

Policy Title: Conflicts of Interest Policy

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	Name	Role and Organisation	Date
Author	Steve Crocker	Deputy Director of Corporate Services	20/05/2021
Reviewers	Ben Luscombe	Chief of Staff	
Authoriser	Sarah Blow	Accountable Officer	

Approved By	Audit Committee
Applies To	South West London CCG (SWL CCG), Governing Body Members, Committee Members and all staff working for, or on behalf of, NHS South West London CCG.

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Controlled Document

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Target Audience	Governing Body Members, Committee Members and all staff working for, or on behalf of, NHS South West London CCG.
Brief Description	This Policy sets out the principles by which we will manage conflicts of interest arising from the operation of the business of the organisation. This policy is in line with the NHS model Constitution and local and national guidance.
Action Required	Ensure that the contents of this Policy are shared and made available to all SWL CCG staff and Office Holders.

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1. Introduction

- 1.1. The purpose of the South West London CCG (SWL CCG) Conflict of interest (Col) Policy is to ensure that all Office Holders, employees (contractors, fixed term and permanent staff) and members of the public are aware of the principles by which SWL CCG will manage Col arising from the operation of the business of the organisation. The policy is in line with the NHS model Constitution, local and national guidance. Through this policy, and awareness raising work, individuals will be aware of their own responsibilities as well as the CCG's responsibilities as a corporate body allowing any Conflicts of Interest (Col) to be managed effectively and openly.
- 1.2. The constitution for the CCG makes provision for dealing with conflicts of interest, of which this policy is a part.
- 1.3. The policy sets out how the CCG will manage conflicts of interest. It reflects the Nolan seven principles of public life:
 - Selflessness;
 - Integrity;
 - Objectivity;
 - Accountability;
 - Openness;
 - Honesty; and
 - Leadership.
- 1.4. This policy applies to all employees and appointed individuals who are working for the CCG, persons serving on committees and other decision-making groups and members of the CCG Governing Body. It also applies to practice staff as defined in the policy.
- 1.5. This policy reflects the most recent NHS guidelines (Managing Conflicts of Interest: Statutory Guidance for CCGs, NHS England June 2016; and Conflicts of Interest: Call to action for CCGs February 2019).
- 1.6. A conflict of interest is defined as:
 - A conflict between the private interests and the official responsibilities of a person in a position of trust;
 - A set of conditions in which a professional judgement concerning a primary interest (such as patients' welfare or the validity of research) tends to be unduly influenced by a secondary interest (such as financial gain);
 - The creation of a set of circumstances where one party is favoured over another by an inadvertent preferential interest;
 - A perception of wrong-doing, impaired judgement or undue influence can be as detrimental as any of them actually occurring;
 - If in doubt, it is better to assume a conflict of interest and manage it appropriately rather than ignore it; and
 - For a conflict to exist, financial gain is not necessary.
- 1.7. It is the responsibility of all staff employed or appointed by the CCG and those serving in a formal

capacity to ensure that they are not placed in a position which creates a potential conflict between their private interests and their CCG duties.

- 1.8. Declarations of interest made by members of the CCG Governing Body will be published on the CCG website. The Register of Declarations of Interest will be reported to the CCG Audit Committee annually.
- 1.9. CCGs manage conflicts of interest as part of their day-to-day activities. Effective handling of such conflicts is crucial for the maintenance of public trust in the commissioning system. Importantly, it also serves to give confidence to patients, providers, Parliament and taxpayers that CCG commissioning decisions are robust, fair, transparent and offer value for money.
- 1.10. CCG has been delegated authority by NHS England for decisions around the budgets and functions of Primary Care Commissioning. While this enables the CCG and its boroughs to commission care for our patients and populations in more coherent and joined-up way it is acknowledged that these carry a risk of conflicts of interest, both real and perceived. This policy and arrangements for the Primary Care Commissioning Committee set out how these potential conflicts will be managed
- 1.11. In June 2016 NHS England, in consultation with national stakeholders, developed strengthened guidance for the management of conflicts of interest. This guidance supersedes previous NHS England guidance and is reflected in this Policy.

2. Policy Statement

- 2.1. This policy sets out how the CCG will manage conflicts of interest arising from the operation of the business of the organisation. This policy is in line with the CCG Constitution and local and national guidance. The CCG's function is to commission health services for the benefit of the local population and as such has responsibility for the stewardship of significant public funds. The Governing Body will ensure that the organisation inspires confidence and trust amongst its members, staff, partners, funders, suppliers and the public by demonstrating integrity and avoiding any potential or real situations of undue bias or influence in decision-making.
- 2.2. The CCG will ensure that health need assessments, consultation mechanisms, commissioning strategies and robust procurement procedures will enable conflicts of interest to be identified and mitigated. CCG Governing Body members are expected to act in accordance with the Nolan Principles of public life. It is recognised that any perceptions of wrongdoing, impaired judgement or undue influence can be as detrimental as any of them occurring.
- 2.3. Conflicts of interest may arise where an individual's personal interests or loyalties or those of a connected person (a relative or close friend or personal business contact) conflict with those of the CCG. Such conflicts may create problems such as inhibiting free discussion which could result in decisions or actions that are not in the interests of the CCG, and risk giving the impression that the CCG has acted improperly.
- 2.4. Conflicts of interest may also occur where an individual is a member of a professional body and the views, policies or interests of the professional body conflict with those of the CCG. Such conflicts may create problems such as inhibiting free discussion which could result in decisions or actions that are not in the interests of the CCG, and risk giving the impression that the CCG has acted improperly.

2.5. It is not possible, or desirable, to define all instances, real or perceived, in which an interest may be perceived to be in conflict. It is for each individual to exercise their judgement in deciding whether to register any interests that may be construed as a conflict. Individuals can seek guidance from the CCGs' CoI Guardian or the Chief of Staff but should decide to declare when in doubt.

Important things to remember are that:

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

2.6. A conflict of interest will include:

<p>Financial Interests</p> <p>This is where an individual may get direct financial benefits from the consequences of a commissioning decision. This could, for example, include being:</p>	<ul style="list-style-type: none"> • A director, including a non-executive director, or senior employee in a private company or public limited company or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations. This includes involvement with a potential provider of a new care model; • A shareholder (or similar 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; • A provider of clinical private practice. This could also include an individual being: <ul style="list-style-type: none"> • In employment outside of the CCG • In receipt of secondary income or grant from a provider; • In receipt of any payments (for example honoraria, one off payments, day allowances or travel or subsistence) from a provider • In receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role; and • Having a pension that is funded by a provider (where the value of this might be affected by the success or failure of the provider).
<p>Non-Financial Professional Interests</p>	<ul style="list-style-type: none"> • An advocate for a particular group of patients;

<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"> • 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); • Engaged in a research role • The development and holding of patents and other intellectual property rights which allow staff to protect something that they create • GPs and Practice Managers who are members of the Governing Body or committees of the CCG should declare details of their roles and responsibilities held within their GP practices..
<p>Non-Financial Personal Interests</p> <p>This is where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit. This could include, for example, where the individual is:</p>	<ul style="list-style-type: none"> • A voluntary sector champion for a provider; • A volunteer for a provider; • A member of a voluntary sector board or has any other position of authority in or connection with a voluntary sector organisation; • Suffering from a particular condition requiring individually funded treatment; • A member of a lobby or pressure groups with an interest in health.
<p>Indirect Interests</p> <p>This is where an individual has a close association with an individual who has a financial interest, a non- financial professional interest or a non-financial personal interest in a commissioning decision (as those categories are described above). For example, this should include:</p>	<ul style="list-style-type: none"> • Spouse / partner; • Close relative e.g., parent, grandparent, child, grandchild or sibling; • Close friend or associate; • Business partner. <p>A declaration of interest for a business partner in a GP partnership should include all relevant collective interests of the partnership and all interests of their fellow GP partners. The CCG has determined that the onus is on the individual working with the CCG to include this as part of their declaration.</p> <p>Whether an interest held by another person gives rise to a conflict will depend upon the nature of the relationship between the person and the individual, and the role of the individual within the CCG.</p>

3. Legal, Statutory, Mandatory, and Best Practice Requirements

- 3.1. In June 2016 NHS England, in consultation with national stakeholders, developed strengthened guidance for the management of conflicts of interest. This guidance supersedes previous NHS England guidance and is reflected in this policy.
- 3.2. The policy is also compliant with statutory guidance issued under sections 14O and 14Z8 of the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012) (“the Act”). This means that CCGs must have regard to such guidance with the onus on them to explain any non-adherence.
- 3.3. The Act sets out clear requirements for CCGs to make arrangements for managing conflicts of interest and potential conflicts of interest, to ensure they do not affect, or appear to affect, the integrity of the CCG’s decision-making processes. These requirements are supplemented by procurement-specific requirements in the *National Health Service (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013*:
 - CCGs must not award a contract for the provision of NHS health care services where conflicts, or potential conflicts, between the interests involved in commissioning such services and the interests involved in providing them affect, or appear to affect, the integrity of the award of that contract;
 - CCGs must keep a record of how it managed any such conflict in relation to NHS commissioning contracts it enters into (as set out in section 4, details of this should also be published by the CCG); and
 - Regulation 6 sets out the basic framework within which CCGs must operate. The detailed requirements are set out in the guidance issued by Monitor (Substantive guidance on the Procurement, Patient Choice and Competition Regulations) and, in particular, section 7 of that statutory guidance (included as Appendix 7 to this Policy).
- 3.4. CCG staff operating under a joint co-commissioning arrangement will adhere to the principles set out in this policy, as well as NHS England’s own internal Standards of Business Conduct¹ and other relevant organisational policies.
- 3.5. The policy will be reviewed at least annually. Its contents should be viewed alongside the CCG’s Gifts and Hospitality Policy, Code of Business Conduct, Anti-Bribery Procedures and Procurement Strategy.
- 3.6. The CCG Governing Body holds ultimate responsibility for all actions carried out by staff and decisions taken within the CCG’s activities. This responsibility includes the stewardship of significant public resources and the commissioning of healthcare for the community.
- 3.7. This context means the Governing Body is determined to ensure the organisation inspires confidence and trust amongst its patients, staff, partners, funders and suppliers by demonstrating integrity and avoiding any potential or real situations of undue bias or influence within its decision-making.

¹ NHS Commissioning Board (2012) *Standards of Business Conduct* <https://www.england.nhs.uk/wp-content/uploads/2012/11/stand-bus-cond.pdf>

- 3.8. Where GPs are both providing care and deciding where that care takes place, how it is provided and who provides it, there is a real risk that a doctor's probity may come into question. Conflicts of interest therefore need to be managed effectively and openly to prevent any such problems arising, and also to avoid the perception among patients and the public that these issues may be a problem. The perception of a conflict of interest is almost as damaging as the reality and all doctors involved in commissioning at any level must always consider what adverse comment an observer might say about their activities before making commissioning decisions.
- 3.9. The policy sets out the organisation's commitment to on-going training and awareness-raising on this subject and an induction programme for new members of the Governing Body.

4. Scope

- 4.1. This policy applies to all stakeholders supporting the work of the CCG.
- 4.2. This policy applies to all individuals working for, or on behalf of the above organisation(s), including those employed on permanent or fixed term contracts, interims, self-employed contractors, Governing Body Members, Clinical Leads, Locality Leads, and volunteers.

5. Principles and General Safeguards

- 5.1. The general safeguards that will be needed to manage conflicts of interest will vary to some extent, depending on at what stage in the commissioning cycle decisions are being made. The following principles will need to be integral to the commissioning of all services, including decisions on whether to continue to commission a service, such as by contact extension.
- 5.2. Conflicts of interest can be managed by:
- Doing business appropriately. If commissioners get their needs assessments, consultation mechanisms, commissioning strategies and procurement procedures right from the outset, then conflicts of interest become much easier to identify, avoid and/or manage, because the rationale for all decision-making will be clear and transparent and should withstand scrutiny;
 - Ensuring that all CCG employees, Governing Body members, CCG committee and sub-committee members and any practice staff with involvement in CCG business undertake mandatory annual conflicts of interest training;
 - Being proactive, not reactive. Commissioners should seek to identify and minimise the risk of conflicts of interest at the earliest possible opportunity, for instance by:
 - Considering potential conflicts of interest when electing or selecting individuals to join the Governing Body or other decision-making bodies;
 - Ensuring individuals receive proper induction and training so that they understand their obligations to declare conflicts of interest;
 - Establishing and maintaining registers of interests, and agree in advance how a range of possible situations and scenarios will be handled, rather than waiting until they arise;
 - Assuming that individuals will seek to act ethically and professionally but may not always be sensitive to all conflicts of interest. Rules should assume people will volunteer information about conflicts and, where necessary, exclude themselves from decision-making, but there should also be prompts and checks to reinforce this;
 - Being balanced and proportionate. Rules should be clear and robust but not overly prescriptive or restrictive. They should ensure that decision-making is transparent and fair, but not constrain people by making it overly complex or cumbersome;

- Openness. Ensuring early engagement with patients, the public, clinicians and other stakeholders, including local Healthwatch and Health and Wellbeing Boards, in relation to proposed commissioning plans;
- Responsiveness and best practice. Ensuring that commissioning intentions are based on local health needs and reflect evidence of best practice – securing ‘buy in’ from local stakeholders to the clinical case for change;
- Transparency. Documenting clearly the approach taken at every stage in the commissioning cycle so that a clear audit trail is evident;
- Securing expert advice. Ensuring that plans take into account advice from appropriate health and social care professionals, e.g. through clinical senates and networks, and draw on commissioning support, for instance around formal consultations and for procurement processes;
- Engaging with providers. Early engagement with both incumbent and potential new providers over potential changes to the services commissioned for a local population;
- Creating clear and transparent commissioning specifications that reflect the depth of engagement and set out the basis on which any contract will be awarded;
- Following proper procurement processes and legal arrangements, including even-handed approaches to providers;
- Ensuring sound record-keeping, including up to date registers of interests; and
- A clear, recognised and easily enacted system for dispute resolution.

These general processes and safeguards should apply at all stages of the commissioning process, but will be particularly important at key decision points, e.g., whether and how to go out to procurement of new or additional services.

5.3. Particular considerations pertain to CCGs who hold responsibilities for delegated or joint commissioning of primary care.

6. Responsibilities

6.1. Lead Manager

The Governing Body Secretary is responsible for maintaining the Conflicts of Interest Register and ensuring this is produced for the Chair at every Governing Body and Committee Meeting. The Governing Body Secretary will ensure that “Register of Interests” is a standard agenda item for all Committee and Sub-Committee meetings. In the event of withdrawal of a conflicted member, it is the responsibility of the Committee Secretary to monitor quorum and advise the Chair accordingly.

6.2. Contributors/Stakeholders

All Policy, Strategy, and Framework Authors are responsible for implementing this policy.

6.3. All Staff

All individuals working for, or on behalf of the organisation(s) listed within 1.4 Scope, including those employed on permanent or fixed term contracts, interims, self-employed contractors, Governing Body Members, Clinical Leads, Locality Leads, and volunteers are responsible for complying with this policy.

6.4. All Line Managers

All Line Managers are responsible for ensuring that their teams comply with this policy.

6.5. Senior Responsible Officer

The CCG Accountable Officer is accountable for this policy, and for supporting the implementation thereof. The Accountable Officer has overall responsibility for ensuring the CCG has appropriate governance policies and procedures in place to ensure the CCG works to best practice and complies with all relevant legislation, and this is delegated to the Chief of Staff. They also have responsibility for ensuring the CCG applies the principles of this policy and that there are suitable resources to support its implementation.

6.6. Lay Member for Audit (Conflicts of Interest Guardian)

The lay member for Audit has responsibility for governance and is responsible for ensuring the Register of Interests is reviewed against the agenda for the Committee or Governing Body Meetings. The lay member will make themselves available to provide advice to any individual who believes they have, or may have, a conflict of interest.

They will act as a conduit and safe point of contact for anyone with concerns relating to conflicts of interest and provide advice and judgment on managing conflicts of interest. They will be supported in this role by the CCG Chief of Staff.

6.7. Primary Care Commissioning Committee Chair

The Primary Care Commissioning Committee will have a lay Chair and a lay Vice-Chair. The Chair of the Audit Committee will not hold the role of Chair of the Committee, but may serve as a Committee Member, provided safeguards are agreed and put in place to avoid compromising their role as the Conflicts of Interest Guardian. The Chair of the Audit Committee may only hold the role of Vice Chair if specific local circumstances require it, such as the lack of another suitable lay candidate.

7. Non-compliance with policy

- 7.1. The CCG Governing Body will view instances where this policy is not followed as serious and may take disciplinary action against individuals, which may result in dismissal, including from the Governing Body.
- 7.2. Any disciplinary action will be taken following the policy and procedures set out in the CCG Disciplinary Policy and Procedures and CCG Constitution.
- 7.3. Suspected breaches should be reported to the Conflicts of Interest Guardian or the CCG Chief of Staff immediately. An appropriate person, unconnected with the breach, will be appointed to investigate and report on the outcome to the Audit Committee. Any breaches which are substantiated will be reported to NHS England by the CCG Chief of Staff and will be published on the CCG website, with anonymised details.

8. Conflicts of Interest Policy

8.1. Register of Declaration of Interest

8.1.1. The CCG has established a Register of Declarations of Interest, which is held by the Corporate Governance Team. The CCG will maintain one or more registers of the interests of:

- Member Practices*
- All Governing Body members;

- Members of advisory groups which contribute to direct or delegated decision making on the commissioning or provision of taxpayer funded services such as working groups involved in service redesign or stakeholder engagement that will affect future provision of services;
- Members of the Primary Care Commissioning Committee (PCCC);
- Members of other committees of the CCG e.g., Audit Committee, Remuneration Committee, Quality Performance Oversight Committee (QPOC) and Finance Committee etc.;
- Members of new care models joint provider / commissioner groups / committees;
- Members of procurement (sub-)committees;
- All staff working for or on behalf of SWL CCG

* A declaration of interest for a business partner in a GP partnership should include all relevant collective interests of the partnership and all interests of their fellow GP partners. The CCG has determined that the onus is on the individual working with the CCG to include this as part of their declaration. Whether an interest held by another person gives rise to a conflict will depend upon the nature of the relationship between the person and the individual, and the role of the individual within the CCG.

- 8.2. The CCG will publish register(s) of interests and gifts and hospitality of decision-making staff at least annually in a prominent place on its website and make them available at the CCG's Corporate Office upon request.
- 8.3. 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 Conflicts of Interest Guardian for the CCG, who should seek appropriate legal advice where required, and the CCG should retain a confidential un-redacted version of the register(s).
- 8.4. All decision-making staff should be made aware, in advance of publication, that the register(s) will be kept, how the information on the register(s) may be used or shared and that the register(s) will be published. This should be done by the provision of a fair processing notice that details the identity of the data controller, the purposes for which the registers are held and published, how the information on the register(s) may be used or shared and contact details for the Data Protection Officer. This information should additionally be provided to individuals identified in the register(s) because they are in a relationship with the person making the declaration.
- 8.5. The Register of Declarations of Interest will be reported to the CCG Audit Committee annually.
- 8.6. All decision-makers must declare relevant and material interests to the CCG upon appointment, when a new conflict of interest arises, or upon becoming aware that the CCG has entered into or proposes entering into a contract in which they or any person connected with them has any financial interest, either direct or indirect. Where there are no interests to declare a nil return is required. Any subsequent interests shall be declared once the potential conflict of interest arises. Individuals will be asked to review and update the register at the beginning of every meeting of the Governing Body and its committees and at least every three months.

- 8.7. Other members of staff and other members of committees and groups should complete the form as soon as they identify a potential conflict of interest or if requested by the CCG's Governance team as part of the CCG's quarterly review of interests.
- 8.8. When an individual changes role or responsibility within the organisation or its Governing Body, any changes to the individuals' interests should be declared within 28 days of the relevant events or change. The Register of Interest shall note the date that any potential interest is declared, and any action required.
- 8.9. The Declaration of Interests proforma is attached at Appendix 2.

9. Data Protection

- 9.1. The information provided will be processed in accordance with data protection principles as set out in the *Data Protection Act 1998*. Data will be processed only to ensure that the plenary of members and Governing Body members act in the best interests of the group and the public and patients the group was established to serve. The information provided will not be used for any other purpose, unless otherwise stated within statutory legislation. Signing the declaration form will also signify that you consent to your data being processed for the purposes set out in this policy.

10. Declaration of Interests

- 10.1. The agenda (both public and confidential agenda) for meetings of the Governing Body and also of its committees will contain a standing item at the commencement of each meeting, requiring members to declare any interests relating specifically to the agenda items being considered.
- 10.2. It shall be the responsibility of the Chair of the Governing Body and the Chairs of its committees to review the Register of Interests against the Agenda at the beginning of each meeting.
- 10.3. If it is not known what can be declared, or whether/when the declaration needs to be updated, advice should be sought from the Governing Body Secretary or Chief of Staff.
- 10.4. If, during the course of a meeting, an interest not previously declared is identified, this shall be declared. Minutes of the meeting shall detail all declarations made.
- 10.5. Governing Body and committee members must be specific when declaring interests. They should state which agenda the potential conflict of interest relates to and the nature of that conflict.
- 10.6. Where an interest is significant or when the individual or a connected person has a direct financial interest in a decision, the individual should not take part in the discussion or vote on the item and should consider leaving the room when the matter is discussed. The Chair of the meeting may insist that a member leaves the room if they have a significant interest or a direct financial interest in a matter under discussion.
- 10.7. The minutes of the meetings will record the actions taken to manage a conflict of interest; i.e.
- The points at which a member leaves the room and subsequently returns shall be recorded;
 - The points at which a member withdraws from a discussion and subsequently re-joins will be recorded;
 - When a member sits out of a vote it will be recorded; and

- When a member with a declared interest continues to take part in a discussion, the minutes will record how that conflict of interest is being managed within the meeting.
- 10.8. If there is any doubt as to whether an interest should be declared, a declaration should be made and / or advice sought from the CCG Col Guardian or Chief of Staff.
- 10.9. Where all of the GPs or other practice representatives on a decision-making body could have a material interest in a decision, particularly where the CCG is proposing to commission services on a single tender basis from all GP practices in the area, or where it is likely that all or most practices would wish to be qualified providers for a service under Any Qualified Provider regime, the decision should be referred to the Governing Body and exclude all GPs or other practice representatives with an interest from the decision-making process, i.e. so that the decision is made only by the non-GP members of the Governing Body including the Lay Members and the registered nurse and secondary care doctor.

The CCG:

- May refer the decision to the CCG Governing Body and exclude all GPs or other practice representatives with an interest from the decision-making process, i.e. so that the decision is made only by the non-GP members of the CCG Governing Body as detailed in the CCG's Standing Orders;
- Shall consider co-opting individuals from another CCG onto the Governing Body, or inviting another CCG to review the proposal, to provide additional scrutiny, although such individuals would only have authority to participate in decision making where this provision exists within the CCG's constitution; and
- May Co-opt other relevant non conflicted members;

11. Decisions taken where a Governing Body or Committee member has an interest

11.1. In the event of a committee having to decide upon a question in which a committee member has an interest, all decisions will be made by vote, with a simple majority required. A quorum must be present for the discussion and decision; interested parties will not be counted when deciding whether the meeting meets quorum. Interested committee members must not vote on matters affecting their own interests.

11.2. All decisions under a Col will be recorded by the Committee Secretary and reported in the minutes of the meeting. The report will record:

- The nature and extent of the conflict;
- An outline of the discussion;
- The Chair's decision on the declared conflict;
- The actions taken to manage the conflict, including instances when it is decided that no action need be taken; and
- The use of the waiver and reasons for its implementation.

11.3. Where a committee member benefits from the decision, this will be reported in the Annual Report and Accounts, as a matter of best practice.

12. Managing Conflicts of Interest: contractors

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

13. Transparency in Procuring Services

- 13.1. 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.
- 13.2. The CCG will publish a Procurement Strategy, approved by its Governing Body, which will ensure that:
- All relevant clinicians (not just members of the CCG) and potential providers, together with local members of the public, are engaged in the decision-making processes used to procure services; and
 - Service redesign and procurement processes are conducted in an open, transparent, non-discriminatory and fair way.

14. Register of procurement decisions

- 14.1. The CCG will maintain a register of procurement decisions taken, including:
- The details of the decision;
 - Who was involved in making the decision (i.e. Governing Body or committee members and others with decision-making responsibility); and
 - A summary of any conflicts of interest in relation to the decision and how this was managed by the CCG.

The register should be updated whenever a procurement decision is taken.

- 14.2. In the interests of transparency, the register of interests and the register of decisions will need to be publicly available and easily accessible to patients and the public, including by:
- ensuring that both registers are available in a prominent place on the CCG's website; and
 - The CCG making both registers available upon request for inspection at their headquarters.
- 14.3. The CCG will also need to consider any particular access needs that their stakeholders have. For example, individuals without internet access could be directed to the local library or invited to view the register(s) at the CCG's headquarters.
- 14.4. The Audit of Conflict of interests is a key part of the annual governance statement in the Annual Report and Accounts and as such receives scrutiny from Auditors.

15. Procurement issues

- 15.1. CCGs will need to be able to recognise and manage any conflicts or potential conflicts of interest that may arise in relation to procurement.
- 15.2. The NHS Act, the Health and Social Care Act 2012 (“the HSCA”) and associated regulations set out the statutory rules with which commissioners are required to comply when procuring and contracting for the provision of clinical services. They need to be considered alongside the Public Contract Regulations and, where appropriate, EU procurement rules. NHS Improvement (formally Monitor)'s substantive guidance, Procurement, Patient Choice and Competition Regulations, advises that the requirements within these create a framework for decision making that will assist commissioners to comply with a range of other relevant legislative requirements.
- 15.3. The Procurement, Patient Choice and Competition Regulations place requirements on commissioners to ensure that they adhere to good practice in relation to procurement, do not engage in anti-competitive behaviour that is against the interest of patients, and protect the right of patients to make choices about their healthcare.
- 15.4. The regulations set out that commissioners must:
 - Manage conflicts and potential conflicts of interests when awarding a contract by prohibiting the award of a contract where the integrity of the award has been, or appears to have been, affected by a conflict; and
 - Keep appropriate records of how they have managed any conflicts in individual cases.
- 15.5. NHS Improvement has a statutory duty under section 78 of the HSCA to produce guidance on compliance with any requirements imposed by the regulations and how it intends to exercise the powers conferred on it by these regulations. The Procurement, Patient Choice and Competition Regulations is the relevant statutory guidance. NHS England works closely with NHS Improvement about these matters and has engaged with NHS Improvement in developing this revised guidance.

16. General considerations and use of the template

- 16.1. The most obvious area in which conflicts could arise is where a CCG commissions (or continues to commission by contract extension) healthcare services, including GP services, in which a member of the CCG has a financial or other interest. This may most often arise in the context of co-commissioning of primary care, particularly about delegated or joint arrangements, but it will also need to be considered in respect of any commissioning issue where GPs are current or possible providers. CCGs are advised to address the factors set out in the procurement template at Appendix 3 when drawing up their plans to commission services.
- 16.2. The CCG will be expected to make evidence of their deliberations on conflicts publicly available. The template is one way of evidencing this and will support the CCG in fulfilling their duty in relation to public involvement. It will further provide appropriate assurance:
- 16.3.
 - That the CCG is seeking and encouraging scrutiny of its decision-making process;
 - To Health and Wellbeing Boards, local Healthwatch and to local communities that the proposed service meets local needs and priorities. It will enable them to raise questions if they have concerns about the approach being taken;

- To the Audit Committee and, where necessary, external auditors, that a robust process has been followed in deciding to commission the service, in selecting the appropriate procurement route, and in addressing potential conflicts; and
- To NHS England in their role as assurers of the co-commissioning arrangements.

17. Designing service requirements

- 17.1. It is good practice to engage relevant providers, especially clinicians, in confirming that the design of service specifications will meet patient need. Such engagement, done transparently and fairly, is entirely legal. However, conflicts of interest can occur if a commissioner engages selectively with only certain providers (be they incumbent or potential new providers) in developing a service specification for a contract for which they may later bid.
- 17.2. Commissioners should seek, as far as possible, to specify the outcomes that they wish to see delivered through a new service, rather than the process by which these outcomes are to be achieved. As well as supporting innovation, this helps prevent bias towards particular providers in the specification of services.
- 17.3. Such engagement should follow the three main principles of procurement law, namely equal treatment, non-discrimination and transparency. This includes ensuring that the same information is given to all.
- 17.4. Other steps include:
- Advertising the fact that a service design/re-design exercise is taking place widely and inviting comments from any potential providers and other interested parties (ensuring a record is kept of all interactions);
 - As the service design develops, engage with a wide range of providers on an ongoing basis to seek comments on the proposed design, e.g. via the commissioner's website or via workshops with interested parties;
 - Use engagement to help shape the requirement to meet patient need but take care not to gear the requirement in favour of any particular provider(s);
 - If appropriate, engage the advice of an independent clinical adviser on the design of the service;
 - Be transparent about procedures;
 - Ensure at all stages that potential providers are aware of how the service will be commissioned; and
 - Maintain commercial confidentiality of information received from providers.
- 17.5. When engaging providers on service design, the CCG should bear in mind that they have ultimate responsibility for service design and for selecting the provider of services. NHS Improvement has issued guidance on the use of provider boards in service design.
- 17.6. The CCG will also need to ensure that they have systems in place for managing conflicts of interest on an ongoing basis, for instance, by monitoring a contract that has been awarded to a provider in which an individual commissioner has a vested interest.

18. Decision-making when a conflict of interest arises primary medical care

- 18.1. Procurement decisions relating to the delegated commissioning of primary medical services should be made by the Primary Care Commissioning Committee of the CCG's Governing Body. This should, in the case of delegated commissioning, be a committee established by the CCG.
- 18.2. The membership of the committee should be constituted so as to ensure that the majority is held by Lay and Executive Members. In addition to existing CCG Lay Members, members may be drawn from the CCG's executive members, except where these members have a conflict of interest (e.g. if they are GPs or have other conflicts of interest). Provision could be made for the committee to have the ability to call on additional Lay Members or CCG members when required, for example where the committee would not be quorate because of conflicts of interest. It could also include GP representatives from other CCG areas and non-GP clinical representatives (such as the CCG's secondary care specialist and/or Governing Body nurse lead).
- 18.3. Any conflicts of interest issues will need to be considered on an individual basis. The CCG could also consider reciprocal arrangements with other CCGs in order to support effective clinical representation within the committee. The specific composition is a matter of determination for individual CCGs, subject to the provisions of their constitution. However, the chair and vice-chair must always be Lay Members of the committee.

18.4. Record keeping

- 18.4.1. As set out above a clear record of any conflicts of interest should be kept by the CCG in its register of interests. It must also ensure that it records procurement decisions made, and details of how any conflicts that arose in the context of the decision have been managed. These registers should be available for public inspection as detailed above.
- 18.4.2. CCGs should ensure that details of all contracts, including the contract value, are published on their website as soon as contracts are agreed. Where CCGs decide to commission services through Any Qualified Provider (AQP), they should publish on their website the type of services they are commissioning and the agreed price for each service. Further, CCGs should ensure that such details are also set out in their annual report. Where services are commissioned through an AQP approach, they should ensure that there is information publicly available about those providers who qualify to provide the service.

19. Equality and Diversity Statement

- 19.1. The organisation is committed to ensuring that it treats its employees fairly, equitably and reasonably and that it does not discriminate against individuals or groups on the basis of their ethnic origin, physical or mental abilities, gender, age, religious beliefs or sexual orientation. An Equality Analysis has been completed for this policy.
- 19.2. If you have any concerns or issues with the contents of this policy or have difficulty understanding how this policy relates to you or your role, please contact the Corporate Office.

20. Review

- 20.1. The policy will be reviewed annually by the CCG Audit Committee. Staff and decision-makers will be reminded of the policy and register of interests at least quarterly.
- 20.2. The CCG and HCP Secretary will review register entries on a regular basis and take any action necessary as highlighted by the review.

- 20.3. Conflicts of interest management will form part of the internal audit cycle on an annual basis. This will be carried out according to NHS England guidance and using the template provided alongside it. The results of the audit will be reflected in the Annual Governance Statement.

21. Templates/Forms

- 21.1. The template declaration submission form for all staff and stakeholders can be found at Appendix 2.
- 21.2. For any procurement exercises for the commissioning of services involving GP Providers, there is a standard proforma for completion included at Appendix 3.

22. Internal and External References

22.1. Internal References

- 22.1.1. This policy should be read in conjunction with the CCG Gifts and Hospitality Policy (CG2).

22.2. External References

- 22.2.1. NHS Commissioning Board (2012) *Standards of Business Conduct*
- 22.2.2. Sections 14O and 14Z8 of *National Health Service Act 2012* as amended by the *Health and Social Care Act 2012*.
- 22.2.3. *Managing Conflicts of Interest: Statutory Guidance for CCGs*, NHS England June 2016
- 22.2.4. NHS England *Conflicts of Interest: Call to action for CCGs* February 2019

23. Monitoring

- 23.1. The policy will be monitored in line with that described in section 5. If you have any suggestions for the improvement of this Policy, please contact the CCG Board Secretary with your suggestions, for consideration.

24. Equality Impact Assessment

- 24.1. An Equality Impact Assessment must be carried out as part of the development of each policy. All public authorities have a legal responsibility to assess their activities, and to set out how they will monitor any possible negative impact upon equality in terms of the protected characteristics of age, disability, gender, gender identity, marriage or civil partnership, pregnancy and maternity or paternity, race, religion or belief, and sexual orientation. If a negative impact is identified, you will need to take action to reduce that impact.
- 24.2. An Equality Impact Assessment has been completed for this policy (Appendix 10), and no negative impact upon persons with protected characteristics has been identified.

25. Change History

Policy Number	Effective Date	Significant Changes
SWLCCG/CCG5	01/11/2019	Combine SWL CCG policy superseding the previous individual CCG policies in place.
SWLCCG/CCG5	10/6/2021	Agreement at Audit Committee to amend section 8.1.1 and clarify that all staff working on or on behalf of SWL CCG are required to provide a declaration.

26. Appendix 1 – The Nolan Principles

The 'Nolan Principles' set out the ways in which holders of public office should behave in discharging their duties

The seven principles are:

Selflessness – Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.

Integrity – Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

Objectivity – In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability – Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness – Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty – Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership – Holders of public office should promote and support these principles by leadership and example.

Source: The First Report of the Committee on Standards in Public Life (1995)

27. Appendix 2 - Declaration of interests for CCG members and employees

Name:				
Position within, or relationship with, the CCG (or NHS England in the event of joint committees):				
Do you have any interest(s) to declare?		Yes	No	
Detail of interests held (complete all that are applicable):				
Type of Interest* (see below)	Description of Interest (including for indirect interests, details of the relationship with the person who has the interest)	Date interest relates From & To		Actions to be taken to mitigate risk (to be agreed with line manager or a senior CCG manager)

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, in the case of 'decision making staff' (as defined in the statutory guidance on managing conflicts of interest for CCGs) may be published in registers that the CCG holds.

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

[This paragraph applies to decision making staff only] 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:

Please return the completed form to governance team.

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.

28. Appendix 3 – Procurement Template

[To be used when commissioning services from GP practices, including provider consortia or organisations in which GPs have a financial interest]

Service:	
Question	Comment/Evidence
Questions for all procurement routes	
How does the proposal deliver good or improved outcomes and value for money – what are the estimated costs and the estimated benefits? How does it reflect the CCG’s proposed commissioning priorities? How does it comply with the CCG’s commissioning obligations?	
How have you involved the public in the decision to commission this service?	
What range of health professionals have been involved in designing the proposed service?	
What range of potential providers have been involved in considering the proposals?	
How have you involved your Health and Wellbeing Board(s)? How does the proposal support the priorities in the relevant joint health and wellbeing strategy (or strategies)?	
What are the proposals for monitoring the quality of the service?	
What systems will there be to monitor and publish data on referral patterns?	
Have all conflicts and potential conflicts of interests been appropriately declared and entered in registers which are publicly available Have you recorded how you have managed any conflict or potential conflict?	

Why have you chosen this procurement route? ²	
What additional external involvement will there be in scrutinising the proposed decisions?	
How will the CCG make its final commissioning decision in ways that preserve the integrity of the decision-making process and award of any contract?	
Additional question when qualifying a provider on a list or framework or preselection for tender (including but not limited to any qualified provider) or direct award (for services where national tariffs do not apply)	
How have you determined a fair price for the service?	
Additional questions when qualifying a provider on a list or framework or preselection for tender (including but not limited to any qualified provider) where GP practices are likely to be qualified providers	
How will you ensure that patients are aware of the full range of qualified providers from whom they can choose?	

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

² Taking into account S75 regulations and NHS Commissioning Board guidance that will be published in due course, Monitor guidance, and existing procurement rules.

29. Appendix 4: Declaration of conflict of interests for bidders contractors template

NHS South West London Clinical Commissioning Group

Bidders/potential contractors/service providers declaration form: financial and other interests

This form is required to be completed in accordance with the CCG's Constitution, and s140 of the NHS Act 2006 (as amended by the Health and Social Care Act 2012) and the NHS (Procurement, Patient Choice and Competition) (No2) Regulations 2013 and related guidance.

Notes:

- All potential bidders/contractors/service providers, including sub-contractors, members of a consortium, advisers or other associated parties (Relevant Organisation) are required to identify any potential conflicts of interest that could arise if the Relevant Organisation were to take part in any procurement process and/or provide services under, or otherwise enter into any contract with, the CCG, or with NHS England in circumstances where the CCG is jointly commissioning the service with, or acting under a delegation from, NHS England. If any assistance is required in order to complete this form, then the Relevant Organisation should contact [CCG to specify].
- The completed form should be sent to [CCG to specify].
- Any changes to interests declared either during the procurement process or during the term of any contract subsequently entered into by the Relevant Organisation and the CCG must notified to the CCG by completing a new declaration form and submitting it to [CCG to specify].
- Relevant Organisations completing this declaration form must provide sufficient detail of each interest so that the CCG, NHS England and also a member of the public would be able to understand clearly the sort of financial or other interest the person concerned has and the circumstances in which a conflict of interest with the business or running of the CCG or NHS England (including the award of a contract) might arise.
- If in doubt as to whether a conflict of interests could arise, a declaration of the interest should be made.

Interests that must be declared (whether such interests are those of the Relevant Person themselves or of a family member, close friend or other acquaintance of the Relevant Person), include the following:

- The Relevant Organisation or any person employed or engaged by or otherwise connected with a Relevant Organisation (Relevant Person) has provided or is providing services or other work for the CCG or NHS England;
- A Relevant Organisation or Relevant Person is providing services or other work for any other potential bidder in respect of this project or procurement process;
- The Relevant Organisation or any Relevant Person has any other connection with the CCG or NHS England, whether personal or professional, which the public; or
- Could perceive, may impair or otherwise influence the CCG's or any of its members' or employees' judgements, decisions or actions.

Name of Organisation:	
Details of interests held:	
Type of Interest	Details
Provision of services or other work for the CCG or NHS England	
Provision of services or other work for any other potential bidder in respect of this project or procurement process	
Any other connection with the CCG or NHS England, whether personal or professional, which the public could perceive may impair or otherwise influence the CCG's or any of its members' or employees' judgements, decisions or actions	

Name of Relevant Person	[complete for all Relevant Persons]	
Details of interests held:		
Type of Interest	Details	Personal interest or that of a family member, close friend or other acquaintance?
Provision of services or other work for the CCG or NHS England		
Provision of services or other work for any other potential bidder in respect of this project or procurement process		

Any other connection with the CCG or NHS England, whether personal or professional, which the public could perceive may impair or otherwise influence the CCG's or any of its members' or employees' judgements, decisions or actions		

To the best of my knowledge and belief, the above information is complete and correct. I undertake to update as necessary the information.

Signed:

On behalf of:

Date:

30. Appendix 5 – Equality Impact Assessment

	Mandatory Questions	Yes/No/NA	Comments
1.	Does the Policy affect any group less or more favourably than another on the basis of:		
	Age?	No	
	Disability?	No	
	Gender?	No	
	Gender identity?	No	
	Marriage or civil partnership?	No	
	Pregnancy and maternity or paternity?	No	
	Race?	No	
	Religion or belief?	No	
	Sexual orientation?	No	
2.	Is there any evidence that any groups are affected differently by the Policy and if so, what is the evidence?	No	
3.	Is any impact of the Policy likely to be negative?	No	
4.	If any impact of the Policy is likely to be negative, can the impact be avoided and if so, how?	NA	
5.	If a negative impact can't be avoided, what, if any, are the reasons the Policy should continue in its current form?	NA	
6.	Where relevant, does the Policy support the FREDAM principles: Fairness, Respect, Equality, Dignity and Autonomy?	Yes	

If you have identified a potential discriminatory impact of this Policy, please contact the SWL Governance Lead or Chief of Staff.

Conflicts of Interest Policy

31. Linked Policies/Guidance

Policies:

- CCG Constitution
- Gifts and Hospitality
- Prime Financial Policies, Scheme of Reservation and Delegation
- Managing Conflict of Interest Policy
- Anti-Bribery Policy
- Policy in Relation to Fraud and Fraud Response Plan
- Whistle Blowing

Guidance:

- NHS Clinical Commissioners, Royal College of General Practitioners and British Medical Association - Shared principles on conflicts of interest when CCGs are commissioning from member practices - https://445oon4dhpil7qivs2jih81g-wpengine.netdna-ssl.com/wp-content/uploads/2014/12/FINAL-Shared-principles-on-Conflicts-of-interest-NHSCC_RCGP_BMA-Dec-2014.pdf
- Section 7 of Monitor's Substantive Guidance on the Procurement, Patient Choice and Competition Regulations - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/283505/SubstantiveGuidanceDec2013_0.pdf
- Annex K: Summary of key aspects of the guidance on managing conflicts of interest relating to commissioning of new care models - <https://www.england.nhs.uk/wp-content/uploads/2017/06/revised-ccg-conflict-of-interest-guidance-v7.pdf>
- Standards for members of NHS boards and Clinical Commissioning Group governing bodies in England - <http://www.professionalstandards.org.uk/docs/psa-library/november-2012---standards-for-board-members.pdf?sfvrsn=0>
- Standards of Business Conduct for NHS Staff (HSG (93) 5) – available on the Department of Health website - <http://www.england.nhs.uk/wp-content/uploads/2012/11/stand-bus-cond.pdf>
- Code of Conduct for NHS Managers – http://www.nhsemployers.org/~media/Employers/Documents/Recruit/Code_of_conduct_for_NHS_managers_2002.pdf

32. Further Information

Any queries on the content of this policy should be directed to the Chief of Staff.