



CONFLICTS OF INTEREST POLICY

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Contents

1	Introduction	6
2	Purpose	7
3	Responsibilities.....	9
4	Procedures / Processes	10
4.1	Definition of a conflict of Interest.....	10
4.2	Identifying conflicts of interest.....	11
4.3	Declaring and registering interests	14
4.4	What should be declared	16
4.5	Maintaining a Register of Interests	17
4.6	Managing conflicts of interest	18
4.7	Declarations of Interests on Application for Appointment or Election/appointment to the CCG	20
4.8	Mitigating conflicts of interest.....	21
4.9	Quorum.....	26
4.10	Declarations of Interest in relation to Procurement.....	26
4.11	Register of Procurement Decisions	27
4.12	Designing services and conflicts of interest	27
4.13	Commissioning New Care Models.....	29
4.14	Contract Monitoring	30
4.15	Specific safeguards for managing conflicts of interest for General Practices that are potential providers of CCG-commissioned services	31
4.16	Specific safeguards for managing conflicts of interest for contractors and people who provide services directly to the CCG	31
5	Raising Concerns and Reporting Breaches	32
6	Breaches of the Policy.....	33
7	Related Documents.....	333
8	Dissemination.....	34
9	Training and Advice.....	34
10	Review and Compliance Monitoring	35

Appendices

Appendix 1	The Nolan Principles.....	36
Appendix 2	Declarations of Interest for members/employees template	37
Appendix 3	Register of Interests.....	39
Appendix 4	Checklist for Chairs.....	40
Appendix 5	Template for recording minutes.....	41
Appendix 6	Procurement declaration of Interest (Project Team).....	43
Appendix 7	Register of Procurement Decisions.....	47
Appendix 8	Code of Conduct Template Procurement checklist.....	48
Appendix 9	Declaration of conflict of interest for idders/contractors.....	50

1 Introduction

NHS Shropshire, Telford and Wrekin Clinical Commissioning Group (STWCCG) and the people who work with and for us, collaborate closely with other organisations, delivering high quality care for our patients.

These partnerships have many benefits and should help ensure that public money is spent efficiently and wisely. But there is a risk that conflicts of interest may arise.

Providing best value for taxpayers and ensuring that decisions are taken transparently and clearly, are both key principles in the NHS Constitution. We are committed to maximising our resources for the benefit of the whole community. As an organisation and as individuals, we have a duty to ensure that all our dealings are conducted to the highest standards of integrity and that NHS monies are used wisely so that we are using our finite resources in the best interests of patients.

Managing conflicts of interest appropriately is essential for protecting the integrity of NHS Shropshire, Telford and Wrekin CCG from perceptions of wrongdoing. The CCG must meet the highest level of transparency to demonstrate that conflicts of interest are managed in a way that cannot undermine the probity and accountability of the CCG.

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

Section 14O of the National Health Service Act 2006, inserted by the Health and Social care Act 2012, sets out that each CCG must:

- maintain one or more registers of interest of: the members of the group, members of its governing body, members of its committees or sub-committees of its governing body, and its employees;
- publish, or make arrangements to ensure that members of the public have access to these registers on request;
- make arrangements to ensure individuals declare any conflict or potential conflict in relation to a decision to be made by the group, and record them in the registers as soon as they become aware of it, and within 28 days; and
- make arrangements, set out in their constitution, for managing conflicts of interest, and potential conflicts of interest in such a way as to ensure that they do not and do not appear to, affect the integrity of the group's decision-making processes.

NHS England has published guidance for CCGs on the discharge of their functions under this section and each CCG must have regard to this guidance. This policy has been based upon this guidance.

In addition, the NHS (Procurement, Patient Choice and Competition) Regulations 2013 set out that commissioners:

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- must manage conflicts and potential conflicts of interests when awarding a contract by prohibiting the award of a contract where the integrity of the award has been or appears to have been affected by a conflict;
 - must keep appropriate records of how they have managed any conflicts in individual cases.

The CCG has set out in its constitution under Section 6, and specifically sections 6.1 and 6.2, how the CCG will comply with these requirements.

2 Purpose

The aim of this policy is to protect both the organisation and individuals involved from impropriety or any appearance of impropriety by setting out how the CCG will manage conflicts of interest to ensure there can be confidence in the probity of commissioning decisions and the integrity of the clinicians involved with the work of the CCG. The policy will help to foster an open and transparent culture which provides an environment where everyone working on behalf of the CCG is able to identify and help manage conflicts of interest where they may arise. It is important to emphasise that by managing conflicts or perceived conflicts of interest, this is not a judgement on the integrity of the individual concerned, but the mechanism by which both the individual and organisation can be protected from criticism of impropriety.

This policy will help our staff manage conflicts of interest risks effectively. It:

- Introduces consistent principles and rules
- Provides simple advice about what to do in common situations.
- Supports good judgement about how to approach and manage interests

Conflicts of interest may arise where an individual's personal interests or loyalties or those of a connected person (a relative or close friend) conflict with those of the CCG, or might be perceived to conflict with those of the CCG. Such conflicts may create problems such as inhibiting or being seen to inhibit free discussion which could result in decisions or actions that are not in the interests of the CCG, and risk giving the impression that the CCG has acted improperly.

The CCG Governing Body's responsibility includes the stewardship of significant public resources and the commissioning of health and social care services to the population of Shropshire, Telford and Wrekin. The CCG Governing Body is therefore determined to ensure the organisation inspires confidence and trust amongst its staff, partners, funders, suppliers and the public by demonstrating integrity and avoiding any potential or real situations of undue bias or influence in the decision-making of the CCG.

The CCG requires all serving members of the CCG Governing Body, committees/sub-committees and staff who take decisions where they are

acting on behalf of the public or spending public money should observe the principles of good governance:

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

Appendix 1: First report of the Committee on Standards in Public Life (1995) The Nolan Principles

This policy should be considered alongside the CCG's other organisational policies:

- NHS Shropshire, Telford and Wrekin CCG Constitution
- NHS Shropshire, Telford and Wrekin CCG Governance Handbook
- NHS Shropshire, Telford and Wrekin CCG Standing Orders, Scheme of Reservation and Delegation of Powers and Prime Financial Polices
- Declaration of Gifts, Hospitality and Sponsorship – Anti-Bribery Policy and Procedure
- Policy and Guidance for Joint Working with the Pharmaceutical Industry (including rebate schemes) & Commercial Sponsorship of Meetings/Training Events
- Raising Concerns at Work Policy
- Other relevant HR policies

2.1 Fraud Bribery and Corruption

As set out in this policy, all employees, members of the CCG (the GP practices in Shropshire, Telford and Wrekin), members of the CCG Governing Body and its committees and sub committees and contractors and providers of services will at all times comply with this policy and declare any Conflicts of Interest both on appointment and as personal circumstances change during the course of their working with the CCG. Failure to declare such interests or alternative employment, may result in disciplinary action and/or criminal investigation by the CCG.

All employees, members of the CCG, members of the CCG Governing Body and its committees and sub committees and contractors and providers of services have a duty to ensure that public funds are safeguarded.

If there are any suspicions that there has been a potential act of fraud, bribery or corruption, or there has been any suspicious acts or events witnessed, these concerns must report the matter to the CCG's Counter Fraud Team (contact details can be found in Section 5, page 33 of the policy or on the CCG's website www.shropshiretelfordandwrekin.nhs.uk) or alternatively the concerns can be reported to the NHS Fraud and Corruption Reporting Line on 0800 028 4060. Alternatively reports can be made through the online reporting tool at <https://cfa.nhs.uk/reportfraud>

3 Responsibilities

- 3.1** Employees, members of the CCG (the 52 GP practices in Shropshire, Telford and Wrekin), members of the CCG Governing Body and its committees and sub committees and contractors and providers of services will at all times comply with this policy.
- 3.2** It is the responsibility of all Shropshire, Telford and Wrekin CCG members, employees, Governing Body members and members of its committees and sub committees, contractors and provider of services to familiarise themselves with this policy and comply with its provisions.
- 3.3** The CCG Governing Body will ensure that all employees, members of the CCG, the Governing Body itself and its committees and sub committees, contractors and providers of services are aware of the existence of, and responsibilities resulting from, the policy.
- 3.4** The Accountable Officer has overall accountability for the CCG's management of conflicts of interest.
- 3.5** The Director of Corporate Affairs 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 policy;
 - 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; and
 - Ensuring that appropriate administrative processes are put in place.
- 3.6** The Conflicts of Interest Guardian role will be undertaken by the Chair of Audit Committee, providing they have no provider interests. They should, in collaboration with the Director of Corporate Affairs:
- 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;

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- Be a safe point of contact for employees, contractors Board and committee members 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.

3.7 The CCG Chair and Conflicts of Interest Guardian are responsible for making decisions on arrangements for mitigating conflicts or potential conflicts of interest once declared, based upon the decision making framework set out in section 4.8 of this policy. The CCG Chair and the Conflicts of Interest Guardian are also responsible for reviewing the operation of this policy and for proposing changes to this policy for consideration by Audit Committee as part of its assurance review.

3.8 Executive members of the CCG's Governing Body have an ongoing responsibility for ensuring the robust management of conflicts of interest. All CCG employees, Governing Body and committee members and member practice staff will continue to have individual responsibility in declaring their interests when required at meetings or other situations, keeping their declarations up to date and following the mitigating actions set out in the register of interests if a conflict arises.

3.9 Line Managers of NHS Shropshire, Telford and Wrekin CCG must ensure members of staff are aware of the policy and the process to be followed for declaring interests. Line managers must consider any declarations of interest made by their staff and put in place mitigating arrangements where appropriate. Where this is not clear, they should consult the Director of Corporate Affairs, the Chair of the CCG or the Conflicts of Interest Guardian for advice and guidance.

3.10 Heads of Commissioning and the procurement function in the CSU must ensure that bidders, contractors and direct service providers adhere to this policy, and that the service re-design and procurement processes used by the CCG reflect the procedures set out in this policy.

4 Procedures/Processes

4.1 Definition of a conflict of Interest

A 'conflict of interest' is:

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

A conflict of interest may be:

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

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

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. The individual does not need to exploit his or her position or obtain an actual benefit, financial or otherwise. A potential for competing interests and/or a perception of impaired judgement, or undue influence can also be a conflict of interest.

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

The important things to remember are that:

- a perception of wrongdoing, impaired judgement or undue influence can be as detrimental as any of them actually occurring;
- if in doubt, it is better to assume a conflict of interest and manage it appropriately, rather than ignore it;
- for a conflict to exist, financial gain is not necessary.

4.2 Identifying conflicts of interest

Interests can be captured in four different categories:

- a financial interest: this is where an individual may get a direct financial benefit from the consequences of a commissioning decision they are involved in making. This could, for example, include being:
 - A director, including a non-executive director or senior employee in a private company or public limited company or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations.
 - A shareholder (or similar 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.

This could also include an individual being:

- In secondary employment – with another NHS body, another organisation which might be in a position to supply goods/services to the CCG, Directorship of a GP Federation and self employment, including private practice, 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.
- In receipt of secondary income from a provider;
- In receipt of a grant from a provider;
- In receipt of any payments (for example Honoraria, one-off payments, day allowances or travel or subsistence) from a provider;
- In receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role; and
- Having a pension that is funded by a provider (where the value of this might be affected by the success or failure of the provider).
- Non-financial interest: This is where an individual may obtain a non-financial professional benefit from the consequences of a commissioning decision they are involved in making, such as increasing their professional reputation or status or promoting their professional career. This may, for example include situations where the individual is:
 - An advocate for a particular group of patients;
 - A GP with special interests e.g. in dermatology, acupuncture etc.
 - A member of a particular specialist professional body (although routine GP membership of the RCGP, 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);
 - A medical researcher.

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

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- Non-financial personal interest: 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.
 - 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 and could stand to benefit from a commissioning decision they are involved in making (as those categories are described above) for example:
 - A spouse/partner (someone who is married to, a civil partner of, or someone with whom the member of staff lives);
 - A close relative to the individual or partner e.g. parent or parent in law, grandparent, child, grandchild or sibling;
 - A close friend;
 - Business Partner.

A declaration of interest for a “business Partner” in a GP partnership would include all relevant collective interests of the partnership, and all interests of their fellow GP partners by cross referring to the separate declarations made by those GP partners on their declarations.

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

The above categories and examples are not exhaustive and discretion will be exercised on a case by case basis, having regard to the principles set out in section 2 of this policy in deciding whether any other role, relationship or interest which would impair or otherwise influence the individual’s judgement or actions in their role with the CCG.

Where individuals are unsure whether a situation falling outside of the above categories may give potential for a conflict of interest, this should be discussed initially with the Director of Corporate Affairs, who will co-ordinate advice from the Conflicts of Interest Guardian of NHS Shropshire, Telford and Wrekin CCG, if necessary, who will provide an independent view. If in doubt, the individual concerned should assume that a potential conflict of interest exists.

When considering if an interest is relevant and material, the Financial Reporting Standard No. 8 (issued by the accounting Standards Board) specifies that influence rather than the immediacy of the relationship is more important in assessing the relevance of an interest.

The CCG requires individuals employed by or contracted to provide services to the CCG, to 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.

4.3 Declaring and registering interests

NHS Shropshire, Telford and Wrekin CCG use the skills of many different people, all of whom are vital to its work. This includes people on differing employment terms, who for the purposes of this policy we refer to as 'staff' and are listed below:

- All salaried employees
- All prospective employees – who are part-way through recruitment
- Contractors and sub-contractors
- Agency staff; and
- Committee, sub-committee and advisory group members (who may not be directly employed or engaged by the organisation)

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.'

Decision making staff in this organisation are:

- Executive and non executive directors (or equivalent roles) who have decision making roles which involve the spending of taxpayers' money
- Members of advisory groups which contribute to direct or delegated decision making on the commissioning or provision of taxpayer funded services
- Those at Agenda for Change band 8d and above
- Administrative and clinical staff who have the power to enter into contracts on behalf of their organisation
- Administrative and clinical staff involved in decision making concerning the commissioning of services, purchasing of good, medicines, medical devices or equipment, and formulary decisions

In line with the points set out above, examples of the categories of staff this may apply to includes:

- CCG Employees – all full and part time staff, permanent staff, staff on sessional or short term contracts, students, trainees and apprentices, agency staff and seconded staff;

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- Members of the CCG - all GP Practice Partners or where the practice is a company each Director, all Practice Managers and any other practice individual (clinical or non clinical) directly involved with business or decision making of the CCG;
 - Members of the CCG Governing Body (and its committees and sub committees) – including co-opted members, appointed deputies and any members from other organisations.
 - and anyone else required to declare interests under a contract for their services – all self employed consultants, CSU embedded staff.

All these categories must complete the declaration of Interest form (Appendix 2) and ensure that declarations of interest are made and regularly confirmed or updated in the following circumstances:

- On appointment: applicants for any appointment to the CCG should be asked to declare any relevant interests as part of the election/recruitment process. When an appointment is made, a formal declaration of interests should be made and recorded.
- Annually: all interests should be confirmed annually to ensure that the register is accurate and up to date. Where interests have changed a newly completed and signed form will be required. Where interests have not changed a “nil return” sent via email will be accepted and recorded.
- At meetings: all attendees should be asked under a standing item on the agenda of the meeting by the Chair, to declare any interest they have in any agenda item before it is discussed or as soon as it becomes apparent. Even if the interest is declared in the register of interests, it should be declared in meetings where matters relating to that interest are discussed. Declarations of interest made should be recorded in the minutes of the meeting.
- On changing role or responsibility: where an individual changes role or responsibility within the CCG or its Governing Body, any change to the individual’s interests should be declared.
- On any other change of circumstances: wherever an individual’s 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 sets up a new business or relationship), a further declaration should be made to reflect the change in circumstances. This could involve a conflict of interest ceasing to exist or a new one materialising.
- At the beginning of a new project/piece of work

In keeping with the Health and Social Care Act Regulations, individuals who have a conflict should declare this as soon as they become aware of it, and in any event no later than 28 days after becoming aware. The declaration of interest form should be completed and returned for all interests (restating existing interests and with new interests added) to the Director of Corporate Affairs.

Where an individual is unable to provide a declaration in writing, e.g. if a conflict becomes apparent in the course of a meeting, they will make an oral declaration before witnesses, and provide a written declaration as soon as possible thereafter, but no later than 28 days. If the individual, for any reason, has difficulty making a declaration in writing, then they should contact the Director of Corporate Affairs for assistance and support.

If an individual fails to declare an interest or the full details of the interest this may result in disciplinary action resulting in the individual being dismissed or removed from their role.

Appendix 2: Declaration of Interest Form

4.4 What should be declared Outside Employment

- Staff should declare any existing outside employment on appointment and any new outside employment when it arises.
- The nature of the outside employment (eg who it is with, a description of duties, time commitment) and relevant dates.

Where a risk of conflict of interest arises, the general management actions outlined in this policy should be considered and applied to mitigate risks.

Where contracts of employment or terms and conditions of engagement permit, staff may be required to seek prior approval from the organisation to engage in outside employment.

The organisation may also have legitimate reasons within employment law for knowing about outside employment of staff, even when this does not give rise to risk of a conflict.

Shareholdings and other ownership issues

- Staff should declare, as a minimum, any shareholdings and other ownership interests in any publicly listed, private or not-for-profit company, business, partnership or consultancy which is doing, or might be reasonably expected to do, business with the organisation. Including the nature of the shareholdings/other ownership interest and relevant dates.
- There is no need to declare shares or securities held in collective investment or pension funds or units of authorised unit trusts.

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

Patents

- Staff should declare patents and other intellectual property rights they hold (either individually, or by virtue of their association with a

commercial or other organisation), including where applications to protect have started or are ongoing, which are, or might be reasonably expected to be, related to items to be procured or used by the organisation.

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

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

Loyalty interests

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

- Hold a position of authority in another NHS organisation or commercial, charity, voluntary, professional, statutory or other body which could be seen to influence decisions they take in their NHS role.
- Sit on advisory groups or other paid or unpaid decision making forums that can influence how an organisation spends taxpayers' money.
- Are, or could be, involved in the recruitment or management of close family members and relatives, close friends and associates, and business partners.
- Are aware that their organisation does business with an organisation in which close family members and relatives, close friends and associates, and business partners have decision making responsibilities.

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

4.5 Maintaining a Register of Interests

The declaration of interest forms will be used to create registers of interest. The Director of Corporate Affairs will maintain the following registers of the declared relevant and material interests of:

- Members of the CCG
- Members of the CCG Governing Body
- Members of the committees and sub committees of the Governing Body
- Employees of the CCG and other NHS bodies acting for them and Contractors of the CCG

The registers will be published on the CCG's website at www.shropshiretelfordandwrekinccg.nhs.uk and will be made available on request for inspection at the CCG's headquarters. The registers will also be reported to Audit Committee twice a year, and included in the CCG's Annual Report. By signing and declaring interests, the individual is deemed to give permission for this information to be shared publicly. If there is any reason that the individual believes that their interest should not be included on the public register, then they should contact the Director of Corporate Affairs to explain why. In exceptional circumstances, for instance where publication of information might put a member of staff at risk of harm, information may be withheld or redacted on public registers. However, this would be the exception and information will not be withheld or redacted merely because of a personal preference.

The CCG will send annual reminders to all its members, Board and committee members and employees to check for accuracy of the register.

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 it expired. This record of historic interests may be viewed by members of the public following application to the Director of Corporate Affairs.

The register of interests will also record the planned mitigating action if the actual or potential conflict arises. Individuals declaring interests should make themselves aware of these proposed actions, so they can comply if the conflict arises.

Appendix 3: Declarations of Interest Register

4.6 Managing conflicts of interest

Within a week of any relevant interest being declared for the first time in line with section 4.3 above, the arrangements for managing any actual or potential conflicts of interest arising from the declared interest will be set out in the register of interests against the specific declared interest for the individual by the Director of Corporate Affairs.

All individuals covered by this policy must comply with the arrangements communicated to them in the register of interests. Where an interest has been declared, the individual will ensure that before participating in any activity connected with commissioning, he or she has received confirmation of the arrangements to manage the conflict of interest via the register of interests.

In relation to the procedure for declaring interest at meetings, the chair will ask at the beginning of each meeting under the "Declarations of Interest" agenda item if anyone has:

- 1) Any interest already declared on the register that conflicts with any item on that specific agenda; and/or
- 2) Any new interest that has not already been declared on the register, that may or may not conflict with any item on that specific agenda.

In response, where an individual, employee or person providing services to the CCG is attending a meeting and is aware of an interest that has previously been declared on the register, the individual will bring this interest and the agenda item it conflicts with, to the attention of the chair of the meeting, together with details of arrangements which have been confirmed in the register of interests for the management of the conflict of interest or potential conflict of interest.

The Chair will then make a decision about what action needs to be taken in the meeting based upon the arrangements already stated in the register.

Alternatively, where an individual, employee or person providing services to the CCG attending a meeting is aware of any new interest which has not been declared in the register (whether this conflicts with an agenda item or not), he or she will declare this under the "Declaration of Interest" agenda item. If the declaration of the interest is simply because it is a new interest and does not conflict with any item on the agenda, this will be noted by the Chair and added to the minutes and the Director of Corporate Affairs will be informed to add to the register of interests.

If this new interest conflicts with an item on the agenda, the individual will also outline what the conflict is. As no arrangements will have been confirmed in the register for managing this new conflict, the Chair of the meeting will decide how the conflict will be managed in the meeting. If the Chair feels the conflict is sufficiently material, they may require the individual to withdraw from the meeting or part of it until the arrangements for managing the conflict in the future are added to the register. The individual will then comply with these arrangements, which must be recorded in the minutes of the meeting. The Chair will then communicate this to the Director of Corporate Affairs.

The Chair of the CCG Governing Body or any of its committees or sub committees has ultimate responsibility for determining how any conflict should be managed, and will inform the individual of the decision. This may mean that the management arrangements in the register are overridden, if the Chair feels the circumstances warrant it. In making such decisions, the Chair (or vice chair or remaining non-conflicted members) may wish to consult with the Conflicts of Interest Guardian or another member of the CCG Governing Body if this is possible.

It is the responsibility of each individual member of the meeting to declare any relevant interest which they may have. However, should the Chair or any other member of the meeting be aware of facts or circumstances which may give rise to a conflict, but which the individual themselves have not declared, then they should bring this to the attention of the Chair. This may happen particularly if the individual has not realised that an agenda item has an indirect link with the declared interest, yet another member of the meeting has.

It is good practice for the Chair, with support of the Director of Corporate Affairs, 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 meetings are not sent to conflicted individuals in advance of the meeting where relevant.

Where the Chair him/herself has a personal interest, previously declared or otherwise, in relation to the scheduled or likely business of the meeting, he or she must make a declaration and the deputy Chair will act as Chair for the relevant part of the meeting. Where arrangements have been confirmed for the management of the conflict of interest or potential conflict of interest in relation to the Chair, the meeting must ensure these are followed. Where no arrangements have been confirmed, the Deputy Chair may require the Chair to withdraw from the meeting or part of it. Where there is no Deputy Chair, the members of the meeting will agree between themselves who will chair the meeting. In making such decisions, the chair (or vice chair or remaining non-conflicted members) may wish to consult with the Conflicts of Interest Guardian if this is possible.

Declarations of interests, and the arrangements agreed to manage them, will be recorded in the minutes of the meeting.

To support chairs in their role, they should refer to the declaration of interest checklist attached as Appendix 4.

Appendix 4: Declarations of Interest Checklist for Chairs

4.7 Declarations of Interests on Application for Appointment or Election/appointment to the CCG

Individuals applying for appointment for any position in the CCG will be required, as part of the appointments process, to declare any relevant interests. This includes:

- Lay member appointments to the Governing Body;
- Other appointments of external individuals to the Governing Body, its committees, sub committees and other working or project groups;
- Professional medical practitioners or practice employees standing for election to the Governing Body; and
- All employees and individuals contracted to work for the CCG, particularly those operating at senior or Governing Body level.

The purpose of such declarations will be to enable the Conflicts of Interest Guardian (for Governing Body/Committee roles) or line manager (for staff) to assess, on a case to case basis, whether any of the declared interests are such that they could not be managed under this policy, and would prevent the individual from making a full and proper contribution to the CCG, thus excluding the individual from appointment or election to the CCG.

In so doing the Conflicts of Interest Guardian or line manager will take into consideration the materiality of the declared interest and the extent to which the individual could benefit from any decision of the CCG. For example, any individual who has a material interest in an organisation that undertakes, or is likely to undertake, substantial business with the CCG as a healthcare provider or a commissioning support service should not be a member of the Governing Body, if the nature of their interest is such that they are likely to need to exclude themselves from decision making on so regular basis that it significantly limits their ability to effectively operate as a Governing Body member.

4.8 Mitigating conflicts of interest

Where a conflict of interest exists, there are various ways in which the conflict may be managed, depending on its impact. The level of mitigating action will be determined by the Chair of the meeting based upon previously prescribed mitigating actions stated in the register of interests, in consultation with the Conflicts of Interest Guardian or another non-conflicted Governing Body member, and in the case of an employee, by the line manager. This decision will be recorded in the relevant minutes based upon what is stated in the register of interests and communicated to the individual making the declaration in writing as per section 4.5 above.

The appropriate course of action will depend on the particular circumstances, but could include:

- Requiring the individual who has a conflict of interest not to attend the meeting;
- Ensuring the individual concerned does not receive the supporting papers or minutes of the meeting which relate to the matter where these are not already available in the public domain;
- Requiring the individual to leave the discussion when the relevant matter(s) are being discussed and when decisions are being taken in relation to those matters. When this happens in a public meeting the individual would still need to leave the room and not sit in the public gallery, as they may be perceived to influence any decision taken by remaining in the room.
- Allowing the individual to participate in some or all of the discussion when the relevant matter is being discussed but requiring them to leave the meeting when any decisions are being taken in relation to those matters. This may be appropriate where, for example, the conflicted individual has important relevant knowledge and experience of the matter 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 appropriate course of action where it is decided that the interest which has been declared is either immaterial or not relevant to the matter under discussion.

NHS England has published a range of conflicts of interest case studies which may be helpful in determining the conflict and how to mitigate it:

<https://www.england.nhs.uk/commissioning/wp-content/uploads/sites/12/2016/06/coi-case-studies-jun16.pdf>

The following framework¹ will be used to determine what level of mitigation can be put in place to limit the conflict of interest.

Application of the different levels is cumulative, so each interest will be judged against level 1 in the first instance, and if not suitable then level 2 and so on.

Where mitigation arises from any level of management strategy above level 1, the Chair and Conflicts of Interest Guardian would be expected to conduct informal discussions with the individual concerned to ensure they fully understand the action requested of them, and they have an opportunity to seek clarity or raise concerns.

It is imperative that to ensure complete transparency, if any conflicts of interests 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
- The items on the agenda to which the interest relates
- How the conflict was agreed to be managed
- Evidence that the conflict was managed as intended i.e. by recording when individuals left or returned to the meeting.

A template is appended as Appendix 5

Appendix 5: Template for recording minutes

¹ Based upon the publication from ICAC and CMC: "Managing Conflicts of Interest in the Public Sector" – Toolkit November 2004, Tool 9.2 management options ready reckoner Page 60.

Mitigation	When most suitable	When least suitable	Strategies
<p><u>Level 1 - Register</u></p> <p>Where details of the existence of a possible or potential conflict of interest are formally registered</p> <p><u>All interests must be registered in full</u></p>	<ul style="list-style-type: none"> • For very low-risk conflicts of interest and potential conflicts of interest • Where the act of transparency through recording the conflict of interest is sufficient 	<ul style="list-style-type: none"> • The conflict of interest is more significant or of higher risk • The potential or perceived effects of a conflict of interest on the proper performance of the individual acting for the CCG requires more pro-active management 	<ul style="list-style-type: none"> • Ensure that the interest is widely known by including in the publicly available register of interests • Ensure register of interests is included with the Board agenda so Board members are aware of the conflict. • Ensure register of interests is shared and accessible to all managers so they are aware of staff declarations of interest • If an individual fails to declare an interest or the full details of the interest, this may result in the individual being dismissed or removed from their role.
<p><u>Level 2 - Restrict</u></p> <p>Where restrictions are placed on the individual's involvement in the matter</p>	<ul style="list-style-type: none"> • The individual can be effectively separated from parts of the activity or process • The conflict is not likely to arise frequently 	<ul style="list-style-type: none"> • The conflict is likely to arise more frequently • The individual is constantly unable to perform a number of their regular duties/role because of the conflict of interest issues. 	<ul style="list-style-type: none"> • Non-involvement in any critical criteria setting or decision-making role in the process concerned • Refrain from taking part in any debate about the issue • Abstaining from voting on decision proposal • Withdrawing from discussion of affected proposals and plans whether in part 1 or part 2 or a meeting. • Having restricted access to information relating to the conflict of interest • Being denied access to sensitive documents

			or confidential information relating to the conflict of interest
<p><u>Level 3 - Recruit</u></p> <p>Where a disinterested third party is used to oversee part or all of the process that deals with the matter.</p>	<ul style="list-style-type: none"> • It is not feasible or desirable for the individual to remove themselves from the decision making process • Where the expertise of the individual is necessary and not genuinely not easily replaced 	<ul style="list-style-type: none"> • The conflict is serious and ongoing, rendering ad hoc recruitment of others unworkable • Recruitment of a third party is not appropriate for the proper handling of the matter • A suitable third party is unable to be sourced 	<ul style="list-style-type: none"> • Arranging for the affected decision to be made by an independent third party • Engaging a third party or auditor to oversee or review the integrity of the decision making process. • Increase the number of people sitting on the decision-making body to balance the influence of a single member who may have a conflict of interest but who has a defensible reason for remaining on the decision making body • Seeking the views of those likely to be concerned about a potential, actual or reasonably perceived conflict of interest, about whether they object to the individual having any, or any further, involvement in the matter
<p><u>Level 4 - Remove</u></p> <p>Where the individual is removed from the matter</p>	<ul style="list-style-type: none"> • For ongoing serious conflicts of interest where ad hoc restriction or recruitment of others is not appropriate 	<ul style="list-style-type: none"> • The conflict of interest and its perceived or potential effects are of low risk or low significance • The individual is prepared to relinquish the relevant private interest rather than radically change their work responsibilities or environment 	<ul style="list-style-type: none"> • Removing the individual from any involvement in the matter • Abstaining from any formal or informal discussion about the matter • Removing the individual from the situation where they may still exert or be perceived to exert a covert influence on decisions or actions in the matter. • Rearranging the individual's duties and responsibilities to a non-conflicting function

			<ul style="list-style-type: none"> • Transferring the individual to another project • Transferring the individual to another area of the CCG • Ensuring that the duties/role in which the conflict of interest has arisen are not reallocated to another officer who is supervised by the individual concerned.
<p><u>Level 5 - Relinquish</u></p> <p>Where the individual relinquishes the private interest that is creating the conflict</p>	<ul style="list-style-type: none"> • The individual's commitment to public duty outweighs their attachment to their private interest 	<ul style="list-style-type: none"> • The individual is unable or willing for various reasons to relinquish the relevant private interest 	<ul style="list-style-type: none"> • Individual liquidates their private interest • Individual divests themselves of or withdraws their support for the private interest (this would not be appropriate if the interest is an essential part of the individual's qualification for the position, such as membership of a professional body.)
<p><u>Level 6 - Resign</u></p> <p>Where the individual resigns from their position with the CCG</p>	<ul style="list-style-type: none"> • No other options are workable • The individual cannot or will not relinquish their conflicting private interest and changes to their work responsibilities or environment are not feasible • The individual prefers this course as a matter of personal principle 	<ul style="list-style-type: none"> • The conflict of interest and its potential or perceived effects are of low risk or low significance • Other options exist that are workable for the individual and CCG 	<ul style="list-style-type: none"> • Resignation from the position with the CCG

4.9 Quorum

If members of a meeting are required to withdraw from a meeting or part of it, owing to the arrangements agreed for the management of conflicts of interests or potential conflicts of interests and the number of unconflicted members left is below the quorum stipulated for the meeting, the Chair (or Deputy Chair) will determine whether or not the discussion can proceed.

In making this decision, the Chair will consider whether the meeting is quorate, in accordance with the number and balance of membership set out in the group's standing orders. Where the meeting is not quorate, owing to the absence of certain members, the discussion will be deferred until such time as a quorum can be convened. Where a quorum cannot be convened from the membership of the meeting, owing to the arrangements for managing conflicts of interest or potential conflicts of interests, the Chair of the meeting shall consult with the Accountable Officer and the Director of Corporate Affairs what action should be taken.

Mitigating action to be considered may include:

- requiring the Governing Body or another committee or sub-committee to progress the item of business, or if this is not possible,
- inviting, on a temporary basis one or more individuals to make up the quorum (where these are permitted members of the governing body or committee / sub-committee in question) so that the group can progress the item of business, and this is set out in the CCG's Constitution.

These arrangements must be recorded in the minutes.

4.10 Declarations of Interest in relation to Procurement

In order for the CCG to recognise and manage any conflicts or potential conflicts, declarations of interest, including nil returns where appropriate, will be required from CCG members and CCG/CSU staff in relation to every procurement exercise, including the use of single tender actions (waivers), on which they are engaged. The CCG Commissioning Lead overseeing a procurement process should ensure that the CSU Procurement team seeks declarations of interest at the outset from those individuals involved, and at key points in the procurement process, including at the beginning of project meetings, upon receipt of tenders and during the moderation process. The original signed declaration of interest will be held by the CSU Procurement team and a copy sent to the Director of Corporate Affairs for inclusion in the Register of Interests, and for notification to the Audit Committee and Governing Body. A copy of the declaration of interest form for procurement is attached as Appendix 6.

Particular consideration needs to be given to the role of GP members in procurement exercises where:

-
- the CCG is proposing to commission through competitive tender and GP practices are likely to bid
 - the CCG is proposing to commission through an Any Qualified Provider process, where GP practices are likely to be among the qualified providers offering to provide the service
 - the CCG is proposing to commission through single tender from GP practices
 - the CCG is proposing to continue to commission by contract extension from GP practices

Where a declaration states an interest that has not already had mitigating action considered and communicated to the individual concerned, then the Director of Corporate Affairs will liaise with the Chair and Conflicts of Interest Guardian to consider whether the conflicts of interest declared specifically for a procurement process would preclude the individual from continuing, or whether mitigating actions can be taken to allow the individual to continue to take a part in the procurement process.

Appendix 6: Procurement declaration of Interest (Project Team)

4.11 Register of Procurement Decisions

In order for the CCG to maintain transparency of decision making and to demonstrate conflicts of interest are managed effectively, the CCG will maintain and publish a register of procurement decisions. A copy of the register of procurement decisions is attached as Appendix 7 and will be made public on the CCG's website.

The register should be updated whenever a procurement decision is taken, which includes procurement of a new service, any extension of a current contract or material variation to a current contract.

In the interests of transparency, the register of Procurement decisions, like the register of interests, will be published on the CCG's website at www.shropshiretelfordandwrekinccg.nhs.uk and will be made available on request for inspection at the CCG's headquarters. The registers will also be reported to Audit Committee three times a year, reported twice yearly to the Governing Body and included in the CCG's Annual Report.

Appendix 7: Register of Procurement Decisions

4.12 Designing services and conflicts of interest

The CCG recognises the benefits to be gained from engagement with relevant providers, especially clinicians, in confirming the design of service specifications. However, Monitor's procurement regulations highlights that conflicts of interest can occur 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 for in a competitive process.

The same difficulty could arise in developing a specification for a service that is to be commissioned using the 'Any Qualified Provider' process, such as where there is not a competitive procurement but patients can instead

choose from any qualified provider that wishes to provide the service and can meet NHS standards and prices.

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

The CCG will seek to follow the principles set out in the Office of Government Commerce guidance on pre-procurement engagement with potential bidders, in engaging with potential providers when designing service specifications. Such engagement should follow the three main principles of procurement law, namely equal treatment, non-discrimination, and transparency. This includes ensuring that the same information is given to all at the same time and procedures are transparent.

The CCG will consider the following points when engaging with potential service providers:

- Use engagement to help shape the requirement but take care not to gear the requirement in favour of any particular provider(s).
- Ensure at all stages that potential providers are aware of how the service will be commissioned, e.g. through competitive procurement or through the 'Any qualified provider' process.
- Work with participants on an equal basis, e.g. ensure openness of access to staff and information.
- Be transparent about procedures.
- Maintain commercial confidentiality of information received from providers.

Engagement with potential providers should be used to:

- frame the requirement;
- focus on desired outcomes rather than specific solutions; and
- consider a range of options for how a service is specified.

Other practical steps the CCG may also consider adopting are:

- Advertise the fact that a service design/re-design exercise is taking place widely (e.g. on NHS Supply2Health) and invite comments from any potential providers and other interested parties (ensuring a record is kept of all interactions) – i.e. do not be selective in who works on the service specifications unless it is clear conflicts will not occur;
- As the service design develops, engage with a wide range of providers on an ongoing basis to seek comments on the proposed design, e.g. via the commissioner's website or workshops with interested parties;

-
- Use engagement to help shape the requirement to meet patient need but take care not to gear the requirement in favour of any particular provider(s);
 - If appropriate, engage the advice of an independent clinical adviser on the design of the service;
 - Be transparent about procedures;
 - Ensure at all stages that potential providers are aware of how the service will be commissioned;
 - Maintain commercial confidentiality of information received from providers; and
 - When specifying the service, specify desired (clinical and other) outcomes instead of specific inputs.

Where an individual has declared a relevant and material interest or position in the context of the specification for, or award of, a contract the individual concerned will be expected to act in accordance with the arrangements for the management of conflicts of interest outlined with this policy and may be excluded from the decision making process in relation to the specification or award.

Monitor has issued guidance on the use of provider boards in service design:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/284832/ManchesterCaseClosure.pdf

4.13 Commissioning New Care Models

This section addresses the management of conflicts of interest in the changing landscape of the NHS. As this landscape changes and providers/commissioners develop new models of care consideration of the Conflicts of Interest that may result will be needed. New care models refer to any multi-speciality community provider (MCP), Primary and Acute Care Systems (PACS) or other arrangements of a similar scale or scope that (directly or indirectly) includes primary medical services.

Where the CCG is commissioning new care models, 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 statutory guidance and this policy. The position should also be reviewed whenever an individual's role, responsibility or circumstances change in a way that affects the individual's interests.

There may be occasions where the conflict of interest is profound and acute, to an extent where the CCG will want to consider whether, practically, such an interest is manageable at all. 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 as set out in the table on page 23, level 7 - terminate.

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.

The CCG 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.

Similarly, the CCG 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.

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.

The CCG 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. There are a number of options the CCG could consider:

- 1) The CCG 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.
- 2) The establishment of a NCM Commissioning Committee as a sub committee of the Governing Body 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.

4.14 Contract Monitoring

The management of conflicts of interest applies to all aspects of the commissioning cycle, including contract management.

Any contract monitoring meeting needs to consider conflicts of interest as part of the process by the Chair of the contract meeting inviting declarations of interest, record and declared interests in the minutes of the meeting (see Appendix 5); and manager any conflicts appropriately and in line with this guidance. This applies equally where a contract is held jointly with another organisation such as the Local Authority or with other CCGs under co-ordinating commissioner arrangements.

The individuals involved in the monitoring of a contract should not have any direct or indirect financial, professional or personal interest in the incumbent provider or 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.

Commissioning Leads should be mindful of any potential conflicts of interest when they disseminate any contract or performance information/reports on providers, and manage the risk appropriately.

4.15 Specific safeguards for managing conflicts of interest for General Practices that are potential providers of CCG-commissioned services

The CCG may commission primary care services, including incentive schemes, from General Practices. If a General Practice, or group of practices, provides a service, the CCG will need to demonstrate to the Audit Committee (and to the external and internal auditors) that the service:

- a) clearly meets local health needs, and has been planned appropriately;
- b) goes beyond the scope of the GMS / PMS contract;
- c) offers best value for money; and
- d) has been commissioned via the appropriate procurement process.

A General Practice or group of practices may belong to a provider consortium in which GPs have a financial interest.

Where General Practices are potential providers of CCG-commissioned services, the NHS Commissioning Board's Code of Conduct for managing conflicts of interest should be followed (Appendix 8) and the procurement should be approved by the Audit Committee.

Appendix 8: Code of Conduct template

4.16 Specific safeguards for managing conflicts of interest for contractors and people who provide services directly to the CCG

Anyone participating in the procurement, or otherwise engaging with CCG, in relation to the provision of services or facilities, will be required to make a declaration of any conflict or potential conflict of interest.

The Commissioning Lead overseeing a procurement process should ensure that the CSU Procurement team seeks declarations of interest from potential bidders/contractors in the procurement process (Appendix 9), with the original signed declaration of interest held by the CSU Procurement team.

Anyone contracted to provide services or facilities directly to the CCG will be subject to the same provisions of the Constitution in relation to managing conflicts of interests. This will include services provided by external organisations like Commissioning Support Services, private businesses, and third sector/non profit organisations. This requirement will be set out in the contract for services. Contractors will be required to make a declaration on form included as Appendix 9, which will need to be returned to the CSU Procurement Team.

Appendix 9: Declaration of conflicts of interest for bidders/contractors template

5 Raising Concerns and Reporting Breaches

Failure to comply with the CCG's policy on conflicts of interest could result in the CCG facing civil challenges to decisions they make which could delay development of better services for patients. In extreme cases staff and other individuals could face personal civil liability e.g. a claim of misfeasance in public office. Failure to manage conflicts of interest could also lead to criminal proceedings including for offences such as fraud, bribery and corruption. The Conflicts of Interest Policy should be read in conjunction with the CCG's Declaration of Gifts, Hospitality and Sponsorship – Anti Bribery Policy and Procedure and Counter Fraud and Corruption response Policy.

It is therefore 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 to the Conflicts of Interest Guardian or the Director of Corporate Affairs who will investigate.

However, where an individual wishes to have their concern dealt with in confidence, non compliance or suspected non-compliance with the Conflicts of Interest Policy should be reported in the first instance to the Director of Corporate Affairs, following the CCG's Raising Concerns at Work Policy. If anyone wishes to report non compliance who is not an employee of the CCG and they wish it to be treated confidentially then they should ensure that they follow their own organisation's Whistleblowing Policy. The procedure for investigation and reporting back is set out in the CCG's Raising Concerns at Work Policy which can be found on the CCG's website.

Following investigation, an anonymous report would be presented to the CCG's Audit Committee, together with an action plan and/or areas for lessons learnt to be disseminated.

In those cases where the breach is of such a material nature that it requires an HR investigation, the Director of Corporate Affairs will liaise with HR on evoking processes under the CCG's Disciplinary Policy. In these

circumstances the Accountable Officer will inform The Area Director at NHS England Midlands and East.

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

Any suspicions or concerns of acts of fraud, bribery or corruption should be reported to the CCG's nominated Counter Fraud Specialist:

- Mr Paul Westwood, Counter Fraud Specialist
- Telephone 07545 502400
- Email paul.westwood@cwaudit.org.uk
or secure email pwestwood@nhs.net

Or CCG's Fraud Champion:

- Mrs Laura Clare, Deputy Director of Finance
- Telephone 07808 159217
- Email laura.clare@nhs.net

Alternatively any suspicions or concerns of acts of fraud, bribery and/or corruption can be reported online via <https://cfa.nhs.uk/reportfraud> or via the NHS Fraud and Corruption reporting line on 0800 028 4060.

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

6 Breaches of the Policy

- 6.1 If any individual fails to declare an interest or the full details of the interest, this may result in disciplinary action resulting in the individual being dismissed or removed from their role.
- 6.2 Any unwitting failure to declare a relevant and material interest or position of influence, and/or to record a relevant or material interest or position of influence that has been declared, will not necessarily render void any decision made by the CCG or its properly constituted committees and sub-committees, although the CCG will reserve the right to declare such a contract void.

7 Related Documents

The following documents contain information that relates to this policy:

- NHS Shropshire, Telford and Wrekin CCG Constitution
- NHS Shropshire, Telford and Wrekin CCG Standing Orders, Scheme of Reservation and Delegation of Powers and Prime Financial Polices
- Declarations of Gifts, Hospitality and Sponsorship - Anti-Bribery Policy and Procedure

-
- Counter Fraud and Corruption Response Policy
 - Raising Concerns at Work Policy
 - NHS England's Managing Conflicts of Interest: Revised Statutory Guidance for CCGs gateway reference 06768 16/06/17

8 Dissemination

This policy will be disseminated by the following methods:

- Publication on the CCG website and intranet site

Staff:

- Staff bulletin with declaration of interest form attached for completion.
- Directors/line managers to raise awareness of the policy via staff briefings.

Governing Body members:

- Email circulated by the Director of Corporate Affairs to highlight the new policy and ask for any amended interests to be declared.

CCG members:

- Awareness raising at Locality Boards by the Chair of the CCG.
- Letter from Chair to Locality Board's GP/Practice Manager representatives, asking them to read the policy and make the necessary declarations of interest.

9 Training and Advice

Training will be provided on an annual basis via an online training package provided by NHS England.

Advice on declaration of interests can be sought from the following people:

Alison Smith
Director of Corporate Affairs
NHS Shropshire, Telford and Wrekin
CCG
Halesfield 6
Telford
TF7 4BF
Tel: 01952 580464
Email: alison.smith112@nhs.net

Geoff Braden
Lay Member - Audit
Conflicts of Interest Guardian
NHS Shropshire, Telford and
Wrekin CCG
Halesfield 6
Telford TF7 4BF
Tel: 01952 580464
Email: g.braden@nhs.net

10 Review and Compliance Monitoring

10.1 Review

An annual review of the policy will be undertaken by Internal Audit as part of their audit plan. The outcomes will be reported in the CCG's Annual Governance Statement which forms part of the CCG's Annual Report.

10.2 Compliance Monitoring

The Audit Committee will require assurance annually on compliance with the policy as part of its assurance programme.

Appendix 1

First report of the Committee on Standards in Public Life (1995) The Nolan Principles:

Selflessness – holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.

Integrity – holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

Objectivity – in carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability – holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness – holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty – holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership – holders of public office should promote and support these principles by leadership and example.

Appendix 2

Declaration of Interest Form for Employees and Members

Name:	
Relevant CCG(s):	
Position within, or relationship with, the CCG (or NHS England in the event of joint committees):	

Detail of interests held (complete all that are applicable). If there are no interests please indicate a 'nil' response:

Type of Interest* *See reverse of form for details	Description of Interest (including, for Indirect Interests, details of the relationship with the person who has the interest)	Date interest Relates from and to:		Actions to be taken to mitigate risk (to be agreed with line manager)
		From	To	

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

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.. The information detailed on this signed declaration can be used by the CCG's Counter Fraud Team for the purposes of investigation, sanction and redress.

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

This paragraph applies to decision making staff only (if not applicable please indicate in box below)

I do / do not [~~delete as applicable~~] give my consent for this information to published on registers that the CCG holds. If consent is NOT given please give reasons in the box below:

Employee/Member Signature:

Signature: _____ **Position:** _____ **Date:** _____

Line Manager or Senior CCG Manager

Signature: _____ **Position:** _____ **Date:** _____

Please return to Tracy Eggby-Jones, Corporate Affairs Manager, NHS Shropshire, Telford and Wrekin CCG, Halesfield 6, Telford, TF7 4BF or via e-mail tracy.eggby-jones@nhs.net

Types of interest

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; • A shareholder (or similar owner interests), a partner or owner of a private or not-for-profit company, business, partnership or consultancy which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations. • A management consultant for a provider; • In secondary employment (see paragraph 56 to 57); • In receipt of secondary income from a provider; • In receipt of a grant from a provider; • In receipt of any payments (for example honoraria, one off payments, day allowances or travel or subsistence) from a provider • In receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role; and • Having a pension that is funded by a provider (where the value of this might be affected by the success or failure of the provider).
Non-Financial Professional Interests	<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> <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. • A member of a particular specialist professional body (although routine GP membership of the RCGP, BMA or a medical defence organisation would not usually by itself amount to an interest which needed to be declared); • An advisor for Care Quality Commission (CQC) or National Institute for Health and Care Excellence (NICE); • A medical researcher.
Non-Financial Personal Interests	<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.
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 relative e.g., parent, grandparent, child, grandchild or sibling; • Close friend; • Business partner.

Appendix 4

Declaration of interests Checklist for Chairs

Timing	Checklist
In advance of the meeting	<ul style="list-style-type: none">• Check agenda has standing item for declarations of Interest and states a definition of a conflict of interest• Check the register of interests to establish any actual or potential conflicts of interest that may occur in the meeting from the public register held on the CCG website
During the meeting	<ul style="list-style-type: none">• Check and declare the meeting is quorate• Chair requests members to (1) declare any interests in specific agenda items – stating what conflict has arisen and (2) any new interests that may not have been declared previously, and if they conflict with a specific agenda item.• Chair makes decision as to how to manage each interest which has been declared, either (1) following the prescribed mitigating action outlined in the register of interests for interests already declared on the register or (2) determining for interests newly declared in the meeting, whether /to what extent the individual member should continue to participate in the meeting and that this decision is recorded and actioned.
Following the meeting	<ul style="list-style-type: none">• Check that all new interests declared in the meeting are promptly updated onto a declaration form and transferred onto the register of interests by the Director of Corporate Affairs.• Report what action was taken in relation to a conflicts of interest arising at the meeting or where a conflict of interest has affected quoracy in the Chair's report to the Governing Body or to the meeting's parent Committee.

Appendix 5

Template for recording minutes

XXXX Clinical Commissioning Group Primary Care Commissioning Committee Meeting

Date: XXXXXXXX
Time: XXXXXXXX
Location: XXXXXXXX

Attendees:

Name	Initials	Role
XXXXXX	XX	XXX CCG Governing Body Lay Member (Chair)
XXXXXX	XX	XXX CCG Audit Chair Lay Member
XXXXXX	XX	XXX CCG PPI Lay Member
XXXXXX	XX	Assistant Head of Finance
XXXXXX	XX	Interim Head of Localities
XXXXXX	XX	Secondary Care Doctor
XXXXXX	XX	Chief Clinical Officer
XXXXXX	XX	Chief Executive – Local Healthwatch

In attendance from 2.35pm

XXXXXX XX Primary Care Development Director

Item No	Agenda Item	Actions
1	Chairs welcome	
2	Apologies for absence <apologies to be noted>	
3	<p>Declarations of interest</p> <p><i>XX 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></p> <p><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: http://xxxccg.nhs.uk/about-xxx-ccg/who-we-are/our-governing-body/</i></p> <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, XX declared that he is a shareholder in XXX Care Ltd.</i> <p><i>XX declared that the meeting is quorate and that XX 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 XX.</i></p> <p><i>XX and XX discussed the conflict of interest, which is recorded on the register of interest, before the meeting and XX agreed to remove himself from the table and not be involved in the discussion around agenda item X.</i></p>	
4	<p>Minutes of the last meeting <date to be inserted> and matters arising</p>	
5	<p>Agenda Item <Note the agenda item></p> <p><i>XX 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>XX was brought back into the meeting.</i></p>	
6	<p>Any other business</p>	
7	<p>Date and time of the next meeting</p>	

Appendix 6

Procurement declaration of Interest (Project Team) NHS Shropshire, Telford and Wrekin Clinical Commissioning Group

[INSERT PROJECT TITLE AND CCG NAME]

TENDER REF: [INSERT REF]

PART 1 – CONFLICT OF INTEREST DECLARATION

Name & Organisation:

Name:-	
Title:-	
Organisation:-	
Date:-	

Project Role:

--

Nature of Conflict (please state “none” if no conflict exists):

--

Signed:	
----------------	--

Summary Assessment / Recommendation (to be completed by Project Manager)

This person's involvement in the project [should cease/can continue]:-

Signed:-	
Name:-	
Date:-	

[INSERT PROJECT TITLE AND CCG NAME]
TENDER REF: [INSERT REF]

PART 2 – CONFIDENTIALTY UNDERTAKING

Name & Organisation:

Name:-	
Title:-	
Organisation:-	
Date:-	

Project Role:

--

I understand that I may be invited to participate either directly or indirectly in the procurement process and hereby undertake:

- To treat all information and documents under conditions of strict confidentiality.
- Not to disclose, make any copies of, or discuss any received information with any person who is not directly involved in the procurement process.
- Not to use (or authorise any other person to use) information and documents other than for the purpose of my work in connection with the procurement process.
- To dispose of, or return to the project manager, documents as confidential material as soon as I have no further use of them.

This undertaking applies until the time when the tendering process is complete and a contract signed with the chosen supplier. This undertaking shall not apply to any document or information that becomes public knowledge otherwise than as a result of a breach of any of the above undertakings.

Signed:	
Date:-	

Notes and Guidance

The commissioner is required to ensure that any procurement exercise is undertaken in such a way that ensures:

- Transparency – procurement activities must be fair and open.
- Objectivity – decisions must be based on objective data and criteria.
- Non-discrimination – the procurement process must not discriminate amongst providers.

In support of the above, the commissioner requires that any individual involved in procurement exercise signs up to a conflict of interest and confidentiality undertaking.

Both parts should be completed. All pages should be dated and signed. If the document is completed by hand please ensure that the information required is presented clearly.

1. Notes - Conflict of Interest Declaration

Examples of conflicts of interest include:

- Having a financial interest (e.g. holding shares or options) in a Potential Bidder or any entity involved in any bidding consortium including where such entity is a provider of primary care services or any employee or officer thereof (Bidder Party);
- Having a financial or any other personal interest in the outcome of the Evaluation Process;
- Being employed by or providing services to any Bidder Party;
- Receiving any kind of monetary or non-monetary payment or incentive (including hospitality) from any Bidder Party 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 who falls into any of the categories outlined above; and
- Having any other close relationship (current or historical) with any Bidder Party.

The above is a non-exhaustive list of examples, and it is the participant's responsibility to ensure that any and all potential conflicts – whether or not of the type listed above – are disclosed in the declaration prior to participation in the procurement process.

Any disclosure will be assessed by the commissioner on a case-by-case basis. Individuals will be excluded from the procurement process where the identified conflict is in the commissioner's opinion material and cannot be mitigated or be reasonably dealt with in another way.

2. Notes – Confidentiality Undertaking

The procurement process encompasses any formal and informal meetings, associated discussions, meeting preparation and follow up or any other related activity.

Information means all information, facts, data and other matters of which knowledge is acquired, either directly or indirectly, as a result of participating in the procurement process.

Documents means all draft, preparatory information, documents and any other material, together with any information contained therein, to which the participant has access, either directly or indirectly, as a result of participation in the procurement process. Furthermore, any records or notes made by the participant relating to information or documents shall be treated as confidential documents.

Staffordshire and Lancashire CSU

Anglesey House
Towers Business Park
Rugeley
Staffordshire
WS15 1UL

Appendix 8

Code of Conduct Template

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? ²	

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

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

Appendix 9

Template Declaration of conflict of interests for bidders/contractors

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

Name of Relevant Person	<i>[complete for all Relevant Persons]</i>	
Details of interests held:		
Type of Interest	Details	Personal interest or that of a family member, close friend or other acquaintance?
Provision of services or other work for the CCG or NHS England		
Provision of services or other work for any other potential bidder in respect of this project or procurement process		

Any other connection with the CCG or NHS England, whether personal or professional, which the public could perceive may impair or otherwise influence the CCG's or any of its members' or employees' judgements, decisions or actions		
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I confirm that the information provided above is complete and correct. I acknowledge that any changes in these declarations must be notified to the CCG as soon as practicable and no later than 28 days after the interest arises. I am aware that if I do not make full, accurate and timely declarations then civil, criminal, professional regulatory or internal disciplinary action may result.

The information detailed on this signed declaration can be used by the CCG's Counter Fraud Team for the purposes of investigation, sanction and redress.

Signed:

On behalf of:

Date: