

## CONFLICTS OF INTEREST POLICY

**July 2014**

<b>Authorship:</b>	<b>CSU Corporate Strategy &amp; Policy Manager</b>
<b>Reviewing Committee:</b>	<b>Audit Committee</b>
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<b>Equality Impact Assessment</b>	<b>Completed</b>
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<b>Related Policies</b>	<b>Sponsorship Policy Whistleblowing Policy Business Conduct Policy Procurement Policy Local Anti-Fraud, Bribery and Corruption Policy</b>
<b>Target Audience:</b>	<b>All employees, members, committee and sub-committee members of the group and members of the governing body and its committees.</b>
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Vale of York Clinical Commissioning Group  
MANAGEMENT OF CONFLICT OF INTERESTS POLICY

**POLICY AMENDMENTS**

Amendments to the Policy will be issued from time to time. A new amendment history will be issued with each change.

New Version Number	Issued by	Nature of Amendment	Approved by & Date	Date on Intranet
1.1	P Furneaux	Separate Business Conduct and Conflict of Interest policies. Addition of CCG specific links/form, responsibilities and arrangements. Managing conflicts of interest in service re-design (section 8) and proposed SOP, (App. C).	Audit Committee 10/09/14	
1.2	Audit Committee	Political interests added as example of defined declared interest	Audit Committee 10/09/14	

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## Contents

1.	INTRODUCTION.....	4
2.	POLICY STATEMENT .....	4
3.	IMPACT ANALYSES .....	4
4.	SCOPE .....	5
5.	POLICY PURPOSE & AIMS .....	5
6.	DEFINITIONS .....	5
7.	ROLES, RESPONSIBILITIES AND DUTIES .....	7
8.	MANAGING CONFLICTS OF INTEREST IN COMMISSIONING ACTIVITIES....	8
9.	REGISTERS OF INTEREST .....	9
10.	MANAGEMENT ARRANGEMENTS .....	9
11.	DECLARATIONS IN RELATION TO PROCUREMENT .....	10
12.	BREACHES OF THE POLICY .....	11
13.	IMPLEMENTATION .....	11
14.	TRAINING & AWARENESS .....	11
15.	MONITORING & AUDIT.....	12
16.	POLICY REVIEW.....	12
17.	REFERENCES.....	12
18.	ASSOCIATED DOCUMENTS .....	12
19.	APPENDIX 1: EQUALITY IMPACT ANALYSIS FORM .....	13
21.	APPENDIX 2: SUSTAINABILITY IMPACT ASSESSMENT.....	17
22.	FORMS AND GUIDANCE.....	21

## 1. INTRODUCTION

- 1.1. The Vale of York Clinical Commissioning Group is required to make arrangements to manage conflicts of interest. This policy sets out those arrangements, based on Section 8 of its Constitution and taking account of the relevant statutory requirements and guidance documents outlined in Section 16.
- 1.2. Specific rules around GPs as potential providers of CCG commissioned services will be covered in the Vale of York Clinical Commissioning Group's Procurement Policy.
- 1.3. In addition to the specific arrangements in this policy, the CCG will embody public service values and principles in all its business transactions as outlined in the Policy on Business Conduct.

## 2. POLICY STATEMENT

- 2.1. The Vale of York Clinical Commissioning Group strives to achieve the highest standards of business conduct at all times and is committed to conducting its business with honesty and impartiality. One of the overriding objectives of the CCG is to ensure that decisions made by the CCG are both taken and seen to be taken without any possibility of the influence of external or private interest.

## 3. IMPACT ANALYSES

### Equality

- 3.1. As a result of performing the analysis, the policy does not appear to have any adverse effects on people who share *Protected Characteristics* and no further actions are recommended at this stage. The supporting paperwork is attached.

### Sustainability

- 3.2. As a result of performing the analysis, the policy does not have any effects in terms of sustainability. The supporting paperwork is attached.

### Bribery Act 2010

- 3.3. This policy is designed to contribute to the CCG's obligation to ensure adequate measures are in place to prevent acts of bribery within the meaning of the Bribery Act 2010.
- 3.4. The Bribery Act 2010 came into force in July 2011 and has particular relevance to this policy. The Act created four criminal offences:
  - Bribery, or offering to bribe, another person (section 1);
  - Requesting, agreeing to receive, or accepting a bribe (section 2);
  - Bribing, or offering to bribe, a foreign public official (section 6);
  - Failing to prevent bribery (section 7).
- 3.5. It should be noted that there need not be any actual giving and receiving for financial or other advantage to be gained, to commit an offence.

Vale of York Clinical Commissioning Group  
MANAGEMENT OF CONFLICT OF INTERESTS POLICY

- 3.6. The Act also increased the maximum penalty for bribery to 10 years' imprisonment, with an unlimited fine, or both. Furthermore, the Act introduced a 'corporate offence' of failing to prevent bribery by the organisation not having adequate preventative procedures in place.  
Individuals may expose the organisation to a conviction punishable with an unlimited fine because the organisation may be liable where a person associated with it commits an act of bribery.
- 3.7. Individuals should also be aware that a breach of this Act, or of this policy, renders them liable to disciplinary action by the CCG whether or not the breach leads to prosecution. Where a material breach of this guidance is found to have occurred, the likely sanction will be loss of employment and superannuation rights.
- 3.8. Further information on the Bribery Act can be found at [www.opsi.gov.uk/acts](http://www.opsi.gov.uk/acts).

#### 4. SCOPE

- 4.1. This policy applies to the Council of Members, Members of the Governing Body and Members of, and attendees at, its committees and sub committees (both voting and non-voting members), Lay Members and all Vale of York Clinical Commissioning Group staff. Individuals working on behalf of the Vale of York Clinical Commissioning Group or providing services or facilities to the CCG will be made aware of their obligations with regard to declaring conflicts or potential conflicts of interest. This requirement will be written into contract documentation.

#### 5. POLICY PURPOSE & AIMS

- 5.1. The Vale of York Clinical Commissioning Group recognises that conflicts of interest are unavoidable and therefore has in place arrangements to seek to manage them. The measures outlined in this policy are aimed at ensuring that decisions made by the CCG will be taken, and seen to be taken, uninfluenced by external or private interests.

#### 6. DEFINITIONS

- 6.1. A conflict of interest occurs where an individual's ability to exercise judgement or act in one role is, or could be, impaired or otherwise influenced by his or her involvement in another role or relationship. The individual does not need to exploit his or her position or obtain an actual benefit, financial or otherwise. A potential for competing interests and/or a perception of impaired judgement or undue influence can also be a conflict of interest.
- 6.2. The important things to remember are that:
- A perception of wrong doing, impaired judgement or undue influence can be as detrimental as any of them actually occurring;
  - If in doubt, it is better to assume a conflict of interest and manage it appropriately rather than ignore it;
  - For a conflict to exist, financial gain is not necessary.
- 6.3. (Towards Establishment: Creating responsive and accountable CCGs (NHS Commissioning Board February 2012).

Vale of York Clinical Commissioning Group  
MANAGEMENT OF CONFLICT OF INTERESTS POLICY

- 6.4. In line with Section 8.2.3 of the Constitution, a conflict of interest will include (but is not necessarily limited to):
- a direct pecuniary interest: where an individual may financially benefit from the consequences of a commissioning decision (for example, as a provider of services);
  - an indirect pecuniary interest: for example, where an individual is a partner, member or shareholder in an organisation that will benefit financially from the consequences of a commissioning decision;
  - a non-pecuniary interest: where an individual holds a non-remunerative or not-for profit interest in an organisation, that will benefit from the consequences of a commissioning decision (for example, where an individual is a trustee of a voluntary provider that is bidding for a contract);
  - a non-pecuniary personal benefit: where an individual may enjoy a qualitative benefit from the consequence of a commissioning decision which cannot be given a monetary value (for example, a reconfiguration of hospital services which might result in the closure of a busy clinic next door to an individual's house).
  - where an individual is closely related to, or in a relationship, including friendship, with an individual in the above categories.
- 6.5. Examples of interests that will be deemed to be relevant and material will include but are not limited to:
- Roles and responsibilities held within member practices.
  - Membership of a Partnership (whether salaried or profit sharing) seeking to enter into any contracts with the CCG.
  - Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the CCG.
  - Directorships, including non-executive Directorship held in private or public limited companies seeking to enter into contracts with the CCG.
  - Shareholdings of companies in the field of health and social care seeking to enter into contracts with the CCG.
  - Positions of authority in an organisation (e.g. charity or voluntary organisation) in the field of health and social care.
  - Formal interest with a position of influence in a political party or organisation;
  - Any interest that they are (if registered with the General Medical Council) required to declare in accordance with paragraph 55 of the GMC's publication 'Management for Doctors' or any successor guidance.
  - Any interest that they (if they are registered with the Nursing and Midwifery Council) would be required to declare in accordance with paragraph 7 of the NMC's publication 'Code of Professional Conduct' or any successor Code.
  - Any interest which does or might constitute a conflict of interest in relation to the specification for or award of any contract to provide goods or services to the CCG.
  - Any research funding or grants that may be received by the individual or any organisation that they have an interest or role in.
  - Any 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.
- 6.6. Examples of those individuals likely to have potential conflicts of interest or undue influence could be CCG staff, GPs in practice in the CCG, practice managers and Lay Members.

## 7. ROLES, RESPONSIBILITIES AND DUTIES

### Vale of York CCG Governing Body

- 7.1. The Governing Body has ultimate responsibility for all actions carried out by staff and Committees throughout the CCG's activities. This responsibility includes the stewardship of significant public resources and the commissioning of healthcare services to the local community.

### The Audit Committee

- 7.2. The CCG Audit Committee is responsible for ensuring that there is an effective system in place to manage and to protect the reputation of the CCG arising from conflicts or potential conflicts of interest. The Audit Committee will review the arrangements for the declaration and management of conflicts of interest and provide assurances, on a report highlighting issues to increase assurances, to the Governing Body that adequate systems and processes are in place to ensure compliance, especially in relation to the development of new services/contracts or changes to existing services/contracts.

### The Chief Operating Officer/Chief Finance Officer

- 7.3. The Chief Operating Officer / Chief Finance Officer will oversee arrangements to ensure that the CCG's register of interests is publicly accessible and will advise on how declarations should be made and how interests are managed. The Chief Operating Officer / Chief Financial Officer will develop procedures for managing those interests that are common to a number of individuals or to specific activities of the CCG.

### Employees/Staff Working on Behalf of the Vale of York Clinical Commissioning Group

- 7.4. Employees and staff working on behalf of the CCG should be aware that in any transaction undertaken in support of the Vale of York Clinical Commissioning Group's 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 management arrangements for conflicts of interest.
- 7.5. Where the Vale of York Clinical Commissioning Group commissions services from GP practices, the general safeguards will be supplemented by additional safeguards which form the separate guidance entitled 'Towards Establishment: Creating responsive and accountable CCGs together with Technical Appendix 1 – Managing conflicts of interest (NHS Commissioning Board February 2012)'.
- 7.6. Where someone is to be part of the tender evaluation panel or decision making process regarding the award of the contract, any potential conflict of interest must be declared at the earliest opportunity. Failure to do so could result in the procurement process being declared invalid and possible suspension of the relevant individual from the CCG.
- 7.7. If in doubt, an individual should assume that a potential conflict of interest exists. Transparency demands that individuals are explicitly and clearly aware of their responsibilities and duties in this context. Should there be any doubt about the relevance of an interest, this should be discussed with the Chair of the Governing

Vale of York Clinical Commissioning Group  
MANAGEMENT OF CONFLICT OF INTERESTS POLICY  
Body, Chair of the Audit Committee or the Chief Officer, which will result in a recommended course of action.

- 7.8. Vale of York Clinical Commissioning Group employed staff are advised not to engage in outside employment which may conflict with their NHS work. They are advised to tell their employer if they think they may be risking a conflict of interest in this area and the declaration can be made on the form at Appendix B.
- 7.9. All individuals covered by the scope of this policy are also required to declare any relevant personal or business interests of their spouse, civil partner, cohabitee, family member or any other relationship (including friendship) which may influence or may be perceived to influence their judgement.
- 7.10. Individuals will declare any interests, in writing, as soon as they are aware of it and in any event no later than 28 days after becoming aware. A form to be used for this purpose is included at Appendix B.
- 7.11. Where an individual is unable to provide a declaration in writing, for example, if a conflict becomes apparent in the course of a meeting, they will make an oral declaration at the meeting, and provide a written declaration as soon as possible thereafter. The declaration will be minuted.
- 7.12. Even if an interest has already been declared, it should be declared at the start of any meeting where matters relating to that interest are discussed and this should be minuted.
- 7.13. Individuals applying for posts at the CCG or seeking appointment to the Governing Body and any of its committees and sub committees will be required to declare any potential conflicts of interest during the appointment process. Where a question arises as to whether this may impact on the ability to appoint individuals, further guidance should be sought from the CCG Chair, the Chair of the Audit Committee or the Chief Officer.

## **8. MANAGING CONFLICTS OF INTEREST IN COMMISSIONING ACTIVITIES**

- 8.1. Conflicts of interests may arise when the CCG engages clinicians, or other representatives of provider organisations for the purpose of advising it on its commissioning activities. These activities include:
- pre procurement work;
  - work during procurement; and
  - work following procurement.
- 8.2. The CCG acknowledges that its engagement with clinicians or representatives from member practices, hospitals or other providers, who have an interest in providing services to the CCG, is likely to differ depending on which stage of the procurement process that the organisation is at. For example, it may be appropriate in a clinically led membership organisation to engage clinicians with interests in providing services to the CCG (subject to the provisions set out in this procedure) when deciding what to procure but that it would not be appropriate to engage providers with interests during procurement.
- 8.3. In managing conflicts or potential conflicts of interests, the CCG may distinguish between those individuals or organisations that have an interest and those that are deemed to have a material interest.



Vale of York Clinical Commissioning Group  
MANAGEMENT OF CONFLICT OF INTERESTS POLICY

- 8.4. A proposed Standard Operating Procedure has been included at Appendix C to manage potential conflicts of interest that arise during the course of service re-design.

## **9. REGISTERS OF INTEREST**

- 9.1. The Policy and Assurance Manager on behalf of the Chief Clinical Officer, will maintain registers of all relevant and material interests and positions of influence declared by members of the Council of Members, Governing Body, Committees and Sub Committees and Employees.
- 9.2. Registers will be reviewed annually by the Audit Committee with an assurance report provided to the Governing Body, to include explanations of any concerns and how these were managed.
- 9.3. Any changes/additions to declarations registered should be notified to the Policy and Assurance Manager as soon as possible after the change occurs for recording in the Register of Interests.
- 9.4. The Register will be published on the Vale of York Clinical Commissioning Group's website with the exception of staff below grade 8 who do not have a position of influence on any Vale of York Clinical Commissioning Group committee or sub-committee. All information may have to be disclosed, if requested under the Freedom of Information Act.
- 9.5. Declared interests of the Council of Members, the Governing Body and its committees will be published on the Vale of York Clinical Commissioning Group's website and in the Annual Report and Accounts.

## **10. MANAGEMENT ARRANGEMENTS**

- 10.1. Full details of how declared interests should be managed are as outlined in Section 8.4 of the Constitution (for ease of reference see extract at Appendix D). Examples of possible scenarios and how to manage them are included as Appendix A.
- 10.2. Where no previous declaration has been made, the Chair of the meeting will determine how this should be managed, in line with the management arrangements and may require the individual to withdraw from the meeting or part of it. The agreed actions should be recorded in the minutes.

### **Interests of the Chair of a Meeting**

- 10.3. Where the Chair of a meeting has a relevant interest, whether previously declared or not, in relation to the scheduled or likely business of the meeting, the Deputy Chair will act as Chair for the relevant part of the meeting and may require the Chair to withdraw for that part of the discussion. If there is no deputy Chair, the meeting will select one and the meeting must ensure that arrangements for the management of the conflict of interest are followed.

### **Effects of withdrawal**

- 10.4. Where 50% of members of a meeting are required to withdraw, the Chair (or deputy) will determine whether or not the discussion can proceed. This decision will be based on whether the meeting is quorate, as set out in Standing Orders (in relation to the Governing Body) and in line with the terms of reference (for all other meetings). Where a quorum cannot be convened the Chair will consult with the Audit Committee

10.5. Any arrangements made or agreed in a meeting will be recorded in the minutes.

## 11. DECLARATIONS IN RELATION TO PROCUREMENT

11.1. 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.

11.2. The CCG will publish a Procurement Policy approved by its Governing Body which includes specific reference to conflicts of interest. Procurement Policy should make reference to:

11.3. all relevant clinicians (not just members of the CCG) and potential providers, together with local members of the public, are engaged in the decision-making processes used to design and re-design services;

11.4. service redesign and procurement processes are conducted in an open, transparent, non-discriminatory and fair way

11.5. Where a relevant and material interest or position of influence exists in the context of the specification for, or award of, a contract the individual will be expected to:

- Declare the interest
- Ensure that the interest is recorded in the register
- Only take part in discussions as part of extended membership meetings to involve other major stakeholders in the service being discussed
- Not have a vote in relation to the specification or award.

11.6. Individuals will be expected to declare any interest early in the procurement process if they are to be a potential bidder in that process. In addition, where someone is to be part of the tender evaluation panel or decision making process regarding the award of the contract, any potential conflict of interest must be declared at the earliest opportunity. Failure to do so could result in the procurement process being declared invalid and possible suspension of the relevant individual from the CCG.

11.7. Potential conflicts will vary to some degree depending on the way in which a service is being commissioned e.g.

- Where a CCG is commissioning a service through **Competitive Tender** (i.e. seeking to identify the best provider or set of providers for a service) a conflict of interest may arise where GP practices or other providers in which CCG members have an interest are amongst those bidding.
- Where the CCG is commissioning a service through **Any Qualified Provider** a conflict could arise where one or more GP practices (or other providers in which CCG members have an interest) are amongst the qualified providers from whom patients can choose. Guidance within the GMC's core guidance Good Medical Practice (2006) and reiterated in its document Conflicts of Interest (2008) Indicates, in such cases, that:

“You must act in your patients best interests when making referrals and when providing or arranging treatment of care.

Vale of York Clinical Commissioning Group  
MANAGEMENT OF CONFLICT OF INTERESTS POLICY

11.8. You must not ask for or accept any inducement, gift or hospitality which may affect or be seen to affect the way you prescribe, treat or refer patients. You must not offer such inducements to colleagues:

- if you have financial or commercial interest in organisations providing healthcare or in pharmaceutical or other biomedical companies, these interests must not affect the way you prescribe for, treat or refer patients;
- if you have a financial or commercial interest in an organisation to which you plan to refer a patient for treatment or investigation, you must also tell the patient about your interest. When treating NHS patients you must also tell the healthcare provider.”

11.9. The GMC also provides the following general guidance:

- you may wish to note on the patient’s record when an unavoidable conflict of interest arises; and
- if you have a financial interest in an institution and are working under an NHS employers’ policy you should satisfy yourself, or seek other assurance from your employing or contracting body, that systems are in place to ensure transparency and to avoid, or minimise the effects of, conflicts interest. You must follow the procedures governing the schemes.

11.10. The CCG will also adhere to all relevant regulations and principles which pertain to NHS Procurement and UK/EU Competition Law, including the NHS (Procurement, Patient Choice and Competition) Regulations 2013.

## **12. BREACHES OF THE POLICY**

12.1. Breaches of this policy will be investigated and may result in the matter being treated as a disciplinary offence under the CCG’s disciplinary procedure. Failure to adhere to the provisions of this policy may constitute a criminal offence of fraud, as an individual could be gaining unfair advantages of financial rewards for themselves, a family member or a close associate. Any suspicion that a relevant interest may not have been declared should be reported to the Chief Officer.

## **13. IMPLEMENTATION**

13.1. Following approval by the Council of Members, this policy will be distributed the Communications Manager for referencing in the staff newsletter and to the Council of Members, the Governing Body, Committee and Sub Committee Members and Practice Managers.

## **14. TRAINING & AWARENESS**

14.1. This policy will be made available to all Members and staff via the Vale of York Clinical Commissioning Group’s website. Notice of all approved policies placed on the website will be included in CCG briefing processes. The policy will be brought to the attention of all new Members and staff via the induction process. Advice on this policy can be obtained from the Chief Clinical Officer, Chair of the Audit Committee, and the Policy and Assurance Manager.

## **15. MONITORING & AUDIT**

15.1. The Audit Committee will keep under review the arrangements for the management of conflicts of interest, annually review the registers of interest and provide an annual assurance report to the Governing Body.

## **16. POLICY REVIEW**

16.1. This policy will be reviewed in bi-annually. Earlier review may be required in response to exceptional circumstances, organisational change or relevant changes in legislation/guidance, as instructed by the senior manager responsible for this policy'.

## **17. REFERENCES**

- 'Managing Conflicts of Interest in CCG – NHS Federation & RCGP Centre for Commissioning
- NHS England- Managing conflicts of interest where GP practices are potential providers of CCG-commissioned services
- BMA's Ensuring Transparency & Probity Guidance
- Institute of Chartered Secretaries & Administrators Chartered Secretaries Guidance Note 100618 June 2010
- NHS Wirral Commissioning/Procurement of Health Services Appendix D – Approvals Process
- Section 140 of the 2006 Health Act, as inserted by section 25 of the 2012 Act
- Towards Establishment: Creating responsive and accountable CCGs together with Technical Appendix 1 – Managing conflicts of interest (NHS Commissioning Board February 2012)
- Bribery Act 2010
- Policy on Business Conduct & Management of Conflicts of Interest – template for CCGs developed by Internal Auditor, North Yorkshire Service.

## **18. ASSOCIATED DOCUMENTS**

- Vale of York CCG Constitution
- Procurement Policy
- Policy on Business Conduct
- Local Anti-Fraud, Bribery & Corruption Policy
- Induction Policy

Vale of York Clinical Commissioning Group  
MANAGEMENT OF CONFLICT OF INTERESTS POLICY

**19. APPENDIX 1: EQUALITY IMPACT ANALYSIS FORM**

1.	Title of policy/ programme/ service being analysed
	Managing Conflicts of Interest Policy
2.	Please state the aims and objectives of this work.
	The Vale of York Clinical Commissioning Group recognises that conflicts of interest are unavoidable and therefore has in place arrangements to seek to manage them. The measures outlined in this policy are aimed at ensuring that decisions made by the CCG will be taken, and seen to be taken, uninfluenced by external or private interests.
3.	Who is likely to be affected? (e.g. staff, patients, service users)
	Staff need to comply with the principles and practices outlined in this policy.
4.	What sources of equality information have you used to inform your piece of work?
	NHS England guidance
5.	What steps have been taken ensure that the organisation has paid <u>due regard</u> to the need to eliminate discrimination, advance equal opportunities and foster good relations between people with protected characteristics
	The analysis of equalities is embedded within the CCG's Committee Terms of Reference and project management framework.
6.	Who have you involved in the development of this piece of work?
	Internal involvement: Senior Management team Stakeholder involvement: Consultation with Senior Managers Patient / carer / public involvement: This is an Internal policy aimed at staff employed by the CCG and contractors working for the CCG. The focus is on compliance with statutory duties and NHS mandated principles and practice. There are no particular equality implications.
7.	What evidence do you have of any potential adverse or positive impact on groups with protected characteristics? Do you have any gaps in information? Include any supporting evidence e.g. research, data or feedback from engagement activities (Refer to Error! Reference source not found. if your piece of work relates to commissioning activity to gather the evidence during all stages of the commissioning cycle)

Vale of York Clinical Commissioning Group  
MANAGEMENT OF CONFLICT OF INTERESTS POLICY

Disability People who are learning disabled, physically disabled, people with mental illness, sensory loss and long term chronic conditions such as diabetes, HIV)	Consider building access, communication requirements, making reasonable adjustments for individuals etc
N/a	
Sex Men and Women	Consider gender preference in key worker, single sex accommodation etc
N/a	
Race or nationality People of different ethnic backgrounds, including Roma Gypsies and Travellers	Consider cultural traditions, food requirements, communication styles, language needs etc.
N/a	
Age This applies to all age groups. This can include safeguarding, consent and child welfare	Consider access to services or employment based on need/merit not age, effective communication strategies etc.
N/a	
Trans People who have undergone gender reassignment (sex change) and those who identify as trans	Consider privacy of data, harassment, access to unisex toilets & bathing areas etc.
N/a	
Sexual orientation This will include lesbian, gay and bi-sexual people as well as heterosexual people.	Consider whether the service acknowledges same sex partners as next of kin, harassment, inclusive language etc.
N/a	
Religion or belief Includes religions, beliefs or no religion or belief	Consider holiday scheduling, appointment timing, dietary considerations, prayer space etc.

Vale of York Clinical Commissioning Group  
MANAGEMENT OF CONFLICT OF INTERESTS POLICY

N/a	
Marriage and Civil Partnership Refers to legally recognised partnerships (employment policies only)	Consider whether civil partners are included in benefit and leave policies etc.
N/a	
Pregnancy and maternity Refers to the pregnancy period and the first year after birth	Consider impact on working arrangements, part-time working, infant caring responsibilities etc.
N/a	
Carers This relates to general caring responsibilities for someone of any age.	Consider impact on part-time working, shift-patterns, options for flexi working etc.
N/a	
Other disadvantaged groups This relates to groups experiencing health inequalities such as people living in deprived areas, new migrants, people who are homeless, ex-offenders, people with HIV.	Consider ease of access, location of service, historic take-up of service etc
N/a	
<p>Action planning for improvement Please outline what mitigating actions have been considered to eliminate any adverse impact?</p> <p>No adverse equality impact has been identified.</p> <p>Please state if there are any opportunities to advance equality of opportunity and/ foster good relationships between different groups of people?</p> <p>An Equality Action Plan template is appended to assist in meeting the requirements of the general duty</p>	

Vale of York Clinical Commissioning Group  
MANAGEMENT OF CONFLICT OF INTERESTS POLICY

Sign off
Name and signature of person / team who carried out this analysis Governance Team
Date analysis completed 3 <sup>rd</sup> September 2014
Name and signature of responsible Director
Date analysis was approved by responsible Director



Vale of York Clinical Commissioning Group  
MANAGEMENT OF CONFLICT OF INTERESTS POLICY

**21. APPENDIX 2: SUSTAINABILITY IMPACT ASSESSMENT**

Staff preparing a policy, Governing Body (or Sub-Committee) report, service development plan or project are required to complete a Sustainability Impact Assessment (SIA). The purpose of this SIA is to record any positive or negative impacts that this is likely to have on sustainability.

Title of the document	Management of Conflict of Interests Policy
What is the main purpose of the document	The Vale of York Clinical Commissioning Group recognises that conflicts of interest are unavoidable and therefore has in place arrangements to seek to manage them. The measures outlined in this policy are aimed at ensuring that decisions made by the CCG will be taken, and seen to be taken, uninfluenced by external or private interests.
Date completed	2 <sup>nd</sup> September 2014
Completed by	P Furneaux, Policy and Assurance Manager

Domain	Objectives	Impact of activity Negative = -1 Neutral = 0 Positive = 1 Unknown =? Not applicable = n/a	Brief description of impact	If negative, how can it be mitigated? If positive, how can it be enhanced?
Travel	Will it provide / improve / promote alternatives to car based transport?	0		
	Will it support more efficient use of cars (car sharing, low emission vehicles, environmentally friendly fuels and technologies)?	0		
	Will it reduce 'care miles' (telecare, care closer) to home?	0		
	Will it promote active travel (cycling, walking)?	0		
	Will it improve access to opportunities and facilities for all groups?	0		

Vale of York Clinical Commissioning Group  
MANAGEMENT OF CONFLICT OF INTERESTS POLICY

Domain	Objectives	Impact of activity Negative = -1 Neutral = 0 Positive = 1 Unknown =? Not applicable = n/a	Brief description of impact	If negative, how can it be mitigated? If positive, how can it be enhanced?
	Will it specify social, economic and environmental outcomes to be accounted for in procurement and delivery?	0		
Procurement	Will it stimulate innovation among providers of services related to the delivery of the organisations' social, economic and environmental objectives?	0		
	Will it promote ethical purchasing of goods or services?	0		
Procurement	Will it promote greater efficiency of resource use?	0		
	Will it obtain maximum value from pharmaceuticals and technologies (medicines management, prescribing, and supply chain)?	0		
	Will it support local or regional supply chains?	0		
	Will it promote access to local services (care closer to home)?	0		
	Will it make current activities more efficient or alter service delivery models	0		
Facilities Management	Will it reduce the amount of waste produced or increase the amount of waste recycled? Will it reduce water consumption?	0		
Workforce	Will it provide employment opportunities for local people?	0		
	Will it promote or support equal employment opportunities?	0		

Vale of York Clinical Commissioning Group  
MANAGEMENT OF CONFLICT OF INTERESTS POLICY

Domain	Objectives	Impact of activity Negative = -1 Neutral = 0 Positive = 1 Unknown =? Not applicable = n/a	Brief description of impact	If negative, how can it be mitigated? If positive, how can it be enhanced?
	Will it promote healthy working lives (including health and safety at work, work-life/home-life balance and family friendly policies)?	0		
	Will it offer employment opportunities to disadvantaged groups?	0		
Community Engagement	Will it promote health and sustainable development?	0		
	Have you sought the views of our communities in relation to the impact on sustainable development for this activity?	N/a		
Buildings	Will it improve the resource efficiency of new or refurbished buildings (water, energy, density, use of existing buildings, designing for a longer lifespan)?	0		
	Will it increase safety and security in new buildings and developments?	0		
	Will it reduce greenhouse gas emissions from transport (choice of mode of transport, reducing need to travel)?	0		
	Will it provide sympathetic and appropriate landscaping around new development?	0		
	Will it improve access to the built environment?	0		
Adaptation to Climate Change	Will it support the plan for the likely effects of climate change (e.g. identifying vulnerable groups; contingency planning for flood, heat wave and other weather extremes)?	0		

Vale of York Clinical Commissioning Group  
MANAGEMENT OF CONFLICT OF INTERESTS POLICY

Domain	Objectives	Impact of activity Negative = -1 Neutral = 0 Positive = 1 Unknown =? Not applicable = n/a	Brief description of impact	If negative, how can it be mitigated? If positive, how can it be enhanced?
Models of Care	Will it minimise 'care miles' making better use of new technologies such as telecare and telehealth, delivering care in settings closer to people's homes?	0		
	Will it promote prevention and self-management?	0		
	Will it provide evidence-based, personalised care that achieves the best possible outcomes with the resources available?	0		
	Will it deliver integrated care, that co-ordinate different elements of care more effectively and remove duplication and redundancy from care pathways?	0		

## **22. FORMS AND GUIDANCE**

- A Example scenarios on how to manage conflicts within a meeting.
- B Form and guidance for making declarations of interest
- C Commissioning Community Services: Conflict of Interest Declaration and Confidentiality Agreement
- D Extract from the VoY CCG Constitution – Section 8.

### COMMISSIONING CYCLE AND POTENTIAL CONFLICTS OF INTEREST

## Notes:

- The illustrations given below should not be considered to be prescriptive in every instance.
- These are guidelines and both the materiality of the conflict and the significance of the issue should be considered carefully by the Chair in deciding on how to manage the conflict.
- It is the responsibility of the Chair to review the agenda and operate caution in terms of deferment or referral if necessary.
- Chairs to also consider potential conflicts of interest arising from verbal reports.
- Links should be considered to strategy direction eg is the introduction of a LES in line with the strategy?
- If significant/complete conflict of interest at a locality level the matter could be referred to the CCG for decision.

Interest	Pecuniary (Self, partner or close associate)	Personal (Self)	Personal (Partner or close associate)	Competing Loyalties
Needs assessment	Fully participate	Fully participate	Fully participate	Fully participate
Decide priorities	Discuss but cannot vote	Discuss and vote	Discuss and vote	Discuss and vote
Review commissioning proposals	Remain but cannot speak or vote	Remain but cannot speak or vote	Remain but cannot speak or vote	Discuss and vote
Design services (ensure a fully inclusive process)	Discuss and vote	Discuss and vote	Discuss and vote	Discuss and vote
Review prioritised business cases	Leave the room	Remain but cannot speak or vote (unless interest is deemed not prejudicial)	Remain but cannot speak or vote (unless interest is deemed not prejudicial)	Discuss and vote
Procurement/contracting	Leave the room	Remain but cannot speak or vote (unless interest is deemed not prejudicial)	Remain but cannot speak or vote (unless interest is deemed not prejudicial)	Discuss and vote
Performance Management	Remain but cannot speak or vote (unless significant and then leave the room)	Remain but cannot speak or vote (unless significant and then leave the room)	Remain but cannot speak or vote (unless significant and then leave the room)	Discuss and vote
Review Health Outcomes	Fully participate	Fully participate	Fully participate	Fully participate

**DECLARATION OF INTERESTS & SECONDARY EMPLOYMENT/PRIVATE PRACTICE  
FORM**

Please complete the form after referring to the guidance notes attached.

Please delete the following statements that **DO NOT** apply:

I have no interests to declare

I am not aware of any relevant interests of close associates (as defined in the guidance notes)  
*(delete as appropriate)*

I wish to declare my interests recorded overleaf

I wish to declare the interests of close associates (as defined in the guidance notes) recorded  
overleaf *(delete as appropriate)*

**Signature**..... **Date**.....

Name *(please print)*.....

Position.....

Practice.....

Base .....

Committee/Sub Committee Member.....

I declare that to the best of my knowledge and belief, the information I have given on this form is correct and complete. I understand that if I knowingly provide false information, this may result in disciplinary action and I may be liable for prosecution and civil recovery proceedings. I consent to the disclosure of information from this form to and by the CCG and NHS Protect for the purpose of verification, prevention, detection and prosecution of fraud.

I undertake to update as necessary the information provided and to regularly review the accuracy of the information provided.

Appendix B continued

Type of Interest	Details and whether Personal or Pecuniary*	Self or other**	Start Date
Membership of a Partnership (whether salaried or profit sharing) seeking to enter into contracts with the CCG.			
Roles and responsibilities held within member practices.			
Directorships, including non-executive directorships held in private or public limited companies			
Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the CCG			
Material shareholdings in private or public companies seeking to enter into contracts with the CCG.			
As an employee or trustee of a voluntary organisation, social enterprise or charity seeking to enter into a contract with the CCG.			
Any interest that they (if registered with the GMC) would be required to declare in accordance with paragraph 55 of the GMC's publication 'Management for Doctors' or any successor guidance.			
Any interest that they (if registered with the Nursing & Midwifery Council) would be required to declare in accordance with paragraph 7 of the NMC's publication 'Code of Professional Conduct' or any successor Code.			
Partner/employee of .....practice which provides medical services over and above the GP contractual obligations			
Research funding/grants that may be received by the individual or any organisation they have an interest or role in.			
Formal interest with a position of influence in a political party or organisation.			
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			
Any other employment or private practice ( <i>include hours worked per week</i> )			

\* Pecuniary – of or relating to money i.e. a financial interest

\*\* Specify relationship



## Appendix B continued

### Guidance Notes

- Section 8 of the CCG Constitution and its related Business Conduct and Conflicts of Interest Policies require CCG Shadow Board Members, Council of Members, Members of its Committees and Sub-Committees, CCG staff and individuals working on behalf of the CCG to declare interests which are relevant and material and any positions of influence they hold or are held by a family member, close friend or other acquaintance, in the categories outlined on the form.
- If there are no interests to declare **a nil return must be submitted** and the word 'Nil' entered against each category.
- Declarations should be made within 28 days of a relevant event occurring.
- Any changes to declarations should also be made within 28 days of a relevant event occurring by completing and submitting a new declaration form.
- Any changes should be reported at the start of each Committee/Sub Committee meeting. This should be a standing agenda item at all meetings, including Vale of York Clinical Commissioning Group staff meetings.
- Members and employees completing this form must provide sufficient detail of each interest so that a member of the public would be able to understand clearly the sort of financial or other interest the member has and the circumstances in which a conflict of interest might arise.
- If in doubt as to whether a conflict of interest could arise, a declaration of the interest should be made.
- If any assistance is required to complete the form, please contact the Policy and Assurance Manager
- The signed hard copy of the completed form should be sent to the Policy and Assurance Manager
- Details of directorships of companies and organisations likely or possibly seeking to do business with the NHS will be published in the Vale of York Clinical Commissioning Group's annual report.
- All declarations (apart from those of employees on Grade 7 and below) will be published on the Vale of York Clinical Commissioning Group's website.

## **MANAGING CONFLICTS OF INTERESTS IN COMMISSIONING ACTIVITIES**

### STANDARD OPERATING PROCEDURE (DRAFT)

#### PURPOSE

The purpose of this operating procedure is to set out how the CCG will manage the interests of those providers with whom it engages to assist it in the development of its commissioning plans. The procedure should be read in conjunction with the CCG's policy on managing conflicts of interest, which requires anyone working for, or on behalf of, the Group who is involved in taking decisions, or who is able to influence a decision to declare their interests.

#### MANAGING INTERESTS

##### PRE PROCUREMENT ACTIVITIES

The pre-procurement phase of the CCG's commissioning activities may comprise:

- generating ideas and options
- solution exploration
- service review
- specification

Whilst procedures should be applied consistently the effort that the CCG invests to manage conflicts of interest will be proportionate to the value, complexity and risks of the services contracted. Risks will be evaluated and focus maintained where there is a combination of higher benefits, costs, savings and quality.

##### IDEAS AND SOLUTION EXPLORATION PHASE

The CCG will engage with clinicians or other representatives of providers to help generate ideas or options, or to explore solutions which either improve access to services, provide care closer to home, provide additional choices for patients or users or which offer a different model of care to the CCG's existing arrangements. The approach and extent to which consultation takes place with current or potential providers will be influenced by the type of procurement process which is to be undertaken (i.e. open, restricted, or competitive dialogue).

Where clinicians, providers or their representatives are engaged in this process they must be asked to complete and sign conflict of interest declaration forms. An example form is included with this procedure.

Clinicians or representatives in this context include providers who may subsequently bid to provide such services, including member practices.

In engaging clinicians or representatives during the 'ideas' and 'solution exploration' phase, the group will take steps to ensure that:

- providers do not have preferential access to information that would give them a competitive edge in their bid to provide that service;

**Clinical Commissioning Group**

- a provider with a 'material interest' is not appointed to a position of influence, including, for example, chairing meetings or conducting research on behalf of the CCG;
- providers who currently provide the services under consideration are invited to contribute to the CCG's work.

It is important however to ensure that the final version of any specification has been approved by the commissioner.

In order to mitigate against providers, or the perception of provider's being given preferential access to information, the group will, as soon as practical, actively encourage a range of providers to contribute ideas and solutions to its work. This will include promoting this work on the CCG's website.

All clinicians contributing to the review should declare any interests both current and future and these will be recorded in a log and cross referenced in the minutes of the meeting.

The recommendations arising from the review will be recorded in the minutes of meetings and will be available on request (or via the CCG's website).

#### SERVICE REVIEW

Where the CCG is undertaking a major service review, involving consideration of for example, where and how an existing service may be procured in the future, or where existing contracts are due to expire or to be terminated, which, for example involve a public consultation exercise that has a significant value, benefit or potential savings, the group will:

- appoint a clinical representative to co-ordinate the service review from a provider which does not intend to bid to provide that service in the future; and
- seek to engage a range of providers in the service review, dependant on the type of procurement process to be undertaken. This may include representatives from the current provider of that service along with other providers who are expected to bid for the service in the future.

The CCG will promote a level playing field amongst providers by advertising the review via its website and inviting providers to participate in the review. This may include active participation in the review via for example an advisory group or the opportunity for providers to make a written contribution or to attend engagement events.

Clinicians or representatives contributing to the review should declare any interests both current and future and these will be recorded in a log and where appropriate in the minutes of meetings.

The recommendations arising from the review will be recorded in the minutes of meetings and will be available on request (or via the CCG's website).

#### SPECIFICATION PHASE

In drafting specifications the CCG:

- may obtain assistance from (clinicians or representatives from member practices with an interest;
- may not obtain assistance from (clinicians or representatives from) member practices with a material interest; and

- may not obtain assistance from clinicians from other organisations which have an interest and from whom the CCG may commission services.

## GENERAL

The CCG will endeavour to ensure that an individual provider is not afforded preferential treatment or given access to information that could not be made available to other providers, either on their request or via the CCG's website.

Where there is a single provider or one individual is the only likely bidder for a service, and where there are other known providers of that service, they will not be involved in the review of that service or the development of a specification for that service.

Where an individual provider is likely to be advantaged by their representative's involvement in the pre-procurement phases of the CCG's commissioning activities and the CCG cannot provide equality of treatment to other potential providers the CCG will exclude that provider from its pre-procurement work.

Providers of services who are interested in bidding for services may contribute to discussions concerning proposals for that service but they will not be able to vote on the proposal.

Where the Governing Body or a Committee of the Governing Body, considers it helpful, it may invite Clinicians from providers, with an interest or with a material interest in bidding for services, to participate in discussions concerning the recommendations under consideration, however, where those meetings are held in public, such providers will be excluded from the meeting when the decision is taken concerning the outcome of the review or if they are a member of the Governing Body, they will not be allowed to vote on the proposal.

In the circumstances set out in the paragraphs above, the minutes of the meeting will record the reasons for inviting the provider (s) to inform discussions.

## DURING PROCUREMENT

Clinicians from providers who are competing for services will not be involved in the CCG's processes for evaluating submissions and/or awarding a service following the decision to procure a service.

The CCG will endeavour to avoid a situation where a provider has to be excluded from bidding to provide a service due to their or their representatives' involvement in the decisions to procure that particular service or their participation in the CCG's commissioning activities. The arrangements for managing conflicts of interests by creating a level playing field for all providers, or by excluding sole providers of services, during the pre-procurement phase should help to mitigate against this.

## POST PROCUREMENT

Where a Provider of Services commissioned by the CCG also refers patients to services that it provides under a contract with the CCG (including companies in which the provider has an interest), a condition of that contract will be that the provider informs patients of its interests and promotes the patient's rights to choose an alternative provider. The provider can do this by displaying information on the contracts that it holds with the CCG in a prominent place where patients can see and read it on its website.

## Commissioning Community Services

### Conflict of Interest Declaration & Confidentiality Agreement

#### Instructions:

This form is to be completed by all individuals who will provide input, advice and/or make commercial decisions in respect of the commissioning and procurement of the above service. Guidance in respect of individuals is provided in Appendix C1.

Completed forms are to be signed (no electronic signatures) and scanned in to an email in the first instance to [pennie.furneaux@nhs.net](mailto:pennie.furneaux@nhs.net). The original signed hard copy should be posted to the following address:

FAO: Pennie Furneaux, NHS Vale of York Clinical Commissioning Group, West Offices, Station Rise, York, YO1 6GA.

#### Part 1: Conflict of Interest Declaration

- Please read statements 1 – 6 thoroughly, if you acknowledge and agree with each of the statements and have no conflict of interest please complete Box A, and move onto Part 2 – Confidentiality Agreement.
- If you identify a potential conflict please complete Box B and move to Part 2 – Confidentiality Agreement.

#### Statements

1. Neither I nor any member of my family, close friends or any other acquaintances, have any financial interest of any nature in any individual, organisation or group who may express an interest in this commissioning exercise and/or put forward a bid for any related procurement;
2. I have no conflict of interest (whether financial or otherwise) in providing input/advice in connection with this commissioning exercise and/or procurement;
3. I will advise the North of England Commissioning Support Unit as soon as it is known of any conflict of interest which may arise at any point during my involvement in this commissioning exercise and/or procurement;
4. The documents made available to me, in electronic / hard copy format for the purpose of evaluating any Tenders are classified Commercial in Confidence and I confirm that none of these documents nor their contents will or have been released, disclosed or divulged by me, or on my behalf, to any third party without the relevant authorisation;
5. I understand that the release or disclosure of such material to a third party without such authorisation will be regarded very seriously and may result in disciplinary or formal action, and;
6. To the best of my knowledge, no-one with whom I have a direct association has expressed an interest in this commissioning exercise and/or intends to submit a bid for any relevant procurement.

#### Box A:

I confirm and agree to the statements 1-6 which form the conflict of interest declaration.

Name	Position/Organisation	Date	Signature

<b>Box B:</b>			
Name	Position/Organisation	Date	Signature

**Part 2**

**Confidentiality Agreement:**

Please read statements 7-13 and complete Box C to acknowledge and agree that:

7. I will treat any verbal and written information issued to me in relation to the procurement as strictly confidential;
8. I will not share any information or documentation received with any third party without the express agreement of the North of England Commissioning Support Unit;
9. I will not leave hard copies of documents in any public place risking unauthorised access to them;
10. I will safeguard electronic access to documents at all times;
11. I will advise North of England Commissioning Support of any potential or actual breach of this agreement whether intentional or not;
12. I waive the right to submit a bid to any tender opportunity which I have had direct involvement, and
13. I will ensure the safeguarding of all documents and information at all times both pre and post award.

<b>Box C:</b> I confirm and agree to the statements 7-13 which form the confidentiality agreement.			
Name	Position/Organisation	Date	Signature

## Appendix C1 – Guidance

Individuals who may be party to providing guidance/advice in respect of the procurement process:

- Employees
- CCG Member
- Governing Body Member
- Committee or Sub-Committee Member
- Finance
- Other Interests

### Potential Types of Conflict:

- 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 of companies in the field of health and social care;
- a position 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 role or relationship which the public could perceive would impair or otherwise influence the individual's judgment or actions in their role within the CCG.

What level of detail is to be provided in outlining a conflict of interest?

- Relevant organisations completing this declaration form must provide sufficient detail of each interest so that 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 might arise.
- If in doubt as to whether a conflict of interests could arise, a declaration of the interests should be made.

Appendix D-Extract from VoY CCG Constitution - Section 8.4 Managing Conflicts of Interest:

- 8.4.1 Individual members of the Group, the Governing Body, committees or sub-committees, the committees or sub-committees of its Governing Body and employees will comply with the arrangements determined by the Group for managing conflicts or potential conflicts of interest.

The Audit & Integrated Governance Committee will ensure that for every interest declared, either in writing or by oral declaration, arrangements are in place to manage the conflict of interests or potential conflict of interests, to ensure the integrity of the Group's decision making processes.

- 8.4.2 Arrangements for the management of conflicts of interest are to be determined by the Audit & Integrated Governance Committee and will include the requirement to put in writing to the relevant individual arrangements for managing the conflict of interests or potential conflicts of interests, within a week of declaration. The arrangements will confirm the following:

a) when an individual should withdraw from a specified activity, on a temporary or permanent basis;

b) monitoring of the specified activity undertaken by the individual, either by a line manager, colleague or other designated individual.

- 8.4.3 Where an interest has been declared, either in writing or by oral declaration, the declarant will ensure that before participating in any activity connected with the Group's exercise of its commissioning functions, they have received confirmation of the arrangements to manage the conflict of interest or potential conflict of interest from the Accountable Officer acting in accordance with a policy approved by the Audit & Integrated Governance Committee.

- 8.4.4 Where an individual member, employee or person providing services to the Group is aware of an interest which:

a) has not been declared, either in the register or orally, they will declare this at the start of the meeting;

b) has previously been declared, in relation to the scheduled or likely business of the meeting, the individual concerned will bring this to the attention of the chair of the meeting, together with details of arrangements\* which have been confirmed for the management of the conflict of interests or potential conflict of interests.

The chair of the meeting will then determine how this should be managed and inform the member of their decision. Where no arrangements have been confirmed, the chair of the meeting may require the individual to withdraw from the meeting or part of it. The individual will then comply with these arrangements, which must be recorded in the minutes of the meeting.

\*(ie the Conflicts of Interest Policy)

- 8.4.5 Where the chair of any meeting of the Group, including committees, sub-committees, or the Governing Body and the Governing Body's committees and sub-committees, 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 deputy chair will act as chair for the relevant part of the meeting. Where arrangements have been confirmed for the management of the conflict of 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 deputy chair may require the chair to



**Clinical Commissioning Group**

withdraw from the meeting or part of it. Where there is no deputy chair, the members of the meeting will select one.

- 8.4.6 Any declarations of interests, and arrangements agreed in any meeting of the Group, committees or sub-committees, or the Governing Body, the Governing Body's committees or sub-committees, will be recorded in the minutes.
- 8.4.7 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.
- 8.4.8 In making this decision the chair will consider whether the meeting is quorate, in accordance with the number and balance of membership set out in the Group's standing orders. Where the meeting is not quorate, owing to the absence of certain members, the discussion will be deferred until such time as a quorum can be convened. Where a quorum cannot be convened from the membership of the meeting, owing to the arrangements for managing conflicts of interest or potential conflicts of interests, the chair of the meeting shall review whether a quorum can be reached as set out in Standing Orders section 3.7.1 if not then the chair will consult with the Audit Committee on the action to be taken.
- 8.4.9 The actions taken in accordance with clause 8.4.9 may include:
- a) requiring another of the Group's committees or sub-committees, the Group'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 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 Group who is an individual;
    - an individual appointed by a member to act on its behalf in the dealings between it and the Group;
    - a member of a relevant Health and Wellbeing Board;
    - a member of a Governing Body of another clinical commissioning group.

These arrangements must be recorded in the minutes.

- 8.4.10 In any transaction undertaken in support of the 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 register that interest as soon as possible thereafter. The individual must also inform either their line manager (in the case of employees), or the Audit & Integrated Governance Committee of the transaction.
- 8.4.11 The Audit Committee 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.