

STANDARDS OF BUSINESS CONDUCT INCLUDING CONFLICTS OF INTEREST POLICY

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1 Policy Statement on Business Conduct

- 1.1 This policy describes the standards and public service values which underpin the work of the NHS and reflects current guidance and best practice which all NHS Halton CCG and NHS Warrington CCG staff must follow.
- 1.2 As publicly funded organisations, we have a duty to set and maintain the highest standards of conduct and integrity. We expect the highest standards of corporate behaviour and responsibility from Governing Body members and all officers. The [NHS Constitution](#) sets out some of the key responsibilities of NHS staff. All officers, regardless of their role, are expected to act in the spirit set out in the seven principles of public life: the ‘Nolan Principles’ (Appendix A).
- 1.3 It is a long and well-established principle that public-sector organisations must be impartial and honest in their business and that their officers must act with integrity.
- 1.4 As well as promoting the standards of business conduct expected of public bodies, this policy aims to protect our organisations and officers from any suggestion of corruption, partiality or dishonesty by providing a clear framework through which the organisation can provide guidance and assurance that its officers conduct themselves with honesty, integrity and probity. The policy should be read in conjunction with all relevant organisational policies which are developed and agreed in line with the principles set out in this policy.

2 Scope

- 2.1 All our staff, without exception, are included in the scope of this policy. This applies to all who work for the CCGs, its’ member practices and Governing Body members, committee members as well as individuals who provide services to the CCGs.
- 2.2 This policy should be read in conjunction with:
- Relevant CCG Constitution
 - Relevant CCG Governance Manual
 - Relevant CCG organisational policies, such as, but not limited to, the Whistleblowing Policy
 - Code of Conduct for NHS Managers 2002
 - General Medical Council Good Medical Practice 2019
- 2.3 **Where an individual fails to comply with this Policy, disciplinary action may be taken, or the individual removed from office.**

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3 Policy Statement

- 3.1 Adhering to this policy will help to ensure that we use NHS money wisely, providing best value for taxpayers and accountability to our patients for the decisions we take.

As a member of staff you should...	As an organisation we will...
<ul style="list-style-type: none"> • Familiarise yourself with this policy and follow it. Refer to the guidance for the rationale behind this policy Managing Conflicts of Interest in the NHS • Use your common sense and judgement to consider whether the interests you have could affect the way taxpayers' money is spent • Regularly consider what interests you have and declare these as they arise. If in doubt, declare. • NOT misuse your position to further your own interests or those close to you • NOT be influenced, or give the impression that you have been influenced by outside interests • NOT allow outside interests you have to inappropriately affect the decisions you make when using taxpayers' money 	<ul style="list-style-type: none"> • Ensure that this policy and supporting processes are clear and help staff understand what they need to do. • Identify a team or individual with responsibility for: <ul style="list-style-type: none"> ○ Keeping this policy under review to ensure they are in line with the guidance. ○ Providing advice, training and support for staff on how interests should be managed. ○ Maintaining register(s) of interests. ○ Auditing this policy and its associated processes and procedures at least once every three years. • NOT avoid managing conflicts of interest. • NOT interpret this policy in a way which stifles collaboration and innovation with our partners

4 Introduction

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

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

- 4.1 NHS Halton CCG and NHS Warrington CCG (the ‘organisations’), and the people who work with and for us, collaborate closely with other organisations, delivering high quality care for our patients.
- 4.2 These partnerships have many benefits and should help ensure that public money is spent efficiently and wisely. But there is a risk that conflicts of interest may arise.
- 4.3 Providing best value for taxpayers and ensuring that decisions are taken transparently and clearly, are both key principles in the NHS Constitution. Both CCGs are committed to maximising our resources for the benefit of the whole community. As two organisations and as individuals, we all have a duty to ensure that all our dealings are conducted to the highest standards of integrity and that NHS monies are used wisely so that we are using our finite resources in the best interests of patients.
- 4.4 It is important to manage conflicts of interest for the following reasons:
- To give confidence that commissioning decisions are robust, fair and offer value for money;
 - To maintain public trust in the Clinical Commissioning Groups and the NHS;
 - To protect healthcare professionals; and
 - Failure to manage conflicts of interest could lead to legal challenge and criminal action.
- 4.5 The organisations, as commissioners of healthcare services, are both committed to managing conflicts of interest in a way that demonstrates transparency, probity and accountability. This is particularly important when commissioning services that might be delivered by member practices as providers – ensuring that the approach taken does not affect or appear to affect the integrity of the organisations’ decision making.

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- 4.6 This will enable the organisations to withstand scrutiny and challenge and also protect the CCGs, its staff and member practices from any perceptions of wrongdoing.
- 4.7 **If in doubt, it is better to assume the existence of a conflict of interest and manage it appropriately, rather than ignore it.**

5 Purpose

- 5.1 Conflicts of interest are inevitable in public life. The purpose of this policy is to ensure that best practice is followed in managing actual or potential conflicts of interest by:
- Safeguarding clinically led commissioning whilst ensuring objective commissioning decisions;
 - Enabling the CCGs to demonstrate that they are acting fairly and transparently and in the best interest in their patients and local populations;
 - Upholding the confidence and trust in the NHS;
 - Operating in the legal framework.
- 5.2 The policy sets out the governance framework for the management of conflicts of interest by the CCG.
- 5.3 This policy will help our staff manage conflicts of interest risks effectively. It:
- Introduces consistent principles and rules
 - Provides simple advice about what to do in common situations.
 - Supports good judgement about how to approach and manage interests

6 Key definitions

- 6.1 A 'conflict of interest' is:
- “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.”
- 6.2 A 'conflict of interest' may be:
- **Actual** - there is a material conflict between one or more interests
 - **Potential** – there is a possibility of a material conflict between one or more interests in the future

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- 6.3 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.

7 Interests

- 7.1 Interests fall into the following categories:

- **Financial interests** - Where an individual may get direct financial benefit¹ from the consequences of a decision they are involved in making.
- **Non-financial professional interests** - Where an individual may obtain a non-financial professional benefit from the consequences of a decision, they are involved in making, such as increasing their professional reputation or promoting their professional career.
- **Non-financial personal interests** - 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, because of decisions they are involved in making in their professional career.
- **Indirect interests** - Where an individual has a close association² with another individual who has a financial interest, a non-financial professional interest or a non-financial personal interest and could stand to benefit from a decision they are involved in making.

- 7.2 NHS England has produced a range of conflicts of interest case studies can be found at [Managing conflicts of interest: CCG case studies](#). Employees, members and governing body and committee members should refer to these examples of what might constitute a conflict of interest.

- 7.3 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 set out in the next section of this guidance, 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. If so, this should be declared and appropriately managed.

8 Staff

- 8.1 At NHS Halton CCG and NHS Warrington CCG we use the skills of many different people, all of whom are vital to our work. This includes people on differing employment terms, who for the purposes of this policy we refer to as 'staff' and are listed below:

¹ This may be a financial gain, or avoidance of a loss.

² A common-sense approach should be applied to the term 'close association'. Such an association might arise, depending on the circumstances, through relationships with close family members and relatives, close friends and associates, and business partners.

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- All salaried employees
 - All prospective employees, who are part way through recruitment
 - Agency staff, and
 - Governing Body, Committee, subcommittee and advisory group members (who may not be directly employed or engaged by either CCG).
- 8.2 NHS England has issued some frequently asked questions for specific staff groups on the issues posed and how the guidance applies to them. This guidance can be found at [Managing conflicts of interest in the NHS](#)
- 8.3 Additionally summary guides have been issued at [Conflicts of interest summary guides](#)
- 8.4 The guidance included on the website above is directed at, but not limited to:
- GPs in commissioning roles
 - Conflict of Interest guardian
 - CCG governance leads
 - CCG lay members
 - Administration staff
 - Healthwatch members of CCG primary care committees

9 Roles and Responsibilities

- 9.1 Everyone in each CCG has responsibility to appropriately manage conflicts of interest. Everyone is responsible for familiarising themselves with this policy and to comply with the provisions of it. The specific roles and responsibilities are set out below:
- 9.2 **Governing Body and Audit Committee** - Each CCG Governing Body, with support from each CCG Audit Committee, will oversee this Policy and will ensure that there are systems and processes in place to support all member practices and individuals who hold positions of authority or who can make or influence decisions to:
- Declare their interest through a Register of Interests, which is made available to the public via the relevant CCG website or on request to either CCG
 - Declare any relevant interests through discussions and proceedings, so that any comments that are made are fully understood by all others in that context
 - Appropriately manage the business to ensure that each CCG acts with integrity and probity.

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- 9.3 The Governing Body will take such steps as it deems appropriate, and request information it deems appropriate from individuals, to ensure that all conflicts of interest and potential conflicts of interest are declared.
- 9.4 The Governing Body will ensure that for every interest declared, either in writing or by oral declaration, arrangements are put in place to manage the conflict of interest or potential conflict of interests to ensure the integrity of the CCG's decision-making process.
- 9.5 **Conflicts of Interest Guardian** - The Chair of each Audit Committee has a lead role as the Conflicts of Interest Guardian, in ensuring that the relevant Governing Body and the wider CCG behaves with the utmost probity at all times. The Conflicts of Interest Guardian will be supported in their role by the Head of Governance and Corporate Secretary.
- 9.6 The Conflicts of Interest Guardian will, in collaboration with the CCGs' Head of Governance and Corporate Secretary:
- Act as a conduit for GP practice staff, members of the public and healthcare professionals who have any concerns with regards to conflicts of interest;
 - Be a safe point of contact for employees or workers of the CCG to raise any concerns in relation to this policy;
 - Support the rigorous application of conflict of interest principles and policies;
 - Provide independent advice and judgment where there is any doubt about how to apply conflicts of interest policies and principles in an individual situation;
 - Provide advice on minimising the risks of conflicts of interest.
 - In their role as Chair of the Audit Committee, provide assurance to NHS England annually that the CCG has:
 - Had due regard to the statutory guidance on managing conflicts of interest; and
 - Implemented and maintained sufficient safeguards for the commissioning of primary medical services.
- 9.7 Whilst the Conflicts of Interest Guardian has an important role within the management of conflicts of interest, executive members of the CCG's Governing Body have an on-going responsibility for ensuring the robust management of conflicts of interest.

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- 9.8 **Governing Body Lay Members** - Each Governing Body Lay Member plays a critical role in providing scrutiny, challenge and an independent voice in support of robust and transparent decision-making and management of conflicts of interest. The organisations recognise the lay members' expanding role in primary care commissioning by appointing a Governing Body Lay Member as the Chair of each CCG Primary Care Commissioning Committee.
- 9.9 **Primary Care Commissioning Committee (PCCC)** - The PCCC has been established as a committee of the Governing Body of each CCG. The committees are to carry out the functions and decisions relating to the commissioning of primary medical services in order to ensure a clear separation between those decisions that can be taken by the Governing Body including the GP Governing Body members and those where – due to actual or potential conflicts of interest - the GPs need to withdraw. The establishment of such a committee does not preclude GP participation in strategic discussions on primary medical care issues.
- 9.10 Each CCG will keep under consideration whether that committee has sufficient clinical expertise that is not conflicted - taking into account the range of services being commissioned, for example, having a recently retired or out of area GP without an admitted or identified interest or perception of interest.
- 9.11 **Chair of the PCCC** - In order to manage any real or potential conflicts of interest, the PCCC has a lay chair and deputy lay chair. The PCCC Chair and Deputy Chair will be supported in the management of conflicts of interest in the committee by the Head of Governance and Corporate Secretary.
- 9.12 To provide the necessary safeguards, the Audit Committee Chair, as Conflicts of Interest Guardian will not hold the position of Chair or Deputy Chair of the PCCC.
- 9.13 **Accountable Officer** - has overall accountability for each CCG's management of conflicts of interest. The Accountable Officer has overall responsibility for this Policy, ensuring that a process for managing conflicts of interest is in place.
- 9.14 **Head of Governance and Corporate Secretary** is responsible for:
- The day-to-day management of conflicts of interest matters and queries;
 - Ensuring that appropriate systems and processes are in place to support the management of conflicts of interest;
 - Supporting the Conflicts of Interest Guardian to enable them to carry out their role effectively, ensuring they are well briefed on any matters arising and supported in investigating any potential breaches of the policy, as appropriate;
 - Providing advice, support and guidance to the Accountable Officer, each CCG Chair, committee members, staff and each member practice on what

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might constitute a conflict of interest and how they should be managed;
and

- Ensuring that anonymised details of breaches are published on each relevant CCG's website to demonstrate learning and development.

9.15 **Integrated Management Team** - The role of the integrated management team is to ensure they adhere to this policy in its entirety and that members of their staff are aware of this policy and associated processes.

9.16 **All individuals** are required to familiarise themselves with the contents of this Policy and to comply with the provisions of it.

10 Privileged Information

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

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

11 Decision making staff

11.1 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.'

11.2 Decision making staff in these organisations are:

- Governing Body members
- Members of staff at band 8d and above
- Members of committees and advisory groups who contribute to direct or delegated decision making on the commissioning or provision of taxpayer funded services
- Members of the Primary Care Commissioning Committee
- Members of new care models joint provider / commissioner groups
- Administrative and clinical staff who have the power to enter into contracts on behalf of their organisations

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- Administrative and clinical staff involved in decision making concerning the commissioning of services, purchasing of goods, medicines, medical devices or equipment and formulary decisions

12 Identification, declaration and review of interests (including gifts and hospitality)

12.1 **Identification and declaration** - All staff should identify and declare material interests at the earliest opportunity (and in any event within 28 days). If staff are in any doubt as to whether an interest is material then they should declare it, so that it can be considered. Declarations should be made:

- On appointment with either CCG
- When staff move to a new role or their responsibilities change significantly
- At the beginning of a new project or piece of work
- As soon as circumstances change and new interests arise (for example, in a meeting when interests staff hold are relevant to the matters in discussion).

12.2 A declaration of interest form is available at:

<https://nhswarringtonccg.mydeclarations.co.uk/home> (for Warrington)
<https://nhshaltonccg.mydeclarations.co.uk/>
(for Halton)

12.3 Alternatively, in the event of any difficulties in accessing the above websites, a template can be found in Appendix B. As a minimum, each CCG is required to capture the following information:

- The returnee's (person declaring the interest) name and their role within the organisation
- A description of the interest declared
- Relevant dates relating to the interest
- Space for comments (e.g. action taken to mitigate the conflict)

12.4 Members of staff within the corporate governance team (of the corporate services department) will be responsible for implementing this policy and guidance by:

- Reviewing policies to ensure they reflect the most up-to-date guidance in a timely manner;
- Providing advice, training and support for staff on how interests should be managed;
- Maintaining registers of interests;
- Auditing the policy, process and procedures at least every three years.

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- 12.5 Any queries relating to conflict of interest matters should be directed in the first instance to warccg.halccgregisterofinterest@nhs.net

Any declarations of interest made via the template in Appendix B should be sent to the generic email address as shown above. Staff with specific roles relating to conflicts of interest are shown below:

Conflicts of Interest Guardian – Gareth Hall

Head of Governance and Corporate Secretary – Rebecca Knight

Risk and Assurance Co-ordinator – Lisa Woodall

- 12.6 After expiry, an interest will remain on register(s) for a minimum of 6 months and a private record of historic interests will be retained for a minimum of 6 years.
- 12.7 **Proactive review of interests.** We will prompt decision making staff on an annual basis to review declarations they have made. Decision making staff are required to update them or make a nil return.
- 12.8 Additional reminders will be circulated to all staff throughout the year, for example, following periods when gifts may be more prevalent. All staff should not wait for any reminder but comply with the requirement to declare as outlined in this policy.

13 Records and Publication

- 13.1 CCGs have a statutory requirement to maintain one or more registers of interest of: the members of the group, members of its governing body, members of its committees or sub-committees of its governing body, and its employees. CCGs must publish, and make arrangements, to ensure that members of the public have access to these registers on request.
- 13.2 Both CCGs will maintain a register of gifts and hospitality and a register of interests (which contains all other interests with the exception of gifts and hospitality).
- 13.3 The Corporate Governance team (referenced previously in this policy and at section 12.5) will maintain each register, ensuring that they are published at least annually on the public website of each CCG.
- 13.4 The Registers on the public website will contain interests declared by all decision-making staff in each respective CCG.
- 13.5 When a new interest is declared via Declare (governance software), it will be reviewed by the Head of Governance and Corporate Secretary, prior to any

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interests for decision making staff being made available on the public website. All declarations will be reviewed within ten working days.

- 13.6 If decision making staff have substantial grounds for believing that publication of their interests should not take place then they should contact the Head of Governance and Corporate Secretary to explain why. In exceptional circumstances, for instance where publication of information might put a member of staff at risk of harm, information may be withheld or redacted on public registers. However, this would be the exception and information will not be withheld or redacted merely because of a personal preference.
- 13.7 **Wider transparency issues.** NHS Halton CCG and NHS Warrington CCG fully support wider transparency initiatives in healthcare, and staff are encouraged to engage actively with these.
- 13.8 Relevant staff are strongly encouraged to give their consent for payments they receive from the pharmaceutical industry to be disclosed as part of the Association of British Pharmaceutical Industry (ABPI) Disclosure UK initiative. These “transfers of value” include payments relating to:
- Speaking at and chairing meetings
 - Training services
 - Advisory board meetings
 - Fees and expenses paid to healthcare professionals
 - Sponsorship of attendance at meetings, which includes registration fees and the costs of accommodation and travel, both inside and outside the UK
 - Donations, grants and benefits in kind provided to healthcare organisations
- 13.9 Further information about the scheme can be found on the ABPI website: <https://www.abpi.org.uk/our-ethics/disclosure-uk/>

14 Management of interests – general

- 14.1 If an interest is declared, but there is no risk of a conflict arising then no action is warranted. However, if a material interest is declared then the general management actions that could be applied include:
- restricting staff involvement in associated discussions and excluding them from decision making
 - removing staff from the whole decision-making process
 - removing staff responsibility for an entire area of work
 - removing staff from their role altogether if they are unable to operate effectively in it because the conflict is so significant.
- 14.2 Each case will be different and context-specific, and NHS Halton CCG and NHS Warrington CCG will always clarify the circumstances and issues with

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the individuals involved. The Head of Governance and Corporate Secretary will maintain a written audit trail of information considered and actions taken.

- 14.3 Staff who declare material interests should make their line manager or the person(s) they are working to aware of their existence.

15 Management of interests – common situations

- 15.1 This section sets out the principles and rules to be adopted by staff in common situations, and what information should be declared.
- 15.2 **Gifts** – staff should not accept gifts that may affect, or be seen to affect, their professional judgement. Gifts from suppliers or contractors doing business (or likely to do business) with 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 £6³ in total, and need not be declared
- 15.3 **Gifts from other sources (patients, families, service users)** – the following guidance must be followed:
- Gifts of cash and vouchers to individuals should always be declined.
 - Staff should not ask for any gifts.
 - Gifts valued at over £50 should be treated with caution but should not be accepted in a personal capacity. These should be declared by staff. (If in doubt, advice and guidance should be sought from the Corporate Services Team).
 - Modest gifts accepted under a value of £50 do not need to be declared.
 - A common sense approach should be applied to the valuing of gifts (using an actual amount, if known, or an estimate that a reasonable person would make as to its value).
 - Multiple gifts from the same source over a 12-month period should be treated in the same way as single gifts over £50 where the cumulative value exceeds £50.
- 15.4 **Acceptance of gifts** – where gifts are accepted and are required to be declared, the following information is required:
- Staff name and their role within the CCG
 - A description of the nature and value of the gift, including the source
 - Date of receipt
 - 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).

³ The £6 value has been selected with reference to existing industry guidance issued by the ABPI:

<http://www.pmcpa.org.uk/thecode/Pages/default.aspx>

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- 15.5 **Hospitality** – staff should not ask for or accept hospitality that may affect, or be seen to affect, their professional judgement. Hospitality must only be accepted when there is a legitimate business reason and it is proportionate to the nature and purpose of the event.
- 15.6 Particular caution should be exercised when hospitality is offered by actual or potential suppliers or contractors. This can be accepted, and must be declared, if modest and reasonable. Approval from a senior manager from the Integrated Management Team must be obtained in the first instance.
- 15.7 **Meals and refreshments** – the following must be adhered to:
- Under a value of £25 may be accepted and does not need to be declared.
 - Of a value between £25 and £75⁴ - may be accepted and must be declared.
 - Over a value of £75 - should be refused unless (in exceptional circumstances) senior management approval from a member of the Integrated Management Team 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).
- 15.8 **Travel and accommodation** – the following must be adhered to:
- 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 organisations might not usually offer, need approval by senior staff from the Integrated Management Team, should only be accepted in exceptional circumstances, and must be declared. A clear reason should be recorded on the organisations' 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.
- 15.9 **Acceptance of hospitality** - where hospitality is accepted and is required to be declared, the following information is required:
- Staff name and their role within the CCG

⁴ The £75 value has been selected with reference to existing industry guidance issued by the ABPI

<http://www.pmcpa.org.uk/thecode/Pages/default.aspx>

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- A description of the nature and value of the hospitality, including the source
- Date of receipt
- Any other relevant information (e.g. circumstances surrounding the hospitality, action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

15.10 **Outside employment** – All staff should declare any existing outside employment on appointment and any new outside employment when it arises. Where a risk of conflict of interest arises, the general management actions outlined in this policy 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 the organisation to engage in outside employment.

15.11 If individuals have employment other than their employment with either CCG, they must write to their Manager giving details of the hours and days worked and duties carried out, seeking agreement that this work will not be detrimental to their employment within the CCG.

15.12 **The CCG reserves the right to refuse permission where it believes a conflict will arise which cannot be effectively managed.** In particular, it is unacceptable for pharmacy advisors or other advisors, employees or consultants to the CCG on matters of procurement, to themselves be in receipt of payments from the pharmaceutical or devices sector.

15.13 Employees should be advised not to engage in outside employment during any periods of sickness absence from the CCG. To do so may lead to a referral being made to the Local Counter Fraud Specialist for investigation which may lead to criminal and/or disciplinary action in accordance with the CCGs' Anti-Fraud Policy.

15.14 **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.

15.15 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.

15.16 **Declaration of shareholdings or ownership interests** should include the following information:

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- Staff name and their role within the organisation
- Nature of the shareholdings / ownership interests
- Relevant dates
- Other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

15.17 **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.

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

15.19 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.

15.20 **Declaration of patents** should include the following information:

- Staff name and their role within the organisation
- Nature of the patent
- Relevant dates
- Other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

15.21 **Loyalty** - 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.

15.22 **Donations** - made by suppliers or bodies seeking to do business with either organisation should be treated with caution and not routinely accepted. In

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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.

- 15.23 Staff should not actively solicit charitable donations unless this is a prescribed or expected part of their duties for either organisation or is being pursued on behalf of the organisations' own registered charity or other charitable body and is not for their own personal gain.
- 15.24 Staff must obtain permission from either 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 (where applicable).
- 15.25 Each organisation must maintain records in line with the above principles and rules and relevant obligations under charity law.
- 15.26 **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 organisations and the NHS. During dealings with sponsors there must be no breach of patient or individual confidentiality or data protection rules and legislation.
- 15.27 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 organisations' 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.
- 15.28 The involvement of a sponsor in an event should always be clearly identified. Staff within the CCGs 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.
- 15.29 **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.
- 15.30 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.

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The CCGs will retain written records of sponsorship of research, in line with the above principles and rules.

15.31 **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.

15.32 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.

15.33 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.

15.34 The CCGs will retain written records of sponsorship of posts, in line with the above principles and rules. Staff should declare any other interests arising as a result of their association with the sponsor, in line with the content in the rest of this policy.

15.35 **Clinical private practice** - Clinical staff should declare all private practice on appointment, and/or any new private practice when it arises⁵ including:

- Where they practise (name of private facility).
- What they practise (specialty, major procedures).
- When they practise (identified sessions/time commitment).

15.36 Clinical staff should (unless existing contractual provisions require otherwise or unless emergency treatment for private patients is needed):

- Seek prior approval of their organisation before taking up private practice.
- Ensure that, where there would otherwise be a conflict or potential conflict of interest, NHS commitments take precedence over private work.⁶
- Not accept direct or indirect financial incentives from private providers other than those allowed by Competition and Markets Authority guidelines: [CMA Private Healthcare Market Investigation Order 2014](#)

⁵ Hospital Consultants are already required to provide their employer with this information by virtue of Para.3 Sch. 9 of the Terms and Conditions – Consultants (England) 2003: https://www.bma.org.uk/-/media/files/pdfs/practical_advice_at_work/contracts/consultanttermsandconditions.pdf

⁶ These provisions already apply to Hospital Consultants by virtue of Paras.5 and 20, Sch. 9 of the Terms and Conditions – Consultants (England) 2003: https://www.bma.org.uk/-/media/files/pdfs/practical_advice_at_work/contracts/consultanttermsandconditions.pdf

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16 Management of interests – advice in specific contexts

16.1 Management of conflicts of interest throughout the commissioning cycle

In common with other NHS bodies, NHS Halton CCG and NHS Warrington 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.

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

16.3 The interests of those who are involved in the decision-making groups should be well known so that they can be managed effectively. For the two organisations these groups include the Governing Body, Joint Committees, Audit Committees, Remuneration Committees, Primary Care Commissioning Committees, Quality Committee, Finance and Performance Committee and the local commissioning committee (in both Halton and Warrington).

16.4 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 organisations' register(s).
- The deputy 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.

16.5 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.

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- 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.

16.6 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.

17 Procurement

17.1 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.

17.2 Further, more detailed information about the management of procurement can be found in the Procurement Policy, located on each CCG's public website.

18 Dealing with breaches

18.1 There will be situations when interests will not be identified, declared or managed appropriately and effectively. This may happen innocently, accidentally, or because of the deliberate actions of staff or other organisations. For the purposes of this policy these situations are referred to as 'breaches'.

18.2 Identifying and reporting breaches

Staff who are aware about actual breaches of this policy, or who are concerned that there has been, or may be, a breach, should report these concerns to the Head of Governance and Corporate Secretary. To ensure that interests are effectively managed staff are encouraged to speak up about actual or suspected breaches. Every individual has a responsibility to do this.

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For further information about how concerns should be raised, you should refer to the CCGs Whistleblowing Policy.

18.3 The organisations will investigate each reported breach according to its own specific facts and merits and give relevant parties the opportunity to explain and clarify any relevant circumstances.

18.4 Following investigation, the organisations 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.

18.3 Taking action in response to breaches

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

18.4 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 Care Quality Commission), and/or health professional regulatory bodies.

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

18.6 Sanctions should not be considered until the circumstances surrounding breaches have been properly investigated. However, if such investigations establish wrong-doing or fault then the organisations can and will consider the range of possible sanctions that are available, in a manner which is proportionate to the breach. This includes:

- Employment law action against staff, which might include

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- Informal action (such as reprimand or signposting to training and/or guidance).
- Formal disciplinary action (such as formal warning, the requirement for additional training, re-arrangement of duties, re-deployment, demotion, or dismissal).
- Reporting incidents to the external parties described above for them to consider what further investigations or sanctions might be.
- Contractual action, such as exercise of remedies or sanctions against the body or staff which caused the breach.
- Legal action, such as investigation and prosecution under fraud, bribery and corruption legislation.

18.7 In the event of any breach of this policy, the matters to be investigated will be considered first and foremost by the Conflicts of Interest Guardian and Head of Governance and Corporate Secretary.

18.8 Learning and transparency in relation to breaches

Reports on breaches, the impact of these, and action taken will be considered by each CCG's Audit Committee. To ensure that lessons are learned, 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 relevant CCG website as appropriate, or made available for inspection by the public upon request.

19 Review

19.1 This policy will be reviewed in three years unless an earlier review is required. This will be led by the Head of Governance and Corporate Secretary.

20 Monitoring

20.1 The monitoring and compliance of this policy will be reported on a regular basis to each Audit Committee. This is included in the annual workplan of each committee.

20.2 In addition, a section on arrangements for the management of conflicts of interest is included within each CCG's Annual Report.

21 Training

21.1 All staff included in Section 8 of this policy are required to complete the annual mandatory training on the management of conflicts of interest. This is to ensure staff and others within the CCG understand what conflicts are, their responsibilities under the conflicts of interest policy, how to manage conflicts effectively and how to raise concerns about suspected or known breaches.

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- 21.2 Compliance with training is also reported on an annual and quarterly basis to NHS England and NHS Improvement under the Probity and Corporate Governance indicator (for leadership and workforce).
- 21.3 Appropriate HR policies should be cross referenced with the requirement to be compliant with training to identify any action that may arise as a result of non-compliance.

22 Associated documentation

- NHS England, Managing Conflicts of Interest: Revised Statutory Guidance for CCGs (June 2017)
- NHS Halton Constitution (whichever is applicable)
- NHS Warrington Constitution (whichever is applicable)
- CCG Anti-Fraud, Bribery and Corruption Policy
- CCG Procurement Policy
- CCG Engagement and Experience Strategy
- CCG Disciplinary Policy
- CCG Equality and Diversity Policy
- CCG Incremental Pay Progression Policy
- CCG Learning and Development Policy
- CCG Grievance and Disputes Policy
- CCG Performance Management Policy
- CCG Volunteer Policy
- CCG Whistleblowing Policy
- Freedom of Information Act 2000
- Standards for members of NHS Boards and CCG Governing Bodies in England
- Code of Conduct for NHS Managers 2002
- Ensuring Transparency and Probity, (2011) British Medical Association, Managing Conflicts of interests in Clinical Commissioning Groups, Royal College of General Practitioners / NHS Confederation, (2011)
- Good Medical Practice, General Medical Council, 2019
- ABPI: The Code of Practice for the Pharmaceutical Industry (2014)
- ABHI Code of Business Practice
- NHS Code of Conduct and Accountability (July 2004)

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Appendix A The Nolan Principles

The 7 principles of public life

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

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Appendix B: Declaration of interests form

Name:				
Position within, or relationship with, the CCG (or other organisation in the event of joint committees):				
Detail of interests held (complete all that are applicable):				
Type of Interest* <small>*See section 7 and 15</small>	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.

Decision making staff should be aware that the information provided in this form will be added to the CCG's registers which are held in hardcopy for inspection by the public and published on the CCG's website. Decision making staff must make any third party whose personal data they are providing in this form aware that the personal data will held in hardcopy for inspection by the public and published on the CCG's website and must inform the third party that the CCG's privacy policy is available on the CCG's website. If you are not sure whether you are a 'decision making' member of staff, please speak to your line manager before completing this form. **(Return to warccg.halccgregisterofinterest@nhs.net)**

	Signed	Position	Date
Employee			
Manager			

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Guidance notes for completion of declaration of interests form

- Name and role: Insert your name and role in relation to the organisation you are working for
- Description of interest: Provide a description of the interest that is being declared. This should contain enough information to be meaningful. That is, the information provided should enable a reasonable person with no prior knowledge to be able to read this and understand the nature of the interest.
- See sections 7 and 15 for further information
- Relevant dates: Detail here when the interest arose and when it ceased (if relevant)
- Comments: This section should detail any action taken to manage an actual or potential conflict of interest. It might also detail any approvals or permissions to adopt a certain course of action.

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Appendix C: Gifts and hospitality declaration form

Recipient name and signature	Position	Date of		Estimated value	Supplier name and nature of business	Details of previous offers by this supplier or acceptance by this supplier
		Offer	Receipt (if applicable)			
Details of the officer reviewing and approving the declaration and signature		Date of review	Declined or accepted?	Reasons for declining or accepting	Other comments	

The information submitted will be held by the CCG for personnel or other reasons specified on this form and to comply with the organisations' 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, professional regulatory or internal disciplinary action may result.

(Return to warccg.halccgregisterofinterest@nhs.net)

Appendix D: Guidance on new models of care

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 models⁷, 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 summarises key aspects of the statutory guidance which are of particular relevance to commissioning new care models rather than setting out new requirements. Whilst this 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 of healthcare or provider of commissioning support services, or 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

⁷ Where we refer to 'new care models' in this note, we are referring to any Multi-speciality Community Provider (MCP), Primary and Acute Care Systems (PACS) or other arrangements of a similar scale or scope that (directly or indirectly) includes primary medical services.

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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.

7. 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.
8. 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.
9. Where a member of CCG staff participating in a meeting has dual roles, for example a role with the CCG and a role with a new care model provider organisation, but it is not considered necessary to exclude them from the whole or any part of a CCG meeting, he or she should ensure that the capacity in which they continue to participate in the discussions is made clear and correctly recorded in the meeting minutes, but where it is appropriate for them to participate in decisions they must only do so if they are acting in their CCG role.
10. 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).
11. 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.
12. 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.

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Governance arrangements

13. 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.
14. 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.
15. 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.
16. CCGs should consider whether it is appropriate for the Governing Body to take decisions on new care models or (if there are too many conflicted members to make this possible) whether it would be appropriate to refer decisions to a CCG committee.

Primary Care Commissioning Committee

17. 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).
18. 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. The use of the Primary Care Commissioning 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.
19. 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

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- 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

20. 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.
21. 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).
22. 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

23. 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.
24. 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).
25. From a procurement perspective the Public Contracts Regulations 2015 encourage early market engagement and input into procurement processes.

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

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

Provider engagement

27. 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.
28. However, conflicts of interest, as well as challenges to the fairness of the procurement process, can arise if a commissioner engages selectively with only certain providers (be they incumbent or potential new providers) in developing a service specification for a contract for which they may later bid. CCGs should be particularly mindful of these issues when engaging with existing / potential providers in relation to the development of new care models and CCGs must ensure they comply with their statutory obligations including, but not limited to, their obligations under the National Health Service (Procurement, Patient Choice and Competition) (No 2) Regulations 2013 and the Public Contracts Regulations 2015.

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