NHS
Commissioning Board

Managing conflicts of interests:

Guidance for clinical commissioning groups

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Managing conflicts of interest: Guidance for clinical commissioning groups

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Introduction

Managing conflicts of interest appropriately will be essential for protecting the integrity of the overall NHS commissioning system and to protect the NHS Commissioning Board (NHS CB), clinical commissioning groups (CCGs) and GP practices from any perceptions of wrongdoing. Commissioners will need the highest levels of transparency so they can demonstrate that conflicts of interest are managed in a way that cannot undermine the probity and accountability of the organisation. This will be particularly important for CCGs when dealing with member practices.

The need for NHS bodies to identify and manage conflicts of interest is not new. Healthcare professionals have always had to manage competing interests, for example when having multiple roles on PCT Boards, professional executive committees and practice based commissioning groups, as well as separating their own provider and commissioning functions

It will not be possible to avoid conflicts of interest. They are inevitable in many aspects of public life, including the NHS. However, by recognising where and how they arise and dealing with them appropriately, commissioners will be able to ensure proper governance, robust decision-making, and appropriate decisions about the use of public money.

The Health and Social Care Act sets out clear requirements of CCGs to make arrangements for managing conflicts of interest and potential conflicts of interest, to ensure they do not affect or appear to affect the integrity of the CCG's decision making processes.

This guidance meets the NHS CB's legal duty under Section 14O (conflicts of interest) of the National Health Service Act 2006, inserted by the Health and Social Care Act 2012, to publish guidance for CCGs on the discharge of their functions under this section. CCGs must have regard to this guidance. Whilst specific to CCGs, the principles will apply also to the NHS CB itself in its commissioning function.

It draws extensively on guidance previously issued by the NHS Commissioning Board Authority on managing conflicts of interest.

What are conflicts of interest?

Definition of a conflict of interest

A conflict of interest occurs where an individual's ability to exercise judgement or act in one role is or could be impaired or otherwise influenced by his or her involvement in another role or relationship. The individual does not need to exploit his or her position or obtain an actual benefit, financial or otherwise. A *potential* for competing interests and/or a *perception* of impaired judgement or undue influence can also be a conflict of interest.

Conflicts can arise from an indirect financial interest (eg payment to a spouse) or a non-financial interest (eg kudos or reputation). Conflicts of loyalty may arise (eg in respect of an organisation of which the individual is a member or has an affiliation). Conflicts can arise from personal or professional relationships with others, eg where the role or interest of a family member, friend or acquaintance may influence an individual's judgement or actions or could be perceived to do so. These are all conflicts of interest.

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

> "It is crucial that an interest and involvement in the local healthcare system does not also involve a vested interest in terms of financial or professional bias toward or against particular solutions or decisions. The fact that in their provider and gatekeeper roles GPs and their colleagues could potentially profit personally (financially or otherwise) from the decisions of a commissioning group of which they are also members, means that questions about their role in the governance of NHS commissioning bodies are legitimate. Failure to acknowledge, identify and address them could result in poor decision making, legal challenge and reputational damage."
>
> *RCGP and NHS Confederation's briefing paper on managing conflicts of interest September 2011*

CCGs will need to provide clear guidance to their members and employees on what might constitute a conflict of interest, providing examples that are likely to arise. The important things to remember are that:

- 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 a conflict of interest and manage it appropriately rather than ignore it;
- for a conflict to exist, financial gain is not necessary.

Principles for managing conflicts of interest

Conflicts of interest can be managed by:

- **Doing business properly.** If commissioners get their needs assessments, consultation mechanisms, commissioning strategies and procurement procedures right from the outset, then conflicts of interest become much easier to identify, avoid or deal with, because the rationale for all decision-making will be clear and transparent and should withstand scrutiny;
- **Being proactive not reactive.** Commissioners should seek to identify and minimise the risk of conflicts of interest at the earliest possible stage, for instance by considering potential conflicts of interest when electing or selecting individuals to join the governing body or other decision-making roles, and by ensuring individuals receive proper induction and understand their obligations to declare conflicts of interest. They should establish and maintain registers of interests, and agree in advance how a range of different situations and scenarios will be handled, rather than waiting until they arise;
- **Assuming that individuals will seek to act ethically and professionally, but may not always be sensitive to all conflicts of interest.** Most individuals involved in commissioning will seek to do the right thing for the right reasons. However, they may not always do it the right way because of lack of awareness of rules and procedures, insufficient information about a particular situation, or lack of insight into the nature of a conflict. Rules should assume people will volunteer information about conflicts and, where necessary, exclude themselves from decision-making, but there should also be prompts and checks to reinforce this;
- **Being balanced and proportionate.** Rules should be clear and robust but not overly prescriptive or restrictive. They should protect and empower people by ensuring decision-making is efficient as well as transparent and fair, not constrain people by making it overly complex or slow.

Statutory requirements

Section 14O of the National Health Service Act 2006, inserted by the Health and Social Care Act 2012, sets out that each CCG must:

- maintain one or more registers of interest of: the members of the group, members of its governing body, members of its committees or sub-committees of its governing body, and its employees;
- publish, or make arrangements to ensure that members of the public have access to these registers on request;
- make arrangements to ensure individuals declare any conflict or potential conflict in relation to a decision to be made by the group, and record them in the registers as soon as they become aware of it, and within 28 days; and
- make arrangements, set out in their constitution, for managing conflicts of interest, and potential conflicts of interest in such a way as to ensure that they do not and do not appear to, affect the integrity of the group's decision-making processes.

The NHS CB must publish guidance for CCGs on the discharge of their functions under this section and each CCG must have regard to this guidance.

The NHS (Procurement, Patient Choice and Competition) Regulations 2013 set out that commissioners:

- must manage conflicts and potential conflicts of interests when awarding a contract by prohibiting the award of a contract where the integrity of the award has been or appears to have been affected by a conflict;
- must keep appropriate records of how they have managed any conflicts in individual cases.

CCGs should set out in their constitution how they will comply with these requirements.

Maintaining a register of interests

Statutory requirements

CCGs must maintain one or more registers of interest of: the members of the group, members of its governing body, members of its committees or sub-committees of its governing body, and its employees

CCGs must publish, or make arrangements to ensure that members of the public have access to these registers on request.

CCGs will need to keep a Register of Interests of all members. Whenever interests are declared, they should be reported to the person designated with responsibility for the Register of Interests (as identified by the CCG or its governing body), who should then update the Register accordingly.

CCGs will need to decide locally how often to update their Register, and the BMA has suggested that the register should be formally refreshed every three months. CCGs will need to have systems to check that the Register of Interests is accurate and up to date (eg annual checks). In the interests of transparency, the Register of Interests will need to be publicly available and easily accessible to patients and the public (especially those who don't have access to the internet) and this should be set out in the CCG's constitution. Examples include:

- confirming you will make this document available upon request for inspection at your headquarters or local health premises;
- confirming that the document is available upon application (either by post - in which case you will need to include the postal address of your headquarters. or email – you'll need to provide an email address);
- making arrangements with your local authority(ies) for copies to be made available via local libraries.

CCGs must ensure that, when members declare interests, this includes the interests of all relevant individuals within their organisation (eg partners in the GP practice), who have a relationship with the CCG and who would potentially be in a position to benefit from the CCG's decisions.

Note that it would not be necessary for a member of a CCG's governing body, its committees, or sub-committees (or other committees or sub-committees of the CCG) to ensure that the interest of all partners and shareholders were declared or registered.

See Appendix 1 for a registers of interest template

Declarations of Interest

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, and record them in the registers as soon as they become aware of it, and within 28 days.

CCGs will need to ensure that, as a matter of course, declarations of interest are made and regularly confirmed or updated, for example, in the following circumstances:

On appointment:

Applicants for any appointment to the CCG or its governing body should be asked to declare any relevant interests. When an appointment is made, a formal declaration of interests should again be made and recorded.

Annually:

All interests should be confirmed at least annually.

At meetings:

All attendees should be asked to declare any interest they have in any agenda item before it is discussed or as soon as it becomes apparent. Even if an interest is declared in the Register of Interests, it should be declared in meetings where matters relating to that interest are discussed. Declarations of interest should be recorded in minutes of meetings.

On changing role or responsibility:

Where an individual changes role or responsibility within a CCG or its governing body, any change to the individual's interests should be declared.

On any other change of circumstances:

Wherever an individual's circumstances change in a way that affects the individual's interests (eg where an individual takes on a new role outside the CCG or sets up a new business or relationship), a further declaration should be made to reflect the change in circumstances. This could involve a conflict of interest ceasing to exist or a new one materialising.

In keeping with the regulations, individuals who have a conflict should declare this as soon as they become aware of it and in any event not later than 28 days after becoming aware.

Note: CCGs will need to set out the process that they will follow if an individual fails to comply with its polices on managing conflicts of interest as set out in its constitution. This could include that individual being removed from office.

See Appendix 2 for declaration of interest templates

Managing conflicts to protect the integrity of the decision-making process

Statutory requirement

CCGs must make arrangements for managing conflicts of interest, and potential conflicts of interest, in such a way as to ensure that they do not and do not appear to, affect the integrity of the group's decision-making.

General safeguards

The general safeguards that will be needed to manage conflicts of interest will vary to some extent, depending on which stage in the commissioning cycle decisions are being made. The following features will need to be integral to the commissioning of all services:

- **openness:** ensuring early engagement with patients, the public and with health and wellbeing boards in relation to proposed commissioning plans;
- **transparency:** documenting clearly the approach that will be taken at every stage in the commissioning cycle;
- **responsiveness and best practice:** ensuring that commissioning intentions are based on local health needs and reflect evidence of best practice – securing 'buy in' from patients and clinicians to the clinical case for change;
- **securing expert advice:** ensuring that plans take into account advice from appropriate health and social care professionals, eg through clinical senates and networks; and draw on commissioning support, for example for more formal consultations and for procurement processes;
- **engaging with providers:** early engagement with both incumbent and potential new providers over potential changes to the services commissioned for a local population;
- **creating clear and transparent commissioning specifications**: that reflect the depth of engagement and set out the basis on which any contact will be awarded;
- **following proper procurement processes** and legal arrangements, including even handed approaches to providers;
- **ensuring sound record-keeping, including an up to date register of interests:** applying best practice in sound record-keeping, making appropriate information available and accessible, and maintaining a register of interest with a clear system for declaration of interests; and
- **dispute resolution:** having systems for resolving disputes, clearly set out in advance.

These general processes and safeguards will need to apply at all key stages of the commissioning process, including:

- **planning** which services or pathways need to be commissioned differently or de-commissioned eg engaging with a wide range of providers, securing independent clinical advice and specifying services on the basis of best practice and outcomes;
- **agreeing** which services or pathways should be commissioned or de-commissioned eg identifying potential conflicts, designing the decision making processes to avoid such conflicts and using contractual mechanisms to mitigate any residual risk; and
- **monitoring** the services commissioned, to ensure they are delivering to the agreed specification, eg securing patient involvement and independent clinical advice in monitoring the quality of the services commissioned.

These safeguards will be particularly important in relation to the key commissioning decision-making points leading up to, during, and after the actual procurement of services, and in deciding whether to go out to procurement.

Appointing governing body or committee members

CCGs 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. These will need to be considered on a case by case basis but the CCG's constitution should reflect the CCG's principles on this.

The CCG will need to assess the materiality of the interest, in particular whether the individual (or a family member) could benefit from any decision the governing body might make. This will be particularly relevant for any profit sharing member of any organisation but should also be considered for all employees and especially those operating at senior or board level.

The CCG will also need to determine the extent of the interest. If it is related to such a significant area of business that the individual would be unable to make a full and proper contribution to the governing body as this interest would preclude them from so many discussions and decisions, then that individual should not become a member of the governing body.

Any individual who has a material interest in an organisation which provides or is likely to provide substantial business to a CCG (either as a provider of healthcare or commissioning support services) should not be a member of the governing body.

Excluding individuals from meetings or decision-making when a conflict of interest arises

A CCG, or its governing body, may consider that there are certain conflicts of interest that are so material that the individual concerned should be excluded from meetings, or relevant parts of meetings, during which related issues are discussed. Alternatively, there may be circumstances where it is felt appropriate for the individual concerned to attend

the meeting and join in the discussion, having declared his or her interest, but not to participate in any decision-making resulting from such discussion (ie not having a vote in relation to the decision).

The chair of the meeting should have responsibility for deciding whether there is a conflict of interest and the course of action to take. In making such decisions, the chair may wish to consult the member of the governing body who has responsibility for issues relating to conflicts of interest. All decisions should be recorded in the minutes of the meeting.

CCGs will need to decide in advance who will take the chair's role for discussions and decision-making in the event that the chair of a meeting is conflicted, or how that will be decided at a meeting where that situation arises

CCGs will need also to have arrangements in place where more than 50% of the members of a governing body or committee are prevented from taking a decision because of conflicted interests. Decisions could still be made by the remaining members of the governing body or committee (assuming that the meeting remains quorate), especially if constituted with lay or other independent members. CCGs may need to have arrangements to secure additional external involvement in these decisions, perhaps through the involvement of a neighbouring CCG. These arrangements should be set out in the CCG's constitution.

Procuring services

CCGs will need to be able to recognise and manage any conflicts or potential conflicts of interest that may arise in relation to procurement.

The Health and Social Care Act and regulations[1] set out the statutory rules with which commissioners are required to comply when procuring and contracting for the provision of clinical services**,** which need to be considered alongside the Public Contract Regulations 2006 and where appropriate EU procurement rules.

The regulations put on a statutory footing many of the key tenets of the present Principles and Rules for Cooperation and Competition and place requirements on commissioners to ensure that they adhere to good practice in relation to procurement, do not engage in anti-competitive behaviour that is against the interest of patients, and protect the right of patients to make choices about their healthcare. Good practice includes acting transparently, proportionately and without discrimination and treating all providers and potential providers equally, in particular from not treating one provider more favourably than another on the basis of ownership.

The NHS (Procurement, Patient Choice and Competition) Regulations 2013, which apply from April 2013, set out that commissioners must:

[1]The NHS (Procurement, Patient Choice and Competition) Regulations 2013

- manage conflicts and potential conflicts of interests when awarding a contract by prohibiting the award of a contract where the integrity of the award has been or appears to have been affected by a conflict, and
- keep appropriate records of how they have managed any conflicts in individual cases.

Under section 78 of the Health and Social Care Act 2012, Monitor must produce guidance on compliance with any requirements imposed by the regulations made under section 75, and how it intends to exercise the powers conferred on it by these regulations. The NHS Commissioning Board intends to issue guidance for commissioners to help them follow good practice in commissioning and is working with Monitor to ensure consistency.

The safeguards needed to manage conflicts of interest will vary to some degree depending on the way in which a service is commissioned.

Competitive tender. Where a CCG is commissioning a service through competitive tender (ie seeking to identify the best provider or set of providers for a service), a conflict could arise where GP practices or other providers in which CCG members have an interest are amongst those bidding.

Any Qualified Provider. Where a CCG wants patients to be able to choose from a range of possible providers and is therefore 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 which patients can choose. In these circumstances (and more generally), there are a number of options (see box below) 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.

Commissioning services from GP practices on a single tender basis is covered later in this section.

There are a number of current good governance processes to ensure patients are being given appropriate choice, particularly where referring GPs have an interest in a provider service that the patient could potentially choose.

Assessing referral patterns - the CCG could monitor and publish information on referral patterns to help provide assurance that patients are receiving free choice.

A CCG (or CSS on behalf of one or more CCGs) could have a system whereby these referrals were peer-reviewed to check that the referral destination was appropriate and that patient choice was exercised.

Establishing referral management systems - there could be systems whereby, once a GP has made a decision to refer, a third party manages the discussion with the patient about which service they wish to be referred to. This would take away any perceived potential for GPs to influence patient behaviour.

Designing service requirements

It is good practice to engage relevant providers, especially clinicians, in confirming the design of service specifications. Such engagement, done transparently and fairly, is entirely legal and not contrary to competition law. However, conflicts of interest 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. The same difficulty could arise in developing a specification for a service that is to be commissioned using the 'Any Qualified Provider' route, ie where there is not a competitive procurement but patients can instead choose from any qualified provider that wishes to provide the service and can meet NHS standards and prices.

Commissioners should 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 towards particular providers in the specification of services.

Although designed for different types of procurements, the Office of Government Commerce has produced some helpful guidance on pre-procurement engagement with potential bidders. The same principles could be followed by CCGs in engaging with potential providers when designing service specifications.

Such 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.

The following points should be remembered when engaging with potential service providers:

- Use engagement to help shape the requirement but take care not to gear the requirement in favour of any particular provider(s).
- Ensure at all stages that potential providers are aware of how the service will be commissioned, eg through competitive procurement or through the 'Any qualified provider' route.
- Work with participants on an equal basis, eg ensure openness of access to staff and information.
- Be transparent about procedures.
- Maintain commercial confidentiality of information received from providers.

Engagement with potential providers should be used to:

- frame the requirement;
- focus on desired outcomes rather than specific solutions; and
- consider a range of options for how a service is specified.

Other practical steps may include:

- Advertise the fact that a service design/re-design exercise is taking place widely (eg on NHS Supply2Health) and invite comments from any potential providers and other interested parties (ensuring a record is kept of all interactions) – ie do not be selective in who works on the service specifications unless it is clear conflicts will not occur.
- As the service design develops, engage with a wide range of providers on an ongoing basis to seek comments on the proposed design, eg via the commissioner's website or workshops with interested parties.
- If appropriate, engage the advice of an independent clinical adviser on the design of the service.
- When specifying the service, specify desired (clinical and other) outcomes instead of specific inputs.

CCGs will need to ensure that they have systems for managing conflicts of interest on an ongoing basis, not only in developing commissioning proposals and in making commissioning decisions but, for instance, in monitoring a contract that has been awarded to a provider in which an individual has an interest.

Specific safeguards for managing conflicts of interests where GP practices are potential providers

The most obvious area in which CCGs will need to manage conflicts of interest is where a CCG commissions either healthcare services or commissioning support services from providers, including GP practices, in which a member of the CCG has a financial or other interest.

General considerations

The "code of conduct" template at Appendix 3 sets out the factors on which CCGs are advised to assure themselves and their Audit Committee – and be ready to assure local communities, Health and Wellbeing Boards and auditors – when commissioning services that may potentially be provided by GP practices.

Setting out these factors in a consistent and transparent way as part of the planning process will enable CCGs to seek and encourage scrutiny and enable local communities and Health and Wellbeing Boards to raise questions if they have concerns about the approach being taken. CCGs will be expected to make completed templates, or their equivalent, publicly available.

The first set of questions are intended to apply equally to:

- services that a CCG is proposing to commission through competitive tender where GP practices are likely to bid;
- services that a CCG is proposing to commission through an Any Qualified Provider (AQP) approach, where GP practices are likely to be among the qualified providers that offer to provide the service; and
- services that a CCG is proposing to commission through single tender from GP practices.

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 and patients and the public as appropriate. These are matters on which the local Health and Wellbeing Board will clearly wish to take a view. The question on pricing applies to the AQP and single tender approaches.

There are specific questions on AQP 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 CCGs too satisfy themselves and others that these safeguards will be in place before commissioning the service.

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

- there are no other capable providers, ie that this is the appropriate procurement route: CCGs using commissioning support services (CSSs) should ensure that they provide robust advice on this point; and
- the proposed service goes beyond the scope of the services provided by GP practices under their GP contract - CCGs are advised to discuss with their NHS Commissioning Board area team if they are in any doubt on this point.

Providing reassurance

CCGs are advised to address the factors set out in the code of conduct template when drawing up their plans to commission a service for which GP practices may be potential providers. This will provide appropriate assurance:

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

CCGs are advised to set these factors out when fulfilling their duty in relation to public involvement. The factors include involving Health and Wellbeing Board(s), in accordance with duties on CCGs.

Preserving integrity of decision-making process when all or most GPs have an interest in a decision

Where certain members have a material interest, they should either be excluded from relevant parts of meetings, or join in the discussion but not participate in the decision-making itself (ie not have a vote).

In many cases, eg where a limited number of GPs have an interest, it should be straightforward for relevant individuals to be excluded from decision-making.

In other cases, all of the GPs or other practice representatives on a decision-making body could have a material interest in a decision, particularly where the CCG is proposing to commission services on a single tender basis from all GP practices in the area, or where it is likely that all or most practices would wish to be qualified providers for a service under AQP. In these cases, CCGs are advised to:

- refer the decision to the governing body and exclude all GPs or other practice representatives with an interest from the decision-making process, ie so that the decision is made only by the non-GP members of the governing body including the lay members and the registered nurse and secondary care doctor;
- consider co-opting individuals from a Health and Wellbeing Board or from another CCG onto the governing body, or inviting the Health and Wellbeing Board or another CCG to review the proposal, to provide additional scrutiny, although such individuals would only have authority to participate in decision-making if provided for in the CCG's constitution;
- ensure that rules on being quorate at meetings (set out in the CCG's constitution) enable decisions to be made; and
- plan ahead to recognize when items on meeting agendas that require decisions to be made are coming up that the agreed processes for ensuring they remain quorate are implemented.

Depending on the nature of the conflict, GPs or other practice representatives could be permitted to join in the governing body's discussion about the proposed decision, but should not take part in any vote on the decision.

Transparency – publication of contracts

CCGs should ensure that details of all contracts, including the value of the contracts, are published on their website as soon as contracts are agreed. Where CCGs decide to commission services through AQP, they should publish on their website the type of services they are commissioning and the agreed price for each service.

CCGs should ensure that such details are also set out in their annual report. Where services are commissioned through an AQP approach, they should ensure that there is information publicly available about those providers who qualify to provide the service.

Role of commissioning support

Commissioning support services (CSSs) can play an important role in helping CCGs decide the most appropriate procurement route, undertake procurements and manage contracts in ways that manage conflicts of interest and preserve integrity of decision-making. CCGs are advised to ensure that any services they commission from CSSs, or that they secure through in-house provision, include this type of support. When using a CSS, CCGs should have systems to assure themselves that a CSS's business processes are robust and enable the CCG to meet its duties in relation to procurement.

Where a CCG is undertaking a procurement, it is likely to help demonstrate that the CCG is acting fairly and transparently if CSSs prepare and present information on bids, including an assessment of whether providers meet pre-qualifying criteria and an assessment of which provider provides best value for money.

A CCG cannot, however, lawfully sub-delegate commissioning decisions to an external provider of commissioning support. Although CSSs are likely to play a key role in helping to develop specifications, preparing tender documentation, inviting expressions of interest and inviting tenders, the CCG itself will need to:

- sign off the specification and evaluation criteria;
- sign off decisions on which providers to invite to tender; and
- make final decisions on the selection of the provider.

The NHS (Procurement, Patient Choice and Competition) Regulations 2013 set out that where any third parties, such as another CCG or a commissioning support service, undertake procurement activity on behalf of a commissioner the commissioner must ensure that they are compliant with requirements of the regulations in the same way the commissioner must be themselves.

Statement of conduct expected of individuals involved in the CCG

We recommend that CCGs set out in their constitution a statement of the conduct expected of individuals involved in the CCG, eg members of the governing body and members of committees and employees that reflect the safeguards in this chapter.

The General Medical Council (GMC) has recently updated its guidance on conflicts of interest, both in its general core guidance[2] and in separate supplementary guidance[3]. The GMC's guidance recommends that:

> ***78*** *You must not allow any interests you have to affect the way you prescribe for, treat, refer or commission services for patients.*
> ***79*** *If you are faced with a conflict of interest, you must be open about the conflict, declaring your interest informally, and you should be prepared to exclude yourself from decision making.*

The GMC provides further advice, such as:

- *You must not try to influence patients' choice of healthcare services to benefit you, someone close to you, or your employer.*
- *If you plan to refer a patient for investigation, treatment or care at an organization in which you have a financial or commercial interest, you must tell the patient about that interest and make a note of this in the patients' medical record.*
- *Where there is an unavoidable conflict of interest about the care of a particular patient, you should record this in the patient's medical record.*

[2] GMC | Good medical practice (2013)

[3] http://www.gmc-uk.org/Financial_and_commercial_arrangements_and_conflicts_of_interest.pdf_51462148.pdf

- *You must keep up to date with and follow the guidance and codes of practice that govern the commissioning of services where you work.*
- *You must formally declare any financial interest that you or someone close to you, or your employer has in a provider company, in accordance with the governance arrangements in the jurisdiction where you work.*
- *You must take steps to manage any conflict between your duties as a doctor and your commissioning responsibilities.*

See Annex 3 for code of conduct template

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