

**STANDARDS OF BUSINESS CONDUCT, MANAGING
CONFLICTS OF INTEREST AND THE ACCEPTANCE OF
GIFTS AND HOSPITALITY POLICY**

Approved by Governing Body – 10 August 2017

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DOCUMENT CONTROL

Version No	Type of Change	Date	Description of Change
V0.1	2 yearly review	September 2014	<ul style="list-style-type: none"> • Standards of Business Conduct Policy merged with Managing Conflicts of Interest, and the Acceptance of Gifts and Hospitality Policy • Minor corrections to spellings & formatting • Merged policy put in CCG approved policy template
V0.2	Reviewed in light of statutory Managing Conflicts of Interest Guidance	December 2014	A number of enhancements to the Policy have been made in response to statutory Conflicts of Interest Guidance issued by NHS England in December 2014.
V0.3	Reviewed by LCFS in support of NHS Protect Standards for Commissioners Self Review Tool	June 2016	
V0.4	Reviewed in light of new Statutory Managing Conflicts of Interest Guidance (issued June 2016)	July 2016	A number of enhancements to the Policy have been made in response to statutory Conflicts of Interest Guidance issued by NHS England in June 2016.
V0.5	Reviewed in light of new Statutory Managing Conflicts of Interest Guidance (issued June 2017)	July 2017	A number of enhancements to the Policy have been made in response to the revised <i>Managing Conflicts of Interest: Revised Statutory Guidance for CCGs (2017)</i>

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Contents	Page
1. Introduction	5
2. Purpose	6
3. The Risks of not Having this Policy in Place	6
4. Principles	6
5. Roles and Responsibilities	7
6. Prevention of Corruption and Counter Fraud Measures	8
7. Constitution, Standing Orders, Standing Financial Instructions, and Scheme of Delegation	9
8. Managing Conflicts of Interest	9
9. Sponsorship	25
10. Gifts and Hospitality	26
11. Outside Employment and Private Practice	28
12. Suppliers and Contractors	29
13. Initiatives	31
14. Commercial Confidentiality	31
15. Management Arrangements	31
16. Complaints	32
17. Monitoring the Compliance and Effectiveness of this Policy	32
18. Review of this Policy	32
19. Breaches of this Policy	32

APPENDICES

Appendix 1	The Nolan Principles	35
Appendix 2a	Declaration of Interests Form	36
Appendix 2b	Register of Interests	38
Appendix 2c	Decision Making Guidance for Conflicts of Interest	39
Appendix 3	Register of Procurement Decisions	40
Appendix 4a	Application to Seek Permission to Accept Commercial Sponsorship	41
Appendix 4b	Sponsorship Declaration	42
Appendix 4c	Declaration of Gifts and Hospitality	43
Appendix 4d	Register of Gifts and Hospitality	45
Appendix 5	Chartered Institute of Purchasing and Supply Code of Conduct	46
Appendix 6	Non-Disclosure Agreement	48

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1. INTRODUCTION

- 1.1 This Policy seeks to describe the public service values, which underpin the work of the NHS and to reflect current guidance and best practice to which all individuals within NHS Barnsley Clinical Commissioning Group must have regard in their work for Barnsley Clinical Commissioning Group.
- 1.2 This Policy also sets out the approach to identifying, managing and recording conflicts of interest that may arise during discussions between relevant parties and NHS Barnsley Clinical Commissioning Group where any party has interests (or potential interests) in either the commissioning or provision or both of healthcare services for the people of Barnsley.
- 1.3 This Policy applies to:
- (a) Members of Barnsley Clinical Commissioning Group;
 - (b) NHS Barnsley Clinical Commissioning Group employees, including clinicians working on behalf of the Clinical Commissioning Group;
 - (c) NHS Barnsley Clinical Commissioning Group Governing Body;
 - (d) NHS Barnsley Clinical Commissioning Group Membership Council;
 - (e) Members of Barnsley Clinical Commissioning Group Committees and Sub-Committees;
 - (f) Third parties acting on behalf of Barnsley Clinical Commissioning Group under a Contract;
 - (g) Students and trainees;
 - (h) Agency staff engaged by Barnsley Clinical Commissioning Group;
 - (i) Secondees.

The above people are referred to collectively in this Policy as 'Barnsley Clinical Commissioning Group staff'.

- 1.4 NHS Barnsley Clinical Commissioning Group aspires to the highest standards of corporate behaviour and responsibility. All NHS Barnsley Clinical Commissioning Group staff and representatives are required to comply with this Policy.
- 1.5 NHS Barnsley Clinical Commissioning Group has a number of other policies that should be read and used in conjunction with this Policy, including the:
- Procurement Policy;
 - Working Time Regulations Policy Including Secondary Employment;
 - Fraud, Corruption and Bribery Policy;

- Whistleblowing Policy;
- Confidentiality Code of Conduct;
- Standing Orders, Scheme of Reservation and Delegation and Prime Financial Policies.

2. PURPOSE

- 2.1 The Governing Body of NHS Barnsley Clinical Commissioning Group has ultimate responsibility for all actions carried out by staff and committees. This responsibility includes the stewardship of significant public resources and the commissioning of healthcare to the community.
- 2.2 The Governing Body is determined to ensure that the organisation inspires confidence and trust amongst its patients, staff, partners, funders and suppliers by demonstrating integrity and avoiding any potential or real situations of undue bias or influence in the decision-making of the Clinical Commissioning Group.

3. THE RISKS OF NOT HAVING THIS POLICY IN PLACE

- 3.1 NHS Barnsley Clinical Commissioning Group is committed to upholding the principles of openness, transparency, fairness and integrity in its roles as a commissioner of healthcare services for the people of Barnsley. The Seven Principles of Public Life, known as the Nolan Principles, are central to our business conduct (see Appendix 1). The Clinical Commissioning Group Members, the Governing Body, the committees, and sub-committees and employees should work with these and their own professional code of conduct in mind.
- 3.2 In the absence of this policy there would be a greater risk of breaches of the Nolan Principles with consequent legal or reputational risks to the CCG and its employees.

4. PRINCIPLES

- 4.1 The Code of Conduct: Code of Accountability in the NHS (second revision July 2004) sets out the three public service values which are central to the work of Barnsley Clinical Commissioning Group:
- (a) **Accountability** – everything done by those who work in the NHS must be able to stand the test of Parliamentary Scrutiny, public judgements on propriety and professional codes of conduct;
 - (b) **Probity** – there should be an absolute standard of honesty in dealing with the assets of the NHS: integrity should be the hallmark of all personal conduct in decisions affecting patients, officers, members

and suppliers, and in the use of information acquired in the course of NHS duties;

- (c) **Openness** – there should be sufficient transparency about NHS activities to promote confidence between Barnsley Clinical Commissioning Group and its staff, patients and the public.

4.2 In addition, all individuals in Barnsley Clinical Commissioning Group must observe the principles of good governance in the way they do business. These include the:

- Seven Principles of Public Life as set out by the Committee on Standards in Public Life and set out in Appendix 1 of this Policy;
- Good Governance Standards for Public Services (2004), Office for Public Management (OPM) and Chartered Institute of Public Finance and Accountancy (CIPFA);
- Seven key principles of the NHS Constitution;
- Equality Act 2010;
- UK Corporate Governance Code and
- The expectations set out in the Standards for Members of NHS Boards and Clinical Commissioning Groups¹.

5. ROLES AND RESPONSIBILITIES

5.1 Overall accountability for Standards of Business Conduct and Conflicts of Interest within NHS Barnsley CCG lies with the Accountable Officer, which is the **Chief Officer**.

5.2 The **Head of Governance and Assurance**, on behalf of the Chief Officer, has responsibility for:

- Ensuring the policy and supporting arrangements are in place within the Membership, the Membership Council, the Governing Body, all committees and sub-committees and contracts of employment;
- Ensuring that adequate records are kept which meet audit requirements and that information is available to the public;
- Maintaining the Register of Interests and the Register of Gifts and Hospitality;
- Providing advice and information to the CCG relating to sponsorship, gifts, hospitality, conflicts of interest, and other matters covered by this policy.

¹ <http://www.professionalstandards.org.uk/docs/psa-library/november-2012---standards-for-board-members.pdf?sfvrsn=0>

5.3 All members, individuals and employees of NHS Barnsley Clinical Commissioning Group must ensure they comply with this Policy and also comply with their own professional Codes of Conduct in relation to Conflicts of Interest.

6. PREVENTION OF CORRUPTION AND COUNTER FRAUD MEASURES

6.1 Barnsley Clinical Commissioning Group has a responsibility to ensure that all Barnsley Clinical Commissioning Group staff are made aware of their duties and responsibilities arising from the UK Bribery Act 2010. Under this Act there are 4 offences:

- (a) Bribery, or offering to bribe, another person (Section 1);
- (b) Requesting, agreeing to receive, or accepting a bribe (Section 2);
- (c) Bribing or offering to bribe, a foreign public official (Section 6);
- (d) Commercial organisations failing to prevent bribery (this includes the CCG).

All Barnsley Clinical Commissioning Group staff are required to be aware of the UK Bribery Act 2010 and should also refer to the paragraphs below, and to the CCG's 'Fraud, Corruption and Bribery Policy' for further guidance in relation to this.

6.2 All Barnsley Clinical Commissioning Group staff are required not to use their position to gain advantage. The CCG is keen to prevent fraud, bribery or corruption and encourage staff with concerns or reasonably held suspicions about potentially criminal activity or practice, to report these. Staff should inform the nominated Local Counter Fraud Specialist (as required by the CCG's 'Fraud, Bribery and Corruption Policy') or Barnsley Clinical Commissioning Group's Chief Finance Officer immediately, unless the Chief Finance Officer or Local Counter Fraud Specialist is implicated. If that is the case, they should report it to the Chair of the Governing Body or Chief Officer, who will decide on the action to be taken.

6.3 Further details of how Barnsley Clinical Commissioning Group staff can report Fraud, Bribery or Corruption can be found at section 19 and paragraph 19.4 of this document under Policy Breaches.

6.4 Anonymous letters, telephone calls etc. are occasionally received from individuals who wish to raise concerns, but not through official channels. While the suspicions may be erroneous or unsubstantiated, they may also reflect a genuine cause for concern and will always be taken seriously. The Local Counter Fraud Specialist will make sufficient enquiries to establish whether or not there is any foundation to the suspicion that has been raised.

- 6.5 Barnsley Clinical Commissioning Group staff should not ignore their suspicions, investigate themselves or tell colleagues of others about their suspicions.

7. CONSTITUTION, STANDING ORDERS, STANDING FINANCIAL INSTRUCTIONS AND SCHEME OF DELEGATION

- 7.1 All Barnsley Clinical Commissioning Group staff must carry out their duties in accordance with Barnsley Clinical Commissioning Group's Constitution, Standing Orders, Standing Financial Instructions and Scheme of Delegation.
- 7.2 Barnsley Clinical Commissioning Group's Constitution, Standing Orders, Standing Financial Instructions and Scheme of Delegation set out the Statutory and Governance framework in which Barnsley Clinical Commissioning Group operates.
- 7.3 Barnsley Clinical Commissioning Group staff must at all times refer to and act in accordance with the Constitution, Standing Orders, Standing Financial Instructions and Scheme of Delegation to ensure that current Barnsley Clinical Commissioning Group process is followed.
- 7.4 In the event of doubt, Barnsley Clinical Commissioning Group staff should seek advice from their line manager.
- 7.5 In the event of any conflict arising between the details of this policy and the Constitution, Standing Orders, Standing Financial Instructions and Scheme of Delegation shall prevail.

8. MANAGING CONFLICTS OF INTEREST

8.1 The CCG's Responsibility with Regard to Conflicts of Interest

- 8.1.1 The Governing Body has a legal obligation to act in the best interests of NHS Barnsley Clinical Commissioning Group and in accordance with the Clinical Commissioning Group's Constitution and terms of establishment and to avoid situations where there may be a potential conflict of interest.
- 8.1.2 NHS Barnsley Clinical Commissioning Group recognises that a conflict of interest, or perceived conflict of interest, in its role as a commissioner of healthcare services is a key risk that requires careful management and handling whether this is a direct or indirect conflict, pecuniary or otherwise.
- 8.1.3 Prior to appointment, the CCG will consider whether conflicts of interest should exclude individuals from being appointed to the Governing Body or to a committee or sub-committee of the CCG or Governing Body. These will

be considered on a case by case basis but the principles to be considered are:

- The *materiality* of the interest, in particular whether the individual (or a family member or business partner) could benefit from any decision the Governing Body might make. This will be particularly relevant for any profit sharing member of any organisation but should also be considered for all employees and especially those operating at senior or board level;
- The *extent* of the interest. If it 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, that individual should not be appointed to that role.
- Any individual who has a material interest in an organisation which provides or is likely to provide substantial business to a CCG (either as a provider of healthcare or commissioning support services) should recognise the inherent conflict of interest risk that may arise and should not be a member of the Governing Body, its committees or sub committees, in particular if the nature of their interest 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.

8.1.4 The Clinical Commissioning Group will exercise its functions so as to ensure that any conflict of interest and personal and prejudicial interest are dealt with in accordance with guidance issued by the Secretary of State for Health.

8.1.5 This Policy applies to all those who may be placed in a conflict of interest position. This includes:

- i. **Members of the NHS Barnsley Clinical Commissioning Group** (i.e., each practice), including:
 - Practice Representatives on the Membership Council;
 - GP partners in member practices (or where the practice is a company, each director);
 - Any individual directly involved with the business or decision-making of the CCG.

ii. **Members of the Governing Body, its committees and sub committees** including:

- Co-opted members’;
- Appointed deputies; and
- Any members of committees/groups from other organisations.

iii. **Employees and other designated individuals**, including:

- All full and part-time staff;
- Any staff on sessional or short term contracts;
- Any students and trainees (including apprentices);
- Agency staff; and
- Seconded staff.

In addition, any self-employed consultants or other individuals working for the CCG under a contract for services should make a declaration of interest in accordance with this guidance, as if they were CCG employees.

8.1.6 Members of the Clinical Commissioning Group, Members of the Membership Council, Members of the Governing Body and employees should not use confidential information acquired in the pursuit of their role to benefit themselves or another connected person or use knowledge gained to influence decisions so as to acquire a competitive advantage over other service providers.

8.1.7 NHS England’s *Managing Conflicts of Interest: Revised Statutory Guidance for CCGs 2017*, issued in June 2017 provides the basis for managing conflicts in this policy.

8.2 Conflicts Covered by this Policy

8.2.1 ‘Conflicts of Interest’ are defined as a set of circumstances by which a reasonable person would consider that an individual’s ability to apply judgement or act, in the context of delivering, commissioning, or assuring taxpayer funded health and care services is, or could be, impaired or influenced by another interest they hold. Such conflicts may create problems such as inhibiting free discussion which could:

- (a) Result in decisions or actions that are not in the interests of the CCG and the public it was established to serve;
- (b) Risk the impression that the Clinical Commissioning Group has acted improperly.

8.2.2 It is not possible, or desirable, to define all instances in which an interest may be a real or perceived conflict. It is for each individual to exercise their judgement in deciding whether to register any interests that may be construed as a conflict. Individuals can seek guidance from the Chair of the Audit Committee, Chief Officer, or Head of Governance and Assurance, but should, when in doubt, err on the side of caution and declare.

8.2.3 Interests can be captured in 4 different categories:

- i. **Financial interests:** This is 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 (whether active or dormant) or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations. This includes involvement with a potential provider of a new care model;
 - A shareholder (or similar 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.
 - A provider of clinical private practice.

This could also include an individual being:

- In employment outside of the CCG;
- In receipt of secondary income ;
- In receipt of a grant from a provider;
- In receipt of any payments (e.g. 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);
 - Engaged in a research role;
 - The development and holding of patents and other intellectual property rights which allow staff to protect something that they create, preventing unauthorised use of products or the copying of protected ideas.
 - 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 Interest:** 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 individual 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;
- 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 interest will depend upon the nature of the relationship between that person and the individual, and the role of the individual within the CCG.

- 8.2.4 Governing Body members may have competing loyalties between the Clinical Commissioning Group to which they owe a primary duty and some other person or entity, including their GP practice, and patients. If the member has difficulties managing these they should discuss this with the Chair of the Audit Committee.

8.3 The Declaration of Interests

- 8.3.1 The Clinical Commissioning Group requires Members of the CCG, Members of the Governing Body and all committees and sub-committees and employees to declare any relevant and material interests as soon as practicable, and by law within 28 days of the interest becoming known to them.

Declarations will also be required:

- On appointment;
- At meetings;
- At least every 12 months;
- On changing role, responsibility or circumstances.

- 8.3.2 A Declaration of Interest form is available from the Head of Governance and Assurance for this purpose, a copy of which is attached as Appendix 2a.

- 8.3.3 A Declaration of Interests form must be completed on appointment, but in some cases where an interest may preclude an individual from appointment

(in particular to the Governing Body as set out in Statutory Instrument Number 1631/2012) this may be required in advance of appointment during the selection process.

- 8.3.4 Individuals wishing to make a first or amended declaration must do so immediately the interest becomes known to them. They can discuss this with the Chair of the Audit Committee, the Chief Officer or the Head of Governance and Assurance. A new conflict of interest arises when an individual becomes aware that NHS Barnsley Clinical Commissioning Group has entered into, or proposes entering into a contract in which they or any person connected has a financial or other interest, either direct or indirect.

8.4 The Register of Interests

- 8.4.1 A Register of all potential conflicts of interest of those individuals involved in any part of the commissioning process is held by the Clinical Commissioning Group. The Register will include interests of individuals specified at paragraph 8.1.5:

- Members of the CCG (including Practice Representatives on the Membership Council, GP Partners (or where the practice is a company, each director) , and any individual directly involved with the business or decision-making of the CCG);
- Members of the Governing Body, its Committees or Sub-Committees;
- The CCG's employees.

- 8.4.2 The Register of Interests will be:

- Updated promptly whenever a new declaration is made (e.g. at a meeting), at least annually, on appointment, or whenever an individual has a change to their role or responsibilities resulting in a material change in their interests, and all changes will be declared at the next available meeting;
- Published through the Governing Body meetings, and on the CCG's website www.barnsleyccg.nhs.uk.

- 8.4.3 All declared interests will be recorded on the Clinical Commissioning Group's Register of Interests, which will be maintained by the Head of Governance and Assurance on behalf of the Chair of the Audit Committee and the Chief Officer.

- 8.4.4 It is recognised that some staff are more likely than others to have a decision making influence on the use of taxpayers' money, because of the requirements of their role. These people are referred to as 'decision making staff'. Decision making staff are defined as:

- All Governing Body members;
- Members of advisory groups which contribute to direct or delegated decision making on the commissioning or provision of taxpayer funded services such as working groups involved in service redesign or stakeholder engagement that will affect future provision of services;
- Members of the Primary Care Commissioning Committee (PCCC);
- Members of other committees of the CCG;
- Members of new care models joint provider / commissioner groups / committees;
- Those at Agenda for Change band 8d and above;
- Management, administrative and clinical staff who have the power to enter into contracts on behalf of the CCG; and
- Management, administrative and clinical staff involved in decision making concerning the commissioning of services, purchasing of good, medicines, medical devices or equipment, and formulary decisions.

8.4.5 As a minimum the Register of Interest for decision making staff will be published at least annually at Governing Body meetings in public and will be accessible by the public on the Clinical Commissioning Group Website www.barnsleyccg.nhs.uk, and available for inspection at the Clinical Commissioning Group Headquarters (Hilder House, 49/51 Gawber Road, Barnsley S75 2PY).

8.4.6 Declared interests will remain on the public register for a minimum of 6 months after the interest has expired. In addition, the CCG must retain a private record of historic interests for a minimum of 6 years after the date on which it expired. The CCG's published register of interests should state that historic interests are retained by the CCG for the specified timeframe, with details of whom to contact to submit a request for this information.

8.5 Data Protection

8.5.1 The information provided will be processed in accordance with data protection principles as set out in the Data Protection Act 1998. Data will be processed only to ensure that the Governing Body members act in the best interests of the Clinical Commissioning Group and the public and patients the group was established to serve. Information will not be used for any other purpose.

8.5.2 Signing the declaration form signifies that the individual consents to their data being processed for the purposes set out in this policy, including that the information will be made public in the form of a Register of Interests or Register of Gifts and Hospitality.

8.5.3 In exceptional circumstances, where the public disclosure of information could give rise to a real risk of harm or is prohibited by law, an individual's name and/or other information may be redacted from the publicly available register(s). Where an individual believes that substantial damage or distress may be caused, to him / herself or somebody else by the publication of information about them, they are entitled to request that the information is not published. Such requests must be made in writing. Decisions not to publish information must be made by the Conflicts of Interest Guardian for the CCG, who should seek appropriate legal advice where required, and the CCG should retain a confidential un-redacted version of the register(s).

8.6 Managing Meetings where Members Declare a Conflict of Interest

8.6.1 The chair of a meeting of the CCG's Governing Body or any of its Committees, Sub-committees or groups has ultimate responsibility for deciding whether there is a conflict of interest and for taking the appropriate course of action in order to manage the conflict of interest.

8.6.2 In the event that the Chair of a meeting has a conflict of interest, the Vice Chair is responsible for deciding the appropriate course of action in order to manage the conflict of interest. If the Vice Chair is also conflicted then the remaining non-conflicted voting members of the meeting should agree between themselves how to manage the conflict(s).

8.6.3 In making such decisions, the Chair (or Vice Chair or remaining non-conflicted members as above) may wish to consult with the Head of Governance and Assurance or the Conflicts of Interest Guardian.

8.6.4 It is good practice for the Chair, with support of the Head of Governance and Assurance and, if required, the Conflicts of Interest Guardian, to proactively consider ahead of meetings what conflicts are likely to arise and how they should be managed, including taking steps to ensure that supporting papers for particular agenda items of private sessions/meetings are not sent to conflicted individuals in advance of the meeting where relevant.

8.6.5 The Chair should ask at the beginning of each meeting if anyone has any conflicts of interest to declare in relation to the business to be transacted at the meeting. Each person present should declare any interests which are relevant to the business of the meeting whether or not those interests have previously been declared. Any new interests which are declared at a meeting must be reported to the Head of Governance and Assurance for inclusion on the CCG's Register of Interests.

- 8.6.6 Similarly, any new offers of gifts or hospitality (whether accepted or not) which are declared at a meeting must be included on the CCG's Register of Gifts and Hospitality to ensure it is up-to-date.
- 8.6.7 It is the responsibility of each individual member of the meeting to declare any relevant interests which they may have. However, should the Chair or any other member of the meeting be aware of facts or circumstances which may give rise to a conflict of interests but which have not been declared then they should bring this to the attention of the Chair who will decide whether there is a conflict of interest and the appropriate course of action to take in order to manage the conflict of interest.
- 8.6.8 When a member of the meeting has a conflict of interest in relation to one or more items of business to be transacted at the meeting, the Chair (or Vice Chair or remaining non-conflicted members where relevant as described above) must decide how to manage the conflict. The appropriate course of action will depend on the particular circumstances, but could include one or more of the following:
- Where the Chair has a conflict of interest, deciding that the Vice Chair (or another non-conflicted member of the meeting if the Vice Chair is also conflicted) should chair all or part of the meeting;
 - Requiring the individual who has a conflict of interest (including the Chair or Vice Chair if necessary) not to attend the meeting;
 - Ensuring that the individual concerned does not receive the supporting papers or minutes of the meeting which relate to the matter(s) which give rise to the conflict;
 - Requiring the individual to leave the discussion when the relevant matter(s) are being discussed and when any decisions are being taken in relation to those matter(s). In private meetings, this could include requiring the individual to leave the room and in public meetings to either leave the room or join the audience in the public gallery;
 - Allowing the individual to participate in some or all of the discussion when the relevant matter(s) are being discussed but requiring them to leave the meeting when any decisions are being taken in relation to those matter(s). This may be appropriate where, for example, the conflicted individual has important relevant knowledge and experience of the matter(s) under discussion, which it would be of benefit for the meeting to hear, but this will depend on the nature and extent of the interest which has been declared;

- Noting the interest and ensuring that all attendees are aware of the nature and extent of the interest, but allowing the individual to remain and participate in both the discussion and in any decisions. This is only likely to be the appropriate course of action where it is decided that the interest which has been declared is either immaterial or not relevant to the matter(s) under discussion.
- 8.6.9 If any conflicts of interest are declared or otherwise arise in a meeting, the Chair must ensure the following information is recorded in the minutes:
- Who has the interest;
 - The nature of the interest and why it gives rise to a conflict, including the magnitude of any interest;
 - The items on the Agenda to which the interest relates;
 - How the conflict was agreed to be managed; and
 - Evidence that the conflict was managed as intended (for example recording the points during the meeting when particular individuals left or returned to the meeting).
- 8.6.10 It is the responsibility of the Head of Governance and Assurance to monitor whether or not a meeting is quorate and advise the Chair accordingly to ensure a quorum is maintained throughout the discussion and decision of the agenda item. Should the withdrawal of the conflicted member(s) result in the loss of quorum, the item cannot be decided upon at that meeting, and will be deferred until a quorate meeting can be convened.
- 8.6.11 To convene a quorate meeting it may be necessary to use another committee, or to invite other members of the Clinical Commissioning Group to sit on a specially convened committee or group for that item only. This is set out in the Clinical Commissioning Group Constitution. The Constitution also allows, where all members are conflicted to invite members of the local Health and Wellbeing Board or another Clinical Commissioning Group's Governing Body to make the decision.
- 8.6.12 In some cases, all of the elected members or other practice representatives on a decision-making body could have a material interest in a decision, particularly where the CCG is proposing to commission services on a single tender basis from all GP practices in the area, or where it is likely that all or most practices would wish to be qualified providers for a service under AQP. In these cases, the decision will be referred to the Primary Care Commissioning Committee (see section 8.8 below).

8.7 Decisions taken where a Governing Body Member has an Interest

- 8.7.1 In the event of the Governing Body having to decide upon a question in which a Governing Body member or members have declared an interest, the Chair will in the first instance seek to achieve a clear consensus of the non-conflicted members in respect of the matter to be decided upon. Where such a consensus cannot be achieved the matter will be put to a vote, with at least a two thirds majority required. At no time should an interested Governing Body member vote on matters affecting their own interests.
- 8.7.2 A quorum must be present for the discussion and decision; interested parties will not be counted when deciding whether the meeting meets quorum.
- 8.7.3 All decisions under a Conflict of Interest will be fully recorded in the minutes of the meeting. The report will record:
- (a) The nature and extend of the conflict;
 - (b) An outline of the discussion;
 - (c) The actions taken to manage the conflict.
- 8.7.4 Where a Governing Body member benefits from the decision, this will be reported in the Annual Report and Accounts, as a matter of best practice.
- 8.7.5 All payments (or benefits in kind) to Governing Body members will be reported in the Clinical Commissioning Group's Accounts and Annual Report, with amounts for each Governing Body member listed for the year in question.
- 8.7.6 Independent external mediation will be used where conflicts cannot be resolved through the usual procedures. The arrangements for this are set out in the Clinical Commissioning Group's Constitution.

8.8 Decision-Making in Respect of Delegated Responsibilities for Commissioning Primary Medical Care

- 8.8.1 Decisions relating to the commissioning and procurement of primary medical services will be made by the Primary Care Commissioning Committee, a committee of the Governing Body established for this purpose. The Primary Care Commissioning Committee's Terms of Reference include a range of safeguards to manage potential conflicts of interest including:
- It is Chaired by a Lay Member of the Governing Body (other than the Lay Member for Governance);
 - Its Vice Chair is a Lay Member of the Governing Body;

- It has a Lay and Executive majority;
- Three Governing Body GPs attend as clinical advisers but may not vote;
- The Chair holds the casting vote;
- Meetings are generally held in public;
- There is a standing invitation to a representative from Healthwatch Barnsley and a Local Authority representative from the Health and Wellbeing Board to attend meetings in a non-voting capacity.

8.9 Conflicts of Interest Relating to Commissioning and Procurement

8.9.1 Patient and Public Engagement

The way in which services are designed can either increase or decrease the extent of perceived or actual conflicts of interest. Particular attention should be given to public and patient involvement in service development.

- 8.9.2 Public involvement supports transparent and credible commissioning decisions. It should happen at every stage of the commissioning cycle from needs assessment, planning and prioritisation to service design, procurement and monitoring. CCGs have legal duties under the Act to properly involve patients and the public in their respective commissioning processes and decisions.

8.9.3 Provider Engagement

It is good practice to engage relevant providers, especially clinicians, in confirming that the design of service specifications will meet patient needs. Such engagement, done transparently and fairly, is entirely legal. However, conflicts of interest, as well as challenges to the fairness of the procurement process, can arise 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.

- 8.9.4 Provider engagement should follow the 3 main principles of procurement law, namely equal treatment, non-discrimination and transparency.

This includes ensuring that the same information is given to all at the same time and procedures are transparent. This mitigates the risk of potential legal challenge.

- 8.9.5 Engagement should help to shape the requirement to meet patient need, but it is important not to gear the requirement in favour of any particular provider(s). If appropriate, the advice of an independent clinical adviser on the design of the service should be secured.

8.9.6 Specifications

The CCG will seek, as far as possible, to specify the outcomes that they wish to see delivered through a new service, rather than the process by which these outcomes are to be achieved. As well as supporting innovation, this helps prevent bias towards particular providers in the specification of services. Specifications should be clear and transparent, reflecting the depth of engagement, and set out the basis on which any contract will be awarded.

8.9.7 Procurement and Awarding Grants

CCGs must comply with two different regimes of procurement law and regulation when commissioning healthcare services:

- The NHS procurement regime – the NHS (Procurement, Patient Choice and Competition (No.2)) Regulations 2013: made under S75 of the 2012 Act; apply only to NHS England and CCGs; enforced by NHS Improvement; and
- The European procurement regime – Public Contracts Regulations 2015 (PCR 2015): incorporate the European Public Contracts Directive into national law; apply to all public contracts over the threshold value (€750,000, currently £589,148); enforced through the Courts.

8.9.8 The *Procurement, Patient Choice and Competition Regulations* place requirements on commissioners to ensure that they adhere to good practice in relation to procurement, do not engage in anti-competitive behaviour that is against the interest of patients, and protect the right of patients to make choices about their healthcare. The regulations set out that commissioners must:

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

8.9.9 The safeguards needed to manage conflicts of interest will vary to some degree depending on the way in which a service is commissioned. Good practice includes acting transparently, proportionately and without discrimination and treating all providers and potential providers equally, in particular from not treating one provider more favourably than another on

the basis of ownership.

8.9.10 NHS Improvement has a statutory duty under section 78 of the HSCA to produce guidance on compliance with any requirements imposed by the regulations and how it intends to exercise the powers conferred on it by these regulations. NHS Improvement's *Substantive guidance on the Procurement, Patient Choice and Competition Regulations* is the relevant statutory guidance. The CCG has reviewed its Procurement Policy and Strategy to ensure it is consistent with this guidance.

8.9.11 Conflicts of interests could arise where a CCG commissions healthcare services, including GP services, in which a member of the CCG has a financial or other interest. This may most often arise in the context of co-commissioning of primary care, particularly with regard to delegated commissioning, where GPs are current or possible providers.

The CCG has incorporated into its Procurement Policy a procurement template setting out factors that the CCG should address when drawing up their plans to commission general practice services. This template will be used to provide evidence of the CCG's deliberations on conflicts of interest, and will be taken to a public meeting of the Primary Care Commissioning Committee to promote transparency regarding the CCG's decision making processes.

8.9.12 Where appropriate the CCG will use external procurement experts such as Commissioning Support Services (CSS) to help decide the most appropriate procurement route, and undertake procurements in ways that manage conflicts of interest and preserve the integrity of decision-making. The CCG cannot, however, lawfully delegate commissioning decisions to an external provider of commissioning support. Although CSSs may play a key role in helping to develop specifications, preparing tender documentation, inviting expressions of interest and inviting tenders, the CCG itself will:

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

8.9.13 The CCG will maintain a Register of Procurement Decisions taken (see Appendix 3), including:

- The details of the decision;
- Who was involved in making the decision (i.e. Governing Body or Committee Members and others with decision-making responsibility)
- A summary of any conflicts of interest in relation to the decision and how this was managed by the CCG.

The register should be updated whenever a procurement decision is taken. The register will be taken to the Audit Committee for review at least twice a year.

8.9.14 The Register will be accessible by the public on the Clinical Commissioning Group Website www.barnsleyccg.nhs.uk, and hard copies will be available for inspection at the Clinical Commissioning Group Headquarters (Hillder House, 49/51 Gawber Road, Barnsley S75 2PY).

8.9.15 Where there is a conflict of interest, CCG staff must not be involved in procuring, tendering, managing or monitoring a contract in which they have an interest.

Monitoring arrangements for such contracts will include provisions for an independent challenge of bills and invoices, and termination of the contract if the relationship is unsatisfactory.

8.10 Breaches of this Policy

8.10.1 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.

8.10.2 Any CCG employee, Governing Body member, committee or sub-committee member or GP practice members should report suspected or known breaches of the CCG's conflicts of interest policies to the Head of Governance and Assurance or the Conflicts of Interest Guardian in the first instance.

8.10.3 All such notifications will be treated with appropriate confidentiality at all times in accordance with the CCG's policies and applicable laws, and the person making such disclosures can expect an appropriate explanation of any decisions taken as a result of any investigation.

8.10.4 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.

8.10.5 Providers, patients and other third parties can make a complaint to NHS Improvement in relation to a commissioner'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.

- 8.10.6 Anonymised details of breaches will be published on the CCG's website for the purpose of learning and development.
- 8.10.7 Breaches of the policy may result in the Governing Body member being removed from office in line with the Clinical Commissioning Group's Constitution. See section 19 for further details of the actions the CCG may take in response to breaches of this policy.

9. SPONSORSHIP

9.1 Acceptance of Commercial Sponsorship

- 9.1.1 Barnsley Clinical Commissioning Group staff may accept commercial sponsorship for courses, conferences, post/project funding, meeting and publications only if a reasonable person would conclude that the event will result in clear benefit for the CCG and the NHS in accordance with the principles set out in this policy. In cases of doubt, advice should be sought from the Head of Governance and Assurance.
- 9.1.2 Permission (with details of the proposed sponsorship) must be obtained from the relevant Lead Officer in writing in advance and a copy of this permission must be sent to the Head of Governance and Assurance. (See Appendix 4a 'Application to Seek Permission to Accept Commercial Sponsorship').
- 9.1.3 Acceptance of Commercial Sponsorship should not in any way compromise commissioning decisions of Barnsley Clinical Commissioning Group or be dependent on the purchase or supply of goods or services.
- 9.1.4 At the CCG's discretion, sponsors or their representatives may attend or take part in events but they should not have a dominant influence over the content or the main purpose of the event. The involvement of a sponsor in an event should always be clearly identified in the interest of transparency.
- 9.1.5 Barnsley Clinical Commissioning Group should not endorse individual companies or their products. It should be made clear that the fact of sponsorship does not mean that Barnsley Clinical Commissioning Group endorses a company's products or services.
- 9.1.6 During dealings with sponsors there must be no breach of patient or individual confidentiality or data protection legislation.
- 9.1.7 No information should be supplied to a company for their commercial gain unless there is a clear benefit to the NHS. As a general rule, information which is not in the public domain should not normally be supplied.

9.1.8 Sponsorship should only be accepted if all organisations involved in the area relating to the sponsored event or activity/post have had an equal chance to offer sponsorship, and the offer and acceptance of the sponsorship must have no influence on any subsequent decision-making.

9.2 Sponsorship Declaration

9.2.1 The Clinical Commissioning Group will ensure that any offers of sponsorship for meetings or funding for fixed term activities or posts are accepted on terms that do not infringe this Policy.

9.2.2 All such offers (whether accepted or declined) must be declared using the form at Appendix 4b so that they can be included on the CCG's Register of Sponsorship, Gifts, and Hospitality, and so that the Head of Governance and Assurance can provide advice on whether or not it would be appropriate to accept any such offers.

10. GIFTS AND HOSPITALITY

10.1 Introduction

10.1.1 All the individuals listed in paragraph 8.1.5 need to consider the risks associated with accepting offers of gifts, hospitality and entertainment when undertaking activities for or on behalf of the CCG or their GP practice. This is especially important during procurement exercises, as the acceptance of gifts could give rise to real or perceived conflicts of interests, or accusations of unfair influence, collusion or canvassing.

10.2 Gifts

10.2.1 A 'gift' is defined as any item of cash or goods, or any service, which is provided for personal benefit, free of charge or at less than its commercial value. CCG staff should not accept gifts that may affect, or be seen to affect, their professional judgement. This overarching principle should apply in all circumstances.

10.2.2 All gifts of any nature offered to CCG staff, Governing Body and committee members and individuals within GP member practices by suppliers or contractors linked (currently or prospectively) to the CCG's business should be declined, whatever their value (subject to this, low cost branded promotional aids may be accepted and not declared where they are under the value of a common industry standard of £6). The person to whom the gifts were offered should also declare the offer to the Head of Governance and Assurance as soon as practical and no later than 28 days after the offer was made so the offer which has been declined can be recorded on the

Register.

- 10.2.3 Gifts offered from other sources (e.g. patients, families, service users) should also be declined if accepting them might give rise to perceptions of bias or favouritism, and a common sense approach should be adopted as to whether or not this is the case. In general modest gifts under a value of £50 may be accepted and do not need to be declared. Gifts valued at over £50 should be treated with caution and only be accepted on behalf the CCG, not in a personal capacity. These should be declared by staff. A common sense approach should be applied to the valuing of gifts (using an actual amount, if known, or an estimate that a reasonable person would make as to its value).

Multiple gifts from the same source over a 12 month period should be treated in the same way as single gifts over £50 where the cumulative value exceeds £50.

- 10.2.4 Any personal gift of cash or cash equivalents (e.g. vouchers, tokens, offers of remuneration to attend meetings whilst in a capacity working for or representing the CCG) must always be declined, whatever their value and whatever their source, and the offer which has been declined must be declared to the Head of Governance and Assurance as soon as practical and no later than 28 days after the offer was made and recorded on the Register.
- 10.2.5 It is not permitted to accept gifts of alcohol.

10.3 Hospitality

- 10.3.1 A blanket ban on accepting or providing hospitality is neither practical nor desirable from a business point of view. However, individuals should be able to demonstrate that the acceptance or provision of hospitality would benefit the NHS or CCG. Hospitality must only be accepted when there is a legitimate business reason and it is proportionate to the nature and purpose of the event. Particular caution should be exercised when hospitality is offered by actual or potential suppliers or contractors, these can be accepted if modest and reasonable, but individuals should always obtain senior approval and declare these.

10.3.2 Meals and Refreshments

- Under a value of £25 may be accepted and need not be declared;
- Of a value between £25 and £75 may be accepted and must be declared;
- Over a value of £75 should be refused unless (in exceptional circumstances) senior approval is given. A clear reason should be recorded on the CCG's Register of Gifts & Hospitality as to why it was permissible to accept.

10.3.3 Travel and Accommodation

Modest offers to pay some or all of the travel and accommodation costs related to attendance at events may be accepted and must be declared. Offers which go beyond modest, or are of a type that the CCG itself might not usually offer, need approval by senior staff (the Chief Officer or Head of Governance & Assurance) should only be accepted in exceptional circumstances, and must be declared. A clear reason should be recorded on the CCG's Register of Gifts & Hospitality as to why it was permissible to accept travel and accommodation of this type. A non-exhaustive list of examples includes:

- Offers of business class or first class travel and accommodation (including domestic travel); and
- Offers of foreign travel and accommodation.

10.4 Register of Gifts and Hospitality

10.4.1 Declarations of receipt of gifts and hospitality should be made as soon as reasonably practicable. GPs and other staff within the CCG's member practices are not required to declare offers/receipt of gifts and hospitality to the CCG which are unconnected with their role or involvement with the CCG. However GP staff will need to adhere to other relevant guidance issued by professional bodies.

10.4.2 The Head of Governance and Assurance will maintain Registers of Gifts and Hospitality on behalf of the Chair of the Audit Committee and the Chief Officer (see Appendix 4b) where all gifts and hospitality declared in accordance with this policy will be recorded. The Registers will be published at least once a year at Governing Body meetings in public and will be accessible by the public on the Clinical Commissioning Group Website www.barnsleyccg.nhs.uk and available for inspection at the Clinical Commissioning Group Headquarters (Hilder House, 49/51 Gawber Road, Barnsley S75 2PY).

11. OUTSIDE EMPLOYMENT AND PRIVATE PRACTICE

11.1 In accordance with Barnsley CCG's 'Working Time Regulations Policy including Secondary Employment,' employees of Barnsley Clinical Commissioning Group (depending on the details of their contract as regards outside employment and private practice) are required to inform the CCG if they are engaged in or wish to engage in outside employment in addition to their work with Barnsley Clinical Commissioning Group.

11.2 The purpose of this is to ensure that Barnsley Clinical Commissioning Group is aware of any potential conflict of interest with their Barnsley Clinical Commissioning Group employment.

- 11.3 Examples of work which might conflict with the business of the Clinical Commissioning Group include:
- i. Employment with another NHS body;
 - ii. Employment with another organisation which might be in a position to supply goods/services to Barnsley Clinical Commissioning Group including paid advisory positions and paid honorariums which relate to bodies likely to do business with the CCG;
 - iii. Directorships e.g. of a GP Federation or non-executive roles; and
 - iv. Self-employment, including private practice, charitable trustee roles, political roles and consultancy work, in a capacity which might conflict with the work of Barnsley Clinical Commissioning Group or which might be in a position to supply goods/services to Barnsley Clinical Commissioning Group.
- 11.4 The Human Resources team in the Commissioning Support Unit will send an annual reminder to all Barnsley Clinical Commissioning Group staff about this requirement.
- 11.5 Permission to engage in outside employment/private practice will be required and Barnsley Clinical Commissioning Group reserves the right to refuse permission where it believes a conflict will arise.
- 11.6 All allegations of non-CCG work or running of any business while on paid sickness absence or other paid absence, including but not limited to carer's leave and compassionate leave from the CCG will be passed to the CCG's NHS Local Counter Fraud Specialist for consideration of criminal investigation and prosecution, as per the Group's Fraud, Bribery and Corruption Policy.
- 11.7 As a general principle, permission from the CCG will need to be gained if there is any financial gain resulting from external work where use of Barnsley CCG time or title is involved (e.g. speaking at training events/conferences, writing articles etc) and/or which is connected with Barnsley CCG business. Permission needs to be granted by a member of Senior Management Team.

12. SUPPLIERS AND CONTRACTORS

- 12.1 All Barnsley Clinical Commissioning Group staff who are in contact with suppliers and contractors (including external consultants), and in particular those who are authorised to sign purchase orders or enter into contracts for goods and services are expected to adhere to professional standards in line with those set out in the Code of Conduct of the Chartered Institute of Purchasing and Supply (Appendix 5).

- 12.2 All Barnsley Clinical Commissioning Group staff must treat prospective contractors or suppliers of service to the Clinical Commissioning Group equally and in a non-discriminatory way and act in a transparent manner. Please see NHS Barnsley Clinical Commissioning Group's 'Equality, Diversity and Human Rights Strategy' and its 'Procurement Policy'.
- 12.3 Barnsley Clinical Commissioning Group staff involved in the awarding of contracts and tender processes must take no part in a selection process if a personal interest or conflict of interest is known. Such an interest must be declared to the Head of Governance and Assurance using the form at Appendix 2a as soon as the conflict becomes apparent. Barnsley Clinical Commissioning Group staff should not at any time seek to give undue advantage to any private business or other interests in the course of their duties.
- 12.4 Barnsley Clinical Commissioning Group has duties under European and UK procurement law and Barnsley Clinical Commissioning Group staff must comply with Standing Financial Instructions in relation to all contract opportunities with the Clinical Commissioning Group.
- 12.5 Barnsley Clinical Commissioning Group staff must not seek, or accept, preferential rates or benefits in kind for private transactions carried out with companies with which they have had, or may have, official dealings on behalf of Barnsley Clinical Commissioning Group. This does not apply to officers and members benefit scheme offered by the NHS or Trade Unions.
- 12.6 Barnsley Clinical Commissioning Group staff invited to visit organisations to inspect equipment e.g. software, training aids etc. for the purpose of advising on its purchase will be reimbursed for their travelling expenses in accordance with the travel expenses policy laid down by Barnsley Clinical Commissioning Group.
- Such expenses should not be claimed from other organisations to avoid compromising the purchasing decisions of Barnsley Clinical Commissioning Group.
- 12.7 Every invitation to tender to a prospective bidder for Barnsley Clinical Commissioning Group business must require each bidder to give a written undertaking, not to engage in collusive tendering or other restrictive practice and not to engage in canvassing Barnsley Clinical Commissioning Group, its employees or Officers concerning the contract opportunity tendered.

13. INITIATIVES

- 13.1 As a general principle, any financial gain resulting from external work where use of Barnsley Clinical Commissioning Group time or title is involved (e.g. speaking at training events/conferences, writing articles etc.) and/or which is connected with Barnsley Clinical Commissioning Group business will be forwarded to the Chief Officer for surrender to a local charity.
- 13.2 Any patents, designs, trademarks or copyright resulting from the work (e.g. research) of an employee of Barnsley Clinical Commissioning Group carried out as part of their employment by Barnsley Clinical Commissioning Group shall be the Intellectual Property of Barnsley Clinical Commissioning Group.
- 13.3 Approval from the appropriate line manager should be sought prior to entering into an obligation to undertake external work connected with the business of Barnsley Clinical Commissioning Group (eg. writing articles for publication, speaking at conferences).
- 13.4 Where the undertaking of external work, gaining patent or copyright or the involvement in innovative work benefits or enhances Barnsley Clinical Commissioning Group's reputation or results in financial gain for Barnsley Clinical Commissioning Group, consideration will be given to rewarding employees subject to any relevant guidance for the management of Intellectual Property in the NHS issued by the Department of Health.

14. COMMERCIAL CONFIDENTIALITY

- 14.1 Barnsley Clinical Commissioning Group staff should guard against providing information on the operations of the CCG which might provide a commercial advantage to any organisation (private or NHS) in a position to supply goods or services to Barnsley Clinical Commissioning Group. For particularly sensitive procurements/contracts, Barnsley Clinical Commissioning Group staff may be asked to sign a Non-Disclosure Agreement, a copy of which can be found in Appendix 6.

15. MANAGEMENT ARRANGEMENTS

- 15.1 Barnsley Clinical Commissioning Group staff and representatives should be aware that a breach of this policy could render them liable to prosecution as well as leading to the termination of their employment or position in Barnsley Clinical Commissioning Group.
- 15.2 Barnsley Clinical Commissioning Group staff who fail to disclose any relevant interests, outside employment or receipt of gifts or hospitality as required by this policy or Barnsley Clinical Commissioning Group's Standing Orders and Standing Financial Instructions may be subject to disciplinary

action which could, ultimately, result in the termination of their employment or position with Barnsley Clinical Commissioning Group and criminal sanction.

16. COMPLAINTS

- 16.1 Barnsley Clinical Commissioning Group staff who wish to report suspected or known breaches of this policy should inform the Head of Governance and Assurance. All such notifications will be held in the strictest confidence and the person notifying the Head of Governance and Assurance can expect a full explanation of any decisions taken as a result of any investigation.

17. MONITORING THE COMPLIANCE AND EFFECTIVENESS OF THIS POLICY

- 17.1 The **Chair of the Audit Committee** will be the CCG's Conflicts of Interest Guardian and, supported by the Chief Officer, will be responsible for ensuring there is an effective system in place to manage conflicts, or potential conflicts, of interest and along with the Head of Governance and Assurance, will retain an overview of the policy to ensure adherence in accordance with the organisations governance arrangements set out in the Constitution.
- 17.2 The Head of Governance and Assurance will be responsible for maintaining the Register of Interests, holding the Hospitality Register and reviewing the implementation of this policy.

18. REVIEW OF THE POLICY

- 18.1 This Policy will be reviewed within two years of its approval date.

19. BREACHES OF THIS POLICY

- 19.1 Barnsley Clinical Commissioning Group will view instances where this policy is not followed as extremely serious and may take disciplinary action against individuals as a result, which may result in dismissal.
- 19.2 The CCG will automatically and immediately refer all cases of potential fraud, corruption and bribery to the CCG's NHS Local Counter Fraud Specialist for consideration of criminal investigation and prosecution, as required by the Group's Fraud, Bribery and Corruption Policy. Where necessary the Police will be involved. Referrals will also be made where appropriate, to the pertinent professional regulatory body such as the GMC and NMC. The CCG will always seek to use the most effective means to recover any taxpayer funding lost due to fraud, corruption or bribery. Be this via the criminal courts using the Proceeds of Crime Act or using the option

of civil recovery.

19.3 **Fraud**

The Fraud Act 2006 came into force on the 15 January 2007 and introduced the general offence of fraud. This is broken down into a number of key areas in terms of criminal offences including:

- Fraud by false representation;
- Fraud by failing to disclose information;
- Fraud by abuse of position;
- Possession or supplying articles for use in fraud;
- Obtaining Services dishonestly.

19.4 **Corruption and Bribery**

The UK Bribery Act 2010 has replaced previous Prevention of Corruption Acts and created two general offences of bribery:

- Offering or giving a bribe to induce someone to behave or to reward someone for behaving improperly and;
- Requesting or accepting a bribe in exchange for acting improperly, or where the request or acceptance is itself improper.

A new corporate offence has also been introduced:

- Negligent failing by a company or limited liability partnership to prevent bribery being given or offered by an employee or agent on behalf of that organisation.

19.4.1 All staff working for the Group are required to be aware of the UK Bribery Act 2010 and should also refer to the Group's Fraud, Bribery and Corruption Policy for further details.

19.4.2 Individuals who fail to disclose relevant interests, outside employment or receipts of gifts, hospitality or sponsorship as required by this policy or the group's Standing Orders and other related financial policies may be subject to the varying forms of criminal disciplinary and regulatory actions listed above in section 19.3 of this document.

19.5 **Reporting Suspicions**

All cases of suspected fraud, corruption, or bribery must be investigated by an accredited NHS Local Counter Fraud Specialist appointed by the group. The CCG's appointed NHS Counter Fraud Specialist is Claire Croft,

Standards of Business Conduct, Managing Conflicts of Interest and the Acceptance of Gifts and Hospitality Policy

telephone 01709 428702. Email claire.croft1@nhs.net or reports can be made directly through the Chief Finance Officer. Alternatively, you can use the NHS Protect Fraud and Corruption reporting line 0800 028 4060 or via the website

<https://www.reportnhsfraud.nhs.uk/>.

Appendix 1

The Seven Principles of Public Life set out by the Committee on Standards in Public Life (The Nolan Principles)

Selflessness

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

Integrity

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

Objectivity

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

Accountability

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

Openness

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

Honesty

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

Leadership

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

Appendix 2a

Declaration of Interests for Barnsley CCG Members and Employees

Name:				
Position within, or relationship with the CCG (or NHS England in the event of joint Committees):				
Details of interests held (Complete all that are applicable):				
Type of Interest* *See reverse of form for details	Description of Interest (including for indirect Interests, details of the relationship with the person who has the interest)	Date Interest relates From & To		Actions to be taken to mitigate risk (to be agreed with line manager or a Senior CCG Manager)

Standards of Business Conduct, Managing Conflicts of Interest and the Acceptance of Gifts and Hospitality Policy

The information submitted will be held by the CCG for personnel or other reasons specified on this form and to comply with the organisation's policies. This information may be held in both manual and electronic form in accordance with the Data Protection Act 1998. Information may be disclosed to third parties in accordance with the Freedom of Information Act 2000 and may be published in registers that the CCG holds.

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

By signing this form I give my consent for this information to be published on registers that the CCG holds. If consent is NOT given please give the reasons below.

Signed:

Date:

(Line Manager or Senior CCG Manager)

Signed:

Position:

Date:

Please return to the Head of Governance and Assurance or a member of the Corporate Affairs Team.

NHS Barnsley Clinical Commissioning Group Register of Interests

This register of interests includes all interests declared by members and employees of Barnsley Clinical Commissioning Group. In accordance with the Clinical Commissioning Group’s constitution the Clinical Commissioning Group’s Accountable Officer will be informed of any conflict of interest that needs to be included in the register within not more than 28 days of any relevant event (e.g. appointment, change of circumstances) and the register will be updated as a minimum on an annual basis.

Register: Governing Body										
Name	Current position (s) held in the CCG	Declared Interest	Type of Interest			Is the interest direct or indirect?	Nature of the Interest	Date of Interest		Actions taken to mitigate risk
			Financial Interest	Non-Financial Professional Interest	Non-Financial Personal Interest			From	To	

Appendix 2c
Decision Making Guidance Matrix for Conflicts of Interest

Interest	Pecuniary (Self, partner or close associate)	Personal (Self)	Personal (Partner or close associate)	Competing Loyalties
Needs assessment Design services (ensure a fully inclusive process)	Discuss and vote			
Decide priorities	Discuss but cannot vote	Discuss and vote		
Review commissioning proposals	Remain but cannot speak or vote			Discuss and vote
Review prioritised business cases Procurement/ contracting	Leave the room	Remain but cannot speak or vote (unless interest is deemed not prejudicial)		Discuss and vote
Performance Management	Remain but cannot speak or vote (unless significant and then leave the room)			Discuss and vote
Review Health Outcomes	Fully participate			

Appendix 4a

Application to Seek Permission to Accept Commercial Sponsorship

Please complete the form below and then pass to the relevant Chief Officer for approval. If approval is given, send a copy of the form, once signed by the appropriate officer, to the Head of Governance & Assurance.

a. Detail of Staff

Name

Title

E-mail

Tel-No

b. Details of proposed sponsorship

c. Approval by relevant Chief Officer:

Name

Title

Signature

Date

Any Comments

(Please return this form to: Head of Governance & Assurance).

Appendix 4b

Sponsorship Declaration

This form is required to be completed in accordance with the Clinical Commissioning Group’s Constitution and the Standards of Business Conduct, Managing Conflicts of Interest, and the Acceptance of Gifts and Hospitality Policy. This form is required to be completed by employees of Barnsley Clinical Commissioning Group, members of the Governing Body and members of the Membership Council.

Name

Date	Name of Sponsor	Name of Company or firm or business or trade	Details of Offer	Accepted (Yes/No)	Chief Officer Initials

Head of Governance and Assurance

Appendix 4c

Declarations of Gifts and Hospitality

Recipient Name	Position	Date Of Offer	Date of Receipt (if applicable)	Details of Gift / Hospitality	Estimate Value	Supplier / Offeror Name and Nature of Business	Details of Previous Offers Or Acceptance By the Offeror/ Supplier	Details of the Officer reviewing And approving The declaration made and date	Declined Or Accepted?	Reason for Accepting Or Declining	Other Comments

The information submitted will be held by the CCG for personnel or other reasons specified on this form and to comply with the organisation's policies. This information may be held in both manual and electronic form in accordance with the Data protection Act 1998. Information may be disclosed to third parties in accordance with the Freedom of information Act 2000 and may be published in registers that the CCG holds.

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

Standards of Business Conduct, Managing Conflicts of Interest and the Acceptance of Gifts and Hospitality Policy

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

Signed

Date

**Signed
(Line Manager or a Senior Manager)**

Position

Date

Please return to the Head of Governance and Assurance

Appendix 4d

Register of Gifts and Hospitality

Name	Position	Date of Offer	Declined or Accepted?	Date of Receipt (if Applicable)	Details of Gift / Hospitality	Estimated Value	Supplier / Offeror Name and Nature of business	Reason for Accepting Or Declining

Appendix 5

The Chartered Institute of Purchasing and Supply Code of Conduct
Use of the Code
<i>[All Barnsley Clinical Commissioning Group staff who are in contact with suppliers and contractors (including external consultants), and in particular those who are authorised to sign purchase orders or enter into contracts for goods and services are expected to adhere to professional standards in line with those set out in the Code of Conduct of the Chartered Institute of Purchasing and Supply].</i>
Members of CIPS worldwide are required to uphold the code and to seek commitment to it by all the parties they engage with in their professional practice. Members should encourage their organisation to adopt an ethical procurement and supply policy based on the principles of this code and raise any matter of concern relating to business ethics at an appropriate level within their organisation. Members' conduct will be judged against the code and any breach may lead to action under the disciplinary rules set out in the Institute's Royal Charter. Members are expected to assist any investigation by CIPS in the event of a complaint being made against them.
The new code was approved by the CIPS Global Board of Trustees in September 2013.
As a member of the Chartered Institute of Purchasing and Supply, I will:
<i>Enhance and protect the standing of the profession, by:</i>
<ul style="list-style-type: none">• Never engaging in conduct, either professional or personal, which would bring the profession or the Chartered Institute of Purchasing & Supply into disrepute;• Not accepting inducements or gifts (other than any declared gifts of nominal value which have been sanctioned by my employer);• Not allowing offers of hospitality or those with vested interests to influence, or be perceived to influence, my business decisions;• Being aware that my behaviour outside my professional life may have an effect on how I am perceived as a professional.
<i>Maintain the highest standard of integrity in all business relationships, by:</i>
<ul style="list-style-type: none">• Rejecting any business practice which might reasonably be deemed improper;• Never using my authority or position for my own financial gain;• Declaring to my line manager any personal interest that might affect, or be seen by others to affect, my impartiality in decision-making;• Ensuring that the information I give in the course of my work is accurate and not misleading;• Never breaching the confidentiality of information I receive in a professional capacity;

Standards of Business Conduct, Managing Conflicts of Interest and the Acceptance of Gifts and Hospitality Policy

- Striving for Genuine, fair and transparent competition;
- Being truthful about my skills, experience and qualifications.

Promote the eradication of unethical business practices, by:

- Fostering awareness of human rights, fraud and corruption issues in all my business relationships;
- Responsibility managing any business relationships where unethical practices may come to light, and taking appropriate action to report and remedy them;
- Undertaking due diligence on appropriate supplier relationships in relation to forced labour (modern slavery) and other human rights abuses, fraud and corruption;
- Continually developing my knowledge of forced labour (modern slavery), human rights, fraud and corruption issues, and applying this in my professional life.

Enhance the proficiency and stature of the profession, by:

- Continually developing and applying knowledge to increase my personal skills and those of the organisation I work for;
- Fostering the highest standards of professional competence amongst those for whom I am responsible;
- Optimising the responsible use of resources which I have influence over for the benefit of my organisation.

Ensure full compliance with laws and regulations, by:

- Adhering to the laws of countries in which I practise, and in countries where there is no relevant law in place I will apply the standards inherent in this Code;
- Fulfilling agreed contractual obligations;
- Following CIPS guidance on professional practice.

Appendix 6

Non-Disclosure Agreement
NHS Barnsley Clinical Commissioning Group – express requirement for confidentiality.
You have been requested to be involved in (INSERT DETAILS) (“the Project”).
Barnsley Clinical Commissioning Group or other parties participating in the Project may provide you with, as part of your role in respect of the Project, access to certain confidential information relating the Project (whether before or after the date of this letter), in writing, by email, orally, or by other means (including from or pursuant to discussions with any other party or which is obtained through attendance at meetings related to the Project) and trade secrets including, without limitation, technical data and know-how relating to the Project, including in particular (by way of illustration only and without limitation) [EXAMPLES] and including (but not limited to) information that you may create, develop, receive or obtain in connection with your engagement on the Project, whether or not such information (if in anything other than oral form) is marked confidential (the “confidential Information”).
Accordingly, we draw to your attention that as part of your role for NHS Barnsley Clinical Commissioning Group you are required to:
(a) Maintain the Confidential Information in the strictest confidence and not divulge any of the Confidential Information to any third party without the prior written permission of NHS Barnsley Clinical Commissioning Group;
(b) Not make use of, reproduce, copy, discuss, disclose or distribute the Confidential Information other than for use as part of your role in the Project.
The above obligations in respect of this Confidential Information are supplemental to any prior representation, understanding and commitment (whether oral or written) between us. The terms of this letter can only be changed by a written document, agreed upon by both of us and signed by duly authorised persons. These provisions shall be governed and construed by English law.
Yours faithfully For and on behalf of NHS Barnsley Clinical Commissioning Group (By signing this letter you agree to comply with these terms)

Standards of Business Conduct, Managing Conflicts of Interest and the Acceptance of Gifts and Hospitality Policy

Signed:	
Date:	
Print Name:	