

Managing Conflicts of Interest Policy

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Circulation List

Prior to approval, this policy was circulated to the following for consultation:

- Corporate Affairs and Governance Manager
- Procurement Manager
- Audit Committee

Following approval this policy will be circulated to:

- All Staff

Equality Impact Assessment

This document has been impact assessed by the CCG. No issues have been identified in relation to Equality, Diversity and Inclusion.

CONTENTS

1.0	INTRODUCTION	5
2.0	DEFINITION OF AN INTEREST.....	7
3.0	PRINCIPLES	10
4.0	DECLARATIONS OF INTEREST.....	12
5.0	REGISTERS OF INTEREST.....	15
6.0	DECLARATION AND REGISTER OF GIFTS AND HOSPITALITY	18
7.0	ROLES AND RESPONSIBILITIES.....	19
8.0	GOVERNANCE ARRANGEMENTS AND DECISION MAKING.....	23
9.0	MANAGING CONFLICTS OF INTEREST THROUGHOUT THE COMMISSIONING CYCLE	25
10.0	TRAINING.....	27
11.0	RAISING CONCERNS	28
12.0	BREACH OF CONFLICTS OF INTEREST POLICY.....	29
13.0	MONITORING AND REVIEW	31
	Appendix A: Flow Chart of the Declarations of Interest Process	32
	Appendix B: Template Declaration of Interests for CCG Members and Employees	33
	Appendix C: Template Register of Interests.....	38
	Appendix D: Template to Record Interests during a Meeting.....	39
	Appendix E: Template for Recording Minutes	40
	Appendix F: Declarations of Interest Checklist.....	42
	Appendix G: Details of the Local Counter-Fraud Specialist	44

1.0 INTRODUCTION

- 1.1 Conflicts of interest are inevitable in commissioning. This policy reflects NHS England Managing Conflicts of Interest: Revised Statutory Guidance for CCGs 2017 and Best Practice Update on Conflicts of Interest Management: Call to Action for CCGs 2019.
- 1.2 NHS Chorley and South Ribble Clinical Commissioning Group (CCG), as commissioners of healthcare, needs to manage conflicts of interest in a way that demonstrates CCG commissioning decisions are robust, fair and transparent and offer value for money.
- 1.3 The CCG is presented with more challenges as a membership organisation, with GPs being involved in both the provision and commissioning of healthcare.
- 1.4 Additionally the CCG has taken on an increased responsibility for the commissioning of Primary Care from NHS England. Whilst this enables more joined-up and coherent commissioning of care for its patients and population, it also exposes the CCG to a greater risk of actual and potential conflicts of interest.
- 1.5 The effective handling of conflicts of interest by the CCG is essential to protect healthcare professionals whilst maintaining public trust.
- 1.6 A Royal College of General Practitioners' (RCGP) and NHS Confederation's briefing paper on managing conflicts of interest, September 2011 states that *"if conflicts of interest are not managed effectively by CCGs, confidence in the probity of commissioning decisions and the integrity of clinicians involved could be seriously undermined. However, with good planning and governance, CCGs should be able to avoid these risks"*.
- 1.7 This policy sets out how the CCG will manage conflicts of interest arising from operation and functions of its Governing Body, Membership Council, employees and individuals contracted to work on behalf of the CCG or otherwise providing services or facilities to the CCG. This satisfies the minimum requirements for the CCG in managing conflicts of interest according to Section 14O of the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012) ("the act") which requires:
 - Arrangements for declaring interests
 - Maintenance of appropriate registers of interest
 - publishing or making arrangements for the public to access the registers
 - Arrangements for the prompt declaration of interests by the persons specified and ensure these are included in the relevant register
 - Arrangements for managing conflicts and potential conflicts of interest
 - having regard to guidance published in relation to conflicts of interest
- 1.8 Implementation of this policy aims to further reduce the risks of conflicts of interest in alignment with Managing Conflicts of Interest: Revised Statutory Guidance for CCGs 2017 under sections 14O and 14Z8 of the Act.

1.9 The CCG also operates procurement procedures in line with the NHS (Procurement, Patient Choice and Competition) Regulations 2013; regulation 6 (when procuring healthcare services) which requires that:

- contracts for the provision of NHS healthcare must not be awarded where conflicts or potential conflicts, between the interests involved in commissioning such services and the interests involved in providing them affect, or appear to affect the integrity of the award of that contract; and
- appropriate records must be kept of how any such conflicts in relation to NHS commissioning contracts it enters into have been managed

The CCG also operates procurement procedures in line with the Public Contracts Regulations 2015; regulation 24 which requires that:

- Contracting authorities shall take appropriate measures to effectively prevent, identify and remedy conflicts of interest arising in the conduct of procurement procedures so as to avoid any distortion of competition and to ensure equal treatment of all economic operators.
- For the purposes of the above paragraph, the concept of conflicts of interest shall at least cover any situation where relevant staff members have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure.

1.10 Failure to comply with the Managing Conflicts of Interest: Revised Statutory Guidance for CCGs 2017 will be included in the CCGs Annual Governance Statement.

1.11 This Conflicts of Interest Policy should be read in conjunction with the following CCG documents:

- CCG Constitution
- Hospitality Sponsorship and Gifts Policy
- Counter-Fraud, Bribery and Corruption Policy and Response Plan
- Procurement Procedures
- CCG Privacy Notice
- Whistleblowing Policy
- HR Policies and Procedures

1.12 In addition to complying with this policy and the NHS England 'Managing Conflicts of Interest: Revised Statutory Guidance for CCGs 2017' the CCG must also adhere to relevant guidance issued by professional bodies on conflicts of interest including:

- The British Medical Association (BMA)
- The Royal College of General Practitioners
- The General Medical Council (GMC)
- Procurement rules including the Public Contracts Regulations 2015
- National Health Service (Procurement, Patient Choice and Competition) (No.2) Regulations 2013
- Bribery Act 2010

2.0 DEFINITION OF AN INTEREST

2.1 The NHS England 'Managing Conflicts of Interest: Revised Statutory Guidance for CCGs 2017' defines a conflict of interest as *"a set of circumstances by which a reasonable person would consider that an individual's ability to apply judgement or act, in the context of delivering, commissioning, or assuring taxpayer funded health and care services, is, or could be, impaired or influenced by another interest they hold."*

2.2 For the purposes of this policy a conflict of interest may be:

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

2.3 The NHS England 'Managing Conflicts of Interest: Revised Statutory Guidance for CCGs 2017' outlines the following categories into which an interest may fall:

- **Financial Interests:** This is where an individual may get direct financial benefits from the consequences of a commissioning decision. This could, for example, include being:
 - A Director, including 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 the CCG. This includes involvement with a potential provider of a new care model;
 - A Shareholder (or similar ownership interests), a partner or owner of a private or not for profit company, business, partnership or consultancy which is doing, or which is likely, or possibly seeking to do, business with the CCG.
 - A management Consultant for a provider; or
 - A provider of clinical private practice.

This could also include an individual being:

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

- In receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role; and
 - Having a pension that is funded by a provider (where the value of this might be affected by the success or failure of the provider).
- **Non-Financial Professional Interests:** This is where an individual may obtain a non-financial professional benefit from the consequences of a commissioning decision, such as increasing their professional reputation or status or promoting their professional career. This may, for example include situations where the individual is:
- An advocate for a particular group of patients;
 - A GP with special interests, .e.g. in dermatology, acupuncture etc.;
 - An active member of a particular specialist professional body (although routine GP membership of the Royal College of General Practitioners (RCGP); British Medical Association (BMA) or a medical defence organisation would not usually by itself amount to an interest which needed to be declared);
 - An advisor for the Care Quality Commission (CQC) or the National Institute for Health and Care Excellence (NICE);
 - Engaged in a research role;
 - Involved in the development and holding of patents and other intellectual property rights which allow staff to protect something that they create, preventing unauthorised use of the products or copying of protected ideas; or
 - GPs and Practice Managers who are members of the governing body or committees of the CCG, should declare their details of their roles and responsibilities held within their GP Practices.
- **Non-Financial Personal Interests:** This is where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit. This could include, for example, where the individual is:
- A voluntary sector champion for a provider;
 - A volunteer for a provider;

- A member of a voluntary sector board or has any other position of authority in or connection with a voluntary sector organisation;
 - Suffering from a particular condition requiring individually funded treatment;
 - A member of a lobby or pressure group with an interest in health and care.
- **Indirect Interests:** This is where an individual has a close association with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest in a commissioning decision (as those categories are described above) for example, a:
 - Spouse / partner;
 - Close family member or relative e.g., parent, grandparent, child, grandchild or sibling;
 - Close friend or associate; or
 - Business partner

2.4 A declaration of interest for a “business partner” in a GP partnership must include all relevant collective interests of the partnership, and all interests of their fellow GP partners (which could be done by cross referring to the separate declarations made by those GP partners).

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

3.0 PRINCIPLES

3.1 For those who are serving members of the Governing Bodies, CCG Committees or those who take decisions when they are acting upon behalf of the public or spending public money, the following principles of good governance should be observed:

- The 7 principles of public life (known as the Nolan Principles)
- The Good Governance Standards for Public Services (2004), Office for Public Management (OPM) and Chartered Institute of Public Finance and Accountancy (CIPFA)
- The 7 key principles of the NHS Constitution
- The Equality Act 2010
- The UK Corporate Governance Code
- Standards for members of CCG Governing Bodies in England

3.2 The 7 principles of public life are outlined as follows:

- **Selflessness** – Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends;
- **Integrity** – Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties;
- **Objectivity** – In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of the public office should make choices on merit;
- **Accountability** – Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office;
- **Openness** – Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands;
- **Honesty** – Holders of the public office have a duty to declare any private interests relating to their public duties to take steps to resolve any conflicts arising in a way that protects the public interest;
- **Leadership** – Holders of the public office should promote and support these principles by leadership and example.

3.3 In addition to support the management of conflicts of interest, members of the CCG should:

- **Do business appropriately:** Conflicts of interest become much easier to identify, avoid and/or manage when the processes for needs assessments, consultation mechanisms, commissioning strategies and procurement procedures are right from the outset, because the rationale for all decision making will be clear and transparent and should withstand scrutiny;

- **Be proactive, not reactive:** seek to identify and minimise the risk of conflicts of interest at the earliest possible opportunity;
- **Be balanced, sensible and proportionate:** This policy will ensure that the rules for the management of interests are clear and robust but not overly prescriptive or restrictive.
- **Be transparent:** Document clearly the approach and decisions taken at every stage in the commissioning cycle so that a clear audit trail is evident;
- Create an **environment and culture** where individuals feel supported and confident in declaring relevant information and raising any concerns.

3.4 Members of the CCG should also bear in mind:

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

4.0 DECLARATIONS OF INTEREST

4.1 The CCG has a robust system in place to identify and manage conflicts of interest.

4.2 An open, honest and upfront environment is promoted to encourage CCG employees, Governing Body members, Committee members and Practice members to feel able to declare actual or potential conflicts.

4.3 Declarations of interest must be made by the following:

- **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
 - any staff employed by the commissioning support unit

In addition, any self-employed Consultants or other individuals working in the CCG under a contract for services should make a declaration of interest in accordance with this policy, as if they were CCG employees. Additionally anyone involved in a procurement process conducted by the CCG (and this may include CCG employees, or subject matter experts from other organisations, or members of the public (eg patient representatives)) should make a declaration of interest.

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 (for example members from internal and external audit)

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 Practice Members of the CCG

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) or Representative
- Any individual directly involved with the business or decision-making of the CCG

4.4 If an individual suspects they may have a conflict of interest they should refer to section 2.0 of this policy which outlines the types of interest to be declared under certain categories.

- 4.5 A flow chart in **Appendix A** of this policy details the process for individuals to follow when declaring conflicts of interest in various settings, i.e. at meetings or directly onto the register.
- 4.6 Managing Conflicts of Interest: Revised Statutory Guidance for CCGs 2017 states as a statutory requirement '*CCGs must make arrangements to ensure individuals declare any conflict or potential conflict in relation to a decision to be made by the group as soon as they become aware of it and in any event within 28 days. CCGs must record the interest in the registers as soon as they become aware of it*'. Individuals must therefore make any declarations of interest using the template in **Appendix B**.
- 4.7 Declarations of interest are required in the following circumstances:
- **Upon Appointment to the CCG**
CCG employees are asked to declare any relevant interests upon appointment to the CCG and when a firm appointment is made, a formal declaration should be made as part of the CCG's induction process.
 - **At meetings**
Attendees must declare any interests against Agenda items for every Governing Body meeting, Statutory Committee, Sub-Committee or working group meeting before the item is discussed and even if the interest is already recorded on the CCG's conflicts of interest register.
 - **Annually**
CCG employees will be prompted by the CCG to update their declarations of interest or make a nil return where there are no interests or changes to declare on an annual basis.
 - **Involvement in a procurement process**
Anyone involved in a procurement process conducted by the CCG should declare any interests at the point they become involved in the process. Further details can be found in the CCG's procurement standard operating procedure.
 - **Upon Changing Role, Responsibility or Circumstances**
It is an individual's responsibility to make any further declarations to reflect any changes in circumstances as soon as possible and within the 28 days.
- 4.8 Accountability, roles and responsibilities for the management of conflicts of interest are outlined in section 8.0 of this policy, ensuring decision making in relation to an actual or potential conflict of interest is efficient, transparent and fair.

- 4.9 The contact details of the nominated person to whom declarations of interest should be reported is:

Corporate Governance Lead
NHS Chorley and South Ribble CCG
Chorley House
Lancashire Business Park
Centurion Way
Leyland
PR26 6TT
Telephone: 01772 214374
Email: csrccg.corporateservices@nhs.net

This person is appropriately trained so that their expertise can be called upon when required. Further information about the role of the Corporate Governance Lead in respect of conflicts of interest can be found in section 8.0 Roles and Responsibilities.

- 4.10 The CCG ensures HR policies, Governing Body and Committee Terms of Reference and Standing Orders are reviewed and updated in respect of conflicts of interest on an annual basis to ensure the CCG is enabled to appropriate action to manage conflicts of interest should it be so profound it is unmanageable.

5.0 REGISTERS OF INTEREST

- 5.1 It is a statutory requirement for the CCG to maintain one or more registers of interest of: Practice members of the CCG, members of its Governing Body, members of statutory sub-Committees of its Governing Body, its employees, and its procurement decisions.
- 5.2 The CCG will assure itself on an annual basis that the registers of interest detailed in 5.1 are up to date including each person's latest declaration form by reporting all registers to the Audit Committee and subsequently publicising registers of decision makers only on the CCG's website.
- 5.3 Declarations of interest should be made as soon as reasonably practicable and by law within 28 days after the interest arises (this could include an interest an individual is pursuing), see section 4.6 and 4.7 of this policy. The register of interest will also be updated within the 28 days of the interest arising.
- 5.3 Only the declared interests of decision-making staff will be included on a published register annually.
- 5.4 For the purposes of this policy, decision making staff are individuals who are more likely than others to have a decision making influence on the use of taxpayers' money, because of the requirements of their role. These individuals are likely to be:
- Governing Body members
 - Advisory Group members contributing to direct or delegated decision making on the commissioning or provision of taxpayer funded services such as working groups involved in service redesign or stakeholder engagement that will affect future provision of services
 - Joint Primary Care Commissioning Committee members
 - Statutory Committee members (Audit Committee, Remuneration Committee etc)
 - Members of Commissioner Groups and Committees relating to new models of care (Our Health, Our Care Joint Programme Board, other Joint Programme Boards)
 - Members with delegated authority to approve the awarding of contracts (i.e. Chief Finance and Contracting Officer)
 - All members of staff at Agenda for Change Band 8d and above
 - Those who have the power to enter into contracts on behalf of the CCG (management, administrative and clinical staff)
 - Those involved in decision making in respect of commissioning services, the purchasing of goods, medicines, medical devices or equipment and formulary decisions
- 5.5 The CCG's register of decision-makers is published on the CCG's website and

will be updated on an annual basis; however the CCGs register can also be made available by submitting a written freedom of information request to the CCG's

Customer Services Team at:

Customer Services Team
NHS Chorley and South Ribble and Greater Preston CCGs
Chorley House
Lancashire Business Park
Centurion Way
Leyland
Lancashire
PR26 6TT

Or by email to:

NHS Chorley and South Ribble CCG - csrccg.foi@nhs.net
NHS Greater Preston CCG - gpccg.foi@nhs.net

- 5.6 The register of interests is currently maintained in template format on the CCG's primary performance and risk management software, Pentana. An example template can be found in this policy in **Appendix C**.

6.0 DECLARATION AND REGISTER OF GIFTS AND HOSPITALITY

- 6.1 The CCG recognises the acceptance of gifts could give rise to conflicts of interest that should be avoided.

- 6.2 The management of hospitality, sponsorship and gifts including the process for reporting and maintenance of registers is detailed in the CCG's separately held Hospitality, Sponsorship and Gifts Policy.

7.0 ROLES AND RESPONSIBILITIES

7.1 Everyone in the CCG has responsibility to appropriately manage conflicts of interest.

7.2 The CCG has taken great consideration in appointment to the following roles to ensure a conflict of interest does not arise:

- The **Accountable Officer** for the CCG holds overall responsibility for the management of conflicts of interest.
- The **Conflicts of Interest Guardian** role is fulfilled by the CCG's Audit Committee Chair (Lay Member with responsibility for Finance, Audit and Conflicts of Interest) providing they have no provider interests. The role has been introduced to further strengthen scrutiny and transparency of CCG's decision making processes. In collaboration with the CCG's Corporate Governance Lead, the Conflicts of Interest Guardian should:
 - 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 judgement to staff and members 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
 - Submit a quarterly self-certification to NHS England regarding compliance with key areas of the statutory guidance.
 - Attest annually to the NHS England Board that the CCG has:
 - Had due regard to the statutory guidance on managing conflicts of interests; and
 - Implemented and maintained sufficient safeguards for the commissioning of primary care
- The **Governing Body** is accountable, in line with the CCG's scheme of reservation and delegation as published in its Constitution, for receiving declarations of interest in respect of members of the Governing Body, its

Committees and Sub-Committees, the Membership Council and employees, which may conflict with the business of the CCG and executive members approving the extent to which the member may remain involved with the matters where conflicts exist.

- The **Audit Committee**, under delegated authority from the Governing Body will oversee the Conflicts of Interest Policy and ensure appropriate support is provided to all member Practices and decision-makers or those who can influence decision making by ensuring individuals:
 - declare their interests for recording on the appropriate Register of Interest. Conflicts of interest relating to decision makers will be published and made available to the public via the CCG website or on request
 - declare any relevant potential or actual conflicts of interest throughout discussions and proceedings so that anything that is said is fully understood by all others within that context
 - ensure that where any conflict could have an effect on any decision or process, these have been appropriately reported and managed in accordance with this policy and its supporting procedures
- **Other CCG Lay Members** excluding the Conflicts of Interest Guardian (also in a capacity as Audit Chair) and the Joint Primary Care Commissioning Committee Chair play a critical role in the CCG by providing scrutiny, challenge and an independent voice in support of robust and transparent decision-making and management of conflicts of interest.
- The **Head of Governance** (Chief Finance and Contracting Officer) will ensure that arrangements are in place to manage potential or actual conflicts of interest to ensure the integrity of the CCG's decision making processes.
- The **Corporate Governance Lead** is responsible for the day to day management of conflicts of interest matters and queries and should keep the Conflicts of Interest Guardian well briefed on conflicts of interest matters and issues arising. The Corporate Governance Lead is also responsible for maintaining the CCG's register(s) of interest and provides advice, support and guidance on how conflicts of interest should be managed, ensuring appropriate administration systems are put in place. The Corporate Governance has designated responsibility for providing advice and decisions in respect on whether it is necessary for an interest to be declared depending on whether an interest constitutes a genuine conflict.
 - All **Head of Service** must ensure that members of staff are aware of the policy and process to be followed.
 - All **Membership Council Representatives, Governing Body Members,**

Statutory Committee Members only and **CCG Employees** must familiarise themselves and comply with this policy and its supporting procedures.

- **Employees, Committee members, contractors and others engaged under contract** with them must be aware of the requirement to inform the CCG if they are employed or engaged in any employment or consultancy work in addition to their work with the CCG. The purpose of this is to ensure that the CCG is aware of any potential conflicts of interest. Examples of work which might conflict with the work of the CCG include:
 - Employment with another NHS body
 - Employment with another organisation which might be in a position to supply goods/services to the CCG including paid advisory positions and paid honorariums which relate to bodies likely to do business with the CCG
 - Directorships e.g. of a GP federation or non-executive roles
 - Self-employment including private practice, charitable trustee roles, political roles and consultancy work, in a capacity which might conflict with the work of the CCG or which might be in a position to supply goods/services to the CCG

Employees including Governing Body members have a responsibility to declare any existing outside employment on both appointment and any new employment when it arises. Individuals must obtain prior permission from the CCG to engage with outside employment and the CCG has the right to refuse permission where it is believed a conflict will arise which cannot be effectively managed.

7.3 **Appointing Governing Body, Committee Members and Senior Employees**

In certain circumstances and on a case by case basis the Governing Body will need to consider whether conflicts of interest should exclude individuals from being appointed to the Governing Body or to a Committee or Sub-Committee of the CCG or Governing Body depending on assessment of materiality of the interest and the extent of the interest.

7.4 By assessing materiality of the interest this includes whether the individual (or any person with whom they have a close association) could benefit financially or otherwise from any decision the CCG may take.

7.5 The extent of the interest and the nature of the appointee's proposed role within the CCG should also be determined. An individual should not be appointed to the role if:

- An interest is related to an area of business significant enough for an individual being unable to operate effectively and make a full and proper contribution in the proposed role.
- 7.6 Any individual who has a material interest in an organisation which provides or is likely to provide substantial services to the CCG (a provider of healthcare including 'new care model' providers, or healthcare commissioning support services, or otherwise) should recognise the risk of conflict of interests that may arise and should not become a member of the Governing Body or of a Committee or Sub-Committee of the CCG, in particular if the nature and extent of their interest results in the need to exclude themselves from decision making on a regular basis that it affects their ability to perform effectively in their role.
- 7.7 The CCG's Constitution sets out a statement of conduct expected of individuals involved in the CCG including members of the Governing Body, members of Committees and employees which reflect the safeguards within this policy, the Managing Conflicts of Interest: Revised Statutory Guidance for CCGs 2017 and expectations set out in the Standards for Members of NHS Boards and Clinical Commissioning Groups.

8.0 GOVERNANCE ARRANGEMENTS AND DECISION MAKING

8.1 Management of Conflicts of Interest for Meetings

Under the Health and Social Care Act 2012, there is a legal obligation for the CCG to manage conflicts of interest appropriately. Declarations of interest and actions arising from the declarations are recorded formally and consistently across all CCG Governing Body and statutory Committee meetings using the templates at Appendix D and E of this policy.

8.2 In Advance of Each Meeting

A declarations of interest register forms part of the Agenda as a standard item for all Governing Body and statutory Committee meetings held.

8.3 The Agenda including the standing items on declarations of interest enables individuals to raise concerns or make declarations at the meeting including any interests specifically relating to any of the Agenda items for that meeting.

8.4 A definition of conflicts of interest and declarations of interest registers are made available to all members of the meeting including the Chair one week in advance of the meeting when papers are circulated. This provides clarity for all recipients and members are advised to contact the Chair as soon as a potential or actual conflict is identified.

8.5 The Chair must review a summary report from the preceding meeting where any conflicts of interest declared were identified and examine how this was managed. A template summary report can be found in **Appendix D**.

8.6 The meeting Chair must cross reference check the register against the Agenda items for each meeting for any potential or actual conflicts of interests that may occur during the meeting.

8.7 During the Meeting

The meeting Chair must ensure that the meeting is quorate and ensure that this is noted in the minutes of the meeting.

8.8 The Chair must request that all members declare any interests in Agenda items which have not already been declared including the nature of the actual or potential conflict.

8.9 A decision on how the interest will be managed if it is declared including to what extent the individual member should continue to participate in the meeting should be made by the Chair on a case by case basis and this decision should be recorded in a template summary report found in **Appendix D** by the secretariat following the meeting and as per the minutes of meeting.

8.10 Openness and transparency in decision making processes will be achieved through effective record keeping in the form of clear minutes of the meeting. A template for recording any interests in the minutes can be found in **Appendix E** and should be recorded by secretariat detailing the following procedure:

- The individual declaring the interest

- The 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 retire from and returned to the meeting, even if an interest had not been declared
- Details of whether conflicted individual(s) are excluded from any associated discussions and decisions
- If the action taken affects the quorum of the meeting including postponing the agenda item until a quorum can be achieved without conflict
- Clearly recording the agenda item for which the interest has been declared

8.11 Visitors in attendance who participate in the meeting must also follow this meeting protocol and declare any interests in a timely manner.

8.12 **Following the Meeting**

Any interests declared in meetings should be promptly reported by secretariat to the CCG's Corporate Governance Lead.

8.13 The individual who has declared an interest has a responsibility to complete a declaration of interest proforma which will be provided to them by the CCG's Corporate Governance team.

8.14 All newly completed declaration of interest proformas should be transferred by the Corporate Governance team to the CCG's register of interest within the 28 day statutory timescale.

8.15 A checklist covering the above stipulations has been included within this policy at **Appendix F**, 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.

9.0 MANAGING CONFLICTS OF INTEREST THROUGHOUT THE COMMISSIONING CYCLE

9.1 Primary Care Commissioning Committees

Details of the management of the CCG's Joint Primary Care Commissioning Committee in respect of conflicts of interest can be found in the Joint Primary Care Commissioning Committee Terms of Reference including membership, expertise, decision-making processes and voting arrangements.

9.2 Throughout the Whole Commissioning Cycle

The CCG manages conflicts of interest appropriately throughout the whole commissioning cycle. At the outset of a commissioning process, the relevant interests of all individuals involved are identified and clear arrangements are put in place to manage any conflicts of interest. This includes consideration as to which stages of the process a conflicted individual should not participate in, and, in some circumstances, whether that individual should be involved in the process at all. The CCG identifies and appropriately manage any conflicts of interest that may arise where staff are involved in the management of existing contracts and the procurement of related / replacement contracts. Further details can be found in the CCG's procurement standard operating procedure.

9.3 The CCG should identify as soon as possible where staff might transfer to a Provider (or their role may materially change) following the award of a contract. This should be treated as a relevant interest, and managed following this policy.

9.4 Service Design

Public involvement supports transparent and credible commissioning decisions. The CCG ensures this happens at every stage of the commissioning cycle from needs assessment, planning and prioritisation to service design, procurement and monitoring.

9.5 Provider Engagement

It is good practice to engage relevant providers, especially clinicians, in confirming that the design of service specifications will meet patient needs. This may include providers from the acute, primary, community, and mental health sectors, and may include NHS, third sector and private sector providers. Such engagement, done transparently and fairly, is entirely legal. However, conflicts of interest, as well as challenges to the fairness of the procurement process, can arise 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. The CCG should be particularly mindful of these issues when engaging with existing / potential providers in relation to the development of new care models.

9.6 Provider engagement should follow the three main principles of procurement law, namely equal treatment, non-discrimination and transparency. This includes ensuring that the same information is given to all at the same time and procedures are transparent. This mitigates the risk of potential legal challenge.

As the service design develops, it is good practice to engage with a range of providers on an on-going basis to seek comments on the proposed design, for example via the commissioner's website and/or via workshops with interested parties (ensuring a record is kept of all interaction). NHS Improvement has issued guidance on the use of provider boards in service design.

9.7 Engagement should help to shape the requirement to meet patient need, but it is important not to gear the requirement in favour of any particular provider(s). If appropriate, the advice of an independent clinical adviser on the design of the service should be secured.

9.8 The CCG should ensure it meets any obligations to document decisions including, but not limited to, any obligations they have under the National Health Service (Procurement, Patient Choice and Competition) (No 2) Regulations 2013 and the Public Contracts Regulations 2015.

9.9 **Specifications**

Commissioners should seek, as far as possible, to specify the outcomes that they wish to see delivered through a new service, rather than the process by which these outcomes are to be achieved. As well as supporting innovation, this helps prevent bias towards particular providers in the specification of services. However, they also need to ensure careful consideration is given to the appropriate degree of financial risk transfer in any new contractual model.

Specifications should be clear and transparent, reflecting the depth of engagement, and set out the basis on which any contract will be awarded.

9.10 **Procurement and Awarding Grants**

The CCG's procurement standard operating procedure outlines how conflicts of interest are managed throughout the procurement process.

9.11 Any conflicts of interest are recorded on the CCG's procurement decisions register and this is updated and published on the website following approval from the CCG's Audit Committee each time it meets. The register can also be made available upon request via the CCG's Corporate Governance team.

9.12 **Single tender actions**

Some CCGs did not take conflicts of interest into consideration prior to the approval of single tender waivers.

Conflict of Interest Guardians and Accountable Officers should note that procurement processes have been flagged up as an area of focus for management of conflicts of interest and to reflect on how to facilitate good practice in their CCG

Reference in statutory guidance: Paragraph 118 "The decision to use a single tender action, for instance, is a procurement decision and if it results in the commissioner entering into a new contract, extending an existing contract, or materially altering the terms of an existing contract, then it is a decision that should be recorded"

10.0 TRAINING

- 10.1 The CCG takes part in the NHS England Improvement and Assessment Framework which includes a conflicts of interest indicator to assess the CCGs' compliance with the requirements of the revised 'Statutory Guidance on Managing Conflicts of Interest for CCGs'.
- 10.2 Part of the compliance involves the CCG submitting an annual self-certification to demonstrate that 100% of relevant CCG staff have been offered module 1 of online conflicts of interest training which is available via the CCG's Learning Management System (LMS) and that 90% of those CCG staff have completed that module.
- 10.3 Module 1 is mandatory for the following member of staff:
- CCG Governing Body Members
 - Executive Member of formal CCG Committees and Subcommittees
 - Primary Care Commissioning Committee members
 - Clinicians involved in commissioning or procurement decisions
 - CCG Governance Leads
 - Anyone involved or likely to be involved in taking a procurement decision
- 10.4 There are two further modules that are optional for completion; module 2 for the management of conflicts of interest throughout the whole commissioning cycle and recruitment processes and module 3 for the management of conflicts of interest in Committees including Primary Care Commissioning Committee. These can also be accessed via the Learning Management System (LMS).

11.0 RAISING CONCERNS

11.1 Every CCG employee, Governing Body member, Committee or Sub-Committee member and GP Practice member has a duty to 'speak up' about genuine concerns in relation to the administration of the CCG's Policy on conflicts of interest management and to report these concerns. These individuals should not ignore their suspicions or investigate themselves, but rather speak to the designated CCG point of contact for these matters in accordance with this policy and the CCG's Whistleblowing Policy (where a breach is reported by a CCG employee).

11.2 The first point of contact to report any concerns is via the Corporate Governance Lead or the Conflicts of Interest Guardians who deal with those concerns on a strictly confidential basis via the following contact:

Corporate Governance Lead
NHS Chorley and South Ribble CCG
Chorley House
Lancashire Business Park
Centurion Way
Leyland
PR26 6TT
Telephone: 01772 214374
Email: csrccg.corporateservices@nhs.net

Or

The Freedom to Speak Up Guardians, details of whom can be found on the CCG's websites in the Whistleblowing Policy.

11.3 The CCG endeavours to create an environment and culture where individuals feel support and confident in declaring relevant information including notifying actual or suspected breaches and can be assured concerns will be investigated on a strictly confidential basis.

11.4 Investigations will be facilitated by the Corporate Governance Lead to ensure the correct decision is made on how conflicts are managed.

12.0 BREACH OF CONFLICTS OF INTEREST POLICY

12.1 'Breaches' in respect of this policy occur in situations when interests are not identified, declared or managed appropriately and effectively. This may happen innocently, accidentally or because of deliberate actions of the CCG and its staff.

12.2 Failure to comply with this policy will be addressed under the disciplinary process in respect of employees, or other appropriate action in relation to individuals contracted to work on behalf of the CCG may be taken, which may result in the individual being removed from office or the contract terminated otherwise as set out in the CCG's Standing Orders.

12.3 In the case of a breach the following steps will be taken:-

- An investigation will be undertaken overseen by the Conflicts of Interest guardian in line with the relevant HR Policies.
- The Conflicts of Interest Guardian will report the outcome of the investigation to the Audit Committee. Where the breach is serious the outcome of the investigation will also be reported to NHS England.
- A review of lessons learned will be conducted by the Head of Governance following any incident of non-compliance with this policy and the report with anonymised details of breaches will be shared with CCG staff for the purpose of learning and development.

12.4 In the case of a breach or non-compliance with this policy the outcome could include any of the following and in some cases include all:-

- Civil Implications
- Criminal Implications
- Disciplinary Implications
- Referral to professional bodies

12.5 Failure to manage conflicts of interest could lead to criminal proceedings including for offences such as fraud, bribery and corruption. This could have implications for CCGs and linked organisations, and the individuals who are engaged by them. The Fraud Act 2006 created a criminal offence of fraud and defines three ways of committing it:

- Fraud by false representation;
- Fraud by failing to disclose information; and,
- Fraud by abuse of position. An essential ingredient of the offences is that, the offender's conduct must be dishonest and their intention must be to make a gain, or cause a loss (or the risk of a loss) to another. Fraud carries a maximum sentence of 10 years imprisonment and /or a fine if convicted in the Crown Court or 6 months imprisonment and/or a fine in the Magistrates' Court. The offences can be committed by a body corporate. Bribery is generally defined as giving or offering someone a

financial or other advantage to encourage that person to perform their functions or activities.

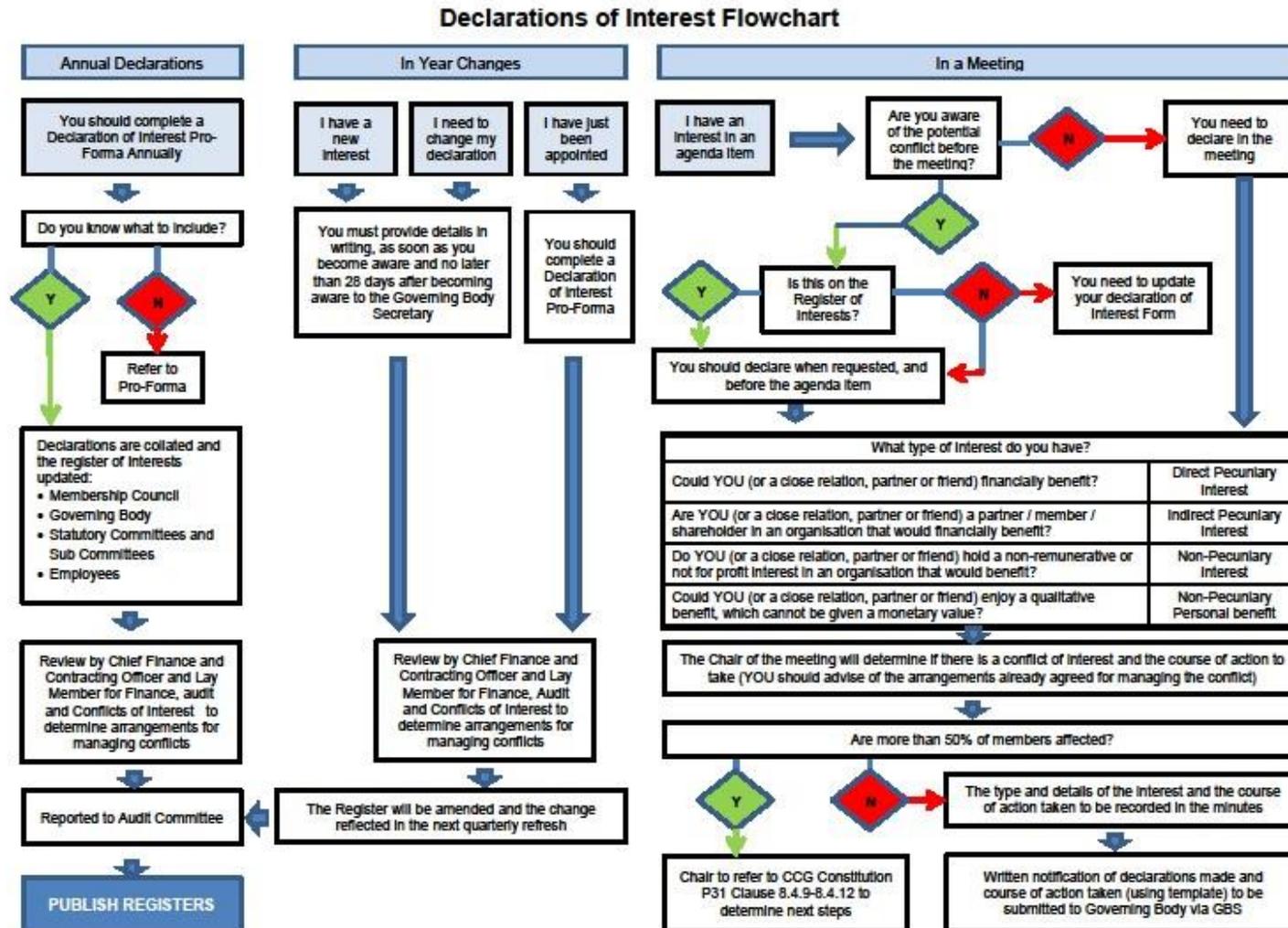
- 12.6 The Bribery Act 2010 reformed the criminal law of bribery, making it easier to tackle this offence proactively in both the public and private sectors. It introduced a corporate offence which means that commercial organisations, including NHS bodies, will be exposed to criminal liability, punishable by an unlimited fine, for failing to prevent bribery. The offences of bribing another person, being bribed and bribery of foreign public officials can also be committed by a body corporate. The Act repealed the UK's previous anti-corruption legislation (the Public Bodies Corrupt Practices Act 1889, the Prevention of Corruption Acts of 1906 and 1916 and the common law offence of bribery) and provides an updated and extended framework of offences to cover bribery both in the UK and abroad. The offences of bribing another person, being bribed or bribery of foreign public officials in relation to an individual carries a maximum sentence of 10 years imprisonment and/or a fine if convicted in the Crown Court and 6 months imprisonment and/or a fine in the Magistrates' Court. In relation to a body corporate the penalty for these offences is a fine.
- 12.7 Any suspicions or concerns of acts of fraud or bribery can be reported to your Counter- Fraud Specialist, the details of which can be found in Appendix G of this policy. There is also a national reporting line 0800 0284060. This provides an easily accessible and confidential route for the reporting of genuine suspicions of fraud within or affecting the NHS. All calls are dealt with by experienced trained staff and any caller who wishes to remain anonymous may do so. More information can be found on the NHS Counter Fraud website. <https://cfa.nhs.uk/reportfraud>
- 12.8 Anonymised details of breaches are published on the CCGs' website for the purpose of learning and development on an annual basis.
- 12.9 The CCG has a clear process for the reporting and managing breaches as per the process for raising concerns in Section 11.0.
- 12.10 This policy has clear links with the Whistleblowing Policy and HR policies as outlined in Section 11.0.
- 12.11 The CCG participates in the NHS England Improvement and Assessment Framework by submitting quarterly returns that outline any breaches for the period stated.
- 12.12 The CCG publicises breaches on their website within the Audit Committee minutes of meeting.

12.13 Any media interest in relation to conflicts of interest is managed by the CCG's Communications Team.

13.0 MONITORING AND REVIEW

13.1 The CCG commits to reviewing the Conflicts of Interest Policy on an annual basis, or earlier should the CCG become aware of changes in practice, changes to statutory requirements, revised professional or clinical standards and local / national directives that affect, or could potentially affect the policy.

Appendix A: Flow Chart of the Declarations of Interest Process



Appendix B: Template Declaration of Interests for CCG Members and Employees

Name:				
Position within, or relationship with, the CCG (or NHS England in the event of joint committees):				
GP practice (if applicable)				
<p>Detail of interests held : ** YES / NONE Declared ** (**Please delete as applicable**)</p> <p>If Yes then please complete all that are applicable in table below:</p>				
Type of Interest* *See Page 3 for Details	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 and the EU General Data Protection Regulation (GDPR) May 2018. Information may be disclosed to third parties in accordance with the Freedom of Information Act 2000 and, in the case of 'decision making staff' (as defined in the statutory guidance on managing conflicts of interest for CCGs) may be published in registers that the CCG 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.

Decision making staff should be aware that the information provided in this form will be added to the CCG's registers which are held in hardcopy for inspection by the public and published on the CCG's website. Decision making staff must make any third party whose personal data they are providing in this form aware that the personal data will held in hardcopy for inspection by the public and published on the CCG's website and must inform the third party that the CCG's privacy policy is

available on the CCG's website. If you are not sure whether you are a 'decision making' member of staff, please speak to your line manager before completing this form.

Signed:

Date:

***Please return to the CCG's Corporate Governance Team
Email: csrccg.corporateservices@nhs.net***

*Type of Interest	Description
Financial Interests	<p>This is where an individual may get direct financial benefits from the consequences of a commissioning decision. This could, for example, include being:</p> <ul style="list-style-type: none"> • A director, including a non-executive director, or senior employee in a private company or public limited company or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations. This includes involvement with a potential provider of a new care model; • A shareholder (or similar ownership interests), a partner or owner of a private or not-for-profit company, business, partnership or consultancy which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations; • A management consultant for a provider; or • A provider of clinical private practice. <p>This could also include an individual being:</p> <ul style="list-style-type: none"> • In employment outside of the CCG (see paragraph 79-81); • In receipt of secondary income; • In receipt of a grant from a provider; • In receipt of any payments (for example honoraria, one-off payments, day allowances or travel or subsistence) from a provider; • In receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role; and • Having a pension that is funded by a provider (where the value of this might be affected by the success or failure of the provider).

<p>Non-Financial Professional Interests</p>	<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.: • An active member of a particular specialist professional body (although routine GP membership of the Royal College of General Practitioners (RCGP), British Medical Association (BMA) or a medical defence organisation would not usually by itself amount to an interest which needed to be declared); • An advisor for the Care Quality Commission (CQC) or the National Institute for Health and Care Excellence (NICE); • Engaged in a research role; • The development and holding of patents and other intellectual property rights which allow staff to protect something that they create, preventing unauthorised use of products or the copying of protected ideas; or • GPs and practice managers, who are members of the governing body or committees of the CCG, should declare details of their roles and responsibilities held within their GP practices.
<p>Non-Financial Personal Interests</p>	<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 group with an interest in health and care.
<p>Indirect Interests</p>	<p>This is where an individual has a close association with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest in a commissioning decision (as those categories are described above) for example, a:</p> <ul style="list-style-type: none"> • Spouse / partner; • Close family member or relative e.g., parent, grandparent, child, grandchild or sibling; • Close friend or associate; or • Business partner.

Appendix C: Template Register of Interests

NHS Chorley and South Ribble CCG Primary Care Commissioning Committee - Declarations of Interest

Declarations of Interest are recorded on the Register when specifically declared by a member of the meeting. This Register was accurate at the time meeting papers were submitted; therefore, any changes received after submission will be included on the Register for the next statutory meeting.

Codes for the types of interests declared are DP=Direct Pecuniary, IP=Indirect Pecuniary, NP=Non Pecuniary Personal Interest, CL=Conflict of Loyalty, PR=Professional or Personal Relationship. Interests declared in 'bold' are pending confirmation of the type of interest.

Name	Role	GP practice (if applicable)	Declaration	Declaration held electronic or	Date	Mitigating Actions
Example	xx		Financial Interests – Non-Financial Professional Interests - Non-Financial Personal Interests – Indirect Interests -		xx	<i>Interest noted, will be reviewed in line with agenda item committee meetings and procurement involvement. When conflict emerges the individual will be excluded from decision making</i>

Appendix D: Template to Record Interests during a Meeting

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

Appendix E: Template for Recording Minutes

Item No	Agenda Item	Actions
1	Chairs welcome	
2	Apologies for absence <apologies to be noted>	
3	<p>Declarations of interest</p> <p><i>SK reminded committee members of their obligation to declare any interest they may have on any issues arising at committee meetings which might conflict with the business of the CCG.</i></p> <p><i>Declarations made by members of the Committee are listed in the CCG's Register of Interests. The Register is available either via the secretary to the governing body or the CCG's website at the following link: http://xxxccg.nhs.uk/about-xxx-ccg/who-we-are/our-governing-body/</i></p> <p>Declarations of interest from sub committees. <i>None declared</i></p> <p>Declarations of interest from today's meeting</p>	
	<p><i>The following update was received at the meeting:</i></p> <ul style="list-style-type: none"> <i>• With reference to business to be discussed at this meeting, MS declared that he is a shareholder in XXX Care Ltd.</i> <p><i>SK declared that the meeting is quorate and that MS would not be included in any discussions on agenda item X due to a direct conflict of interest which could potentially lead to financial gain for MS.</i></p> <p><i>SK and MS discussed the conflict of interest, which is recorded on the register of interest, before the meeting and MS agreed to remove himself from the table and not be involved in the discussion around agenda item X.</i></p>	
4	Minutes of the last meeting <date to be inserted> and matters arising	

5	<p>Agenda Item <Note the agenda item></p> <p><i>MS left the meeting, excluding himself from the discussion regarding xx.</i></p> <p><conclude decision has been made></p> <p><Note the agenda item xx></p> <p><i>MS was brought back into the meeting.</i></p>	
6	<p>Any other business</p>	
7	<p>Date and time of the next meeting</p>	

Appendix F: Declarations of Interest Checklist

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
In advance of the meeting	<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. A template for a summary report to present discussions at preceding meetings is detailed below. 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>

Appendix G: Details of the nominated Counter Fraud Specialist

Where fraud is witnessed or suspected, the individual concerned should contact the Chief Finance and Contracting Officer, and/or the CCG's nominated Counter Fraud Specialist (CFS):

Paul Bell
Mersey Internal Audit Agency
Unit 4,
Arkwright Court,
Commercial Road,
Darwen
Lancashire
BB3 0FG

Tel: 0151 285 4798

Mobile: 07552 253068

Email: paul.bell@miaa.nhs.uk