

Conflict of Interest Policy

Final: 23 January 2018



Summary

The public rightly expect the highest standards of behaviour in the NHS, and Brighton and Hove Clinical Commissioning Group (CCG) takes our responsibility as custodians of taxpayers' money very seriously. Decisions involving the use of NHS funds in Brighton and Hove should never be influenced by outside interests or expectations of private gain, but we recognise that conflicts of interest (COI) are unavoidable in complex systems.

CCG staff need to be empowered to use good judgement in managing COI effectively, and need to be safeguarded so they can continue to work innovatively with partners whilst also providing transparency to the taxpayer.

This policy sets out how the CCG intends to manage its COI and is written to include the latest guidance from NHS England 'Managing Conflicts of Interest: revised statutory guidance for CCGs' (June 2017).

Effective From:

23rd January 2018

Policy Approval:

Reviewed at the Senior Management Team on 6th September 2017.

Approved by the Audit and Risk Committee on 12th September 2017.

Ratified by the CCG Governing Body on 26th September 2017.

Revised following discussions at the Audit and Risk Committee 12th December 2017

Approved by the CCG Governing Body on the 23rd January 2018

Review Date:

September 2018

Responsible Director:

Alan Beasley, Chief Finance Officer

To be read in conjunction with:

- The CCG Constitution, which outlines the Standards of Business conduct and constitutional requirement to manage COI.
- The Seven Principles of Public Life (the Nolan Principles).
- The latest Conflict of Interest national guidance and related guidance.
- National NHS Procurement Regulations and related guidance, which contain further specific information relating to COI when commissioning/ procuring services.
- CCG policies on Freedom of Information, Information Governance, Confidentiality, Bribery Corruption and Fraud, and Gifts Hospitality and Sponsorship etc.

Compliance with all CCG policies is a condition of employment. Breach of policy may result in disciplinary action.

Policy category		
Relevant to (staff group)	All staff in Brighton and Hove CCG	
Version history		
1	October 2016	Written in line with new guidance
2	August 2017	Refreshed in line with guidance received June 2017
3	December 2017	Refreshed to reflect additional wording which was placed within the Brighton and Hove CCG Hospitality, Gifts and Sponsorship Revised Policy (December 2017) and which the Audit and Risk Committee agreed was better placed within the Conflicts of Interest Policy
4	28 January 2018	Approved by the CCG Governing Body

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1. Staff Quick Reference Guide

- 2.1** This policy is to enable CCG staff, member practices, Governing Body and Committee members to demonstrate that they are acting fairly and transparently and in the best interest of patients and the local population, including upholding the confidence and trust between patients and GPs. The policy also meets the statutory obligations applicable to the CCG.
- 2.2** The Standards of Business Conduct are outlined in the CCG Constitution and form part of our day-to-day work. The CCG is responsible for large sums of public money and CCG staff (including interims, temporary staff, contractors and seconded staff), member practices and Governing Body / Committee members are required to act fairly, transparently and in the best interest of patients and the local population.
- 2.3** The CCG manages COI as part of its day-to-day activities. Effective handling of COI is crucial to give confidence to patients, tax payers, healthcare providers and Parliament that the CCG's commissioning decisions are robust, fair and transparent and offer value for money. It is essential in order to protect healthcare professionals and maintain public trust in the NHS. Failure to manage COI could lead to legal challenge and even criminal action in the event of fraud, bribery and corruption.
- 2.4** COI are inevitable in commissioning. It is how we manage them that matters. Section 140 of the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012) ("the Act") sets out the minimum requirements of what both NHS England and CCGs must do in terms of managing COI. The detailed requirements of how the CCG must manage conflicts are described in "Managing Conflicts of Interest: Revised Statutory Guidance for CCGs 2017" (published in June 2017).
- 2.5** This document outlines the CCG policy for declaring and managing COI. The full detail of the policy should be followed in order to ensure legislative and regulatory duties relating to COI are met.
- 2.6** The summary below is a list of actions required by all CCG staff and is relevant to member practices, Governing Body members and Committee members.

You must:

- i) Complete, submit and then keep up to date your declarations of interest (DOI) form. The form must be completed on **joining** the CCG and also if you **change** roles / responsibilities, have a **new interest** to declare, if a **declared interest ends** or if (re-) **commissioning** starts. The form must be completed even it is it a **nil return**. This form must be updated every **six months**, even if there is no change to your situation;
- ii) Further declare any interest if and when it arises, in order for the interest to be recorded and appropriate action taken. For example, you must declare an interest at a meeting where the interest relates to an agenda item. This includes those interests which have previously been declared on your form;
- iii) Follow any instructions or arrangements given to you regarding the management of a COI, either your own or someone else's. The arrangements will be in place in order to mitigate actual, potential or perceived conflicts and to protect you;
- iv) Make sure that interests (your own and for others) are declared and that COI are robustly managed when making commissioning decisions, in line with NHS Procurement Regulations;

- v) Make sure that the right people, including your Line Manager, the chair of any meeting attended and the lead in any commissioning exercise you are involved in, are notified about a COI. This is so that it can be recorded, published and managed appropriately;
- vi) Contact the Director of Corporate Affairs for more information, to discuss managing a COI or if there is anything you are not sure about;
- vii) Read the most recent [guidance on COI](#) published by NHS England in June 2017 including a series of case studies; and
- viii) Complete annual mandatory training on COI.

2.7 For staff, failure to comply with CCG Constitution and this policy can result in individual disciplinary action in line with the CCG's Disciplinary Policy.

2.8 For Governing Body members, failure to make a known declaration of interest can result in removal from office.

2.9 Statutorily regulated healthcare professionals who work for, or are engaged by, the CCG are under professional duties imposed by their relevant regulator to act appropriately with regard to COI.

2.10 The CCG will report statutorily regulated healthcare professionals to their regulator if they believe that they have acted improperly, so that these concerns can be investigated.

2.11 Instances of non-compliance with this policy will be reported to the Audit and Risk Committee for review and are required to be published on the CCG website.

1.12 Key Staff Contacts:

Director of Corporate Affairs

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Conflict of Interest Guardian

Audit and Risk Committee Chair: Malcolm Dennett

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2. Introduction

- 3.12** As a commissioner of healthcare, the CCG is committed to improving the health of local people. The CCG is responsible for large sums of public money and CCG staff (including interim, temporary staff, contractors and seconded staff), member practices (including individual clinicians who are supporting commissioning activity) and Governing Body / Committee members are required to act fairly, transparently and in the best interest of patients and the local population.
- 3.13** The CCG must ensure the integrity of the processes it follows when making decisions for the community, so that they are taken without the influence of external or private interest. Part of this is making sure that perceived, potential or actual COI are declared and appropriately managed, including ensuring that we conduct our business appropriately and in line with best practice.
- 3.14** The requirement to manage COI already forms part of the CCG Constitution, which outlines that employees, member practices, Committee members and members of each Governing Body will at all times comply with the Standards of Business Conduct. The COI principles and requirements form part of these Standards.
- 3.15** There are also specific statutory COI requirements the CCG must meet. [Under Section 140 \(Conflicts of Interest\)](#) of the National Health Service Act 2006 (which was inserted by the Health and Social Care Act 2012) the CCG is required to:
- Maintain and publish (or make arrangements to ensure that members of public have access on request to) appropriate registers of interest, including for members of the CCG, members of the Governing Body, members of Committees and sub-Committees and for individual employees;
 - Make arrangements requiring the prompt declaration of interests by all members and employees (as soon as practicable after the person becomes aware of the conflict or potential conflict and, in any event, within 28 days) and ensure that these are entered into the register; and
 - Make arrangements for managing COI to ensure that a conflict does not affect (or appear to affect) the integrity of the CCG's decision making process (e.g. developing policies and procedures).
- 3.16** Under the NHS (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013 (and related substantive guidance) the CCG is required to:
- Have regard to national guidance published by NHS England and Monitor in relation to COI;
 - Not award a contract for the provision of NHS health care services where conflicts (or potential conflicts) between the interests involved in commissioning services and those involved in providing them affect (or appear to affect) the integrity of the award of the contract; and
 - Keep appropriate records of how any conflict in relation to NHS commissioning contracts was managed – and publish these details.

3.17 The CCG also needs to adhere to relevant guidance issued by professional bodies on COI, including:

- The [British Medical Association \(BMA\)](#);
- The [Royal College of General Practitioners \(RCGP\)](#); and
- The [General Medical Council \(GMC\)](#).

And to procurement rules including:

- The [Public Contract Regulations 2015](#);
- The [National Health Service \(procurement, patient choice and competition\) \(no.2\) Regulations 2013](#); and
- The [Bribery Act 2010](#).

3.18 The most recent [guidance on COI](#) published by NHS England in June 2017 has been incorporated into this policy and the attached procedures.

3. Definition of a Conflict of Interest

- 3.1** A COI occurs where an individual's ability to exercise judgement, or act in a role is, could be, is seen to be or could be seen to be impaired or otherwise influenced by his or her involvement in another role or relationship.
- 3.2** In some circumstances, it could be reasonably considered that a COI exists even when there is no actual COI. In these cases it is still important to manage these perceived COI in order to maintain public trust.
- 3.3** The individual does not need to exploit his or her position to obtain an actual benefit, financial or otherwise for there to be a COI. A **potential** for competing interests and/or a **perception** of impaired judgement or undue influence can also be a COI.
- 3.4** Therefore the **perception** of wrongdoing, impaired judgement or undue influence can sometimes be as damaging as this occurring.
- 3.5** Whether or not an interest held by another person gives rise to a COI will depend upon the nature of the relationship between that other person and upon the individual, and the role of the individual within the CCG.
- 3.6** For the purpose of this policy, the reference to COI includes actual, potential or perceived conflicts.
- 3.7** For more information and examples of COI, please refer to the CCG Constitution (under Standards of Business Conduct – Conflict of Interest).
- 3.8** **Types of COI** come under four categories. For more details and examples please see [Appendix 1](#):

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

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

This could also include an individual being:

- In employment outside of the CCG;
- In receipt of secondary income;
- In receipt of a grant from a provider;
- In receipt of any payments (for example honoraria, one-off payments, day allowances or travel or subsistence) from a provider;

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

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

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

3.8.3 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; and
- A member of a lobby or pressure group with an interest in health and care.

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

- Spouse / partner;
- Close family member or relative e.g., parent, grandparent, child, grandchild or sibling;
- Close friend or associate; or
- 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 their fellow GP partners (which could be done by cross referring to the separate declarations made by those GP partners, rather than by repeating the same information verbatim).

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

3.9 The above categories are not exhaustive and each potential COI will be assessed on a case-by-case basis, in order to decide whether any other role, relationship or interest would impair or otherwise influence an individual’s judgement or actions in their role within the CCG. If so, this will be declared and appropriately managed. Further guidance and examples of COI may be found on the NHS England Website or by clicking [here](#).

4. Principles

4.1 Principles of good governance for consideration include those set out in the following:

4.2 The **Seven Principles of Public Life** (commonly known as the **Nolan Principles**): www.gov.uk/government/publications/the-7-principles-of-public-life

- Selflessness;
- Integrity;
- Objectivity;
- Accountability;
- Openness;
- Honesty; and
- Leadership.

4.3 The Good Governance Standards of Public Services:
www.jrf.org.uk/report/good-governance-standard-public-services

4.4 The Seven Key Principles of the NHS Constitution:
www.gov.uk/government/publications/the-nhs-constitution-for-england

4.5 The Equality Act 2010:
www.legislation.gov.uk/ukpga/2010/15/contents
www.gov.uk/guidance/equality-act-2010-guidance

4.6 The UK Corporate Governance Code:
<https://www.frc.org.uk/Our-Work/Codes-Standards/Corporate-governance/UK-Corporate-Governance-Code.aspx>

4.7 Standards for members of NHS Boards and CCG Governing Bodies in England: <http://www.professionalstandards.org.uk/publications/detail/standards-for-members-of-nhs-boards-and-clinical-commissioning-group-governing-bodies-in-england>

4.8 In addition to support the management of COI the CCG will follow the below principles:

- Do business appropriately: COI become much easier to identify, avoid and/or manage when the processes for needs assessments, consultation mechanisms, commissioning strategies and procurement procedures are right from the outset, because the rationale for all decision making will be clear and transparent and should withstand scrutiny;
- Be proactive, not reactive: Seek to identify and minimise the risk of COI at the earliest possible opportunity;
- Be balanced, sensible and proportionate: Rules should be clear and robust but not overly prescriptive or restrictive. They should ensure that decision-making is transparent and fair whilst not being overly constraining, complex or cumbersome;
- Be transparent: Document clearly the approach and decisions taken at every stage in the commissioning cycle so that a clear audit trail is evident; and
- Create an environment and culture where individuals feel supported and confident in declaring relevant information and raising any concerns.

4.9 This policy supports these principles by outlining the duties in relation to COI and detailing related processes to help discharge this duty. This includes:

- Making, recording and publishing declared COI;
- Assessing possible impacts of these declarations;
- Managing perceived, potential and actual COI; and
- Monitoring and reporting arrangements. For more details on the principles of good governance, please see [Appendix 2](#).

5. Declaring Conflicts of Interest

5.1 Statutory requirements

The National Health Service Act 2006 (as amended by the Health and Social Care Act 2012) requires the CCG to make arrangements to ensure individuals declare any COI or potential COI in relation to a decision to be made by the CCG as soon as they become aware of it, and in any event within **28 days of the interest arising**. The CCG must record the interest in the registers as soon as they become aware of it.

5.2 Notwithstanding the statutory requirement acknowledged in paragraph 5.1 above, DOI should be made as soon as reasonably practicable and in any event not less than 28 days after the interest arises. Declarations should also be made or reaffirmed at the following opportunities:

5.2.1 On appointment: Applicants for any appointment to the CCG or its Governing Body or any Committees should be asked to declare any relevant interests. When an appointment is made, a formal declaration of interests should again be made and recorded.

5.2.2 At meetings: All attendees are required to declare their interests as a standing agenda item for every Governing Body, Committee, sub-Committee or working group meeting, before the item is discussed. Even if an interest has been recorded in the register of interests, it should still be declared in meetings where matters relating to that interest are discussed. DOI will be recorded in the minutes of meetings.

5.2.3 When prompted by the organisation: Because of the CCG's role in spending taxpayers' money, the CCG will ensure that, at least annually, staff are prompted to update their DOI, or make a nil return where there are no interests or changes to declare.

5.2.4 On changing role, responsibility or circumstances: Whenever an individual's role, responsibility or circumstances change in a way that affects the individual's interests (e.g., where an individual takes on a new role outside the CCG, enters into a new business or relationship, starts a new project/piece of work or may be affected by a procurement decision e.g. if their role may transfer to a proposed new provider), a further declaration should be made to reflect the change in circumstances as soon as possible, and in any event within 28 days. This could involve a COI ceasing to exist or a new one materialising. It should be made clear to all individuals who are required to make a declaration of interests that if their circumstances change, it is the responsibility of all CCG staff to make a further declaration as soon as possible and in any event within 28 days, rather than waiting to be asked.

5.2.5 Working for others whilst employed by the CCG: This applies to individuals who wish to work outside of the CCG in a role which is related to their usual job. Declarations must include both paid and unpaid work as well as works undertaken outside the employment of Brighton and Hove CCG. Examples of declarable work include the following:

- Consultancy, advisory and project management work;
- Membership of panels assessing products and medicines;
- Full or co-opted membership of groups and committees;
- Speaking, presenting and facilitating at meetings, seminars and workshops;
- Direct employment by a third party organisation.

- 5.2.6** Prior written approval must be sought from the Chief Finance Officer. If the work is carried out in NHS time, the fee, if accepted, must be paid to a CCG budget agreed with the line manager in advance of undertaking the activity.
- 5.2.7** A fee can be accepted for work carried out in the staff member's own time, but this work must be approved by the Chief Finance Officer in advance of undertaking the activity. The staff member must make it clear to the third party organisation that they are undertaking the work as a private person and not as an employee or agent of the CCG and the work must not conflict with the aims and policies of the CCG. The staff member is responsible for ensuring that their work is not promoted by the third party organisation as indicating approval or endorsement by the CCG of their products or activities.

5.4 Declarations of interests by CCG Member Practices

- 5.4.1** The CCG is a membership organisation made up of the GP practices situated in Brighton and Hove with each GP Practice having a vote of those matters which have been reserved to the membership in the Constitution. Accordingly, member practices are required to make a DOI in accordance with this policy.
- 5.4.2** It should be noted that member practices, not the individual Partners and GPs who are members of the CCG therefore declarations must be made on behalf of each practice. The declaration made by the practice must include the relevant collective interest of the partnership, and all the interests of the GP partners.
- 5.4.3** Given that it is the Practice who is the member and not the individual partners, it is most likely that the declarable interests will be Indirect Interests.
- 5.4.4** The requirement for member practices to submit DOI is contained with s.14O (1) of the NHS Act 2006. This requirement specifically applies to each GP partner (or director where the practice is a company) and each individual who is directly involved with the decision making of the practice.

6. Register of Interests

6.10 Statutory Requirements

The CCG will maintain one or more registers of interest of:

- a. The members of the group;
- b. Members of its Governing Body;
- c. Members of its Committees or sub-Committees; and
- d. Its employees.

The CCG will publish, and make arrangements to ensure that members of the public have access to on request, these registers on request.

6.11 A register of interests is maintained for:

a. All CCG employees, including:

- All full and part time staff;
- Any staff on sessional or short term contracts;
- Any students and trainees (including apprentices);
- Agency staff;
- Seconded staff; and
- Interim staff.

Any self-employed consultants or other individuals working for the CCG under a contract for services.

b. Members of the Governing Body. All members of the CCG's Committees, sub-Committees/sub-groups, including:

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

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

c. All members of the CCG (i.e., each practice). This includes each provider of primary medical services which is a member of the CCG under Section 140 (1) of the 2006 Act. Declarations should be made by the following groups:

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

6.12 Although the CCG will maintain a register of interest for all staff as identified in 6.1 and 6.2 above, the CCG will only publish a register of interests for all "Decision Making Staff" on its website. In accordance with NHS England Guidance this decision making staff are defined as:

- Members of the Governing Body;
- Members of Governing Body Committees;
- Members of Working Groups;
- All senior staff whose employed at Agenda for Change Grade 8d or above; and

- All staff who are entitled to enter contracts on behalf of the CCG.

6.13 Declared COI (including amendments to previous declarations) will be added to the register of interests as soon as the CCG is notified – and no later than 28 days.

6.14 A COI will remain on the public register for a minimum of six months after the interest has expired. In addition, the CCG will retain a record of historic COI for a minimum of six years after the date on which they expired. The CCG's published register of interests will state that historic COI are retained by the CCG for at least six years, with contact details for submitting a request for this information.

6.15 The register of interests are available on the CCG websites at:

<http://www.brightonandhoveccg.nhs.uk/>

7. Roles and Responsibilities

7.1 Individuals

Including temporary staff, contractors and seconded staff, members of each CCG (member practice), members of each Governing Body and related Committees are required to:

- a. **Comply** with the CCG Constitution, available on the CCG website, and be aware of their responsibilities outlined in it relating to COI and general business conduct;
- b. **Complete** their own declaration of interests (DOI) form (at [Annex B](#)) to be recorded and published in the relevant public register of interests. The DOI form must be completed on joining the CCG (and will be sent out to member practices for completion). The form must be completed even if it is a nil return;
- c. **Keep up to date** the declaration of interest form. This form must be updated every **six months**, even if there is no change to your situation. The CCG must be notified if there are any changes as soon as they are known by completing a new form (and within a maximum of **28 days**). This includes where there is a **change** in roles / responsibilities or there is a new interest to be declared or a declared interest has ceased;
- d. **Declare** at the start of any relevant meeting - or during a commissioning process - relevant COI relating to the agenda or commissioning decision to be made. This is in order for the declaration to be recorded as part of the minutes of the meeting / commissioning process and for the appropriate action to mitigate the conflict to be taken;
- e. **Declare** at the start of any relevant meeting – or during a commissioning process - relevant offers of gifts or hospitality (whether accepted or not). This is in order for the declaration to be recorded as part of the minutes of the meeting / commissioning process and to ensure that the CCG's register of gifts and hospitality is up-to-date;
- f. **Ensure** that details of the arrangements in place to manage the COI are received and understood before participating in any commissioning activity, following a DOI;
- g. **Ensure** that arrangements that have been put in place for managing COI are followed (either for themselves or for others);
- h. **Ensure** that the chair of any meeting attended is aware of any arrangements in place for managing the COI, where the item arises;
- i. **Declare** a COI if there is some uncertainty as to whether or not the interest is something that the guidance would define as a COI. Where there is doubt it is best practice to err on the side of caution and treat the interest as a conflict so that it can be managed appropriately either way;
- j. **Report** any concerns with implementation of the policy, including any failure to adhere to the policy, to the Director of Corporate Affairs in the first instance; and
- k. **Complete** annual mandatory training on COI.

7.2 Commissioning / procurement processes and decisions

Staff and members are required to:

- a. Comply with regulatory and legislative requirements. This includes the NHS Act, the Health and Social Care Act, associated NHS Procurement Regulations, policies and guidance and Public Contracts Regulations 2015 (PCR 2015). Part of managing COI is doing business appropriately and following the principles and general safeguards already embedded in best practice;
- b. Make sure that DOI are made by those involved as part of the commissioning / procurement process - and that any COI are managed appropriately. This may include, for example, managing COI for potential bidders seeking information in relation to procurement or those participating in a procurement exercise (or otherwise engaging with the CCG in relation to the potential provision of services);
- c. Keep appropriate records regarding the declaration and management of COI, including the evidence of how the COI was mitigated in the specific circumstances. For example, documentary evidence should be kept to demonstrate that no one with an interest in the successful provider organisation was involved in the procurement process and how any DOI were assessed and managed;
- d. Ensure that the appropriate COI Procurement Templates and guidance are used and understood if commissioning services from GP practices;¹
- e. The CCG will make sure that if it is commissioning from GPs / member practices, that decision making Committees have a quorate, non-conflicted majority where possible. For example, by using out of area GPs, clinicians with relevant experience and lay and executive person involvement;
- f. Where appropriate, ensure the involvement or review of decisions by third parties (Health and Wellbeing Board / out of area GPs, clinicians with relevant experience, independent lay persons) should a COI arise that affects, or appears to affect, the integrity of an award;
- g. Provide the details of the declaration and management of COI to the Corporate Affairs Team for the inclusion in the Register of Procurement Decisions. This forms part of the requirement to publish a record of contracts awarded, outlined in Regulation 9 of the NHS Procurement Regulations;
- h. Make sure that COI are managed on an on-going basis, for example by monitoring a contract that has been awarded to a provider in which an individual commissioner has a vested interest; and
- i. For each procurement the CCG will complete the procurement template set out in Appendix H of this policy. This template will help the CCG to provide evidence of deliberation on COI during the procurement process.

¹ Please also refer to the Procurement Policy, templates available in the December 2014 NHS England Guidance ([National Guidance](#) – Annex 2 and 4) and Monitor's Substantive Guidance on the Procurement, Patient Choice and Competition Regulations at Annex 6.

7.3 The Governing Body

The Governing Body has overall accountability and is responsible for ratifying this Managing COI Policy:

- a. Governing Body members are required to make their own declarations, which are also made in line with the Nolan Principles and the Code of Accountability for NHS Boards, as incorporated in the CCG Standing Orders;
- b. In order for the CCG to identify the risk of COI at the earliest opportunity, DOI forms are required as part of any selection or election process when individuals join the Governing Body (or CCG Committees);
- c. Whilst the COI Guardian has an important role within the management of COI, executive members of the CCG's Governing Body have an on-going responsibility for ensuring the robust management of COI, and all CCG employees, Governing Body and Committee members and member practices will continue to have individual responsibility in playing their part on an ongoing and daily basis; and
- d. Key considerations when appointing Governing Body or Committee members including the following:
 - Whether COI should exclude individuals from appointment;
 - Assessing materiality of interest; and
 - Determining the extent of the interest.

7.4 Lay Members

Lay members play a critical role in the CCG, providing scrutiny, challenge and an independent voice in support of robust and transparent decision-making and management of COI. The CCG has the now recommended three lay members due to their expanding role in relation to delegated primary care commissioning.

7.5 Conflict of Interest Guardian

To further strengthen scrutiny and transparency of CCG decision-making processes, the CCG has COI Guardian. This role is undertaken by the CCG's Audit and Risk Committee chair, provided they have no provider interests. The COI Guardian will, in collaboration with the CCG governance lead:

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

7.6 Audit and Risk Committee

The CCG Audit and Risk Committee is responsible for overseeing the management of COI on behalf of the CCG, with arrangements for the COI generally to be determined by the Audit and Risk Committee (unless a Governing Body decision is required):

- a. In order that the CCG remains as responsive as possible to specific COI declared, decisions on arrangements to mitigate COI will generally be taken on the day they are declared (or as soon as possible thereafter) by the Director of Corporate Affairs / procurement lead in conjunction with the relevant member of the Executive Team (ET), Audit and Risk Committee Chair, line manager and individual, as appropriate;
- b. The arrangements will be documented and in place within a week of the declaration. The arrangements will confirm the following:
 - i. When an individual should withdraw from a specified activity, on a temporary or permanent basis; and/or
 - ii. How monitoring of the specified activity by the individual will be undertaken, either by a line manager, colleague or other designated individual.
- c. The Audit and Risk Committees will review COI and mitigating arrangements at regular intervals, including the documented arrangements for managing a COI; and
- d. The Audit and Risk Committees will annually review and approve the process (including this policy) for managing COI and for the Register of interests, including for annual accounts and audit purposes.

7.7 The Chief Accountable Officer

The Chief Accountable Officer has overall responsibility for ensuring the CCG has appropriate policies and procedures in place and compliance with relevant legislation.

7.8 Meeting Chairs

Meeting chairs have responsibility for ensuring that DOI are a standing agenda item and addressed at the start of all meetings. Chairs must also follow any arrangements in place to manage existing COI and follow the processes outlined for the structure and quorum of meetings:

- a. Following a DOI at a meeting, the chair is responsible for managing any COI and for informing the member / attendee of their decision, with advice from the Director of Corporate Affairs / other relevant parties where appropriate;
- b. Where no arrangements have been confirmed prior to the meeting, the chair may require the individual to withdraw from the meeting or part of it;
- c. The chair is responsible for ensuring that any DOI made at a meeting (and any subsequent decision relating to COI management for that meeting) is captured as part of the minutes; and
- d. Meeting chairs must make sure that this information is communicated to the CCG Corporate Affairs Team as soon as possible after the meeting. This is both for advice on managing any COI and for the information to be recorded on the relevant register of interests.

7.9 Where the chair of any meeting has a personal interest (previously declared or otherwise) in relation to the business of the meeting, they must make a declaration and the deputy chair will act as chair for the relevant part of the meeting.

7.10 The Deputy / Vice Chair of the Governing Body or Committee

When the Chair of the Governing Body or a Committee has a COI, the Deputy / Vice Chair will chair the meeting or the relevant part of the meeting.

7.11 The Chief Finance Officer

The Chief Finance Officer, who reports to the Chief Accountable Officer, will ensure that:

- a. The registers of interests are reviewed and updated / published as necessary; and
- b. The CCG processes for managing COI, and the registers of interests, are submitted to the Audit and Risk Committee annually for review.

7.12 The Director of Corporate Affairs

The Director of Corporate Affairs will lead on providing advice and assistance on governance arrangements for declarations and COI management. The Director of Corporate Affairs will also:

- a. Ensure robust management of the policy development and co-ordinate the declarations review and approval process via relevant Committees, or other bodies / persons delegated to do so;
- b. Ensure that the COI review process is audited appropriately including carrying out a sample check of declarations or nil declarations on a rotational basis, along with a check that verbal declarations made at meetings match those on the Registers;
- c. Support the process outlined in [Annex A1](#);
- d. Raise awareness of this COI policy including providing training;
- e. Manage the day-to day management of COI matters and queries;
- f. Maintain the CCG registers of interests;
- g. Support the COI Guardian to enable them to carry out the role effectively;
- h. Provide advice, support, and guidance on how COI should be managed;
- i. Ensure a ratified version of this policy is stored electronically on the shared Network drive, on the staff intranet and on the CCG websites; and
- j. Co-ordinate the review of the policy within the allotted timescale.

7.13 Line Managers

Line Managers are responsible for:

- a. Ensuring the policies and supporting procedures are followed and that staff are aware of their obligations regarding the declaration and management of COI;
- b. Familiarising staff with CCG policies as part of the staff induction process and making sure that the DOI form has been completed and returned to the relevant point of contact;
- c. Carrying out the initial assessment of DOI from their staff and proposing any mitigating arrangements to the Director of Corporate Affairs; and
- d. Overseeing activity regarding COI and helping to manage situations where a conflict or potential conflict arises to ensure that the COI is mitigated.

7.14 Those participating in procurement activity

This includes bidders / potential bidders and contractors:

- a. The CCG recognises the importance in making decisions about the services it procures in a way that does not call into question the motives behind the procurement decision that has been made. The CCG will procure services in a manner that is open, transparent, non-discriminatory and fair to all potential providers;
- b. The CCG will comply with NHS England's document 'Managing Conflicts of Interest: Statutory Guidance for CCGs' (June 2017), including where GP Practices are potential providers of CCG commissioned services;
- c. Anyone participating in a procurement activity, or otherwise engaging with the CCG in relation to the potential provision of services or facilities to the CCG, will be required to make a declaration of any COI;
- d. **The Chief Finance Officer** is responsible for maintaining and publishing the Register of Procurement Decisions, to include details of how any conflicts that arose in the context of the decision were managed by the CCG. The CCG Procurement Policy and the Register of Procurement Decisions are reviewed annually;
- e. If commissioning from GPs / member practices, where possible the CCG will ensure that decision making Committees have a quorate, non-conflicted majority. For example, by using out of area GPs, clinicians with relevant experience and lay and executive person involvement;
- f. Should a COI arise that affects or appears to affect the integrity of an award, the CCG will ensure the involvement or review of decisions by third parties (Health and Wellbeing Board / out of area GPs, clinicians with relevant experience, independent lay persons); and
- g. Anyone contracted to provide services or facilities directly to the CCG will be subject to the CCG constitution in relation to managing COI.

8. CCG Improvement and Assessment Framework

8.1 The management of COI is a key indicator of the CCG Improvement and Assessment Framework. As part of the Framework, the CCG is required on an *annual* basis to confirm via self-certification:

- That the CCG has a clear policy for the management of COI in line with the statutory guidance and a robust process for the management of breaches;
- That the CCG has a minimum of three lay members;
- That the CCG Audit and Risk Committee chair has taken on the role of the COI Guardian; and
- The level of compliance with the mandated COI on-line training, as of 31 January annually.

8.2 In addition, the CCG is required to report on a quarterly basis, via self-certification, that the CCG:

- Has processes in place to ensure individuals declare any interests which may give rise to a conflict or potential conflict as soon as they become aware of it, and in any event within 28 days, ensuring accurate up to date registers are complete for:
 - a) COI;
 - b) Procurement decisions; and
 - c) Gifts and hospitality.
- Has made these registers available on its website and, upon request, at the CCG's headquarters;
- CCG is aware of any breaches of its policies and procedures in relation to the management of COI and how many, including:
 - d) Confirmation that anonymised details of the breach have been published on the CCG website; and
 - e) Confirmation that they been communicated to NHS England.

8.3 Additionally, the CCG is required to undertake an annual internal audit on the management of COI to provide further assurance about the degree of compliance with the statutory guidance. Consideration of the Conflict of Interest indicator within the CCG assessment and Assurance Framework will form part of this audit.

9. Designing Services and Conflicts of Interest

- 9.1** The management of COI applies to all aspects of the commissioning cycle, including contract management.
- 9.2** If COI are not managed effectively, confidence in commissioning decisions and the integrity of the individuals and clinicians involved could be undermined.
- 9.3** Even if a COI does not actually affect the integrity of a contract awarded, a COI that appears to do so can damage reputation and public confidence in the CCG and Regulation 6 of the Procurement, Patient Choice and Competition Regulations can prohibit awarding contracts in these circumstances.
- 9.4** If a contract that has been awarded to a provider in which an individual commissioner has a vested interest, contract leads will ensure that COI are managed on an on-going basis during contract monitoring.
- 9.5** Any contract monitoring meeting needs to consider COI as part of the process i.e., the chair of a contract management meeting should invite DOI; record any declared COI in the minutes of the meeting; and manage any COI appropriately and in line with this guidance. This equally applies where a contract is held jointly with another organisation such as the Local Authority or with one or more other CCGs under lead commissioner arrangements.
- 9.6** The individuals involved in the monitoring of a contract should not have any direct or indirect financial, professional or personal interest in the incumbent provider or in any other provider that could prevent them, or be perceived to prevent them, from carrying out their role in an impartial, fair and transparent manner.
- 9.7** COI need to be managed appropriately throughout the whole commissioning cycle from needs assessment, planning and prioritisation to service design, procurement and monitoring.
- 9.8** At the outset of a commissioning process, the relevant interests of all individuals involved will be identified and clear arrangements put in place to manage any COI. This includes consideration as to which stages of the process a conflicted individual should not participate in, and, in some circumstances, whether that individual should be involved in the process at all.
- 9.9** The CCG must comply with the NHS ([Procurement, Patient Choice and Competition](#) (No.2)) Regulations 2013: made under S75 of the 2012 Act and [the Public Contracts Regulations](#) 2015 (PCR 2105). The PCR 2015 are focused on ensuring a fair and open selection process for providers.
- 9.10** The Procurement, Patient Choice and Competition Regulations (PPCCR) require the CCG:
- a. To ensure that they adhere to good practice in relation to procurement;
 - b. To run a fair, transparent process that does not discriminate against any provider;
 - c. Not to engage in anti-competitive behaviour that is against the interest of patients;
 - d. To protect the right of patients to make choices about their healthcare; and
 - e. To secure high quality, efficient NHS healthcare services that meet the needs of the people who use those services.

- 9.11** The CCG will maintain a register of procurement decisions taken, either for the procurement of a new service or any extension or material variation of a current contract. This will include:
- a. The details of the decision;
 - b. Who was involved in making the decision (including the name of the CCG clinical lead, the CCG commissioner, the name of the decision making Committee and the name of any other individuals with decision-making responsibility;
 - c. A summary of any COI in relation to the decision and how this was managed by the CCG; and
 - d. The award decision taken.
- 9.12** The register of procurement decisions will be updated whenever a procurement decision is taken. A draft register is included at [Annex G](#).

10 Raising Concerns and Breaches

- 10.1 It is the duty of every CCG employee, Governing Body member, Committee or sub-Committee member and GP practice member to speak up about genuine concerns in relation to the administration of the CCG's policy on COI management, and to report these concerns.
- 10.2 Any non-compliance with the CCG's COI policy should be reported to the Director of Corporate Affairs under this policy. In addition, the CCG's Whistleblowing Policy (Freedom to Speak Up) can be found on the staff Intranet at: <http://www.brightonandhoveccg.nhs.uk/>.
- 10.3 All notifications will be treated confidentially. The person making a disclosure will be kept informed of any decisions taken as a result of any investigation.
- 10.4 Providers, patients and other third parties can make a complaint to NHS Improvement at: www.improvement.nhs.uk/ in relation to a commissioner's conduct under the Procurement Patient Choice and Competition Regulations.
- 10.5 Professionals from other NHS Organisations, Local Authorities or any other organisation wishing to raise a concern about a breach of this policy should ensure they raise the concern in compliance with their organisation's Whistleblowing or Freedom to Speak Up Policy which will ensure they are afforded the appropriate protection.
- 10.6 Anonymised details of breaches will be published on the CCG's website for the purpose of learning and development. See Annex A2 for a process chart.
- 10.7 Genuine suspicions of Fraud, Bribery and Corruption can also be reported to the NHS Fraud and Corruption Reporting Line on free phone 0800 028 4060, again in strict confidence, or via the online reporting form at www.reportnhsfraud.nhs.uk.
- 10.8 Suspicions of fraud can be reported within the CCG to the Chief Finance Officer, Alan Beasley or to the NHS Counter Fraud Area Manager, Andrew Morley.
- 10.9 Please see the CCG's Fraud, Bribery and Corruption Policy for more details, available on the staff Intranet at: <http://www.brightonandhoveccg.nhs.uk/contact-us>.

11 References and Further Information

The relevant supporting guidance forms and processes referenced within this document are available in [Annex A – G](#).

11.1 The Bribery Act 2010:

www.legislation.gov.uk/ukpga/2010/23/contents

www.gov.uk/government/publications/bribery-act-2010-guidance

11.2 British Medical Association (BMA). Guidance on Conflicts of Interest for GPs in their role as commissioners and providers:

www.bma.org.uk/advice/employment/commissioning/ensuring-transparency-and-probity

11.3 General Medical Council (GMC):

www.gmc-uk.org/guidance/good_medical_practice.asp

www.gmc-uk.org/guidance/ethical_guidance.asp

11.4 The National Health Service (procurement, patient choice and competition) (no.2) regulations 2013:

www.gov.uk/government/publications/regulations-on-healthcare-procurement-patient-choice-and-competition-laid

www.gov.uk/government/publications/procurement-patient-choice-and-competition-regulations-guidance

11.5 The Public Contract Regulations 2015:

www.legislation.gov.uk/uksi/2015/102/contents/made

11.6 Public Contracts Regulations 2015 (PCR 2015):

www.legislation.gov.uk/uksi/2015/102/contents/made

11.7 Royal College of General Practitioners. Managing Conflicts of Interest in clinical commissioning groups:

www.rcgp.org.uk/~/_media/Files/CIRC/Managing_conflicts_of_interest.ashx

12 Equality Statement

- 12.1 In applying this policy, the CCG will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.

13 Review

- 13.1 This policy will be reviewed annually or sooner if required. Where review is necessary due to legislative change, this will happen immediately. The revised policy document will be approved by the CCG's Audit and Risk Committee.

Appendix 1: Details of the four types of Conflict of Interest

1. **Financial interests.**
2. **Non-financial professional interests.**
3. **Non-financial personal interests.**
4. **Indirect interests.**

These categories are not exhaustive and each potential COI will be assessed on a case-by-case basis, in order to decide whether any other role, relationship or interest could (or could be seen to) impair or otherwise influence an individual's judgement or actions in their role within the CCG. If so, this will be declared and appropriately managed.

1. Financial interests

Where an individual may get direct financial benefits from the consequences of a commissioning decision. This could, for example, include being:

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

This could also include an individual being:

- In secondary employment. Examples of work which might conflict with the business of the CCG, including part-time, temporary and fixed term contract work, include:
 - With another NHS body;
 - With another organisation which might be in a position to supply goods / services to the CCG;
 - Directorship of a GP federation; and
 - Self-employment, including private practice, in a capacity which might conflict with the work of the CCG or which might be in a position to supply goods/services to the CCG.

Individuals are required to obtain prior permission to engage in secondary employment, and the CCG reserves the right to refuse permission where it believes a conflict will arise which cannot be effectively managed:

- 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).

2. Non-financial professional interests.

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

- An advocate for a particular group of patients;
- A GP with special interests e.g., in dermatology, acupuncture etc;
- A member of a particular specialist professional body (although routine GP membership of the RCGP, British Medical Association (BMA) or a medical defence organisation would not usually by itself amount to an interest which needed to be declared);
- An advisor for the Care Quality Commission (CQC) or the National Institute for Health and Care Excellence (NICE);
- A medical researcher; and
- GPs and practice managers, who are members of the Governing Body or Committees of the CCG, should declare details of their roles and responsibilities held within their GP practices.

3. Non-financial personal interests.

Where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit. 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; and
- A member of a lobby or pressure group with an interest in health.

4. Indirect interests.

Where an individual has a close association with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest in a commissioning decision (as those categories are described above) for example, a:

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

Appendix 2: Details of Good Governance Principles

Nolan Principles.

1. **Selflessness**

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

2. **Integrity**

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

3. **Objectivity**

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

4. **Accountability**

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

5. **Openness**

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

6. **Honesty**

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

7. **Leadership**

Holders of public office should promote and support these principles by leadership and example.

The Seven Key Principles of the NHS Constitution.

- 1. The NHS provides a comprehensive service, available to all**
This is irrespective of gender, race, disability, age, sexual orientation, religion or belief. It has a duty to each and every individual that it serves and must respect their human rights. At the same time, it has a wider social duty to promote equality through the services it provides and to pay particular attention to groups or sections of society where improvements in health and life expectancy are not keeping pace with the rest of the population.
- 2. Access to NHS services is based on clinical need, not an individual's ability to pay**
NHS services are free of charge, except in limited circumstances sanctioned by Parliament.
- 3. The NHS aspires to the highest standards of excellence and professionalism**
In the provision of high-quality care that is safe, effective and focused on patient experience; in the planning and delivery of the clinical and other services it provides; in the people it employs and the education, training and development they receive; in the leadership and management of its organisations; and through its commitment to innovation and to the promotion and conduct of research to improve the current and future health and care of the population.
- 4. NHS services must reflect the needs and preferences of patients, their families and their carers**
Patients, with their families and carers, where appropriate, will be involved in and consulted on all decisions about their care and treatment.
- 5. The NHS works across organisational boundaries and in partnership with other organisations in the interest of patients, local communities and the wider population**
The NHS is an integrated system of organisations and services bound together by the principles and values now reflected in the Constitution. The NHS is committed to working jointly with local authorities and a wide range of other private, public and third sector organisations at national and local level to provide and deliver improvements in health and well-being.
- 6. The NHS is committed to providing best value for taxpayers' money and the most cost-effective, fair and sustainable use of finite resources**
Public funds for healthcare will be devoted solely to the benefit of the people that the NHS serves.
- 7. The NHS is accountable to the public, communities and patients that it serves**
The NHS is a national service funded through national taxation, and it is the Government which sets the framework for the NHS and which is accountable to Parliament for its operation. However, most decisions in the NHS, especially those about the treatment of individuals and the detailed organisation of services, are rightly taken by the local NHS and by patients with their clinicians. The system of responsibility and accountability for taking decisions in the NHS should be transparent and clear to the public, patients and staff. The Government will ensure that there is always a clear and up-to-date statement of NHS accountability for this purpose.

The Good Governance Standards of Public Services.

- 1. Good governance means focusing on the organisation's purpose and on outcomes for citizens and service users**
 - Being clear about the organisation's purpose and its intended outcomes for citizens and service users.
 - Making sure that users receive a high quality service.
 - Making sure that taxpayers receive value for money.

- 2. Good governance means performing effectively in clearly defined functions and roles**
 - Being clear about the functions of the Governing Body.
 - Being clear about the responsibilities of non-executives and the executive, and making sure that those responsibilities are carried out.
 - Being clear about relationships between governors and the public.

- 3. Good governance means promoting values for the whole organisation and demonstrating the values of good governance through behaviour**
 - Putting organisational values into practice.
 - Individual governors behaving in ways that uphold and exemplify effective governance.

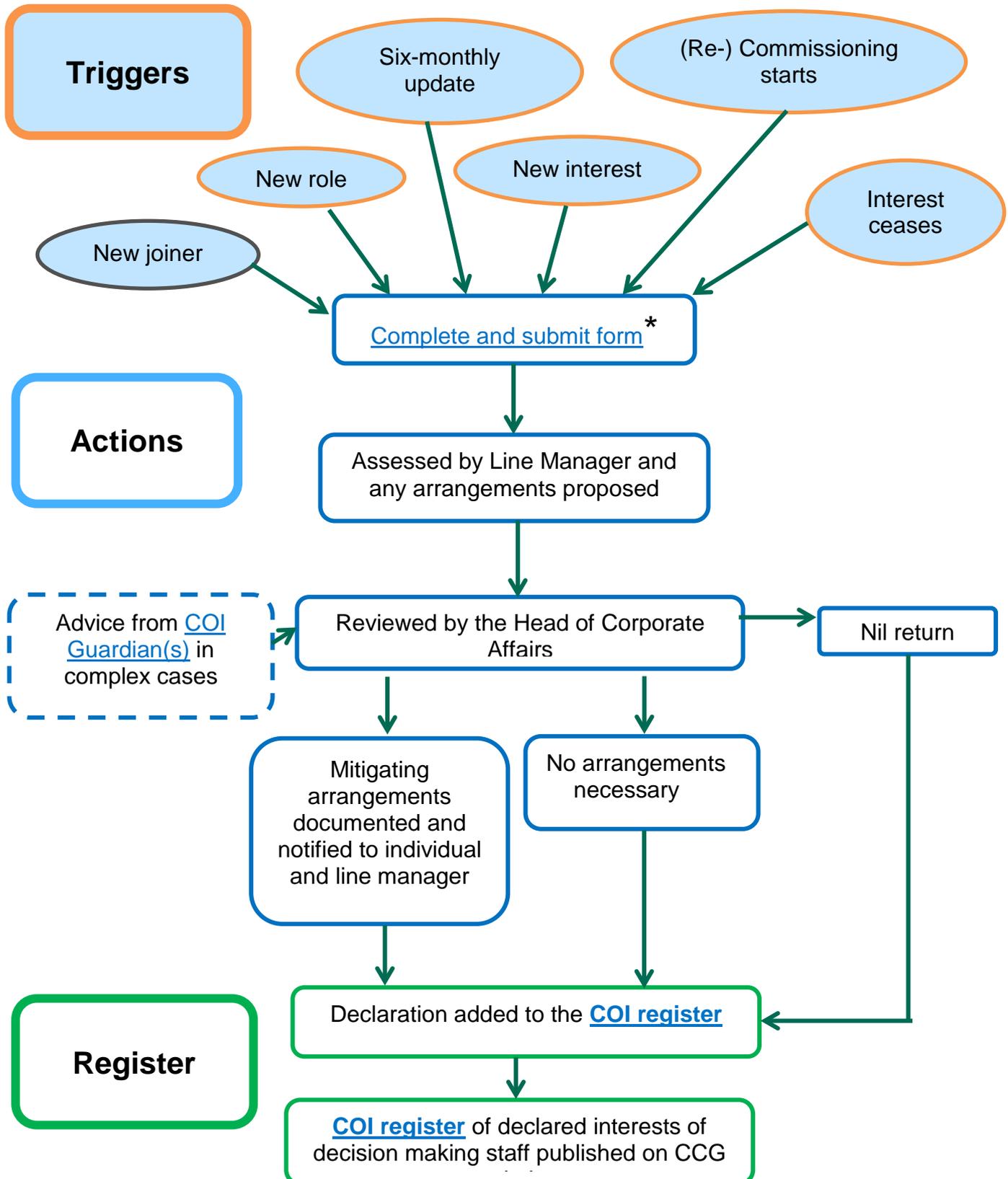
- 4. Good governance means taking informed, transparent decisions and managing risk**
 - Being rigorous and transparent about how decisions are taken.
 - Having and using good quality information, advice and support.
 - Making sure that an effective risk management system is in operation.

- 5. Good governance means developing the capacity and capability of the Governing Body to be effective**
 - Making sure that appointed and elected governors have the skills, knowledge and experience they need to perform well.
 - Developing the capability of people with governance responsibilities and evaluating their performance, as individuals and as a group.
 - Striking a balance, in the membership of the Governing Body, between continuity and renewal.

- 6. Good governance means engaging stakeholders and making accountability real**
 - Understanding formal and informal accountability relationships.
 - Taking an active and planned approach to dialogue with and accountability to the public.
 - Taking an active and planned approach to responsibility to staff.
 - Engaging effectively with institutional stakeholders.

Annex A1: PROCESS CHART

Declarations, Assessment and Recording



*The COI Declaration form is at [Annex B](#) of the Conflicts of Interest Policy

Annex A2: PROCESS CHART Scrutiny, Assurance, Breaches and Publication



Type of interest	Description
Financial Interests	<p>This is where an individual may get direct financial benefits from the consequences of a commissioning decision. This could, for example, include being:</p> <ul style="list-style-type: none"> • A director, including a non-executive director, or senior employee in a private company or public limited company or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or a social care organisation. This includes involvement with a potential provider of a new care model; • A shareholder (or similar ownership interests), a partner or owner of a private or not-for-profit company, business partnership or consultancy which is doing, or is likely, or possibly seeking to do business with health or social care organisations; • A management consultant for a provider; or • A provider of clinical private practice; <p>This could also include an individual being:</p> <ul style="list-style-type: none"> • In employment outside of the CCG; • In receipt of secondary income; • In receipt of a grant from a provider; • In receipt of any payments (for example honoraria, one-off payments, day allowances or travel subsistence) from a provider; • In receipt of research funding including grants that may be received by the individual or any organisation in which they have an interest or role; and • Having a pension that is funded by a provider (where the value of this might be affected by the success or failure of the provider).
Non-Financial Professional Interests	<p>This is where an individual may obtain a non-financial professional benefit from the consequences of a commissioning decision, such as increasing their professional reputation or status of promoting their professional career. This may, for example, include situations where the individual is:</p> <ul style="list-style-type: none"> • An advocate for a particular group of patients; • A GP with special interests, e.g. in dermatology, acupuncture etc; • An active member of a particular specialist professional body (although routine GP membership of the Royal College of General Practitioners (RCGP), British Medical Association (BMA) or a medical defence organisation would not usually by itself amount to an interest which needed to be declared); • An advisor for the Care Quality Commission (CQC) or the National Institute for Health and Care Excellence (NICE); • Engaged in a research role; • The development and holding of patents and other intellectual property rights which allow staff to protect something that they create, preventing unauthorized use of products or the copying of protected ideas; or • GPs and practice managers, who are members of the Governing Body or Committees of the CCG, should declare details of their roles and responsibilities held within their GP practices.
Non-Financial Personal Interests	<p>This is where an individual has a close association with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest in a commissioning decision (as those categories are described above) for example; a:</p> <ul style="list-style-type: none"> • Spouse / partner; • Close family member or relative, e.g. parent, grandparent, child, a grandchild or sibling.

Annex C: Template Register of Interests

Name	Current position(s) held in the CCG i.e. Governing Body member; Committee member; Member practice; CCG employee or other	Declared interest (Name of the organisation and nature of business)	Type of interest					Is the interest direct or indirect	Nature of Interest	Date of interest		Action taken to mitigate risk
			Financial Interest	Non-financial	Professional Interest	Non-financial	Personal Interest			From	To	

Annex D: Template Declarations of Interest Checklist for Meetings

Under the Health and Social Care Act 2012, there is a legal obligation to manage Conflicts of Interest (COI) appropriately. It is essential that Declarations of Interest (DOI) and actions arising from DOI are recorded formally and consistently across all CCG Governing Body, Committee and sub-Committee meetings.

This checklist has been developed with the intention of providing support in COI management to the Chair of the meeting prior to, during and following the meeting. It does not cover the requirements for declaring COI outside the Committee process.

Timing	Checklist for Chairs	Responsibility
In advance of the meeting	1. The agenda to include a standing item on DOI to enable individuals to raise any issues and/or make a declaration at the meeting.	Meeting Chair and secretariat
	2. A definition of Conflicts of Interest should also be accompanied with each agenda to provide clarity for all recipients.	Meeting Chair and secretariat
	3. Agenda to be circulated to enable attendees (including visitors) to identify any interests relating specifically to the agenda items being considered.	Meeting Chair and secretariat
	4. Members should contact the Chair as soon as an actual or potential COI is identified.	Meeting members
	5. Chair to review a summary report from preceding meetings i.e. sub-Committee, working group etc., detailing any COI declared and how this was managed.	Meeting Chair
	(A template for a summary report to present discussions at preceding meetings is detailed in Annex D).	Meeting Chair
During the meeting	6. A copy of the members' declared interests is checked to establish any actual or potential COI that may occur during the meeting.	
	7. Check and declare the meeting is quorate and ensure that this is noted in the minutes of the meeting.	Meeting Chair
	8. Chair requests members to declare any interests in agenda items - which have not already been declared, including the nature of the COI.	Meeting Chair

After the meeting	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.	Meeting Chair and secretariat
	10. As minimum requirement , the following should be recorded in the minutes of the meeting:	Secretariat
	<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; 	
	<ul style="list-style-type: none"> • Visitors in attendance who participate in the meeting must also follow the meeting protocol and declare any interests in a timely manner. 	
	(A template for recording any interests during meetings is detailed in Annex E .)	
	11. All new interests declared at the meeting should be promptly updated onto the declaration of interest form;	Individual(s) declaring interest(s)
	12. All new completed declarations of interest should be transferred onto the register of interests .	Designated person responsible for registers of interest

Notes on DOI and managing COI at Meetings

- 1.1 DOI is a required standing agenda item at every meeting of the Governing Body, related Committees / Sub-Committees and other decision making forums.
- 1.2 COI should additionally be declared at the time the conflicted item arises – e.g. where it is an agenda item or where it relates to a decision is to be made by the CCG. Declarations should be made even if the COI has been declared previously.
- 1.3 The chair is responsible for ensuring the declaration is managed appropriately and recorded at the meeting (whether the COI has been previously declared or otherwise). The information should be recorded as part of the minutes.
- 1.4 Where arrangements have been confirmed for the management of COI in relation to the chair's own interests, the meeting must ensure these are followed.
- 1.5 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.
- 1.6 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 COI or potential COI, the chair (or deputy) will determine whether or not the discussion can proceed.
- 1.7 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 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.
- 1.8 Where a quorum cannot be convened from the membership of the meeting, owing to the arrangements for managing COI, the chair of the meeting shall consult with the Chief Operating Officer on the action to be taken.
- 1.9 This may include:
 - Requiring another of the CCGs Governing Body or Committees / sub-Committees (as appropriate) which can be quorate to progress the item of business, or if this is not possible;
 - 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:
 - A member of the CCG who is an individual;
 - An individual appointed by a member to act on its behalf in the dealings between it and the CCG;
 - A member of a relevant Health and Wellbeing Board; and
 - A member of a Governing Body of another CCG.
 - These arrangements must be recorded in the minutes.
- 1.10 If commissioning from GPs / member practices who have a COI, the CCG should ensure that decision making Committees have a quorate, non-conflicted majority. For example, by using out of area GPs, other clinicians with relevant experience and lay and executive person involvement.

- 1.11** Where this is not possible the CCG should ensure the involvement or review of decisions by third parties (Health and Wellbeing Board / out of area GPs, clinicians with relevant experience, independent lay persons) should a COI arise that affects or appears to affect the integrity of an award or decision.
- 1.12** The person making the declaration should complete and return a DOI form to the email address on the form.
- 1.13** If the COI arises in a meeting / other situation, written notification should be sent the Director of Corporate Affairs, who will arrange for the formal declaration to be made (if not already). The meeting chair should ensure that this has been done.

Annex E: Template for recording interests during meetings

Meeting	Date of Meeting	Chair (name)	Secretariat (name)	Name of person declaring interest	Agenda item	Details of interest declared	Action taken
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Annex F: Template Declaration of Conflict of Interests for bidders / contractors

Name of Organisation:

Details of interests held:

Type of interest:

Details:

Provision of services or other
work for the CCG or NHS
England

Provision of services or
other work for any other
potential bidder in respect of
this project or procurement
process

Any other connection with
the CCG or NHS England,
whether personal or
professional, which the
public could perceive may
impair or otherwise influence
the CCG's or any of its
members' or employees'
judgements, decisions or
actions

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

Details of interests held:

Type of interest:	Details:	Personal interest of that of a family member, close friend or other acquaintance?
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Provision of services or other work for the CCG or NHS England

Provision of services or other work for any other potential bidder in respect of this project or procurement process

Any other connection with the CCG or NHS England, whether personal or professional, which the public could perceive may impair or otherwise influence the CCG's or any of its members' or employees' judgements, decisions or actions

To the best of my knowledge and belief, the above information is complete and correct. I undertake to update the information as necessary.

Signed:

Date:

On behalf of:

Notes on DOI and managing COI for Procurement

This process should be read in conjunction with the CCG Procurement Policy and guidance:
<https://www.brightonandhoveccg.nhs.uk/publications/policies-and-procedures>

1.1 Reviewing and requesting DOI information.

CCGs are required to ensure that conflicts do not affect, or appear to affect, the integrity of the award of commissioning contracts. DOI should be requested and made by those involved in commissioning and procurement and COI should be managed appropriately in line with NHS Procurement Regulations:

www.gov.uk/government/publications/procurement-patient-choice-and-competition-regulations-guidance

1.2 This may include, for example, DOI from potential bidders, bidders, contractors or other associated parties (Relevant Organisations), those participating in the procurement exercise and parties otherwise engaging with the CCG in relation to the potential provision of services.

1.3 As part of the commissioning process, procurement leads should request and collate DOI forms for those involved in order to appropriately manage Conflicts of Interest. Procurement leads should:

- Check the DOI is up to date for the individual / member practice
- Ensure that they are aware of the substance of, and mitigating arrangements for, any existing conflicts. This information is held by the CCG Governance and Corporate Services Team.
- Make sure that a new form is completed and the process in [Annex A1](#) is followed.
- Keep appropriate records of these checks.

1.4 All other parties should be asked to complete and return the DOI form at [Annex B](#).

1.5 The appropriate procurement templates and guidance should be used and read if commissioning services from GP practices – please refer to the Procurement Policy.

1.6 Notifying the right people.

If a conflict is declared the Corporate Services Team should be notified in order to provide advice and assistance on next steps. Please contact the Director of Corporate Affairs.

1.7 Decision on any arrangements necessary to mitigate the possibility of perceived or actual conflicts.

Specific arrangements to manage the COI should be decided on a case-by-case basis. The process will be led by the relevant Procurement Team in conjunction with the Governance and Corporate Service Team, the individual / Relevant Organisation and other relevant parties.

1.8 Arrangements may include actions such as :

- Excluding individuals from the decision making process where they are conflicted (which may include exclusion from discussion relating to the decision, the vote or both);
- Removing the individual from a copy or distribution list;
- Excluding conflicted parties from receiving particular papers on the subject matter, or limiting access to particular information in relation to a decision where a COI exists;
- Exclusion from the process / procurement where the individual / Relevant Organisation is conflicted;
- If a single expert has a COI, work is overseen and shared with others as appropriate;
- Considering the structure of decision making meetings and Committees; and
- Considering how the COI will be managed on an on-going basis, for instance deciding the arrangements for monitoring a contract that has been awarded to a provider in which an individual commissioner has a vested interest.

1.9 Notification to the individual / Relevant Organisation (and communication to others regarding the arrangements).

The CCG (via the procurement lead) should write to the individual with arrangements for managing the COI within a week of declaration.

1.10 The arrangements should include the following

:

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

1.11 Where appropriate for managing the COI, these arrangements should be communicated to others (e.g. meeting chairs, administration staff organising distribution of papers, the public).

1.12 Procurement Leads must keep a record of how DOI and COI are made and managed.

The CCG must ensure that it records procurement decisions made and details of how any conflicts that arose in the context of the decision were robustly managed.

1.13 Requirements to publish.

Procurement leads should provide the details of the declaration and management of COI to the **Finance Team** for the inclusion of the information in the Register of Procurement Decisions and as part of the requirement to publish a record of contracts awarded, outlined in Regulation 9 of the NHS Procurement Regulations.

1.14 To support this process, the Corporate Services Team will :

- Produce the DOI form and guidance for the form, in line with National Policy (including the requirement to provide examples as required by National Guidance);
- Collect and hold the DOI forms for staff and members;
- Provide clear contact details to manage any questions or queries relating to the DOI;
- Provide advice and assistance on arrangements for managing COI and the related process; and
- Collect and report the **Monitoring and evaluation** information required within the Managing Conflicts of Interest Policy to the Audit and Risk Committee.

Annex G: Template Register of procurement decisions and contracts awarded

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

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

To be read in conjunction with:

Pan Sussex Child Protection and Safeguarding Procedures (2013)

NHS Sussex Policies:

Data Protection and Confidentiality

Incident Reporting and Investigation Policy and procedures

Records Management

Information Governance

Freedom of Information

Risk Management Strategy Policy and Procedures

Consent to Examination and Treatment

Managing Allegations Against People who Work with Children

Compliance with all Brighton & Hove CCG policies is a condition of employment. Breach of policy may result in disciplinary action.

All reasonable steps have been taken to ensure that this Policy reflects the:

Equality and diversity agenda

Relevant articles of the Human Rights Act 1998

Philosophy of Clinical Governance, providing evidence for compliance with the requirements of the Standards for Better Health of the Department of Health and the NHS Litigation Authority Risk Management Standard for PCTs Health and Safety at Work Act 1974 and associated legislation

Freedom of Information Act 2000

Disability Discrimination Act 1995 (amended 2005)

Sex Discrimination Act 1975 (amended 2003)