

NHS LIVERPOOL CCG

**CONFLICTS OF INTEREST
POLICY**

VERSION 2.1 – September 2017

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Any changes to this policy should be outlined and recorded in the version control table below. In the event of any changes to relevant legislation or statutory procedures or duty this policy will be automatically updated to ensure compliance without approvals being necessary.

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1. INTRODUCTION

Liverpool Clinical Commissioning Group (hereafter referred to as ‘the CCG’) is committed to ensuring public funds are used appropriately and efficiently and recognises that it is placed in a significant position of trust in relation to responsibilities for the commissioning of healthcare services. In order to inspire and retain patient and public confidence in the CCG’s decision making the highest standards of probity, transparency and accountability will be applied when commissioning services for the population of Liverpool and when dealing with stakeholders, partners and suppliers.

Conflicts of interest can arise in many situations, environments and forms of commissioning. There is, for example a particularly increased risk in the delegated commissioning of primary care medical services, out-of-hours services and involvement with integrated care organisations; in some cases, clinical commissioners could, theoretically find themselves in a dual position of being a commissioner and provider of healthcare services. Identifying and managing conflicts of interest (real or perceived) is therefore essential in the promotion of transparency and maintaining public trust, demonstrating integrity and avoiding any potential or real situations of undue bias or influence in the CCG’s decision-making process.

For a GP or any other individual involved in commissioning, a conflict of interest may arise when their own judgment as an NHS commissioner could be, or be perceived to be, influenced and impaired by their own concerns and obligations as a healthcare or related provider, or as a member of a particular peer, professional or special interest group or as a friend or family member.

This policy is an expansion on Section 8 of the CCG’s Constitution and sets out Liverpool CCG’s arrangements for the management of conflicts of interest and potential conflicts of interest arising from the operation of the CCG’s commissioning activities and decisions.

2. SCOPE

The CCG’s Governing Body has a legal obligation to act in the best interests of Liverpool CCG and in accordance with its Constitution, and this policy applies to all CCG employees regardless of whether they are directly employed, in a seconded post or whether their remit is clinical or corporate. This includes:

- Members of the CCG acting in a formal capacity for the CCG as a member of a committee, decision making group or involved in any service design/procurement activity (including consultations);
- Governing Body Members (clinical, executive and lay members);
- Committees and sub-committees of the CCG;
- Committees and sub-committees of the Governing Body;

- CCG employees;
- Locality, neighbourhood and other relevant local commissioning structures, and;
- Contractors

Collectively, and for the purpose of this policy the above will generally be referred to as 'CCG members and staff' throughout the document. Where specific clarification is required, this will be appropriately referenced.

This policy does not replace or supersede the CCG's Standing Orders or Prime Financial Policies contained within the CCG's Constitution, which will always take primacy.

2.1 Decision Making Staff

It is recognised that because of the requirements of their role, some staff are more likely than others to have a 'decision making' influence on the use of public money. References to 'decision making staff' in this policy document will include the following:

- Lay Members or equivalent roles which have decision making powers regarding the spending of public money;
- General Practitioners of Member Practices;
- Staff with 'budget holder' responsibilities as part of their role;
- Administrative and clinical staff who have the power to enter into contracts on behalf of the NHS Liverpool CCG;
- Administrative and clinical staff involved in decision making concerning the commissioning of services, purchasing of goods, medicines, medical devices or equipment and formulary decisions.

The above list is not exhaustive, and the definition will be used broadly within the context of those groups or individuals who have a material influence on how public money is spent. All staff will be prompted on an annual basis to review declarations they have made and, as appropriate, update them or make a nil return.

NHS England has published further guidance for specific staff groups on how the national guidance on conflicts of interest applies to them. This information is available via the following link: www.england.nhs.uk/ourwork/coi

3. ASSOCIATED DOCUMENTATION

This policy should be read in conjunction with the following documents, which also set out generic guidelines and responsibilities for NHS organisations and General Practitioners in relation to conflicts of interests:

- Liverpool CCG's Constitution and Standing Orders (SO), Scheme of Delegation (SD) and Standing Financial Instructions (SFI)

- Liverpool CCG Standards of Business Conduct Policy (September 2017)
- NHS Liverpool CCG Anti-Fraud, Bribery & Corruption Policy (2016)
- Liverpool CCG Sponsorship Policy (September 2017)
- NHS England: Managing Conflicts of Interest: Revised Statutory Guidance for CCGs (June 2017)
- NHS England: Managing Conflicts of Interest: Revised Statutory Guidance for CCGs (June 2016)
- NHS England: Code of Conduct: Managing conflicts of interest where GP practices are potential providers of CCG-commissioned services (July 2012)
- The Healthy NHS Board: Principles for Good Governance
- General Medical Council: Good Medical Practice 2006
- The National Health Service (Procurement, Patient Choice and Competition) Regulations 2013
- Standards for members of NHS Boards and CCG Governing Bodies in England (Professional Standards Authority - November 2013).

4. PRINCIPLES OF THIS POLICY

The main principle of this policy is to protect both the CCG and individuals involved in decision making from any appearance of impropriety and demonstrate transparency to the public and external interested parties. It is not intended to dilute or subvert the responsibility of the Governing Body to take strategic decisions on investment. The general processes and safeguards contained within will equally apply across the planning, decision making and monitoring stages of the commissioning process.

All employees of the CCG, Governing Body and Patient Representatives, including persons serving on CCG committees and other decision-making groups, are required to:

- Conduct business appropriately - ensuring that the interests of patients remain paramount at all times;
- Be impartial and honest in the conduct of their official business;
- Use public funds entrusted to them to the best advantage of the service, always ensuring value for money;

- Ensure that they do not abuse their official position for personal gain or to the benefit of their family or friends;
- Ensure that they do not seek to advantage or further, private or other interests, in the course of their official duties.

The CCG is committed to conducting all of its business and functions in line with the Seven Principles of Public Life, as set out by the Committee on Standards in Public Life (The Nolan Principles) of:

- **Selflessness;**
- **Integrity;**
- **Objectivity;**
- **Accountability;**
- **Openness;**
- **Honesty, and;**
- **Leadership;**

In addition to these principles and values, the CCG embraces and includes the following standards of conduct expected in public service (as promoted by the Scottish Executive and Good Governance Institute):

- **Public Service:** Holders of public office have a duty to act in the interests of the public body of which they are a Board member and to act in accordance of the core tasks of the body, and;
- **Respect:** Holders of public office must respect fellow members of the public body and employees of the body and the role they play, treating them with courtesy at all times

The CCG will ensure that all employees and decision-makers are aware of the existence of this policy, and will include an introduction to the policy and related documents in induction packs for new staff. A six-monthly reminder to review and update declarations of interest will be sent to all Governing Body members by the Chief Finance Officer. This does not replace the requirement for all CCG members and staff to notify the Chief Finance Officer of any changes within 28 days.

The CCG will view any instances where this policy is not followed as serious and may take disciplinary action against individuals, which may ultimately result in dismissal. **In the case of members of the Governing Body or its Committees and Sub-Committees this could result in removal from office.**

5. DEFINITION OF AN INTEREST

A conflict of interest occurs where an individual's ability to exercise judgment, or act in a role is, or could be perceived as impaired or otherwise influenced by their involvement in another role or relationship. In some circumstances, it could be

reasonably considered that a conflict exists even when there is no actual conflict. It is essential for the CCG to manage those conflicts both actual and 'perceived' in order to maintain public trust.

Interests can be categorised into four different areas:

5.1 Financial interests

Financial interests relate to where an individual may get direct financial benefits from the outcome of a commissioning decision. Examples could include the following:

- A director (including a non-executive director), or senior employee in a private company / public limited company or other organisation which is engaged in, or is likely to seek business with health and/or social care organisations;
- A significant shareholding (or similar ownership interest), a partner or owner of a private or not-for-profit company, business, partnership or consultancy which is engaged in, or is likely to seek business with health and/or social care organisations;
- A management consultant for a provider organisation.

Direct financial interests could also arise from individuals who are:

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

5.2 Non-financial professional interests

Non-financial professional interests can arise where an individual could increase their professional reputation, status or boost their professional career as an outcome of a commissioning decision (also consider the notion of 'conflict of loyalty'). The following are illustrative examples of situations where non-financial professional interests could arise:

- An advocate for a particular group of patients;
- A GP with special interests (such as dermatology, acupuncture etc.);
- Trustee of a charity that is bidding for a contract.
- A member of a particular specialist professional body (routine GP membership of the RCGP, British Medical Association or medical defence

union/organisation would not usually amount to an interest which would need 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 Governing Body (or committees of the CCG) should always declare details of their roles and responsibilities held within their individual practices.

5.3 Non-financial personal interests

Non-financial personal interests arise when an individual may benefit personally in ways which are not directly linked to their professional career and do not provide any financial benefit (for example, awarding contracts to friends or personal business contacts). Specific examples could include:

- A voluntary sector champion for a provider;
- A volunteer for a provider;
- A member of a voluntary sector, community or charity board (or any other position of authority in or in connection with a voluntary sector organisation);
- An individual requiring individually funded treatment for a particular condition;
- A member of a lobby or pressure group with an interest in health (e.g. 'Save the NHS');

5.4 Indirect interests

Indirect interests can occur where individuals have a close association/relationship or friendship with someone who falls into the categories described above, for example:

- A spouse or partner;
- Close relatives (parent, grandparent, child, grandchild or sibling);
- A close friend;
- A business partner

A declaration of interest for a 'business partner' in a GP partnership should include all relevant collective interests of the partnership *and* all interests of the individual GP partners. This could be addressed by cross referencing the separate declarations made by the GP partners rather than repeating the same information.

Whether an interest is held by another person gives rise to a conflict of interest will depend on the nature of the relationship and the role of the individual within the CCG.

5.5 Relevant and Material Interests

The NHS Model Standing Orders, Reservation and Delegation of Powers and Standing Financial Instructions, page 23 Department of Health (2006) defines relevant and material interests as:

- Directorships, including non-executive directorships held in private companies or PLCs (with the exception of those of dormant companies);
- Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS;
- Majority or controlling share holdings in organisations likely or possibly seeking to do business with the NHS;
- A position of authority in a charity or voluntary organisation in the field of health and social care;
- Any connection with a voluntary or other organisation contracting for NHS services;
- Research funding/grants that may be received by an individual or their department;
- Interests in pooled funds that are under separate management, and;
- Clause 7.15 of the Model Standing Orders, Reservation and Delegation of Powers and Standing Financial Instructions states that such directorships should be included in the organisation's Annual Report.

Statutory guidance states that interests *"...must not exceed £5,000 in nominal value or one per cent of the total issued share capital of the company or of the relevant class of such capital, whichever is the less."*

It is not possible to define or describe all instances in which an interest may be real or perceived as a conflict as they are greatly dependent on the circumstances and the context in which a conflict is applied. It is, however the responsibility of each individual involved in decision making to exercise their judgement in deciding whether to register any interests that may be construed as a conflict. When in doubt, individuals should seek guidance from the Chief Finance Officer but are advised to declare if there is any doubt as to whether a conflict exists or not. A guidance document (which includes a table of Frequently Asked Questions) attached as Appendix 7.

6. RESPONSIBILITIES

The duties of Governing Body members are equivalent to those of a company director, in that there is a legal duty to avoid conflicts of interest under Section 175 of the Companies Act 2006 and which sets out how some conflicts should be managed.

It is the responsibility of all individual Governing Body members, committee members and all CCG staff serving in a formal capacity to declare and keep up-to-date details of any personal or business interests which may influence (or be perceived to influence) their judgement and therefore place them in a position which creates a potential conflict of interest between their private interests and their CCG duties.

The CCG is to be made aware of all situations where a member of staff, Governing Body or committee member have an interest outside of their NHS Contract of Employment (or other involvement with the CCG) where that interest can, or has the potential to be perceived as a conflict of interest.

All staff, Governing Body and committee members (including patient representatives) and other decision makers must therefore declare all relevant and material interests in the following circumstances:

- On appointment (see 7.1);
- Annually;
- At every meeting before the agenda is discussed (new and existing);
- On changing role or responsibility (see 7.2);
- On any other change of circumstances and (see 7.2);
- On becoming aware that the CCG has entered into (or proposes entering into) a contract with a provider/company which they, or any person connected with them has a direct or indirect financial interest in.

The Chair (or nominated deputy) of every decision making group will ensure that declarations of interest, and subsequent decisions made concerning on-going participation are clearly recorded in the minutes and on an individual basis. Where the Chair/nominated deputy is concerned about the declaration of interest and/or decision made about an individual's on-going participation in an agenda item, the declaration will be referred to the Audit, Risk and Scrutiny Committee for further consideration.

Where a decision relating to a conflict of interest is challenged or is perceived to be inappropriate, the Dispute Resolution Process detailed in Appendix 6 will be followed.

6.1 The Chief Officer

The CCG's Chief Officer has overall accountability for the CCG's management of conflicts of interest and the organisation's compliance with the NHS England Statutory Guidance for CCGs (2016).

6.2 Governing Body Lay Member for Governance

The Governing Body Lay Member for Governance will provide guidance and an external view of the working of the CCG with a strategic and impartial focus, and will take the Governing Body Chair's role for discussion and decisions where the Chair has made a declaration of interest.

6.3 The Chief Finance Officer

The Chief Finance Officer will act as the designated responsible officer for the CCG's Register of Interests, Register of Gifts and Hospitality and on-going compliance with this policy. The Chief Finance Officer will also ensure that for every interest declared (either in writing or orally) appropriate arrangements are put in place to manage the conflict of interest or potential conflict of interest. The Chief Finance Officer will confirm these arrangements, in writing to the relevant individual within 7 days of the declaration.

Where necessary, the Chief Finance Officer will seek advice on the management of the conflicts of interest (or potential conflicts of interest) from one or more of the following:

- The Chief Officer;
- The CCG Chair;
- The Deputy Chair of the Governing Body/Lay Member for Governance;
- The Chief Operating Officer;
- The Senior Operations and Governance Manager.

6.4 CCG Conflicts of Interest Guardian

NHS Liverpool CCG Governing Body has appointed the Lay Members with a lead role in Governance as the CCG's Conflicts of Interest Guardian. The CCG Conflicts of Interest Guardian will act as a safe point of contact for Governing Body members and all employees to raise any concerns or issues in relation to the content or application of this policy. The role of Conflicts of Interest Guardian also extends to acting as a 'conduit' for GP practice staff, members of the public and healthcare professionals who may have concerns in relation to conflicts of interest. The Lay Member should have no provider interest, is not a medical doctor or a healthcare provider and is therefore independent and impartial with regard to decisions related to commissioning of services.

In collaboration with and support from the CCG's Senior Operations and Governance Manager, the Conflicts of Interest Guardian will:

- Support the rigorous application of conflict of interest principles and policies throughout the organisation;
- 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 to the CCG arising from conflicts of interest.

The Conflict of Interest Guardian is a voting member of the Governing Body and is familiar with the work of the organisation and the roles of Clinical Leads. The Conflict of Interest Guardian is, therefore, in an informed position to identify such risks when they arise.

6.5 CCG Lay Members

CCG Lay Members play critical role in providing scrutiny, challenge and an independent voice in championing robust and transparent decision making and the management of conflicts of interest. The Lay Member (Audit) acts as chair of the Audit Risk and Scrutiny Committee whilst the Lay Member (Patient & Public Involvement) acts as chair of the Primary Care Commissioning Committee.

To further strengthen the scrutiny and transparency of decision making and our management of conflicts of interest the CCG will appoint a minimum of four Lay Members, all of whom will be required to attend the Primary Care Commissioning Committee. The full description and outlines of Liverpool CCG lay member roles can be found within the CCG's Constitution.

6.6 Senior Operations & Governance Manager

The Chief Officer has identified the Senior Operations and Governance Manager as the lead officer within the CCG with responsibility for:

- The day-to-day operational management of conflicts of interest matters and queries;
- Maintaining and publishing the CCG's Register(s) of Interests and other associated registers referred to in this policy;
- Supporting the CCG's Conflicts of Interest Guardian in fulfilling their role effectively;
- Providing advice, support and guidance on how conflicts of interest should be managed, and;
- Ensuring that appropriate and robust administrative processes are in place.

The Senior Operations and Governance Manager will ensure that the Conflicts of Interest Guardian is consistently well briefed on conflicts of interest matters and any issues which may represent a breach of this policy.

7. MANAGEMENT OF CONFLICTS OF INTEREST

Executive members of the CCG's Governing Body have an on-going responsibility for ensuring the robust management of conflicts of interest, and all CCG employees, Governing Body/committee members and member practices will continue to have individual responsibility in playing their part on an ongoing and daily basis.

The CCG will proactively manage conflicts of interest by:

- Minimising risk at the earliest opportunity;
- Maintaining, reviewing and externally publishing a Declarations of Interest Register and a Gifts and Hospitality Register (held by the Chief Finance Officer);
- Maintaining, reviewing and externally publishing a Register of Procurement Decisions (held by the Head of Contracts, Procurement and Business Intelligence);
- Managing membership of all formal committees and decision making bodies supporting the CCG;
- Creating an environment and culture where individuals feel supported and empowered in declaring relevant information or raising concerns;
- Working within the CCG Constitution, Standing Orders (SO) and Scheme of Reservations and Delegations, and;
- Ensuring robust mechanisms are in place for committee members to declare interests and withdraw from decision making where appropriate.

All Governing Body members and CCG employees (including those on seconded contracts and contractors) will be required to complete a Declaration of Interests pro-forma (see Appendix 1) upon appointment to their position/role. Where there are no interests to declare a 'nil return' will be recorded. Any subsequent interests acquired or changes to existing interests, role or circumstances will be declared to the Chief Finance Officer as and when they arise on the pro-forma, within 28 days of the change.

Governing Body members and CCG employees will also be asked to review and update the Declarations of Interest Register every six months, and will be required to respond, including those who have 'nil returns' within 28 days of the request.

Prior to attending any meeting, individuals should consider whether they have a conflict of interest pertaining to the meeting's agenda. All CCG committee meetings will include a standing agenda item at the beginning of each meeting for members to

declare any interests relating specifically to business being considered. In cases where an interest previously undeclared is identified during the course of a meeting, the declaration will be noted in the minutes (which will detail all declarations made). The chair of the meeting will determine how such interests will be managed and inform the member of their decision. Declarations will be treated as relevant for both decision making and any on-going monitoring.

Any suspicion that a relevant personal interest may not have been declared should be reported to the Chief Finance Officer immediately.

7.1 Declarations on Appointment or Nomination

Individuals applying for appointment for any position in the CCG will be required, at the point of application to declare any relevant interests. This includes:

- Lay Member appointments to the Governing Body;
- Other appointments of external individuals to the Governing Body (i.e. 'invited' or co-opted members), its committees, sub-committees and/or other working or project groups;
- Medical Practitioners standing for election to the Governing Body;
- **All** CCG employees (full and part time staff);
- Any staff on sessional or short term contracts;
- Agency staff, and;
- Seconded staff

In addition, any self-employed consultants or any other individual(s) working for the CCG under a contract for services will be required to make a declaration of interest in accordance with this policy as if they were CCG employees.

The purpose of such declarations will be to enable the Chief Finance Officer (seeking guidance where applicable from the Conflicts of Interest Guardian, the CCG Chair or relevant external sources) to assess on a case-by-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 prohibiting the individual from appointment or election to the CCG.

In doing so, the Chief Finance Officer will consider the materiality of the declared interest and the extent to which the individual could benefit from any decision of the CCG (e.g. an individual who has a material interest in an organisation which undertakes, or is likely to undertake substantial business with the CCG as a provider of healthcare or as a commissioning support service).

7.2 Declarations on changing role/responsibility or other changes in circumstances

Whenever an individual changes role or responsibility (either within the CCG or its Governing Body) any changes to that individual's interests should be declared

immediately. Similarly, where an individual's circumstances change to an extent that it affects the individual's interests (for example where an individual takes on a new role outside of the CCG, sets up a new business or enters into a new relationship) a further declaration should be made to reflect the change in circumstances; preferably as soon as possible and no later than 28 days of the change occurring. This applies equally to where a conflict of interest ceases to exist or a new one emerges.

7.3 All members of the CCG (Member Practices)

The CCG Membership includes each provider of primary medical services which is a member of the CCG under Section 14O (1) of the 2006 Act. The CCG will actively request declarations from those in the following groups:

- GP partners (or where the practice is a company, each director);
- Any individual(s) directly involved in the decision making or business of the CCG.

Additionally, each Member Practice will be expected to maintain a practice-based Register of Interests, as per NHS England Statutory Guidance (2017).

7.4. Governance of Committee and Decision Making Meetings

Chairs of committee and/or decision making meetings will ensure that members/attendees are asked at the beginning of each meeting if anyone has any conflicts of interest to declare in relation to the business being transacted at the meeting. Each member of the group should at that point declare any interests which are pertinent to the business of the meeting (whether or not those interests have previously been declared).

It is the responsibility of each individual member of the meeting to declare any relevant interests which they may have. However, should the chair or any other member of the meeting be aware of facts or circumstances which may give rise to a conflict of interests (but which have not been declared) then they should bring this to the attention of the chair who will decide whether there is a conflict of interest (or not) and the appropriate course of action to take in order to manage the conflict of interest.

The chair of a meeting of the CCG's Governing Body or any of its committees, sub-committees or groups is ultimately responsible for deciding whether a conflict of interest exists and for taking the appropriate course of action in order to manage the conflict of interest.

In the event of the chair of the meeting declaring a conflict of interest, the vice chair is responsible for determining the most appropriate course of action in order to manage the conflict of interest. If the vice chair is also conflicted the remaining *non-conflicted* voting members of the meeting should agree between themselves how to manage those conflicts. In making such decisions the chair (or vice chair or remaining non-conflicted members) may wish to consult with the CCG Conflicts of Interest Guardian or another member of the Governing Body.

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

- Where the chair has a conflict of interest, deciding that the vice chair (or another non-conflicted member of the meeting if the vice chair is also conflicted) should chair all or part of the meeting;
- Requiring the individual who has a conflict of interest (including the chair or vice chair if necessary) not to attend the meeting (for all or part of the agenda);
- Ensuring that the individual concerned does not receive the supporting papers or minutes of the meeting which relate to the matter(s) which give rise to the conflict;
- Requiring the individual to leave the discussion when the relevant matter(s) are being discussed and when any decisions are being taken in relation those matter(s). In both private and public meetings, this could include requiring the individual to leave the room;
- Allowing the individual to participate in some or all of the discussion when the relevant matter(s) are being discussed but requiring them to leave the meeting when any decisions are being taken in relation to those matter(s). This may be appropriate where, for example, the conflicted individual has important relevant knowledge and experience of the matter(s) under discussion, which it would be of benefit for the meeting to hear, but this will depend on the nature and extent of the interest which has been declared;
- Noting the interest and ensuring that all attendees are aware of the nature and extent of the interest, but allowing the individual to remain and participate in both the discussion and in any decisions. This is only likely to be the appropriate course of action where it is decided that the interest which has been declared is either not of a material nature or not relevant to the matter(s) under discussion.

Where attendees/members have declared a material interest, they should either be excluded from relevant parts of meetings, or join in the discussion but not participate in the decision-making itself (i.e. withdraw from the vote and any subsequent monitoring arrangements). The Chair/nominated deputy of the meeting will decide if a member is to be excluded from the relevant part of the meeting. The conflict and the action taken will be recorded in the minutes of the meeting and the register of interests updated accordingly. Similarly, any new offers of gifts and hospitality (whether accepted or not) which are declared at the meeting must be included in the CCG's Register of Gifts and Hospitality to ensure it is up-to-date.

It is the responsibility of the Chair of the meeting (or Deputy Chair) to monitor quorum to ensure it is maintained throughout the discussion and decision of the agenda item. Should the withdrawal of the individual member(s) result in the loss of quorum, the item should not be concluded at that meeting.

Once a conflict of interest is declared, the Chief Finance Officer, under delegated authority from the Chief Officer will determine and notify, in writing, any individual arrangements for managing the conflict of interests or potential conflicts of interests within seven days of declaration. These arrangements should confirm the following:

- When an individual should withdraw from a specified activity, on a temporary or permanent basis;
- Monitoring of the specified activity undertaken by the individual, either by a line manager, colleague or other designated individual.

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

To support chairs in their role, a Conflicts of Interest Checklist can be found in Appendix 5.

7.5 Decisions Where a Governing Body Member Has Declared an Interest

In situations where the Governing Body has to make a decision in which a member has declared an interest, all decisions will be made by vote, with a simple majority required. A quorum must be maintained for the discussion *and* decision and interested parties will not be counted when deciding whether the meeting meets quorum. Interested members must not vote on matters affecting their own interests. The Vice Chair will assume the Chair's role for any discussions and decisions where the Chair has a conflict of interest.

All decisions under a conflict of interest will be reported and recorded at the meeting of the Governing Body in the minutes. The minutes will record:

- The nature and extent of the conflict;
- An outline of the discussion, and;
- The actions taken to manage the conflict (including arrangements for monitoring of contracts awarded).

7.6 Use of 'Waivers'

In some cases the Governing Body may execute the use of a 'waiver' to allow the conflicted person to participate in a meeting. For example, the Governing Body may grant a waiver if the member's expertise is considered essential to the discussions and/or where certain policies and criteria are met. If a 'waiver' is granted and the conflicted member is allowed to participate in the meeting, the minutes will reflect that the circumstances of granting the waiver are sufficiently exceptional to justify a departure from guidance.

Where a Governing Body member does benefit from a decision, the matter will be reported in the CCG Annual Report and Accounts. All payments (or benefits in kind) to Governing Body members will be reported in the CCG's accounts and annual report, with amounts for each member listed for the year in question. Independent external mediation will be sought where conflicts cannot be resolved through the usual procedures.

7.7 Secondary Employment

The CCG will ensure that all employees, committee members, contractors and others engaged under contract with them are made aware of the requirement to inform the CCG if they are employed or engaged in, or wish to be employed or engage in, any employment or consultancy work in addition to their work with the CCG. The purpose of this is to ensure that the CCG is aware of any potential conflict of interest. Examples of work which might conflict with the business of the CCG, including part-time, temporary and fixed term contract work, include:

- Employment with another NHS body;
- Employment with another organisation which might be in a position to supply goods/services to the CCG;
- Directorship of a GP federation or non-executive roles;
- Self-employment (including private practice), charitable trustee roles, political roles and consultancy work, in a capacity which might conflict with the work of the CCG or which might be in a position to supply goods/services to the CCG, and;
- Advice or consultancy services to a third party (e.g. pharmaceutical company)

All CCG staff contracts state that any individual wishing to engage in secondary employment will first need to obtain prior permission from their line manager and/or Chief Finance Officer, who on behalf of the CCG can reserve the right to refuse permission either in line with the Working Time Directive or where there is a perception that a conflict of interest will arise which cannot be effectively managed. In particular, it is unacceptable for pharmacy advisers, (or any other advisers), employees or consultants to the CCG on matters of procurement to themselves be in receipt of payments from the pharmaceutical or devices sector.

7.8 CCG Dispute Resolution Process

The CCG will endeavour to ensure that all disputes in relation to conflicts of interest are resolved informally and effectively through negotiation, mediation and local resolution. Where disputes cannot be resolved informally, the CCG operates a Dispute Resolution Process based on the principles of effective arbitration and natural justice. This process aims to resolve disputes transparently, fairly and consistently. If concerns cannot be resolved through mediation a formal complaint should be submitted, in writing, to the Chair of the CCG who will then communicate the process, decision making criteria and relevant timescales to the complainant in advance of the commencement. The Dispute Resolution Process can be found in Appendix 6 of this policy document.

8. PROCUREMENT AND AWARDING OF GRANTS

The CCG will procure services in a manner that is open, transparent, non-discriminatory and fair to all potential providers and is compliant with the NHS (Procurement, Patient Choice and Competition) Regulations 2013 by ensuring:

- All relevant clinicians (not limited to members of the CCG), potential providers and members of the public are fully engaged in the decision-making process;
- Offers for tender or procurement are not shaped in such a way that it provides advantages or disadvantages for an organisation that might bid for a service;
- The prohibiting of the award of a contract where the integrity of the award has been, or appears to have been affected by a conflict of interests, and;
- Maintaining appropriate records of how conflicts of interest have been managed in individual cases.

It is essential that the CCG balances an inclusive approach to partnership working; gaining the best technical advice whilst being mindful of acting in a fair manner and complying with UK and European competition law in relation to the procurement of services or the administration of grants. This is particularly complex in cases where the CCG wishes to involve potential providers in shaping strategies or specifications and commercially sensitive information could potentially be discussed. Where one potential provider has access to information during the course of giving technical advice to the CCG, this will be openly shared with all other potential providers/suppliers should a tender or procurement be issued at a later date.

Where an individual has a conflict of interest they will not be involved in the procuring, managing or monitoring a contract in which they have declared an interest. Individuals must declare an interest where they, or organisations in which they have an interest, may be proposing to bid for a planned service by competitive tender, any qualified provider, or single tender routes.

Exceptions to this provision are in circumstances where the contribution of a professional with specific subject matter/clinical expertise or research knowledge in a field is necessary in supporting the commissioning process (see 9.1). In these situations full disclosure will be made and monitoring arrangements will include robust provisions for an independent challenge of bills and invoices and termination of the contract if the relationship is determined as unsatisfactory.

The CCG aims to demonstrate complete transparency of procurement exercises by publishing a Register of Procurement Decisions which will provide:

- Evidence that the CCG is seeking and encouraging scrutiny of its decision making process;
- A record of the public involvement throughout the commissioning of the service;

- A record of how the proposed service meets local needs and priorities for partners such as the Health & Wellbeing Board, Liverpool Healthwatch and local communities;
- Evidential assurance to the Audit, Risk & Scrutiny Committee, internal and external auditors that a robust process has been followed in deciding to commission the service, in selecting the appropriate procurement route and in addressing potential/actual conflicts.

The CCG will publish and update the Register of Procurement Decisions as and when a procurement decision is taken (see paragraph 13. of this policy)

8.1 Designing Service Requirements

The way in which services are designed can either increase or decrease the extent of perceived or actual conflicts of interest. The CCG is committed to ensuring a strong focus on public and patient involvement during service development.

Public involvement supports transparent and credible commissioning decisions. The CCG has established robust governance systems and processes to ensure public involvement takes place at every stage of the commissioning cycle; from needs assessment, planning and prioritisation to service design, procurement and monitoring. CCGs have a legal duty to properly involve patients and the public in their respective commissioning processes and decisions.

Similarly, the CCG's approach to provider engagement will 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 parties at the same time and procedures are transparent to mitigate the risk of potential legal challenge.

8.2 Declarations of interest for bidders/contractors

All potential bidders, contractors and service providers, including sub-contractors, members of consortia, advisors or other associated parties will be required to identify any potential conflicts of interest that could arise if they were to take part in any procurement process and /or provide services under or otherwise enter into any contract with the CCG, using the template attached as Appendix 2.

The interests that must be declared are that the organisation or any person employed or engaged by or otherwise connected with it:

- Has provided or is providing services or other work for the CCG;
- Is providing services or other work for any potential bidder in respect of this project or procurement process;
- Has any other connection with the CCG, 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.

Declarations of this nature will not be included in the CCG's Register of Procurement Decisions as it would compromise the anonymity of bidders during the procurement process. An internal audit trail will, however, be maintained of how conflicts have been dealt with for the purpose of potential publication at a later date. Records of contract award decisions and key decisions made during the procurement process will be retained for a maximum of three years from the date of award of the contract.

In addition to the above, the CCG will comply with the Procurement Guide for Commissioners of NHS Funded Services (2010) by:

- Widely advertising that a service design/re-design is taking place and inviting comments from all potential providers (ensuring that a record is kept of all interactions);
- Continued engagement with a wide range of providers as the service design develops;
- Obtaining the advice of an independent clinical advisor in relation to the design of the service (where appropriate), and;
- Specifying desired outcomes (clinical or otherwise) as opposed to specific inputs or activity.

9. CONFLICTS OF INTEREST WHERE GP PRACTICES ARE POTENTIAL PROVIDERS OF SERVICES

There may be circumstances where the CCG could reasonably commission services from member GP practices on a single tender basis (i.e. where they are the only capable providers or where the service is of minimal value). The general safeguards that the CCG will adopt when commissioning services for which GP practices could be potential providers of services, or where it is appropriate to commission community-based services through competitive tender or an Any Qualified Provider (AQP) approach are the same as those described in Sections 8 and 9 above. Essentially, the CCG has a responsibility to evidence that the service(s) clearly meet local need, have been planned properly and that the appropriate procurement approach has been used.

AQP contracts will require GP Practices involved in the delivery of contracts to apply the latest GMC and BMA guidance regarding conflicts of interest to ensure that GP practices have offered fully informed choice at the point of referral. Any decisions to commission services from GP practices on a single tender basis will be taken in accordance with the CCG's Procurement Strategy, after verifying that such services should not be provided under the GP contract.

Where a limited number of GPs have an interest, it should be straightforward for relevant individuals to be excluded from decision-making.

It is feasible that a situation could arise where a majority of members of the Governing Body who are GPs (or other healthcare professionals from a Member Practice) might share a material conflict of interest in a specific agenda item, which would prevent their participation in the decision making process. Where all of the

GPs (or other practice representatives) on a decision making body could have a material interest in a decision, particularly where the CCG is proposing to commission services on a single tender basis from all GP practices in the area, *or* where it is likely that all or most practices would wish to be qualified providers for a service under AQP, and as a result a quorum cannot be convened, the Chair of the meeting will consult with the Chief Officer on the action to be taken. This may include:

- a) requiring another of the CCG's committees or sub-committees, the CCG Governing Body or the Governing Body's committees or sub-committees (as appropriate) which can be quorate to progress the item of business, or if this is not possible;
- b) inviting on a temporary basis one or more of the following 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:
 - i) an individual appointed by a member to act on its behalf in the dealings between it and the clinical commissioning group;
 - ii) a member of a relevant Health and Wellbeing Board;
 - iii) a member of a governing body of another clinical commissioning group.

Where any of the above are applied the arrangements will be recorded in the minutes.

In general, commissioning through competitive tender or AQP *should* introduce greater transparency and help reduce the scope for conflicts. Depending on the nature of the conflict, GPs or other practice representatives could be permitted to participate in the Governing Body's discussion about the proposed decision, but should not take part in any vote on the decision. The CCG will consistently adopt the specific additional safeguards set out in NHS England's 'Managing Conflicts of Interest: Statutory Guidance for CCGs (June 2016)' which are designed to:

- Maintain the confidence and trust between patients and GPs;
- Enable the CCG and Member Practices to demonstrate that they are acting fairly and transparently;
- That all Members will put their duty to patients before any financial interest, and;
- Ensure that the CCG operates within the legal framework and refrains from engaging in anti-competitive behaviour.

A procurement template document is attached at Appendix 3 which sets out the factors will provide evidential assurance to the Finance, Procurement and Contracting Committee and Audit, Scrutiny and Risk Committee (and any other interested parties) that services have been commissioned in an open and

transparent manner and with an absolute focus on meeting local health needs and priorities.

The CCG will ensure that details of all contracts, including the value of the contracts are published on the corporate website <http://www.liverpoolccg.nhs.uk/> as soon as they are agreed. Where the CCG commissions services through AQP, the type of service commissioned and the agreed price of the service will be made available publicly as will information about those providers who qualify to provide the service.

10. DECISION-MAKING FOR THE COMMISSIONING OF PRIMARY MEDICAL CARE

Whilst the arrangements for primary medical care decision making do not preclude GP participation in strategic discussion on primary care issues, delegated commissioning responsibility from NHS England for primary medical care services exposes the CCG to an even greater risk of conflicts of interest which, if not managed effectively and decisively could adversely affect public confidence in the local commissioning system.

The CCG has established the Primary Care Commissioning Committee (as a committee of the CCG Governing Body) to enable the members to make collective decisions on the review, planning and procurement of primary care services in Liverpool under delegated authority from NHS England.

To ensure transparency, meetings of the Primary Care Commissioning Committee (including decision making and deliberations leading up to decision making) will generally be held in public unless the CCG considers it is appropriate to exclude the public due to the confidential nature of the business to be considered. Where any member of any meeting of the Primary Care Commissioning Committee has a personal interest in relation to the scheduled or likely business of the meeting (previously declared or otherwise) they must make a declaration which will be recorded in the minutes and managed as described in Sections 8 and 9 above. Where arrangements have been confirmed for the management of the conflict of interests or potential conflicts of interests in relation to the Chair, the Deputy Chair will act as Chair for the relevant part of the meeting and will ensure these arrangements 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 select one.

The Lay Member (Governance) of the Governing Body will take such steps as deemed appropriate and will request information considered relevant from individuals to ensure that all conflicts of interest and potential conflicts of interest are declared.

The Committee will present its minutes to NHS England North (Cheshire and Merseyside Sub-Regional) Team and the Governing Body of Liverpool CCG each month for information, including the minutes of any sub-committees.

As set out throughout this policy, the CCG will endeavour to ensure that clear records of any conflicts of interests are maintained and made available for public inspection on request.

The Terms of Reference and membership for the Primary Care Commissioning Committee are attached as Appendix 4.

10.1 CCG Incentive Schemes

GP Practice members will be required to declare an interest in any discussions at Governing Body or committee meetings relating to Local Incentive Schemes which relate to their GP practice. Whilst GP practice members may participate in discussions at those meetings of the CCG (in terms of the recommendations for development of the local incentive scheme) they shall withdraw from any decisions at the Governing Body or Committee regarding approval of the scheme. Any approval of payments to GP Practices under the incentive scheme will be made by the Chief Officer and/or the Chief Finance Officer, or their nominated representatives in line with the CCG's financial Scheme of Delegation.

11. REGISTER OF INTERESTS

All interests declared will be recorded on the CCG's Register of Interests which will be maintained by the Chief Finance Officer (on behalf of the Chief Officer). The CCG will maintain and hold two versions of the Register of Interests; one for publication and one which shall be retained confidentially. Only those staff identified as 'decision makers' in 2.1 will be included in the register which be accessible by the public via the CCG website or by postal application/inspection on request at:

CCG Headquarters, 3rd Level, 'The Department', Lewis's Building, Renshaw Street, Liverpool L1 2SA.

An electronic version of the Register of Interests can be accessed at <http://www.liverpoolccg.nhs.uk/> The Template used can be found as Appendix 10.

The information contained within the CCG's register of interest will typically include the following information:

- Name of the person declaring the interest;
- The individual's position within, or relationship within the CCG (or NHS England in the event of joint committees);
- The type of interest being declared (e.g. financial interest, non-financial interest);

- A description of the interest. For indirect interests this would include details of the relationship with the person who has the interest;
- The dates from which the interest relates;
- An objective 'risk rating' of the conflict of interest;
- A summary of the actions to be taken to mitigate risks (agreed with the individual's line manager or member of SMT)

Interests declared will remain on the CCG's public Register of Interests for a minimum of 6 months from the date of declaration. The CCG will maintain a private record of interests (including historical interests) for a minimum of 6 years after the date on which it expired). The CCG's published register of interests will state that historic interests will be retained for the specified time frame and the named contact within the CCG to whom requests for this information should be submitted to (usually the Chief Finance Officer). Both the public version and confidential versions of the Register of Interests will be reviewed by the Audit, Risk & Scrutiny Committee as a standing agenda item.

All declarations of interest made by Governing Body members will be published in the CCG's Annual Report and Annual Governance Statement.

12. REGISTER OF GIFTS AND HOSPITALITY

For the purpose of this policy a gift is defined as 'any item of goods and/or cash or any service which is provided for personal benefit free of charge or at less than its commercial value.'

All CCG employees, members of the Governing Body and member practices should be mindful of the risks associated with accepting offers of gifts, hospitality and entertainment when undertaking activities for or on behalf of the CCG or its member practices. This is especially important during procurement exercises, as acceptance of gifts could give rise to real or perceived conflicts of interest or accusations of unfair influence, collusion or canvassing.

12.1 Gifts from contractors or suppliers

In line with NHS-wide guidance, gifts of low value (**up to £6**) from contractors or suppliers such as promotional items, diaries, calendars and stationery can be accepted. Any gifts above this value offered to CCG staff, Governing Body and committee members (and individuals within CCG member practices) by suppliers or contractors linked (currently or retrospectively) to the CCG's business should be declined. The individual to whom the gifts were offered should also declare the offer to their line manager or the Chief Finance Officer so that it can be recorded on the register. **Offers of unreasonably generous gifts or hospitality should be reported to the Chief Finance Officer immediately.**

12.2 Gifts from other sources (i.e. patients, families and service users)

Gifts from other sources (i.e. non-contractors or non-suppliers) with a value **in excess of £50** must be recorded in the CCG's Register of Gifts and Hospitality. This includes an accumulation of gifts from a single individual or company that total £50 or more over a 12-month period. Gifts with a value of over £50 can be accepted on behalf of the CCG, but not in a personal capacity. Gifts received under the value of £50 do not need to be declared.

Although gifts of under £50 in value can be accepted and need not be declared, gifts offered from 'other sources' should also be declined if accepting them could give rise to perceptions of bias or favouritism and a common sense approach should always be adopted as to whether or not this is the case.

Items such as flowers, chocolates and other small tokens of appreciation from members of the public do not need to be declared or recorded on the register.

Any personal gift of cash or cash equivalents (e.g. vouchers, tokens, offers of remuneration to attend meetings whilst in the capacity of working for (or representing) the CCG must always be declined, whatever the value and whatever their source and be declared to the Chief Finance Officer.

12.3 Hospitality, meals and refreshments

CCG staff will frequently work alongside a wide range of partners in different locations outside of Liverpool and, on occasion outside of 'traditional' working hours. As a result, this will sometimes entail being offered appropriate hospitality (i.e. the offer of meals, refreshments, travel, accommodation and other expenses). Staff receiving hospitality should always be prepared to justify why it has been accepted, and be mindful that even hospitality of a small value could give rise to perceptions of impropriety and unduly influencing behaviour.

12.4 Overarching principles for hospitality

The CCG has adopted NHS England's overarching principles in relation to hospitality, in that:

- CCG staff should not ask for or accept hospitality that may affect, or be seen to affect their personal judgement;
- Hospitality must only be accepted when there is a **legitimate** business reason and it is proportionate to the nature and purpose of the event;
- Particular caution should be exercised when hospitality is offered by actual or potential suppliers or contractors. Although modest and reasonable hospitality can be accepted from suppliers and/or contractors, individual staff should always obtain Senior Management Team approval prior to acceptance and then ensure it is recorded in the Gifts and Hospitality Register after acceptance.

12.5 Meals and refreshments

NHS England Statutory Guidance sets the following limits in relation to meals and refreshments:

- Under a **value of £25** may be accepted and need not be declared;
- Values between **£25 - £75** may be accepted, but must be declared (as detailed in 12.3 and 12.4);
- Meals and refreshments with a value in excess of £75 should be refused unless (in exceptional circumstances) Senior Management Team approval is given. If approved, a clear reason should be recorded in the Gifts and Hospitality Register as to why it was permissible to accept.

Again, staff should apply a common sense approach to the valuing of meals and refreshments (using an actual amount if known, or a reasonable estimate as to its value).

12.6 Travel and Accommodation

Modest offers which pay some or all of the travel and/or accommodation costs may be accepted by staff but must be declared.

Offers which go beyond the perception of 'modest' however, should only be accepted in exceptional circumstances and must be declared. Interpretation of the term 'modest' can often be subjective, and staff should therefore consider the offer against what the CCG itself might reasonably offer in relation to attendance at one of its events. In all cases where an offer to pay some or all of the travel/accommodation costs is considered to be above 'modest', approval must be sought from the Chief Operating Officer (as CCG Governance Lead). If approved, a clear reason will be recorded in the Register of Gifts and Hospitality as to why it was permissible to accept travel and accommodation of this type.

A non-exhaustive list of examples includes:

- Offers of business class or first class travel and accommodation (including domestic travel), and;
- Offers of foreign travel and accommodation.

Gifts and hospitality declared will be recorded on the CCG's Register of Gifts and Hospitality which will be maintained by the Chief Finance Officer (on behalf of the Chief Officer). The register will be accessible by the public by postal application or for inspection on request at:

CCG Headquarters, 3rd Level, 'The Department', Lewis's Building, Renshaw Street, Liverpool L1 2SA.

An electronic version of the Register of Interests can be accessed at <http://www.liverpoolccg.nhs.uk/> The Template used can be found as Appendix 11.

13. PUBLIC DISCLOSURE CONSIDERATIONS

In exceptional circumstances, where public disclosure of information could give rise to a real risk of harm or is prohibited by law, an individual's name and/or other information may be redacted from the publicly available register(s). In cases where an individual believes that substantial damage or distress may be caused to themselves or others by the publication of information about them, they are entitled to request that the information is not published. Requests of this nature must be made in writing to the CCG's Conflicts of Interest Guardian, who will seek appropriate legal advice if necessary.

13.1 Fair Processing of Information

All decision making staff will be made aware, in advance of publication that the Register of Interests will be kept and how their information on the registers may be used or shared and that the Register will be published. Staff will be informed by provision of a 'fair processing notice', which will detail the identity of the data controller, the purpose for which the Register(s) are held and published, how the information may be used and shared and the contact details for the CCG's Information Governance Lead (data protection officer). This information will also be provided to individuals identified in the Register(s) because they are in a relationship with the person making the declaration.

Staff who are not identified as 'decision making staff' will still be required to make a declaration of interest or a declaration of gifts and hospitality and will be made aware in advance (also via a Fair Processing notice) that their details will be kept by the CCG but will not be published or shared with external parties (with the exception of internal audit).

14. REGISTER OF PROCUREMENT DECISIONS

The CCG will maintain and publish a register of procurement decisions taken, either for the procurement of a new service or any extension or 'material variation' of a current contract. The details recorded on the register will include:

- The details of the decision;
- Who was involved in making the decision (including the name of the CCG clinical lead, the relevant contract manager, the name of the decision-making committee and the name of any other individual(s) with decision-making responsibility;
- A summary of any conflicts of interest in relation to the decision and how this was managed by the CCG;
- The award decision taken

The Register of Procurement Decisions will be updated by the Head of Contracts, Procurement and Business Intelligence whenever a procurement decision has been

taken. The register will be accessible by the public by postal application or for inspection on request at:

CCG Headquarters, 3rd Level, 'The Department', Lewis's Building, Renshaw Street, Liverpool L1 2SA.

An electronic version of the Register of Interests can be accessed at <http://www.liverpoolccg.nhs.uk/> The Template used can be found as Appendix 12.

14.1 COMMERCIAL SPONSORSHIP

Sponsorship refers to an arrangement where the CCG receives financial support, directly or indirectly, or support-in-kind in return for the rights to public association with an activity, service or property.

CCG staff, Governing Body/committee members and GP member practices may be offered commercial sponsorship for courses, conferences, post/project funding, meetings and publications in connection with the activities which they carry out for or on behalf of the CCG or their GP practices. All such offers (whether accepted or declined) must be declared so that they can be included on the CCG's Register of Interests. The CCG's Chief Operating Officer will provide advice to individuals on the appropriateness of accepting any such offers. If such offers can be reasonably justifiable or are otherwise in accordance with NHS England statutory guidance then they may be accepted, but only once prior approval from the Chief Operating Officer has been sought.

Notwithstanding the above, acceptance of commercial sponsorship should not in any way compromise commissioning decisions of the CCG or be dependent on the purchase or supply of goods or services. Sponsors will not have any influence over the content of an event, meeting, seminar, publication or training event. CCG Commissioning decisions must and will always be made in the best interests of patient and the service (e.g. social value).

The CCG's Commercial Sponsorship Policy describes the principles and considerations of accepting sponsorship in more detail.

14.2 Sponsored Events

Sponsorship of NHS events by external parties is valued, as offers to meet part or some of the event's running costs often secures their ability to take place. Without this funding there may be fewer opportunities for learning, development and partnership working which benefit both NHS staff and patients. There is, however, a potential for conflicts of interest between the organiser and the sponsor; particularly in relation to the marketing of commercial products or services and there should always be proper safeguards in place to prevent conflicts occurring.

When sponsorships are offered adherence to the CCG's Commercial Sponsorship Policy is imperative, and in particular the following principles:

- Sponsorship of CCG events by *appropriate* external bodies should only be approved if a reasonable person would conclude that the event will result in a clear benefit for the CCG and NHS;
- During dealings with sponsors there must be no breach of patient or individual confidentiality or data protection rules and regulation;
- No information should be supplied to the sponsor from which a commercial advantage could be gained, and information which is not in the public domain should not normally be supplied;
- The involvement of a sponsor in an event should always be clearly identified in the interests of transparency;
- The CCG will always maintain the position that sponsorship of an event does not equate to endorsement in any way of a company or its products. This should be made visibly clear on any promotional or other materials relating to the event.

15. RAISING CONCERNS AND BREACHES OF THIS POLICY

Effective management of conflicts of interest requires an environment and culture where individuals feel supported and confident in declaring relevant information (including reporting any actual or suspected breaches of the rules). It is the duty of every CCG employee, Governing Body/committee member and member practices to raise any genuine concerns in relation to the CCG's administration of this policy or any aspect of its management of conflicts of interest. As with fraud, individuals should not ignore their suspicions or investigate themselves, but should speak (on a strictly confidential basis) to the CCG's Conflicts of interest Guardian or the Chief Finance officer depending on the severity/seriousness of concern. The Conflicts of Interest Guardian, with support from the Senior Operations & Governance Manager will provide advice, assistance and guidance to any individual staff member who wishes to report actual or suspected breaches of this policy.

Where there is evidence or suspicion of non-compliance with this policy it should be reported to the Chief Finance Officer (where the breach is reported by an employee or worker of the CCG) or using the whistleblowing policy of the relevant employer organisation (where the breach is being reported by an employee or worker of another organisation).

A record will be made of the breach which will be retained by the Chief Finance Officer. Anonymised information of breaches occurring will be published on the CCG's website www.liverpoolccg.nhs.uk

A review of lessons learned will be conducted by the Chief Officer following any incident of non-compliance with this policy and presented to the CCG's Audit, Risk & Scrutiny Committee.

16. IMPACT OF NON-COMPLIANCE

Failure to comply with the CCG's policies on conflicts of interest management, pursuant the NHS England statutory guidance can have serious implications for the CCG and any individuals concerned.

16.1 Civil implications

The CCG could face civil challenges to a decision it has made if conflicts of interest are not effectively managed. If, for example breaches occur during a service re-design or procurement exercise, the CCG could face a legal challenge from providers that could potentially overturn the award of a contract, lead to damages claims against the CCG and impose a repeat of the procurement process. Not only could this delay the development of better services and care for patients, it is unacceptable waste public money and would probably damage the CCG's reputation. In extreme cases, staff and other individuals could face personal civil liability, for example a claim for misfeasance in public office.

16.2 Criminal implications

Failure to manage conflicts of interest could also lead to criminal proceedings including for offences such as fraud, bribery and corruption. This could have implications for CCGs and linked organisations, and the individuals who are engaged by them.

16.3 Fraud

The Fraud Act 2006 created a criminal offence of fraud and defines three ways of committing it:

- Fraud by false representation;
- Fraud by failing to disclose information; and,
- Fraud by abuse of position.

An essential ingredient of the above offences is that the offender's conduct must be dishonest and their intention must be to make a gain, or cause a loss (or the risk of a loss) to another. Fraud carries a maximum sentence of 10 years imprisonment and /or a fine if convicted in the Crown Court or 6 months imprisonment and/or a fine in the Magistrates' Court. The offences can be committed by a body corporate.

16.4 Bribery

Bribery is generally defined as 'giving or offering someone a financial or other

advantage to encourage that person to perform their functions or activities'. The Bribery Act 2010 reformed the criminal law of bribery, making it easier to tackle this offence proactively in both the public and private sectors. It introduced a corporate offence which means that commercial organisations, including NHS bodies, will be exposed to criminal liability, punishable by an unlimited fine, for failing to prevent bribery. The offences of bribing another person, being bribed and bribery of foreign public officials can also be committed by a body corporate. The Act repealed the UK's previous anti-corruption legislation (the Public Bodies Corrupt Practices Act 1889, the Prevention of Corruption Acts of 1906 and 1916 and the common law offence of bribery) and provides an updated and extended framework of offences to cover bribery both in the UK and abroad. The offences of bribing another person, being bribed or bribery of foreign public officials in relation to an individual carries a maximum sentence of 10 years imprisonment and/or a fine if convicted in the Crown Court and 6 months imprisonment and/or a fine in the Magistrates' Court. In relation to a body corporate the penalty for these offences is a fine.

16.5 Disciplinary implications

Individuals who fail to disclose any relevant interests or who otherwise breach the CCG's rules and policies relating to the management of conflicts of interest may be subject to further investigation and, where appropriate, to disciplinary action. CCG staff, governing body and committee members in particular should be aware that the outcomes of such action may, if appropriate, result in the termination of their employment or position with the CCG.

16.6 Professional regulatory implications

Statutorily regulated healthcare professionals who work for, or are engaged by, CCGs are under professional duties imposed by their relevant regulator to act appropriately with regard to conflicts of interest (see paragraph 5). The CCG will report statutorily regulated healthcare professionals to their regulator if it is brought to our attention that they have acted improperly, so that these concerns can be investigated. Statutorily regulated healthcare professionals should be aware that the consequences for inappropriate action could include fitness to practise proceedings being brought against them, and that they could, if appropriate, be struck off by their professional regulator as a result.

16.7 Fraud, bribery & corruption reporting

Staff should not be afraid of raising concerns and will not experience any blame or recrimination as a result of making any reasonably held suspicion known. If staff have any suspicions or concerns of acts of fraud, bribery and corruption they should contact the CCG's Ant-Fraud Specialist (AFS) on 0151 285 4547 or the Chief Finance Officer in the first instance.

Any suspicions or concerns of acts of fraud, bribery and corruption can also be reported online via <https://www.reportnhsfraud.nhs.uk> or via the NHS Fraud and Corruption Reporting Line on 0800 02484060. This provides an easily accessible and confidential route for the reporting of genuine suspicions of fraud within or

affecting the NHS. All calls are dealt with by experienced and trained staff and any caller who wishes to remain anonymous may do so.

16.8 Complaints from third parties, providers and patients

Providers, patients and other third parties are entitled to make a complaint to NHS Improvement in relation to the CCG's conduct under the Procurement Patient Choice and Competition Regulations (PPCCR). These regulations are designed to act as an accessible and effective alternative to challenging decisions in the courts. Parties who wish to complain about the CCG's conduct or management of conflicts of interest can also contact the CCG's Conflicts of Interest Guardian in confidence by emailing complaints@liverpoolccg or by telephoning 0151 296 7655 to discuss options for local resolution.

17. CONFIDENTIALITY

Employees, CCG members, Governing Body/committee and sub-committee members, should be particularly careful using or making public, internal information of a confidential nature, particularly regarding details covered under the Data Protection Act 1998 or other legislation whether or not disclosure is prompted by the expectation of personal gain.

Data held by the CCG will be processed only to ensure that Governing Body members and employees act in the best interests of the CCG and the public and patients for which the CCG was established to serve. The information provided will not be used for any other purpose; signing of any declaration form will also signify consent to personal data being processed for the purposes set out in this policy.

17.1 Disclosure of commercial in confidence information

Disclosure of information which is classed as "commercial in confidence" and which might prejudice the principle of a purchasing system based on fair competition may be subject to scrutiny and disciplinary or criminal action (or both). This does not affect the CCG's grievance or complaints procedures in terms of freedom of expression and is not intended to restrict any of the freedoms protected under Article 10 of the Human Rights Act 1998. It is designed to complement professional and ethical rules, guidelines and codes of conduct on an individual's freedom of expression.

18. MONITORING COMPLIANCE AND EFFECTIVENESS OF THIS POLICY

During the final quarter of each financial year the CCG will undertake an internal audit on its management of conflicts of interest as part of its internal audit plan (the results of which will be reflected in the CCG's Annual Governance Statement). The audit will aim to provide assurance to the Governing Body and NHS England in

terms of the degree of compliance with the NHS England Statutory Guidance (published June 2017).

Decision-makers will be reminded of this policy and the registers of interest/procurement decisions at least annually. The Chief Finance Officer will review register entries on a quarterly basis and take any action necessary as highlighted by the review. Regular and continued engagement will also take place between the CCG and its Member Practices to ensure that the principles contained within this policy are applied as best practice. Evidence of any deviation from this policy will be reported as an incident to the Chief Finance Officer and reviewed by the Audit, Risk & Scrutiny Committee.

19. TRAINING

All Governing Body members, committee/sub-committee members and CCG staff will be required to undertake annual mandatory online training in relation to conflicts of interest management by 31st January each year. This requirement will be stated in the CCG's Organisational Development Plan. In this respect Liverpool CCG does not differentiate between permanent or temporary staff. Details of training programmes and attendance sheets will be retained centrally by Liverpool CCG for audit and compliance monitoring.

20. REVIEW AND REVISION ARRANGEMENTS

This policy and associated procedures will be reviewed annually (or earlier if appropriate) by the CCG's Audit, Risk & Scrutiny Committee to take account of any relevant changes in legislation or guidance, organisational change or other exceptional circumstances. Where significant revisions are made to this policy consultation will take place with the Governing Body and other stakeholders as appropriate for ratification and adoption by the CCG.

20.1 EQUALITY & DIVERSITY STATEMENT

Liverpool CCG is committed to ensuring that it treats its employees fairly, equitably and reasonably and that it does not discriminate against individuals or groups on the basis of their ethnic origin, physical or mental abilities, gender, age, religious beliefs or sexual orientation.

NHS LIVERPOOL CLINICAL COMMISSIONING GROUP
DECLARATION OF FINANCIAL AND OTHER INTERESTS
FOR CCG MEMBERS/EMPLOYEES & ASSOCIATES
APRIL 2017 – MARCH 2018

PLEASE COMPLETE IN BLOCK CAPITALS

Name (print)

**Position or role within
Liverpool CCG**

Date Appointed

IMPORTANT – PLEASE READ:

This form is required to be completed in accordance with the CCG's Constitution and the NHS Code of Accountability. NHS Liverpool Clinical Commissioning Group (CCG) must demonstrate that conflicts of interest are managed in a way that does not undermine the probity and accountability of the CCG. It is imperative that we inspire public confidence that decisions taken by NHS Liverpool CCG are robust, fair, transparent and offer value for money.

A declaration must be made of any interest likely to lead to a conflict or potential conflict as soon as the individual becomes aware of it or **no later than 28 days**.

If any assistance is required to complete this form, please contact Lynne Hill, Liverpool CCG by telephoning 0151 296 7195 or via email at declarations@liverpoolccg.nhs.uk

Please ensure that once completed, signed hard copies (including nil returns) are sent to:

**The Chief Finance Officer
Liverpool CCG
The Department, Lewis's Building
2 Renshaw Street, Liverpool L1 2SA
Email: declarations@liverpoolccg.nhs.uk**

Any changes to interests declared must also be registered **within 28 days** by completing and submitting a new declaration form.

All relevant interests (irrespective of geography) should be declared. The CCG will make a decision about materiality on review of the declaration

SECTION 1 – DETAILS OF INTERESTS HELD

Before Completing this section please refer to the detailed guidance in Section 3. If additional space is required, please use another blank form.

Declared interest (name of the organisation or specific interest)	Nature of organisation or interest	Is this a financial or non-financial interest?	Is this a personal interest or that of a family member, friend or other acquaintance (please describe)	Date interest active from	Date interest ended (if still 'active' please state)	Actions to be taken to mitigate risk (for CCG use only)

SECTION 2 - DECLARATION

In accordance with the CCG's Conflicts of Interest Policy I wish to declare the following interests which fall within the scope of the policy to NHS Liverpool CCG:

I understand that I have a responsibility at future meetings to declare my interest in any specific items on the agenda or as part of any project at the point of commencement. This will include any personal or immediate family interest which may impinge (or be perceived to impinge) on my impartiality in any matter relevant to my duties as a member of NHS Liverpool Clinical Commissioning Group.

I have read and understood my obligations as outlined in the CCG's Conflicts of Interest Policy. I confirm that the information provided on this form is true and correct to the best of my knowledge and that if there any changes to the above declaration it is my responsibility to inform the CCG at the earliest opportunity. I consent to the disclosure of this information to the Local Counter Fraud Specialist and/or NHS Counter Fraud Authority for verification purposes and for the prevention or detection of crime. I will not engage (directly or indirectly via a third party) in any discussion or decision where my private or external interests may affect my ability to act in an open and transparent way (as required by the CCG's *Standards of Business Conduct Policy, Conflicts of Interest Policy and the CCG's constitution*). ***I understand that failure to abide by the requirements of such could render me liable for disciplinary action, which may include termination of appointment. Any suspicions or allegations of corrupt activity will be appropriately investigated and may lead to prosecution.***

Signature:

Date:

OR I have no interests to declare and I confirm a 'nil' declaration

Signature:

Date:

For CCG use:

Date form received:

Date entered on DoI Register:

SECTION 2 – GUIDANCE ON COMPLETING THIS FORM

The following is intended to provide brief guidance on the terminologies and requirements of individuals when completing this form. For more in-depth guidance please refer to the CCG's Conflicts of Interest Policy.

Name of the organisation or specific interest and nature of the business/interest

Please state the name of the organisation which is the subject of your declaration. It is important to include its full title for cross checking with Companies House registrations (where applicable). The nature of the organisation relates to its primary business or function (for example, 'NHS Trust', 'GP Federation', Consultancy, Registered Charity).

Is this a personal interest or that of a family member, friend or other acquaintance?

If the interest being declared is not your personal interest but is that of a family member, friend or any other acquaintance, it is important that you describe how they are related (for example, spouse, sibling 'family member') and what the nature of their interest is. If the friend or family member is employed by another NHS organisation, please also state their job role (e.g. Consultant or Ward Nurse).

Financial Interests

This is where an individual may get direct financial benefits from the consequences of a commissioning decision. Examples include:

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

Non-financial Professional Interests

This relates to obtaining a non-financial professional benefit from the consequences of a commissioning decision, such as increasing professional reputation or status or promoting a professional career. This could include:

- An advocate for a particular group of patients;
- A GP with special interests (e.g. dermatology, paediatrics);
- A member of a particular specialist professional body (excludes membership of BMA, RCGP or MDUs etc.);
- An advisor for Care Quality Commission (CQC) or National Institute for Health and Care Excellence (NICE);
- A medical researcher

Non-Financial Personal Interests

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

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

Indirect interests

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

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

Important things to note:

- The Declarations of Interest Register will be updated monthly with the most current version available for the public on the CCG website www.liverpoolccg.nhs.uk or by postal application to the address given above. No personal details of those making declarations will be included other than name and job title.
- Any individual – and in particular members and employees of the CCG - must provide sufficient detail of the interest, and the potential for conflict with the interests of the CCG and the public for whom they commission services, to enable

a lay person to understand the implications and why the interest needs to be registered.

- **If there is any doubt as to whether or not an interest is relevant, a declaration of the interest must be made. In the event of no interests to be declared, the form should be completed with 'nil return' recorded and duly signed/dated.**

NHS LIVERPOOL CLINICAL COMMISSIONING GROUP

Declaration of Financial and Other Interests for Bidders/Contractors April 2017 – March 2018

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

Notes:

- All potential bidders/contractors/service providers, including sub-contractors, members of a consortium, advisers or other associated parties (Relevant Organisation) are required to identify any potential conflicts of interest that could arise if the Relevant Organisation were to take part in any procurement process and/or provide services under, or otherwise enter into any contract with, the CCG, or with NHS England in circumstances where the CCG is jointly commissioning the service with, or acting under a delegation from, NHS England. If any assistance is required in order to complete this form, then the Relevant Organisation should contact Lynne Hill, Liverpool CCG by telephoning 0151 296 7195 or via email at declarations@liverpoolccg.nhs.uk;
- The completed form should be sent by both email (to the address above) and signed hard copy to **the Chief Finance Officer, Liverpool CCG, Liverpool CCG, 3rd Level, The Department, Lewis's Building, Renshaw Street, Liverpool L1 2SA**
- Any changes to interests declared either during the procurement process or during the term of any contract subsequently entered into by the Relevant Organisation and the CCG must notified to the CCG by completing a new declaration form and submitting it to [specify].
- Relevant Organisations completing this declaration form must provide sufficient detail of each interest so that the CCG, NHS England and also a member of the public would be able to understand clearly the sort of financial or other interest the person concerned has and the circumstances in which a conflict of interest with the business or running of the CCG or NHS England (including the award of a contract) might arise.
- If in doubt as to whether a conflict of interests could arise, a declaration of the interest should be made.

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

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

Declarations

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

Name of relevant person (complete for <u>all</u> relevant persons)		
Interests		
Type of Interest	Details	Is this a 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		

Name of relevant person (complete for <u>all</u> relevant persons)		
Interests		
Type of Interest	Details	Is this a personal interest or that of a family member, close friend or other acquaintance?
Provision of services or any other work for any potential bidder in respect of this project		
Any other connection with NHS Liverpool 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		
Any other role or relationship which the public could perceive would impair or otherwise influence the individual's judgement or actions in their role within the CCG		

I am signing to confirm that the information provided on this form is true and correct to the best of my knowledge. I consent to the disclosure of this information to the Local Counter Fraud Specialist and/or NHS Protect for verification purposes and for the prevention or detection of crime. I confirm that if any changes to the above declaration occur, it is my responsibility to inform the CCG at the earliest opportunity. Further to this; I will not engage (directly or indirectly via a third party) in any discussion or decision where my private or external interests may affect my ability to act in an open and transparent way; as required by the Standards of Business Conduct (both National and Local), Conflicts of Interest Policy and the CCG's constitution.

I understand and accept that any suspicions or allegations of corrupt activity will be appropriately investigated and if proven may lead to prosecution

Signed:

On behalf of:

Date:

NHS LIVERPOOL CCG

Procurement Template for Commissioning Services from GP Practices

This template is to be used when commissioning services from GP practices, including provider consortia, or from organisations in which GP members have a financial interest

Service:	
Question	Comments/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 the public been involved in the decision to commission this service?	
3. What range of health professionals have been involved in the design of the proposed service?	
4. What range of potential providers have been involved in considering the proposals?	
5. To what extent has the Health & Wellbeing Board been involved? How does the proposal support the priorities in the joint Health & Wellbeing Strategy (or strategies)?	
6. What are the proposals for monitoring the quality of the service?	
7. Describe the systems that will be in place to monitor and publish data on referral patterns	
8. Have all conflicts and potential conflicts of interest been appropriately declared and entered into the CCG's publicly available registers? Is it recorded how conflicts or potential conflicts are to be managed?	
9. How will the CCG make its final commissioning	

decision? How does it assure the integrity of the decision making process and award of any contract?	
10. Explain why this procurement route has been taken (e.g. single action tender)?	
11. What additional external involvement will there be in scrutinising the proposed decision(s)?	
12. How will the CCG make its final commissioning decision in ways that preserve the integrity of the decision making process and award of any contract?	

Additional question when qualifying a provider on a list, framework or pre-selection for tender (including but not limited to Any Qualified Provider) or direct award (for services where national tariffs do not apply)

13. How has the CCG determined a 'fair price' for the service?

Additional questions when qualifying a provider on a list, framework or pre-selection for tender (including but not limited to Any Qualified Provider) where GP practices are likely to be qualified providers

14. How will it be ensured that patients are aware of the full range of qualified providers from whom they can choose?

Additional questions for direct proposed awards to GP providers

15. What steps have been taken to demonstrate that the services to which the contract relates are capable of being delivered by one provider?

16. In what ways does the proposed service go above and beyond what GP practices should be expected to provide under the GP contract?

17. What assurances will there be that the GP practice is providing high quality services under the GP contract before it has the opportunity to provide any new services?

NHS LIVERPOOL CLINICAL COMMISSIONING GROUP**PRIMARY CARE COMMISSIONING COMMITTEE****TERMS OF REFERENCE****1.0 INTRODUCTION**

The Primary Care Commissioning Committee (the Committee) is established in accordance with NHS Liverpool Clinical Commissioning Group's (CCG) Constitution, standing orders and scheme of delegation. These Terms of Reference set out the membership, remit and responsibilities and reporting arrangements of the Committee and shall have effect as if incorporated into the Clinical Commissioning Group's constitution and standing orders.

2.0 COMMITTEE'S PURPOSE

The purpose of the Committee shall be to carry out the functions relating to the commissioning of primary medical services under section 83 of The NHS Act, and has been established to enable the members to make collective decisions on the review, planning and procurement of primary care services in Liverpool under delegated authority from NHS England.

In performing its role, the Committee will exercise its management of functions in accordance with the agreement entered into between NHS England and Liverpool CCG, which is coterminous with this delegation and Terms of Reference. In line with CCG statutory duty to promote quality improvement in Primary Care, this committee will oversee all commissioning of General Medical Services in the city. This will include:

- GMS, PMS and APMS contracts (including the design of PMS and APMS contracts, monitoring of contracts, taking contractual action such as issuing breach/remedial notices, and removing a contract);
- Newly designed enhanced services ("Local Enhanced Services" and "Directed Enhanced Services");
- Consideration of local incentive schemes as an alternative to the Quality Outcomes Framework (QOF);
- Decision making on whether to establish new GP practices in an area;
- Approving practice mergers; and

- Making decisions on 'discretionary' payment (e.g., returner/retainer schemes).

The Committee will support the objectives of the CCG and its Governing Body, including the provision of assurance to the Governing Body of the effectiveness of its internal systems of control.

3.0 ACCOUNTABILITY

The Committee is accountable to the CCG Governing Body and shall be authorised to decide on proposals and recommendations put to it within the powers delegated to it by the Governing Body, and/or as detailed in these Terms of Reference and NHS Liverpool CCG's Scheme of Delegation (as outlined in NHS Liverpool CCG's Constitution). The Chair, advised by the Committee shall determine whether a matter should be reported in writing to the Governing Body for decision or ratification, and/or the content of any summary report for the purposes of providing assurance/oversight to the Governing Body.

The Committee is authorised by the Governing Body to undertake any activity within its Terms of Reference and is authorised to seek any information it requires from any and all employees directed to co-operate with any reasonable request made by the Committee.

The Committee will, at all times, have due regard to the public sector equality duty and the CCG's overall equality objectives.

The Committee may also request specific reports from individual functions or subcommittees within the Clinical Commissioning Group as they may be appropriate to the overall arrangements.

4.0 MEMBERSHIP

The Committee shall draw its membership from the Liverpool CCG area only and shall comprise of:

- Lay Member of the Governing Body (Patient Engagement)
- Lay Member of the Governing Body (Governance)
- Chief Officer
- Chief Finance Officer
- Chief Nurse
- 4 Governing Body Clinical Members
- Primary Care Programme Director

The Chair of the Committee will ordinarily be the Lay Member of the Governing Body with specific responsibility for Patient Engagement. In the absence of the Chair of the Committee, the Committee will be chaired by the Chief Officer (Vice Chair)

Members can, in exceptional circumstances, send a nominated representative to meetings. However, these individuals must be fully briefed and able to operate with full authority over any issue arising at the meeting.

The following will attend a meeting of the Committee to provide advice or expertise (if required), but will not be a voting Member:

- Healthwatch Representative;
- Health & Wellbeing Board Representative;
- Governing Body Practice Nurse Member;
- Governing Body Practice Manager Member;
- Local Medical Committee (LMC) Representative;
- GP Advisor (NHS England)
- Head of Contracting and Procurement
- Deputy Chief Finance Officer
- Director of Public Health

Other staff members of NHS Liverpool CCG and/or its partners may be invited to attend as appropriate to enable the Committee to discharge its functions effectively. The Committee may also invite other individuals or groups to attend to present information and/or provide the expertise necessary for the Committee to fulfil its responsibilities.

5.0 DECISION MAKING

Decisions will normally be reached by consensus. The Chair will, in the event of the Committee being required to vote on an issue, be eligible to cast a single vote. If the vote is tied, the Chair may cast a second and casting vote. When called upon to act as Chair, the Committee Vice-Chair will, in the event of the Committee being required to vote on an issue, be eligible to cast a single vote. If the vote is tied, the Vice-Chair may cast the Chair's second and casting vote. Eligibility to vote will be held by those entitled to vote and present at the time. Voting by proxy is not permitted.

The decisions of the Committee shall be binding on NHS England and Liverpool CCG.

5.1 Conflicts of Interest

Where the Chair or any member of any meeting of the Primary Care Commissioning Committee has a personal interest (previously declared or otherwise) in relation to the scheduled or likely business of the meeting, they must make a declaration and the Vice-Chair will act as chair for the relevant part of the meeting. Where arrangements have been confirmed for the management of the conflict of interests or potential conflicts of interests in relation to the Chair, the meeting must ensure these are followed. Where no arrangements have been confirmed, the Vice-Chair may require the Chair to withdraw from the remainder of the meeting or part of it. Where there is no deputy chair, the members of the meeting will select one.

In any transaction undertaken in support of the Clinical Commissioning Group's exercise of its commissioning functions (including conversations between two or more individuals, e-mails, correspondence and other communications) individuals must ensure, where they are aware of an interest, that they conform to the arrangements confirmed for the management of that interest. Where an individual has not had confirmation of arrangements for managing the interest, they must declare their interest at the earliest possible opportunity in the course of that transaction, and declare that interest as soon as possible thereafter. The individual must also inform either their line manager (in the case of employees), or the Lay Member (Governance) on the Governing body of the transaction.

The Lay Member (Governance) of the Governing Body will take such steps as deemed appropriate, and request information deemed appropriate from individuals, to ensure that all conflicts of interest and potential conflicts of interest are declared

6.0 QUORUM

The quorum shall be five members of the Committee, comprised of the following:

- The Chair (Lay Member for Patient Engagement);
- The Lay Member for Governance;
- 2 Clinical Governing Body Members (who shall be GP Members);
- One of the following CCG Executive Members:
 - a) Chief Officer
 - b) Chief Finance Officer
 - c) Chief Nurse
 - d) Primary Care Programme Director

Of the quorum, the majority vote shall consist of lay/executive members of the Committee. If any of the members are conflicted, an additional member will be substituted where this is practicable and the Committee will at all times follow NHS Liverpool CCG's Conflicts of Interest Policy and associated NHS England statutory guidance to CCGs on the management of conflicts of interest.

Where more than 50% of the 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, the Chair (or deputy) 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 CCG'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 Lay Member (Governance) of the Governing Body on the action to be taken. This may include:

- a) requiring another of the CCG's committees or sub-committees, the CCG's Governing Body or the Governing Body's committees or sub-committees (as appropriate) which can be quorate to progress the item of business, or if this is not possible;
- b) inviting on a temporary basis one or more members of a Governing Body of another Clinical Commissioning Group to make up the quorum (where these are permitted members of the Primary Care Commissioning Committee) so that the CCG can progress the item of business.

These arrangements must be recorded in the minutes.

7.0 REMIT AND RESPONSIBILITIES OF THE COMMITTEE

The duties of the Committee will be driven by the priorities of the Clinical Commissioning Group, as identified by the CCG and the associated risks. The remit of the Committee is in the context of a desire to promote increased co-commissioning to increase quality, efficiency, productivity and value for money and to remove administrative barriers. The Committee shall carry out the functions relating to the commissioning of primary medical services under section 83 of The NHS Act, which will include:

- i. To plan, including needs assessment, primary medical care services in Liverpool;
- ii. To undertake reviews of primary [medical] care services in Liverpool;
- iii. To co-ordinate a common approach to the commissioning of primary care services generally;
- iv. To manage the budget for commissioning of primary [medical] care services in Liverpool;
- v. To oversee the management of the prescribing budget;
- vi. To oversee the use of the prescribing resource and implement measures to deliver both Quality and cost effective prescribing;
- vii. To drive the continuous improvement of primary care, considering issues such as workforce, training and development and changes to models of care in order to deliver the ambitions of the Healthy Liverpool Programme and ensure continuous service improvement.

7.1 Other Responsibilities

In addition, the Committee will:

- i. Review any risks on the Corporate Risk Register which have been assigned to the Committee and ensure that appropriate and effective mitigating actions are in place;
- ii. Seek advice and assurance on any issues which may affect the delivery of its responsibilities, objectives and/or functions or any of the overall objectives of the CCG which fall within the remit of the Committee;
- iii. Ensure that all conflicts of interest raised are recorded and any actions taken to mitigate are clearly documented within the minutes;

8.0 POLICY AND BEST PRACTICE

The Committee will seek to apply best practice in the decision making processes and will comply with (but not limited to) the following:

- NICE guidance & CQC Reports;
- NHS England Planning Guidance
- NHS England Statutory Guidance;
- The Nolan Principles;
- NHS England Conflicts of Interest Statutory Guidance and best practice;
- Data Protection Act;
- Freedom of Information Act.

9.0 FREQUENCY AND NOTICE OF MEETINGS

The Committee will meet monthly or at a frequency the Primary Care Commissioning Committee determines is appropriate to fulfil its duties. This will not be less than six times during the financial year. Members shall be notified at least 10 days in advance that a meeting is due to take place. Meetings of the Committee shall:

- a) Be held in public, subject to the application of 9.0 (b);
- b) The Committee may resolve to exclude the public from a meeting (whether during the whole or part of the proceedings) whenever publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted, or for other special reasons stated in the resolution and arising from the nature of that business or of the proceedings or for any other reason permitted by The Public Bodies (Admission to Meetings) Act 1960 as amended or succeeded from time to time.

If an agenda indicates the requirement for a 'Private and Confidential' session of the meeting (part two), then separate agendas and minutes will be produced. The Chair of the Committee will determine whether any invitees to the meeting may remain in attendance for the 'part two' section. However, the default position will be to restrict the meeting to committee members only and officers invited to specifically present and discuss the part two subject matter. The justification for establishing a private and confidential agenda will be the identification of an appropriate Freedom of

Information exemption together with, where required, an assessment of the public interest test on each agenda item.

Additional meetings may be requested through the Chair to address particular issues arising judged sufficiently urgent that waiting for the next scheduled meeting would potentially compromise either overall financial performance, the delivery of the Operating Plan or strategic objectives. If, for any reason, it is not considered necessary to call a full meeting to consider such urgent issues, the Committee may choose to convene a 'virtual meeting' (e.g. telephone/video conference) or to review and take decisions via email. Any meetings of this nature will be recorded by the Committee Secretary and confirmed at the next subsequent committee meeting.

An agenda will be issued 5 working days prior to the meeting. Requests for items to be included on the agenda should ordinarily be sent to the supporting PA at least ten days before the meeting. The Chair of the Committee will exercise discretion for the inclusion of any items of urgent late business received after the ten-day deadline, as appropriate.

10.0 ADMINISTRATION AND SECRETARY

The Committee will ordinarily be administratively supported by the CCG's Committee Secretary, who will be responsible for supporting the Chair in the management of its business and for drawing the Committee's attention to best practice, national guidance and other relevant standards/documents as appropriate.

This administrative support will include minuting of meetings of the Committee. Formal minutes will be drafted within 10 working days of the meeting and shared with presenters of agenda items to ensure accuracy.

Minutes, along with supporting action tables, will be circulated within five working days of the Committee taking place.

A register of perceived or actual conflicts of interest will be held and updated at the start of each meeting (the requirements for declaring interests and their applicability to Committee Members are outlined in NHS Liverpool CCG's Constitution and Standing Orders).

11.0 REPORTING ARRANGEMENTS

The Committee will produce summary reports following each meeting, which will include key issues discussed, recommendations or decisions made and significant risks which will be presented to the Governing Body to provide assurance on the work undertaken by the Committee. Exception reports will also be submitted at the request of the Governing Body or on the recommendation of internal/external auditors.

The approved minutes of the Primary Care Commissioning Committee will ordinarily be presented to the next available meeting of the Governing Body and to NHS

England's Regional Team (Cheshire & Merseyside). Attention will be given to ensure that any minutes of 'part two' Committee meetings are presented to the private 'part two' meeting of the Governing Body.

A summary of all conflicts of interest declared and recorded during meetings will be reported by way of the approved 'Committee Reporting Template' along with details of any resulting actions taken to manage conflicts of interest.

12.0 REVIEW

The Committee shall establish a forward plan for the conduct of its own work across each financial year, having regard to the Operational Plan and Governing Body strategic objectives.

The Committee will present this 'forward plan' to the Governing Body, with a schedule of summary reports of business discussed and recommendations made by the Committee.

Annually, the Committee shall review its work to ensure it is operating at maximum effectiveness. It will use this exercise to inform the review of its Terms of Reference and its annual work plan.

These Terms of Reference will be reviewed at least annually or in response to changes imposed by the Governing Body, changes to legislation or the issuing of revised model Terms of Reference by NHS England, with the next review date being inserted into the Terms of Reference.

Any suggested changes to its Terms of Reference shall be represented to Governing Body for formal approval and adoption.

13.0 CONDUCT

All members are required to make open and honest declarations of their interests at the commencement of each meeting or to notify the Committee Chair of any actual, potential or perceived conflict in advance of the meeting.

All members are required to uphold the Nolan Principles and all other relevant NHS Code of Conduct requirements.

14.0 STATUS OF THESE TERMS OF REFERENCE

Version	Date
Version 7 – first draft	31/08/2017

Date approved by the Governing Body	
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Date of next review	

NHS LIVERPOOL CCG

DISPUTE RESOLUTION PROCESS FOR CONFLICTS OF INTEREST

1. Aim of this Procedure

The aim of this procedure is based on the principles that disputes should be resolved informally and at the most local level possible. In the first instance the dispute should be raised with Liverpool CCG's Deputy Chair/Lay Member for Governance who will provide mediation and appropriate guidance. If the dispute is not successfully resolved at this level, a complaint should be made following the steps set out in this document.

2. Objectives of this Procedure

The objectives of this procedure are to:

- a) Provide Liverpool CCG with an appropriate mechanism for dealing with disputes concerning conflicts of interest;
- b) Resolve disputes transparently, fairly and consistently – assuring bidders and service providers of the CCG's commitment to natural justice and procedural fairness;
- c) To mitigate risks, protect the reputation of Liverpool CCG and prevent possible legal challenges and costly external reference processes by maintaining an appropriate audit trail of cases considered.

When handling disputes Liverpool CCG will engage with all relevant stakeholders and publish the findings/outcomes of complaints within and across the CCG to ensure consistency. Proactively, the CCG will communicate the process and decision making criteria widely and in advance;

3. The Procedure for Dispute Resolution

The following stages represent Liverpool CCG's dispute resolution process in relation to conflicts of interest:

3.1 Stage One – Making the Complaint

All complaints must be made in writing and submitted to the CCG Chair at the address below:

The Chair, Liverpool CCG
3rd Level, The Department, Lewis's Building,
Renshaw Street,
Liverpool L1 2SA
Email: carol.hughes@liverpoolccg.nhs.uk

Complaints will be acknowledged within five working days from the date of receipt and a copy of this process included.

3.2 Stage Two – Initial Assessment

Following receipt of the complaint, the CCG Chair will review the details of the complaint and may contact the complainant to seek further clarification or information. If the complaint is not deemed to warrant further progress the complainant will be notified in writing and of the reasons behind the decision not to proceed.

Where the complaint falls within the remit of this procedure it will proceed to the next stage, with confirmation made in writing to the complainant within 5 working days of the decision being made and an outline of the next steps.

3.3. Stage Three – Chair Review

Following progression to Stage Three, the CCG Chair will review the complaint to determine whether a swift resolution could be achieved without the need to involve the Governing Body. The Chair may call a meeting of the parties concerned to discuss the matter informally and without prejudice. If the Chair is unavailable (or if the complaint involves the Chair) the Chief Officer will review the complaint and act in accordance with this procedure as appropriate. The Deputy Chair/Lay Member for Governance will be made aware of the complaint and will provide advice and guidance where necessary. If the matter cannot be resolved at this level, the Chair will progress the complaint to Stage Four, notifying the complainant in writing of the decision.

3.4 Stage Four - Referral to the Approvals Committee of the Governing Body

Where complaints cannot be resolved at Stage Three, the Governing Body Approvals Committee (Chaired by the Deputy Chair/Lay Member for Governance) will formally review the complaint, using external advice as appropriate and as per the Committee's Terms of Reference. The Approvals Committee may refer the matter to the Audit, Scrutiny and Risk Committee to advise on the appropriate of the procedures followed.

3.5 Stage Five – The Decision

Once the Approvals Committee of the Governing Body has made a decision, it will write to the complainant notifying them of the outcome; explaining the rationale and necessary course of action to be taken. The Committee will also inform NHS England of the dispute and of the outcome.

Timescales for the conclusion of each stage will be determined depending on the complexity of the complaint and on a case-by-case basis. However, the CCG will endeavour to ensure that the process as a whole will take no longer than three months from the date of receipt of the complaint.

It is expected that most complaints will be successfully resolved under this process. However, where complainants are unhappy with the outcome or are dissatisfied with how their case has been handled by the CCG, they may complain to NHS England's sub-regional area team (Cheshire & Merseyside) within three months of receipt of Liverpool CCG's final decision by writing to:

NHS England (Cheshire & Merseyside Sub-Regional Area Team)
Regatta Place
Brunswick Business Park
Summers Road
Liverpool L3 4BL

Declarations of Interest Checklist for Committee Chairs & Deputy Chairs

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

<p>During the meeting</p>	<p>7. Check and declare the meeting is quorate and ensure that this is noted in the minutes of the meeting.</p> <p>8. Chair requests members to declare any interests in agenda items- which have not already been declared, including the nature of the conflict.</p> <p>9. Chair makes a decision as to how to manage each interest which has been declared, including whether / to what extent the individual member should continue to participate in the meeting, on a case by case basis, and this decision is recorded.</p> <p>10. As minimum requirement, the following should be recorded in the minutes of the meeting:</p> <ul style="list-style-type: none"> • Individual declaring the interest; • At what point the interest was declared; • The nature of the interest; • The Chair's decision and resulting action taken; • The point during the meeting at which any individuals retired from and returned to the meeting - even if an interest has not been declared; • Visitors in attendance who participate in the meeting must also follow the meeting protocol and declare any interests in a timely manner. <p>A template for recording any interests during meetings is detailed below.</p>	<p>Meeting Chair</p> <p>Meeting Chair</p> <p>Meeting Chair and secretariat</p> <p>Secretariat</p>
<p>Following the meeting</p>	<p>11. All new interests declared at the meeting should be promptly updated onto the declaration of interest form;</p> <p>12. All new completed declarations of interest should be transferred onto the register of interests.</p>	<p>Individual(s) declaring interest(s)</p> <p>Designated person responsible for registers of interest</p>

Principles and Aims of this Checklist

The main principle of the checklist is to ensure that there is consistency in the management and recording of declarations of interest in all CCG Governing Body and committee meetings where a conflict (potential or actual) could impact on items on the agenda.

The following points should also be noted when chairing meetings where actual or potential conflicts could arise:

- If an agenda item elicits particularly complex discussions, the chair should summarise at each stage, ensure that the main points are being captured (asking the minute taker/administrator to 'read back' from their notes) and clarify any areas of ambiguity in-meeting where practicable.
- Any 'late' attendees should be asked if they have any declarations of interest to make and this should be accurately reflected in the minutes;
- If there is uncertainty as to whether an actual or potential conflict of interest could arise, a declaration of interest should be made and recorded in the minutes (as described above) for the avoidance of any doubt.

Quoracy of Meetings

- It is the responsibility of the chair/deputy chair to monitor quorum and to ensure it is maintained throughout the discussion and decision of the agenda item. Quoracy of individual items should also be checked if an interest is declared. It is good practice for a copy of the relevant Terms of Reference to be made available at each meeting to support the chair in maintaining quorum.

If the meeting is not quorate, the chair should agree how this will be managed - i.e. whether it would be more appropriate to defer the meeting until such time as quoracy can be maintained or refer decisions for particular items to another committee for consideration or formal ratification (in line with the CCG's Constitution)

Conflicts of Interest Case Study (Re-procurement of out-of-hours services)

The following case study is based on one of the examples found in NHS England's – 'Managing conflicts of interests: Case Studies (2016)'

Context	<p>South Chigley CCG has commenced a re-procurement exercise for out-of-hours (OOH) services in its area. The CCG has established a programme board which reports to the CCG governing body.</p> <p>The programme board's membership comprises an out-of-county GP with experience of delivering OOH services, a secondary care consultant, a community nurse and three senior managers from across the CCG. The out-of-county GP was invited to join the programme board to ensure there was appropriate clinical input, as all South Chigley CCG's GPs were conflicted.</p> <p>On appointment, two members of the programme board declared the following interests:</p> <ul style="list-style-type: none"> • Mina Navabi, a senior manager who works within the CCG's engagement and inclusion team, is married to a registered paramedic who is employed by South Chigley Ambulance Service, which is a potential bidder; • Wendy Millar, a manager who is the CCG's strategy lead, declares that her mother is the clinical director for a social enterprise, Camberwick Medical, which may also be a potential bidder. <p>The programme board plans to establish an evaluation panel that will make recommendations on the preferred bidder. A paper setting out the programme board's preferred bidder will be submitted to the CCG's governing body for a final decision.</p>
RISKS	<ul style="list-style-type: none"> • Mina Navabi has an <i>indirect financial interest</i>. Whilst it may be unlikely that her husband has any decision-making influence within the South Chigley ambulance service, there could at the very least be a perception of a conflict of interest. • Wendy Millar also has an <i>indirect financial interest</i> as her mother is a senior decision maker within a potential provider, which is likely to have a financial interest in potential new work. • Because of the nature of the services, a number of the members of the CCG's governing body are likely to have <i>direct financial interests</i> in the procurement of these services. <p>There is a risk of loss of public confidence and trust in the CCG, as well as challenge from providers, if the interests of Mrs Patel and Ms Lloyd</p>

Conflicts of Interest – Guidance & Frequently Asked Questions

Why is this guidance document needed?

GP members actively involved in commissioning decisions can often have a wide range of interests in healthcare businesses which provide services such as diagnostics, pharmacy (including internet pharmacies), minor surgery and out of hours primary care services to name but a few. Involvement can range from local directorships to shareholdings in much larger private sector companies which provide medical care. The presence of numerous different professions and professionals in any health economy means that conflicts of interest cannot always be avoided, but by identifying them early and assessing where they may influence decision making, the CCG will be able to shape an appropriate response.

Apart from our legal obligation to continually demonstrate the transparency of decision making and ability to manage conflicts of interest, the CCG's Constitution is reflective of our commitment to ensure appropriate management of public money, effective public engagement and of course, the best outcomes for our patients. Managing conflicts of interest effectively and maintaining public confidence in the integrity of our decision making requires a balanced and proportionate approach; ensuring arrangements are robust enough to withstand scrutiny but not so restrictive that it makes the decision making process overly complex and slow. Therefore this guidance is intended to protect and empower members by making conflicts of interest easier to identify, manage and avoid in advance, rather than waiting for them to arise.

As individuals, GPs make commissioning decisions every day when they refer a patient for further care, diagnosis and/or treatment. If the referring GP is a service provider, then it is incumbent on them to ensure that the patient is aware of all the facts and promote alternative choices so that they can then make an informed decision in relation to their treatment.

The same principals apply for the CCG, albeit on a much larger scale. Commissioning decisions for a service transformation/reconfiguration could be considered flawed if any CCG members involved in the consultation process could directly benefit from the proposed changes.

What are the risks for the CCG?

Conflicts can often inhibit free discussion and could result in decisions or actions being perceived as based on external influences; implying that the CCG has not acted in the best interests of the patients and public. As well as the potential to significantly damage the reputation of the CCG (to an extent where public trust has been lost) regulatory and/or criminal action could be taken against the CCG as a whole or any individuals found to have acted improperly.

It is near impossible to describe all instances where an interest may be a real or perceived conflict, and it is essentially about exercise of judgement when deciding to register any interests that may be interpreted as a conflict. Individuals can seek guidance from the Chief Finance Officer, but the general rule of thumb is that if there is even a minor doubt, it should be declared. The scenarios below give some common examples of where conflicts of interest may occur:

Q - I am a GP Governing Body member and am also a board member of a healthcare business tendering for a contract with the CCG. Do I have to declare this as a conflict?

A - This is probably the most recognisable form of 'direct financial interest' and could be considered as giving the healthcare business an unfair competitive advantage, particularly if the GP in the scenario were to be involved in any consultation process which could (or be seen to) influence the eventual decision. The procurement process needs to be right from the outset, and any conflicts of this nature should be declared.

Q - I am GP Governing Body member and I have a close relative who is a shareholder in a company that has just submitted a tender to provide services. Do I have to declare an interest?

A - An 'indirect financial interest' can arise when a close relative of a CCG member benefits from the decisions of the Clinical Commissioning Group. The GP member could be seen to benefit indirectly, particularly if their financial affairs are tied with their spouse or partner's through the legal concept of "joint purse". Whether this would create a serious concern would depend greatly on the circumstances and, more importantly, what measures are in place (or have been taken) to reduce or eliminate the risk. The GP member could simply declare it and exclude themselves from any decision making or consultation process, with the CCG responsible for ensuring the action is evidenced and that the conflicted GP Member is not involved in any subsequent contract monitoring arrangements.

Q - I am a GP and a member of a committee that approves the specification for a locally commissioned service that my practice is hoping to provide. Is this a conflict of interest?

A - Any situation in which a committee member's personal interests or responsibilities may, or may appear to, influence the decision-making process could be regarded as a conflict. In this scenario, the GP could materially benefit from providing a Locally Enhanced Service and as they are involved in the approval of the specification it would be regarded as a direct financial interest. In this case the GP should either exclude themselves from relevant parts of meetings (including discussions focused on the specification) **or** not participate in the decision-making itself (i.e. not have a vote).

Q - Is there a conflict of interest if I am a GP on the Committee that approves Prescribing Quality Schemes; a scheme that I may benefit from personally if approved?

A - The CCG will inevitably make decisions which will affect all our member practices. This situation cannot be avoided but if managed appropriately, should safeguard against conflicts. This could include, for example ensuring decision makers are non-GP members of the Governing Body and therefore not in a position to benefit from the distribution of practice incentive scheme payments or other quality related rewards drawn from CCG allocated monies.

Q - If I sit on panel that votes to approve payments to GPs for attendance at locality meetings, is this a conflict of interest?

A - If the GP in this case will receive a payment then the key point to recognise here is that a decision maker will be able to benefit from the decisions they take and a conflict of interest is therefore present. This situation must be managed appropriately if it cannot be avoided and where possible, the panel member should declare their interest and remove themselves from the decision making process. If this affects quorum the CCG's Standing Orders can provide for a review of the decision made by another panel, committee or external partner organisation; although the likely outcome may be that the item cannot be decided upon at that meeting. Whether there are actual or perceived conflicts of interest the consequences can be very much visible and highly publicised.

Q - If I have to withdraw from a meeting where I have declared a conflict of interest what should I expect?

A - Members who withdraw due to a conflict are entitled to receive edited minutes which should reflect that the individual concerned has not unduly influenced the debate and related decision.

Q - What are non-financial or personal conflicts?

A - These occur where CCG Governing Body members receive no financial benefit, but are influenced by other external factors such as:

- To gain some other intangible benefit such as gaining status or wider recognition from the decision made, and;
- Awarding contracts to friends or personal business contacts (favouritism)

It is also possible for conflicts of interest to arise as part of the recruitment process and the promotion/performance management of staff. Transparency in relation to appointments to the Governing Body and associated committees avoids any

accusations of favouritism (real or perceived). This includes passing on CVs of friends, family or acquaintances for consideration.

Q - What is a conflict of loyalties?

A - Conflicts of loyalty arise when an individual's decision making could be influenced by their other interests or associations with other organisations. Although the individual may not gain any benefit, they may frequently experience competing loyalties between the Clinical Commissioning Group (for example) and another person or entity (e.g. their own GP practice and patients). For healthcare professionals, this could also extend to membership of a particular professional body, society, special interest group or charities.

Conflicts of loyalties are often difficult to determine and depend greatly on the circumstances and the nature of the decision being made, and to where the primary duty of the individual lies. Conflicting loyalties could arise where Governing Body members owe or may feel loyalty towards family, friends, other people or organisations that are part of the member's network. A conflict of loyalty could also be perceived where the religious, political or personal views of a Governing Body member or staff could potentially be perceived as interfering with their ability to make decisions in the best interests of the CCG (e.g. active membership of a political party campaigning against the de-commissioning of a service).

Q – How can a close friendship or relationship cause a conflict of interest?

A - This greatly depends on context and whether the close friendship/relationship could be construed as a conflict of interests in a particular given situation. For example, a Governing Body member has a close friend who is a Director at a healthcare provider in a neighbouring borough with whom they often meet socially for meals and drinks. The CCG does not currently have a contract with the healthcare provider but the Governing Body member registers this as a potential conflict. The healthcare provider subsequently bids for CCG business following a procurement process. In this scenario, when the Governing Body member originally registered the close friendship there was no actual conflict of interest; however, as soon as the provider submitted a bid the conflict became 'live' as the context of the relationship with the close friend in question could be construed as being influential in the decision making. As the Governing Body member has proactively declared this as a potential conflict of interest, the management of the situation is much easier and the member simply withdraws from the decision making process. It is important to note from this example that although a conflict is declared, it doesn't necessarily mean one exists at that particular point in time, but could should the circumstances change. A declaration is a proactive approach to safeguard both parties AND the CCG from any suggestion of bias or flawed decision making.

Q - Can I accept gifts and hospitality?

A - CCG members, staff and directors are advised to simply refuse gifts or hospitality rather than declare after the event. There is some flexibility in relation to gifts of low

value (less than £30) such as promotional pens and diaries but gifts or hospitality of high value (i.e. more than £30, including accrual of individual gifts above that value) should *a/ways* be refused and reported to the Chief Finance Officer. Again, the test applied should always consider whether the acceptance of a gift could, or could be seen to exploit the influence of the individual's position in the CCG and question their integrity.

Q - Is it acceptable for drug companies to pay for or develop training for practices or the CCG?

A – Whilst this is usually acceptable for member practices, for the CCG there could be a very high potential for this to be perceived at worst as preferential treatment, or at best a way for the drug company to gain access to key people in the CCG. That said, the CCG also has a finite running cost allowance and has to explore ways in which to work leaner, smarter and be more efficient. The key consideration here is whether it falls under 'sponsorship' or 'joint working'. In sponsorship arrangements, pharmaceutical companies will provide funding for a specific event (or training programme) whereas 'joint working' involves the CCG jointly agreeing goals with a private company (e.g. a pharmaceutical company) with the focus on improved patient outcomes, effective packages of care etc. In joint working the management arrangements are conducted with participation from both parties in an open and transparent manner, and would therefore stand up to scrutiny.

Where can I get further advice or information?

Further advice and information is available from the Chief Finance Officer, Liverpool CCG by telephoning 0151 296 7195 or via email at lynne.hill@liverpoolccg.nhs.uk

Further reading

NHS England: Managing Conflicts of Interest: Revised Statutory Guidance for CCGs (June 2016)

<https://www.england.nhs.uk/commissioning/wp-content/uploads/sites/12/2016/06/revsd-coi-guidance-june16.pdf>

NHS England - Managing conflicts of interests: Case Studies (2016)

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

BMA guidance on conflicts of interest for GPs in their role as commissioners and providers <http://www.bma.org.uk/support-at-work/commissioning/ensuring-transparency-and-probity>

NHS England: Revised statutory guidance on managing conflicts of interest for CCGs - Summary Guide for GPs in Commissioning Roles (2016)

<https://www.england.nhs.uk/commissioning/wpcontent/uploads/sites/12/2016/06/summary-coi-guid-gp.pdf>

NHS England - Procurement of healthcare (clinical) services (2012)
<http://www.england.nhs.uk/wp-content/uploads/2012/09/procure-intro.pdf>

NHS England - Code of Conduct: Managing conflicts of interest where GP practices are potential providers of CCG-commissioned services (2012)
<http://www.england.nhs.uk/wp-content/uploads/2012/09/c-of-c-conflicts-of-interest.pdf>

NHS Confederation/RCGP - Managing conflicts of interest in clinical commissioning groups
http://www.nhsconfed.org/Publications/Documents/Managing_conflicts_of_interest_in_CCGs.pdf

Co-operation and Competition Panel: www.ccp-panel.org.uk

Appendix 9 – Liverpool CCG Register of Interests Template (October 2016)

TITLE AND FULL NAME	Position or Role within LCCG	Date Appointed	Roles and responsibilities held within member practices		Directorships, including non-executive directorships, held in private companies or PLCs		Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the CCG		Shareholdings (more than 5% of companies in the field of health and social care		Positions of authority in an organisation (e.g. charity or voluntary organisation) in the field of health and social care		Any connection with a voluntary or other organisation contracting for NHS services		Research funding/grants that may be received by the individual or any organisation in which they have an interest or role		Any other specific interests?		Any other role or relationship which the public could perceive would impair or otherwise influence the individual's judgement or actions in their role within the CCG		Date Received	Date Left	Comments/ Date presented to ARSC		
			Details	Is this a personal interest or that of a family member, close friend or other acquaintance?	Details	Is this a personal interest or that of a family member, close friend or other acquaintance?	Details	Is this a personal interest or that of a family member, close friend or other acquaintance?	Details	Is this a personal interest or that of a family member, close friend or other acquaintance?	Details	Is this a personal interest or that of a family member, close friend or other acquaintance?	Details	Is this a personal interest or that of a family member, close friend or other acquaintance?	Details	Is this a personal interest or that of a family member, close friend or other acquaintance?	Details	Is this a personal interest or that of a family member, close friend or other acquaintance?	Details	Is this a personal interest or that of a family member, close friend or other acquaintance?	Date Received	Date Left	Comments/ Date presented to ARSC		

Appendix 10 – Liverpool CCG Gifts & Hospitality Register Template (October 2016)

Liverpool Clinical Commissioning Group Register of Gifts, Hospitality and Sponsorship, correct as at: XX/XX/2016											
Name of Person receiving the offer	Job Title / Position in Organisation/Title	Date of offer	Name of Company making the offer / Received From (name of Supplier)	Has this company offered you other Gift or hospitality	Was any earlier offer accepted or rejected?	Nature of Offer including estimated value if more than £25 / Form of Gift/Hospitality/Sponsorship			Offer accepted / declined. Reason for acceptance.	Date Submitted to Audit, Risk & Scrutiny Committee	Date entry reported to CFO office
							£	P			

Appendix 11– Liverpool CCG Register of Procurement Decisions Template (October 2016)

Ref No	Contract/ Service title	Procurement description	Existing contract or new procurement (if existing include details)	Procurement type – CCG procurement, collaborative procurement with partners	CCG clinical lead	CCG contract manger	Decision making process and name of decision making committee	Summary of conflicts of interest declared and how these were managed	Contract awarded (supplier name & registered address)	Contract value (£) (Total)	Contract value (£) to CCG

