

STANDARDS OF BUSINESS CONDUCT AND MANAGING CONFLICTS OF INTEREST POLICY

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DOCUMENT CHANGE HISTORY		
Version	Date	Comments
1.0-1.2	3 April 2013	Somerset CCG adopted the policy building on the PCT policy which was in place for Somerset prior to the establishment of Somerset CCG in April 2013.
2.0	30 April 2015	The policy has been updated to reflect the changes to the CCG structures and to reflect the updated national guidance in relation to the co-commissioning of primary medical services and procurement decision-making. Approved at Governance Committee 6 May 2015.
2.1	27 November 2015	Version control sheet added into policy following audit recommendations. Addition of additional guidance for staff on the expected professional standards (additions as paragraph 4.5 and appendix B) and paragraph for associated documents added as section 12.
3	4 July 2016	Policy updated to reflect the revised statutory guidance on managing conflicts of interest for CCGs released 28 June 2016 following consultation. Key updates: <ul style="list-style-type: none"> • Definitions (Section 2.6-2.8 and Appendix C) • Simplifying categories (S.4.2) • Col Guardian role introduced (S.3) • When to make declarations (S.4.8) • Establishing interests database (S.4.18) • Reporting (S.11) & training (S.12) requirements • Process for dealing with breaches (S.11) • Updated declaration form (Appendix D) • Template register updated (Appendix E)

3.1	19 September 2016	Updated to reflect change in Director responsibility. Minor change to reflect procurement comments in section 8.1 to retain internal audit trail.
3.2	17 May 2017	Minor addition added to section 11.5 to clarify that breaches apply to both new and existing contracts.
3.3	30 June 2017	Updated to reflect the revised statutory guidance for CCGs published June 2017
3.4	13 September 2018	Updates to reflect new structures in CCG, changes to contact details and to address points raised by Internal Audit. Specifically: <ul style="list-style-type: none"> • Section 4.13 amended and Appendix G added to append NHSE checklist on guidance to support Chairs and managing interests during meetings • Appendix E template edited to match register published from database • Section 7.11 added to outline how breaches associated with ongoing contracts will be managed
3.5	29 November 2019	Minor updates to reflect updated structure and titles following organisational restructure

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1 PURPOSE

- 1.1 Public service values must be at the heart of the NHS. High standards of corporate and personal conduct based on a recognition that patients come first, have been a requirement throughout the NHS since its inception. Moreover, since the NHS is publicly funded, it must be accountable for the services it provides and for the effective and economical use of taxpayers' money.
- 1.2 This policy sets out how the NHS Somerset Clinical Commissioning Group (the Group) will manage conflicts of interests arising from the operation of its business to ensure that public service values remain at the heart of the decisions it makes and that the organisation inspires confidence and trust amongst the public.
- 1.3 The Policy is written to reflect the requirements for Standards of Business Conduct set out in section 8 of the CCG's Constitution and to comply with any relevant legislation and guidance, in particular to comply with the NHS England revised statutory guidance for CCGs published on 16 June 2017¹.

2 SCOPE

- 2.1 Employees, members of the Group (all of the GP practices in Somerset) and members of the Governing Body (and its committees and sub-committees) will at all times comply with this policy. For member practices, responsibility will rest with the practice partners. They should act in good faith and in the interests of the Group and should follow the Seven Principles of Public Life², set out by the Committee on Standards in Public Life (the Nolan Principles). The Nolan Principles are incorporated into this policy at Appendix A and include:
- Selflessness
 - Integrity
 - Objectivity
 - Accountability
 - Openness
 - Honesty
 - Leadership
- 2.2 Individuals should also take account of principles set out in key guidance such as the Good Governance Standards of Public Services³, the NHS Constitution⁴ and Equality Act⁵ – all of which are enshrined within the CCG Constitution.

¹ <https://www.england.nhs.uk/commissioning/pc-co-comms/coi/>

² The 7 principles of public life <https://www.gov.uk/government/publications/the-7-principles-of-public-life>

³ The Good Governance Standards for Public Services , 2004, OPM and CIPFA
<http://www.opm.co.uk/wp-content/uploads/2014/01/Good-Governance-Standard-for-Public-Services.pdf>

⁴ The seven key principles of the NHS Constitution
<http://www.nhs.uk/NHSEngland/thenhs/about/Pages/nhscoreprinciples.aspx>

⁵ The Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15/contents>

- 2.3 The Governing Body of the Group will ensure that all employees, members of the Group and members of the Governing Body (and its committees and sub-committees) are aware of the existence of, and the responsibilities resulting from, this policy.
- 2.4 Any person who comes to know that the Group has entered into, or proposes to enter into a contract where the arrangements outlined in the policy have not been followed should notify the Accountable Officer as soon as practicable. If information is knowingly withheld or false and misleading information is provided, this may constitute fraud. If the Accountable Officer is made aware of any potential fraudulent activity, they should bring this to the attention of the Chief Finance Officer to investigate and undertake any necessary action.
- 2.5 Local counter fraud arrangements are in place to assist in reducing fraud, bribery and corruption. If any person is aware of potential fraud, bribery and corruption, even if it is only suspicion, then this information should be brought to the attention of the Local Counter Fraud Specialist, Chief Finance Officer or NHS Protect.

Definition

- 2.6 A conflict of interest occurs where an individual's ability to exercise judgement, or act in a role is, could be, or is seen to be impaired or otherwise influenced by his or her involvement in another role or relationship. In some circumstances, it could be reasonably considered that a conflict exists even when there is no actual conflict. In these cases it is important to still manage these perceived conflicts in order to maintain public trust.
- 2.7 Conflicts of interest can arise in many situations, environments and forms of commissioning, with an increased risk in primary care commissioning, out-of-hours commissioning and involvement with integrated care organisations, as clinical commissioners may here find themselves in a position of being at once commissioner and provider of services. Conflicts of interest can arise throughout the whole commissioning cycle from needs assessment, to procurement exercises, to contract monitoring.
- 2.8 The following groups are subject to this Policy:
- **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
 - ❖ In addition, any self-employed consultants or other individuals working for the CCG under a contract for services should make a declaration of interest in accordance with this guidance, as if they were CCG employees.

- **Members of the 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.

- **All members of the CCG (i.e., each practice)**

This includes each provider of primary medical services which is a member of the CCG under Section 14O (1) of the 2006 Act. Declarations should be made by the following groups:

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

3 MANAGING CONFLICTS OF INTERESTS

3.1 The Group will make arrangements to manage conflicts and potential conflicts of interests to ensure that decisions made by the Group are taken, and seen to be taken, without any possibility of the influence of external or private interest, including:

- arrangements for declaring interests
- maintaining a register of interests
- excluding individuals from decision-making where a conflict arises
- engagement with a range of potential providers on service design
- appointment of a Conflicts of Interest Guardian

3.2 The CCG Audit Committee Chair (Lay Member – Audit and Governance) will undertake the role of Conflicts of Interest Guardian which reinforces the role of the Audit Committee in ensuring a robust system of declarations is in place. The Conflicts of Interest Guardian will be supported in their role by the CCG Governance Team.

3.3 The Conflicts of Interest Guardian should, in collaboration with the Chief Operating Officer:

- Act as a conduit for GP practice staff, members of the public and healthcare professionals who have any concerns with regards to conflicts of interest;
- Be a safe point of contact for employees or workers of the CCG to raise any concerns in relation to this policy;

- Support the rigorous application of conflict of interest principles and policies;
- Provide independent advice and judgment where there is any doubt about how to apply conflicts of interest policies and principles in an individual situation;
- Provide advice on minimising the risks of conflicts of interest.

4 ARRANGEMENTS FOR DECLARING INTERESTS

4.1 Employees, members of the Group and members of the Governing Body (and its committees and sub-committees) must update their declaration of interests on appointment, at meetings, on changing role or responsibility, any other change of circumstances and, as a minimum, every six months. An example of the Declaration of Interests Form is attached as Appendix D however, once in post, all staff should maintain their interests on the CCG's electronic register database (<https://interestregister.somersetccg.nhs.uk>). Requests for individuals to update their Declaration of Interests will be made bi-annually by the Corporate Governance Team on behalf of the Group. Where there are no interests to declare, a "nil" return is required.

4.2 Interests can be captured in four different categories:

- Financial interests
- Non-financial professional interests
- Non-financial personal interests
- Indirect interests

Examples of each type of interest are set out in Appendix C. Additional national guidance has been published through a series of 2-page summary guides for different professional groups. This includes GPs in commissioning roles, the Conflicts of Interest Guardian, CCG Non-Executive lay members, CCG governance lead, admin staff and Healthwatch members of the primary care commissioning committee. In addition, a series of case studies have been published to highlight potential conflicts of interest scenarios that could arise in CCGs, with advice on how to mitigate the risks. These can be accessed on the NHS England website - <https://www.england.nhs.uk/commissioning/pc-co-comms/coi/>.

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

4.4 Where they are aware of a potential conflict, members should also consider for declaration any relevant and material personal or business interests (as defined above) of their:

- spouse

- civil partner
- cohabitee
- family member
- partners in professional partnerships (including general practitioners), and;
- any other relationship which may influence or may be perceived to influence the judgement of the individual

The CCG, its staff and member practices should be proactive in declaring and publishing interests.

- 4.5 Employees must ensure that they do not abuse their position for personal gain to the benefit of family, friends or their private business interests. Any breach of this procedure, for personal gain or otherwise, may result in disciplinary action. In certain cases, criminal proceedings may result. Additional guidance for staff and GP practices is attached as Appendix B.
- 4.6 If any individual is considering undertaking secondary employment then this should be agreed with their line manager and HR in advance and any conflicts this may represent should be declared formally. The CCG reserves the right to refuse permission where it considers a conflict will arise which cannot be effectively managed. The CCG should also consider the materiality and impact of any interests when appointing members to the Governing Body or any committee, sub-committee or group. If the interest is related to an area of business significant enough that the individual would be unable to operate effectively and make a full and proper contribution in the proposed role, then that individual should not be appointed to the role.
- 4.7 If members have any doubt of the relevancy or materiality of an interest or potential interest, or whether the interests of another individual connected to them (as described above), are relevant, this should be discussed with the Chief Operating Officer, who will co-ordinate advice from the Conflict of Interest Guardian (Lay Member – Audit and Governance), if necessary, who will provide an independent view. If in doubt, the individual concerned should assume that a potential conflict of interest exists.
- 4.8 All persons referred to in section 2.8 of this Policy must declare any interests. Declarations of interest should be made as soon as reasonably practicable or within 28 days after the interest arises (this could include an interest an individual is pursuing). Declarations should be made:
- On appointment or when a role changes significantly
 - Every six months (including any 'nil-returns') through the CCG's reporting process
 - At meetings of the CCG Governing Body and its committees and groups
- 4.9 Where an individual changes role or responsibility, then their Declaration should be updated and the Chief Operating Officer (via the Corporate Governance Team) should be notified.

- 4.10 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 should make an oral declaration before witnesses or which can be recorded in the minutes of a meeting, and provide a written declaration within 28 days of a relevant event (primarily through updating the electronic register).
- 4.11 Where an interest has been declared, either in writing or by oral declaration, the declarer 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 from the Chief Operating Officer or the Chair or Vice-Chair of any meeting of the Group at which the individual is present.
- 4.12 The Chief Operating Officer, with advice from the Conflict of Interest guardian, if required, or the Chair or Vice-Chair of any meeting of the Group at which the individual is present, will then determine how the conflict of interest should be managed and inform the individual of their decision. The individual will then comply with these arrangements.
- 4.13 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. Any declarations of interest, and the arrangements agreed in any meeting of the Group for the management the conflict, will be recorded in the minutes. Guidance to support Chairs and the management of interests during meetings has been produced by NHS England which is published on their website, the CCG S drive and also attached as Appendix G to this Policy.
- 4.14 Arrangements for the management of declared conflicts of interests will include the requirement to put in writing the relevant arrangements for managing the conflict of interest within seven days of declaration. The arrangements will confirm the following:
- where a particular conflict of interest is so relevant and material that an individual should withdraw from a specified activity, on a temporary or permanent basis
 - where an individual should not have a vote in the decision-making process
 - monitoring of the specified activity undertaken by the individual, either by a line manager, colleague or other designated individual
 - confirmation that the interest is recorded in the relevant Register of Interests

Procurement - Evaluation of Bids returned

- 4.15 At the commencement of each evaluation procurement process, members of the evaluation panel will be required to complete a Conflict of Interest and Confidentiality form before any information is sent to or discussed in their presence.

- 4.16 At the commencement of each evaluation meeting- all evaluators will be asked if their Conflicts of Interest status has changed.
- 4.17 The procurement team will maintain a record of these completed forms with documented actions (where appropriate) which will be available for scrutiny as required necessary.

CCG process for recording interests

- 4.18 The CCG will maintain a central database of all recorded interests. The database will be available to provide the Governing Body and each Committee or group an up to date register of interests for their respective members. Individuals will be asked electronically to update their interests as a minimum every six months. The database is available to all staff and those working with the CCG who work for external organisations. The database will be maintained by the Corporate Governance Team.

5 MAINTAINING A REGISTER OF INTERESTS

- 5.1 The Chief Operating Officer, on behalf of the Group, will maintain the following registers of the declared relevant and material interests of:
- members of the Group
 - members of the Governing Body
 - members of the committees or sub-committees of the Governing Body
 - employees of the Group
- 5.2 Registers will be maintained in accordance with the latest statutory guidance for CCGs.⁶
- 5.3 The registers will be published on the Group's website at www.somersetccg.nhs.uk and will be included within the Group's Annual Report and thus signed off by External Auditors. They can also be obtained from the Group's administrative offices at Wynford House, Lufton Way, Lufton, Yeovil, Somerset BA22 8HR.
- 5.4 If any employee, member of the Group or member of the Governing Body (or its committees and sub-committees) has any reason for requesting that this information is withheld, they should contact the Accountable Officer. If information is knowingly withheld or false and misleading information is provided, this may constitute fraud. If the Accountable Officer is made aware of any potential fraudulent activity, they should bring this to the attention of the Local Counter Fraud Specialist, Chief Finance Officer or NHS Protect to investigate and undertake any necessary action.

⁶ <https://www.england.nhs.uk/commissioning/pc-co-comms/coi/>

5 EXCLUDING INDIVIDUALS FROM DECISION-MAKING WHERE A CONFLICT ARISES

- 6.1 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, the Chair (or Vice-Chair) will determine whether or not the discussion can proceed.
- 6.2 In making this decision the Chair (or Vice-Chair) will consider whether the meeting is quorate, in accordance with the number and balance of membership set out in the meeting's Terms of Reference.
- 6.3 Where the Chair of any meeting of the Group, including the Governing Body (and its sub-committees), has an interest, previously declared or otherwise, in relation to the scheduled or likely business of the meeting, they must make a declaration and the Vice-Chair will preside.
- 6.4 Where arrangements have been confirmed for the exclusion of individuals from the decision-making process, either by requesting that individuals withdraw from the meeting, or that they should abstain from voting, the meeting must ensure these are followed.
- 6.5 Alternative arrangements in such circumstances to progress the item of business may include:
- requiring another of the Group's committees or 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:
 - i) a member of the Group
 - ii) a member of the Somerset Health and Wellbeing Board
 - iii) a member of a Governing Body of another Clinical Commissioning Group
- 6.6 These arrangements must be recorded in the minutes.

7 ENGAGEMENT WITH POTENTIAL PROVIDERS ON SERVICE DESIGN AND TRANSPARENCY IN PROCURING SERVICES

- 7.1 The Group recognises the benefits to be gained from engagement with relevant providers, especially clinicians, when considering the design of service specifications. However, the *Procurement Guide for Commissioners of NHS-Funded Services* highlights that conflicts of interests can occur if a commissioner engages selectively with only certain providers (be they incumbent or potential new providers) in developing a service specification for a contract for which they may later bid in a competitive process.

- 7.2 The same difficulty could arise in developing a specification for a service that is to be commissioned using the Any Qualified Provider route, such as where there is not a competitive procurement but patients can instead choose from any qualified provider that wishes to provide the service which meet NHS standards and prices.
- 7.3 The Group will seek, as far as possible, to specify the outcomes that they wish to see delivered through a new service, rather than the way in which these outcomes are to be achieved. As well as supporting innovation, this helps prevent bias toward particular providers in the specification of services.
- 7.4 To ensure that some providers do not have an unfair advantage, a small clinical group to support service design with a soft market testing exercise to share the specification with providers should be undertaken to ensure transparency.
- 7.5 Engagement will follow the three main principles of procurement law, namely equal treatment, non-discrimination and transparency. This includes ensuring that the same information is given to all.
- 7.6 The Group may also advertise the fact that a service design/re-design exercise is taking place widely (such as on NHS Supply2Health or on its own website) and invite comments from any potential providers and other interested parties (ensuring a record is kept of all interactions).
- 7.7 If appropriate, the Group will engage the advice of an independent clinical adviser on the design of the service.
- 7.8 Where an individual has declared a relevant and material interest or position exists in the context of the specification for, or award of, a contract the Committee member will be expected to act in accordance with the arrangements for the management of conflicts of interests outlined within this policy and may be excluded from the decision-making process in relation to the specification or award.
- 7.9 The Group will maintain a register of procurement decisions taken including:
- the details of the decision;
 - who was involved in making the decision (i.e. Governing Body or committee members and others with decision-making responsibility); and
 - a summary of any conflicts of interest in relation to the decision and how this was managed by the CCG.
- 7.10 The register should be updated whenever a procurement decision is taken and the Group will publish the register of decisions alongside the register of interests on the Group's website at www.somersetccg.nhs.uk and will be included within the Group's Annual Report. They can also be obtained from the Group's administrative offices at Wynford House, Lufton Way, Lufton, Yeovil, Somerset BA22 8HR.

7.11 Where a breach of the policy regarding declarations is identified in relation to a contract which has already been entered into by the CCG, then the relevant Commissioning Manager will undertake a risk assessment of the impact of the breach following the risk management approach of the CCG. The risk assessment will be shared with the Chief Operating Officer and Conflicts of Interest Guardian in order to determine what mitigating action should be taken and report as necessary to the Audit Committee.

8 CONTRACTORS AND PEOPLE WHO PROVIDE SERVICES TO THE GROUP

8.1 Anyone seeking information in relation to a procurement, participating in a procurement, or otherwise engaging with the Group in relation to the potential provision of services or facilities to the Group, will be required to make a declaration of any relevant conflict / potential conflict of interest. Where an organisation declares a conflict, the commissioners must decide how best to deal with it to ensure that no participant is treated differently to any other. Commissioners must retain an internal audit trail of how the conflict or perceived conflict was dealt with to allow them to provide information at a later date if required.

8.2 Anyone contracted to provide services or facilities directly to the Group will be subject to the same provisions of this policy in relation to managing conflicts of interests. This requirement will be set out in the contract for their services.

9 DECISION-MAKING WHEN A CONFLICT OF INTEREST ARISES: PRIMARY MEDICAL CARE

9.1 Procurement decisions relating to the commissioning of primary medical services should be made by a committee of the CCG's governing body. This should:

- for joint commissioning take the form of a joint committee established between the CCG (or CCGs) and NHS England; and
- in the case of delegated commissioning, be a committee established by the CCG.

9.2 Somerset CCG has established a Joint Committee as a committee of the Governing Body following approval from NHS England to take on joint commissioning for primary care medical services. The membership of the committee has been constituted to ensure that the majority is held by lay and executive members in accordance with the NHS England guidance on Managing Conflicts of Interest. In addition to existing CCG Non-Executive lay members, the Committee includes the CCG's executive members, except where any of these members may themselves have a conflict of interest (e.g. if they are GPs or have other conflicts of interest). Provision can be made for the committee to have the ability to call on additional lay members or CCG members when required, for example where the committee would not be quorate because of conflicts of interest. It will also include a GP representative from other CCG areas and the CCG's secondary care specialist and Governing Body nurse lead. The chair and vice-chair must always be lay members of the committee, and are both non-executive lay members of the Governing Body in accordance with the

requirements set out within the CCG Constitution. The CCG has appointed a Non-Executive Lay member with the lead responsibility for chairing the Primary Care Joint Committee.

- 9.3 Any conflicts of interest issues will need to be considered on an individual basis. The CCG has considered reciprocal arrangements with other CCGs in order to support effective clinical representation within the committee and to address conflicts of interest.
- 9.4 A standing invitation has been made to the CCG's local Healthwatch and Health and Wellbeing Board to appoint representatives to attend commissioning committee meetings, including, where appropriate, for items where the public is excluded from a particular item or meeting for reasons of confidentiality. These representatives would not form part of the membership of the committee.
- 9.5 As a general rule, meetings of these committees, including the decision-making and the deliberations leading up to the decision, should be held in public (unless the CCG has concluded it is appropriate to exclude the public).
- 9.6 In joint commissioning arrangements, the joint role of NHS England in decision-making will provide an additional safeguard in managing conflicts of interest. However, CCGs should still satisfy themselves that they have appropriate arrangements in place in relation to conflicts of interest with regard to their own role in the decision-making process.
- 9.7 The CCG may wish to include decisions on other commissioning issues within the remit of the committee where appropriate.
- 9.8 The arrangements for primary medical care decision making do not preclude GP participation in strategic discussions on primary care issues, subject to appropriate management of conflicts of interest. They apply to decision-making on procurement issues and the deliberations leading up to the decision. The Somerset CCG GP members of the Joint Committee will not be voting members in order to avoid any conflict of interest.

10 MANAGING CONFLICTS OF INTERESTS WHERE GP PRACTICES ARE POTENTIAL PROVIDERS OF CCG COMMISSIONED SERVICES

- 10.1 NHS England is responsible for commissioning primary care services under the GP contract. At the same time, it is an essential feature of the reforms that Clinical Commissioning Groups should be able to commission a range of community-based services, including primary care services, to improve quality and outcomes for patients. Where the provider for these services might be a GP practice, Clinical Commissioning Groups will need to be able to demonstrate that those services:
- clearly meet local health needs and have been planned appropriately
 - go beyond the scope of the GP contract
 - the appropriate procurement approach is used

Factors to Address

- 10.2 As outlined in the *Code of Conduct: Managing conflicts of interest where GP practices are potential providers of CCG commissioned services*, in addition to the arrangements for managing conflicts of interests outlined within this policy, more specific, additional safeguards may be required when commissioning services that could potentially be provided by GP practices.
- 10.3 The proposed additional safeguards are designed to:
- maintain confidence and trust between patients and GPs
 - enable the Group to demonstrate that they are acting fairly and transparently and that its members will always put their duty to patients before any personal financial interest
 - ensure that the Group operates within the legal framework but are not bound by over-prescriptive rules that risk stifling innovation or slowing down the services they wish to commission to improve quality and productivity
 - build on existing guidance, in particular, the *Procurement Guide for Commissioners of NHS-Funded Services* and *Principles & Rules of Cooperation & Competition*
- 10.4 The enclosed template at Appendix F sets out the factors which the Group will need to consider in order to provide assurance to its Audit Committee and, where appropriate, local communities, the Somerset Health and Wellbeing Board and auditors, when commissioning services that may potentially be provided by GP practices.
- 10.5 Completed templates will be published on the Group's website at www.somersetccg.nhs.uk. They can also be obtained from the Group's administrative offices at Wynford House, Lufton Way, Lufton, Yeovil, Somerset BA22 8HR.
- 10.6 Within the template at Appendix F, the first set of questions are intended to apply equally to:
- services that the Group is proposing to commission through competitive tender where GP practices are likely to bid
 - services that the Group is proposing to commission through Any Qualified Provider, where GP practices are likely to be among the qualified providers that offer to provide the service
 - services that the Group is proposing to commission through single tender from GP practices
- 10.7 These questions, most of which are also relevant when commissioning services from non-GP providers, focus on demonstrating that the service meets local needs and priorities and has been developed in an inclusive fashion, involving other health professionals, patients and the public, as appropriate.
- 10.8 Where the Group 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. In these circumstances (and more generally), there are a number of options for demonstrating that GP practices have offered fully informed choice at the point of referral and for auditing and publishing referral patterns. These will build on well-established procedures for declaring interests when GPs or other clinicians make a referral.

10.9 The GMC's core guidance *Good Medical Practice* (2006), reiterated in its document *Conflicts of interest* (2008), indicates that:

- You must act in your patients' best interests when making referrals and when providing or arranging treatment or care. You must not ask for or accept any inducement, gift or hospitality which may affect or be seen to affect the way you prescribe for, 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 tell the patient about your interest. When treating NHS patients you must also tell the healthcare provider.

10.10 The GMC provides further specific guidance, such as:

- you may wish to note on the patient's record when unavoidable conflicts of interests arise
- if you have a financial interest in an institution and are working under an NHS or 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 of interests. You must follow the procedures governing the schemes

10.11 The GMC guidance, *Leadership and Management for all Doctors* (2012) states that if a doctor has concerns about how management and commissioning decisions might conflict with their primary duty to their patients, they must take steps to deal with that conflict and advice is listed within the GMC guidance.

10.12 Where the Group has decided that patients would benefit from a choice of provider in a particular service, the Group will ensure that the arrangements work effectively and can address potential conflicts, including through transparent contractual requirements and monitoring processes.

10.13 The question in Appendix F on pricing applies to the Any Qualified Provider and single tender approaches. There are specific questions on Any Qualified Provider about safeguards to ensure that patients are aware of the range of

choices available to them. These requirements apply also to GP practices as providers of services, but it is essential that the Group can be satisfied that these safeguards will be in place before commissioning the service.

10.14 The remaining questions are specific to single tenders from GP practices and focus on providing assurance that:

- there are no other capable providers (advice on this point may be requested from the Commissioning Support Unit for Somerset)
- the proposed service goes beyond the scope of the services provided by GP practices under their GP contract (advice on this point may be requested from the NHS England Local Area Team)

Providing Assurance and Managing Conflicts of Interest

10.15 The template at Appendix F will be completed when drawing up plans to commission a service for which GP practices may be potential providers. This will provide appropriate assurance:

- to the Somerset Health and Wellbeing Board and to local communities that the proposed service meets local needs and priorities
- to the Audit Committee and, where necessary, external auditors that a strong process has been followed in deciding to commission the service, in selecting the appropriate procurement route, and in addressing potential conflicts of interests

10.16 The Group will also outline these factors when fulfilling their duty in relation to public involvement.

10.17 The Group at all times will follow the arrangements outlined within this policy for the management of conflicts and potential conflicts of interests. Where an individual involved in the decision-making process has a particular interest in the provision by a GP practice of the service to be commissioned by the Group, they should follow the arrangements for the exclusion from the decision-making process outlined within this policy. In addition, a lay member may be included as part of the procurement process to provide additional assurance.

Transparency - Publication of Contracts

10.18 The Group will ensure that details of all contracts, including the value of the contracts, are published on its website once the contracts are agreed. Where the Group decides to commission services through Any Qualified Provider, it will publish on its website the type of services they are commissioning and the agreed price for each service. In both instances, such details will be set out in the Group's Annual Report.

Role of Commissioning Support

- 10.19 The Group will ensure that, when commissioning any procurement or contract management support services from a Commissioning Support Unit, that it has received assurance of their business processes.
- 10.20 Where the Group is undertaking a procurement, support from a Commissioning Support Unit may be utilised to prepare and present information on bids, including an assessment of whether providers meet prequalifying criteria and an assessment of which provider provides best value for money. This will further demonstrate that the Group is acting fairly and transparently in relation to the procurement of services.
- 10.21 Any support obtained from a Commissioning Support Unit will not constitute the delegation of any commissioning decisions to them by the Group and, as determined by the procurement, the Group will:
- sign off the specification and evaluation criteria
 - sign off decisions on which providers to invite to tender
 - make final decisions on the selection of the provider

Role of the NHS England

- 10.22 Where, the Group is commissioning any service from a primary care provider that is related to the services that some or all GP practices provide under the GP contract, the Group will discuss the matter with the NHS England Local Area Team to ensure that the proposed arrangements do not cut across or duplicate the role of NHS England in commissioning primary care services.
- 10.23 The NHS England will also require assurance that the Group is meeting its statutory duties in managing conflicts of interests, including having regard to the guidance published by the NHS England and they may request further information or explanations to assist them in this role.

Transparency of GP Earnings

- 10.24 In line with commitments on transparency of GP earnings, there will be a new contractual requirement for GP practices to publish on their practice website annually, the mean net earnings of GPs in their practice (to include contractor and salaried GPs) relating to the previous financial year. Alongside the mean figure, practices must publish the number of full and part time GPs associated with the published figure. The figure will include earnings from NHS England, CCGs and local authorities for the provision of GP services that relate to the contract and which would have previously been commissioned by PCTs.

Commissioning of new care models

- 10.25 Where CCGs are commissioning new care models, particularly those that include primary medical services, it is likely that there will be some individuals with roles in the CCG (whether clinical or non-clinical), that also have roles within a potential provider, or may be affected by decisions relating to new care

models. Any conflicts of interest must be identified and appropriately managed, in accordance with this policy and related guidance.

- 10.26 NHS England have provided additional guidance on managing conflicts of interest relating to the commissioning of new care models which should be consulted when considering whether any declarations need to be made.

11 REPORTING AND AUDIT

- 11.1 The Policy will be reviewed on an annual basis and reported to the Audit Committee and, where necessary, external auditors, will receive assurance that a robust process for managing conflicts of interest is in place and enable the Audit Committee Chair and Accountable Officer to provide direct formal attestation to NHS England that the CCG has complied with the guidance relating to managing conflicts of interest. Subsequently, this attestation will form part of an annual certification.
- 11.2 There will be an annual audit of this procedure carried out by the CCG's Internal Auditors as part of their work programme. The results will be reported to the Audit Committee.
- 11.3 The CCG will carry out a self-certification of its compliance with the national Improvement and assessment Framework which will include various requirements on a quarterly and annual basis.

Breaches of the Policy

- 11.4 Staff should consult the CCG's Freedom to Speak Up Policy when wishing to raise any suspected breaches of this Policy. The Freedom to Speak Up Policy sets out the principles and procedure that the CCG will follow.
- 11.5 With regards to managing conflicts of interest any concerns should be raised initially with your immediate Line Manager or the Chief Operating Officer. You may raise concerns verbally or in writing. Breaches can relate to new or existing contracts.
- 11.6 If these channels have been followed and you still have concerns, or you feel that the matter is so serious that you cannot discuss it with any of the above please contact the Conflict of Interest Guardian who is Lou Evans, Non-Executive Director (lou.evans1@nhs.net). The CCG's Freedom to Speak Up Policy also sets out other sources of support open to staff.
- 11.7 If your concern is about fraud, bribery or corruption, you should contact your Local Counter Fraud Specialist or the NHS Fraud and Corruption Reporting Line (0800 028 4060), you can also report fraud, bribery or corruption online at www.reportnhsfraud.nhs.uk. Further information can be obtained from the CCG's Local Counter Fraud Specialist (claire.baker36@nhs.net), and from the Somerset CCG Fraud Response Plan.

- 11.8 Any incidents will be investigated confidentiality in accordance with the CCG's Freedom to Speak Up Policy and, where significant impact and thresholds triggered, reported on to NHS England by the Chief Operating Officer. Following each investigation under this policy, any actions identified should be included in an action plan which will be monitored regularly through the Audit Committee.
- 11.9 Somerset CCG will publish, adhering to confidentiality, any breaches that are identified on the CCG website as part of the appropriate CCG Register and describe the actions that have been taken in respect of the concern and feedback on the outcome. The CCG Communications Manager will be responsible to managing any external media interest that may arise.
- 11.10 Failure to comply with the Policy could have severe implications for the CCG and the individuals concerns and could result in legal challenges, disciplinary action or referrals to professional bodies where applicable.

12 TRAINING AND SUPPORTING DOCUMENTS

- 12.1 All appropriate CCG staff and Governing Body and Committee members will be required to undertake mandatory annual online training which is provided by NHS England.
- 12.2 All staff will receive information about declaring interests as part of induction. Guidance is available on the CCG shared drive and supported by the annual mandatory training. Reminders will be issued to staff to update their declarations via the electronic database and staff bulletins.
- 12.3 A pack of supporting information, based on national guidance, will be provided to all Chairs and secretaries of CCG committees and groups to support their implementation of the Policy.
- 12.4 This policy should be read in conjunction with:
- SCCG Constitution
 - Acceptance of Gifts and Hospitality/Commercial Sponsorship Policy and Procedure
 - Fraud Response Plan
 - Freedom to Speak Up Policy (i.e. Whistleblowing)
 - Corporate Policy and Guidance for Joint Working with the Pharmaceutical Industry
 - Professional Standards Authority (PSA) Guidance: Standards for Members of NHS Boards and CCG Governing Bodies In England (2012)⁷
 - CCG Resource pack for Chairs and secretaries to support process for managing interests at meetings
 - NHS England resources page at <https://www.england.nhs.uk/commissioning/pc-co-comms/coi/>.

⁷ <http://www.professionalstandards.org.uk/docs/psa-library/november-2012---standards-for-board-members.pdf?sfvrsn=0>

FIRST REPORT OF THE COMMITTEE ON STANDARDS IN PUBLIC LIFE (1995) THE NOLAN PRINCIPLES

The 'Nolan Principles' set out the ways in which holders of public office should behave in discharging their duties. The seven principles are:

- 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.

Clinical Commissioning Group

GUIDANCE FOR STAFF AND PRACTICES WHEN CONSIDERING OBLIGATIONS FOR BUSINESS CONDUCT AND CONFLICTS OF INTEREST

Extract from Professional Standards Authority (PSA) Guidance: Standards for Members of NHS Boards and CCG Governing Bodies in England (2012) – sections 2 and 6⁸

Personal Behaviour

I will apply the following values in my work and relationships with others:

- **Responsibility:** I will be fully accountable for my work and the decisions that I make, for the work and decisions of the board, included delegated responsibilities, and for the staff and services for which I am responsible
- **Honesty:** I will act with honesty in all my actions, transactions, communications, behaviours and decision-making, and will resolve any conflicts arising from my personal, professional or financial interests that could influence or be thought to influence my decisions as a board member
- **Openness:** I will be open about the reasoning, reasons and processes underpinning my actions, transactions, communications, behaviours and decision-making and about any conflicts of interest
- **Respect:** I will treat patients and service users, their families and carers, the community, colleagues and staff with dignity and respect at all times
- **Professionalism:** I will take responsibility for ensuring that I have the relevant knowledge and skills to perform as a board member and that I reflect on and identify any gaps in my knowledge and skills, and will participate constructively in appraisal of myself and others. I will adhere to any professional or other codes by which I am bound
- **Leadership:** I will lead by example in upholding and promoting these Standards, and use them to create a culture in which their values can be adopted by all
- **Integrity:** I will act consistently and fairly by applying these values in all my actions, transactions, communications, behaviours and decision-making, and always raise concerns if I see harmful behaviour or misconduct by others

Business practices

- Declaring any personal, professional or financial interests and ensuring that they do not interfere with my actions, transactions, communications, behaviours or decision-making, and removing myself from decision-making when they might be perceived to do so
- Taking responsibility for ensuring that any harmful behaviour, misconduct, or systems weaknesses are addressed and learnt from, and taking action to raise any such concerns that I identify
- Ensuring that effective complaints and whistleblowing procedures are in place and in use

⁸ <http://www.professionalstandards.org.uk/docs/psa-library/november-2012---standards-for-board-members.pdf?sfvrsn=0>

Types of interest (extract: national statutory guidance on Managing Conflicts of Interest)

Type	Description
Financial Interests	<p>This is where an individual may get direct financial benefits from the consequences of a commissioning decision. This could, for example, include being:</p> <ul style="list-style-type: none"> • A director, including a non-executive director, or senior employee in a private company or public limited company or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations; • A shareholder (or similar owner interests), a partner or owner of a private or not-for-profit company, business, partnership or consultancy which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations. • A management consultant for a provider; • In secondary employment (see paragraph 56 to 57 of national guidance); • In receipt of secondary income from a provider; • In receipt of a grant from a provider; • In receipt of any payments (for example honoraria, one off payments, day allowances or travel or subsistence) from a provider • In receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role; and • Having a pension that is funded by a provider (where the value of this might be affected by the success or failure of the provider).
Non-Financial Professional Interests	<p>This is where an individual may obtain a non-financial professional benefit from the consequences of a commissioning decision, such as increasing their professional reputation or status or promoting their professional career. This may, for example, include situations where the individual is:</p> <ul style="list-style-type: none"> • An advocate for a particular group of patients; • A GP with special interests e.g., in dermatology, acupuncture etc. • A member of a particular specialist professional body (although routine GP membership of the RCGP, BMA or a medical defence organisation would not usually by itself amount to an interest which needed to be declared); • An advisor for Care Quality Commission (CQC) or National Institute for Health and Care Excellence (NICE); • A medical researcher.
Non-Financial Personal Interests	<p>This is where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit. This could include, for example, where the individual is:</p> <ul style="list-style-type: none"> • A voluntary sector champion for a provider; • A volunteer for a provider; • A member of a voluntary sector board or has any other position of authority in or connection with a voluntary sector organisation; • Suffering from a particular condition requiring individually funded treatment; • A member of a lobby or pressure groups with an interest in health.
Indirect Interests	<p>This is where an individual has a close association with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest in a commissioning decision (as those categories are described above). For example, this should include:</p> <ul style="list-style-type: none"> • Spouse / partner; • Close relative e.g., parent, grandparent, child, grandchild or sibling; • Close friend; • Business partner.



Somerset
Clinical Commissioning Group

DECLARATION OF INTERESTS FORM

This form requires completion in accordance with the Standards of Business Conduct and Managing Conflicts of Interest Policy.

Name				
Position within, or relationship with the CCG				
Details of interests held (complete all that are applicable)				
Type of interest	Description of interest (including for indirect interests, details of the relationship with the person who has the interest)	Date interest relates		Actions to be taken to mitigate risk (to be agreed with line manager or a senior CCG Manager)
		from	to	

The information submitted will be held by the CCG for personnel or other reasons specified on this form and to comply with the organisation's policies. This information may be held in both manual and electronic form in accordance with the Data Protection Act 2018. Information may be disclosed to third parties in accordance with the Freedom of Information Act 2000 and published in registers that the CCG holds.

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

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

Signed:

Date:

Approved by:

Signed:
(Line Manager or Senior CCG Manager)

Position:

Date:

Please return to Kathy Palfrey by email somccg.declarations@nhs.net



Somerset
Clinical Commissioning Group

TEMPLATE CCG REGISTER OF INTERESTS*

Last name	First name	Job Title	Interest Type	Description of Interest	From date	End date	Actions to mitigate risk	Last Sign Off Date

* Registers will be generated from the electronic database and so will be populated from the contents of that database

Clinical Commissioning Group

**TEMPLATE -
(TO BE USED WHEN COMMISSIONING SERVICES FROM GP PRACTICES,
INCLUDING PROVIDER CONSORTIA, OR ORGANISATIONS IN WHICH GPs
HAVE A FINANCIAL INTEREST)**

Service:	
Question	Comment/Evidence
Questions for all three procurement routes	
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 have you involved the public in the decision to commission this service?	
What range of health professionals have been involved in designing the proposed service?	
What range of potential providers have been involved in considering the proposals?	
How have you involved the Health and Wellbeing Board? How does the proposal support the priorities in the relevant joint health and wellbeing strategy?	
What are the proposals for monitoring the quality of the service?	
What systems will there be to monitor and publish data on referral patterns?	
Have all conflicts and potential conflicts of interests been appropriately declared and entered in registers which are publicly available?	

Why have you chosen this procurement route? ⁹	
What additional external involvement will there be in scrutinising the proposed decisions?	
How will the CCG make its final commissioning decision in ways that preserve the integrity of the decision-making process?	

Additional question for AQP or single tender (for services where national tariffs do not apply)

How have you determined a fair price for the service?	
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Additional questions for AQP only (where GP practices are likely to be qualified providers)

How will you ensure that patients are aware of the full range of qualified providers from whom they can choose?	
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Additional questions for single tenders from GP providers

What steps have been taken to demonstrate that there are no other providers that could deliver this service?	
In what ways does the proposed service go above and beyond what GP practices should be expected to provide under the GP contract?	
What assurances will there be that a GP practice is providing high-quality services under the GP contract before it has the opportunity to provide any new services?	

⁹ Taking into account S75 regulations and NHS Commissioning Board guidance that will be published in due course, Monitor guidance, and existing procurement rules.

APPENDIX G – GUIDANCE FOR CHAIRS AND COMMITTEES

Annex E: Template declarations of interest checklist (Source: [NHS England COI Guidance](#))

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

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

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

Template for recording any interests during meetings

Report from <insert details of sub-committee/ work group>	
Title of paper	<insert full title of the paper>
Meeting details	<insert date, time and location of the meeting>
Report author and job title	<insert full name and job title/ position of the person who has written this report>
Executive summary	<include summary of discussions held, options developed, commissioning rationale, etc.>
Recommendations	<include details of any recommendations made including full rationale> <include details of finance and resource implications>
Outcome of Impact Assessments completed (e.g. Quality IA or Equality IA)	<Provide details of the QIA/EIA. If this section is not relevant to the paper state 'not applicable'>
Outline engagement – clinical, stakeholder and public/patient:	<Insert details of any patient, public or stakeholder engagement activity. If this section is not relevant to the paper state 'not applicable'>
Management of Conflicts of Interest	<Include details of any conflicts of interest declared> <Where declarations are made, include details of conflicted individual(s) name, position; the conflict(s) details, and how these have been managed in the meeting> <Confirm whether the interest is recorded on the register of interests- if not agreed course of action>
Assurance departments/ organisations who will be affected have been consulted:	<Insert details of the people you have worked with or consulted during the process : Finance (insert job title) Commissioning (insert job title) Contracting (insert job title) Medicines Optimisation (insert job title) Clinical leads (insert job title) Quality (insert job title) Safeguarding (insert job title) Other (insert job title)>
Report previously presented at:	<Insert details (including the date) of any other meeting where this paper has been presented; or state 'not applicable'>
Risk Assessments	<insert details of how this paper mitigates risks- including conflicts of interest>

Template to record interests during the meeting.

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

