NHS
Lincolnshire East
Clinical Commissioning Group

Standards of Business Conduct and Conflicts of Interest Policy (including Hospitality, Gifts and Sponsorship Policy)

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Lincolnshire East
Clinical Commissioning Group

Standards of Business Conduct and Conflicts of Interest Policy

Version Control Sheet

Version Number	Section / Para / Annex	Version / Description of Amendments	Date	Author
1		NHSL Policy amended for LECCG	Sept 2012	Hazel Taylor
2.0		Policy amended for co-commissioning	Jan 2015	Gary James, Accountable Officer
2.1		Policy amended following feedback form NHS England. Sections on co- commissioning extended and highlighted. Table of contents updated.	Jan 2015	Gary James
3.0		Amended in light of NHS England guidance issues in June 2016. Policy strengthened to reflect updated NHS England guidance on managing conflicts of interest.	January 2017	Claire Wilson
4.0		Amended in light of NHSE guidance issued in June 2017.	October 2017	Claire Wilson
4.1		Change Gary James to Samantha Milbank Deadline included re submission of hospitality forms and approval by CFO above	June 2018	Claire Wilson

		£20 Delete any references to sponsorship		
4.2		Re-insertion of sponsorship elements within the Policy as agreed by the Governing Body in November 2018	December 2018	Claire Wilson

NHS Lincolnshire East CCG

Policy Statement

Standards of business conduct and conflicts of interest policy (including hospitality, gifts and sponsorship policy)

Background	All staff/Members have a personal responsibility to make sure that they are not placed in a position which risks, or appears to risk, a conflict between their private interests and their NHS duties or allegations of their official position.
Statement	This policy informs staff/members about: • guidelines to maintain the highest standards of probity and to provide assurance that any relationships entered lead to clear benefit for the NHS • the personal requirements they must observe before accepting any hospitality, gifts of inducement
Responsibilities	Compliance with the policy will be the responsibility of all members, Governing Body officers and staff. The policy is intended to help staff/members to recognise and accept this responsibility and to ensure a register of acceptances and refusals is maintained.
Training	The CCG maintains a responsibility to raise awareness of the process to all staff/members. Particular attention should be paid to ensuring that the issues are raised to new staff/members through the induction process.
Dissemination	Website, Email, Intradoc, Q Drive
Resource implication	This policy is intended to ensure staff/members are aware of the need to act impartially in all of their work • Protect all staff/members against the possibility of accusations of corruptive practice • Uphold the established principles of business conduct within the NHS and the public sector • Uphold the reputation of NHS Lincolnshire East CCG and its staff/members in the way it conducts its business • Uphold the principles of openness

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NHS Lincolnshire East CCG

Standards of Business Conduct and Conflicts of Interest Policy

(including Hospitality, Gifts and Sponsorship Policy)

1. Introduction

This policy sets out clear and robust procedures for Lincolnshire East CCG to ensure that all staff, members of the Governing Body and all members of the CCG i.e. providers of primary medical services and GPs are aware of the Standards of Membership of NHS Boards and Clinical Commissioning Group Governing Bodies published by the Professional Standards Authority and the content of the organisation's Constitution, Standing Orders and Standing Financial Instructions in relation to declaring conflicts of interest, hospitality, gifts and sponsorship.

This Policy should be read in conjunction with the following documents:

- Managing Conflicts of Interest: Statutory Guidance for Clinical Commissioning Groups (NHS England June 2017)
- Managing Conflicts of Interest: Statutory Guidance for Clinical Commissioning Groups (NHS England December 2014)
- Next steps towards primary co-commissioning (NHS England November 2014)
- Standards for Members of NHS Boards and Clinical Commissioning Groups (Professional Standards Authority, November 2012)
- Towards Establishment: Creating responsive and accountable CCGs (NHS Commissioning Board, October 2012)
- The Nolan Principles
- 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
- NHS (Procurement, Patient Choice and Competition (No 2)) Regulations 2013
- CCG HR Policies

2. Purpose of the policy

This policy is intended to:

- Uphold the established principles of business conduct within the NHS and the public sector
- Uphold the reputation of Lincolnshire East CCG and its staff /members in the way it conducts its business
- Uphold the principles of openness

- Uphold the Nolan Principles (the 7 principles of Public Life)
- Ensure staff are aware of the need to act impartially in all of their work
- Protect all staff/members against the possibility of accusations of corruptive practice
- Ensure staff do not contravene the requirements of the Bribery Act 2010

This policy is not intended to:

- Restrict appropriate sponsorship of training and educational events
- Develop unnecessary bureaucracy

If any hospitality, gift or sponsorship could cause embarrassment or be perceived as a significant conflict of interest, it should be politely declined.

3 . Scope

This policy will apply to:

- All CCG employees, including full and part-time staff, staff on sessional or short-term contracts, students or trainees (including apprentices), agency and seconded staff.
- All prospective employees – who are part way through recruitment.
- Contractors and sub-contractors of CCG business.
- All members of the Governing Body, including Committee, Sub-Committee, Co-opted members, appointed deputies, advisory group members (who may not be directly employed or engaged by the organisation) and any members of Committees/groups from other organisations.
- All members of the CCG (i.e. each practice) including GP partners (or where the practice is a company, each director) any individual involved with the business or decision-making of the CCG)

NHS Lincolnshire East CCG will ensure that all its employees and decision makers are aware of the existence of this Policy by:

- An introduction to the Policy being given during local induction for new starters to the CCG.
- An annual reminder of the existence and importance of the policy delivered via internal communication methods.
- An annual reminder to update declaration forms sent to all members of the Governing Body and CCG.

4 . Training

All CCG employees, Governing Body Members, Committee and Sub-Committee members and practice staff involved with CCG business will be required to complete the NHS England mandatory on-line Conflicts of Interest training at induction and then on an annual basis.

Training will cover the following:-

- What a conflict is
- Individual responsibilities to declare interests and gifts and hospitalities
- How to access the CCG's Policy on Conflicts of Interest Management
- Who is the CCG's Conflicts of Interest Guardian
- The implications of a Conflicts of Interest breach

5 . Accountability

The intention of this policy is to maintain the highest standards of probity and to provide assurance that any relationships entered lead to clear benefit for the NHS, and that they represent value for money. In order for this to be achieved the process must be conducted in the context of openness and within the Code of Conduct for NHS Managers.

The organisation requires all staff/members to observe the Code of Conduct for NHS Managers which is available on the Department of Health website and also the Nolan Principles (the 7 principles of public life).

NHS guidance requires that Lincolnshire East CCG maintains a register of hospitality, gifts and sponsorship. Such a register should record any offer, receipt of provision of hospitality, gifts and will be subject to review by the Audit Committee. The register is held by the Board Secretary and arrangements to view can be made by prior arrangement.

6 . National Guidance and Statutory Provision

Any relationships entered into must strictly comply with Department of Health circulars and other national guidance.

The Bribery Act 2010 replaces the fragmented and complex offences at common law, and in the Prevention of Corruption Acts 1889-1916. This broadly defines the two sections below:

- Two general offences of bribery – 1) Offering or giving a bribe to induce someone to behave, or to reward someone for behaving, improperly and 2) requesting or accepting a bribe either in exchange for acting improperly, or where the request or acceptance is itself improper;

- The new corporate offence of negligently failing by a company or limited liability partnership to prevent bribery being given or offered by an employee or agent on behalf of that organisation.

  Any suggestion or suspicion of corruption or fraudulent practice should be reported to the Local Counter Fraud Specialist – as detailed in the Countering Fraud and Corruption Policy, Strategy and Guidance Notes – Reference F004.

7 . Standing Orders and Standing Financial Instructions

Where there is any conflict with guidance contained in this document and Standing Orders and Standing Financial Instructions, the latter will have precedence. All income received and expenditure incurred by the organisation is subject to standing orders and standing financial instructions requirements covering safe custody of assets, contracting, authorisation and approval.

8 . What are conflicts of interest?

For the purpose of this policy a conflict of interest is defined as:

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

A conflict of interest may be:-

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

Staff may hold interests for which they cannot see potential conflict. However, caution is always advisable because others may see it differently and perceived conflicts of interest can be damaging. All interests should be declared where there is a risk of perceived improper conduct.

Interests can be captured in four different categories:

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

- A director, including a non-executive director, or senior employee in a private company or public limited company or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations. This includes involvement with a potential provider of a new care model.
- A shareholder (or similar ownership interests), a partner or owner of a private or not-for-profit company, business, partnership or consultancy which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations.
- A management consultant for a provider, or
- A provider of clinical private practice.

This could also include an individual being:

- In employment outside of the CCG.
- In receipt of secondary income.
- In receipt of a grant from a provider
- In receipt of any payments (for example honoraria, one-off payments, day allowances or travel or subsistence) from a provider
- In receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role, and
- Having a pension that is funded by a provider (where the value of this might be affected by the success or failure of the provider)

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

- An advocate for a particular group of patients
- A GP with special interests, e.g. in dermatology, acupuncture etc.
- An active member of a particular specialist professional body (although routine GP membership of the RCGP, British Medical Association (BMA) or a medical defence organisation would not usually by itself amount to an interest which needed to be declared)
- An advisor for the Care Quality Commission (CQC) or the National Institute for Health and Care Excellence (NICE)
- Engaged in a research role.
- Development and holding of patents and other intellectual property rights which allow staff to protect something that they create, preventing unauthorised use of products or the copying of protected ideas, or
- GPs and Practice Managers, who are Members of the Governing Body or Committees of the CCG, should declare details of their roles and responsibilities within their GP Practices.

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

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

Indirect Interests: This is where an individual has a close association with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest in a commissioning decision (as those categories are described above) for example a:

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

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

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

It should be noted that the above categories and examples are not exhaustive and the CCG will exercise discretion on a case by case basis.

Where an individual has any queries with respect to conflicts of interest they should seek advice from the CCG Corporate/Board Secretary.

9. Conflicts of Interest Guardian

The role of the Conflicts of Interest Guardian for the CCG is fulfilled by the Chair of the Audit Committee (Lay Member for Governance).

In collaboration with the CCG's Governance Lead, the Conflicts of Interest Guardian:

- Will be a safe point of contact for employees or workers of the CCG to raise any concerns in relation to this Policy
- Will act as a conduit for GP Practice staff, members of the public and healthcare professionals who have any concerns with regard to conflicts of interest
- Will support the rigorous application of conflict of interest principles and policies
- Will provide independent advice and judgement where there is any doubt about how to apply conflicts of interest policies and principles in an individual situation
- Will provide advice on minimising the risks of conflicts of interest

10. Declaring Conflicts of interest

All Governing Body members, Officers and staff involved in the development of relationships with private sector partners must declare any prior interest in terms of previous sponsorship or other relationships with the individual companies in question.

Anyone seeking information in relation to procurement or participating in procurement or otherwise engaging with NHS Lincolnshire East CCG in relation to the potential provision of services or facilities to NHS Lincolnshire East CCG will be required to make a declaration of any relevant conflict or potential conflict of interest.

Anyone contracted to provide services or facilities directly to NHS Lincolnshire East CCG will be subject to the same provisions of managing conflicts of interest.

Whilst it is appropriate for individuals who have declared an interest to continue to be involved in the development of a specific scheme, it may not be appropriate for them to be involved in the decision on the selection of preferred partners or in any tendering and subsequent selection process.

As required by section 140 of the 2006 Act, as inserted by section 25 of the 2012 Act, NHS Lincolnshire East CCG will make arrangements to manage conflicts and potential conflicts of interest to ensure that decisions made by NHS Lincolnshire East CCG will be taken without any possibility of the influence of external or private interference.

Individuals will declare any interest that they have, in relation to the exercise of the commissioning functions of NHS Lincolnshire East CCG, in writing to the Governing Body as soon as they become aware of it and in any event no later than 28 days after becoming aware.

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

Where an individual, i.e. an employee, member of the Governing Body, or a member of a committee or a sub-committee of NHS Lincolnshire East CCG or its Governing Body has an interest, or becomes aware of an interest which could lead to a conflict of interests in the event of the group considering an action or decision in relation to that interest, that must be considered as a potential conflict.

These provisions also apply to relevant and material personal or business interests of the:

- spouse;
- civil partner;
- cohabitee;

- child or parent;
- sibling;
- business partners, employers, employees or officers where this role is in relation to a Member Practice; or,
- friend;
- of any of those named in 8.2 in which may influence or may be perceived to influence their judgment.

Further details regarding what declarations should include are detailed within Section 8.

Declarations of Interest

Declarations of Interest shall be made (or where none exist a 'Nil Return') and their existence regularly confirmed or updated including in, but not limited to, the following situations:

- On appointment of an individual to the CCG, its Governing Body or any committee or sub-committee or other advisory or decision-making group or panel;
- Six monthly;
- At meetings – all attendees shall be asked to declare any interest they have in any agenda item at the start of the meeting and before it is discussed or as soon as it becomes apparent, even if the same interest has previously been declared in the Register at another meeting. This is a standard agenda item for CCG meetings.
- Declarations of interest will be recorded in minutes of a meeting. A template is provided at Appendix 12;
- Prior to the commencement of a tender exercise (for those as being involved in the process).
- On an individual changing role or responsibility within a CCG or its Governing Body; and on any other change of circumstances that affects the individual's interests (e.g. where the individual takes on a new role outside the CCG or sets up a new business or relationship). This could involve a conflict of interest ceasing to exist or a new one materialising.

Where the new role or outside employment may be perceived to be, or will result in, a conflict of interest, prior approval must be sought from the individual's line manager. The CCG reserves the right to refuse permission where it believes a conflict will arise which cannot be effectively managed.

If any assistance is required in order to complete the declaration form then the individual should contact the Corporate/Board Secretary.

The declaration of interest form is attached at Appendix 5 and includes information on the types of interests to be declared.

11. Registers of Interests

The CCG will keep a Register of Interests for the following:

- **All CCG employees**, including:
    - 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.

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

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

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

- **All members of the CCG (i.e. each practice):** This includes each provider or primary medical services which is a member of the CCG under Section 140 (1) of the 2006 Act. Declarations should be made by the following groups:
    - GP partners (or where the practice is a company, each director);
    - Any individual directly involved with the business or decision-making of the CCG.

<u>Decision Making Staff</u>

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. For the purposes of this guidance these people are referred to as 'decision making staff'.

Decision making staff within Lincolnshire East CCG are:

- All Governing Body Members.
- Members of advisory groups which contribute to direct or delegated decision making on the commissioning or provision of taxpayer funded services such as working groups involved in service redesign or stakeholder engagement that will affect future provision of services.

- Members of the Primary Care Co-Commissioning Committee (PCCC).
- Members of other Committees of the CCG, i.e. Audit Committee, Remuneration Committee etc.
- Members of new care models/joint provider/commissioning groups/committees
- Members of procurement (sub) Committees;
- Those at Agenda for Change Band 8d and above.
- Administrative and clinical staff who have the power to enter into contracts on behalf of their organisation.
- Administrative and clinical staff involved in decision making concerning the commissioning of services, purchasing of goods, medicines, medical devices or equipment, and formulary decisions.

Strategic Decision Making Groups

In common with other NHS bodies, Lincolnshire East CCG uses a variety of different groups to make key strategic decisions about things such as:

- Entering into (or renewing) large scale contracts.
- Awarding grants.
- Making procurement decisions.
- Selection of medicines, equipment and devices.

The interests of those who are involved in these strategic decision making groups should be well known so that they can be managed effectively. For this organisation these groups are the Governing Body, Sub-Committees of the Governing Body etc.

These groups should adopt the following principles:

- Chairs should consider any known interests of members in advance, and begin each meeting by asking for declaration of relevant material interests.
- Members should take personal responsibility for declaring material interests at the beginning of each meeting and as they arise.
- Any new interests identified should be added to the organisation's register(s).
- The vice chair (or other non-conflicted member) should chair all or part of the meeting if the chair has an interest that may prejudice their judgement.

If a member has an actual or potential interest the chair should consider the following approaches and ensure that the reason for the chosen action is documented in minutes or records:

- Requiring the member to not attend the meeting.
- Excluding the member from receiving meeting papers relating to their interest.
- Excluding the member from all or part of the relevant discussion and decision.
- Noting the nature and extent of the interest, but judging it appropriate to

allow the member to remain and participate.
- Removing the member from the group or process altogether.

The default response should not always be to exclude members with interests, as this may have a detrimental effect on the quality of the decision being made. Good judgement is required to ensure proportionate management of risk.

12. Publication of the Register of Interests

The CCG will make the Register of Interests available on the CCG web site. Arrangements will be made for individuals who cannot access the Register through the web site to have alternative access on request.

The register will form part of the CCG annual accounts and be signed off by external auditors.

The Register shall be formally reviewed on an annual basis to ensure that the Register is accurate and up to date, or earlier where relevant and published on the CCG's website at www.lincolnshireeastccg.nhs.uk or upon request, addressed to the CCG Corporate Secretary.

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

13. Responsibility for Managing Conflicts of Interest

The Accountable Officer has overall responsibility for managing conflicts of interest and has delegated this to the Chief Finance Officer, which will be responsible for :-

- Creating and maintaining Registers of Interest
- Ensuring that for every interest declared either in writing or by oral declaration, arrangements are in place to manage any conflict or potential conflict of interest to ensure the integrity of NHS Lincolnshire East CCG's decision making process.
- Recording in writing the means whereby such conflicts of interest will be managed within two weeks of its notification.
- Communicating these means to the individual concerned.
- Ensuring that these means are available for inspection in the relevant Register of Interests.

The means of managing Conflicts of Interest could include:

- The individual withdrawing from a specified activity on a temporary or permanent basis.
- Monitoring of the specified activity undertaken by the individual either by a

line manager, colleague or other designated individual

- Participating in discussion on the relevant matter but not voting
- Withdrawing from the meeting while the relevant matter is being discussed and voted on
- Taking such steps as are deemed appropriate including requesting information from individuals to ensure that all actual and potential conflicts of interest are declared.

Any individual who has declared an interest either in writing or by oral declaration will ensure that they have received confirmation of the arrangements to manage the actual or potential conflict of interest from the Chief Finance Officer or chair of the meeting before participating in any activity connected with NHS Lincolnshire East CCG's commissioning functions.

14. Managing conflicts of interest arising in the course of primary care commissioning

NHS Lincolnshire East CCG has created a Primary Care Co-Commissioning Committee to manage aspects of the CCG's commissioning role and decision making which raise potential conflicts of interest with CCG Members. This committee of the Governing Body has specific responsibilities as detailed in the Scheme of Delegation.

The Primary Care Co-Commissioning Committee will at all times have a majority of members drawn from executive and lay roles, as specified in the Committee Terms of Reference.

NHS Lincolnshire East will follow the 'Shared principles on conflicts of interest when CCGs are commissioning from member practices' (Appendix 1) and use the recommended declaration of interests for bidders/contractors template at Appendix 3. The CCG will adhere at all times to the guidance from Monitor on the procurement, patient choice and competition regulations at Appendix 7.

When commissioning services from GP practices, including provider consortia, or organisations in which GPs have a financial interest, the CCG will use the procurement template at Appendix 4.

15. Appointing Governing Body or Committee Members

Lincolnshire East CCG shall consider whether conflicts of interest should exclude individuals from being appointed to the Governing Body or to a committee or sub-committee of the CCG.

Such consideration shall be made on a case by case basis depending on the nature and extent of the interest, in particular whether the individual (or a family member) could benefit from any decisions made and whether the interest relates to such a

significant area of business such that the individual would be unable to make a full and proper contribution.

Any individual who has a material interest in an organisation which provides or is likely to provide substantial business to a CCG (either as a provider of healthcare or commissioning support services) shall not be a member of the Governing Body.

16. Role of Lay Members

CCG Lay Members play a critical role in CCGs, providing scrutiny, challenge and an independent voice in support of robust decision-making and management of conflicts of interest. They also Chair a number of CCG Committees, including the Audit Committee and Primary Care Commissioning Committee.

By statute, CCGs must have at least two Lay Members (one of whom must have qualifications, expertise or experience such as to enable the person to express informed views about financial management and audit matters and serve as Chair of the Audit Committee), and the other knowledge of the geographical area covered in the CCG's Constitution such as to enable the person to express informed views about the discharge of the CCG's functions.

National guidance also stipulates that the Primary Care Commissioning Committee must have a Lay Chair and Lay Vice Chair.

17. Outside Employment

Outside employment means employment and other engagements, outside of formal employment arrangements. This can include directorships, non-executive roles, self-employment, consultancy work, charitable trustee roles, political roles and roles within not-for-profit organisations, paid advisory positions and paid honorariums which relate to bodies likely to do business with an organisation.

- Staff should declare any existing outside employment on appointment, and any new outside employment when it arises.
- Where a risk of conflict of interest is identified, the general management actions outlined in this guidance should be considered and applied to mitigate risks.
- Where contracts of employment or terms and conditions of engagement permit, staff may be required to seek prior approval from an organisation to engage in outside employment.
- Organisations may also have legitimate reasons within employment law for knowing about outside employment of staff, even this does not give rise to risk of a conflict.

Nothing in this guidance prevents such enquiries being made.

Examples of work which might conflict with the business of the CCG including part-time, temporary and fixed term contract work, include:

Employment with another NHS body;

- Employment with another organisation which might be in a position to supply goods/services to the CCG including paid advisory positions and paid honorariums which relate to bodies 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 NHS.

Staff should declare any existing outside employment on appointment, and new outside employment when it arises.

Permission to engage in outside employment/private practice will be required and the CCG reserves the right to refuse permission where it believes a conflict will arise which cannot be effectively managed.

The following information should be declared:

- Staff name and their role within the organisation;
- The nature of the outside employment 9e.g. who it is with, a description of duties, time commitment).
- Relevant dates.
- Other relevant information (e.g. action taken to mitigate against a conflict, details of an approvals given to depart from the terms of this policy).

18. Raising Concerns and Reporting Breaches

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 must not ignore their suspicions or investigate themselves, but rather speak to the CCG Corporate/Board Secretary, the CCG's Governance Lead or the Conflicts of Interest Guardian.

Any non-compliance with this policy must be reported to one of the individuals noted above. It will be treated in the strictest confidence so far as is practical and in line with the CCG's Whistleblowing Policy.

The CCG Corporate/Board Secretary, or any other senior officer identified by the Conflict of Interest Guardian shall assess the breach and formally arrange for it to be investigated. The purpose of the investigation shall be to establish:

- If a breach has actually occurred
- The nature of the breach
- The impact of the breach
- The arrangements in place at that time that could have prevented a breach

- The learning as a consequence
- What remedial action is required
- What other policies may need to be considered to address the breach (e.g. but not limited to, HR of Whistleblowing)

Following investigation the organisation will:

- Decide if there has been or is potential for a breach and if so what the severity of the breach is.
- Assess whether further action is required in response – this is likely to involve any staff member involved and their line manager, as a minimum.
- Consider who else inside and outside the organisation should be made aware.
- Take appropriate action as set out in the next section.

The findings will be reported to the Conflicts of Interest Guardian who will then submit the findings to the Audit Committee. The Audit Committee has responsibility for determining the most appropriate course of action.

Any breaches must be reported promptly to the NHS England Local Area Team and published on the CCG's website in an anonymised form and in accordance with the NHS England Statutory Guidance.

Taking action in response to breaches

Action taken in response to breaches of this policy will be in accordance with the disciplinary procedures of the organisation and could involve organisational leads for staff support (e.g. Human Resources), fraud (e.g. Local Counter Fraud Specialists), members of the management or executive teams and organisational auditors.

Breaches could require action in one or more of the following ways:

- Clarification or strengthening of existing policy, process and procedures.
- Consideration as to whether HR/employment law/contractual action should be taken against staff or others.
- Consideration being given to escalation to external parties. This might include referral of matters to external auditors, NHS Protect, the Police, statutory health bodies (such as NHS England, NHS Improvement or the CQC), and/or health professional regulatory bodies.

Inappropriate or ineffective management of interests can have serious implications for the organisation and staff. There will be occasions where it is necessary to consider the imposition of sanctions for breaches.

Learning and transparency concerning breaches

Reports on breaches, the impact of these, and action taken will be considered by the Audit Committee at least yearly.

To ensure that lessons are learnt and management of interests can continually improve, anonymised information on breaches, the impact of these, and action taken will be prepared and published on the CCG's website as appropriate.

19. 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 should be identified and clear arrangements put in place to manage any conflicts of interest. This includes consideration as to which stages of the process a conflicted individual should not participate in, and, in some circumstances, whether that individual should be involved in the process at all.

20. Register of procurement decisions

Procurement should be managed in an open and transparent manner, compliant with procurement and other relevant law, to ensure there is no discrimination against or in favour of any provider. Procurement processes should be conducted in a manner that does not constitute anti-competitive behaviour – which is against the interest of patients and the public.

Those involved in procurement exercises for and on behalf of the organisation should keep records that show a clear audit trail of how conflicts of interest have been identified and managed as part of procurement processes. At every stage of procurement, steps should be taken to identify and manage conflicts of interest to ensure and to protect the integrity of the process.

The CCG will maintain a register of procurement decisions taken, including:

- The details of the decision
- Who was involved in making the decision (i.e. Governing Body or committee members and others with a decision making responsibility)
- A summary of any conflicts of interest in relation to the decision and how this was managed by the CCG

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

The register will be made publicly available by publication on the CCG web site. The register will also be made available in other formats upon request.

The register will form part of the CCG annual accounts and be signed off by external auditors.

21. Details of contracts agreed

The CCG will ensure that details of all contracts including contract value are published on the CCG website as soon as they are agreed. Where services are commissioned through an Any Qualified Provider (AQP) arrangement the CCG will publish the type of services commissioned and the agreed price for each, and ensure that information is publicly available on those providers who qualify to provide the service.

22. Code of Conduct for Private Practice by All Employees of NHS Lincolnshire East CCG

It is an established principle that NHS bodies must be impartial and honest in the conduct of their business and, in order to ensure that strict ethical standards are maintained it is essential that conflict does not arise between any private practice of staff/members and their NHS duties. HR 051 Code of Conduct for Private Practice by All Employees of NHS Lincolnshire East CCG sets out the principles to be adhered to.

23. Hospitality, gifts and sponsorship

Some approaches may be at a personal level where an individual member, director, or employee receives hospitality, a gift, or sponsorship from a company or an individual. All CCG staff/members are required to record the receipt of hospitality, gifts or sponsorship, seeking prior approval where required by this policy.

All hospitality, gifts and sponsorship accepted or declined should be declared to the Board Secretary using the forms supplied, as Appendix 8, within 10 working days of the date of the offer.

Any items above £20 will require approval by the Chief Finance Officer (Head of Governance). Items below that amount should be approved by your Line Manager.

In cases of doubt, advice must be sought from your line manager.

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

Overarching principles:

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

Gifts from suppliers or contractors:

- Gifts from suppliers or contractors doing business (or likely to do business) within the organisation should be declined, whatever their value.

- Low cost branded promotional aids such as pens or post-it notes may, however, be accepted where they are under the value of £6 in total, and need not be declared.

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

- Gifts of cash and vouchers to individuals should always be declined.

- Gifts valued at over £50 should be treated with caution and only be accepted on behalf of Lincolnshire East CCG, and not in a personal capacity. These should be declared by staff.

- Modest gifts accepted under a value of £50 do not need to be declared.

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

Meals and refreshments:

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

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

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

- A common sense approach should be applied to the valuing of meals and refreshments (using an actual amount, if known, or a reasonable estimate).

Travel and accommodation:

- Modest offers to pay some or all of the travel and accommodation costs related to attendance at events may be accepted and must be declared.

- Offers which go beyond modest, or are of a type that the organisation itself might not usually offer, need approval by senior staff, should only be accepted in exceptional circumstances, and must be declared. A clear reason should be recorded on the organisation's register(s) of interest as to why it was permissible to accept travel and accommodation of this type. A non-exhaustive list of examples includes:

    - Offers of business class or first class travel and accommodation (including domestic travel)

    - Offers of foreign travel and accommodation.

Shareholdings and other ownership issues:

- Staff should declare, as a minimum, any shareholdings and other ownership interests in any publicly listed, private or not-for-profit company, business, partnership or consultancy which is doing, or might be reasonably expected to do, business with the organisation.

- Where shareholdings or other ownership interests are declared and give rise to risk of conflicts of interest then the general management actions outlined in this policy should be considered and applied to mitigate risks.

- There is no need to declare shares or securities held in collective investment or pension funds or units of authorised unit trusts.

Patents:

- Staff should declare patents and other intellectual property rights they hold (either individually, or by virtue of their association with a commercial or other organisation), including where applications to protect have started or are ongoing, which are, or might be reasonably expected to be, related to items to be procured or used by the organisation.

- Staff should seek prior permission from the organisation before entering into any agreement with bodies regarding product development, research, work on pathways etc, where this impacts on the organisation's own time, or uses its equipment, resources or intellectual property.

- Where holding of patents and other intellectual property rights give rise to a conflict of interest then the general management actions outlined in this policy should be considered and applied to mitigate risks.

Loyalty interests:

Loyalty interests should be declared by staff involved in decision making where they:

- Hold a position of authority in another NHS organisation or commercial, charity, voluntary, professional, statutory or other body which could be seen to influence decisions they take in their NHS role.

- Sit on advisory groups or other paid or unpaid decision making forums that can influence how an organisation spends taxpayers' money.

- Are, or could be, involved in the recruitment or management of close family members and relatives, close friends and associates, and business partners.

- Are aware that their organisation does business with an organisation in which close family members and relatives, close friends and associates, and business partners have decision making responsibilities.

What should be declared:

- Staff name and their role with the organisation.

- A description of the nature and value of the gift, including its source, or interest

- Date of receipt/relevant dates.

- Any other relevant information (e.g. circumstances surrounding the gift, action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

Donations:

- Donations made by suppliers or bodies seeking to do business with the organisation should be treated with caution and not routinely accepted. In exceptional circumstances they may be accepted but should always be declared. A clear reason should be recorded as to why it was deemed acceptable, alongside the actual or estimated value.

- Staff should not actively solicit charitable donations unless this is a prescribed or expected part of their duties for the organisation, or is being pursued on behalf of the organisation's own registered charity or other charitable body and is not for their own personal gain.

- Staff must obtain permission from the organisation if in their professional role they intend to undertake fundraising activities on behalf of a pre-approved charitable campaign for a charity other than the organisation's own.

- Donations, when received, should be made to a specific charitable fund (never to an individual) and a receipt should be issued.

- Staff wishing to make a donation to a charitable fund in lieu of receiving a professional fee may do so, subject to ensuring that they take personal responsibility for ensuring that any tax liabilities related to such donations are properly discharged and accounted for.

What should be declared:

The organisation will maintain records in line with the above principles and rules and relevant obligations under charity law.

Sponsored events:

- Sponsorship of events by appropriate external bodies will only be approved if a reasonable person would conclude that the event will result in clear benefit to the organisation and the NHS.

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

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

- At the organisation's discretion, sponsors or their representatives may attend or take part in the event but they should not have a dominant influence over the content or the main purpose of the event.

- The involvement of a sponsor in an event should always be clearly identified.

- Staff within the organisation involved in securing sponsorship of events should make it clear that sponsorship does not equate to endorsement of a company or its products and this should be made visibly clear on any promotional or other materials relating to the event.

- Staff arranging sponsored events must declare this to the organisation.

All declarations made under this particular section must be made promptly and within no more than 10 working days of the date of the offer. A declaration form is at Appendix 9.

All approaches from commercial companies in respect of sponsorship should be notified to the Board Secretary who will act as co-ordinator and be responsible for ensuring that the Accountable Officer is notified of all such circumstances.

Other forms of sponsorship:

- Sponsored research
    - Funding sources for research purposes must be transparent.
    - Any proposed research must go through the relevant health research authority or other approvals process.
    - There must be a written protocol and written contract between staff, the organisation, and/or institutes at which the study will take place and the sponsoring organisation, which specifies the nature of the services to be provided and the payment for those services.
    - The study must not constitute an inducement to prescribe, supply, administer, recommend, buy or sell any medicine, medical device, equipment or service.
    - Staff should declare involvement with sponsored research to the organisation.
- Sponsored posts
    - External sponsorship of a post requires prior approval from the organisation.
    - Rolling sponsorship of posts should be avoided unless appropriate checkpoints are put in place to review and withdraw if appropriate.
    - Sponsorship of a post should only happen where there is written confirmation that the arrangements will have no effect on purchasing decisions or prescribing and dispensing habits. This should be audited for the duration of the sponsorship. Written agreements should detail the circumstances under which organisations have the ability to exit

sponsorship arrangements if conflicts of interest which cannot be managed arise.

- Sponsored post holders must not promote or favour the sponsor's products, and information about alternative products and suppliers should be provided.

- Sponsors should not have any undue influence over the duties of the post or have any preferential access to services, materials or intellectual property relating to or developed in connection with the sponsored posts.

Written agreements for sponsorship

Collaboration should be on the basis of a written agreement about the role of the company, resources they intend to supply, e.g. personnel, materials, equipment, food, drink, meeting room, drugs etc. See Appendix 11 - Commercial Sponsorship Agreement Proforma. This proforma may need adopting to reflect the specific nature of the support.

Clear written agreements will be established before any relationships are entered into. The potential advantage of the proposal to the company and NHS Lincolnshire East CCG should be made explicit and clearly stated. Publication will be consistent with the Code of Practice on Openness in the NHS.

Register of relationships with commercial organisations

NHS Lincolnshire East CCG will maintain a record of all support (direct or indirect financial or non-financial benefit) received from companies in relation to the activities of NHS Lincolnshire East CCG (excluding direct suppliers). The Chief Finance Officer will oversee the maintenance of the register, which will be available for inspection, by members of the organisation, staff and public by prior arrangement.

The agreement should also be explicit regarding the financial value of such support (e.g. be clear as to which suppliers will be paid by the company and which by NHS Lincolnshire East CCG). Any funding to be received by NHS Lincolnshire East CCG should be collected through the issue of an invoice from NHS Lincolnshire East CCG (contact the finance department for details) and payment received from the company in advance of NHS Lincolnshire East CCG incurring expenditure.

Acknowledgements

Financial support may be acknowledged on printed documents, educational meetings, and in reports of joint work, if so requested by the sponsor.

Role of the Audit Committee

The Audit Committee will receive and review periodic reports of sponsorship and other similar relationships entered into with companies, including the monetary value of the agreement. They may then wish to review the policy and suggest amendments in due course.

Reporting arrangements

The total monetary value of arrangements entered into with companies will be reported on a regular basis to the Audit Committee for consideration.

Appendix 1

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

December 2014

1. Introduction

The ability for CCGs to become involved in co-commissioning General Practice and primary care services has the potential to bring many benefits but it also brings with it the potential for perceived and actual conflicts of interest.

NHS Clinical Commissioners (NHSCC), the Royal College of General Practitioners (RCGP) and the British Medical Association (BMA) have decided to collectively outline their high level starting principles in managing conflicts of interest when CCGs commission from member practices. In large part this has brought together principles articulated in previous lines/guidance/steer from the above organisations and NHS England.

Our principles are applicable to each of the three primary care commissioning models open to CCGs and should not be seen as being directive or be interpreted to mean that we prefer one model over another. These decisions need to remain a local, professionally led, decision.

In developing these shared principles we would like them to sit alongside NHS England's updated guidance on Managing Conflicts of Interest (December 2014). We are on a journey regarding the co-commissioning of primary care and we will review these principles when needed and as CCGs work through the guidance.

It should be noted that this paper is not designed to address the issue of perceived or actual conflicts of interest in CCGs holding and performance managing GP contracts under co-commissioning arrangements.

2. Our headline shared principles around conflicts of interest

We collectively agree the following in relation to managing conflicts of interest when CCGs commission from member practices:

- If CCGs are doing business properly (needs assessments, consultation mechanisms, commissioning strategies and procurement procedures), then the rationale for what and how they are commissioning is clearer and easier to withstand scrutiny. Decisions regarding resource allocation should be evidence-based, and there should be robust mechanisms to ensure open and transparent decision making.

- CCGs must have robust governance plans in place to maintain confidence in the probity of their own commissioning, and maintain confidence in the integrity of clinicians.

- CCGs should assume that those making commissioning decisions will behave ethically, but individuals may not realise that they are conflicted, or lack awareness of rules and procedures. To mitigate against this, CCGs should ensure that formal prompts, training and checks are implemented to make sure people are complying with the rules. As a rule of thumb, 'if in doubt, disclose'

- CCGs should anticipate many possible conflicts when electing/selecting individuals to commissioning roles, and where necessary provide commissioners with training to ensure individuals understand and agree in advance how different scenarios will be dealt with.

- It is important to be balanced and proportionate – the purpose of these tools is not to constrain decision-making to be complex or slow.

3. Addressing perceived as well as actual conflicts of interest

Conflicts of interest in the NHS are not new and they are not always avoidable. The documents we reviewed to produce this paper were all clear that the existence of a conflict is not the same as impropriety and focus on how to avoid potential or perceived wrongdoing. Most importantly all acknowledge that perceived wrongdoing can be as detrimental as actual wrongdoing, and risks losing confidence in the probity of CCGs and the integrity of wider clinicians such as GPs in networks/federations, individual practices and partners.

The RCGP/NHS Confederation also notes evidence from the BMJ that people think they aren't biased by potential conflicts but often are so the common theme is – *if in any doubt it's important to disclose.*

The RCGP/NHS Confederation and NHS England Guidance identify four types of potential conflict of interest:

- Direct financial;
- Indirect financial (for example a spouse has a financial interest in a provider);
- Non-financial (i.e. reputation) and;
- Loyalty (i.e. to professional bodies)

The BMA recognises that for CCGs there will be situations where the best decision for the population and taxpayers is not in the best interest of individual patients for whom GPs are required to advocate and that this can create a perceived conflict. The RCGP/NHS Confederation paper acknowledges this but in terms of the governance when commissioning services.

4. Planning for populations

CCGs must always demonstrate that their commissioned services meet the needs of their local populations, as such CCGs will need to work with their Health and Wellbeing Board's or other local strategic bodies to ensure there is alignment to local strategic plans.

What is clear from all the existing guidance is that CCGs will need to identify the situation where they are involving their Governing Body clinicians to strategically plan for their population, and situations where their Governing Body clinicians need to be separated from procurement, planning and decision-making processes. In the former it is critically important to secure clinical expertise. In the latter, the CCG will need to manage risks around perceived and actual conflicts in relation to the tendering of services.

The BMA outlines that decisions regarding resource allocation should be evident based, and there should be robust mechanisms to ensure open and transparent decision making. As such, GP involvement must be agreed at each stage of the commissioning and procurement process so that potential risks of conflicts are appropriately defined and mitigated early on.

5. Good Practice – for CCGs

All the guidance suggests CCGs must have robust governance plans in place to maintain confidence in the probity of their own commissioning, and maintain confidence in the integrity of clinicians.

The RCGP/NHS Confederation suggest using existing NHS guidance as a starting point:

- Identify potential conflicts

- Declare interests in a register
  Exclude individuals from discussion or decision making if financial interest exceeds 1% equity in the provider organisation – depending on the nature of the discussion (we would also add that includes considering the share of the contract value to make sure there are no loopholes, this might also apply to practices with profit sharing arrangements).

- Continue to manage conflicts post-decision i.e. contract managing (carefully separating overall strategy development for populations from individual procurement processes. The former will be important for CCG lay involvement will be important and include secondary care clinicians and Non-Executive Board nurses, the latter can be managed by managers).

NHS England guidance also says that an individual with a 'material interest' in an organisation which provides or is likely to provide significant business should not be member of CCG Governing Body. The BMA suggests anything above 5% equity is a material interest. The RCGP/NHS Confederation reference this threshold but also say that something lower than a 1% stake could also be a material interest (if the size of the bid is significant).

Clearly these thresholds need to be considered in relation to individual practices and GP partners once co-commissioning is in place. The perceived risks must be recognised early on and we feel some worked case study examples would be helpful for CCGs as they work through the updated guidance. NHSCC, the RCGP and the BMA are planning to work with NHS England and Monitor to identify these examples.

NHSCC believe that CCG lay members, secondary care doctors and nurses on Governing Bodies play a vital role in both the design, implementation, leadership and monitoring of conflicts of interest systems and processes. They can provide robust challenge and ultimately a protection for GPs working in both the commissioning and provision of health care. Enabling them to carry out their roles in this regard is vital.

CCGs should also be proactive in their approach when considering conflicts when electing/selecting people, doing a proper induction (i.e. include continuous training and review at both Governing Body and membership (assembly level) and ensuring understanding from individuals, and agree in advance how different scenarios will be dealt with. The CCG should ensure individuals are prompted to declare an interest but not absolved from their responsibility to declare as well. Again, CCG lay members, secondary care doctors and nurse members of the Governing Body have a critical role in this process, as an independent arbiter and as those providing appropriate scrutiny and oversight.

NHS England's *Code of Conduct* guidance specifically explores when CCGs are commissioning services from their own GP member practices. When CCGs are commissioning from federations of practices, the same guidance should apply.

As practical support NHS England have also produced an updated code of conduct template for
use when drawing up local plans (see their updated guidance). The template asks a series of questions to provide assurance to Health and Wellbeing Boards that the service meets local needs, and to the Audit Committee or external auditors that robust process was used to commission the service, select the appropriate procurement route and address potential conflicts of interest.

6. Good practice - for individuals

The current guidance suggests that individuals making decisions in CCGs do so with the Nolan principles of public life in mind: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership.

They also refer to the guidance the General Medical Council (GMC) has produced for doctors including:

- You must not allow any interests you have to affect the way you prescribe for, treat, refer or commission services for patients.

- If you are faced with a conflict of interest, you must be open about the conflict, declaring your interest informally, and you should be prepared to exclude yourself from decision making.

- You must not try to influence patients' choice of healthcare services to benefit you, someone close to you, or your employer. If you plan to refer a patient for investigation, treatment or care at an organization in.

NHS England guidance indicates that individuals must declare an interest as soon as they come aware of it, and within 28 days. More informally, the RCGP/NHS Confederation also suggested the simple 'Paxman test' - whether explaining the situation to an investigative reporter/journalist like Jeremy Paxman would cause embarrassment. We think it would be helpful to develop this type of text into a tool for CCGs to use locally.

NHS England guidance indicates that individuals must declare an interest as soon as they come aware of it, and within 28 days.

Finally, the BMA suggested that commissioner doctors:

- Declare all interests, even if they are potential conflicts or the individual is unsure whether it counts as a conflict, as soon as possible.

- Update a register of interests every three months.

- Doctors must be familiar with their organisation's formal guidance.

- If individual doctors have any questions, they should seek advice from colleagues, err on the side of being open about conflicts of interest, or seek external advice from professional or regulatory bodies.

In addition to the above, the RCGP suggests there should also be a requirement to update the register of interests if a material difference arises in the circumstances of an individual at any point.

7. Procurement processes – CCGs and member practices

According to the BMA guidance, when CCGs are procuring community level services, these contracts are often below threshold requiring a competitive tender process.

There are a number of procurement options for CCGs in this situation – for example a few may include:

1. Competitive tender where GP practices are likely to bid
2. AQP where GP providers are likely to be among the qualified providers
3. Single tender from GP practices

From the guidance that exists different questions arise around conflicts of interest when the above procurement processes are used. For example:

- Identifying whether approaches such as AQP are being used with the safeguarding to ensure that patients are aware of the choices available to them.
- If single tender is the route used, CCGs will need to demonstrate a few things – depending on the nature of the procurement. For example that there are no other capable providers, why the successful bid was preferred to the others and the impact of disproportionate tendering costs. Monitor's procurement guidance provides many useful steers on what CCGs will need to demonstrate.

For primary care co-commissioning, NHSCC believes one of the elements to include on procurement processes are the issues around standing financial orders and schemes of delegation which should not allow CCGs to divide primary care budgets into smaller budgets to circumvent the procurement process. NHSCC's lay member network will have examples / steer on the correct wording to use from previous local experiences.

Regardless of what the local application is the most important part of this process is transparency. NHS England says to set out the details, including the value of all contracts on the CCG website. If they are using AQP, the types and prices of services they are commissioning should be on the website. All of this information should also be in the CCGs annual report.

When making procurement decisions, the current guidance suggests that anyone with a perceived or material conflict should be excluded from decision making, either both excluded from voting or from discussion and voting. What is not clear in the guidance is how far back this rule goes – i.e. to the planning stage or just the development of the specification and procurement. CCGs will need to agree that line locally.

According to the reviewed guidance if all GPs and practice representatives due to make a decision are conflicted, then the CCG should be:

- Referring decisions to the Governing Body, so that lay members / the nurse / the secondary care doctor can make the final decision. However this may weaken GP clinical input into decision making.
- Co-opting individuals from the HWB or another CCG onto the Governing Body, or invite the HWB / another CCG to review proposal to provide additional scrutiny (these individuals would only be able to participate in decision making if this was set out in the CCG constitution)

- Ensure that quoracy rules enable decisions to be made in this circumstance

- Plan ahead to ensure that agreed processes are followed.

- Use an appropriately constituted arms-length external scrutiny committee to ensure probity (recommended by the BMA)

CCGs can use Commissioning Support Units (CSUs) to reduce potential conflicts, for example a CSU can help select the best procurement route and prepare bids etc. However, this cannot completely eliminate the conflict as CCGs are responsible for signing off specification and evaluation criteria, signing off which providers to invite to tender, and making the final decision on the selection of the provider. The CCG is responsible for ensuring that their CSU or other third parties are compliant with regulations in the same way that the CCG must be.

NHS England also suggest any questions about the service going beyond the scope of the GP contract should be discussed with NHS England area teams, clearly that would need review in light of new delegated co-commissioning arrangements.

Networks and Federations

We note that the increasing number of GP networks and federations could potentially present an added complication to local procurement processes. If most or all member practices are part of the local federation, then this could mean that a practice not part of the federation/excluded from a federation may not have the opportunity to win contracts through competitive tender – because the process is more suited to federated organisations. One way to mitigate this would be for the CCG to always design and procure service specifications according to best practice (with openness and transparency), thereby supporting all practices to bid. One area to be careful about is when all the GPs on a Governing Body have a declared interest in local federations – this makes decision making and accountability complex and the CCG will need to work that through carefully with the input of its lay members and wider clinicians on the Governing Body. Again, an external scrutiny committee with non-conflicted clinicians such as from a neighbouring CCG may be helpful.

8. Local engagement

Separately, the BMA suggests that LMCs should be involved in CCGs either by formal consultation, a non-voting seat on Governing Body, or as an observer on Governing Body. They indicate that a non-voting governing body seat would be the best option. Neither of the other two papers we reviewed address this.

9. Other conflicts of interest issues for consideration

Personal conflict

The RCGP/NHS Confederation highlight that in CCG governing bodies a personal conflict can arise because CCG leaders are elected by their constituent GP members. There could be a perception that CCG Governing Bodies are favouring the most vocal or influential of their GP practice members. Related to this is the potential indirect interest for elected GPs to build a constituency of supporters within their CCG.

The CCG is responsible for ensuring that their CSS or other third parties are compliant with regulations in the same way that the CCG must be.

NHS England guidance suggests that in the case of every GP Governing Body member being conflicted, the lay members, registered nurse and secondary care doctor make the decision (and that the constitution is written so that this is quorate).

This could however mean that decisions would be taken without a GP perspective. Alternatively, CCGs may bring in members of the Health and Wellbeing Board or another CCG to provide oversight, or as the BMA suggests use an external scrutiny committee to make decisions.

Use of primary care incentive schemes

In its guidance, the BMA highlights its concerns about the professional and ethical implications of CCGs applying incentive schemes to reduce referral or prescribing activity. The BMA urges any doctor, whether commissioner or provider, to consider the schemes carefully and ensure that scheme is based on clinical evidence. NHSCC suggests that

one solution is to ensure the expertise of secondary care clinicians and nurses on Governing Bodies plays an important part in providing clinical input and lay members can scrutinize commercial/ financial and performance data.

The RCGP acknowledge that it is not ethical to under-treat or under-refer for financial gain, but is not unethical to 'review and reflect' on variations in referral/prescribing rates and try to reduce referrals in line with evidence or best practice.

Note to the reader:
This paper has been developed from a review of four guidance documents and brings together previous lines/guidance from NHSCC, NHS England, the RCGP and the BMA.

- BMA 'Conflicts of interest in the new commissioning system: Doctors in commissioning roles' April 2013
- RCGP/NHS Confederation 'Managing conflicts of interest in clinical commissioning groups' September 2011
- NHS England 'Managing conflicts of interest: guidance for clinical commissioning groups.' March 2013 (includes Commissioning Board Document that precedes it). We have also read across the paper to the new version of this document published December 2014.
    - NHS England 'Managing conflicts of interest: revised guidance for clinical commissioning groups.' June 2016 – Superseding the NHS England 'Managing conflicts of interest: guidance for clinical commissioning groups.'

NHSCC have also supplemented the principles raised in this paper with some points for steer that have been raised by members of its lay member network.

Appendix 2

Declaration of conflict of interests for Bidders/contractors

NHS Lincolnshire East Clinical Commissioning Group
Bidders/potential contractors/service provider's declaration form: financial and other interests.

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

Notes:

- All potential bidders/contractors/service providers, including sub-contractors, members of a consortium, advisers or other associated parties (Relevant Organisation) are required to identify any potential conflicts of interest that could arise if the Relevant Organisation were to take part in any procurement process and/or provide services under, or otherwise enter into any contract with, the CCG, or with NHS England in circumstances where the CCG is jointly commissioning the service with, or acting under a delegation from, NHS England. If any assistance is required in order to complete this form, then the Relevant Organisation should contact the Corporate/Board Secretary.

- The completed form should be sent to the Corporate/Board Secretary.

- Any changes to interests declared either during the procurement process or during the term of any contract subsequently entered into by the Relevant Organisation and the CCG must notified to the CCG by completing a new declaration form and submitting it to the Corporate/Board Secretary.

- Relevant Organisations completing this declaration form must provide sufficient detail of each interest so that the CCG, NHS England and also a member of the public would be able to understand clearly the sort of financial or other interest the person concerned has and the circumstances in which a conflict of interest with the business or running of the CCG or NHS England (including the award of a contract) might arise.

- If in doubt as to whether a conflict of interest could arise, a declaration of the interest should be made.

Interests that 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 Relevant Organisation or any person employed or engaged by or otherwise connected with a Relevant Organisation (Relevant Person) has provided or is providing services or other work for the CCG or NHS England;

- a Relevant Organisation or Relevant Person is providing services or other work for any other potential bidder in respect of this project or procurement process;

- the Relevant Organisation or any Relevant Person has any other connection with the CCG or NHS England, whether personal or professional, which the public could perceive may impair or otherwise influence the CCG's or any of its members' or employees' judgements, decisions or actions.

Appendix 3

Declaration of conflicts of interests for bidders/contractors

Name of Organisation:	
Details of interests held:	
Type of Interest	**Details**
Provision of services or other work for the CCG or NHS England	
Provision of services or other work for any other potential bidder in respect of this project or procurement process	
Any other connection with the CCG or NHS England, whether personal or professional, which the public could perceive may impair or otherwise influence the CCG's or any of its members' or employees' judgements, decisions or actions	

Name of Relevant Person:	*[complete for all Relevant Persons]*
Details of interests held:	

Type of Interest	Details	Personal interest or that of a family member, close friend or other acquaintance?
Provision of services or other work for the CCG or NHS England		
Provision of services or other work for any other potential bidder in respect of this project or procurement process		
Any other connection with the CCG or NHS England, whether personal or professional, which the public could perceive may impair or otherwise influence the CCG's or any of its members' or employees' judgements, decisions or actions		

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

Signed: …….

On behalf of: ……

Date: …….

Appendix 4

Procurement decisions and contracts awarded

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 (Name)	CCG contract manager (Name)	Decision making process and name of decision making committee	Summary of conflicts of interest declared and how these are managed	Contract awarded (supplier name & registered address)	Contract value (£) (Total) and value to CCG	Contract value (£) to CCG

Appendix 5

Declaration of interests for CCG members and employees

Name:	
Position within, or relationship with, the CCG:	
Member of a CCG Committee (if applicable):	

Detail of interests held (complete all that are applicable):

Type of interest (Please specify) *See reverse of form for details	**Description of Interest (including for indirect interests, details of the relationship with the person who has the interest)**	**Date interest relates From & To**		**Actions to be taken to mitigate risk (to be agreed with line manager or a senior CCG manager)**

The information submitted will be held by the CCG for personnel or other reasons specified on this form and to comply with the organisation's policies. This information may be held in both manual and electronic form in accordance with the Data Protection Act 1998. Information may be disclosed to third parties in accordance with the Freedom of Information Act 2000 and, in the case of 'decision making staff' (as defined in the statutory guidance on managing conflicts of interest for CCGs) may be published in registers that the CCG holds.

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

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

Signed: …….. Date: ……

Line Manager or Senior CCG Manager:
Signed: …… Position: …… Date: ……..

**** PLEASE ENSURE YOU HAVE COMPLETED THE ACTIONS TO BE TAKEN TO MITIGATE THE RISK (TO BE AGREED WITH YOUR LINE MANAGER) ****

Please return to Claire Wilson, Corporate/Board Secretary, Lincolnshire East CCG, Cross O'Cliff, Bracebridge Heath, Lincoln LN4 2HN. Email address: claire.wilson@lincolnshireeastccg.nhs.uk

Types of Interest

Types of interest	Description
Financial interests	This is where an individual may get direct financial benefits* from the consequences of a decision their organisation makes. This could, for example, include being: • A director, including a non-executive director, or senior employee in another organisation which is doing, or is likely to do business with an organisation in receipt of NHS funding. • A shareholder, partner or owner of an organisation which is doing, or is likely to do business with an organisation in receipt of NHS funding. • Someone in outside employment • Someone in receipt of secondary income • Someone in receipt of a grant • Someone in receipt of other payments (e.g. honoraria, day allowances travel or subsistence) • Someone in receipt of sponsored research
Non-financial professional interests	This is where an individual may obtain a non-financial professional benefit from the consequences of a decision their organisation makes, such as increasing their professional reputation or status or promoting their professional career. This may, for example, include situations where the individual is: • An advocate for a particular group of patients; • A clinician with a special interest • An active member of a particular specialist body • An advisor for the Care Quality Commission or National Institute of Health and Care Excellence • A research role
Non-financial personal interests	This is where an individual may benefit* personally from a decision their organisation makes in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit. This could include, for example, where the individual is: • A member of a voluntary sector board or has a position of authority within a voluntary sector organisation. • A member of a lobbying or pressure group with an interest in health and care.
Indirect interests	This is where an individual has a close association with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest who would stand to benefit* from a decision they are involved in making. This would include**: • Close family members and relatives. • Close friends and associates. • Business partners.

* A benefit may arise from the making of gain or avoiding a loss.

** A common sense approach should be applied to these terms. It would be unrealistic to expect staff to know of all the interests that people in these classes might hold. However, if staff do know of material interests (or could be reasonably expected to know about these) then these should be declared.

Appendix 6

Register of Interests Template

Name	Current position(s) held in the CCG, i.e. Governing Body Member, Committee Member, Member Practice, CCG employee or other	Declared Interest (Name of organisation and nature of business)	Type of Interest			Is the interest direct or indirect?	Nature of Interest	Date of Interest		Action taken to mitigate risk
			Financial Interest	Non-Financial Professional Interest	Non-Financial Personal Interest			From	To	

Appendix 7

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

7.1 Introduction

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

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

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

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

7.2 What is conflict?

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

For the purposes of Regulation 6 a conflict will arise where an individual's ability to exercise judgement or act in their role in the **commissioning of services** is impaired or influenced by their interests in the **provision of those services.**

7.3 What constitutes an interest?

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

- a member of the commissioner;
- a member of the Governing Body of the commissioners;
- a member of the commissioner's committees or sub-committees, or committees or sub-committees of its Governing Body; or
- an employee

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Examples of what information a record might contain:
Commissioners might include the following information in a record of how a conflict of interest has been managed:

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

the decision to award the contract; and

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

Appendix 8

Declarations of gifts and hospitality

Recipient Name	Position (within the CCG)	Date of Offer	Date of Receipt (if applicable)	Declined or Accepted	Details of Gift/Hospitality (including Name of Event)	Estimated Value	Supplier Name & Nature of Business	Reason for Accepting or Declining	Justification for approval by approver (where applicable)	Details of any mitigating actions to be implemented (if applicable)	Details of previous gifts/hospitality offered or accepted by this Supplier

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

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

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

Signed: **Position:** **Date:**

Signed: **Position:** **Date:**
(Line Manager)

For any gifts/hospitality above £20.00, approval is required by the Chief Finance Officer:

Signed: **Position:** Chief Finance Officer **Date:**

Please return to: Corporate/Board Secretary, Lincolnshire East CCG, Cross O'Cliff, Bracebridge Heath, Lincoln, LN4 2HN or via email at claire.wilson@lincolnshireeastccg.nhs.uk

Appendix 9

NHS Lincolnshire East CCG

Commercial sponsorship approval request

The following form must be completed by the manager entering into the arrangement. It must be submitted in **ADVANCE** to the **Secretary to the Board, NHS Lincolnshire East CCG, Cross O'Cliff Court, Bracebridge Heath, Lincoln LN4 2HN**

Name of person organising the event		
Directorate		
Description of event/arrangements for which sponsorship is proposed		
Date of Event		
Venue for event		
Number of attendees		
Costs		
Hire of venue		
Speakers Catering per head Other costs (specify) Total Cost of event/publication		
	Business of sponsors	Value of sponsorship (£)
Role of sponsor/benefits to benefit		
Would this event/publication go ahead without sponsorship		
Other supporting information (please attach separate sheet if necessary)		

Declaration of Manager I believe the above sponsorship arrangements to fit within the guidance provided in the NHS Lincolnshire East CCG commercial sponsorship policy.					
Signed:		Name:			
Job Title:			Date:		
Action:					
Signature: Secretary to the Board					
Signature: Director of Finance (for significant projects and those with a value of over £5,000)					
Date approval granted:					
Date applicant informed of decision:					
Date submitted to the Audit Committee:					
Comments (if any)					

Guidance Notes

1. Sponsorship may be used only if there are of benefit to the health community such as for "one-off" events, publications, staffing or education. For example:

    - It is designed to allow reasonable refreshments to be provided at a training event and meet the reasonable expenses of an external speaker.
    - To meet a proportion of the costs of producing publicity material on a subject not directly related to the sponsor's business.
    - A prize for a health promotion competition.

2. Forms should normally be submitted in advance and only in very exceptional circumstances may be submitted retrospectively. Any retrospective submission must be accompanied by a full explanation as to why the submission has been made retrospectively.

3. Completed forms will be held and a register will be kept by the Secretary to the Board/Head of the Executive Office for submission to the Audit Committee on a quarterly basis. One purpose of the monitoring will be to ensure that financial support is being shared amongst a variety of partners.

4. The Secretary to the Board will inform applicants once approval for the sponsorship is granted or if there are any problems with the proposal.

5. For more substantial or ongoing arrangements, including those where the individual amounts are less than £5,000 but the total commitment may in the future exceed £5,000; the proforma should be accompanied by a detailed proposal for accepting the sponsorship. This should include the "value added" a sponsor would bring, the benefits to the sponsor and an option appraisal of any alternative(s). It should also include reference to the companies that will be invited to tender to be part of the project. Requests should be in the form of a letter to the Secretary to the Board who will submit it to the next available meeting of either the Audit Committee or Board, whichever is the sooner. This letter may **not** be submitted retrospectively.

Appendix 10

Lincolnshire East CCG

Seeking sponsorship from the commercial sector

Introduction

1. Most approvals under this policy have concerned funding to pay for the venue, refreshments and speaker fees for meetings organised by NHS Lincolnshire; sponsorship has occasionally been sought for publications. Typically, sponsorship tends to have been offered by the company rather than having been sought by NHS Lincolnshire, has been one-off, and the sums involved have been relatively small. Given the need to maximise the availability of resources for the NHS, and the apparent willingness of pharmaceutical companies to provide ongoing funding for large projects of mutual advantage, this policy provides a process for proactively seeking funding from selected companies, which would apply to all projects where the level of funding requested exceeded £5000

Process

2. All proposals would be required to the procedure identified below:
   - Identification of projects potentially suitable for external sponsorship
   - Executive directors agree which projects are suitable and select suitable companies to approach (normally, a minimum of three companies to be approached for any one project)
   - Direct approach to selected companies asking them to provide sponsorship for the proposed project. Total funding could be sought from one company, or partial funding from a number of companies
   - On a case-by-case basis, approval sought from the Board, in the public session, to the proposal, prior to final signing with the company(ies) concerned
   - Monitoring of all projects approved under this process by the Audit Committee at its formal meeting.

Principles

3 All proposals would be required to conform to the following principles:
   - Compliance with the organisations corporate governance manual, particularly the hospitality and commercial sponsorship policy.
   - Compliance with the code of conduct of the Association of the British Pharmaceutical Industry.
   - Projects must not result in personal financial gain or benefit for NHS Lincolnshire East CCG employee.

- Projects must not favour the products of one company over any other, unless there is clear and well documented impartial evidence of superior efficacy, and/or financial benefits to the health community.

- Clear legal advice will be taken in respect of any contractual terms offered by a potential sponsor

- In all cases NHS Lincolnshire East CCG will ensure that the use of the organisation name and intellectual material by a potential sponsor is explicitly forbidden (unless clearly agreed by the Board).

Appendix 11

NHS Lincolnshire East CCG
Commercial Sponsorship Agreement

To: ……...

Of (Name of Company): ……

Details of event: ……

Thank you for agreeing to sponsor the above meeting to be held on (date): ……..…..

At (venue) ……

Terms and conditions of sponsorship

Sponsorship is accepted on the understanding that:

1. The course organiser retains overall control of the event outlined above.
2. The sponsor does not have a right to formally present teaching or research materials.
3. The sponsor does not use NHS Lincolnshire East CCG or the staff of NHS Lincolnshire East CCG to promote products outside the meeting.
4. Any stand the sponsor uses to promote products it to be outside the main meeting room where practical
5. The sponsor will remove all promotional materials and vacate the main meeting room prior to the main meeting commenced.

Details of sponsorship (e.g. room hire, food, speakers, including responsibility for payment to suppliers and other financial details):

……..

……

……

Please confirm that the terms detailed above are accepted

Signed: …… **Print Name:** ……...…

Position held: ……..

Company: ……

Meeting organiser should retain a copy of this form and a copy to be supplied to Sponsor

Appendix 12

Template for recording minutes

XXXX Clinical Commissioning Group

Primary Care Commissioning Committee Meeting

Date: 15 February 2016
Time: 2pm to 4pm
Location: Room B, XXXX CCG

Attendees:

Name	Initials	Role
Sarah Kent	SK	XXX CCG Governing Body Lay Member (Chair)
Andy Booth	AB	XXX CCG Audit Chair Lay Member
Julie Hollings	JH	XXX CCG PPI Lay Member
Carl Hodd	CH	Assistant Head of Finance
Mina Patel	MP	Interim Head of Localities
Dr Myra Nara	MN	Secondary Care Doctor
Dr Maria Stewart	MS	Chief Clinical Officer
Jon Rhodes	JR	Chief Executive – Local Healthwatch

In attendance from 2.35pm

Neil Ford	NF	Primary Care Development Director

Item No	Agenda Item	Actions
1	**Chairs welcome**	
2	**Apologies for absence** <apologies to be noted>	
3	**Declarations of interest** *SK reminded committee members of their obligation to declare any interest they may have on any issues arising at committee meetings which might conflict with the business of XXX clinical commissioning group.* *Declarations declared by members of the Primary Care Commissioning Committee are listed in the CCG's Register of Interests. The Register is available either via the secretary to the governing body or the CCG website at the*	

	following link: http://xxxccg.nhs.uk/about-xxx-ccg/who-we-are/our -governing-body/ **Declarations of interest from sub committees.** *None declared* **Declarations of interest from today's meeting** *The following update was received at the meeting:* • *With reference to business to be discussed at this meeting, MS declared that he is a shareholder in XXX Care Ltd.* *SK declared that the meeting is quorate and that MS would not be included in any discussions on agenda item X due to a direct conflict of interest which could potentially lead to financial gain for MS.* *SK and MS discussed the conflict of interest, which is recorded on the register of interest, before the meeting and MS agreed to remove himself from the table and not be involved in the discussion around agenda item X.*	
4	**Minutes of the last meeting** <*date to be inserted*> ***and matters arising***	
5	**Agenda Item** <*Note the agenda item*> *MS left the meeting, excluding himself from the discussion regarding xx.* ***<conclude decision has been made>*** ***<Note the agenda item xx>*** *MS was brought back into the meeting.*	
6	**Any other business**	
7	**Date and time of the next meeting**	

Appendix 13

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

Introduction

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

2. Where CCGs are commissioning new care models[2], particularly those that include primary medical services, it is likely that there will be some individuals with roles in the CCG (whether clinical or non-clinical), that also have roles within a potential provider, or may be affected by decisions relating to new care models. Any conflicts of interest must be identified and appropriately managed, in accordance with this statutory guidance.

3. This annex is intended to provide further advice and support to help CCGs to manage conflicts of interest in the commissioning of new care models. It summaries key aspects of the statutory guidance which are of particular relevance to commissioning new care models rather than setting out new requirements. Whilst this annex highlights some of the key aspects of the statutory guidance, CCGs should always refer to, and comply with, the full statutory guidance.

Identifying and managing conflicts of interest

4. The Statutory guidance for CCGs is clear that any individual who has a material interest in an organisation which provides, or is likely to provide, substantial services to a CCG (whether as a provider a healthcare or provider of commissioning support services, of otherwise) should recognise the inherent conflict of interest risk that may arise and should not be a member of the governing body or of a committee or sub-committee of the CCG.

5. In the case of new care models, it is perhaps likely that there will be individuals with roles in both the CCG and new care model provider/potential provider. These conflicts of interest should be identified as soon as possible, and appropriately managed locally. The position should also be reviewed whenever an individual's role, responsibility or circumstances change in a way that affects the individual's interests. For example where an individual takes on a new role outside the CCG, or enters into a new business or relationship, these new interests should be promptly declared and appropriately managed in accordance with the statutory guidance.

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.

   [2] Where we refer to "new care models" in this note, we are referring to any multi-specialty Community Provider (MCP), Primary and Acute Care Systems (PACS) or other arrangements or a similar scale or scope that (directly or indirectly) includes primary medical services.

7. Where a member of the CCG staff participating in a meeting has dual roles, for example a role with the CCG and a role with a new care model provider organisation, but it is not considered necessary to exclude them from the whole or any part of a CCG meeting, he or she should ensure that the capacity in which they continue to participate in the discussions is made clear and correctly recorded in the meeting minutes, but where it is appropriate for them to participate in decisions they must only do so if they are acting in their CCG role.

8. CCGs should take all reasonable steps to ensure that employees, committee members, contractors and others engaged under contract with them are aware of the requirement to inform the CCG if they are employed or engaged in, or wish to be employed or engaged in, any employment or consultancy work in addition to their work with the CCG (for example, in relation to new care model arrangements).

9. CCGs should identify as soon as possible where staff might be affected by the outcome of a procurement exercise, e.g., they may transfer to a provider (or their role may materially change) following the award of a contract. This should be treated as a relevant interest, and CCGs should ensure they manage the potential conflict. This conflict of interest arises as soon as individuals are able to identify that their role may be personally affected.

10. Similarly, CCGs should identify and manage potential conflicts of interest where staff are involved in both the contract management of existing contracts, and involved in procurement of related new contracts.

Governance arrangements

11. Appropriate governance arrangements must be put in place that ensure that conflicts of interest are identified and managed appropriately, in accordance with this statutory guidance, without compromising the CCG's ability to make robust commissioning decisions.

12. We know that some CCGs are adapting existing governance arrangements and others developing new ones to manage the risks that can arise when commissioning new care models. We are therefore, not recommending a "one size fits" all governance approach, but have included some examples of governance models which CCGs may want to consider.

13. The principles set out in the general statutory guidance on managing conflicts of interest (paragraph 19-23), including the Nolan Principles and the Good Governance Standards for Public Services (2004), should underpin all governance arrangements.

14. CCGs should consider whether it is appropriate for the Governing Body to take decisions new care models or (if there are too many conflicted members to make this possible) whether it would be appropriate to refer decisions to a CCG committee.

Primary Care Commissioning Committee

15. Where a CCG has full delegation for primary medical services, CCGs could consider delegating the commissioning and contract management of the entire new care model to its Primary Care Commissioning Committee. This Committee is constituted with a lay and executive majority, and includes a requirement to invite a Local Authority and Healthwatch representative to attend (see paragraph 97 onwards of the CCG guidance).

16. Should this approach be adopted, the CCG may also want to increase the representation of other relevant clinicians on the Primary Care Commissioning Committee when new care models are being considered, as mentioned in Paragraph 98 of this guidance. The use of the Primary Care Committee may assist with the management of conflicts/quorum issues at governing body level without the creation of a new forum/committee within the CCG.

17. If the CCG does not have a Primary Care Commissioning Committee, the CCG might want to consider whether it would be appropriate/advantageous to establish either:

    a) **A new care model commissioning committee** (with membership including relevant non-conflicted clinicians, and formal decision making powers similar to a Primary Care Commissioning Committee ("NCM Commissioning Committee"); or

b) **A separate clinical advisory committee,** to act as an advisory body to provide clinical input to the Governing Body in connection with a new care model project, with representation from all providers involved or potentially involved in the new care model but with formal decision making powers remaining reserved to the governing body ("NCM Clinical Advisory Committee").

NCM Commissioning Committee

18. The establishment of a NCM Commissioning Committee could help to provide an alternative forum for decisions where it is not possible/appropriate for decisions to be made by the Governing Body due to the existence of multiple conflicts of interest amongst members of the Governing Body. The NCM Commissioning Committee should be established as a sub-committee of the Governing Body.

19. The CCG could make the NCM Commissioning Committee responsible for oversight of the procurement process and provide assurance that appropriate governance is in place, managing conflicts of interest and making decisions in relation to new care models on behalf of the CCG. CCGs may need to amend their constitution if it does not currently contain a power to set up such a committee either with formal delegated decision making powers or containing the proposed categories of individuals (see below).

20. The NCM Commissioning Committee should be chaired by a lay member and include non-conflicted GPs and CCG members, and relevant non-conflicted secondary care clinicians.

NCM Clinical Advisory Committee

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

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

23. From a procurement perspective the Public Contracts Regulations 2015 encourage early market engagement and input into procurement processes. However, this must be managed very carefully and done in an open, transparent and fair way. Advice should therefore be taken as to how best to

constitute the NCM Clinical Advisory Committee to ensure 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 for 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 anyone particular provider or group of providers.

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

Provider engagement

25. It is good practice to engage relevant providers, especially clinicians, in confirming that the design of service specifications will meet patient needs. This may include providers from the acute, primary, community, and mental health sectors, and may include NHS, third sector and private sector providers. Such engagement, done transparently and fairly, is entirely legal. However, conflicts of interest, as well as challenges to the fairness of the procurement process, can arise if a commissioner engages selectively with only certain providers (be they incumbent or potential new providers) in developing a service specification for a contract for which they may later bid. CCGs should be particularly mindful of these issues when engaging with exiting/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) (No2) Regulations 2013 and the Public Contracts Regulations 2015.

Further support

26. If you have any queries about this advice, please contact: england.co-commissioning@nhs.net