

Conflicts of Interest Policy

Number: THCCGCG

Version: 3

Executive Summary	<ul style="list-style-type: none">• This document ensures that the actions of THCCG will be taken, and be seen to be taken, without any possibility of the influence of external or private interest.• If any such individual has an interest, or becomes aware of an interest which could lead to a conflict of interest in the event of the CCG considering an action or decision in relation to that interest, it must be considered as a potential conflict.• If in doubt the individual concerned should assume that a potential conflict of interest exists and seek advice from the CCG Conflicts of Interest Guardian and the Corporate Governance Manager
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Who has been consulted?	Executive Team- October 2016, Audit Committee- Oct 2016, THCCG's Senior Management Team
Was an Equality Analysis required?	No
With what standards does this document demonstrate compliance?	<ul style="list-style-type: none">▪ Managing Conflicts of Interest: Revised Statutory Guidance for CCGs (June 2016;)▪ NHS Commissioning Board (2012);▪ The British Medical Association Guidance on Conflicts of Interests for GPs in their role as Commissioners and Providers▪ The Royal College of General Practitioners▪ The General Medical Council▪ The Public Contract Regulations 2015▪ The National Health Service (Procurement, Patient Choice and Competition) (no. 2) (Regulations 2013)▪ The Good Governance Standards for Public Services 2004▪ Association of British Pharmaceutical Industry (ABPI) Code of Practice for Pharmaceutical Industry 2016▪ National Audit Office (NAO) Report 2015

References and associated CCG documentation	THCCG's Constitution		
List of approvals obtained	Governing Body (6 th December 2016)		
Recommended review period	Annually		
Key words contained in document	Conflicts of interest, Clinical Commissioning Groups, Declarations		
Is this document fit for the public domain? Y / N	Y	If No, why?	

Document History

Date	Reviewed by	Contributors/Comments
October 7 th 2016	Employees, Governing Body Members, Clinical Leads	No comments
October 10 th 2016	Primary Care Commissioning Committee	No comments
October 10 th 2016	Prescribing Delivery Board	Shareholding value states 5% or above in declaration – updated to reflect all share values.
October 11 th 2016	Audit Committee	No comments
October 18 th 2016	Executive Committee	No comments
December 2 nd 2016	Internal Audit	Comments and subsequent updates relating to: <ul style="list-style-type: none"> - Further detail on the management of breaches. - The management of declarations and conflicts of interest may be independently reviewed by the CCG's Counter Fraud team.
December 6 th 2016	Governing Body	Ratification – no further comments

1.0 INTRODUCTION

- 1.1 In line with its revised Standards of Business Conduct, Anti-Fraud and Bribery Policy and its revised Hospitality, Gifts and Sponsorship Policy, this revised Conflicts of Interest Policy sets out how Tower Hamlets Clinical Commissioning Group (hereafter, THCCG) will manage conflicts of interest arising from the operation of the organisation as a commissioner of health care services within the London Borough of Tower Hamlets.
- 1.2 THCCG's Governing Body acknowledges that managing conflicts of interest appropriately is essential for protecting the integrity of the organisation from perceptions of wrongdoing or impropriety. THCCG must meet the highest level of transparency to demonstrate that conflicts of interest are managed in a way that cannot undermine the probity and accountability of the CCG as a commissioning organisation.
- 1.3 This Policy sets out the approach that THCCG will implement to identify, manage and record any potential or actual conflicts of interest that may arise as part of the commissioning of healthcare services across all of its provider organisations.
- 1.4 This Policy is issued in accordance with statutory guidance under sections 14O and 14Z8 of the NHS Act 2006 (as amended by the Health and Social Care Act 2012). The Act sets out clear requirements for CCGs to make arrangements for managing actual and potential conflicts of interests, 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 in the National Health Service (Procurement, Patient Choice and Competition) (No.2) Regulations 2013
- 1.5 The CCG's current Standards of Business Conduct and Managing of Conflicts of Interests Policy (version 2, 2015) has been revised to reflect the revised guidance published by NHS England in June 2016. As a result, the CCG has now three separate policies: Standards of Business Conduct, Anti-Fraud & Bribery Policy; Conflicts of Interest and Gifts, Hospitality and Sponsorship Policy. These three revised policies provide the CCG with a robust governance framework which is line with its revised Constitution.
- 1.6 The above mentioned policies and the CCG's revised Constitution should be read in conjunction with the CCG's **Risk Management Strategy** and its **Whistleblowing Policy**.

2.0 SCOPE

- 2.1 This policy applies to all individuals, i.e. CCG's employees including interim staff, members of the governing body, or members of a committee or a sub-committee of THCCG, bidders, contractors, potential contractors, all member General Practitioners, practice member staff such as practice managers, and nurses working within the CCG membership who are involved in the CCG's commissioning, procurement and contracting work, and service providers.
- 2.2 For people contracted to provide services or facilities directly to THCCG they will be subject to the same requirements as stated in this policy and the requirements will be set out in the contract for their services.
- 2.3 THCCG will ensure that the North East London Commissioning Support Unit (NELCSU) and other Contractors, including those working through recruitment agencies,

are aware of the contents of this policy and adhere to the procedures approved by THCCG to manage conflicts of interests.

- 2.4 Failure to comply with this policy may lead to disciplinary action being taken in accordance with the THCCG's Disciplinary Policy. Where contractor staff are involved, non-declaration of actual or potentially foreseeable conflicts may lead to an immediate termination of contract of service.

3.0 PURPOSE

- 3.1 The aim of this policy is to protect both the organisation and individuals involved from impropriety or any appearance of impropriety by setting out how THCCG will manage conflicts of interest to ensure there is confidence in the commissioning decisions made and to ensure the integrity of the clinicians involved with the work of the CCG.

- 3.2 Conflicts of interest may arise where an individual's personal interests, loyalties or those of a connected person (a relative or close friend or business partner) conflict with those of THCCG, or might be perceived to conflict with those of the CCG. Such conflicts may create problems such as inhibiting free discussion which could result in decisions or actions being made that are not in the interests of THCCG, and risk giving the impression that THCCG has acted improperly.

- 3.3 THCCG's Governing Body responsibility includes the stewardship of significant public resources and the commissioning of health and social care services to the local people of the London Borough of Tower Hamlets. The Governing Body is therefore determined to ensure the organisation inspires confidence and trust amongst its employees, stakeholders, suppliers and the public by demonstrating integrity and avoiding any potential or real situations of undue bias or influence in the decision-making of the CCG.

- 3.4 This policy reflects the Code of Accountability and Conduct for NHS Boards, Standards for Business Conduct for CCGs and the '**Seven Principles of Public Life**' from the Nolan Committee. The Seven Principles are:

- Selflessness;
- Integrity;
- Objectivity;
- Accountability;
- Openness;
- Honesty; and
- Leadership.

- 3.5 The Governing Body has a legal obligation to act in the best interests of THCCG and in accordance with the CCG's constitution and terms of establishment approved by NHS England, and to avoid situations where there may be a potential conflict of interest. If any such individual has an interest, or becomes aware of an interest, which could lead to a conflict during the course of their interaction with THCCG or in the event of THCCG considering an action or decision in relation to that interest, it must be considered as a potential conflict.

- 3.6 Any such interest will be subject to the provisions of the CCG's constitution. This includes GP Practice representatives at locality meetings. For the removal of doubt this means that if you have a conflict of interest you must not be involved in procuring, tendering, managing or monitoring a contract. If you are related to or have a business relationship with an individual associated with THCCG, whilst you are working at the CCG or involved in the CCG's commissioning decisions, then you should declare these interests from the

outset or as soon as you become aware that your relationship, either personal or business may give rise to a potential arising.

3.7 This Policy also makes references to the following:

- NHS Commissioning Board (2012);¹
- The British Medical Association Guidance on Conflicts of Interests for GPs in their role as Commissioners and Providers;²
- The Royal College of General Practitioners;³
- The General Medical Council;⁴
- The Public Contract Regulations 2015;⁵
- The National Health Service (Procurement, Patient Choice and Competition) (no. 2) (Regulations 2013);⁶
- The Good Governance Standards for Public Services 2004;⁷
- The Seven Key Principles of the NHS Constitution
- Association of British Pharmaceutical Industry (ABPI) Code of Practice for Pharmaceutical Industry 2016;⁸
- National Audit Office (NAO) Report 2015;⁹
- Equality Act 2010;
- The Bribery Act 2010 and
- Managing Conflicts of Interest: Revised Statutory Guidance for CCGs (June 2016)¹⁰.

3.8 In addition to the above relevant references, this Policy should be read in conjunction with the CCG's Constitution; the Standing Financial Instructions; the Standing Orders; Standards of Business Conduct Policy and Whistleblowing Policy.

4.0 POLICY STATEMENT

4.1 This Policy supports THCCG's culture of openness and transparency in business transactions. All employees and appointees to the CCG are required to:

- ensure that the interests of patients remain paramount at all times;
- be impartial and honest in the conduct of their official business;
- use public funds entrusted to them to the best advantage of the service and service users, always ensuring value for money;
- ensure that they do not abuse their official position for personal gain or to the benefit

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

² The British Medical Association Guidance on Conflicts of Interests for GPs in their role as Commissioners and Providers - <https://www.bma.org.uk/support-at-work/commissioning/ensuring-transparency-and-probity>

³ Managing conflicts of interest in clinical commissioning groups: http://www.rcgp.org.uk/~media/Files/CIRC/Managing_conflicts_of_interest.ashx

⁴ GMC | Good medical practice (2013) http://www.gmc-uk.org/guidance/good_medical_practice.asp and http://www.gmc-uk.org/guidance/ethical_guidance/21161.asp and http://www.gmcuk.org/guidance/ethical_guidance/21161.asp

⁵ The Public Contract Regulations 2015 <http://www.legislation.gov.uk/ukxi/2015/102/regulation/57/made>

⁶ The NHS (Procurement, Patient Choice and Competition) (No.2) Regulations 2013 <http://www.legislation.gov.uk/ukxi/2013/500/contents/made>

⁷ The Good Governance Standards for Public Services 2004 <http://www.opm.co.uk/wp-content/uploads/2014/01/Good-Governance-Standard-for-Public-Services.pdf>.

⁸ Association of British Pharmaceutical Industry (ABPI) - Code of Practice (2016) - <http://www.pmcpa.org.uk/thecode/Documents/Code%20of%20Practice%202016%20.pdf>.

⁹ National Audit Officer (2015) *Managing conflicts of interest in NHS clinical commissioning groups* <https://www.nao.org.uk/report/managing-conflicts-of-interest-in-nhs-clinical-commissioning-groups/>

¹⁰ Managing Conflicts of Interest: Revised Statutory Guidance for CCGs (June 2016) - <https://www.england.nhs.uk/commissioning/wp-content/uploads/sites/12/2016/06/revsd-coi-guidance-june16.pdf>

of their family or friends; and

- Ensure that they do not seek to advantage or further, private or other interests, in the course of their official duties.

4.2 It is THCCG's policy to ensure that it takes all reasonable steps in ensuring that all employees, committee members, contractors and others engaged under contract with the CCG are aware of the requirement to inform the CCG if they are employed or engaged in, or wish to be employed or engaged in, any employment, consultancy work in addition to their work with the CCG. The purpose of this is to ensure that THCCG is aware of any potential of conflict of interest arising or that may arise with the business of the CCG, including part-time, temporary and fixed term contract of work. Examples of work they include:

- Employment with another NHS Body;
- Employment with another organisation which might be in a position to supply goods and services to THCCG;
- Directorship of a GP federation; and
- Self-employment, including private practice, in a capacity which might conflict with the work of THCCG or which might be in a position to supply goods/services to the CCG.

5.0 ROLES & RESPONSIBILITIES

5.1 It is the responsibility of all THCCG's employees, Governing Body Members, Practice Members involved in the business of the CCG from a commissioning, planning and contracting perspective, contractors, those on honorary contracts and interim consultants to familiarise themselves with this policy.

5.2 Line Managers must ensure that employees are aware of the policy and processes that are to be followed when declaring interests. Line managers must consider any declarations of interest made by their employees and put in place mitigating arrangements in accordance with the instructions of the Accountable Officer/Chief Officer where appropriate. Where this is not clear, they should consult the Deputy Director of Corporate Affairs, the Chief Officer or the CCG's Governance Team;

5.3 Declare any relevant interests or complete nil returns on their appointment with THCCG. Thereafter, nil returns must be completed on a bi-annually basis and interests must be registered as soon as the individual becomes aware of it, and by law within 28 days;

5.4 Prior to and at each of the Governing Body meeting members are asked to advise the Chair or the Deputy Director of Corporate Affairs of any changes to the Conflicts of Interest Register, and formally provide an update on their interests every financial quarter to ensure that the Register of Interests is kept up-to-date;

5.5 Ensure that all THCCG's employees, Governing Body Members, Practice Members involved in the business of the CCG from a commissioning, planning and contracting perspective, contractors, those on honorary contracts and interim consultants do not place themselves in a position where private interests and NHS duties might conflict;

5.6 Avoid undertaking duties, remunerated or otherwise, outside of his/ her employment with THCCG if there is any actual or potential conflict with, or prejudice of, the standards set out in this document;

- 5.7 Refuse to accept any casual gifts, sponsorship or inducement or offers of hospitality or entertainment by declining politely in line with THCCG's Gifts, Hospitality and Sponsorship Policy;
- 5.8 Be aware and comply with the provisions of the Bribery Act 2010. Further information regarding the Bribery Act 2010 can be found in THCCG's Standards of Business Conduct Policy which incorporates the key principles of the Bribery Act 2010 and the anti-fraud initiatives.

5.9 ROLES & RESPONSIBILITIES TABLE

Role	Responsibilities
CCG Governing Body	Be aware of all situations where an individual has interests outside of his / her Contract of Employment or other involvement with the CCG, where that interest has potential to result in a conflict of interest between the individual's private interests and their CCG duties.
Chief Officer	Ensure that for every interest declared, either in writing or oral declaration, arrangements are in place to manage the conflict of interest or potential conflict of interests, to preserve the integrity of the CCG's decision making process.
Deputy Director of Corporate Affairs	Overall responsibility for ensuring that conflicts of interests are logged comprehensively and managed properly to ensure the legality of commissioning decisions and the integrity of the clinicians involved remains undiminished.
All Managers	Ensure members of staff are aware of the policy and process to be followed.
Director of Integrated Commissioning	The Director of Commissioning has responsibility to ensure that during all commissioning cycles; service re-design and drafting of commissioning intentions, conflicts of interest is managed in order to ensure that THCCG is meeting the statutory guidance provided by NHS England.
Director of Contracting/Assistant Director of Contracting	The relevant Commissioning, contracts and Procurement leads within the CCG and NEL CSU must ensure that bidders, contractors and direct service providers adhere to this policy.

<p>All staff employed by the CCG and those serving in a formal capacity</p>	<p>Ensure that they declare a potential conflict between their private interests and their CCG duties.</p> <p>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 or material interest, either direct or indirect.</p> <p>Familiarise themselves with this policy and comply with the provisions set out in it.</p>
<p>Contractors and people who provide services to the CCG</p>	<p>For contractors and people who provide services to the TH CCG seeking information regarding a procurement, or participating in a procurement, or otherwise engaging with the CCG in relation to the potential services or facilities to the CCG then they will be required to make a declaration of any relevant conflict or potential conflict of interest. Requirements will be set out in the information supporting the procurement.</p>

5.10 The Role and Responsibility of Lay Members and the Chair of the Audit Committee

▪ The role of Lay Members

5.11 THCCG acknowledges that lay members play critical roles within the CCG by providing scrutiny, challenge and an independent voice which support the robustness and transparency of decision-making within the CCG.

5.12 THCCG has appointed three lay members to sit at its Governing Body meeting and also, to chair a number of Committees, including the Audit and Primary Care Commissioning Committee. One of these lay members, who leads of Corporate Affairs is also the Vice-Chair of the Governing Body. This lay member chairs the Governing Body meetings in the absence of the Chair but most importantly, when the Chair has direct or perceived conflicts of interest to items on the agenda for the Governing Body meetings.

▪ The role of the Chair of the Audit Committee

5.13 The Chair of the Audit Committee has a lead role in ensuring that the Governing Body and the wider CCG behaves with the utmost probity and transparency at all times. The Chair of Audit Committee oversees key elements of governance including the appropriate management of conflicts of interest.

5.14 Under the revised NHSE guidance, to further strengthen scrutiny and transparency of CCGs' decision-making, the chair of the Audit Committee should also be the Conflicts of Interest Guardian. THCCG's Chair of the Audit Committee will be supported by the Corporate Governance Manager who holds the responsibility for the day-to-day management of conflicts of interest matters and queries within the CCG. It is the responsibility of the Corporate Governance Manager to ensure that the Conflicts of Interest Guardian is fully briefed on conflicts of interest matters.

5.15 The Chair of the Audit Committee acting as the Conflicts of Interest Guardian should in collaboration with the Corporate Governance Manager:

- Act as a conduit for GP practice staff, members of the public and other healthcare professionals who may have concerns with regards to conflicts of interest;
- Be a safe point of contact for employees or workers of the CCG to raise any concerns in relation to the implementation of this policy;
- Support the rigorous application of conflicts of interest principles and policies;
- Provide independent advice and judgment where there is any doubt about how to apply conflicts of interest policies and principles in an individual situation;
- Provide advice on how to minimising the risks of conflicts of interest

5.16 It is worth noting that whilst the role of the Conflicts of Interest Guardian is an important role supporting the management of conflicts of interest, it is also Executive members of the Governing Body who have a responsibility for ensuring there is robust systems of internal control for managing conflicts of interest which also includes staff training.

- **The role of the Chair of the Primary Care Commissioning Committee**

5.17 The Primary Care Commissioning Committee must have a lay chair and a lay vice chair. According to NHS England's statutory guidance the Chair of the Audit Committee as Conflicts of Interest Guardian should not hold the position as Chair of the Primary Care Commissioning Committee. The Audit Chair would conceivably be conflicted in this role due to the requirement that he/she will have to attest annually to NHS England Board that THCCG has; firstly, due regard to the statutory guidance on managing conflicts of interests; and secondly, it has implemented and maintained sufficient safeguards for the commissioning of primary care.

5.18 The statutory guidance states that the Chair of the Audit Committee can sit on the Primary Care Commissioning Committee provided that adequate safeguards are put in place to avoid compromising his or her role as the Conflicts of Interest Guardian. It is also recommended that the Audit Chair should not sit as vice chair of Primary Care Commissioning Committee for the same reasons mentioned above.

- **Primary Care Commissioning Committee decision-making process**

5.19 The Primary Care Commissioning Committee is a decision-making Committee, which has been established to exercise the discharge of the primary care medical services functions of THCCG. The quorum of this Committee should include majority of lay and executive members in attendance with eligibility to vote. In the interest of minimising the risks of conflicts of interest arising, GPs do not have voting rights on this Committee. However, arrangements should not preclude GP participation in strategic discussions in primary care issues, subject that there are appropriate management of conflicts of interest and these measures apply to decision-making on procurement matters and the deliberations leading up to the decision-making.

5.20 In order to manage conflicts of interest, THCCG can establish sub-committees or sub-groups of the Primary Care Commissioning Committee to develop business cases and undertake options appraisals. However, the decision-making responsibility should rest with the Primary Care Commissioning Committee. It is important that the THCCG carefully considers the membership of such sub-committees or groups. A lay member should be appointed as chair of such sub-committee or group and in order to provide transparency of the discussions at such meetings, the minutes should be submitted to the Primary Care Commissioning Committee which details any conflicts of interest that may have arisen and how these were managed. The responsibility sits with the Primary Care Commissioning Committee members

(lay and executive) to satisfy themselves and seek the right level assurance that conflicts of interests have been managed appropriately at its sub-committees or groups.

- **The role of General Practitioners (GPs)**

5.21 Following guidance from The General Medical Council (GMC), THCCG will ensure that any GP member with a responsibility for or involved in commissioning of services must:

- Satisfy themselves that all decisions made are open, fair and transparent and comply with legislation;
- Keep up to date and follow the guidance and codes of practice that govern the commissioning of services;
- Formally declare any interest that they, or someone close to them, including business partner or their employer has in a provider company within the public or private sector; and
- Take positive steps to manage any conflict between their duties as a GP and their commissioning responsibilities as member of THCCG's Governing Body, for example, by excluding themselves from the decision making process and any subsequent monitoring arrangements.

6.0 Definition of an interest

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

6.2 Conflicts can arise in many situations, environment and forms of commissioning, with an increased risk in primary care commissioning, out-of-hour commissioning and involvement with integrated care organisations, as clinical commissioners may here find themselves in a position of being at once commissioner and provider of services. Conflicts of interest can arise throughout the whole commissioning cycle from needs assessment, to procurement exercises, to contract monitoring.

6.3 Interests can be captured in **four different categories**:

- I. **Financial Interests:** This is situations where an individual may get direct financial benefits from the consequences of a commissioning decision. This could, for example, include 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 and 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; 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).

II. **Non-financial professional interests:** This is where an individual may obtain a non-financial professional benefit from the consequences of a commissioning decision, such as increasing their professional reputation or status or promoting their professional career. This may, for example, include situations where the individual is:

- An advocate for a particular group of patients;
- A GP with special interests e.g., in dermatology, acupuncture etc.
- A member of a particular specialist professional body (although routine GP membership of the RCGP, British Medical Association (BMA) or a medical defence organisation would not usually by itself amount to an interest which needed to be declared);
- An advisor for the Care Quality Commission (CQC) or the National Institute for Health and Care Excellence (NICE);
- A medical researcher.

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.

III. **Non-financial personal interests:** This is where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit. This could include, for example, where the individual is:

- A voluntary sector champion for a provider;
- A volunteer for a provider;
- A member of a voluntary sector board or has any other position of authority in or connection with a voluntary sector organisation;
- Suffering from a particular condition requiring individually funded treatment;
- A member of a lobby or pressure group with an interest in health.

IV. **Indirect interests:** This is where an individual has a close association with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest in a commissioning decision (as those categories are described above) for example, a:

- Spouse / partner;
- Close relative e.g., parent, grandparent, child, grandchild or sibling;
- Close friend; and
- Business partner.

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 (which could be done by cross referring to the separate declarations made by those GP partners, rather than by repeating the same information verbatim)

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.¹¹

6.4 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; and
- For a conflict to exist, financial gain is not necessary.

6.5 Privileged Information

6.5.1 An individual must not use confidential information acquired in the pursuit of their role within THCCG to benefit them or another connected personal.

¹¹ NHS England, Managing Conflicts of Interest: Revised Statutory Guidance, Page 10-12 <https://www.england.nhs.uk/commissioning/wp-content/uploads/sites/12/2016/06/revsd-coi-guidance-june16.pdf> June 2016

6.5.2 Members of THCCG, employees and the Governing Body should take care not to provide any third party with a possible advantage by sharing privileged, personal or commercial information, or by providing information that may be commercially useful in advance of that information being made available publicly (such as informing a potential supplier of an up procurement in advance of other potential bidders), or any other information that is not otherwise available and in the public domain.

6.6 Identification and Management of Conflicts of Interest

6.6.1 Interests may be pecuniary or non-pecuniary and those which should be regarded as 'relevant and material' are defined as:

- Role and Responsibilities held within member practices;
- Directorships, including non-executive directorships held in private companies or public limited companies (with the exception of those of dormant companies);
- Ownership or part ownership of companies, businesses or consultancies which may seek to do business with THCCG;
- Significant share holdings in organisations which may seek to do business with THCCG;
- Membership of or a position of trust in a charity or voluntary organisation in the field of health and social care;
- Receipt of research funding / grants from THCCG;
- Interests in pooled funds that are under separate management (any relevant company included in this fund that has a potential relationship with the CCG must be declared);
- Formal interest with a position of influence in a political party or organisation;
- Current contracts with THCCG in which the individual has a beneficial interest;
- Any other employment, business involvement or relationship or those of a spouse or partner that conflicts, or may potentially conflict with the interests of THCCG. Further relationships may also be of relevance, for example if a sibling, parent, child or relative has an interest in a potential provider of services;
- Any individual covered by this policy who comes to know that THCCG has entered into or proposes to enter into a contract in which he /she or any person connected with him has any pecuniary interest, direct or indirect, the Governing Body member or Executive member shall declare his / her interest by giving notice in writing of such fact to the either the Chair or Accountable Officer of THCCG.

- Positions of authority in an organisation (e.g. charity or voluntary organisation) in the field of health and social care;
- Any interest that they are (if registered with the GMC) required to declare, in accordance with paragraph 55 of the GMC's publication Management for Doctors or any successor guide; and
- Any interest that they (if they are registered with the Nursing and Midwifery Council), would be required to declare in accordance with paragraph 7 of the NMC's publication Code of Professional Conduct or any successor code.

6.6.2 It is not possible to define all instances in which an interest may be a real or perceived conflict. However, if an individual is unsure as to whether an interest should be declared then advice should be sought from the Corporate Governance Manager in the first instance and the Conflicts of Interest Guardian (Chair of the Audit Committee) who would provide an independent view if required as per the revised statutory guidance.

7.0 SECONDARY EMPLOYMENT

7.1 All THCCG members, employees, Governing Body members and members of THCCG committees and sub committees must ensure that Secondary Employment is declared to prevent a conflict from arising.

7.2 Additional work or employment is considered as 'secondary' even where THCCG may not be considered by you as your main or 'primary' employment or work. You are not precluded from having secondary employment however the CCG must be informed of such employment.

Secondary employment is defined as:

- Paid employment or work outside of THCCG;
- Voluntary employment or work outside of THCCG;
- Self-employment / Private Work;
- Reservist occupations; and
- Bank/locum/agency work outside of THCCG

NHS THCCG is aware that they will be a secondary employer for most General Practitioners within its membership.

7.3 Permission to engage in secondary employment should be sought by your line manager or clinical supervisor and will normally be granted if working hours for the Secondary Employment are conducted entirely outside of your THCCG contracted hours of work or service.

7.4 Secondary employment should not be undertaken whilst on sick leave from

THCCG unless prior permission has been obtained in writing from your line manager following advice from Occupational Health. Failure to obtain prior permission may be lead to disciplinary action.

7.5 Appointing Governing Body or Committee members and senior employees

7.5.1 On appointing governing body, committee or sub-committee members and senior staff, THCCG will need to consider whether conflicts of interest should exclude individuals from being appointed to the relevant role. This will need to be considered on a case by case basis and in line with the CCG's Constitution.

7.5.2 THCCG will carry out an assessment of 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 body, committee and sub-committee appointments, but should also be considered for all employees and especially those operating at senior level.

7.5.3 THCCG will also need to 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.

7.5.4 Any individual who has a material interest in an organisation which provides, or is likely to provide, substantial services to a CCG (whether as a provider of healthcare or commissioning support services, or otherwise) should recognise the inherent conflict of interest risk that may arise and should not be a member of the governing body or of a committee or sub-committee of the CCG, in particular if the nature and extent of their interest and the nature of their proposed role is such that they are likely to need to exclude themselves from decision-making on so regular a basis that it significantly limits their ability to effectively perform that role.

7.5.5 THCCG has reviewed its Standards of Business Conduct Policy and it is the responsibility for all staff and individuals working for or behalf of the CCG to ensure that they adhere to the principles listed within.

8.0 MANAGING AND DECLARING INTERESTS

8.1 Managing Conflicts of Interests during Meetings

8.1.1 Where an individual, employee or person providing services to THCCG attending a meeting is aware of an interest which has not been declared, he or she should declare this immediately at the start of the meeting.

8.1.2 Where an individual, employee or person providing services to THCCG is attending a meeting is aware of an interest that has previously been declared in relation to the scheduled or likely business of the meeting, the individual will bring this to the attention of the Chair of the meeting, together with details of arrangements which have been confirmed for the management of the conflict of interest or potential conflict of interest.

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- 8.1.3 The Chair of the meeting will determine how the conflict should be managed, and will inform the individual of the decision. Where no arrangements have been confirmed, the Chair of the meeting may require the individual to withdraw from the meeting or part of it. The individual will then comply with these arrangements, which must be formally recorded in the minutes of the meeting. In this respect, the minutes of the meetings should be prepared in a manner that precludes the member who is conflicted to having access to the minuted discussions.
- 8.1.4 However, where a conflict of interest has been declared when the draft agenda is circulated, then member(s) that are conflicted should not be sent the paper or report and he/she should be asked to leave the meeting by the Chair prior to the item being discussed.
- 8.1.5 Where the Chair of any meeting of any group including committees or sub-committees of the Governing Body has a personal interest, previously declared or otherwise, in relation to the scheduled or likely business of the meeting, he or she must make a declaration and the deputy Chair will act as Chair for the relevant part of the meeting. Where arrangements have been confirmed for the management of the conflicts of interest or potential conflict of interest in relation to the Chair, the meeting must ensure these are followed. Where no arrangements have been confirmed, the Vice Chair may require the Chair to withdraw from the full meeting or part of it. Where there is no Deputy Chair, the members of the meeting will select one.
- 8.1.6 Declarations of interests, and the arrangements agreed to manage them, will be recorded formally in the minutes of the meeting.
- 8.1.7 If more than 50% of the members of a meeting are required to withdraw from a meeting or part of it, owing to the arrangements agreed for the management of conflicts of interests or potential conflicts of interests, the Chair (or Vice Chair) 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 point and THCCG's Constitution.
- 8.1.8 Where the meeting is not quorate, any discussions will be deferred until such time as a quorum can be convened. Where a quorum cannot be convened from the membership of the meeting, owing to the arrangements for managing conflicts of interest or potential conflicts of interests, the Chair of the meeting shall consult with the Chief Officer and or the Deputy Director of Corporate Affairs with regards to further action.
- 8.1.9 In these circumstances THCCG will consider the following options:
- Refer the decision to the Governing Body and exclude all GPs or GP representatives from the decision making process. The decision would then be made by non GP members of the Governing Body with the exception of the Secondary Care Doctor and Registered Nurse of the Governing Body; and
 - Ensure that the rules on forming a quorum which is detailed in the Constitution and Standing Orders are followed to enable decisions to be made.

8.1.10 It is absolutely imperative that if any conflicts of interest are declared or otherwise arise in a meeting, that the Chair of the meeting ensures that this information is recorded in the minutes. These should be captured or recorded in the minutes:

- Who has the interest;
- The nature of the interest and why it gives rise to a conflict including the magnitude of any interest (material or immaterial);
- The items on the agenda to which the interest relates;
- How the conflict has been managed;
- If the person who is conflicted has received any such papers that give rise to such conflict; and

The minutes should provide clear evidence that the conflict was managed as intended.

8.2 Managing conflicts of interest where all / or most of the GPs have an interest

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

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

8.2.3 In cases where all of the GPs or other practice representatives on a decision-making Committee 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 Practitioner (AQP) framework, the CCG:

- May refer the decision 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;
- May refer the decision to the CCG's Primary Care Procurement Committee which does not have GP membership or practice representatives; and
- Shall consider co-opting individuals from a Health and Wellbeing Board or from another CCG onto the Governing Body, or inviting the Health and Wellbeing Board or another CCG to review the proposal, to provide additional scrutiny, although such individuals would only have authority to participate in decision-making if provided for in the CCG's constitution.

8.3 Managing conflicts of interest for GPs that are potential providers of CCG-commissioned services

8.3.1 THCCG may commission primary care services, including incentive schemes, from General Practices. If a practice, or group of practices, provides a service, THCCG will need to demonstrate to the Audit Committee (and to the external and internal

auditors) that the service:

- Clearly meets local health needs, and has been planned appropriately;
- Goes beyond the scope of the General Medical Services (GMS)/Personal Medical Services (PMS) contract;
- Offers best value for money; and
- Has been commissioned via the appropriate procurement process as set out in the CCG's Procurement Policy.

8.3.2 A General Practice or group of practices may belong to a provider consortium in which GPs have a financial interest.

8.3.3 Where General Practices including provider consortia or organisations in which GPs have a financial interest are potential providers of CCG- commissioned services, THCCG's Governing Body will seek to assure itself of the factors set out in and to use the NHS Commissioning Board's (NHS England) Code of Conduct for managing conflicts of interest and the procurement should be approved by the Audit Committee.

8.4 Managing Conflicts of Interest during Procurement

8.4.1 THCCG 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 decisions that have been made. The CCG will ensure that they recognise and manage any conflicts or potential conflicts of interest that may arise in relation to Procurement.

8.4.2 Anyone participating in the procurement, or otherwise engaging with THCCG, in relation to the provision of services or facilities, will be required to make a declaration of interest which will include nil returns. This includes those who will take part in any tender evaluation or decision making with regards to the award of a contract. Where these functions are undertaken by NELCSU, declarations from CSU employees involved in the process should also be obtained and made available to THCCG's Finance, Performance and Quality Committee (FPQC).

8.4.3 The Procurement, Patient Choice and Competition Regulations 2013, 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 rights of patients to make choices about their healthcare.

8.4.4 The Regulations set out that commissioners must:

- Manage conflicts or potential conflicts of interest 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.

8.4.5 Potential conflicts will vary to some degree depending on the way in which a service is being commissioned, for example:

- **Competitive Tender** - Where THCCG is commissioning a service through Competitive Tender (i.e., seeking to identify the best provider or set of providers for a service) a conflict of interest may arise where GP practices or other providers in which CCG members have an interest are amongst those bidding.
- **Any Qualified Provider** - Where THCCG is commissioning a service through a AQP contract, a conflict could arise where one or more GP practices (or other providers in which CCG members have an interest) are amongst the qualified providers from whom patients can choose.
- **Single tender** - Where THCCG is procuring services from a GP practice where there are no other capable providers, i.e. this is the appropriate procurement route and the proposed service goes beyond the scope of the services provided by GP practices under their GP contract.

8.4.6 THCCG will ensure that details of all contracts, including the contract value, are published on its website as soon as contracts are agreed. Where THCCG decides to commission services through Any Qualified Provider (AQP), it should publish on their website the type of services it is commissioning and the agreed price for each service. Further, THCCG will ensure that such details are also set out in its Annual Report.

Further information can be obtained from THCCG's Procurement Strategy/Policy.

8.5 Declarations on changing role / responsibility, or any other change of circumstances

8.5.1 When an individual changes role or responsibility within THCCG, or its Governing Body, such changes to the individual's interests should be declared immediately.

8.5.2 Whenever an individual's circumstances change in a way that affects THCCG or sets up a new business or relationship, a further declaration would have to be made to reflect the change in circumstances. This could involve a conflict of interest ceasing to exist or a new one materialising.

9.0 REGISTER OF INTERESTS

9.1 THCCG is required by law to maintain one or more Register of Interests: of members of the CCG, members of the Governing Body, members of its Committees or Sub-Committees of its Governing Body, and its employees. THCCG is also required to publish and make arrangements to ensure that members of the public have access to, these registers on requests.

9.2 THCCG will maintain a register of interest which will be updated and published on every two months prior to Governing Body meetings along with all the papers. This information is made available to the public on the CCG's website along with other Governing Body Papers and Reports.

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- 9.3 The Register of Interests will be maintained and regularly updated by THCCG's Corporate Governance Manager or the Deputy Director of Corporate Affairs. THCCG will record all nil returns on the Register of Interests.
- 9.4 THCCG Register of Interests, Register of Gifts, Hospitality and Sponsorship and Register of Procurement decisions will be made available and published onto the CCG's website every financial quarter. This will fall under the responsibility of the Corporate Governance Manager.
- 9.5 When conflicts are entered onto the register sufficient information about the nature of the interest and the details of those holding the interest will be recorded, as will details of deliberations and subsequent decisions about how to manage these conflicts. THCCG will ensure that, when members declare interests, this includes the interests of all relevant individuals within their own organisations (e.g. partners in a GP Practice), who have a relationship with the CCG and who would potentially be in a position to benefit from decisions made by THCCG. This Register will also be updated where members have notified the CCG that they have given up any registered interest or where their registered interests have ceased to exist.
- 9.6 THCCG will adopt the revised forms and Register Templates provided by NHSE and appendix to this Policy.
- 9.7 THCCG will ensure that declarations of interest are made and regularly confirmed or updated. This includes the following:
- On appointment or when elected: applicants for any appointment to THCCG or its Governing Body should be asked to declare any relevant interests as part of the election/recruitment process. When an appointment is made, a formal declaration of interests should be made and recorded;
 - Quarterly: All staff including Governing Body Members should check and update/confirm their interests quarterly to ensure that declarations of interests are accurate and up to date;
 - Bi-annually: All staff including Governing Body members are required to sign a bi-annual declaration of interest form which confirms that their declared interests have not changed.
 - On changing role or responsibility: Where an individual changes role or responsibility within THCCG or its Governing Body, any change to this individual's interests;
 - On any other change of circumstances: wherever an individual's circumstances change in a way that affects the individual's interests (e.g. where an individual takes on a new role outside of THCCG or sets up a new business or relationship), a further declaration should be made to reflect the change in circumstances. This could involve a conflict of interest ceasing to exist or a new one materialising. A declaration form will need be completed as soon as is reasonably possible for the individual and within 28 days in any event of a change of circumstance.
- 9.8 In keeping with regulations, individuals who have a conflict should declare these as soon as they become aware of any actual or potential conflict. A declaration form must be completed as soon as possible and within 28 days in any event of a change of

circumstance.

9.9 The declaration of interest form (**Appendix 2**) should be completed and sent to the Corporate Governance Manager including a signature.

9.10 Where an individual is unable to provide a declaration in writing, e.g. if a conflict becomes apparent in the course of a meeting, they will make an oral declaration before witnesses, which will be recorded in the minutes of the meeting, and complete a written declaration form as soon as possible thereafter and no later than 28 days. If the individual, for any reason, has difficulty making a declaration in writing then they should contact the Corporate Governance Manager for further guidance.

9.11 If an individual fails to declare an interest or the full details of an interest, this may result in disciplinary action being undertaken. Please see THCCG's Disciplinary Policy for more information.

9.12 Data protection

9.12.1 The information in the Declaration of Interest Register 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 conflicted person act in the best interests of THCCG, the public and patients that THCCG 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 consent to the data being processed for the purposes set out in this policy.

9.12.2 It is important to note that the Register of Interest is a public document and it is also available for inspection if required.

10.0 MANAGING CONFLICTS OF INTEREST THROUGHOUT COMMISSIONING CYCLE & DESIGNING OF SERVICES

10.1 THCCG is committed to ensure that conflicts of interest is managed appropriately throughout the whole commissioning cycle and in the designing of services. It is THCCG policy that, at the outset of a commissioning process, the relevant interests of all individuals involved are identified, assessed and that clear arrangements have been put in place to manage conflicts of interest. This includes considerations as to which stages of the process a conflicted individual should not participate in and as to whether this individual should be involved in the process at all given the nature of their disclosed interest.

▪ Designing Services

10.2 THCCG recognises the benefits to be gained from engagement with relevant providers, especially clinicians, in confirming the design of service specifications. However, the CCG also recognises that 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 for in a competitive process.

10.3 The same difficulty could arise in developing a specification for a service that is to be commissioned using the 'Any Qualified Provider' process. For example, where there is not a competitive procurement, patients can instead choose from any qualified provider that wishes to provide the service and can meet NHS standards and prices.

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- 10.4 THCCG will seek, as far as possible, to specify the outcomes that they wish to see delivered through a new service, rather than the way in which these outcomes are to be achieved. As well as supporting innovation, this helps prevent bias towards particular providers in the specification of services.
- 10.5 THCCG will seek to follow the principles set out in the Department of Business Innovation and Skills- Commerce section guidance on pre- procurement engagement with potential bidders, in engaging with potential providers when designing service specifications.
- **Engagement with Providers (NHS & Private), including Third Sector**
- 10.6 THCCG is fully aware and is in agreement that when designing services, it is good practice to engage with providers of health and social care, particularly, clinicians, in confirming that the redesigning or designing of service specifications will meet patient needs and improve health outcomes. This engagement may include providers from the acute, primary, community and mental health sector, and may also include NHS, third sector and private sector providers.
- 10.7 It is THCCG policy that such engaged is carried out in a transparent, fair and proportionate manner. This engagement should follow the three main principles of procurement law, namely, equal treatment, non-discrimination and transparency so that any actual or potential or perceived conflicts of interest are managed in open and robust manner to avoid any future challenges to the fairness of the procurement process.
- 10.8 THCCG will consider the following points when engaging with potential service providers:
- Use engagement to help shape the requirement but take care not to gear the requirement in favour of any particular provider(s);
 - Ensure at all stages that potential providers are aware of how the service will be commissioned, e.g. through competitive procurement or through the ‘Any qualified provider’ process;
 - Work with participants on an equal basis, e.g. ensure openness of access to employees and information;
 - Be transparent about procedures; and
 - Maintain commercial confidentiality of information received from providers.
- 10.9 THCCG shall use engagement with potential providers to:
- Frame the requirement;
 - Focus on desired outcomes rather than specific solutions; and
 - Consider a range of options for how a service is specified.
- 10.10 Other practical steps THCCG may also consider using shall include:
- Advertising the fact that a service design/re-design exercise is taking place widely (e.g. on NHS Supply2Health) and inviting comments from any potential providers and other interested parties (ensuring a record is kept of all interactions) – i.e. do not be selective in who works on the service specifications unless it is clear conflicts will not occur.
 - As the service design develops, engaging with a wide range of providers on an ongoing basis to seek comments on the proposed design, e.g. via the CCG’s website or workshops with interested parties.

- If appropriate, engaging the advice of an independent clinical adviser on the design of the service.
- When specifying the service, specifying desired (clinical and other) outcomes instead of specific inputs.

10.11 Where an individual has declared a relevant and material interest or position in the context of the specification for, or award of, a contract the individual concerned will be expected to act in accordance with the arrangements for the management of conflicts of interest outlined in this policy and may be excluded from the decision making process in relation to the relevant specification or award.

- **Procurement and awarding grants**

10.12 THCCG recognises that conflicts of interest may arise in relation to the procurement of any services or the administration of grants. THCCG is required to comply with two different regimes of procurement law and regulation when commissioning healthcare services, that is, the NHS Procurement Regime and the European procurement regulations:

- The NHS Procurement regime- The NHS Procurement, Patient Choice and Competition (No.2) Regulations 2013, made under section 75 of the 2012 Act which apply only to NHS England and CCGs, and enforced by NHS Improvement; and
- The European Procurement regime- Public Contracts Regulations 2015 (PCR 2015) which incorporates the European Public Contracts Directive into national law; apply to all public contracts over the threshold value (currently, £589, 148), which is enforced through the courts. The general principles arising under the Treaty on the Functioning of the European Union of equal treatment, transparency and mutual recognition, non-discrimination and proportionality may apply even to public contracts for healthcare services falling below the threshold value if there is likely to be interest from providers in other member states.

10.13 This an area in which conflicts of interest could arise particularly, where THCCG commissions (or continues to commission by contract extension) healthcare services, including GP services, in which a member of THCCG has a financial or other interest. This may most often arise in the context of co-commissioning of primary care, particularly, with regard to delegated commissioning, where GPs are current or possible providers.

10.14 THCCG is required to provide evidence of its management of conflicts during procurement to be made publicly available, and the relevant information from the procurement should be used to populate a procurement decision register.

11.0 REGISTER OF PROCUREMENT DECISIONS

11.1 THCCG recognises that particular care must be exercised when procuring services including the commissioning of services from GP practices. For that reason, this policy incorporates the Procurement Template developed by NHS England which must be completed in each case where GP practices falling within THCCG's membership, consortia, federations or organisations in which GPs have a financial interest are, or may be a tenderer (**Refer to Appendix 3**).

- 11.2 THCCG is prohibited by law from awarding any contract where the integrity of the procurement process or the award has been, or appears to have been, affected by a conflict of interest.
- 11.3 THCCG's register of procurement decisions should include:
- Details of any decisions made;
 - Who was involved in the decision making process (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.
- 11.4 The Register will be updated whenever a procurement decision is made.
- 11.5 The register will form part of THCCG's Annual Accounts and will thus be reviewed by external auditors.
- **Declaration of Interests by Bidders or Contractors**
- 11.6 It is THCCG policy that as part of the procurement process, it is good practice to ask bidders to declare any conflicts of interest. This will allow THCCG to ensure that it complies with the principle of equal treatment and transparency. When a bidder declares a conflict, THCCG will decide how best to manage the declaration in order to ensure that no bidder is treated differently to any other.
- 11.7 NHSE guidance provides that it will not be appropriate to declare such a conflict on the register of procurement decisions, as it may compromise the anonymity of bidders during the procurement process. It is THCCG's policy that it will retain an internal audit trail of how conflict or perceived conflict was managed to allow the CCG to provide information at a later date in any potential dispute or challenge arising.
- 11.8 It is important to note that CCGs or commissioners, including THCCG are required under Regulation 84 of the Public Contract Regulations 2015 to make and retain records of contract award decisions and key decisions that are made during the procurement process. There is no requirement to publish this information. These records must be retained for a period of at least three years from the date of awarding the contract. A template is attached in **Appendix 4**.
- **Contract Monitoring**
- 11.9 THCCG acknowledges that the management of conflicts of interest applies to all aspects of the commissioning cycle, including contract management. Any contract monitoring meeting that takes place within the CCG or with NEL CSU should consider conflicts of interest as part of the process. The chair of such meeting should invite attendees to declare their interests and these should be minuted and managed accordingly. This equally applies to contracts jointly held with LBTH Local Authority or with other neighbouring CCG under joint commissioning arrangements or for primary care services.
- 11.10 Individuals involved in contract monitoring or performance management should not have any direct or indirect financial, professional or personal interest in the incumbent provider or any other provider that could prevent them, or be perceived to prevent them, from carrying out their role in an impartial, fair and transparent manner. In addition, THCCG should be mindful of any potential conflicts of interest arising when it disseminates any contract or performance information or reports on any of its providers, and it manages the risks appropriately.

12.0 RAISING CONCERNS & BREACHES

- 12.1 It is the duty of every THCCG employee, governing body member, committee or sub-committee member and GP practice member to speak up about genuine concerns in relation to the administration of the CCG's policy on conflicts of interest management, and to report these concerns. These individuals should not ignore their suspicions or investigate themselves, but rather speak to THCCG Corporate Governance Manager or to the Conflicts of Interest Guardian point of contact for these matters.
- 12.2 Any non-compliance with THCCG's conflicts of interest policy should be reported in accordance with the terms of this policy, and the CCG's whistleblowing policy (where the breach is being reported by an employee or worker of THCCG) or with the whistleblowing policy of the relevant employer organisation (where the breach is being reported by an employee or worker of another organisation).
- 12.3 Effective management of conflicts of interest requires an environment and culture where individuals feel supported and confident in declaring relevant information, including notifying any actual or suspected breaches of the rules. THCCG's Corporate Governance Manager or the Conflicts of Interest Guardian should be able to provide advice, support, and guidance on how conflicts of interest should be managed, should ensure that organisational policies are clear about the support available for individuals who wish to come forward to notify an actual or suspected breach of the rules, and of the sanctions and consequences for any failure to declare an interest or to notify an actual or suspected breach at the earliest possible opportunity.
- 12.4 Anonymised details of breaches should be published on THCCG's website for the purpose of learning and development.
- 12.5 Failure to comply with the CCG's policies on conflicts of interest management, pursuant to this statutory guidance, can have serious implications for the CCG and any individuals concerned. The CCG's Accountable Officer will ensure that individuals who fail to disclose any relevant interests or who otherwise breach the CCG's rules and policies relating to the management of conflicts of interest are subject to investigation and, where appropriate, to disciplinary action or to refer to the relevant regulatory body by the Accountable Officer.

It is the duty of every CCG employee, governing body member, committee or sub-committee member and GP practice member to speak up about genuine concerns in relation to the administration of the CCG's policy on conflicts of interest management, and to report these concerns. These individuals should not ignore their suspicions or investigate themselves, but rather speak to the Conflicts of Interest Guardian or the CCG Corporate Governance manager /Deputy Director of Corporate Affairs in the first instance. In the event that there is a concern regarding the Conflicts of Interest Guardian, this should be raised with the Governing Body Chair and Accountable Officer in the first instance.

The CCG Corporate Governance Manager will maintain a Register of Breaches which sets out:

- How it has been investigated;
- The governance arrangements and reporting mechanisms;
- How this policy links to whistleblowing and HR policies;
- Who to notify at NHS England and when to do so;

All breaches will be reported to the CCG's Audit Committee, and will be reported to the Governing Body through a Standing Item in the Audit Committee Overview Report. Anonymised details of breaches will be published on the CCG's website for the purpose of learning and development.

Statutorily regulated healthcare professionals who work for, or are engaged by, CCGs are under professional duties imposed by their relevant regulator to act appropriately with regard to conflicts of interest. The CCG will report statutorily regulated healthcare professionals to their regulator if they believe that they have acted improperly, so that these concerns can be investigated. Statutorily regulated healthcare professionals should be made aware that the consequences for inappropriate action could include fitness to practise proceedings being brought against them, and that they could, if appropriate, be struck off by their professional regulator as a result.

- 12.6 THCCG will ensure that employees, governing body members, committee or sub-committee members and GP practice members are aware of how they can report suspected or known breaches of the CCG's conflicts of interest policies, including ensuring that all such individuals are made aware that they should generally contact the CCG's designated Conflicts of Interest Guardian or the Corporate Governance Manager in the first instance to raise any concern. They should also be advised of the arrangements in place to ensure that they are able to contact the Conflicts of Interest Guardian on a strictly confidential basis.
- 12.7 It is THCCG policy that anyone who wishes to report a suspected or known breach of the policy, who is not an employee or worker of the CCG, should also ensure that they comply with their own organisation's whistleblowing policy, since most such policies should provide protection against detriment or dismissal.
- 12.8 THCCG's Conflicts of Interest Guardian is in a position to cross refer to and comply with other policies within the CCG on raising concerns, counter fraud, or similar as and when appropriate.
- 12.9 All such notifications should be treated with appropriate confidentiality at all times in accordance with THCCG's policies, (Whistleblowing) and applicable laws, and the person making such disclosures should expect an appropriate explanation of any decisions taken as a result of any investigation.
- 12.10 Furthermore, providers, patients and other third parties can make a complaint to NHS Improvement in relation to THCCG's conduct under the Procurement Patient Choice and Competition Regulations. The regulations are designed as an accessible and effective alternative to challenging decisions in the courts.

13.0 FAILURE TO DECLARE OR DISCLOSE

- 13.1 THCCG takes the failure to disclose such information as required by this policy seriously.
- 13.2 It is an offence under the Fraud Act 2006 for personnel to fail to disclose information to the CCG in order to make a gain for themselves or another, or to cause a loss or expose the organisation to a loss. Therefore, if an individual becomes aware that someone has failed to disclose relevant and material information, they should raise the matter with the Corporate Governance Manager and the Conflicts of Interest Guardian. The Standards of Business Conduct and Anti-Fraud and Bribery Policy will be consulted and an appropriate

referral made to the Local Counter Fraud Specialist where applicable.

- 13.3 Breaches of this policy may result in a Governing Body member being removed from office in line with the CCG's Constitution. A contractor may be prevented from obtaining further work with THCCG or an employee may face disciplinary action and dismissal.

14.0 BRIBERY ACT 2010

- 14.1 The Bribery Act 2010 came into force on 1st July 2011 and repeals, in their entirety, the Prevention of Corruption Acts 1906 to 1916 and the common law offence of Bribery. It creates three relevant offences of bribing another person, being bribed and the failure of commercial organisations to prevent bribery.
- 14.2 Employees, members, committee and sub-committee members of the group and members of the Governing Body (and its committees) should be aware that in committing an act of bribery they may be subject to a penalty of up to ten years' imprisonment, a fine, or both. They may also expose the organisation to a conviction punishable with an unlimited fine.
- 14.3 They should also be aware that a breach of this Act, or of this guidance, renders them liable to disciplinary action by the CCG whether or not the breach leads to prosecution. Where a material breach of this guidance is found to have occurred, the likely sanction will be dismissal.
- 14.4 In short, the offences cover the offering, promising or giving of a financial or other advantage and the requesting, agreeing to receive or accepting of a financial or other advantage where the overall intention of such an action is to bring about an improper performance or a relevant function or activity. The organisation may be liable where a person associated with it commits an act of bribery.

15.0 EQUALITY & DIVERSITY STATEMENT

- 15.1 THCCG is committed to equality of opportunity for its employees and members and does not unlawfully discriminate on the basis of their "protected characteristics" as defined in the Equality Act 2010 - age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 15.3 If members or employees have any concerns or issues with the contents of this policy or have difficulty understanding how this policy relates to their roles, are advised to contact the Deputy Director of Corporate Affairs.

16.0 COMPLIANCE WITH TRAINING

- 16.1 THCCG is committed to ensure that conflicts of interest online training is offered to all its employees, governing body members, members of the CCG's committees and sub-committees on the management of conflicts of interest. This will form part of its mandatory training programme and a Training Needs Analysis will identify all other persons other than its own employees who will require training and monitor compliance with training.
- 16.2 In addition to this, THCCG will also offer the online training to its member practice staff but most importantly, this will be mandatory to all practice member staff who are involved in a contracting, commissioning or procurement role with the CCG. These staff will be GPs, practice nurses, pharmacists, practice managers and any other staff involved in THCCG's commissioning work.

14.0 CCG IMPROVEMENT & ASSESSMENT FRAMEWORK

14.1 Under the new Improvement & Assessment Framework for CCGs 2016/17, the management of conflicts of interest has become a performance indicator. As part of this new framework, THCCG is required on an annual basis to confirm via self-certification that it has the following in place:

- Has a clear policy for the management of conflicts of interest in line with statutory guidance and a robust process for managing breaches;
- That the CCG has a minimum of three lay members;
- That the CCG's Audit Chair has taken the role of the Conflicts of Interest Guardian; and
- It complies with the level of compliance for mandated Conflicts of Interest training annually by 31 January.

14.2 In addition THCCG is required to report on a quarterly basis via its self-certification whether the CCG has up-to-date declarations made within 28 days by individuals who are aware of any conflict or perceived conflicts.

14.3 The Register of Interest, Register for Procurement Decisions and Register of Gifts, Hospitality and Sponsorship should be made available onto the CCG's website.

14.4 THCCG is required to publish anonymised information about breaches on its website and that these have been reported to NHS England.

15.0 RELATED DOCUMENTS

15.1 The following documents contain information that relates to this policy:

- Standards of Business Conduct, Anti-Fraud and Bribery Policy;
- Hospitality, Gifts and Sponsorship Policy; and
- Whistleblowing Policy.

16.0 DISSEMINATION

16.1 THCCG's Corporate Affairs Department has the responsibility to ensure that all employees within their departments have access to the CCG's Corporate Policies and Procedures.

16.2 It is the responsibility of the relevant line manager and Head of Department to ensure that all staff are comply with THCCG's policy and procedures by providing both access and related training commensurate with the staff job role.

16.3 This policy will be published on THCCG's website and also onto the intranet for access by all CCG employees, GP members and other relevant individuals.

16.4 An approved copy of this policy will be emailed to Governing Body Members by the Corporate Governance Manager to highlight the new policy and ask for any amended interests to be declared in a timely manner.

17.0 ADVICE & GUIDANCE

17.1 Advice and guidance on declaration of interests can be sought from the following people:

- THCCG's Deputy Director of Corporate Affairs;
- THCCG's Corporate Governance Manager; and
- THCCG's Conflicts of Interest Guardian

18.0 REVIEW AND COMPLIANCE MONITORING

- **Review**
- 18.1 An annual review of this policy will be undertaken by the Audit Committee. The Audit Committee will require assurance quarterly on compliance monitoring with the policy as part of its assurance programme.
- **Compliance Monitoring**
- 18.2 THCCG's internal auditors will undertake an annual audit to monitor THCCG's compliance with this revised policy. The management of declarations and conflicts of interest may be independently reviewed by the CCG's Counter Fraud team.
- 18.3 It is expected that this audit should take place in quarter 3 or beginning of quarter 4 of the financial year, to enable the results of the audit to be reported in THCCG's Annual Governance Statement and in its Annual Report and Accounts.

APPENDIX 1- Types of Interest

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 2 Declaration of Interest Form for members and employees of Tower Hamlets CCG

Name (please PRINT):					
Organisation:					
Position within or relationship with the CCG or NHS England:					
Interests				Date Interests Relate	
Type of interest	Details <small>(if no interest to declare please state 'none')</small>	Personal interest or that of a family member, close friend or other acquaintance?	From	To	
Roles and responsibilities held within members practices					
Directorships, including non-executive directorships, held in private companies or PLCs					
Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the CCG and/or NHS England					
Any shareholdings of companies in the field of health and social care					

Positions of authority in an organisation (e.g. charity or voluntary organisation) in the field of health and social care				
Any connection with a voluntary or other organisation contracting for NHS services				
Research funding/grants that may be received by the individual or any organisation they have an interest or role in				
Any other role or relationship which the public could perceive would impair or otherwise influence the individual's judgement or actions in their role within the CCG and / or NHS England				
Other specific interest				



To the best of my knowledge and belief, the above information is complete and correct.

I undertake to update as necessary the information provided and to review the accuracy of the information provided regularly and no longer than annually. I give my consent for the information to be used for the purposes described in the CCG's constitution and published accordingly.

Signed:
Date:

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 - **NHS Tower Hamlets Clinical Commissioning Group**

Service	
Question	Comment / Evidence
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?	
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 pre selection 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 pre selection 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 the services to which the contract relates are capable of being provided by only one provider?

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?

Appendix 4- Declaration of Interests for Bidders, Contractors and Service Providers

Name of Organisation:		
Details of interests held:		
Type of Interest	Details	
Provision of services or other work for the CCGor 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 thepublic could perceive may impair or otherwise influence the CCG's or any of its members' or employees' judgments, 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 CCGor 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 thepublic could perceive may impair or otherwise influence the CCG's or any of its members' or employees' judgments, 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:

APPENDIX 5- Register of Interest Template- October 2016

Name	Position	Type of Interest	Details of the Interests	Date of Interests		Quarterly or Annual Update
				From	To	
		Roles and responsibilities held within members' practices.				
		Directorships, including non-executive directorships, held in private companies or PLCs.				
		Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the CCG and or NHS England				
		Shareholdings of companies in the field of health and social care				
		Positions of authority in an organisation (e.g. charity or voluntary organisation) in the field of health or social care				

Name	Position	Type of Interest	Details of the Interests	Date of Interests		Quarterly or Annual Update
				From	To	
		Any connection with a voluntary or other organisation contracting for NHS Services				
		Research funding/grants that may be received by the individual or any organisation they have an interest or role in				
		Any other role or relationship which the public could perceive would impair or otherwise influence the individual's judgment or actions in their roles within the CCG and or NHS England				
		Other Specific Interest				

Appendix 6- Template Register Procurement Decisions and Contracts Awarded

Ref No	Contract/ Service title	Procurement description	Existing contract or new procurement (if existing include details)	Procurement type – CCG procurement, collaborative procurement with partners	CCG clinical lead	CCG contract manger	Decision making process and name of decision making	Summary of conflicts of interest declared and how these were managed	Contract awarded (supplier name & registered address)	Contract value (£) (Total)	Contract value (£) to CCG

APPENDIX 7- Template Declarations of Interest Checklist

Under the Health and Social Care Act 2012, there is a legal obligation to manage conflicts of interest appropriately. It is essential that declarations of interest and actions arising from the declarations are recorded formally and consistently across all CCG governing body, committee and sub-committee meetings. This checklist has been developed with the intention of providing support in conflicts of interest management to the Chair of the meeting- prior to, during and following the meeting. It does not cover the requirements for declaring interests outside of the committee process.

Timing	Checklist for Chairs	Responsibility
In advance of the meeting	<p>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.</p>	Meeting Chair and secretariat
	<p>2. A definition of conflicts of interest should also be accompanied with each agenda to provide clarity for all recipients.</p>	Meeting Chair and secretariat
	<p>3. Agenda to be circulated to enable attendees (including visitors) to identify any interests relating specifically to the agenda items being considered.</p>	Meeting Chair and secretariat
	<p>4. Members should contact the Chair as soon as an actual or potential conflict is identified.</p>	Meeting members
	<p>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>	Meeting Chair
	<p>A template for a summary report to present discussions at preceding meetings is detailed below.</p>	
<p>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	

<p>During the meeting</p>	<p>7. Check and declare the meeting is quorate and ensure that this is noted in the minutes of the meeting.</p> <p>8. Chair requests members to declare any interests in agenda items- which have not already been declared, including the nature of the conflict.</p> <p>9. Chair makes a decision as to how to manage each interest which has been declared, including whether / to what extent the individual member should continue to participate in the meeting, on a case by case basis, and this decision is recorded.</p> <p>10. As minimum requirement, the following should be recorded in the minutes of the meeting:</p> <ul style="list-style-type: none"> • Individual declaring the interest; • At what point the interest was declared; • The nature of the interest; • The Chair’s decision and resulting action taken; • The point during the meeting at which any individuals retired from and returned to the meeting - even if an interest has not been declared; • Visitors in attendance who participate in the meeting must also follow the meeting protocol and declare any interests in a timely manner. <p>A template for recording any interests during meetings is detailed below.</p>	<p>Meeting Chair</p> <p>Meeting Chair</p> <p>Meeting Chair and secretariat</p> <p>Secretariat</p>
<p>Following the meeting</p>	<p>11. All new interests declared at the meeting should be promptly updated onto the declaration of interest form;</p> <p>12. All new completed declarations of interest should be transferred onto the register of interests.</p>	<p>Individual(s) declaring interest(s)</p> <p>Designated person</p>