

CONFLICTS OF INTEREST POLICY
Policy Reference: MECCG003

Target Audience	Board and committee members, all staff working for, or on behalf of, the CCG and member practices
Brief Description (max 50 words)	This policy sets out the requirements for Board and Committee members, staff and member practices in relation to declaring and recording interests and how conflicts of interests will be managed.
Action Required	To be approved by the CCG Board then disseminated to all staff

Document Information

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Accountable Director	Director of Governance & Performance
Responsible Officer	Head of Corporate Governance
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Stakeholders engaged in development/review	Director of Governance & Performance, Head of Corporate Governance, Audit Committee, and Local Counter Fraud Specialist.
Equality Impact Assessment	EQUALITY IMPACT ASSESSMENT This document has been assessed for equality impact on the protected groups, as set out in the Equality Act 2010. This Policy is applicable to the Board, every member of staff within the CCG irrespective of their age, disability, sex, gender reassignment, pregnancy, maternity, race (which includes colour, nationality and ethnic or national origins), sexual orientation, religion or belief, marriage or civil partnership, and those who work on behalf of the CCG

All employees are subject to Mid Essex CCG's Policies and Procedures. Breach of MECCG's Policies and Procedures, may result in formal action being taken, which can lead to dismissal.

Amendment History

Version	Date	Reviewer Name(s)	Comments
4.4	17/07/2013	K Franklin	Policy up-dated in light of planned review of policy to produce version 4.5.
5.0	05/01/15	V Barnes	Annual review to ensure policy is updated to reflect current organisational structures, etc. No significant change made to key principles within policy.
5.1	25/02/2015	V Barnes & S O'Connor	Up-dated to reflect NHS England Managing Conflicts of Interest: Statutory Guidance for CCGs.
5.2	09/03/2015	Audit Committee	Minor amendments made following comments on draft policy from Audit Committee.
5.3	30/04/15	V Barnes & D Davey	Declaration of Interests Form amended. Submitted to Audit Committee, 11 May 2015 for approval.
5.4	04/06/2015	MECCG Board	Policy approved by the Board.
5.5	03/11/2015	S O'Connor	Policy amended to take account of the relevant provisions of the NHS England document 'Managing Conflicts of Interest: Statutory Guidance for CCGs' relating to co-commissioning (Section 8.6 and addition of Appendix 5, Procurement Template)
5.6	27/01/2016	S O'Connor	Section 7.8 amended so that Director of Primary Care & Resilience is first to stand down (due to Director of Corporate Services no longer being a voting member of the Board)
6.0	3/08/2016	V Barnes	Full re-write to reflect revised statutory guidance for managing conflicts of interests
6.1	19/08/2016	C Roberts, Local Counter Fraud Specialist (LCFS) and S Clark, Senior Manager, Attain	Amended to reflect comments made by LCFS and Senior Manager at Attain.
7.0	24/08/2017	S O'Connor	Policy amended to reflect Revised Statutory Guidance on Managing Conflicts of Interest for CCGs, June 2017.
7.1		V Barnes	Final review by Director of Corporate Services (minor amendments made)
7.2	31/07/18	S O'Connor	Annual Review – minor amendments made to job titles, etc.

7.3	28/08/18	Audit Committee	Approved, subject to minor amendments.
7.4	21/08/19	S O'Connor	Minor amendments following annual review.

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1. Scope

- 1.1 This policy applies to Mid Essex Clinical Commissioning Group (“the CCG”) and will be the subject of review and, if necessary, amendment as and when required.
- 1.2 This policy applies to all Board and committee members, all staff working for, or on behalf of, the CCG, the Mid and South Essex CCGs Acute Commissioning Team and to member practices.

2. Legal and Policy Basis

- 2.1 The CCG has defined its functions and governance arrangements within its Constitution. Section 8 sets out the standards of business conduct and the management of conflicts of interest and potential conflicts of interest. The Constitution takes account of the primary legislation of the Health and Social Care Act 2012, secondary legislation and other relevant guidance.
- 2.2 In discharging their responsibilities, employees, member practices, the Board and its committee and sub-committee members should act in good faith and in the interests of the CCG and follow the *Seven Principles of Public Life*, set out by the Committee on Standards in Public Life (the Nolan Principles). They must comply with the CCG’s policy on standards of business conduct.
- 2.3 This policy reflects the [Statutory Guidance for CCGs on Managing Conflicts of Interest](#) (“the statutory guidance”) published on 16 June 2017.

3. Definition of Conflicts of Interest

- 3.1 A conflict of interest occurs where an individual’s ability to exercise judgement, or act in a role is, could be, or is seen to be impaired or otherwise influenced by his or her involvement in another role or relationship. In some circumstances, it could be reasonably considered that a conflict exists even when there is no actual conflict. In these cases it is important to still manage these perceived conflicts in order to maintain public trust.

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

- 3.2 A conflict of interest may be:

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

3.3 Conflicts of interest can arise in many situations, environments and forms of commissioning, with an increased risk in primary care commissioning, out-of-hours commissioning and involvement with integrated care organisations, as clinical commissioners may here find themselves in a position of being at once commissioner and provider of services. Conflicts of interest can arise throughout the whole commissioning cycle from needs assessment, to procurement exercises, to contract monitoring. Where reference to 'new care models' is made within this policy it is referring to Multi-specialty Community Providers (MCP), Primary and Acute Care Systems (PACS) or other arrangements of a similar scale or scope.

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

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

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

3.4.2 This could also include an individual being:

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

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

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

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

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

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

- Spouse / partner

- Close family member or relative e.g., (not limited to) parent, grandparent, child, grandchild or sibling;
- Close friend or associate;
- Business partner or colleague or former colleague; or
- Any other close relationship.

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

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

3.5 A range of case studies providing guidance on what might constitute a conflict of interest is available here: <https://www.england.nhs.uk/publication/managing-conflicts-of-interest-ccg-case-studies/>.

3.6 The above categories and examples are not exhaustive and the CCG will exercise discretion on a case by case basis 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. If in any doubt as to whether a relationship would be deemed to be a conflict, the individual must declare it.

4. Roles and Responsibilities

4.1 The Accountable Officer has overall accountability for the CCG’s management of conflicts of interest.

4.2 The Director of Governance & Performance, assisted by the Head of Corporate Governance, is responsible for:

- The day-to day management of conflicts of interest matters and queries;
- Maintaining the CCG’s register(s) of interest and the other registers referred to in this Guidance;
- Supporting the Conflicts of Interest Guardian to enable them to carry out the role effectively;
- Providing advice, support, and guidance on how conflicts of interest should be managed;

- Approving the management of declared Conflicts of Interests; and
- Ensuring that appropriate administrative processes are put in place.

4.3 The Audit Committee Chair will be the CCG's Conflict of Interest Guardian and, in collaboration with the Director of Governance and Performance, will:

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

4.4 All Executive members of the CCG's governing body have a shared responsibility for ensuring the robust management of conflicts of interest.

4.5 All CCG employees, governing body and committee members and member practices are individually responsible for playing their part in the management of conflicts of interest on an ongoing and daily basis.

5. Declarations of Interest

5.1 The following individuals are required to make declarations of interest to the CCG:

- All CCG employees, including:
 - All full and part time staff;
 - All members of the Mid and South Essex CCG Acute Commissioning Team who are employed by Mid Essex CCG
 - Any staff on sessional or short term contracts;
 - Any students and trainees (including apprentices);
 - Agency staff;
 - Seconded staff and
 - Contracted staff
- In addition, any self-employed consultants or other individuals working for the CCG under a contract for services should make a declaration of interest in accordance with this guidance, as if they were CCG employees.
- Members of the CCG Board (governing body)

- All members of the CCG's committees, sub-committees/sub-groups, including:
 - Co-opted members;
 - Appointed deputies; and
 - Any members of committees/groups from other organisations.
 - Any members of committees convened under collaborative or joint commissioning arrangements between the CCG and other CCGs (for example the Mid and South Essex Sustainability & Transformation Partnership CCG Joint Committee (STPJC) and sub-committees reporting directly to the STPJC).

- 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 of CCG member practices (or where the practice is a company, each director);
 - Any individual from a GP practice directly involved with the business or decision-making of the CCG.

5.2 Although all individuals referred to in paragraph 5.1 above must declare interests, it is recognised that some staff are more likely than others to have a decision making influence on the use of taxpayers' money because of the requirements of their role. For the purposes of this policy, these people are referred to as 'decision making staff'. The CCG has defined decision-making staff as:

- All Board members;
- Members of advisory groups which contribute to direct or delegated decision making on the commissioning or provision of taxpayer funded services such as working groups involved in service redesign or stakeholder engagement that will affect future provision of services;
- Members of the Primary Care Commissioning Committee;
- Members of other Committees of the CCG;
- Members of the Mid and South Essex STPJC Committee and its sub-committees
- Members of new care models/joint provider/commissioner groups/committees
- Members of procurement committees/groups
- Members of staff at Agenda for Change band 8d and above
- Management, administrative and clinical staff who have the power to enter into contracts on behalf of the CCG and,
- Management, administrative and clinical staff involved in decision making concerning the commissioning of services, purchasing of goods, medicines, medical devices or equipment and formulary decisions.

Interests of 'decision-making' staff will be included within the publicly available register of interest, published on the CCG's website and available on request.

5.3 Declarations of interest should be made as soon as reasonably practicable and by law within 28 days after the interest arises (this could include an interest an individual is pursuing). Further opportunities to make declarations include:

- 5.3.1 **On appointment:** Successful applicants for any appointment to the CCG or its governing body or any committees will be asked to declare any relevant interests.
- 5.3.2 **When Prompted by the CCG:** Because of the CCG's role in spending taxpayer's money, the CCG will ensure that, at least annually, staff are prompted to update their declarations of interest, or make a nil return where there are no interests or changes to declare.
- 5.3.3 **At meetings:** All attendees will be required to declare their interests as a standing agenda item for every governing body, committee, sub-committee or working group meeting, before the item is discussed. Even if an interest has been recorded in the register of interests, it should still be declared in meetings where matters relating to that interest are discussed. Declarations of interest will be recorded in minutes of meetings.
- 5.3.4 **On changing role, responsibility or circumstances:** Whenever an individual's role, responsibility or circumstances change in a way that affects the individual's interests (e.g., where an individual takes on a new role outside the CCG or enters into a new business or relationship, starts a new project/piece of work or may be affected by a procurement decision, e.g. if their role may transfer to a proposed new provider), a further declaration should be made to reflect the change in circumstances as soon as possible, and in any event within 28 days. This could involve a conflict of interest ceasing to exist or a new one materialising. It is the individual's responsibility to make a further declaration as soon as possible and in any event within 28 days, rather than waiting to be asked.

5.4 The form to be used for declaring interests by Board and committee members, all staff working for, or on behalf of, the CCG and member practices is attached at **Appendix 1**.

6. Register of Interests

- 6.1 The Head of Corporate Governance will maintain one or more registers of all relevant and material interests and positions of influence declared by CCG members, employees, Committee members and member practices, ensuring that all interests declared are promptly updated.
- 6.2 The register of interests will include the following information as a minimum:
- 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 by at least an Assistant Director within the CCG and will be subject to final approval by the Director of Governance and Performance.

6.3 The template for recording registers of interest is attached at **Appendix 2**.

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

6.5 The CCG will publish its register(s) of interests of all decision making staff at least annually on its website and within its Annual Report and Annual Governance Statement. The CCG's published register of interests will state that historic interests are retained by the CCG for a period of 6 years and provide details of how to contact the Head of Corporate Governance to submit a request for this information.

6.6 A separate register will be kept of any gifts or hospitality offered to CCG members or staff, irrespective of whether the offer is accepted or refused. Further details can be found in the CCG's [Gifts and Hospitality Policy \(MECCG041\)](#) and [Standards of Business Conduct Policy \(MECCG112\)](#).

7. Outside Employment

7.1 The CCG will take all reasonable steps to ensure that employees, committee members, contractors and others engaged under contract with it are aware of the requirement to inform the CCG if they are employed or engaged in, or wish to be employed or engage in, any employment or consultancy work in addition to their work with the CCG (for example, in relation to new care model arrangements). The purpose of this is to ensure that the CCG is aware of any potential conflict of interest. Examples of work which might conflict with the business of the CCG, including part-time, temporary and fixed term contract work, include:

- Employment with another NHS body;
- Employment with another organisation which might be in a position to supply goods/services to the CCG, including paid advisory positions and paid honorariums which relate to bodies likely to do business with the CCG;
- Directorship of a GP federation or non-executive roles; and
- Self-employment, including private practice, charitable trustee roles, political roles and consultancy work, in a capacity which might conflict with the work of the CCG or which might be in a position to supply goods/services to the CCG.

7.2 The CCG requires that individuals obtain prior permission to engage in secondary employment, and reserves the right to refuse permission where it believes a conflict will arise which cannot be effectively managed.

8. Appointing Governing Body/Committee members and Senior Employees

- 8.1 On appointing governing body, committee or sub-committee members and senior staff, the CCG will consider whether conflicts of interest should exclude individuals from being appointed to the relevant role.
- 8.2 The CCG will assess the materiality of the interest, in particular whether the individual (or any person with whom they have a close association) could benefit (whether financially or otherwise) from any decision the CCG might make. This will be particularly relevant for governing body, committee and sub-committee appointments, but will also be considered for all employees and especially those operating at senior level.
- 8.3 The CCG will determine the extent of the interest and the nature of the appointee's proposed role within the CCG. If the interest is related to an area of business significant enough that the individual would be unable to operate effectively and make a full and proper contribution in the proposed role, then that individual should not be appointed to the role unless the individual is prepared to take appropriate action, e.g. by resigning from a relevant post, to ensure that the conflict of interest is negated
- 8.4 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 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, in particular if the nature and extent of their interest and the nature of their proposed role is such that they are likely to need to exclude themselves from decision-making on so regular a basis that it significantly limits their ability to effectively perform that role.

9. Commercial sponsorship

- 9.1 CCG staff, governing body and committee members, and GP member practices may be offered commercial sponsorship for courses, conferences, post/project funding, meetings and publications in connection with the activities which they carry out for or on behalf of the CCG or their GP practices. If such offers are reasonably justifiable and otherwise in accordance with this statutory guidance then they may be accepted.
- 9.2 Notwithstanding the above, acceptance of commercial sponsorship should not in any way compromise commissioning decisions of the CCG or be dependent on the purchase or supply of goods or services. At the CCG's discretion, sponsors or their representatives may attend or take part in the event, but they should not have a dominant influence over the content of the main purpose of the event. The involvement of a sponsor in an event should always be clearly identified in the interest of transparency. The CCG should not endorse individual companies or their products. It should be made clear that the fact of sponsorship does not mean that the CCG endorses a company's products or services. During dealings with sponsors there must be no breach of patient or individual confidentiality or data protection legislation. Furthermore, no information should be supplied to a company for their commercial gain unless there is a clear benefit to the NHS. As a general rule, information which is not in the public domain should not normally be supplied.

- 9.3 All offers of sponsorship, or involvement with arranging sponsored events, must be declared to the Head of Corporate Governance, who will provide advice on whether or not it would be appropriate to accept any such offers/continue to be involved. The Head of Corporate Governance will record all offers, (whether accepted or declined), on the CCG's register of interests.
- 9.4 Organisations external to the CCG or NHS may also sponsor posts or research. However, there is potential for conflicts of interest to occur, particularly when research funding by external bodies does or could lead to a real or perceived commercial advantage, or if sponsored posts cause a conflict of interest between the aims of the sponsor and the aims of the organisation, particularly in relation to procurement and competition. In these circumstances there needs to be transparency and any conflicts of interest must be well managed. For further information, please refer to [Managing Conflicts of Interest in the NHS: Guidance for staff and organisations](#).

10. Managing Conflicts of Interests at Meetings

- 10.1 The chair of a meeting of the CCG's governing body or any of its committees, sub-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.
- 10.2 In the event that the chair of a meeting has a conflict of interest, the vice chair is responsible for deciding the appropriate course of action in order to manage the conflict of interest. If the vice chair is also conflicted then the remaining non-conflicted voting members of the meeting should agree between themselves how to manage the conflict(s).
- 10.3 In making such decisions, the chair (or vice chair or remaining non-conflicted members as above) may wish to consult with the Conflicts of Interest Guardian or another member of the governing body. The Conflicts of Interest Guardian should be consulted in all cases where there is disagreement between meeting attendees as to whether a matter is a conflict or not.
- 10.4 It is good practice for the chair, with the support of the CCG's Director of Governance and Performance and, if required, the Conflicts of Interest Guardian, to 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.
- 10.5 To support chairs in their role, they should have access to a declaration of interest checklist prior to meetings, which should include details of any declarations of conflicts which have already been made by members of the group. A template declaration of interests checklist is attached at **Appendix 3**.
- 10.6 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 declared at a meeting must be included on the CCG's relevant register of interests to ensure it is up-to-date.

- 10.7 Similarly, any new offers of gifts or hospitality (whether accepted or not) which are declared at a meeting must be included on the CCG's register of gifts and hospitality to ensure it is up-to-date. Please refer to the [Gifts & Hospitality Policy \(MECCG041\)](#) for further guidance on the process for approval of acceptance of Gifts & Hospitality.
- 10.8 It is the responsibility of each individual member of the meeting to declare any relevant interests 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.
- 10.9 When a member of the meeting (including the chair or vice chair) has a conflict of interest in relation to one or more items of business to be transacted at the meeting, the chair (or vice chair or remaining non-conflicted members where relevant as described above) must decide how to manage the conflict. The appropriate course of action will depend on the particular circumstances, but could include one or more of the following:
- Where the chair has a conflict of interest, deciding that the vice chair (or another non-conflicted member of the meeting if the vice chair is also conflicted) should chair all or part of the meeting;
 - Requiring the individual who has a conflict of interest (including the chair or vice chair if necessary) not to attend the meeting;
 - Ensuring that the individual concerned does not receive the supporting papers or minutes of the meeting which relate to the matter(s) which give rise to the conflict;
 - Requiring the individual to leave the discussion when the relevant matter(s) are being discussed and when any decisions are being taken in relation to those matter(s). In private meetings, this could include requiring the individual to leave the room and in public meetings to either leave the room or join the audience in the public gallery;
 - Allowing the individual to participate in some or all of the discussion when the relevant matter(s) are being discussed but requiring them to leave the meeting when any decisions are being taken in relation to those matter(s). This may be appropriate where, for example, the conflicted individual has important relevant knowledge and experience of the matter(s) under discussion, which it would be of benefit for the meeting to hear, but this will depend on the nature and extent of the interest which has been declared;
 - Noting the interest and ensuring that all attendees are aware of the nature and extent of the interest, but allowing the individual to remain and participate in both the discussion and in any decisions. This is only likely to be the appropriate course of action where it is decided that the interest which has been declared is either immaterial or not relevant to the matter(s) under discussion.

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

10.10 It is imperative that the CCG is completely transparent in its decision-making processes through robust record-keeping. If any conflicts of interest are declared or otherwise arise in a meeting, the chair must ensure the following information is recorded in the minutes:

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

10.11 A template for recording any declarations made during meetings is attached at **Appendix 4** and an example of how to report any declarations in the minutes is attached at **Appendix 5**.

11. Managing Conflicts of Interests throughout the Commissioning Cycle

11.1 Conflicts of interest need to be managed appropriately throughout the whole commissioning cycle. At the outset of a commissioning process, the relevant interests of all individuals involved should be identified and clear arrangements put in place to manage any conflicts of interest. This includes consideration as to which stages of the process a conflicted individual should not participate in, and, in some circumstances, whether that individual should be involved in the process at all. Managers should identify and appropriately manage any conflicts of interest that may arise where staff are involved in both the management of existing contracts and the procurement of related/replacement contracts. Managers should also identify as soon as possible where staff might transfer to a provider (or their role may materially change) following the award of a contract. This should be treated as a relevant interest and managers should ensure they manage the potential conflict.

11.2 The way in which services are designed can either increase or decrease the extent of perceived or actual conflicts of interest. Particular attention should be given to public and patient involvement in service development. Public involvement supports transparent and credible commissioning decisions. It should happen at every stage of the commissioning cycle from needs assessment, planning and prioritisation to service design, procurement and monitoring

- 11.3 It is good practice to engage relevant providers, especially clinicians, in confirming that the design of service specifications will meet patient needs. This may include providers from the acute, primary, community, and mental health sectors, and may include NHS, third sector and private sector providers. Such engagement, done transparently and fairly, is entirely legal. However, conflicts of interest, as well as challenges to the fairness of the procurement process, can arise if a commissioner engages selectively with only certain providers (be they incumbent or potential new providers) in developing a service specification for a contract for which they may later bid. CCG managers/staff should be particularly mindful of these issues when engaging with existing/potential providers in relation to the development of new care models. Appendix 10 provides a summary of key aspects of how conflicts of interest relating to the commissioning of new care models should be managed.
- 11.4 Provider engagement should follow the three main principles of procurement law, namely equal treatment, non-discrimination and transparency. This includes ensuring that the same information is given to all at the same time and procedures are transparent. This mitigates the risk of potential legal challenge.
- 11.5 As the service design develops, it is good practice to engage with a range of providers on an on-going basis to seek comments on the proposed design e.g., via the commissioners website and/or via workshops with interested parties (ensuring a record is kept of all interaction). NHS Improvement has issued guidance on the use of provider boards in service design.
- 11.6 Engagement should help to shape the requirement to meet patient need, but it is important not to gear the requirement in favour of any particular provider(s). If appropriate, the advice of an independent clinical adviser on the design of the service should be secured by the CCG, with advice from its procurement specialist if necessary.
- 11.7 Board members and CCG Managers/staff should ensure they meet any obligations to document their decisions including, but not limited to, any obligations they have under the National Health Service (Procurement, Patient Choice and Competition) (No 2) Regulations 2013 and the Public Contracts Regulations 2015.
- 11.7 CCG commissioners 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. However, they also need to ensure careful consideration is given to the appropriate degree of financial risk transfer in any new contractual model.
- 11.8 Specifications should be clear and transparent, reflecting the depth of engagement (in order to comply with proportionality requirements of the procurement process) and set out the basis on which any contract will be awarded.

12. Procurement and Awarding Grants

- 12.1 The CCG will need to be able to recognise and manage any conflicts or potential conflicts of interest that may arise in relation to the procurement of any services or the administration of grants. "Procurement" relates to any purchase of goods, services or

works and the term “procurement decision” should be understood in a wide sense to ensure transparency of decision making on spending public funds. The decision to use a single tender action, for instance, is a procurement decision and if it results in the commissioner entering into a new contract, extending an existing contract, or materially altering the terms of an existing contract, then it is a decision that should be recorded.

12.2 CCGs must comply with two different regimes of procurement law and regulation when commissioning healthcare services: the NHS procurement regime (the NHS (Procurement, Patient Choice and Competition (No.2)) Regulations 2013) (PPCCR 2013), and the Public Contracts Regulations 2015 (PCR 2015)

- For procurements made under Section 75 of the Health & Social Care 2012 Act; apply only to NHS England and CCGs; enforced by NHS Improvement; and
- The PCR 2015: apply to all public contracts enforced through the Courts.

Whilst the two regimes overlap in terms of some of their requirements, they are not the same – so compliance with one regime does not automatically mean compliance with the other.

12.2.1 The National Health Service (Procurement, Patient Choice and Competition) (No.2) Regulations 2013 state:

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

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

12.2.2 Paragraph 24 of Public Contracts Regulations 2015 states:

“Contracting authorities shall take appropriate measures to effectively prevent, identify and remedy conflicts of interest arising in the conduct of procurement procedures so as to avoid any distortion of competition and to ensure equal treatment of all economic operators”. Conflicts of interest are described as “any situation where relevant staff members have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure”.

12.3 The Procurement, Patient Choice and Competition Regulations (PPCCR) place requirements on commissioners to ensure that they adhere to good practice in relation to procurement, run a fair, transparent process that does not discriminate against any provider, do not engage in anti-competitive behaviour that is against the interest of patients, and protect the right of patients to make choices about their healthcare. Furthermore the PPCCR places requirements on commissioners to secure high quality, efficient NHS healthcare services that meet the needs of the people who use those services.

- 12.4 An area in which conflicts could arise is where the CCG commissions (or continues to commission by contract extension) healthcare services, including GP services, in which a member of the CCG has a financial or other interest. This may most often arise in the context of co-commissioning of primary care, particularly with regard to delegated commissioning, where GPs are current or possible providers, or in relation to the commissioning of new care models.
- 12.5 A procurement template, reproduced in **Appendix 6**, sets out factors that the CCG should address when drawing up their plans to commission general practice services. Complete transparency around procurement will provide:
- Evidence that the CCG is seeking and encouraging scrutiny of its decision-making process;
 - A record of the public involvement throughout the commissioning of the service;
 - A record of how the proposed service meets local needs and priorities for partners such as the Health and Wellbeing Boards, local Healthwatch and local communities;
 - Evidence to the audit committee and internal and external auditors that a robust process has been followed in deciding to commission the service, in selecting the appropriate procurement route, and in addressing potential conflicts.
- 12.6 A Register of Procurement Decisions and Contracts Awarded will be maintained by the Contracts team for the procurement of a new service and/or any extension or material variation of a current contract. The register must include:
- The details of the decision;
 - Who was involved in making the decision (including the name of the CCG clinical lead, the CCG contract manager, the name of the decision making committee and the name of any other individuals with decision-making responsibility);
 - A summary of any conflicts of interest in relation to the decision and how this was managed by the CCG; and
 - The award decision taken.
- 12.7 A template Register of Procurement Decisions and Contracts Awarded is attached at **Appendix 7**.
- 12.8 The Register of Procurement Decisions and Contracts Awarded must be updated by the Head of Contracts whenever a procurement decision is taken.
- 12.9 The register will be made publicly available and easily accessible to patients and the public by the Head of Contracts by ensuring it is available in a prominent place on the [CCG's website](#) and making the register available upon request for inspection at the CCG's headquarters.
- 12.10 As part of a procurement process, bidders must declare any conflicts of interest. This allows commissioners to ensure that they comply with the principles of equal treatment

and transparency. When a bidder declares a conflict, the commissioners must decide how best to deal with it to ensure that no bidder is treated differently to any other. A declaration of interests for bidders/ contractors template is attached at **Appendix 8**.

- 12.11 It will not usually be appropriate to declare such a conflict on the register of procurement decisions, as it may compromise the anonymity of bidders during the procurement process. However, commissioners should retain an internal audit trail of how the conflict or perceived conflict was dealt with to allow them to provide information at a later date if required. Commissioners are required under regulation 84 of the Public Contract Regulations 2015 to make and retain records of contract award decisions and key decisions that are made during the procurement process (there is no obligation to publish them). Such records must include “communications with economic operators and internal deliberations” which should include decisions made in relation to actual or perceived conflicts of interest declared by bidders. These records must be retained for a period of at least three years from the date of award of the contract.
- 12.12 All bid/tender evaluators must declare any interest which may lead to a conflict with the interests of the CCG and the public for whom they commission services in relation to a decision made by the CCG which may affect or appear to affect the integrity of the procurement process. A conflict of interest form for bid evaluators is attached at **Appendix 9**.
- 12.13 Procurement decisions relating to the commissioning of primary medical services should be made by a committee of the CCG’s governing body. This should:
- for joint commissioning take the form of a primary care commissioning committee established between the CCG (or CCGs) and NHS England; and
 - in the case of delegated commissioning, be a committee established by the CCG.
- 12.14 The quorum requirements for primary care commissioning committee meetings must include a majority of lay and executive members in attendance with eligibility to vote.
- 12.15 In the interest of minimising the risks of conflicts of interest, GPs will not have voting rights on the primary care commissioning committee. These arrangements do not preclude GP participation in strategic discussions on primary care issues, subject to appropriate management of conflicts of interest. They apply to decision-making on procurement issues and the deliberations leading up to the decision.
- 12.16 Whilst sub-committees or sub-groups of the primary care commissioning committee can be established e.g., to develop business cases and options appraisals, ultimate decision-making responsibility for the primary medical services functions must rest with the primary care commissioning committee. For example, whilst a sub-group could develop an options appraisal, it should take the options to the primary care commissioning committee for their review and decision-making.
- 12.17 It is important that conflicts of interests are managed appropriately within sub-committees and sub-groups. As an additional safeguard, it is recommended that sub-groups submit their minutes to the primary care commissioning committee, detailing any conflicts and how they have been managed. The primary care commissioning

committee should be satisfied that conflicts of interest have been managed appropriately in its sub-committees and take action where there are concerns.

13. Contract Monitoring

- 13.1 The management of conflicts of interest applies to all aspects of the commissioning cycle, including contract management.
- 13.2 Any contract monitoring meeting needs to consider conflicts of interest as part of the process i.e., the chair of a contract management meeting should invite declarations of interests; record any declared interests in the minutes of the meeting; and manage any conflicts appropriately and in line with this guidance. This equally applies where a contract is held jointly with another organisation such as the Local Authority or with other CCGs under lead commissioner arrangements.
- 13.3 The individuals involved in the monitoring of a contract should not have any direct or indirect financial, professional or personal interest in the incumbent provider or in any other provider that could prevent them, or be perceived to prevent them, from carrying out their role in an impartial, fair and transparent manner.
- 13.4 The CCG will be mindful of any potential conflicts of interest when it disseminates any contract or performance information/reports on providers, and manage the risks appropriately.

14. Raising Concerns or Breaches

- 14.1 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 organisations. For the purposes of this policy, these situations are referred to as 'breaches'.
- 14.2 It is the duty of every CCG employee, governing body member, committee or sub-committee member and GP practice member to speak up about genuine concerns in relation to the administration of the CCG's policy on conflicts of interest management, and to report these concerns. These individuals should not ignore their suspicions or investigate themselves, but rather speak to the designated CCG point of contact for these matters.
- 14.3 Anyone who wishes to report a suspected or known breach of the policy, who is not an employee or worker of the CCG, should also ensure that they comply with their own organisation's whistleblowing policy, since most such policies should provide protection against detriment or dismissal.
- 14.4 Often a concern can be easily resolved upon raising it formally or informally with someone such as a line manager. However, if this does not resolve matters, or the individual does not feel able to raise it with them, the designated CCG point of contact for these matters in the first instance is the CCG's Head of Corporate Governance (Tel: 01245 398731 or email sara.oconnor@nhs.net).
- 14.5 If the individual still remains concerned after this, s/he can contact:

- The CCG's Director of Governance & Performance, who is also the Executive Director for Whistleblowing (see point 15.1 below) (Tel: 01245 398139 or email viv.barnes@nhs.net).
- The CCG's Conflicts of Interests Guardian (Lay Member for Governance, John Gilham) – (Tel: 07710206001 or e-mail: john.gilham@nhs.net)
- Providers, patients and other third parties can also make a complaint to NHS Improvement in relation to a commissioner's conduct under the Procurement Patient Choice and Competition Regulations.

14.6 On receipt, the concern will be recorded and acknowledged within two working days. The central record will record the date the concern was received, whether you have requested confidentiality, a summary of the concerns and dates when updates or feedback have been provided.

14.7 Where a concern cannot be resolved quickly, for example by discussion with a line manager, a proportionate investigation will be undertaken using someone suitably independent (usually from a different part of the organisation) and properly trained.

14.8 It may be decided that the concern would be better looked at under another process, for example, the CCG's disciplinary policy, in which case the individual who raised the concern will be notified.

14.9 The individual who raised the concern will be informed how long the investigation is expected to take and kept up to date with its progress. Wherever possible, the full investigation report will be made available to the individual who raised the concern (while respecting the confidentiality of others).

14.10 Where it is determined that an individual has failed to disclose any relevant interests or has otherwise breached the CCG's rules and policies relating to the management of conflicts of interest, will be subject to disciplinary action. CCG staff, governing body and committee members in particular should be aware that the outcomes of such action may, if appropriate, result in the termination of their employment or position with the CCG. In the case of an organisation having breached CCG requirements, contractual action may be taken against the relevant organisation.

14.11 Statutorily regulated healthcare professionals who work for, or are engaged by, the CCG are under professional duties imposed by their relevant regulator to act appropriately with regard to conflicts of interest. The CCG will report statutorily regulated healthcare professionals to their regulator if they believe that they have acted improperly, so that these concerns can be investigated. Statutorily regulated healthcare professionals should be made aware that the consequences for inappropriate action could include fitness to practise proceedings being brought against them, and that they could, if appropriate, be struck off by their professional regulator as a result.

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

14.13 Anonymised details of confirmed breaches of the Conflict of Interests policy will be published by the Head of Corporate Governance on the CCG's website, for the

purposes of learning and development, and reported to NHS England.

15. Whistleblowing

- 15.1 The CCG's [Freedom to Speak Up: Raising Concerns \(Whistleblowing\) Policy \(Policy Ref MECCG012\)](#) sets out how it will deal with concerns about unlawful conduct, financial malpractice, dangers to the public or environment or patient care. The CCG aims for managers and staff to resolve concerns and issues as soon as possible but understands staff may find this difficult. Therefore Whistle-Blowing provides a framework for employees to raise any such concerns in line with the Public Interest Disclosure Act 1998, without being disloyal to colleagues, managers or the organisation itself and enables staff to raise their concerns about any malpractice at an early stage and in the right way.

16. Anti-Fraud and Bribery Policy

- 16.1 [The Anti-Fraud and Bribery Policy, \(Policy Ref MECCG008\)](#) provides direction and help in dealing with suspected cases of theft, fraud or corruption. It gives a framework for a response and advice and information on certain key aspects and implications of an investigation. If fraud and /or corruption is suspected, this must be reported to the Local Counter Fraud Specialist (LCFS) eleni.gill@nhs.net or the Chief Finance Officer immediately, unless the LCFS or the Chief Finance Officer is implicated. If that is the case, the matter should be reported to the NHS Fraud and Corruption Reporting Line (FCRL) on freephone 0800 028 4060 or at <https://cfa.nhs.uk/home>, who will decide on the action to be taken. Any suspected fraud or bribery can also be reported to NHS Protect using the NHS Fraud and Corruption Reporting Line on 08000284060 or by filling in an online form at <https://cfa.nhs.uk/reportfraud>

17. Associated Policies and Guidance

- CCG Constitution (particularly Standing Orders and Standing Financial Instructions)
- [Managing Conflicts of Interest: Statutory Guidance for CCGs](#)
- [Anti-Fraud and Bribery Policy \(MECCG008\)](#)
- [Whistleblowing Policy \(MECCG012\)](#)
- [Gifts and Hospitality Policy \(MECCG041\)](#)
- [Procurement Policy \(MECCG042\)](#)
- [Standards of Business Conduct Policy \(MECCG112\)](#)
- [Close Personal Relations at Work Policy \(MECCG122\)](#)
- [Defining the Boundaries between NHS and Private Healthcare \(MECCG142\)](#)

18. Training

18.1 The CCG will ensure that training is offered to all employees, governing body members, members of CCG committees and sub-committees and practice staff with involvement in CCG decision-making 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.

18.2 All such individuals will receive training on the following:

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

18.3 CCG employees, governing body members, members of CCG committees and sub-committees and practice staff with involvement in CCG business will be required to complete relevant modules of the NHS England online training package on conflicts of interests on an annual basis. The CCG will record completion rates of this training.

19. Monitoring of Compliance and Effectiveness

19.1 The Director of Governance & Performance will be responsible for monitoring compliance with and the effectiveness of this policy via an annual audit of the CCG's Governance, Assurance Framework and Risk Management arrangements .

20. Review of Policy

20.1 This policy will be reviewed annually.

APPENDICES:

Appendix 1 - Declaration of interests for CCG members and employees

Appendix 2 - Register of interests

Appendix 3 - Chair's declarations of interest checklist

Appendix 4 - Template to record interests during the meeting

Appendix 5 - Template for minutes

Appendix 6 - Procurement checklist

Appendix 7 - Register of procurement decisions and contracts awarded

Appendix 8 - Declaration of conflict of interests for bidders/contractors

Appendix 9 – Declaration of interest for bid evaluators

Appendix 10 – Summary of key aspects on managing conflicts of interest relating to commissioning of new care model

Declaration of Interest form (for CCG employees, Member Practices and other Committee/Sub-Committee members)
 To be completed and signed even if a 'Nil' Return

Name:		Email Address:	
		Tel No:	
Position within, or relationship with, the CCG (or NHS England in the event of joint committees):			
Name and Position of Line Manager:			

Please list below details of actual or potential interests held by you, or state 'Nil' if there are no interests that need to be declared. Interests declared by those staff considered to be 'decision-making' staff, as defined within the [CCG's Conflicts of Interest Policy](#), will be included within the publicly available Register of Interests posted on the CCG website unless an objection to publication is received (see overleaf).

Declared Interest (Name of the Organisation and nature of business)	Type of Interest (see guidance notes below – please mark 'X')			Is the interest direct or indirect? (see guidance notes below)	Nature of Interest	Date of Interest		Action taken to mitigate risk (to be agreed with line manager or a senior CCG manager, who must then sign Page 2 of this form)
	Financial Interest	Non-Financial Professional Interest	Non-Professional Personal Interest			From	To (Insert end date if interest will be time limited. Advise Head of Corporate Governance of date when interest ceases)	

NB: The names of individuals who make a 'Nil' declaration will not be included in the publicly available register of interests.

Committee Membership/Attendance

Please indicate if you are a 'core member' or regularly attend any of the following Committee/Sub-Committees (whether or not you are declaring an interest).

Committee Membership

Audit Committee	Live Well Committee	Primary Care Commissioning Committee	Quality Finance & Governance Committee	Remuneration Committee	Mid and South Essex CCGs Joint Committee

Sub-Committee Membership

Exceptional Cases Panel	Medicines Management	Primary Care Forum	M&SE JC Finance & Performance Sub-Committee	M&SE JC Patient Safety & Quality Sub-Committee

Fair Processing Statement

The information submitted will be held by Mid Essex CCG (the data controller) for the management of conflicts of interest, for human resources purposes, or other reasons specified on this form and to comply with the organisation's policies. This information may be held in both manual and electronic form in accordance with the Data Protection Act 1998. Information may be disclosed to third parties in accordance with the Freedom of Information Act 2000 and published on the CCG's website within registers that the CCG holds. The data protection officer can be contacted via the Head of Corporate Governance.

Declaration

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

I **do / do not [delete as applicable]** object to my name and details of declared interests being published on registers that the CCG holds.

If you are raising an objection, please give reasons and a decision will be made by the CCG's Conflict of Interests Guardian whether to redact this information from the publicly available register(s).

Signed: _____ Date: _____

(Individual making the declaration of interest(s))

'Nil' declarations **do not** require sign-off by Line Manager. However, where one or more interests have been declared, members of CCG staff must discuss and agree how these interests will be managed with their line manager/senior manager, who must then sign this form before returning to the Head of Corporate Governance. Agreed action taken to mitigate the risk must be recorded in the last column overleaf. Interests declared by staff from member practices will be reviewed by a senior manager within the CCG and signed-off below.

Signed: _____ Position: _____ Date: _____

(Line Manager or Senior CCG Manager)

DEFINITION OF AN INTEREST

A conflict of interest may be “actual” or “potential”.

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

It should also be noted that a benefit may arise from the making of a gain or the avoidance of a loss.

Interests fall into four categories as set out below (these are not exhaustive and if you have any doubt as to whether an interest should be declared, please seek advice from the Head of Corporate Governance/Director of Governance and Performance:

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

Type of Interest	Description
Professional Interests	<ul style="list-style-type: none"> • An advocate for a particular group of patients; • A GP with special interests e.g., in dermatology, acupuncture etc. • An active member of a particular specialist professional body (although routine GP membership of the Royal College of General Practitioners RCGP, British Medical Association (BMA) or a medical defence organisation would not usually by itself amount to an interest which needed to be declared); • An advisor for Care Quality Commission (CQC) or National Institute for Health and Care Excellence (NICE); • Engaged in a research role. • The development and holding of patents and other intellectual property rights which allow staff to protect something that they create, preventing unauthorised use of products or the copying of protected ideas; or • GPs and practice managers who are members of the governing body or committees of the CCG, should declare details of their roles and responsibilities held within their GP practices.
Non-Financial Personal Interests	<p>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:</p> <ul style="list-style-type: none"> • A voluntary sector champion for a provider; • A volunteer for a provider; • A member of a voluntary sector board or has any other position of authority in or connection with a voluntary sector organisation; • Suffering from a particular condition requiring individually funded treatment; • A member of a lobby or pressure groups with an interest in health and care.
Indirect Interests	<p>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:</p> <ul style="list-style-type: none"> • Spouse / partner; • Close family member or relative e.g., parent, grandparent, child, grandchild or sibling; • Close friend or associate; or • Business partner. <p>A declaration of interest for a “business partner” in a GP partnership should include all relevant collective interests of the partnership, and all interests of their fellow GP partners (which could be done by cross referring to the separate declarations made by those GP partners, rather than by repeating the same information verbatim).</p> <p>Whether an interest held by another person gives rise to a conflict of interest will depend upon the nature of the relationship between that person and the individual and the role of the individual within the CCG.</p>

Appendix 2: Template 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	Non-Financial Personal Interest			From	To	

Appendix 3: Template declarations of interest checklist

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

Timing	Checklist for Chairs	Responsibility
<p>In advance of the meeting</p>	<ol style="list-style-type: none"> 1. The agenda to include a standing item on declaration of interests to enable individuals to raise any issues and/or make a declaration at the meeting. 2. A definition of conflicts of interest should also be accompanied with each agenda to provide clarity for all recipients. 3. Agenda to be circulated to enable attendees (including visitors) to identify any interests relating specifically to the agenda items being considered. 4. Members should contact the Chair as soon as an actual or potential conflict is identified. 5. Chair to review a summary report from preceding meetings i.e., sub-committee, working group, etc., detailing any conflicts of interest declared and how this was managed. A template for a summary report to present discussions at preceding meetings is detailed below. 6. A copy of the members' declared interests is checked to establish any actual or potential conflicts of interest that may occur during the meeting. 	<p>Meeting Chair and secretariat</p> <p>Meeting Chair and secretariat</p> <p>Meeting Chair and secretariat</p> <p>Meeting members</p> <p>Meeting Chair</p> <p>Meeting Chair</p>

<p>During the meeting</p>	<p>7. Check and declare the meeting is quorate and ensure that this is noted in the minutes of the meeting.</p> <p>8. Chair requests members to declare any interests in agenda items- which have not already been declared, including the nature of the conflict.</p> <p>9. Chair makes a decision as to how to manage each interest which has been declared, including whether / to what extent the individual member should continue to participate in the meeting, on a case by case basis, and this decision is recorded.</p> <p>10. As minimum requirement, the following should be recorded in the minutes of the meeting:</p> <ul style="list-style-type: none"> • Individual declaring the interest; • At what point the interest was declared; • The nature of the interest; • The Chair’s decision and resulting action taken; • The point during the meeting at which any individuals retired from and returned to the meeting - even if an interest has not been declared; • Visitors in attendance who participate in the meeting must also follow the meeting protocol and declare any interests in a timely manner. <p>A template for recording any</p>	<p>Meeting Chair</p> <p>Meeting Chair</p> <p>Meeting Chair and secretariat</p> <p>Secretariat</p>

	interests during meetings is detailed below.	
Following the meeting	<p>11. All new interests declared at the meeting should be promptly updated onto the declaration of interest form;</p> <p>12. All new completed declarations of interest should be transferred onto the register of interests.</p>	<p>Individual(s) declaring interest(s)</p> <p>Designated person responsible for registers of interest</p>

Appendix 4: Template to record interests during the meeting

Meeting	Date of Meeting	Chairperson (name)	Secretariat (name)	Name of person declaring interest	Agenda Item	Details of interest declared	Action taken

Appendix 5: Template for minutes

XXXX Clinical Commissioning Group Primary Care Commissioning Committee Meeting

Date: 15 February 2016

Time: 2pm to 4pm

Location: Room B, XXXX CCG

Attendees:

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

In attendance from 2.35pm

Neil Ford NF Primary Care Development Director

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

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

Appendix 6: 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?	

¹Taking 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).

Appendix 7: 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 manger	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 8: Declaration of conflict of interests for bidders/contractors

[DN: Please use for all Good and Services, including the Light-Touch Regime Services only]

SCHEDULE 2

Declaration of conflict of interests for bidders/contractors

Proposed contract for **[Insert name of procurement]**

Tender reference: **[Insert reference, identical to the reference within the covering letter]**

Bidders'/Potential Contractors' Declaration form: financial and other interests

This form must be completed and submitted via the **BravoSolution** e-procurement portal no later than XXXX hrs on XXXX XXX 2015 **[DN: Amend as appropriate]**

This form is required to be completed in accordance with regulation 24 of the Public Contract Regulations

[, [s140 of the NHS Act 2006 (as amended by the Health and Social care Act 2012) and the NHS (Procurement, Patient Choice and Competition) (No 2) Regulations 2013] [DN: Amend as appropriate. If the procurement does not relate to s140 of the NHS Act or if it does not relate to the NHS Regulations 2013, then delete those references].

All potential bidders/contractors/service providers, including sub-contractors, members of a consortium, advisers or other associated parties (Relevant Organisation) are required to identify any potential conflicts of interest that could arise if the Relevant Organisation were to take part in any procurement process and/or provide services under, or otherwise enter into any contract with, **The Contracting Authority**, or with NHS England in circumstances where the CCG is jointly commissioning the service with, or acting under a delegation from, NHS England.

If any assistance is required in order to complete this form, then the Relevant Organisation should contact **[Insert name of procurement Manager] via the Portal [DN: Insert contact detail]**

The Contracting Authority may exclude a Bidder where there is a conflict of interest which cannot be effectively remedied. The concept of a conflict of interest includes any situation where relevant staff members have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure.

Provided that it has been carried out in a transparent manner, routine pre-market engagement carried out by **The Contracting Authority** should not represent a conflict of interest for the Relevant Organisation.

Any changes to interests declared either during the procurement process or during the term of any contract subsequently entered into by the Relevant Organisation and **The Contracting Authority** must notified to **The Contracting Authority** by completing a new declaration form and submitting it via **the BravoSolution** e-procurement portal

Relevant Organisations completing this declaration form must provide sufficient detail of each interest so that **The Contracting Authority**, **NHS England** and also a member of the public would be able to understand clearly the sort of financial or other interest the person concerned has and the circumstances

in which a conflict of interest with the business or running of the **Contracting Authority** or **NHS England** (including the award of a contract) might arise.

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

Interests that must be declared (whether such interests are those of the Relevant Person (see first bullet point below for definition) themselves or of a family member, close friend or other acquaintance of the Relevant Person), include the following:

- the Relevant Organisation or any person employed or engaged by or otherwise connected with a Relevant Organisation (Relevant Person) has provided or is providing services or other work for **Attain, The Contracting Authority or NHS England**;
- a Relevant Organisation or Relevant Person is providing services or other work for any other potential bidder in respect of this project or procurement process;
- the Relevant Organisation or any Relevant Person has any other connection **with Attain, The Contracting Authority or NHS England**, whether personal or professional, which the public could perceive may impair or otherwise influence **The Contracting Authority's** or any of its members' or employees' judgements, decisions or actions.

Declaration:

Name of Relevant Organisation	
--------------------------------------	--

Interests:

Type of Interest	Details
Provision of services or other work for The Contracting Authority 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 Contracting Authority or NHS England , whether personal or professional, which the public could perceive may impair or otherwise influence The Contracting Authority's or any of its members' or employees' judgements, decisions or actions	

Name of Relevant Person	[complete for all Relevant Persons]
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Interests:

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 Contracting Authority 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 Contracting Authority or NHS England , whether personal or professional, which the public could perceive may impair or otherwise influence The Contracting Authority'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 throughout the term of the procurement process to update (as necessary) the information and promptly inform The Contracting Authority of such.

Name:

Signed:

On behalf of:

Date:

Appendix 9: Declaration of Conflict of Interests Form for Bid Evaluators

[DN: In accordance with Regulation 24 of the Public Contract Regulations 2015, please ensure that all evaluators complete this form. It must also be completed for under threshold procurements. Please review all their responses and ensure you identify, assess and manage any Conflicts of Interests that arise]

Declaration of Conflict of Interests form for Bid Evaluators

Name of Contracting Authority: [Insert name of Contracting Authority]

Proposed contract for [Insert name of procurement]

Procurement reference number: [Insert procurement reference]

Notes to evaluators:

1. This form is required to be completed in accordance with Regulation 24 of the Public Contract Regulations 2015.
2. All Evaluators must declare any interest which may lead to a conflict with the interests of the Contracting Authority and the public for whom they commission services in relation to a decision made by the Contracting Authority which may affect or appear to affect the integrity of the procurement process.
3. If there is any doubt as to whether or not a conflict of interests could arise, a declaration of the interest must be made.
4. Further examples of Interests that **must** be declared in regards to this Tender (whether such interests are those of the individual themselves or of a family member, close friend or other acquaintance of the individual):
 - Having a financial interest (e.g. holding shares or options) in a Potential Bidder or any entity involved in any Bidding Consortium.
 - Having a financial or any other personal interest in the outcome of the evaluation of the Tender evaluation process.
 - Being employed by (as staff member or volunteer) or providing services to any Potential Bidder
 - Being a member of a Potential Bidder's Management/Executive Board.
 - Receiving any kind of monetary payment or non-monetary gift or incentive (including hospitality) from any Bidder or its representatives.
 - Canvassing or negotiating with any person with a view to entering into any of the arrangements outlined above.
 - Having a close member of your family (which term includes unmarried partners) or personal friends who fall into any of the categories outlined above.
 - Having any other close relationship (current or historical) with any Potential Bidder
5. If any assistance is required in order to complete this form, please contact [Insert name of Procurement Manager]
6. The completed form should be sent by email to [Insert Procurement Manager's email address]

Evaluator's Name:	
Evaluator's Job Title and/or relationship with the Contracting Authority	

Interests

Type of Interest	Details	Personal interest or that of a family member, close friend or other acquaintance?
Roles and responsibilities held within member practices		
Directorships, including non-executive directorships, held in private companies or PLCs		
Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the Contracting Authority		
Shareholdings (more than 5%) of companies in the field of health and social care		
Positions of authority in an organisation (e.g. charity or voluntary organisation) in the field of health and social care		
Any connection with a voluntary or other organisation contracting for NHS services		
Research funding/grants that may be received by the individual or any organisation they have an interest or role in.		
Other specific interests such as those outlined in bullet point 4 above?		
Any other interest, role or relationship which the public could perceive would impair or otherwise influence the individual's judgment or actions in their role within the Contracting Authority		

Evaluator Declaration:

To the best of my knowledge and belief, the above information is complete and correct.

The documents made available to me (in whatsoever format) concerning the procurement of [Name of service] are classified "Commercial in Confidence", and I confirm that none of these documents nor their contents have or will be released, disclosed or divulged by me, or on my behalf, to any third party without the relevant authorisation to receive them or, without the prior written consent of [Insert name of Procurement Manager]

I understand that the release or disclosure of such material to a third party without such authorisation may jeopardise the integrity of the procurement project and will therefore be regarded very seriously and may result in disciplinary and or legal action.

Signed:

Policy Ref: MECCG003

Version: 7.4

Approved by Board: 26 September 2019

Review date: September 2021

Date:

APPENDIX 10

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

Introduction

1. Conflicts of interest can arise throughout the whole commissioning cycle from needs assessment, to procurement exercises, to contract monitoring. They arise in many situations, environments and forms of commissioning.
2. Where CCGs are commissioning new care models (NCM), (e.g. 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, 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 Board 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 this policy and the statutory guidance.
6. There will be occasions where the conflict of interest is profound and acute. In such scenarios (such as where an individual has a direct financial interest which gives rise to a conflict, e.g., secondary employment or involvement with an organisation which

benefits financially from contracts for the supply of goods and services to the CCG or aspires to be a new care model provider), it is likely that the CCG will want to consider whether, practically, such an interest is manageable at all. This can arise in relation to both clinical and non-clinical members/roles. If an interest is not manageable, the appropriate course of action may be to refuse to allow the circumstances which gave rise to the conflict to persist. This may require an individual to step down from a particular role and/or move to another role within the CCG and may require the CCG to take action to terminate an appointment if the individual refuses to step down. CCGs should ensure that their contracts of employment and letters of appointment, HR policies, governing body and committee terms of reference and standing orders are reviewed to ensure that they enable the CCG to take appropriate action to manage conflicts of interest robustly and effectively in such circumstances.

7. Where a member of CCG staff participating in a meeting has dual roles, for example a role with the CCG and a role with a new care model provider organisation, but it is not considered necessary to exclude them from the whole or any part of a CCG meeting, he or she should ensure that the capacity in which they continue to participate in the discussions is made clear and correctly recorded in the meeting minutes, but where it is appropriate for them to participate in decisions they must only do so if they are acting in their CCG role.
8. CCGs should take all reasonable steps to ensure that employees, committee members, contractors and others engaged under contract with them are aware of the requirement to inform the CCG if they are employed or engaged in, or wish to be employed or engaged in, any employment or consultancy work in addition to their work with the CCG (for example, in relation to new care model arrangements).
9. CCGs should identify as soon as possible where staff might be affected by the outcome of a procurement exercise, e.g., they may transfer to a provider (or their role may materially change) following the award of a contract. This should be treated as a relevant interest, and CCGs should ensure they manage the potential conflict. This conflict of interest arises as soon as individuals are able to identify that their role may be personally affected.
10. Similarly, CCGs should identify and manage potential conflicts of interest where staff are involved in both the contract management of existing contracts, and involved in procurement of related new contracts.

Governance arrangements

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

but have included some examples of governance models which CCGs may want to consider.

13. The principles set out in the general statutory guidance on managing conflicts of interest (paragraph 19-23), including the Nolan Principles and the Good Governance Standards for Public Services (2004), should underpin all governance arrangements.
14. CCGs should consider whether it is appropriate for the Governing Body to take decisions 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

15. Where a CCG has full delegation for primary medical services, CCGs could consider delegating the commissioning and contract management of the entire new care model to its Primary Care Commissioning Committee. This Committee is constituted with a lay and executive majority, and includes a requirement to invite a Local Authority and Healthwatch representative to attend (see paragraph 97 onwards of the CCG guidance).
16. Should this approach be adopted, the CCG may also want to increase the representation of other relevant clinicians on the Primary Care Commissioning Committee when new care models are being considered, as mentioned in Paragraph 98 of this guidance. The use of the Primary Care 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.
17. If the CCG does not have a Primary Care Commissioning Committee, the CCG might want to consider whether it would be appropriate/advantageous to establish either:
 - a) A new care model commissioning committee (with membership including relevant non-conflicted clinicians, and formal decision making powers similar to a Primary Care Commissioning Committee (“NCM Commissioning Committee”)); or
 - b) A separate clinical advisory committee, to act as an advisory body to provide clinical input to the Governing Body in connection with a new care model project, with representation from all providers involved or potentially involved in the new care model but with formal decision making powers remaining reserved to the governing body (“NCM Clinical Advisory Committee”).

NCM Commissioning Committee

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

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

NCM Clinical Advisory Committee

21. This advisory committee would need to include appropriate clinical representation from all potential providers, but have no decision making powers. With conflicts of interest declared and managed appropriately, the NCM Clinical Advisory Committee could formally advise the CCG Governing Body on clinical matters relating to the new care model, in accordance with a scope and remit specified by the Governing Body.
22. This would provide assurance that there is appropriate clinical input into Governing Body decisions, whilst creating a clear distinction between the clinical/provider side input and the commissioner decision-making powers (retained by the Governing Body, with any conflicts on the Governing Body managed in accordance with this statutory guidance and constitution of the CCG).
23. From a procurement perspective the Public Contracts Regulations 2015 encourage early market engagement and input into procurement processes. However, this must be managed very carefully and done in an open, transparent and fair way. Advice should therefore be taken as to how best to constitute the NCM Clinical Advisory Committee to ensure 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.
24. 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

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

Further support

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