			

	Non-financial professional				
	Non-financial personal or political				
	Financial				
	Non-financial professional				
	Non-financial personal or political				

Signed:

Dated:

Annex 2 Template - Consideration of Management of Conflicts of Interest Prior to the Meeting

Management of Conflicts of Interest

This form must be completed prior to the meeting to show how the conflict of interest will be considered. If you require this form in another format please contact us.

Date of meeting	
Venue	
Chair	
Agenda item number	
Agenda item title	
Summary of agenda item	
Interest identified	
Description of the nature and type of interest	
Issues taken into consideration in deciding how the interest should be managed	

Action proposed for managing the conflict of interest	
---	--

Actual management during the meeting

Please describe how the conflict was managed during the meeting in the text box below

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Annex 3: Declarations of interest checklist for Chairs

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

In advance of the meeting	Responsibility
1.The agenda to include a standing item on declaration of interests to enable individuals to raise any issues and/or make a declaration at the meeting.	Meeting Chair and secretariat
2.Agenda to be circulated to enable attendees (including visitors) to identify any interests relating specifically to the agenda items being considered.	Meeting Chair and secretariat
3.A definition of conflicts of interest should accompany with each agenda to provide clarity for all recipients.	Meeting Chair and secretariat
4.Members should contact the Chair as soon as an actual or potential conflict is identified (the meeting declaration form can be used for this (annex 2)	Meeting members
5.It is good practice to proactively consider ahead of the meeting any conflicts likely to arise and how they should be managed.	Meeting Chair, Senior Corporate Governance Officer
6.Chair to review a summary report from any relevant preceding meetings e.g., sub-committee, working group, etc., detailing any conflicts of interest declared and how this was managed.	Meeting Chair
7.A copy of the register of interests is checked to establish any actual or potential conflicts of interest that may occur during the meeting.	Meeting Chair

During the meeting	Responsibility
8. Check and declare the meeting is quorate and ensure that this is noted in the minutes of the meeting	Meeting Chair
9. Chair requests members to declare any interests in agenda items- which have not already been declared, including the nature of the conflict.	Meeting Chair
10. 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.	Meeting Chair and Secretariat
<p>11. As minimum requirement, the following should be recorded in the minutes of the meeting:</p> <ul style="list-style-type: none"> • Individual declaring the interest; • At what point the interest was declared; • The nature of the interest; • The Chair's decision and resulting action taken; • The point during the meeting at which any individuals retired from and returned to the meeting - even if an interest has not been declared; • Visitors in attendance who participate in the meeting must also follow the meeting protocol and declare any interests in a timely manner. 	Secretariat

Following the Meeting	Responsibility
12.All new interests declared at the meeting should be promptly updated onto the declaration of interest form;	Individual(s) declaring interest(s)
13.All new completed declarations of interest should be transferred onto the register of interests, as appropriate. This will be considered on a case by case basis.	Senior Corporate Governance Officer

Annex 4: Register of Interests Template

Register of Interests

This register must be completed describing the interest. This register may not be accessible to all users if you require it in another format please contact us

Name	Position/role within the CCG	Description of Interest	Type of Interest			Is the interest direct or indirect?	Date of Interest	
			Financial Interest	Professional	Personal or political		From	To

Action taken to mitigate risk

All declared Conflicts of Interest are managed in line with the CCG's Policy for Managing Conflicts of Interest

Annex 5: Register of gifts, hospitality and commercial sponsorship

Register of Gifts, Hospitality and Commercial Sponsorship

This register must be completed by those who have been offered a gift.

Name	Position	Date of Offer	Declined or Accepted	Date of Receipt (if applicable)	Details of Gift, Hospitality or Sponsorship	Estimated Value	Supplier / Offeror Name and Nature of Business	Reason for Accepting or Declining

Annex 6: Procurement checklist

This checklist poses questions to be considered when procuring.

This checklist may not be accessible to all users if you require one in a different format please contact us.

Service:	
Question	Comment/ Evidence
1. How does the proposal deliver good or improved outcomes and value for money – what are the estimated costs and the estimated benefits? How does it reflect the CCG’s proposed commissioning priorities? How does it comply with the CCG’s commissioning obligations?	
2. How have you involved the public in the decision to commission this service?	
3. What range of health professionals have been involved in designing the proposed service?	
4. What range of potential providers have been involved in considering the proposals?	
5. How have you involved your Health and Wellbeing Board(s)? How does the proposal support the priorities in the relevant joint health and wellbeing strategy (or strategies)?	

Service:	
Question	Comment/ Evidence
6. What are the proposals for monitoring the quality of the service?	
7. What systems will there be to monitor and publish data on referral patterns?	
8. Have all conflicts and potential conflicts of interests been appropriately declared and entered in registers?	
9. In respect of every conflict or potential conflict, you must record how you have managed that conflict or potential conflict. Has the management of all conflicts been recorded with a brief explanation of how they have been managed?	
10. Why have you chosen this procurement route e.g., single action tender?⁸	

⁸Taking into account all relevant regulations (e.g. the NHS (Procurement, patient choice and competition) (No 2) Regulations 2013 and guidance (e.g. that of Monitor).

<p>11. What additional external involvement will there be in scrutinising the proposed decisions?</p>	
<p>12. How will the CCG make its final commissioning decision in ways that preserve the integrity of the decision-making process and award of any contract?</p>	
<p>Additional question when qualifying a provider on a list or framework or pre selection for tender (including but not limited to any qualified provider) or direct award (for services where national tariffs do not apply)</p>	
<p>13. How have you determined a fair price for the service?</p>	
<p>Additional questions when qualifying a provider on a list or framework or pre selection for tender (including but not limited to any qualified provider) where GP practices are likely to be qualified providers</p>	
<p>14. How will you ensure that patients are aware of the full range of qualified providers from whom they can choose?</p>	
<p>Additional questions for proposed direct awards to GP providers</p>	
<p>15. What steps have been taken to demonstrate that the services to which the contract relates are capable of being provided by only one provider?</p>	

<p>16. In what ways does the proposed service go above and beyond what GP practices should be expected to provide under the GP contract?</p>	
<p>17. What assurances will there be that a GP practice is providing high-quality services under the GP contract before it has the opportunity to provide any new services?</p>	

Annex 7: Conflict of interest declaration for evaluation panel

Insert Name of Procurement

Conflict of Interest Declaration and Confidentiality Undertaking

As a member of the Calderdale Clinical Commissioning Group (Cal CCG) procurement development and / or evaluation team for the **Insert Name of Procurement here** (the "Procurement"), you are required to complete the conflict of interest declaration and confidentiality undertaking below.

Part A: Conflict of Interest Declaration

1. The CCG requires that any individual who has an interest (financial or otherwise, either directly or otherwise, for example, their employing organisation or members of their family or close friends) in the outcome of the Procurement or who are involved in the management of the Procurement, declare such interest. This may result in that individual being excluded from participating in the evaluation of the Procurement.
2. Any disclosure will be assessed by the CCG on a case-by case basis. Individuals will be excluded from the Procurement where the identified conflict is in the CCG's opinion material and cannot be mitigated.
3. Examples of conflicts of interest in respect of the Procurement include but are not limited to the following. For clarity, references to potential tenderers/ tendering consortium are in respect of the Procurement process and references to existing suppliers refers to incumbent suppliers of services that are the subject of the Procurement:
 - Having a financial interest in a potential tenderer or any entity involved in any tendering consortium, or an existing supplier to the CCG. This includes but is not limited to holding shares or options in a company;

- Having a financial or any other personal interest in the outcome of the evaluation of the Procurement or the success of any existing supplier relationship;
- Being employed by (as staff member or volunteer) or providing services to any potential tenderer or existing supplier of services;
- Being a member of a potential tenderer's or existing supplier's management/executive board;
- Offer of any kind of monetary payment or non-monetary gift or incentive (including hospitality) from any tenderer or existing supplier or its representatives;
- Canvassing, or negotiating with, any person with a view to entering into any of the arrangements outlined above;
- Having a close member of your family (which term includes unmarried partners) or personal friends who falls into any of the categories outlined above; and
- Having any other close relationship (current or historical) with any potential tenderer.

4. The above is a non-exhaustive list of examples, and it is your responsibility to ensure that any and all potential conflicts whether or not of the type listed out above, are disclosed to the CCG in writing **prior to you being involved in the Procurement process**.
5. Please complete your personal details and read both and sign **one** of the conflict of interest declarations on the following page:

I, **[Insert Full Name]**

**[Insert Job Title, Department and Employing Organisation
and E Mail Address]**

(please tick the appropriate option)

Option 1

“I **do not** have any conflicts of interest that prevent my full and unprejudiced participation in the Procurement process. I also declare that I will inform the CCG immediately, should my circumstances change in any way that effects this declaration.”

Option 2

“I **do have** a conflict of interest that may prevent my full and unprejudiced participation in a procurement process or contract management of an existing contract for services that are the subject of the Procurement. The nature of this conflict of interest is described below:

I also declare that I will inform the CCG as soon as is practicable, should my circumstances change in any way that effects this declaration.”

(Insert details of the conflict including (if possible) how, in your opinion, it can be adequately managed)

--

Signature:

Date:

Part B: Confidentiality Undertaking

1. The CCG also requires all individuals who will or may have any involvement in the Procurement process to sign a confidentiality undertaking.
2. Please complete your personal details and read, sign and date the confidentiality undertaking below.

I, **[Insert Full Name]**

[Insert Job Title, Department and Employing Organisation]

[Insert E Mail Address]

In view of the following definitions:

“Procurement process” encompasses any formal and informal meetings, associated discussions, meeting preparation and follow up or any other related activity in respect of the Procurement.

“Information” means all information, facts, data and other matters of which I acquire knowledge, either directly or indirectly, as a result of my involvement in the Procurement process.

“Documents” means all draft, preparatory information, documents and any other material in either paper or electronic form, together with any information contained therein, to which I have access, either directly or indirectly, as a result of my participation in the Procurement process. Furthermore, any records or notes made by me relating to information or documents shall be treated as confidential Documents.

I understand that I may be invited to participate either directly or indirectly in the Procurement process and agree:

- a) To treat all Information and Documents under conditions of strict confidentiality;
- b) Not to disclose, make copies of, or discuss any received Information with any person who is not directly involved in the Procurement process;

- c) Not to use (or authorise any other person to use) Information and Documents other than for the purpose of my work in connection with the Procurement process.
- d) To submit all Documents to the CCG as soon as the Procurement process is complete.

This undertaking shall not apply to any Document or Information that becomes public knowledge otherwise than as a result of a breach of any of the above undertakings.

Signature

Date

Annex 8: Conflict of interest declaration for potential bidders

NHS Calderdale CCG Statement of Conflict of Interest

(Insert name of procurement)

[To be completed by an authorised signatory, in his / her own name, on behalf of the potential bidder]

This form is required to be completed in accordance with The Public Contracts Regulations 2015.

Notes

- All potential bidders / contractors / service providers, including sub-contractors, members of a consortium, advisers or other associated parties (the Bidder Organisation) are required to identify any potential conflicts of interest that could arise if the Bidder Organisation were to take part in any ITT process and / or provide services under or otherwise enter into any contract with the CCG
- If any assistance is required in order to complete this form, then the Bidder Organisation should contact CCG Procurement Team
- Any changes to interests declared either during the ITT process or during the terms of any contract subsequently entered into by the Bidder Organisation and the CCG must be notified to the CCG by completing a new declaration form and submitting it to the CCG Contracting Team
- Bidder organisations completing this declaration form must provide sufficient detail of each interest so that a member of the public would be able to understand clearly the interest the organisation and any Relevant Person within it has and the circumstances in which a conflict of interest with the business or running of the CCG might arise
- If in doubt as to whether a conflict of interests could arise, a declaration of the interest should be made.

Interests must be declared (whether such interests are those of the Relevant Person themselves or of a family member, close friend or other acquaintance of the

Relevant Person), including the following:

- The Bidder Organisation or any person employed or engaged with a Bidder Organisation (Relevant Person) has provided or is providing services or other work to the CCG;
- A Bidder Organisation or Relevant Person is providing services or other work for any other potential bidder in respect of this project or ITT process;
- The Bidder Organisation or any Relevant Person has any other connection with the CCG, whether personal or professional, which the public could perceive may impair or otherwise influence the CCG's or any of its member' or employees' judgments, decisions or actions.
- The Bidder Organisation or any person employed or engaged with a Bidder Organisation (Relevant Person) has direct or indirect family relations engaged in the provision of services to and/or by a known bidder to the CCG.

Bidding organisations must complete the following table declaring any interests.

This form may not be accessible to all users if you require one in a different format please contact us.

Name of Bidder Organisation	
Interests -Type of Interest	Details
Provision of services or other work for the CCG	
Provision of services or other work for any other potential bidder in respect of this ITT process	
Any other connection with the CCG, whether personal or professional, which the public could perceive may impair or otherwise influence the CCG's or any of its members' or employees' judgments, decisions or actions.	

Relevant persons must complete this form declaring any interests.

Name of Relevant Person	
Interests -Type of Interest	Details
Provision of services or other work for the CCG	
Provision of services or other work for any other potential bidder in respect of this ITT process	

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

Signed:

Print Name:

On Behalf Of:

Date :

Annex 9: Register of procurement decisions and contracts awarded

This register details the procurement decisions and contracts awarded to the CCG

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