Wigan Borough
Clinical Commissioning Group

Conflicts of Interest Policy

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Introduction

1. Managing conflicts of interest appropriately is essential for protecting the integrity of the overall NHS commissioning system and to protect NHS England (NHSE), clinical commissioning groups (CCGs) and GP practices from any perceptions of wrong doing. Commissioners need the highest levels of transparency so they can demonstrate that conflicts of interest are managed in a way that cannot undermine the probity and accountability of the organisation. This is particularly important for CCGs when dealing with member practices.

2. It will not be possible to avoid conflicts of interest. They are inevitable in many aspects of public life, including the NHS. However, by recognising where and how they arise and dealing with them appropriately, Wigan Borough CCG (the CCG) will be able to ensure proper governance, robust decision-making and appropriate decisions about the use of public money.

3. The Health and Social Care Act sets out clear requirements of CCGs to make arrangements for managing conflicts of interest and potential conflicts of interest, to ensure they do not affect or appear to affect the integrity of the CCG's decision making processes.

4. This policy is informed by "Managing Conflicts of Interest: Revised Statutory Guidance for CCGs 2017" issued by NHS England on 16 June 2017. It also builds on the principles outlined in the CCG's constitution section 6 Standards of Business Conduct and Managing Conflicts of Interest.

5. This policy shall be reviewed bi-annually and following any change in relevant regulations.

Purpose

6. Section 140 of the National Health Service Act 2006, inserted by the Health and Social Care Act 2012, sets out that the CCG must:

    - Maintain one or more registers of interest of the members of the group, members of its governing body, members of its committees or sub-committees or its governing body, and its employees;

    - Publish, or make arrangements to ensure that members of the public have access to these registers on request;

    - Make arrangements to ensure individuals declare any conflict or potential conflict in relation to a decision to be made by the group, and record them in the registers as soon as they become aware of it, within 28 days; and

- Make arrangements, set out in the constitution, for managing conflicts of interest, and potential conflicts of interest in such a way as to ensure that they do not appear to affect the integrity of the group's decision-making processes.

7. The NHS (Procurement, Patient Choice and Competition) Regulations 2013 sets out that commissioners:

   - Must manage conflicts and potential conflicts of interest when awarding a contract by prohibiting the award of a contract where the integrity of the award has been or appears to have been affected by a conflict;

   - Must keep appropriate records of how they have managed any conflicts in individual cases.

8. CCG's should set out in their constitution how they will comply with these requirements.

9. This policy also covers the additional factors that the CCG should address when commissioning primary medical care services under delegated commissioning arrangements. This includes the factors CCGs should consider when drawing up plans for services that might be provided by GP practices.

10. The purpose of this policy, in addition to section 6 of the constitution, is to set out how the CCG will comply with the above requirements.

11. This policy applies to CCG members and employees, Practice staff with involvement in CCG business, those organisations wishing to contract with the CCG and volunteers.

Definitions

12. A conflict of interest occurs where an individual's ability to exercise judgement or act in one role is or could be impaired or otherwise influenced by his or her involvement in another role or relationship. The individual does not need to exploit his or her position or obtain an actual benefit, financial or otherwise. A potential for competing interests and/or a perception of impaired judgement or undue influence can also be a conflict of interest.

13. Conflicts can arise from an indirect financial interest (e.g. payment to a spouse) or a non-financial interest (e.g. kudos or reputation). Conflicts of loyalty may arise (e.g. in respect of an organisation of which the individual is a member or has an affiliation). Conflicts can arise from personal or professional relationships with others, e.g. where the role or interest of a family member, friend or acquaintance may influence an individual's judgement or actions or could be perceived to do so. These are conflicts of interest.

14. For a GP or any other individual involved in commissioning, a conflict of interest may, therefore arise when their own judgement as an NHS commissioner could be, or perceived to be influenced and impaired by their own concerns and obligations as a

healthcare or related provider, as a member of a particular peer, professional or special interest group, or as a friend or family member. In the case of a GP involved in commissioning, an obvious example is the award of a new contract to a provider in which the individual GP has a financial stake. However, the same considerations apply when deciding whether to extend a contract.

15. "It is crucial that an interest and involvement in the local healthcare system does not also involve a vested interest in terms of financial or professional bias toward or against particular solutions or decisions. The fact that in their provider and gatekeeper roles GP's and their colleagues could potentially profit personally (financially or otherwise) from the decisions of a commissioning group of which they are also members, means that questions about their role in the governance of NHS commissioning bodies are legitimate. Failure to acknowledge, identify and address them could result in poor decision making, legal challenge and reputational damage." Royal College GP's and NHS Confederation's briefing paper on managing conflicts of interest - September 2011

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

    - If in doubt, it is better to assume a conflict of interest and manage it appropriately rather than ignore it;

    - For conflict to exist, financial gain is not necessary.

16. Interests can be captured in four different categories:

Financial Interests

17. This is where an individual may get direct financial benefits from the consequences of a commissioning decision. This could, for example, include being:
    - A director, including a non-executive director, or senior employee in a private company or public limited company or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations;
    - A shareholder (or similar owner interests), a partner or owner of a private or not-for-profit company, business, partnership or consultancy which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations.
    - A management consultant for a provider;
    - In secondary employment;
    - In receipt of secondary income from a provider;
    - In receipt of a grant from a provider;
    - In receipt of any payments (for example honoraria, one off payments, day allowances or travel or subsistence) from a provider

- In receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role; and
- Having a pension that is funded by a provider (where the value of this might be affected by the success or failure of the provider).

Non-Financial Professional Interests

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

- An advocate for a particular group of patients;
- A GP with special interests e.g., in dermatology, acupuncture etc.
- A member of a particular specialist professional body (although routine GP membership of the RCGP, BMA or a medical defence organisation would not usually by itself amount to an interest which needed to be declared);
- An advisor for Care Quality Commission (CQC) or National Institute for Health and Care Excellence (NICE);
- A medical researcher

Non-Financial Personal Interests

19. 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 groups with an interest in health.

Indirect Interests

20. 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, this should include:

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

21. The above categories and examples are not exhaustive and the CCG will exercise discretion on a case by case basis, having regard to the principles of governance and codes of conduct that apply to NHS bodies, in deciding whether any other role, relationship or interest which would impair or otherwise influence the individual's judgement or actions in their role within the CCG.

22. Appendix 1 includes a number of scenarios that illustrate different types of conflicts and which may help members, employees, governing body members and external stakeholders to appreciate their responsibilities. NHS England has also published a number of case studies which can assist in this regard and can be accessed at: case studies

Roles & Responsibilities

23. Everyone in the CCG has responsibility to appropriately manage conflicts of interest. It is the responsibility of all listed below to ensure that they are not placed in a position which creates a conflict or potential conflict between their private interests and their CCG duties:

- Members of the CCG (practices)
- Members of the CCG Governing Body
- Members of the CCG committees or groups
- Employees of the CCG (permanent and temporary, full and part-time)

24. The CCG needs to be aware of all situations where a member of staff, Governing Body and committee members have interests outside of his/her NHS Contract of Employment or other involvement with the CCG, where that interest has potential to result in a conflict of interest between the individual's private interests and their CCG duties, or where that interest has the potential to be perceived as a conflict of interest between the individual's private interests and their CCG duties. All staff, Governing Body and committee members (including patient representatives), and other decision-makers must therefore declare relevant and material interests to the CCG in the following circumstances:

- On appointment
- Annually
- At every meeting before the agenda is discussed (new and existing)
- On changing role or responsibility
- On any other change of circumstances
- On becoming aware that the CCG has entered into or proposes entering into a contract in which they or any person connected with them has any financial interest, either direct or indirect.

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

26. In order to strengthen scrutiny and transparency of the CCG's decision-making processes, the role of Conflicts of Interest Guardian (CoIG) is now recognised and is undertaken by a Governing Body Lay Member. Support shall be provided by the Assistant Director, Governance, who has responsibility for the day-to-day management of conflicts of interest matters and queries.

27. The CoIG should, in collaboration with the Assistant Director, Governance:

    - Act as a conduit for GP practice staff, members of the public and healthcare professionals who have any concerns with regards to conflicts of interest;
    - Be a safe point of contact for employees or workers of the CCG to raise any concerns in relation to this policy;
    - Support the rigorous application of conflict of interest principles and policies;
    - Provide independent advice and judgment where there is any doubt about how to apply conflicts of interest policies and principles in an individual situation;
    - Provide advice on minimising the risks of conflicts of interest.

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

29. It is the responsibility of the Chair (or nominated Deputy Chair) of every decision making group to ensure that declarations of interest, and subsequent decisions made about ongoing participation are recorded clearly in the minutes on an individualised basis.

Register of Interests

30. The CCG has established a Register of Interests, which is held by the Governance Team.

31. Whenever an interest is declared it will be reported to the Governance Team and the register will be updated.

32. The Register of Interests will be checked on an annual basis to ensure that it is accurate and up to date.

33. Declarations of interest made by the CCG Governing Body members and any individual directly involved with the business or decision-making of the CCG will be published within the CCG's annual report.

34. The Register of Interests will be reported to the Audit Committee annually.

35. Registers of Interest will be maintained for:

36. **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

37. 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.

38. **Members of the governing body:** including all members of the CCG's committees, and sub-groups, including:

- Co-opted members;
- Appointed deputies; and
- Any members of committees/groups from other organisations.

39. 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.

40. **All members of the CCG (i.e., each practice) -** This includes each provider of primary medical services which is a member of the CCG under Section 14O (1) of the 2006 Act. Declarations should be made by the following groups:

- GP partners/principals/salaried (or where the practice is a company, each director);
- Any individual directly involved with the business or decision-making of the CCG

41. The Register of Interests will be publicly available on the CCG website and easily accessible at the CCG's offices, see Appendix 3. It will include the following detail;

    - Name of the person declaring the interest;
    - Position within, or relationship with, the CCG (or NHS England in the event of joint committees);
    - Type of interest e.g., financial interests, non-financial professional interests;
    - Description of interest, including for indirect interests details of the relationship with the person who has the interest;
    - The dates from which the interest relates; and
    - The actions to be taken to mitigate risk - these should be agreed with the individual's line manager or a senior manager within the CCG.

42. In exceptional circumstances, where the public disclosure of information could give rise to a real risk of harm or is prohibited by law, an individual's name and/or other information may be redacted from the publicly available register(s). Where an individual believes that substantial damage or distress may be caused, to him/herself or somebody else by the publication of information about them, they are entitled to request that the information is not published. Such requests must be made in writing. Decisions not to publish information must be made by the CoIG for the CCG, who should seek appropriate legal advice where required, and the CCG should retain a confidential un-redacted version of the register(s).

43. All persons who are required to make a declaration of interest(s) will be made aware that the register(s) will be published in advance of publication. This will be done by the provision of a fair processing notice that details the identity of the data controller, the purposes for which the registers are held and published, and contact details for the data protection officer. This information will additionally be provided to individuals identified in the registers because they are in a relationship with the person making the declaration.

44. The register(s) of interests will be published as part of the CCG's Annual Report and Annual Governance Statement.

Declaration of Interests

45. Declarations of interest should be made as soon as reasonably practicable and by law within 28 days after the interest arises. The annual written declaration will be called for and the process managed by the governance team. The agenda (both public and private agenda) for meetings of the CCG Governing Body and also of its committees contains a standing item at the commencement of each meeting, requiring members to declare any interests relating specifically to the agenda items being considered. If during the course of a meeting, an interest not previously declared is identified, this shall be declared. Minutes of the meeting shall detail all declarations made.

46. Governing Body and committee members must be specific when declaring interests. They should state which agenda item the potential conflict of interest relates to and the nature of that conflict. The Governing Body will then make the decision on the individual member's ongoing participation, and/or decision-making involvement on a case-by-case basis. The decision and agreed action/s will be recorded in the minutes. The Chair (or nominated Deputy Chair) of the meeting may insist that a member leaves the room if they have a significant interest or a direct financial interest in a matter under discussion.

47. If there is any doubt as to whether an interest should be declared, a declaration should be made and/or advice sought from the Assistant Director, Governance.

48. The Declaration of Interests is attached at Appendix 2.

49. **Non-compliance –** if members, employees or Governing Body members are found to have not declared interests in line with the requirements of this policy and the CCG's constitution section 6, they may be subject to disciplinary action which may be informal or formal. Where appropriate this will include reference to the codes of conduct of the various professional bodies that regulate activities within the NHS. The CCG will consider reporting statutorily registered healthcare professionals to their regulator if it is believed they have acted improperly.

50. If interests are found to have not been declared in respect of anyone seeking information in relation to a procurement or participating in a procurement, or otherwise engaging with the CCG in relation to the potential provision of services or facilities to the CCG, this may invalidate the procurement process and lead to the cancellation of the engagement.

Procurement Decisions and Register

51. The CCG should recognise and manage any conflicts or potential conflicts of interest that may arise in relation to procurement. The Health and Social Care Act and regulations set out the statutory rules with which commissioners are required to comply when procuring and contracting for the provision for clinical services, which need to be considered alongside the Public Contract Regulations 2006 and where appropriate EU procurement rules. The template for completion of a declaration of interest for bidders/contractors is in Appendix 4.

52. The CCG must manage conflicts of interest where it commissions healthcare services or commissioning support services from providers, including GP practices, in which a member of the CCG has a financial or other interest. This includes when awarding a contract, prohibiting the award where the integrity of the award has been or appears to have been affected by a conflict.

53. The procurement checklist template at Appendix 5 sets out the factors on which the CCG can be assured along with the Governance & Audit Committee – and be ready to assure the local community, the Health and Wellbeing Board, Healthwatch Wigan and auditors – when commissioning services that may potentially be provided by its GP practices. Setting out these factors in a consistent and transparent way as part of the

planning process will enable the CCG to seek and encourage scrutiny and enable the local community and Health and Wellbeing Board to raise questions if they have concerns about the approach being taken.

54. When Business Cases are processed the Project Management Office should ensure that the Conflict of Interest section of the Business Case Document is completed.

55. The CCG will also maintain a register of procurement decisions taken, available to the public, see Appendix 6, which will include:

- The details of the decision
- Who was involved in making the decision (governing body or committee members)
- A summary of any conflicts of interest in relation to the decision and how this was managed by the CCG

Designing Service Requirements

56. It is good practice to engage relevant providers, especially clinicians, in confirming that the design of service specifications will meet patient need. Such engagement, done transparently and fairly, is entirely legal. However, conflicts of interest can occur if the CCG 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.

57. The CCG should seek, as far as possible, to specify the outcomes that they wish to see delivered through a new service, rather than the process by which these outcomes are to be achieved. As well as supporting innovation, this helps prevent bias towards particular providers in the specification of services.

58. Such engagement should follow the three main principles of procurement law, namely equal treatment, non-discrimination and transparency. This includes ensuring that the same information is given to all.

59. The CCG will:

- advertise the fact that a service design/re-design exercise is taking place widely and invite comments from any potential providers and other interested parties (ensuring a record is kept of all interactions);
- as the service design develops, engage with a wide range of providers on an ongoing basis to seek comments on the proposed design, e.g. via the CCG's website or via workshops with interested parties;
- use engagement to help shape the requirement to meet patient need but take care not to gear the requirement in favour of any particular provider(s);

- if appropriate, engage the advice of an independent clinical adviser on the design of the service;
- be transparent about procedures;
- ensure at all stages that potential providers are aware of how the service will be commissioned; and
- maintain commercial confidentiality of information received from providers.

Managing Conflicts of Interest at Meetings

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

61. In the event that the chair of a meeting has a conflict of interest, the deputy chair is responsible for deciding the appropriate course of action in order to manage the conflict of interest. If the deputy chair is also conflicted then the remaining non-conflicted voting members of the meeting should agree between themselves how to manage the conflict(s).

62. In making such decisions, the chair (or deputy chair or remaining non-conflicted members as above) may wish to consult with the CoIG or another member of the governing body.

63. The chair, with support of the CCG's Assistant Director, Governance and, if required, the CoIG, should proactively consider ahead of meetings what conflicts are likely to arise and how they should be managed, including taking steps to ensure that supporting papers for particular agenda items of private sessions/meetings are not sent to conflicted individuals in advance of the meeting where relevant.

64. The CCG uses a Chair's declaration of interest checklist prior to and during meetings, which should include details of any declarations of conflicts which have already been made by members of the group. A template Chair's checklist is at Appendix 7.

65. The chair should ask at the beginning of each meeting if anyone has any conflicts of interest to declare in relation to the business to be transacted at the meeting. Each member of the group should declare any interests which are relevant to the business of the meeting whether or not those interests have previously been declared. Any new interests which are declared at a meeting must be included on the CCG's relevant register of interests to ensure it is up-to-date.

66. It is the responsibility of each individual member of the meeting to declare any relevant interests which they may have. However, should the chair or any other member of the

meeting be aware of facts or circumstances which may give rise to a conflict of interests but which have not been declared then they should bring this to the attention of the chair who will decide whether there is a conflict of interest and the appropriate course of action to take in order to manage the conflict of interest.

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

- Where the chair has a conflict of interest, deciding that the deputy chair (or another non-conflicted member of the meeting if the deputy chair is also conflicted) should chair all or part of the meeting;

- Requiring the individual who has a conflict of interest (including the chair or deputy chair if necessary) not to attend the meeting;

- Ensuring that the individual concerned does not receive the supporting papers or minutes of the meeting which relate to the matter(s) which give rise to the conflict;

- Requiring the individual to leave the discussion when the relevant matter(s) are being discussed and when any decisions are being taken in relation to those matter(s). In private meetings, this could include requiring the individual to leave the room and in public meetings to either leave the room or join the public section of the room;

- Allowing the individual to participate in some or all of the discussion when the relevant matter(s) are being discussed but requiring them to leave the meeting when any decisions are being taken in relation to those matter(s). This may be appropriate where, for example, the conflicted individual has important relevant knowledge and experience of the matter(s) under discussion, which it would be of benefit for the meeting to hear, but this will depend on the nature and extent of the interest which has been declared;

- Noting the interest and ensuring that all attendees are aware of the nature and extent of the interest, but allowing the individual to remain and participate in both the discussion and in any decisions. This is only likely to be the appropriate course of action where it is decided that the interest which has been declared is either immaterial or not relevant to the matter(s) under discussion.

Raising Concerns and Managing Breaches

68. It is the duty of every CCG employee, governing body member, committee and GP practice member to speak up about genuine concerns in relation to the administration of this policy on conflicts of interest management, and to report these concerns. These individuals should not ignore their suspicions or investigate themselves, but rather report it to the CoIG, an executive or the Assistant Director, Governance. The CoIG is Peter Armer, Governing Body Lay Member and Chair of Governance & Audit Committee. Individuals with concerns can contact the CoIG at Peter.Armer1@wiganboroughccg.nhs.uk or by writing to him at the CCG, if preferred, marking the correspondence 'confidential.'

69. Alternatively concerns can be raised in accordance with the CCG's whistleblowing policy (where the breach is being reported by an employee or worker of the CCG) which can be found on the CCG's SharePoint site and website or with the whistleblowing policy of the relevant employer organisation (where the breach is being reported by an employee or worker of another organisation).

70. Breaches of this conflicts of interest policy will be investigated and reported in line with the procedure outlined in the CCG's whistleblowing policy or anti-fraud bribery and corruption policy and anonymised details of breaches will be published on the CCG's website for the purpose of learning and development. The governance team is responsible for maintaining a record of breaches of this policy.

71. Reports or concerns can be raised in complete confidence. Anyone who wishes to report a suspected or known breach of this policy, who is not an employee or worker of the CCG, should also ensure that they comply with their own organisation's whistleblowing policy, since most such policies should provide protection against detriment or dismissal.

72. In some instances breaches of the policy may also equate to criminal offences and the CCG's Anti-Fraud Specialist and other authorities may be notified. Any suspicions or concerns of acts of fraud or bribery can be reported online via https://www.reportnhsfraud.nhs.uk/ or via the NHS Fraud and Corruption Reporting Line on 0800 0284060. This provides an easily accessible and confidential route for the reporting of genuine suspicions of fraud within or affecting the NHS. All calls are dealt with by experienced trained staff and any caller who wishes to remain anonymous may do so.

73. Providers, patients and other third parties can make a complaint to NHS Improvement in relation to a commissioner's conduct under the Procurement Patient Choice and Competition Regulations. The regulations are designed as an accessible and effective alternative to challenging decisions in the courts.

Training

74. The CCG will ensure that training is offered to all employees, governing body members and members of CCG committees and other relevant groups on the management of conflicts of interest. This is to ensure staff and others within the CCG understand what conflicts are and how to manage them effectively. NHS England will provide online training for CCG staff, governing body and committee members. This will need to be completed on a yearly basis to raise awareness of the risks of conflicts of interest and to support staff in managing conflicts of interest. The annual training will be mandatory and will need to be completed by all staff by 31 January of each year.

Equality and Diversity Statement

75. Promotion of equality, valuing diversity and upholding human rights are fundamental to providing good quality healthcare, addressing health inequalities and promoting wellbeing.

76. It is important to address, through consultation, the diverse needs of our community, patients, their carers and our staff. This will be achieved by working to the values and principles set out in the CCG's Equality, and Diversity Strategy 2016-19.

77. To enable the CCG to meet its legislative duties and regulatory guidance, all new and revised procedural documents, services and functions are to undertake an impact assessment to ensure that everyone has equality of access, opportunity and outcomes regarding the activities. Contact the Governance Team who will assign a unique EqIA Registration Number. The CCG undertakes Equality Impact Assessments to ensure that its activities do not discriminate on the grounds of:

    Age
    Disability
    Gender reassignment
    Marriage and civil partnership
    Pregnancy and Maternity
    Race
    Religion or belief
    Sex
    Sexual orientation

78. Before any committee, group or forum validate a strategy, policy or procedural document an EqIA Registration Number will be required.

79. This policy has been impact assessed for equality and inclusion through the CCG's approved procedure.

Consultation & Approval

80. Approval of the policy was through Senior Leadership Team, Governance & Audit Committee and finally by the Governing Body.

Dissemination & Implementation

81. Dissemination: All employees and other stakeholders who will be affected by the policy are proactively informed and made aware of any changes in practice that will result. It will be posted on SharePoint and the CCG's website.

82. Implementation: Awareness will be raised regarding the changes to or introduction of this policy via the Governing Body, Committee and Team meetings.

Monitoring and Compliance of Policy

83. The Assistant Director, Governance is responsible for monitoring compliance with the Conflicts of Interest Policy.

84. This will be completed on an annual basis and reported to the Governance & Audit Committee.

85. The following will be monitored for compliance:

- Completion of declarations and registers

Standards and Key Performance Indicators (KPI's)

86. This policy will be reviewed a minimum of every three years or when there are significant changes in the policy.

87. This policy will be monitored for effectiveness by self-assessment against any external accreditation that is applicable and will be subject to annual review by internal audit.

References & Bibliography

The NHS (Procurement, Patient Choice and Competition) Regulations 2013

Managing Conflicts of Interest: Revised Statutory Guidance for CCGs issued by NHS England on 16 June 2017

The Equality Act 2010

Associated CCG Documents /Useful Contacts

Equality & Diversity Strategy 2020-22

Clinical Commissioning Group Constitution
Equality Impact Assessment Framework
Whistleblowing Policy July 2016
Gifts and Hospitality Policy
Anti-fraud, Bribery and Corruption Policy

For further information and support on this policy contact:
Assistant Director, Governance Telephone:l 01942 481725

Appendix 1

Conflict of Interest Scenarios

(Adapted from the Royal College of GPs/NHS Confederation brief on managing conflicts of interest September 2011)

Scenario 1
Three GPs who are members of the governing body of a CCG have recently bought a small number of shares in Company X – a company set up by an investor and 16 local GP practices to provide community health services. Company X has recently paid for two local GPs to be trained as GPs with a special interest (GPwSIs) in gynaecology and has agreed to invest in the extension of a local surgery (where a commissioning group lead is a partner) and in purchasing ultrasound equipment so that a new GPwSI service can be set up.
The CCG has recently begun developing its strategic commissioning plan, which sets out its intention to see a shift of up to 30 per cent of outpatient gynaecology services from acute hospitals to community-based settings over the next three years. The CCG intends to develop a specification for these community services to be delivered by Any Qualified Provider.

Discussion
Although the GPs are not major shareholders in GP Provident, a conflict clearly exists as they could have made personal financial gain as a result of the CCG's commissioning strategy. There is also a possibility that there could be a perception of actual wrongdoing. The CCG has to consider whether Company X has been given a competitive advantage over other providers or if these individuals have put themselves in a position to make a financial gain – due to access to insider knowledge about local commissioning intentions – and if it has put sufficient measures in place to avoid or remedy this. The individuals concerned should have declared their interest in Company X when they bought the shares, and again at any meeting when the CCG began to discuss its commissioning strategy.
The CCG should have a policy that clearly identifies circumstances under which members of the governing body should not participate in certain activities and considers the material nature of any conflict and whether the individuals could successfully discharge their responsibilities. The governing body will need to consider whether this policy requires them to exclude these members from certain decisions about the commissioning strategy, even if this means removing three key decision-makers from a central part of the group's business.
Even if not excluded from discussion of the strategy, these individuals may well be excluded by the group's policies from being involved in the development of the gynaecology service specifications (other than to the extent any other potential supplier might be involved in such service planning), or from any subsequent contract monitoring. CCGs may wish to consider whether or not involvement with a provider company likely to develop services and bid for contracts in this way is compatible with being a CCG governing body member at all, as this scenario is likely to arise again.

Scenario 2
The diabetes lead of a CCG has been working on a community diabetes project for two years and has a plan to reduce diabetes outpatients activity by 50 per cent and to reinvest in education, patient education, more specialist nurses and community consultant sessions.
A cornerstone of this new service is a proposal to fund local practices for providing additional services, previously provided in secondary care, to improve prevention, identification and management of diabetes within primary care.
Discussion
Rather than benefiting a particular organisation, in this scenario all GP practices/primary care providers in the area could potentially benefit from the proposals being developed by the CCG, at the expense of existing secondary care providers.
The CCG may have to deal with the perception and challenge that it is favouring its members. However, this may be an appropriate commissioning decision, provided the CCG can demonstrate that:
- it is possible and appropriate to reduce the number of people being referred to hospital for the management of diabetes and related complications;
- it is expected to improve overall patient experience and outcomes;
- the benefits of having the service provided by GP practices – and integrating it with the services they already provide for registered patients – are so compelling that there are no other capable providers

The CCG should have set out and communicated the case for change and the rationale for the proposed service model clearly and transparently using the “code of conduct” template before taking, or recommending, the final decision to proceed.
When developing its diabetes commissioning strategy, the CCG should consult on, and then be absolutely clear about, who will have the opportunity to provide the service model. This should be consistent with its existing commissioning strategy and procurement framework and with the joint health and wellbeing strategy of the relevant Health and Wellbeing Board. Other qualified providers should be given the opportunity to provide those elements of the new service model not specifically embedded in general practice, for example, specialist nursing and community-based consultant sessions.

Scenario 3
Dr X is the chair of a CCG. He is married to Dr Y. Dr Y is the clinical director for Health R Us, a company that has developed risk stratification software designed to enable primary care providers to identify vulnerable patients at risk of going into hospital and help them to put measures in place to address this.

Health R Us has offered to supply the software to Dr X’s CCG free of charge for one year to help develop it. It will then be offered at a discounted price because of the work that the group would have done in developing it and acting as a demonstration site.

Discussion

There is no immediate financial gain to Drs X and Y from the decision to accept the software free of charge for a year. However, there is potential future gain to Dr Y (and therefore to her husband) as the clinical director of a company that could profit from a product that her husband’s CCG has helped to develop, and from a preferential position as an incumbent supplier to that group.

Dr X should declare an interest and he should exclude himself from any decision-making about this project.

Any decision subsequently taken by the CCG should depend on whether or not the product on offer would help it to achieve an existing, stated commissioning objective (that is to say

the CCG should not accept it just because it is on offer), and whether or not the deal being offered was in line with the CCG's existing policies for partnership working, joint ventures and sponsorship.

If the CCG has a clear, prioritised commissioning strategy and policies for working with other organisations from the outset, this decision should be fairly straightforward.

There is a question as to whether or not the group should accept this offer at all. Although it may meet an explicit commissioning objective, it may not be appropriate even then to accept the offer without some analysis of whether other companies might be willing or able to offer the same or better. The concern is not necessarily about the personal relationships involved, but more generally about whether this is an acceptable way for a public body to do business.

Scenario 4

Dr A is a member of a CCG with a longstanding interest in and commitment to improving health and social care services for older people. She has worked closely with local geriatrician, Dr B, for many years, including working as her clinical assistant in the past. They have developed a number of service improvement initiatives together during this time and consider themselves to be good personal friends.

Recently, they have been working on a scheme to reduce unscheduled admissions to hospital from nursing homes. It involves Dr B visiting nursing homes and doing regular ward rounds together with community staff. It has been trialled and has had a measure of success which has been independently verified by a service evaluation. They would now like to extend the pilot, and the foundation trust that employs Dr B has suggested that a local tariff should be negotiated with the CCG for this 'out-reach' service.

The CCG has decided instead to run a tender for an integrated community support and admission avoidance scheme, with the specification to be informed by the outcomes of the pilot.

Discussion

Due to her own involvement in the original pilot, association with the incumbent provider and allegiance to her friend and colleague, Dr A has a conflict of interest She should not be involved in developing the tender, designing the criteria for selecting providers or in the final decision making even though she is a local expert. If the CCG has clear prompts and guidelines for its members, this should be obvious to Dr A, who should decide to exempt herself.

If the CCG is clear at the outset about its commissioning priorities and strategy and its procurement framework (setting out what kind of services would be tendered under what circumstances), its decision to tender for the service should not come as a surprise to the trust, or to the individuals involved.

CCGs need to ensure that they do not discourage providers, or their own members, from being innovative and entrepreneurial by being inconsistent or opaque in their commissioning decisions and activities.

Appendix 2: Declaration of interests for Wigan Borough CCG members and employees

Name:				
Position within, or relationship with, the CCG (or NHS England in the event of joint committees):				
Detail of interests held (complete all that are applicable):				
Type of Interest* *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.

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

Signed: **Date**:

Signed: **Position:** **Date:**
(Line Manager or Senior CCG Manager)

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Types of interest

Type of Interest	Description
Financial Interests	This is where an individual may get direct financial benefits from the consequences of a commissioning decision. This could, for example, include being: • A director, including a non-executive director, or senior employee in a private company or public limited company or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations; • A shareholder (or similar owner interests), a partner or owner of a private or not-for-profit company, business, partnership or consultancy which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations. • A management consultant for a provider; • In secondary employment; • In receipt of secondary income from a provider; • In receipt of a grant from a provider; • In receipt of any payments (for example honoraria, one off payments, day allowances or travel or subsistence) from a provider • In receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role; and • Having a pension that is funded by a provider (where the value of this might be affected by the 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. • A member of a particular specialist professional body (although routine GP membership of the RCGP, BMA or a medical defence organisation would not usually by itself amount to an interest which needed to be declared); • An advisor for Care Quality Commission (CQC) or National Institute for Health and Care Excellence (NICE); • A medical researcher.
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 groups with an interest in health.
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, this should include: • Spouse / partner; • Close relative e.g., parent, grandparent, child, grandchild or sibling; • Close friend; • Business partner.

Appendix 3: Wigan Borough CCG Register of Interests

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 the 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 4

Wigan Borough CCG Declaration of conflict 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 5

NHS Wigan Borough Clinical Commissioning Group

Procurement Checklist

Service:	
Question	**Comment/ Evidence**
1. How does the proposal deliver good or improved outcomes and value for money – what are the estimated costs and the estimated benefits? How does it reflect the CCG's proposed commissioning priorities? How does it comply with the CCG's commissioning obligations?	
2. How have you involved the public in the decision to commission this service?	
3. What range of health professionals have been involved in designing the proposed service?	
4. What range of potential providers have been involved in considering the proposals?	
5. How have you involved your Health and Wellbeing Board(s)? How does the proposal support the priorities in the relevant joint health and wellbeing strategy (or strategies)?	
6. What are the proposals for monitoring the quality of the service?	
7. What systems will there be to monitor and publish data on referral patterns?	
8. Have all conflicts and potential conflicts of interests been appropriately declared and entered in registers?	
9. In respect of every conflict or potential conflict, you must record how you have managed that conflict or potential conflict. Has the management of all conflicts been recorded with a brief explanation of how they have been managed?	

10. Why have you chosen this procurement route e.g., single action tender?[1]	
11. What additional external involvement will there be in scrutinising the proposed decisions?	
12. How will the CCG make its final commissioning decision in ways that preserve the integrity of the decision-making process and award of any contract?	
Additional question when qualifying a provider on a list or framework or pre selection for tender (including but not limited to any qualified provider) or direct award (for services where national tariffs do not apply)	
13. How have you determined a fair price for the service?	
Additional questions when qualifying a provider on a list or framework or pre selection for tender (including but not limited to any qualified provider) where GP practices are likely to be qualified providers	
14. How will you ensure that patients are aware of the full range of qualified providers from whom they can choose?	
Additional questions for proposed direct awards to GP providers	
15. What steps have been taken to demonstrate that the services to which the contract relates are capable of being provided by only one provider?	
16. In what ways does the proposed service go above and beyond what GP practices should be expected to provide under the GP contract?	
17. What assurances will there be that a GP practice is providing high-quality services under the GP contract before it has the opportunity to provide any new services?	

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

Template: 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 noted	Actions to mitigate conflicts of interest	Justification for actions to mitigate conflicts of interest	Contract awarded (supplier name & registered address)	Contract value (£) (Total) and value to CCG	Comments to note

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:

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Appendix 6 - Wigan Borough CCG Register of 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	CCG contract manager	Decision making process and name of decision making committee	Summary of conflicts of interest declared and how these were managed	Contract awarded (supplier name & registered address)	Contract value (£) (Total)	Contract value (£) to CCG

Appendix 7: Chair's Checklist

Conflicts of Interest Checklist for Chairs and Minute Takers WBCCG ………………………………. Meeting

Meeting to discuss Draft Agenda	Have you got an up to date list of declarations for your members, including a note of any arrangements that may be in place? Have you attached this to your agenda?	
	When reviewing the agenda against the declarations, are you satisfied as the Chair, that you are able to manage any conflict? If not, please liasie with the appropriate office for advice.	
	As Chair, do you have any conflict / management arrangement in place that will require you to withdraw from discussion? If so, is your Deputy Chair available to Chair that section of the meeting?	

Establishing Quoracy before the meeting	Are you assured that all required members will be available for the meeting?	
	Do any management arrangements affect your quoracy where more than 50% members must withdraw from discussion on an agenda item? Please refer to the Constitution for guidance if your quoracy will be affected. .	

The Meeting	Quoracy established, the Chair asks members to clarify that what is held on the list of Declarations is correct and to confirm any amendments and management arrangements. Declarations in relation to any agenda items are also to be disclosed at this point or as soon as becomes apparent in the course of the meeting. All of the above must be noted within the minutes.	

Post Meeting	As soon as possible post meeting, the appropriate officer shold be updated with any amendments/new declarations that have been made so that appropriate action can be taken.	