

APPENDIX 18

MANAGING CONFLICTS OF INTEREST

1. CONFLICTS OF INTEREST

- 1.1. The CCG will make arrangements to manage conflicts and potential conflicts of interest to ensure that decisions made by the CCG will be taken and seen to be taken without any possibility of the influence of external or private interest.
- 1.2. Where an individual has an interest, or becomes aware of an interest which could lead to a conflict of interests in the event of the CCG considering an action or decision in relation to that interest, that must be considered as a potential conflict, and is subject to the provisions of this constitution.

An interest is defined for the purposes of regulation 6 as including an interest of the following:

- a member of the commissioner organisation;
 - a member of the governing body of the commissioner;
 - a member of its committees or sub-committees or committees or sub-committees of its governing body; or
 - an employee.
- 1.3. A conflict of interest will include:
 - a) a direct pecuniary interest: where an individual may financially benefit from the consequences of a commissioning decision (for example, as a provider of services);
 - b) an indirect pecuniary interest: for example, where an individual is a partner, member or shareholder in an organisation that will benefit financially from the consequences of a commissioning decision;
 - c) a non-pecuniary interest: where an individual holds a non-remunerative or not-for profit interest in an organisation, that will benefit from the consequences of a commissioning decision (for example, where an individual is a trustee of a voluntary provider that is bidding for a contract);
 - d) a non-pecuniary personal benefit: where an individual may enjoy a qualitative benefit from the consequence of a commissioning decision which cannot be given a monetary value (for example, a reconfiguration of hospital services which might result in the closure of a busy clinic next door to an individual's house);

e) where an individual is closely related to, or in a relationship, including friendship, with an individual in the above categories.

1.4. If in doubt, the individual concerned should assume that a potential conflict of interest exists.

2. DECLARING AND REGISTERING INTERESTS

2.1. The CCG will maintain one or more registers of the interests of:

a) the members of the CCG;

b) the members of the Governing Body;

c) the members of its Council of Members and the committees or sub-committees of the Governing Body; and

d) its employees.

2.2. The registers will be published on the CCG's website.

2.3. Individuals will declare any interest that they have, in relation to a decision to be made in the exercise of the commissioning functions of the CCG in writing to the Governing Body, as soon as they are aware of it and in any event no later than 28 days after becoming aware.

2.4. Where an individual is unable to provide a declaration in writing, for example if a conflict becomes apparent in the course of a meeting, they will make an oral declaration before witnesses, and provide a written declaration as soon as possible thereafter.

2.5. The Governing Body will ensure that the register(s) of interest is reviewed regularly, and updated as necessary.

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.

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.

Quarterly:

CCGs should have systems in place to satisfy themselves on a quarterly basis that their register of interests is accurate and up to date.

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 (e.g. 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.

3. MANAGING CONFLICTS OF INTEREST: GENERAL

- 3.1. Individual members of the CCG, the Governing Body, Council of Members, the committees or sub-committees of the Governing Body and employees will comply with the arrangements determined by the CCG for managing conflicts or potential conflicts of interest.
- 3.2. The lay member of the Governing Body responsible for overseeing the management of conflicts of interest on behalf of the CCG will ensure that for every interest declared, either in writing or by oral declaration, arrangements are in place to manage the conflict of interests or potential conflict of interests, to ensure the integrity of the CCG's decision making processes.
- 3.3. Arrangements for the management of conflicts of interest are to be determined by the lay member of the Governing Body responsible for overseeing the management of conflicts of interest on behalf of the CCG and will include the requirement to put in writing to the relevant individual arrangements for managing the conflict of interests or potential conflicts of interests, within a week of declaration. The arrangements will confirm the following:
 - a) when an individual should withdraw from a specified activity, on a temporary or permanent basis;
 - b) monitoring of the specified activity undertaken by the individual, either by a line manager, colleague or other designated individual.
- 3.4. Where an interest has been declared, either in writing or by oral declaration, the declarer will ensure that before participating in any activity connected with the CCG's exercise of its commissioning functions, they have received confirmation of the arrangements to manage the conflict of interest or potential conflict of interest from the lay member of the Governing Body responsible for overseeing the management of conflicts of interest on behalf of the CCG.

- 3.5. Where an individual member, employee or person providing services to the CCG is aware of an interest which:
- a) has not been declared, either in the register or orally, they will declare this at the start of the meeting;
 - b) has previously been declared, in relation to the scheduled or likely business of the meeting, the individual concerned will bring this to the attention of the chair of the meeting, together with details of arrangements which have been confirmed for the management of the conflict of interests or potential conflict of interests.
- 3.6. The Chair of the meeting will then determine how this should be managed and inform the member of their decision.
- 3.7. Where no arrangements have been confirmed, the Chair of the meeting may require the individual to withdraw from the meeting or part of it. The individual will then comply with the arrangements in the following paragraphs, which must be recorded in the minutes of the meeting.
- 3.8. Where the Chair of any meeting of the CCG, including the Council of Members, or the Governing Body and its committees and sub-committees, has a personal interest, previously declared or otherwise, in relation to the scheduled or likely business of the meeting, they must make a declaration and the Deputy Chair will act as chair for the relevant part of the meeting.
- 3.9. Where arrangements have been confirmed for the management of the conflict of interests or potential conflicts of interests in relation to the Chair, the meeting must ensure these are followed. Where no arrangements have been confirmed, the Deputy Chair may require the chair to withdraw from the meeting or part of it. Where there is no Deputy Chair, the members of the meeting will select one.
- 3.10. Any declarations of interests, and arrangements agreed in any meeting of the CCG, Council of Members or the Governing Body or its committees or sub-committees, will be recorded in the minutes.
- 3.11. Where more than 50% of the members of a meeting are required to withdraw from a meeting or part of it, owing to the arrangements agreed for the management of conflicts of interests or potential conflicts of interests, the Chair (or Deputy) will determine whether or not the discussion can proceed. In making this decision the Chair will consider whether the meeting is quorate, in accordance with the number and balance of membership set out in the CCG's standing orders. Where the meeting is not quorate, owing to the absence of certain members, the discussion will be deferred until such time as a quorum can be convened. Where a quorum cannot be convened from the membership of the meeting, owing to the arrangements for managing conflicts of interest or potential conflicts of interests, the chair of the meeting shall consult with the lay member of the Governing Body responsible for overseeing the management of conflicts of interest on the action to be taken.

3.11.1. This may include:

- a) requiring another of the CCG's committees or sub-committees, the Governing Body or its committees or sub-committees (as appropriate) which can be quorate to progress the item of business, or if this is not possible;
- b) inviting on a temporary basis one or more of the following to make up the quorum (where these are permitted members of the Governing Body or committee / sub-committee in question) so that the CCG can progress the item of business:
 - i) a member of the CCG who is an individual appointed by a member to act on its behalf in the dealings between it and the clinical commissioning group;
 - ii) a member of a relevant Health and Wellbeing Board;
 - iii) a member of a governing body of another clinical commissioning group.
- c) These arrangements must be recorded in the minutes.

3.12 In any transaction undertaken in support of the CCG's exercise of its commissioning functions (including conversations between two or more individuals, e-mails, correspondence and other communications), individuals must ensure, where they are aware of an interest, that they conform to the arrangements confirmed for the management of that interest. Where an individual has not had confirmation of arrangements for managing the interest, they must declare their interest at the earliest possible opportunity in the course of that transaction and declare that interest as soon as possible thereafter. The individual must also inform either their line manager (in the case of employees), or the lay member of the Governing Body responsible for overseeing the management of conflicts of interest of the transaction.

3.13. The lay member of the Governing Body responsible for overseeing the management of conflicts of interest will take such steps as deemed appropriate and request information deemed appropriate from individuals to ensure that all conflicts of interest and potential conflicts of interest are declared.

4. MANAGING CONFLICTS OF INTEREST: CONTRACTORS AND PEOPLE WHO PROVIDE SERVICES TO THE GROUP

4.1. Anyone seeking information in relation to a procurement or participating in a procurement, or otherwise engaging with the CCG in relation to the potential provision of services or facilities to the CCG, will be required to make a declaration of any relevant conflict / potential conflict of interest.

- 4.2. Anyone contracted to provide services or facilities directly to the CCG will be subject to the same provisions of this Constitution in relation to managing conflicts of interest. This requirement will be set out in the contract for their services.

5. TRANSPARENCY IN PROCURING SERVICES

- 5.1. The CCG recognises the importance of making decisions about the services it procures in a way that does not call into question the motives behind the procurement decision that has been made. The CCG will procure services in a manner that is open, transparent, non-discriminatory and fair to all potential providers.
- 5.2. The CCG will publish a procurement strategy approved by its Governing Body which will ensure that:
- a) all relevant clinicians (not just members of the CCG) and potential providers, together with local members of the public, are engaged in the decision-making processes used to procure services, and;
 - b) service redesign and procurement processes are conducted in an open, transparent, non-discriminatory and fair way.
- 5.2.1. Copies of this procurement strategy will be available on the group's website.
- 5.2.2. The CCG will also maintain a register of procurement decisions taken, including:
- the details of the decision;
 - who was involved in making the decision (i.e. governing body or committee members and others with decision-making responsibility); and
 - a summary of any conflicts of interest in relation to the decision and how this was managed by the CCG.
- The register will be updated whenever a procurement decision is taken.
- 5.2.3. In the interests of transparency, the register of interests and the register of decisions will be publicly available and easily accessible to patients and the public through the website or upon request

This statement should be read in conjunction with Slough CCG's Standards of Business Conduct which provides detailed explanation of the reporting and management of conflicts of interest and the relevant reporting form.