

STANDARDS OF BUSINESS CONDUCT POLICY

1. INTRODUCTION

This policy underpins the NHS Portsmouth Clinical Commissioning Group's (CCG) constitution and sets out details of the expected conduct of all those who work within it. The aim of this policy is to protect both the CCG and the individuals involved with the work of the CCG from any appearance of impropriety and thereby to build and maintain stakeholders' confidence in robust decision making within the CCG.

This policy has been informed by 'Managing Conflicts of Interest: Revised Statutory Guidance for CCGs published by NHS England in June 2016 and issued as statutory guidance under sections 14O and 14Z8 of the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012). The CCG recognises that good practice in respect of managing conflicts of interests develops over time so this policy will be reviewed and presented to the Governing Board annually.

In addition to this policy the CCG has in place arrangements to comply with other relevant guidance in respect of conflicts of interests, particularly that issued by the British Medical Association, the General Medical Council and the Royal College of General Practitioners.

2. AIMS AND SCOPE OF POLICY

The aims of this policy are to:

- Enable the CCG, and clinicians and others from member practices who are involved in the work of the CCG, to demonstrate fairness and transparency, and that actions are in the best interest of patients and the CCG's local population
- Ensure that CCG operates within the relevant legal framework and in accordance with good practice, but without being bound by over- prescriptive rules that stifle efficiency or innovation
- Safeguard clinically-led commissioning, whilst ensuring objective investment decisions
- Provide the public, providers, parliament and regulators with confidence in the probity, integrity and fairness of the CCG's decisions
- Uphold the confidence and trust between patients and GPs, in the recognition that individual commissioners want to behave ethically but may need support and training to understand when conflicts of interests (actual or potential) may arise and how to manage them if they do)

This policy applies to:

- Members practices' partners and their employees (to the extent that they undertake any work for the CCG)
- Members of the CCG's governing board and its committees
- Employees of the CCG and other staff
- Third parties acting on behalf of the CCG (including commissioning support and shared services)

These are collectively referred to as 'individuals' hereafter.

3. PRINCIPLES FOR THE CONDUCT OF BUSINESS

Individuals must at all times comply with the:

- The CCG's constitution and be aware of the responsibilities outlined within it¹
- 'Seven Principles of Public Life, set out by the Committee on Standards in Public Life' (the Nolan principles)²
- "Standards for members of NHS Boards and CCG Governing Bodies"³
- Seven key principles of the NHS Constitution⁴
- Good Governance Standards for Public Service
- And adhere to the NHS Code of Conduct and Code of Accountability (2004) which requires the maintenance of strict ethical standards in the NHS.

4. PREVENTION OF CORRUPTION

4.1 BRIBERY ACT 2010

The CCG has a responsibility to ensure that all individuals working with the CCG are made aware of their duties and responsibilities arising from the Bribery Act 2010. Under this Act there are four offences:

- Bribing, or offering to bribe, another person
- Requesting, agreeing to receive or accepting a bribe
- Bribing, or offering to bribe, a foreign public official
- Failing to prevent bribery

All individuals working for the CCG are required to be aware of the Act and must also refer to section 8 of this policy.

4.2 COUNTER FRAUD MEASURES

All individuals are required to not to use their position to gain advantage. The CCG is keen to prevent fraud and encourages individuals with concerns or reasonably held suspicions about potentially fraudulent activity or practice, to report these. The CCG's local fraud and corruption policy provides further information about the CCG's approach to fraud and corruption and what to do and this should be followed.

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<http://www.portsmouthccg.nhs.uk/Downloads/Board/Gov%20Board%20Papers/2016/NHS%20PORTSMOUTH%20CCG%20CONSTITUTION%20APPROVED%20NHSE%2004.05.16.pdf>

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

3 <http://www.professionalstandards.org.uk/docs/default-source/publications/standards/standards-for-members-of-nhs-boards-and-ccgs-2013.pdf?sfvrsn=2>

4 <https://www.gov.uk/government/publications/the-nhs-constitution-for-england/the-nhs-constitution-for-england>

5. CONSTITUTION, STANDING ORDERS, SCHEME OF RESERVATION AND DELEGATION AND PRIME FINANCIAL POLICIES

Individuals must carry out their duties in accordance with the CCG's constitution, Standing Orders, Scheme of Reservation and Delegation and Prime Financial Policies. These set out the statutory and governance framework in which the CCG operates. In the event of any conflict arising between the details of this policy and the Constitution, Standing Orders, Scheme of Reservation and Delegation and Prime Financial Policies then the provision of the Constitution, Standing Orders, Scheme of Reservation and Delegation and Prime Financial Policies shall prevail.

Individuals requiring advice about the statutory and governance framework, or about conflicts of interests, should contact the Head of Governance.

6. CONFLICTS OF INTERESTS

6.1 OVERVIEW

The CCG requires clear and robust mechanisms for managing actual and perceived conflicts of interests. If they are not managed effectively, confidence in the probity of commissioning decisions and the integrity of those involved could be seriously undermined, but with good planning and governance the CCG aims to avoid or at least to manage these risks.

Section 140 of the 2006 Act, as inserted by section 25 of the 2012 Act, requires the CCG to 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.

6.2 PRINCIPLES

Conflicts of interests are likely to arise but in most cases it is possible to handle them by ensuring they are identified, declared and managed in an open and transparent way. Therefore, a general principle for individuals involved in the business of the CCG is 'if in doubt disclose' at the time of identifying a potential conflict of interests.

The CCG has adopted the principles set out by NHS England for managing conflicts of interests, more detailed arrangements for which are set out in the subsequent sections of this policy:

- Doing business appropriately
- Being proactive not reactive (in identifying and addressing conflicts of interests)
- Assume that individuals will seek to act ethically and professionally, but may not always be sensitive to all conflicts of interests
- Being balanced and proportionate
- Openness
- Responsiveness and best practice
- Transparency
- Securing expert advice

- Engaging with providers creating clear and transparent commissioning specifications
- Following proper procurement processes and legal arrangements
- Ensuring sound record keeping, including up to date registers of interests
- Clear, recognised and easily enacted system for dispute resolution

It is important to recognise that the statutory duty placed upon CCGs is manage, not to avoid, conflicts of interests. This recognises that when GPs are involved in commissioning local healthcare services, particularly primary medical services, it is not always possible to avoid conflicts of interests (whilst retaining clinical input into commissioning). Robust arrangements are required to manage any conflicts of interests that do arise in the work of the CCG.

6.3 DEFINITIONS OF INTERESTS

A conflict of interest occurs where an individual's ability to exercise judgement or act in a role is or could be, or is or could be seen to be, impaired or otherwise influenced by his or her involvement in another role or relationship. In some circumstances there may be a perception that a conflict exists even where there is no actual conflict between two roles or relationships. It is important, therefore, to manage all actual and perceived conflicts of interests in order to maintain public trust.

Interests are defined in five categories as follows:

Financial interests: This is where an individual may get direct financial benefits from the consequences of a commissioning decision. This could include (but is not limited to) being:

- A director, including a non-executive director, or senior employee in a private company or public limited company or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations.
- A shareholder (or similar 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.

This could also include an individual being: in secondary employment; in receipt of secondary income from a provider; in receipt of a grant from a provider; in receipt of any payments (for example honoraria, one-off payments, day allowances or travel or subsistence) from a provider; in receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role; 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 his/her professional career.

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.

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 or partner; close relative e.g., parent, grandparent, child, grandchild or sibling; close friend; business partner.

Whether an interest held by another person gives rise to a conflict of interests will depend upon the nature of the relationship between that person and the individual, and the role of the individual within the CCG.

Loyalty interests: for example where an individual holds a membership of or an affiliation to another organization which conflicts with his/her role at the CCG.

Examples of conflicts of interests are set out in the template form for declarations of interests attached at Appendix E.

It is in the nature of the work of the CCG and the individuals who work with it that no document can identify all types of interests that might arise. The definitions above are, therefore, not exhaustive. Each individual must consider carefully whether any of the interests that he/she holds external to the CCG could, or could be perceived to, conflict with his/her role within the CCG. Where there is any doubt as to whether an interest is relevant and/or must be declared this must be discussed with the Head of Governance.

6.4 IDENTIFICATION AND MANAGEMENT OF CONFLICTS OF INTERESTS

The CCG has in place robust arrangements for the identification and management of conflicts of interests; they are defined in the subsequent sections of this policy and in the appendices.

6.5 RESPONSIBILITIES

The Chief Clinical Officer (in his capacity as Accountable Officer) has overall responsibility for the CCG's arrangements in respect of conflicts of interests.

The Chief Clinical Officer is supported with this responsibility by the Head of Governance whose role includes:

- Providing advice to individuals who identify actual or potential conflicts of interests;
- Advising the Chief Clinical Officer, the Conflicts of Interests Guardian (see below) and the Governing Board on their responsibilities and on the CCG's arrangements;
- The development and maintenance of the CCG's arrangements in respect of conflicts of interests, including this policy;
- Maintaining the CCG's register of interests (and other relevant registers);
- Leading the annual internal audit of arrangements in respect of conflicts of interests; and
- Leading the development and implementation of training and other arrangements to ensure that individuals understand this policy and other relevant requirements;
- Supporting the Chief Clinical Officer to respond to any contact from NHS England or other stakeholders in respect of conflicts of interests; and
- Brief the COIG on developments in respect of conflicts of interests.

The **Conflicts of Interests Guardian** (COIG) provides additional scrutiny in respect of arrangements for managing conflicts of interests. The Lay Member who is Chair of the Audit Committee is appointed as the CCG's COIG. The role is defined in a Role Description approved by the Governing Board and attached at Appendix A. In summary, the role is to:

- Act as a conduit for GP practice staff, members of the public and healthcare professionals who have any concerns with regards to conflicts of interests;
- 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 interests principles and policies;
- Provide independent advice and judgment where there is any doubt about how to apply conflicts of interests policies and principles in an individual situation;
- Provide advice on minimising the risks of conflicts of interests.

Lay members play a critical role in the CCG, providing scrutiny, challenge and an independent voice in support of robust and transparent decision-making, including the identification and management of conflicts of interests. Lay Members chair the Audit Committee, Primary Care Commissioning Committee (see below) and Remuneration Committee.

All individuals: Whilst the COIG and Lay Members have an important role within the management of conflicts of interests, executive members of the Governing Board have an on-going responsibility for ensuring the robust management of conflicts of interests, and all individuals have individual responsibility for compliance with the CCG's arrangements.

6.6 DECLARATION OF INTERESTS

Each individual must declare any interest that he/she has, in relation to a decision to be made by the CCG, in writing to the Head of Governance as soon as he/she is aware of it and, as required by law, in any event no later than 28 days after the interest arises. A template form for declarations of interests is attached at Appendix E.

Whilst it is the responsibility of individuals to declare any interests that they have, the CCG has put into place arrangements as follows. Declarations of interests will be requested:

- When **recruiting** to the CCG, its governing board or its committees, applicants will be asked to declare interests (refer to section X below)
- **On appointment** to the CCG, its governing board or any committee.
- **At meetings** as a standing agenda item (even where an interest has already been declared via the CCG's register)
- Through the CCG's 'maximising potential' **individual performance review** and development plan process for its staff
- **On changing roles or responsibilities (which includes roles within the CCG or external to it)**
- **On any other change of circumstance**

Individuals will be asked each quarter to confirm any changes to their declared interests; nil returns are required where there are no changes to make. Individuals' declarations of

interests and nil returns will be transferred to the relevant register of interests within one calendar month.

Where an individual is unable to provide a declaration in writing, for example, if a conflict becomes apparent in the course of a meeting, he/she will make an oral declaration which will be recorded in the minutes of the meeting and transferred to the relevant register of interests thereafter.

Individuals contracted to work on behalf of the CCG or otherwise providing services or facilities to the CCG will be made aware of their obligations under this policy to declare conflicts or potential conflicts of interests. This requirement will be written into their contracts for services.

6.7 REGISTRATION OF INTERESTS AND PUBLICITY

The CCG maintains a register of interests declared by the members of the Governing and its committees.

The CCG also maintains a register of interests declared by staff (including full and part-time staff, those on contracts for services or fixed-term contracts, staff seconded to the CCG, and staff who are contracted to the CCG by any agency).

The CCG has a register of interests declared by any partners or employees of member practices who are engaged in the work of the CCG.

A template for the register of interests is attached at Appendix F.

For each interest declared the relevant register will record:

- The name of the individual declaring the interest
- The individual's position in, or relationship with, the CCG
- The type of interest (by reference to the definitions above)
- A description of the interest
- The date on which the interest arose (and, when relevant, the date on which it expired)
- The arrangements agreed for the management of the interest

Declared interests remain on the relevant register for a period of six months after the interest has expired. The CCG retains historic registers such that it has records for at least six years after the expiry of any interest.

Subject to the circumstances described below, the registers are published on the CCG's website and are available on request by contacting the CCG's offices. The published register states that historic registers are available upon request (to the extent that they are retained by the CCG in accordance with this policy).

In exceptional circumstances, where the public disclosure of information could give rise to a real risk of harm or is prohibited by law, an individual's name and/or other information may be redacted from the publicly available register(s). Where an individual believes that substantial damage or distress may be caused to him/herself or somebody else by the publication of information about them, they are entitled to request that the information is not published. Such requests must be made in writing. Decisions not to publish information must be made

by the COIG, who should seek advice from the Head of Governance. The CCG will retain a confidential un-redacted version of the declaration.

The CCG will issue fair processing notices to relevant individuals to ensure that they are aware of the publication of the interests they declare.

The registers of interests (including the register of gifts and hospitality) are published as part of the CCG's Annual Report and Annual Governance Statement.

6.8 APPOINTMENT OF SENIOR OFFICERS AND MEMBERS OF THE GOVERNING BOARD AND ITS COMMITTEES

When selecting senior officers or members of the Governing Board or committees the CCG will consider whether conflicts of interests (which candidates will be asked to declare) should exclude individuals from being appointed to the relevant role. This will be considered on a case-by-case basis, guided by this policy.

The CCG will assess the materiality of the interest, in particular whether the individual (or any person with whom they have a close association) could benefit (whether financially or otherwise) from any decision the CCG might make. This will be particularly relevant for Governing Board and committee appointments but should also be considered for all employees, especially those operating at senior level.

The CCG will determine the extent of the interest and the nature of the appointee's proposed role within the CCG. If the interest is related to an area of business significant enough that the individual would be unable to operate effectively and make a full and proper contribution in the proposed role, then that individual should not be appointed to the role.

6.9 MANAGEMENT OF CONFLICTS OF INTERESTS

The Head of Governance will support the Chief Clinical Officer to ensure that for every interest declared arrangements are in place to manage any actual or potential conflict of interests, to ensure the integrity of the CCG's decision making processes. The COIG will be kept informed of the material elements of such arrangements and will be consulted about them where appropriate.

The arrangements agreed for any conflicts of interests will be determined on a case by case basis but may include:

- an individual being required to withdraw from a specified activity on a temporary or permanent basis;
- monitoring of the specified activity undertaken by the individual, either by a line manager, colleague or other designated individual; or
- in extreme circumstances, the individual concerned being removed from office.

Individuals are required to comply with the arrangements put into place to manage conflicts of interests that they declare.

6.10 CONFLICTS OF INTERESTS IN MEETINGS

Although individuals are required to declare interests through the processes described in this policy it is essential that interests are identified within meetings where they are relevant to, and actually or potentially conflicting with, business to be discussed. Individuals are responsible for identifying and declaring any interests (as defined in this policy) that are relevant to business to be discussed at meetings at which they are present. However, the

chair of each board or committee must ensure that every agenda includes an item under which he/she will request those present to declare any interests.

The chair of each board or committee has ultimate responsibility for deciding whether a conflict of interests exists in any case, and for determining the arrangements through which such conflicts will be managed. The chair should be advised on these matters by the Head of Governance. In the event that the chair has a conflict of interests, the vice chair is responsible for fulfilling the responsibilities of the chair in this respect. If the vice chair is also conflicted then the remaining non-conflicted members of the board or committee must decide the arrangements for managing the conflicts of interests identified. The chair (or vice chair) will adopt the checklist attached to this policy at Appendix C. The chair, vice-chair or other members should be advised by the Head of Governance and, if necessary, by the COIG.

With the support of the Head of Governance, and if necessary the COIG, the chair of each board or committee should identify in advance of each meeting any actual or potential conflicts of interests that are likely to arise (based upon the business to be discussed and the interests declared on the CCG's registers). The chair should determine the arrangements that will be put into place to manage any conflicts of interests that are likely to arise; those arrangements should be notified to the conflicted individuals before the relevant meeting.

Notwithstanding such preparatory measures, the chair (or vice chair if the chair is conflicted) must request declarations of interests at the start of each meeting of any board or committee. Any interests declared must be recorded in the minutes and, if they are not already included, transferred later to the relevant register of interests.

The chair must decide and announce the arrangements that are to be put into place to manage and conflicts of interests that are identified. These arrangements may include (but are not limited to):

- Noting the interest and ensuring that all attendees are aware of the nature and extent of the interest, but allowing the individual to remain and participate in both the discussion and in any decisions. This is only likely to be the appropriate course of action where it is decided that the interest which has been declared is either immaterial or not relevant to the matter(s) under discussion.
- Allowing the individual to participate in some or all of the discussion when the relevant matter(s) are being discussed but requiring him/her to leave the meeting when any decisions are being taken in relation to those matter(s). This may be appropriate where, for example, the conflicted individual has important relevant knowledge and experience of the matter(s) under discussion, which it would be of benefit for the meeting to hear, but this will depend on the nature and extent of the interest which has been declared.
- Requiring the individual to leave the discussion when the relevant matter(s) are being discussed and when any decisions are being taken in relation to those matter(s). In private meetings, this could include requiring the individual to leave the room and in public meetings to either leave the room or join the audience in the public gallery;
- Requiring the individual who has a conflict of interest (including the chair or vice chair if necessary) not to attend the meeting. This arrangement should be determined by the chair before the meeting such that the conflicted individual does not attend;
- Ensuring that the individual concerned does not receive the supporting papers or minutes of the meeting which relate to the matter(s) which give rise to the conflict;

Any interests declared at meetings, and the arrangements agreed to manage conflicts of interests, must be recorded fully in the minutes of the meeting. Minute-takers must adopt the

guidance attached to this policy at Appendix B. However, if the specific circumstances require it, the chair of any meeting may determine the matters that the minutes will record. In any event the chair of each meeting will review the draft minutes before they are presented for approval (at a subsequent meeting) and shall be responsible for ensuring that the draft records appropriately the discussions and decisions in respect of conflicts of interests.

The pre-meeting preparation described above should identify circumstances in which a significant number of individuals are deemed to be prevented from taking part in a discussion and/or decision because of conflicts of interests. In such circumstances the chair will agree with the Head of Governance, the COIG and the appropriate chief officer the arrangements required to address the decisions required while also managing conflicts of interests.

Where such a situation arises in a meeting, i.e. it is not known previously, 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 terms of reference for the board or committee concerned. Where no quorum can be achieved the chair will agree with the Head of Governance and the appropriate chief officer the arrangements to be put into place to address the decisions required while also managing conflicts of interests.

In such circumstances the minutes shall record all relevant facts and decisions taken. Where the chair identifies prior to a meeting that it will not be possible to achieve a quorum (so that no meeting takes place and no minutes are taken), a separate record of the facts and decisions will be kept by the Head of Governance.

6.11 MANAGEMENT OF MEETINGS – PRIMARY CARE COMMISSIONING

NHS England has delegated to the CCG authority to commission primary medical services. In accordance with NHS England requirements, the Governing Board has established (and has approved the Terms of Reference for) the Primary Care Commissioning Committee. Those Terms of Reference are compliant with NHS England's guidance "Managing conflicts of interests: revised statutory guidance for CCGs" published in June 2016.

6.12 MEMBERS OF THE CCG

GPs, and the staff in member practices are likely to have actual or potential conflicts of interests as providers of primary care services but this does not exclude them being involved in the running of the CCG. They should be involved so as to ensure that there is sufficient clinical input to commissioning and other activities of the CCG. All provider interests must be declared and openly disclosed in the conduct of business to ensure it is handled appropriately.

Members should conform to the published guidelines of the GMC published ('Good Medical practice' 2006 on financial institutions providing care or treatment) which stated:

'5. If you have a financial interest in an institution and are working under an NHS or employers' policy you should satisfy yourself, or seek assurances from your employing or contracting body, that systems are in place to ensure transparency and to avoid, or minimise the effects of, conflicts of interest. You must follow the procedures governing the schemes.'

Where GPs could possibly influence their own personal/practice payments through their actions such as a referral of a patient in which they have a financial interest, or to benefit a practice payment in some way then the GMS guidelines paragraph 74 and 75 apply:

74“You must act in your patients’ best interests when making referrals and when providing or arranging treatment or care. You must not ask for or accept any inducement, gift or hospitality which may affect or be seen to affect the way you prescribe for, treat or refer patients. You must not offer such inducements to colleagues.

75. If you have financial or commercial interests in organisations providing healthcare or in pharmaceutical or other biomedical companies, these interests must not affect the way you prescribe for, treat or refer patients.”Where the most appropriate service to which the patient is to be referred happens to be one in which the GP has a vested financial interest, then the GP must inform the patient of this fact. This is in line with paragraph 76 of the GMC guidelines

“**76.** If you have a financial or commercial interest in an organisation to which you plan to refer a patient for treatment or investigation, you must tell the patient about your interest. When treating NHS patients you must also tell the healthcare purchaser.”

In these circumstances the GP must note on the patient’s record that the patient has been informed of the potential conflict of interest.

6.13 CONTRACTORS AND PEOPLE WHO PROVIDE SERVICES TO THE CCG

Anyone seeking information in relation to procurement, or participating in 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 or potential conflict of interest.

Anyone contracted to provide services or facilities directly to the CCG will be subject to the same provisions as set out within the CCG’s constitution in relation to managing conflicts of interests. This requirement will be set out in the contract for their services.

Such declarations will be recorded and retained but will not be added to the registers described above in this policy (because that may compromise the anonymity of bidders in procurement processes).

7. TRANSPARENCY IN PROCUREMENT

The CCG recognises the importance in making decisions about the services it procures in a way that does not call into question the motives behind the procurement decision that has been made. The CCG will procure services in a manner that is open, transparent, non-discriminatory and fair to all potential providers.

The CCG will publish a Procurement Framework which will set out how the CCG will meet the statutory rules it is required to follow in respect of procurement set by the Public Contracts Regulations 2015, NHS Act, the Health and Social Care Act and the NHS (Procurement, Patient Choice and Competition)(No.2) Regulations 2013. This will be approved by its Governing Board and will ensure that:

- All relevant clinicians (not just members of the CCG) and potential providers (where appropriate), together with local members of the public, are engaged in the decision-making processes used to procure services;
- Service redesign and procurement processes are conducted in an open, transparent, non-discriminatory and fair way.

This will include as appropriate the following:

- Advertising the fact that a service design/redesign exercise is taking place widely and invite comments from any potential providers and other interested parties and engage with them on an ongoing basis to shape the requirement to meet patient need
- Taking care not to gear the requirement in favour of any particular provider
- If appropriate engage the advice of an independent clinical adviser on the design of the service
- Ensure at all stages that potential providers are aware of how the service will be commissioned
- Maintain commercial confidentiality of information received from providers
- Maintain and publish a register of procurement decisions on the CCG's website in a prominent place, a copy of which shall be available at the CCG's headquarters.

8. GIFTS AND HOSPITALITY

8.1 HOSPITALITY

Modest hospitality provided in normal and reasonable circumstances is acceptable, although only where it is on a similar scale to that which the CCG might offer in similar circumstances (e.g., tea, coffee, light refreshments at meetings).

Hospitality of this nature need not be declared to the Head of Governance, nor recorded on the register, unless it is offered by suppliers or contractors linked (currently or prospectively) to the CCG's business in which case all such offers (whether or not accepted) should be declared and recorded.

Hospitality which is in excess of a type that the CCG itself might offer must be politely refused. A non- exhaustive list of examples includes:

- Hospitality of a value of above £25; and
- In particular, offers of foreign travel and accommodation.

There may be some limited and exceptional circumstances in which accepting the types of hospitality referred to above may be contemplated. Express prior approval must be sought from the Head of Governance before accepting such offers; whether or not it is accepted the hospitality must be recorded in the register of gifts and hospitality, with the reasons for acceptance (if that is the case).

Any offers of hospitality from actual or prospective suppliers or contractors (whether or not accepted) must be declared and recorded. A template for declarations of hospitality is attached at Appendix G. Particular caution must be exercised in respect of such hospitality. Offers of this nature can be accepted if they are modest and reasonable but permission must always be sought from the Head of Governance.

8.2 GIFTS

No individual is permitted to accept a gift (including rewards, benefits and hospitality) from any member of the public or any organisation with whom they are brought into contact by reason of their duties other than:

- Trivial gifts of a promotional nature, e.g., calendars, diaries, ball point pens and other similar articles. As a guideline the expectation is that such gifts would be worth a maximum of £10 and in most cases would be worth considerably less
- Gifts of a small value up to £10, where there is no risk that the gift could be suspected of influencing the groups actions or the cost of returning the gift would not be warranted

It is not necessary to declare such gifts.

Any personal gift of cash or cash equivalents (e.g. vouchers, tokens, offers of remuneration to attend meetings whilst in a capacity working for or representing the CCG) must always be declined, whatever the value and whatever the source, and the offer which has been declined must be declared to the Head of Governance and recorded on the register. A template for declarations of gifts is attached at Appendix G.

All gifts of any nature offered to individuals by suppliers or contractors linked (currently or prospectively) to the CCG's business must be declined, whatever their value. The person to whom the gifts were offered must declare the offer to the Head of Governance so that the offer (which has been declined) can be recorded on the register.

These arrangements apply also to honorariums and other payments offered by third parties to individuals to participate in their discussions and work including surveys e.g. pharma company seeking input as to how they should position or market a drug.

It is not appropriate to give gifts to individuals or organisations at the CCG's expense or in any way on its behalf.

8.3 GIFTS AND HOSPITALITY REGISTER

The CCG maintains a register of gifts and hospitality declared. A template for the register of gifts and hospitality is attached at Appendix H. The Register will be available to be presented to the Audit Committee of the CCG as and when required.

9. SECONDARY EMPLOYMENT AND PRIVATE PRACTICE

Individuals working with the CCG (depending on the details of their contact as regards outside employment and private practice) are required to inform the CCG if they are engaged or wish to engage in outside employment 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 with their employment with the CCG. Examples of work which might conflict with the business of the CCG include:

- Employment with another NHS body
- Employment with another organisation which might be in a position to supply goods or services to the CCG
- Directorship of a GP Federation
- Self-employment, including private practice, in a capacity which might conflict with the work of the CCG or which might be in a position to supply goods or services to the CCG

Permission to engage in outside employment or private practice will be required and the CCG reserves the right to refuse permission where it believes a conflict arises which cannot be adequately managed. This along with any other potential conflicts of interest will be considered as part of the CCG's 'maximising success and potential' individual performance review and development process.

10. COMMERCIAL SPONSORSHIP

Sponsorship by commercial companies, including the pharmaceutical sector, is a common practice and reduces NHS expenditure. However, those arranging such sponsorship must comply with the guidance contained in Health Service Guidance HSG (93) 5 “Standards of Business Conduct for NHS Staff”, and the “Commercial Sponsorship – Ethical Standards for the NHS”, both published by the Department of Health.

It must be made clear to the sponsor that their sponsorship of an event or the availability of publicity material about the company or product will not constitute an endorsement by the CCG and that this will be made clear to the public and those attending the event.

Sponsorship includes financial support and hospitality for educational meetings, training, attendance at conferences, and publications etc. To comply with relevant ethical & business standards it is important to note that:

- Sponsorship must not compromise commissioning or purchasing decisions
- It must be clear that sponsorship does not imply endorsement of any product or company, and there must be no promotion of products apart from that agreed in writing in advance
- Where meetings are sponsored by external sources, that fact must be disclosed in the papers relating to the meeting and in any published proceedings

A commercial partnership is one where material or support is supplied by a third party in addition to, and capable of being integrated with, services routinely provided in public sector health care.

All commercial partnership and joint ventures arrangements must comply with relevant legislation, regulations, good practice and guidance, including for example:

- the NHS Code of Accountability and Code of Conduct
- Standing Orders
- Prime Financial Policies
- Relevant professional codes of practice e.g., NMC, GMC etc.

When working with the pharmaceutical industry then the ABPI's (Association of British Pharmaceutical Industries) code of conduct should be adhered to.

11. INITIATIVES

As a general principle any financial gain resulting from external work where use of the CCG's time or title is involved (e.g. speaking at events/conferences, writing articles) and/or which is connected with the CCG's business will be forwarded to the CCG's Chief Finance Officer.

Any patent, designs, trademarks or copyright resulting from the work (e.g., research) of an individual in its contract for services/employment with the CCG shall be the intellectual property of the CCG.

Approval from the appropriate line manager must be sought prior to entering into any obligation to undertake external work connected with the business of the CCG.

Where the undertaking of external work benefits or enhances the CCG's reputation or results in financial gain for the CCG, consideration will be given to rewarding employees subject to any relevant guidance for the management of Intellectual Property in the NHS issued by the Department of Health.

12. COMMERCIAL CONFIDENTIALITY

All individuals must guard against providing information on the operations of the CCG which might provide a commercial advantage to any organisation (private or NHS) in a position to supply goods or services to the CCG. For particularly sensitive procurement/contracts individuals may be asked to sign a non-disclosure agreement.

13. BREACHES OF THIS POLICY

Any individual wishing to report suspected or known breaches of this policy must record in writing the circumstances which he/she believes constitute the breach and must then pass that information (with any relevant documents where possible) to the Head of Governance.

Upon receipt of such a report the Head of Governance will inform the Chief Clinical Officer and the COIG. The Head of Governance will agree with the Chief Clinical Officer and the COIG the precise arrangements for investigating the reported breach (taking into account the particular circumstances) but will always examine all relevant documents and may if necessary interview the individuals concerned. The Head of Governance will produce a report to set out the investigation process and his/her findings.

The report will be considered by the Chief Clinical Officer and the COIG and with proposals for action to respond to the breach it will be presented to the Audit Committee at the next available opportunity. The Audit Committee will consider the report and will report to the Governing Board.

The investigation and reporting process will not prevent any necessary action being taken immediately to address the reported breach of the policy, though it is recognised that until the investigation is complete it may not be necessary to determine conclusively whether or not a breach has occurred and therefore the action that should be taken.

Where necessary, the CCG will take professional advice as part of its response to the reported breach.

The CCG will publish on its website and report to NHS England (in accordance with requirements issued by it) anonymised and summarised details of any breaches of this policy. Publication and reporting of breaches will be the responsibility of the Head of Governance, in consultation with the Chief Clinical Officer and the COIG.

14. ACCOUNTABILITY TO NHS ENGLAND

The CCG will account to NHS England (through the CCG Improvement and Assessment Framework and/or any other requirements) for its compliance with relevant guidance.

15. INTERNAL AUDIT

The CCG will commission an annual internal audit of its arrangements in respect of conflicts of interests. This will include an assessment of compliance with NHS England's guidance and with this policy (to the extent that it departs from that guidance), plus any other matters which NHS England requires the CCG to include within the scope of each audit.

A report of each annual audit will be presented to the Audit Committee, which, following review, will report to the Governing Board. The outcomes from each annual audit will also be reported to NHS England according to its requirements at the time.

16. FURTHER INFORMATION

This policy is an interpretation of guidance and is based on examples of good practice. In addition to referring to the CCG's constitution, standing orders, reservation and scheme of delegation and financial policies individuals should refer to:

- The National Health Service Act 2006 & the Health and Social Care Act 2008
- Managing conflicts of interest: revised statutory guidance for CCGs (NHS England June 2016)
- The NHS (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013
- Substantive guidance on the Procurement, Patient Choice and Competition Regulations (Monitor December 2013)
- The Code of Conduct for NHS Managers
- Standards for Members of NHS Boards and Clinical Commissioning Groups (NHS England November 2012)
- The Nolan Principles on Conduct in Public Life
- The NHS Codes of Conduct and Accountability; (NHS Appointments Commission & Department of Health – amended July 2004)
- Any additional or successor guidance

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TS/25.11.16

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APPENDICES

- A Conflicts of Interests Guardian Role Description
- B Guidance on Minute Taking
- C Guidance for Lay Members and other chairs
- D Fair Processing Notice
- E Template Declaration of Interests Form
- F Template Register of Interests
- G Template Declaration of Gifts and Hospitality Form
- H Template Register of Gifts and Hospitality
- I Summary of Policy

APPENDIX A

CONFLICTS OF INTERESTS GUARDIAN ROLE DESCRIPTION

Name:	
Role Title:	Conflict of Interest Guardian
Reports to:	CCG Governing Board

Role and Purpose

- To strengthen the scrutiny and transparency of the CCG's decision-making processes
- To act as the CCG's guardian for conflicts of interest to ensure that the Governing Board and wider CCG functions with the utmost probity at all times
- To give an independent view on possible conflicts of interests

Key Responsibilities

- Give advice as to whether a conflict of interest arises in any particular circumstances
- In collaboration with the Head of Governance:
 - Support the rigorous application of conflict of interests principles and policies
 - Act as a conduit for member practice staff, members of the public and healthcare professionals who have any concerns relating to conflicts of interest
 - Be a safe point of contact for employees or workers of the CCG to raise any concerns about conflicts of interests
 - Provide independent advice and judgement where there is any doubt how to apply the conflicts of interest policies and principles in individual situations
 - Provide advice on minimising the risks of conflicts of interest arising
- Consider with board and committees chairs and the Head of Governance any conflicts of interests that are likely to arise at meetings, and how they should be managed
- Provide advice as to how to manage a conflict of interest where the chair of a meeting has a conflict of interests
- Work collaboratively with the Head of Governance and his / her responsibility for the day to day management of conflicts of interest matters and queries
- Receive briefings from the Head of Governance regarding conflicts of interest matters

Membership of Boards and Committees

- Member of the CCG Governing Board
- Chair of the CCG Audit Committee

The Conflicts of Interests Guardian may be a member of the Primary Care Commissioning Committee but shall not be its chair or vice-chair.

Role Related Requirements, Qualifications and Skills

Essential

- Be a Lay Member of the Governing Board
- Not be a medical doctor or healthcare provider
- Be independent and in particular have no provider interest
- Be impartial with regard to commissioning of services
- Independence of mind
- Strong communicator
- Proactive and tactful

APPENDIX B

GUIDANCE ON MINUTE TAKING

1. INTRODUCTION

- 1.1 This note provides specific guidance for the taking of minutes within Portsmouth CCG with respect to best minute-taking practice⁵ and statutory guidance⁶ issued by NHS England (in June 2016) in respect of managing conflicts of interests. This guidance focuses in particular on good practice for taking minutes of discussions about conflicts of interests.
- 1.2 This guidance should be read in conjunction with the CCG's Standards of Business Conduct Policy, or at least the summary of that policy (which is appended to it), which is available here: *[insert links to policy and summary]*

2. CONTEXT

- 2.1 The minutes of meetings within the CCG form part of the organisation's official records; this applies particularly to the Governing Board and its committees but also to management committees. It is therefore important that minutes demonstrate that the members (of any board or committee) have observed their responsibilities to the CCG and complied with their legal and regulatory duties.
- 2.2 Robust management of conflicts of interests is essential if the CCG's stakeholders are to have confidence in the organisation's commissioning activities. The CCG has a policy and associated arrangements (which include this guidance) for the management of conflicts of interests. The Chief Clinical Officer has ultimate responsibility for these arrangements but is supported by the Head of Governance and the Conflicts of Interests Guardian (who is a Lay Member of the Governing Board).
- 2.3 Minutes of meetings form an important part of the records which the CCG uses to demonstrate that it takes such a robust approach to managing conflicts of interests. It is important to note that some minutes are published by the CCG, ie the minutes of the meetings of the Governing Board and the Primary Care Commissioning Committee which are held in public, and minutes of other boards or committees may be disclosed in response to requests made under the Freedom of Information Act or as required by law.

3. PURPOSE OF MINUTES

- 3.1 The purpose of minutes of a meeting is to provide an accurate, impartial and balanced record of the discussion and decision. The amount of detail in the minutes depends on the needs of the CCG, the working practices of the chair and board or committee concerned, and, in respect of conflicts of interests, the guidance from NHS England.

4. CONTENT OF MINUTES

- 4.1 As a minimum the minutes should record the key points of the discussion and the decisions made; it should be possible for a reader of the minutes (who was not present at the meeting) to understand the rationale for the decisions taken.

⁵ <https://www.icsa.org.uk/knowledge/resources/minutetaking>

⁶ <https://www.england.nhs.uk/commissioning/wp-content/uploads/sites/12/2016/06/revsd-coi-guidance-june16.pdf>

- 4.2 The minutes should also record the date, time and location of the meeting, as well as the names and job titles of the individuals present. When recording the names of the people present the following convention should be adopted: people are "present" if they are members (who have a vote); any other people present (without a vote) are "in attendance".
- 4.3 The minutes should be clear, concise and free from ambiguity as they may serve as a source of evidence in any future legal or regulatory proceedings.

5. KEY SKILLS

- 5.1 The key skills for a good minute taker include being able to:
- 5.1.1 Listen to multiple voices simultaneously and to capture the discussion and tone;
 - 5.1.2 Summarise the discussion accurately, record decisions taken, and action points to be followed up;
 - 5.1.3 Identify which parts of the discussion are material and should be recorded;
 - 5.1.4 Have confidence to ask for clarification at the meeting;
 - 5.1.5 Have confidence to stand firm when asked to change a record subsequently.

6. MINUTE TAKING FUNDAMENTALS

- 6.1 The ease of minute taking will depend significantly on how well the meeting is chaired (including a summary of points made and decisions taken under each agenda item) and the quality of papers presented. It will also be very useful to discuss with the Chairman prior to the meeting any relevant procedural issues, including how conflicts of interest are to be addressed. minutes should:
- 6.1.1 Be written so that someone not present at the meeting can follow the decisions that were made;
 - 6.1.2 Give an accurate, balanced, impartial and objective record of the meeting, whilst also being concise;
 - 6.1.3 Be written in reported rather than direct speech, as this will aid clarity, conciseness and avoid ambiguity;
 - 6.1.4 Reflect that traditionally individuals might only be named in exceptional circumstances. It is appropriate that individuals are named where it is important to demonstrate an individual's contribution to the deliberations or of having made a challenge, or where it is a regulatory or constitutional requirement. It is normally appropriate to do so where they:
 - (a) Present a paper or report to the meeting;
 - (b) Are charged with specific action;
 - (c) Have declared a potential or actual conflict of interest;
 - (d) Abstain from a vote or excuse themselves;
 - (e) Request that their name be noted as dissenting for a particular decision;

- (f) Make a recommendation, provide information or answer a question based on their special expertise;
 - (g) Are the subject of a personnel issue under discussion such as appointments or resignations or discussions on board effectiveness;
 - (h) Request that their name be noted;
 - (i) Ask a specific question;
 - (j) Make significant comment.
- 6.1.5 Not be a verbatim record, but should summarise the key points of discussion, focus on the decision, and record recommendations;
- 6.1.6 Document the reasons for the decisions and include sufficient background information for future reference: Thereby setting out why a decision was taken, to record what was done not what was said, but with context to give assurance that it was done properly. This includes making it clear who has responsibility for action and the deadline.
- 6.1.7 Record those papers that have been received for noting but with no decision required;
- 6.1.8 Be retained with the Board papers for whatever period is specified in the CCG's policy on the retention of documents.

7. DISSENTING VIEWS

- 7.1 The overwhelming majority of decisions will be reached by consensus, albeit this does not necessarily mean reaching unanimous agreement but rather a discussion through compromise and constructive discussion.
- 7.2 In such circumstances it is not normal to identify individuals when recording the points they make; instead, the points of all members are combined and summarised.
- 7.3 In exceptional circumstances a member may not be able to agree and an individual may request that their dissenting view be recorded in the minutes. It is normal to comply with such requests. The record may be through the recording of names or the use of their job titles to provide some protection (except where several people present have the same job title, in which case a name must be used).
- 7.4 The members will have the opportunity to confirm the proper record of dissent at the next meeting when the draft minutes are approved. Should a member raise dissent for the first time at this point then this should be addressed as a new matter arising from the previous meeting and not as an amendment to the minutes.

8. CONFLICTS OF INTERESTS

- 8.1 It is essential that the CCG manages robustly any conflicts of interests. The types of interests which can arise are set out in the Standards of Business Conduct Policy and the summary of it, available here: *[insert links to the policy and summary]*
- 8.2 Prior to each board or committee meeting the chair, with advice from the Head of Governance, will identify any conflicts of interests that are likely to arise (based upon the business to be discussed and the interests declared on the CCG's registers) and will determine the arrangements to manage them.

8.3 At the start of each board or committee meeting the Chair will ask those present to declare any relevant interests and to identify any conflicts between those interests and the individual's duties within the CCG. The Chair will determine the arrangements through which any conflicts of interests will be managed. Should any conflict arise during the meeting the onus will be on the member to declare it at that point. All declarations of interests and all arrangements for managements of conflicts must be recorded fully within the minutes, in accordance with the guidance above.

8.4 Practice and Procedure

8.4.1 When a member of a board or committee (including the chair or vice chair) has a conflict of interest in relation to one or more items of business to be transacted at the meeting, the chair (or vice chair or remaining non-conflicted members where relevant) must decide how to manage the conflict. If the vice-chair is conflicted then the remaining non-conflicted members must determine the arrangements to manage the conflicts of interests.

8.4.2 The appropriate course of action determined by the Chair will depend on the particular circumstances; a proportionate approach should be taken, remembering that the statutory duty for a CCG is to manage, not avoid, conflicts of interests. The Action taken may include one or more of the following:

- (a) Where the chair has a conflict of interest, deciding that the vice chair (or another non-conflicted member of the meeting if the vice chair is also conflicted) should chair all or part of the meeting;
- (b) Noting the interest and ensuring that all attendees are aware of the nature and extent of the interest, but allowing the individual to remain and participate in both the discussion and in any decisions. This is only likely to be the appropriate course of action where it is decided that the interest which has been declared is either immaterial or not relevant to the matter(s) under discussion.
- (c) Allowing the individual to participate in some or all of the discussion when the relevant matter(s) are being discussed but requiring them to leave the meeting when any decisions are being taken in relation to those matter(s). This may be appropriate where, for example, the conflicted individual has important relevant knowledge and experience of the matter(s) under discussion, which it would be of benefit for the meeting to hear, but this will depend on the nature and extent of the interest which has been declared;
- (d) Requiring the individual to leave the discussion when the relevant matter(s) are being discussed and when any decisions are being taken in relation to those matter(s). In private meetings, this could include requiring the individual to leave the room and in public meetings to either leave the room or join the audience in the public gallery;
- (e) Ensuring that the individual concerned does not receive the supporting papers or minutes of the meeting which relate to the matter(s) which give rise to the conflict;
- (f) Requiring the individual who has a conflict of interest (including the chair or vice chair if necessary) not to attend the meeting.

8.5 Minutes

- 8.5.1 If any conflicts of interest are declared or otherwise arise in a meeting, the chair must ensure the following information is recorded in the minutes:
- (a) The member concerned who has the interest should be identified;
 - (b) The nature of the interest and why it gives rise to a conflict, including:
 - (i) The magnitude of any interest;
 - (ii) The items on the agenda to which the interest relates;
 - (iii) How the conflict was agreed to be managed;
 - (iv) Evidence that the conflict was managed as intended (for example recording the points during the meeting when particular individuals left or returned to the meeting);
 - (c) The decision as to whether or not the member should participate in the discussion and any decisions about the matter(s) in respect of which the conflict arises;
 - (d) If the member is excluded from the discussion, the minutes should record whether or not he/she remained present in, or left, the meeting room;
 - (e) Any other action taken determined by the Chair to address the conflict (including any action determined by the chair in advance of the meeting); and
 - (f) Any advice given by the Head of Governance or any other officer, or the Conflicts of Interests Guardian, in respect of the conflict of interests concerned.
- 8.5.2 The question of whether a member who is not permitted to participate in a decision because of a conflict should remain at the meeting, but take no part in the discussion of the conflicted issue or leave the room will be decided by the Chairman or the board as a whole and will depend on the particular issues.
- 8.5.3 Subsequently if a member was excluded from the discussion regarding the conflicted items then he/she must not review the minutes of that discussion either.

APPENDIX C

GUIDANCE FOR LAY MEMBERS AND OTHER CHAIRS

1. PURPOSE OF THIS GUIDANCE

- 1.1 The purpose of this guidance note is to set out the key elements relating to NHS Portsmouth Clinical Commissioning Group's (the CCG) management of conflicts of interests to assist Lay Members and others who chair committees. This guidance should be read in conjunction with the CCG's Standards of Business Conduct Policy (the Policy). The Policy, and therefore this guidance, is informed by "Managing conflicts of interests: revised statutory guidance" published by NHS England in June 2016 (the Guidance).

2. WHEN DOES A CONFLICT OF INTEREST ARISE?

- 2.1 A conflict of interest occurs where an individual's ability to exercise judgement, or act in a role is, or could be, or is seen to be, impaired or otherwise influenced by his or her involvement in another role or relationship.
- 2.2 Portsmouth CCG will manage conflicts of interest as part of its daily activities, thereby giving confidence to patients, tax payers, healthcare providers and Parliament that its decisions are robust, fair and transparent. Failure to do so could lead to legal challenges or criminal action in the event of fraud, bribery and corruption.
- 2.3 Conflicts of interest can arise throughout the whole commissioning cycle, and may be inevitable, but it is how the CCG manages them that is important. In some circumstances it could be reasonably considered that conflict exists even when there is no actual conflict. In these cases it is important to still manage these perceived conflicts in order to maintain public trust.

3. WHAT ARE THE TYPES OF INTERESTS?

- 3.1 There are five principal categories of interests:
- 3.2 Financial Interests: Where individuals may receive direct financial benefits from the consequences of a commissioning decision. This could include being e.g. a partner in a practice that is commissioned to provide primary care services, or a director or shareholder in a company which is likely or seeking to do business with health and social care organisations.
- 3.3 Non-financial Professional Interests: Where individuals may receive a non-financial professional benefit from the consequences of a commissioning decision. This could include being e.g. in an unpaid advisory role in a provider organisation that has been commissioned to provide services by the CCG, or a GP with special interests. GPs and practice managers who are members of the governing body or committees of the CCG should declare details of their roles in their GP practice.
- 3.4 Non-financial Personal Interests: Where individuals may benefit personally in ways which are not directly linked to their professional career and do not give rise to direct financial benefit from a commissioning decision, e.g. if they suffer from a particular condition that requires individually funded treatment, or a volunteer for a provider.
- 3.5 Indirect Interests: Where there is a close association with an individual who has a financial interest, non-financial professional interest or a non-financial personal interest in a commissioning decision, e.g. spouse, close relative, close friend or

business partner.

- 3.6 Loyalty Interests: for example where an individual holds a membership of or an affiliation to another organisation which conflicts with his/her role at the CCG.

4. WHO HAS RESPONSIBILITIES FOR CONFLICTS OF INTERESTS?

- 4.1 The responsibilities held within Portsmouth CCG are as follows:
- 4.2 Overall accountability for the CCG's management of conflicts is held by the Accountable Officer;
- 4.3 Lay Members play a critical role in the CCG, providing scrutiny, challenge and an independent voice in support of robust and transparent decision-making and management of conflicts of interest;
- 4.4 The Primary Care Commissioning Committee (PCCC) has (and must have) a Lay Member as chair and lay vice-chair. To ensure appropriate oversight and assurance and that the CCG Audit Chair's position as the Conflicts of Interests Guardian (COIG) (see below) is not compromised, the COIG must not hold the position of Chair or Vice Chair of the PCCC. The COIG may be a member of the PCCC;
- 4.5 Chairs of committees are responsible for ensuring that there is an opportunity at the start of each relevant meeting for interests to be declared. Chairs are, with advice from the Head of Governance where necessary, required to determine the arrangements put into place to manage any conflicts of interests. Chairs are also responsible for ensuring that draft minutes record appropriately discussions and decisions in respect of conflicts of interests. Appended to this guidance is a checklist which NHS England recommends for use by chairs. The Policy includes guidance for minute-takers.
- 4.6 The CCG has appointed a Conflicts of Interest Guardian, whose role is defined in a Role Description approved by the Governing Board;
- 4.7 Every person who works with the CCG is responsible for managing conflicts of interest, including for identifying and declaring his/her interests as required by the Policy.

5. WHAT ARE THE LEGAL REQUIREMENTS?

- 5.1 Section 140 National Health Service Act 2006 as amended by the Health and Social Care Act 2012 sets out the minimum requirements for CCGs to manage any conflicts of interests. Where and to the extent that the CCG determines not to comply with the Guidance, it must explain this, and its reasons, within the annual self-certification statement and also in quarterly returns to NHS England.
- 5.2 In accordance with the law, the CCG requires any person covered by one of the registers, who declares a conflict of interest, to do so as soon as practicable and within 28 days of becoming aware of it.

6. DECLARATIONS AND REGISTERS OF INTERESTS

- 6.1 All relevant individuals are asked to declare or update their declarations of interests quarterly; nil returns are required where there are no changes to make. Further opportunities to make declarations include: on appointment, six monthly, at meetings, and on changing role, responsibility or circumstances. Individuals should declare all relevant interests at meetings, even if they are already recorded on the register of

interests.

- 6.2 Portsmouth CCG maintains registers of interests for: the members of the CCG; members of its Governing Board; members of its committees or sub-committees of its Governing Board; and its employees. The registers are published on the CCG's website, subject to redaction of individuals' names in some limited circumstances.
- 6.3 Each interest must remain on the published register for a minimum of 6 months after the interest has expired, and as a private CCG record for a minimum of 6 years after the date on which the interest expired.
- 6.4 Interests declared at meetings must be transferred to the relevant register if they are not already recorded there.

7. MANAGING CONFLICTS OF INTERESTS AT MEETINGS

- 7.1 A checklist prepared by NHS England and recommended for use within CCGs is attached to this guidance. The following paragraphs expand upon the checklist.
- 7.2 The chair of a meeting has ultimate responsibility for deciding whether there is a conflict of interests in any particular case, and for deciding the action to manage it.
- 7.3 Should the chair have a conflict of interests, the vice-chair is responsible for deciding the appropriate course of action, followed by the remaining non-conflicted voting members of the meeting where both the chair and vice-chair are conflicted.
- 7.4 In making such decisions the chair or alternatives may wish to consult with the Head of Governance and/or the COIG.
- 7.5 It is good practice for the chair, supported by the CCG Head of Governance and, if required, the COIG to consider ahead of meetings where conflicts may arise and how they should be managed, taking steps to ensure supporting papers are not sent to conflicted individuals as appropriate. To assist with this chairs should be given access to the register of interests, declarations of interest and agenda and papers prior to meetings.
- 7.6 Informed by such preparation the chair should ask for all declarations of interests at the start of each meeting. Declarations of interests and the arrangements agreed to manage them must be recorded accurately in the minutes of the meeting (and transferred subsequently to the register of interests).
- 7.7 It is the responsibility of each individual to declare relevant interests. Anyone who is aware of a conflict of interests that has not been declared should bring it to the attention of the chair who will then decide how to manage it.
- 7.8 When a member has a conflict of interests regarding the business to be transacted at the meeting the appropriate course of action could include one or more of the following:
 - 7.8.1 Requiring the individual not to attend the meetings;
 - 7.8.2 Ensuring the individual does not receive the supporting papers or minutes of the meeting which relate to the matter which gives rise to the conflict;
 - 7.8.3 Requiring the individual to leave the discussion when the relevant issues are being discussed and when decisions are being taken;

- 7.8.4 Allowing the individual to participate in some or all of the discussion but requiring them to leave the meeting when decisions re being taken;
- 7.8.5 Noting the interest and ensuring all attendees are aware of the nature and extent of the interests, but allowing the individual to remain and participate in the discussion and decisions. This can only realistically happen if the interest is immaterial or not relevant.
- 7.9 Where individuals are excluded from decisions it will be necessary for the chair to ensure that the committee remains quorate. If this is not the case, the meeting will need to be adjourned until a quorum can be achieved (or the agenda items for which the meeting is inquorate could be deferred).
- 7.10 Since the duty on the CCG is to manage, not avoid, conflicts of interests, a proportionate approach must be adopted when deciding arrangements at meetings (and elsewhere), protecting clinical input into decision making.

TEMPLATE DECLARATIONS OF INTEREST CHECKLIST

Timing	Checklist for Chairs	Responsibility
<p>In advance of the meeting</p>	<ol style="list-style-type: none"> 1. The agenda to include a standing item on declaration of interests to enable individuals to raise any issues and/or make a declaration at the meeting. 2. A definition of conflicts of interest should also be accompanied with each agenda to provide clarity for all recipients. 3. Agenda to be circulated to enable attendees (including visitors) to identify any interests relating specifically to the agenda items being considered. 4. Members should contact the Chair as soon as an actual or potential conflict is identified. 5. Chair to review a summary report from preceding meetings i.e., sub-committee, working group, etc., detailing any conflicts of interest declared and how this was managed. <p>A template for a summary report to present discussions at preceding meetings is detailed below.</p> <ol style="list-style-type: none"> 6. A copy of the members' declared interests is checked to establish any actual or potential conflicts of interest that may occur during the meeting. 	<p>Meeting Chair and secretariat</p> <p>Meeting Chair and secretariat</p> <p>Meeting Chair and secretariat</p> <p>Meeting members</p> <p>Meeting Chair</p> <p>Meeting Chair</p>
<p>During the meeting</p>	<ol style="list-style-type: none"> 7. Check and declare the meeting is quorate and ensure that this is noted in the minutes of the meeting. 8. Chair requests members to declare any interests in agenda items- which have not already been declared, including the nature of the conflict. 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>Meeting Chair</p> <p>Meeting Chair</p> <p>Meeting Chair and secretariat</p>

Timing	Checklist for Chairs	Responsibility
	<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. 	Secretariat
Following the meeting	<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 D

FAIR PROCESSING NOTICE

Factsheet – Staff

Your personal information – what you need to know

- Staff should be fully informed about how their information may be used
- There are strict conditions under which personal data may be disclosed
- Certain disclosures are not permitted without the express consent of the individual
- Individuals have the right to see what information is held about them, and to have any errors corrected
- Personal information should be anonymised wherever and whenever possible
- The legitimate use, disclosure or sharing of personal data does not constitute a breach of confidentiality
- Sharing of personal data between organisations can take place with appropriate safeguards
- Sometimes a judgement has to be made about the balance between the duty of confidence and disclosure in the public interest. Any such disclosure must be justified
- Personal data should be kept secure and confidential at all times.

Why we collect information about you?

The CCG needs to collect information from you to:

- Ensure that you are paid your salary
- To monitor your well-being and progression
- To keep a record of your employment history

What does the information include?

We work with Portsmouth City Council to collate and process information which will also be shared with the following organisations, subject to strict agreements describing how it will be used:

- *NHS South, Central and West CSU – some details about you so that mandatory training can be monitored*
- *McKesson/Shared Business Services - HR and payroll information*
- *Portsmouth Hospitals NHS Trust - occupational health records*
- *Internal and External Auditors*

How we keep your information confidential?

Everyone working for the CCG has the responsibility to use personal data in a secure and confidential way. Staff that have access to information about individuals need to use it effectively, whilst maintaining appropriate levels of confidentiality. We will not disclose information about you to third parties without your permission unless there are exceptional circumstances, such as where laws require information to be passed on or for auditing purposes.

Anyone who receives information from us is also under a legal obligation to keep it confidential. We are required by law to report certain information to the necessary authorities. Occasions when we must pass on information include:

- Providing key payroll data and personal identifiers such as contact details to bodies responsible for auditing and administering public funds for the purposes of preventing and detecting fraud
- Where a court order has been issued
- To investigate complaints, legal claims, counter fraud investigations or adverse incidents

Registers of Declared Interests

We are required to publish on our website registers of interests, gifts and hospitality declared by members of our Governing Board and its committees, our staff, and partners and employees of our member practices to the extent that they are involved in our work. The publication of these registers is in accordance with our Standards of Business Conduct Policy which is available here: [insert web link].

Subject Access Requests

Under the Data Protection Act 1998, you have a right (subject to the payment of a fee, if applicable) to:

- Be informed whether personal data is being processed (which includes if it is being held or stored)
- A description of the personal data held, the purposes for which it is processed and to whom the personal data may be disclosed
- A copy of the information constituting the personal data (subject to certain exceptions and conditions)
- Request access to your information under the Data Protection Act which will be dealt with within the statutory deadlines (this request may incur a charge).

For Subject Access Requests relating to employment records, please contact the HR People Centre via telephone on 023 9283 4591 or email ccghr@portsmouthcc.gov.uk .

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

APPENDIX G

TEMPLATE DECLARATION OF GIFTS AND HOSPITALITY FORM

Recipient Name	Position	Date of Offer	Date of Receipt (if applicable)	Details of Gift / Hospitality	Estimated Value	Supplier / Offeror Name and Nature of Business	Details of Previous Offers or Acceptance by this Offeror/ Supplier	Details of the officer reviewing and approving the declaration made and date	Declined or Accepted?	Reason for Accepting or Declining	Other Comments

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 1998. Information may be disclosed to third parties in accordance with the Freedom of Information Act 2000 and published in registers that the CCG holds.

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

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

Signed:

Date:

Signed:
(Line Manager or a Senior CCG Manager)

Position:

Date:

Please return to Head of Governance

APPENDIX I

SUMMARY OF POLICY

8. INTRODUCTION

- 8.1 NHS Portsmouth CCG (the CCG) sets and expects staff, clinicians and others to uphold the highest standards of conduct and probity. Through this approach the CCG aims to protect itself and individuals involved in its work from any appearance of impropriety and thereby to build and maintain stakeholders' confidence in the work of the organisation.
- 8.2 The CCG sets out its expectations in the Standards of Business Conduct Policy (the Policy), which is informed by *"Managing conflicts of interests: revised statutory guidance"* published by NHS England, a national body to which the CCG is accountable, in June 2016. This document summarises the Policy; it is intended only to highlight the principal requirements of the Policy and is not a substitute for it.

9. AIMS AND SCOPE OF THE POLICY

- 9.1 The Policy aims to:
- 9.1.1 Enable the CCG, and clinicians and others from member practices who are involved in the work of the CCG, to demonstrate fairness and transparency, and that actions are in the best interest of patients and the CCG's local population
 - 9.1.2 Ensure that CCG operates within the relevant legal framework and in accordance with good practice
 - 9.1.3 Safeguard clinically-led commissioning, whilst ensuring objective investment decisions
 - 9.1.4 Provide the public, providers, parliament and regulators with confidence in the probity, integrity and fairness of the CCG's decisions
 - 9.1.5 Uphold the confidence and trust between patients and GPs
- 9.2 The Policy applies to:
- 9.2.1 Members practices' partners and their employees (to the extent that they undertake any work for the CCG)
 - 9.2.2 Members of the CCG's governing board and its committees
 - 9.2.3 Employees of the CCG and other staff
 - 9.2.4 Third parties acting on behalf of the CCG (including commissioning support and shared services)
 - 9.2.5 These are collectively referred to as 'individuals' hereafter.

10. PRINCIPLES FOR THE CONDUCT OF BUSINESS

- 10.1 Individuals must at all times comply with the:
 - 10.1.1 The CCG's constitution and be aware of the responsibilities outlined within it
 - 10.1.2 'Seven Principles of Public Life, set out by the Committee on Standards in Public Life' (the Nolan principles)
 - 10.1.3 "Standards for members of NHS Boards and CCG Governing Bodies"
 - 10.1.4 Seven key principles of the NHS Constitution
 - 10.1.5 Good Governance Standards for Public Service
 - 10.1.6 And adhere to the NHS Code of Conduct and Code of Accountability (2004) which requires the maintenance of strict ethical standards in the NHS.

11. CONSTITUTION AND GOVERNANCE FRAMEWORK

- 11.1 Individuals must carry out their duties in accordance with the CCG's constitution, Standing Orders, Scheme of Reservation and Delegation and Prime Financial Policies. These documents set out the statutory and governance framework within which the CCG operates.
- 11.2 Individuals requiring advice about the statutory and governance framework, or about conflicts of interests, should contact the Head of Governance.

12. CONFLICTS OF INTERESTS

- 12.1 The CCG has a statutory duty to manage any conflicts of interests which arise in its work. The duty recognises that conflicts of interests are likely to arise, particularly through the involvement of GPs in the commissioning of primary medical services, so a robust but proportionate approach is required to ensure that such conflicts of interests do not undermine stakeholders' confidence in the CCG. Managing conflicts of interests (through that approach) is distinct from avoiding them.
- 12.2 Definitions of Interests
 - 12.2.1 A conflict of interest occurs where an individual's ability to exercise judgement or act in a role is or could be, or is or could be seen to be, impaired or otherwise influenced by his or her involvement in another role or relationship. In some circumstances there may be a perception that a conflict exists even where there is no actual conflict between two roles or relationships. It is important, therefore, to manage all actual and perceived conflicts of interests in order to maintain public trust.
 - 12.2.2 Interests are defined in four categories:
 - (a) Financial interests: where an individual may get direct financial benefits from the consequences of a commissioning decision.

- (b) Non-financial professional interests: where an individual may obtain a non-financial professional benefit from the consequences of a commissioning decision.
- (c) Non-financial personal interests: 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.
- (d) Indirect interests: where an individual has a close association with an individual who has one of the interests above.
- (e) Loyalty interests: for example where an individual holds a membership of or an affiliation to another organisation which conflicts with his/her role at the CCG.

12.2.3 The list above is not exhaustive. Each individual must consider carefully whether any of the interests that he/she holds external to the CCG could, or could be perceived to, conflict with his/her role within the CCG. Where there is any doubt advice should be sought from the Head of Governance.

12.3 Responsibilities

12.3.1 The Chief Clinical Officer (in his capacity as Accountable Officer) has overall responsibility for the CCG's arrangements in respect of conflicts of interests.

12.3.2 The Chief Clinical Officer is supported with this responsibility by the Head of Governance whose role includes: providing advice to individuals, developing and maintaining the Policy and other arrangements for managing conflicts of interests (including the registers), working with the Chief Clinical Officer and the Conflicts of Interests Guardian (see below), arranging training for staff.

12.3.3 The Conflicts of Interests Guardian (COIG) is a Lay Member of the Governing Board who provides oversight of the CCG's arrangements for managing conflicts of interests and promotes good practice, is a source of advice for the Chief Clinical Officer and Head of Governance, and acts as a point of contact for staff wishing to raise concerns (who do not wish to raise them with the Head of Governance).

12.3.4 The other Lay Members of the Governing Board play a critical role in the CCG, providing scrutiny, challenge and an independent voice in support of robust and transparent decision-making, including the identification and management of conflicts of interests.

12.3.5 Whilst the COIG and Lay Members have an important role within the management of conflicts of interests, executive members of the Governing Board have an on-going responsibility for ensuring the robust management of conflicts of interests, and all individuals have responsibility for compliance with the CCG's arrangements.

12.4 Declarations of Interests

- 12.4.1 Each individual must declare any interest that he/she has, in relation to a decision to be made by the CCG, in writing to the Head of Governance as soon as he/she is aware of it and, as required by law, in any event no later than 28 days after the interest arises. A template form for declarations of interests is attached to the Policy.
- 12.4.2 Individuals will be asked every quarter to declare any changes to their interests. Nil returns will be required where there are no changes.
- 12.4.3 In addition, individuals must declare relevant interests in meetings and when changing roles or circumstances.

12.5 Registration of Interests and Publicity

- 12.5.1 The CCG maintains register of interests declared by members of the Governing Board and its committees, staff, and partners or employees of member practices who are involved in the work of the CCG.
- 12.5.2 For each interest declared the relevant register will record: the name of the individual declaring the interest; the individual's position in, or relationship with, the CCG; the type of interest (by reference to the definitions above); a description of the interest; the date on which the interest arose (and, when relevant, the date on which it expired); and the arrangements agreed for the management of the interest.
- 12.5.3 Declared interests remain on the relevant register for a period of six months after the interest has expired. The CCG retains historic registers such that it has records for at least six years after the expiry of any interest.
- 12.5.4 The registers are published on the CCG's website but there are circumstances in which an individual can request that his/her declaration(s) are anonymised; such requests must be made to the Head of Governance, who will consider them with the COIG.

12.6 Management of Conflicts of Interests

- 12.6.1 It is essential that the CCG has a robust approach to managing conflicts of interests. This applies across the CCG's work but particularly in meetings and in commissioning or procurement processes.
- 12.6.2 In meetings, the chair has responsibility for asking those present to declare any relevant interests, even if they have already been declared and recorded on the CCG's register(s), and then for deciding the arrangements that are necessary to manage any conflicts of interests with business on the agenda. A proportionate approach is necessary so the action taken could be to ask note the interest and to continue with the discussions and decisions, or it may be necessary to exclude the person from the discussion and/or decision. Where possible the chair will aim to identify such conflicts of interests before each meeting.

13. GIFTS AND HOSPITALITY

13.1 Hospitality

13.1.1 Individuals may accept modest hospitality provided in reasonable circumstances, although only where it is of a similar scale and type as would be offered by the CCG in similar circumstances. Hospitality of this type need not be declared unless it is offered by suppliers or contractors (current or prospective) in which case all offers, whether accepted or not, must be declared to the Head of Governance.

13.1.2 Hospitality in excess of £25 and offers of foreign travel or accommodation must be refused politely, except in exceptional circumstances and then only with prior approval from the Head of Governance.

13.2 Gifts

13.2.1 No individual is permitted to accept a gift (including rewards, benefits and hospitality) from any member of the public or any organisation with whom they are brought into contact by reason of their duties other than:

(a) Trivial gifts of a promotional nature, e.g., calendars, diaries, ball point pens and other similar articles. As a guideline the expectation is that such gifts would be worth a maximum of £10 and in most cases would be worth considerably less.

(b) Gifts of a small value up to £10, where there is no risk that the gift could be suspected of influencing the groups actions or the cost of returning the gift would not be warranted

13.2.2 It is not necessary to declare such gifts.

13.2.3 Any personal gift of cash or cash equivalents (e.g. vouchers, tokens, offers of remuneration to attend meetings whilst in a capacity working for or representing the CCG) must always be declined, whatever the value and whatever the source, and the offer which has been declined must be declared to the Head of Governance and recorded on the register.

13.2.4 All gifts of any nature offered to individuals by suppliers or contractors linked (currently or prospectively) to the CCG's business must be declined, whatever their value. The person to whom the gifts were offered must declare the offer to the Head of Governance so that the offer (which has been declined) can be recorded on the register.

13.2.5 It is not appropriate to give gifts to individuals or organisations at the CCG's expense or in any way on its behalf.

14. SECONDARY EMPLOYMENT

14.1 Individuals working with the CCG are required to inform the CCG if they are engaged or wish to engage in outside employment in addition to their work with the CCG.

- 14.2 Permission to engage in outside employment or private practice will be required and the CCG reserves the right to refuse permission where it believes a conflict arises which cannot be adequately managed.

15. COMMERCIAL SPONSORSHIP

- 15.1 It is common practice in the NHS for companies to offer sponsorship for events and training. Sponsorship includes financial support and hospitality for educational meetings, training, attendance at conferences, and publications etc.
- 15.2 It must be made clear to any commercial sponsor that their sponsorship of an event or the availability of publicity material about the company or product will not constitute an endorsement by the CCG and that this will be made clear to the public and those attending the event. It must also be made clear that any sponsorship must not compromise commissioning or procurement decisions.

16. BREACHES OF THE POLICY

- 16.1 Any individual wishing to report suspected or known breaches of the Policy must record in writing the circumstances which he/she believes constitute the breach and must then pass that information (with any relevant documents where possible) to the Head of Governance. The Head of Governance will investigate the breach after discussion with the Chief Clinical Officer and the COIG; this will include a review of documents but may also include interviews with relevant individuals, including the person reporting the potential breach.

17. FURTHER INFORMATION

- 17.1 Individuals requiring further information should refer to the following sources:
- 17.1.1 Managing conflicts of interest: revised statutory guidance for CCGs (NHS England June 2016)
 - 17.1.2 The Code of Conduct for NHS Managers
 - 17.1.3 Standards for Members of NHS Boards and Clinical Commissioning Groups (NHS England November 2012)
 - 17.1.4 The Nolan Principles on Conduct in Public Life
 - 17.1.5 The NHS Codes of Conduct and Accountability; (NHS Appointments Commission & Department of Health – amended July 2004)