

<b>Corporate</b>	<b>ICBP039 - Standards of Business Conduct and Declarations of Interest Policy</b>
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## EQUALITY IMPACT ASSESSMENT

Date	Issues
May 2022	None identified.

## POLICY VALIDITY STATEMENT

Policy users should ensure that they are consulting the currently valid version of the documentation. The policy will remain valid, including during its period of review. However, the policy must be reviewed at least once in every 3-year period.

## ACCESSIBLE INFORMATION STANDARDS

If you require this document in an alternative format, such as easy read, large text, braille or an alternative language please contact [necsu.comms@nhs.net](mailto:necsu.comms@nhs.net)

## Version Control

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## Approval

Role	Name	Date
Approver	ICB Board	July 2022

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## 1. Introduction, Aims and Objectives

- 1.1 For the purposes of this policy, the North East and North Cumbria Integrated Care Board (NENCICB) will be referred to as “the ICB”, in relation to the 'corporate body'

In 2020/21 the Department for Health and Social Care spent £192 billion. This money is used to fund a wide range of health and care services, including GP services, ambulance, mental health, community and hospital services, which are commissioned by the NHS, and public health. It also funds some social care services, which are mainly commissioned by local authorities. £2.5 billion of the Department for Health and Social Care's budget is spent on administration costs for the department and the health and care system, such as departmental running costs, regulatory costs, and business services, e.g., the NHS payroll. The total budget for 2020/21 was more than £50 billion higher than in 2019/20 because of the Covid-19 pandemic. The funds raised through the Health and Care Levy and other additional funding commitments will see the department's budget reach more than £170 billion a year from 2022/23<sup>1</sup>.

- 1.2 The purpose of this policy is to ensure exemplary standards of business conduct are adhered to by Board members, committee and sub-committee members and employees of the Integrated Care Board (ICB) (as well as individuals contracted to work on behalf of the Board or otherwise providing services or facilities to the ICB such as those within commissioning support services). Throughout this Policy individuals will be aware of their own responsibilities as well as the ICB's responsibilities as a corporate body. The Policy also sets out the responsibilities of the ICB as an employer, taking account of the individual and corporate obligations set out in the Bribery Act 2010.
- 1.3 The policy draws attention to the consequences of non-compliance with its requirements, which may include disciplinary action and/or legal action.
- 1.4 The production of this policy draws on the wide range of guidance issued over the years for NHS bodies.
- 1.5 This policy does not apply to independent and private sector organisations, general practices, social enterprises, community pharmacies, community dental practices, optical providers, local authorities – who are subject to different legislative and governance requirements. However, they would be required to comply with the requirements to declare interests should they be a member of the Board or any of its sub-committees or working groups.

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<sup>1</sup> <https://www.kingsfund.org.uk/audio-video/key-facts-figures-nhs#:~:text=In%202020%2F21%20the%20Department,the%20NHS%2C%20and%20public%20health.>

## 2. Guidance and Legal Framework

2.1 The NHS Management Executive published guidance, “Standards of business conduct for NHS staff”, (HSG (93) 5), which remains extant and provides specific guidance on:

- The standards of conduct expected of all NHS staff where their private interests may conflict with their public duties; and
- The steps which NHS employers should take to safeguard themselves and the NHS against conflicts of interest.

Specifically, it makes it clear that it is the responsibility of staff to ensure that they are not placed in a position which risks, or appears to risk, conflict between their private interests and their NHS duties.

2.2 The Department of Health’s document, “Code of Conduct for NHS Managers”, (October 2002), provides guidance on core standards of conduct expected of NHS Managers to act in the best interests of the public and patients/clients to ensure that decisions are not improperly influenced by gifts or inducements. Professional Codes of Conduct governing health care professionals are also pertinent. Similarly, the General Medical Council’s guidance, “Leadership and management for all doctors” (March 2012), details the standards and expectations required of clinicians in leadership and management positions.

2.3 The ICB should observe the principles of good governance as set out in:

- The Nolan Principles on Conduct in Public Life
- The Good Governance Standards for Public Services (2004), Office for Public Management (OPM) and Chartered Institute of Public Finance and Accountancy (CIPFA) sets out the principles of good governance.
- The seven key principles of the NHS Constitution
- The Equality Act 2010
- The UK Corporate Governance Code
- NHS England: Managing Conflicts of Interest in the NHS: Guidance for staff and organisations (February 2017)

2.4 The Bribery Act 2010 came into force on 1 July 2011 and repeals previous corruption legislation. The Act has introduced the criminal offences of offering and receiving a bribe. It also places specific responsibility on organisations to have in place adequate procedures to prevent bribery and corruption taking place. This policy should be read in-conjunction with the ICB's Counter Fraud, Bribery and Corruption policy.

Bribery can generally be defined as offering, promising or giving a financial or other advantage to influence others to use their position in an improper way (i.e, to obtain a business advantage). A benefit can be money, gifts, rewards etc. and does not have to be of substantial financial value. No actual gain or loss has to be made.

A person has committed a criminal offence of offering a bribe even if the offer is declined, as does a person who accepts a bribe even if they don't receive it.

A bribe does not have to be in cash; it may be the awarding of a contract, provision of a gift, hospitality or sponsorship or another benefit.

Anyone found guilty of either offering or receiving a bribe could face a custodial sentence of up to 10 years imprisonment.

Corruption is generally considered as an umbrella term covering various activity and behaviour including bribery, kickbacks, favors, corrupt preferential treatment or cronyism. Corruption can be broadly defined as the offering or acceptance of inducements, gifts, favors, payment or benefit-in-kind which may influence the action of any person. Corruption does not always result in a loss. The corrupt person may not benefit directly from their deeds; however, they may be unreasonably using their position to give some advantage to another.

All staff are reminded that they should be transparent in respect of recording any gifts, hospitality or sponsorship, [see section 5](#) of this policy.

Section 7 of the Bribery Act 2010 introduced a new corporate offence of 'failure of commercial organisations to prevent bribery'. The Board can be held liable when someone associated with it bribes another in order to obtain or retain business for the organisation and be subject to an unlimited fine. However, the Board will have a defence if it can demonstrate that it had adequate procedures in place designed to prevent bribery.

The Act applies to everyone associated with the ICB and who performs services on its behalf, or who provides the organisation with goods or services. This includes anyone working for or with the ICB, such as employees, agents, subsidiaries, contractors and suppliers.

Employees of the ICB must not request or receive a bribe from anybody, nor imply that such an act might be considered. This means they will not agree to receive or accept a financial or other advantage from a former, current or future client, business partner, contractor or supplier or any other person as an incentive or reward to perform improperly their function or activities.

More information on the Bribery Act 2010 can be found at the following website address: <https://www.legislation.gov.uk/ukpga/2010/23/crossheading/general-bribery-offences>

- 2.5 As required by section 14Z30 of the NHS Act 2006, the ICB has made arrangements (outlined in this policy) to manage any actual and potential conflicts of interest to ensure that decisions made by the ICB will be taken and seen to be taken without being unduly influenced by external or private interest and do not, (and do not risk appearing to) affect the integrity of the ICB's decision-making processes.

## 2.6 The ICB will abide by the following principles

- Safeguard system-led commissioning, whilst ensuring objective investment decisions.
- Act in a way that demonstrates that they are acting fairly and transparently and in the best interests of their patients and ICB population.
- Act in a way that upholds confidence and trust in the NHS and system partners.
- Recognition that the ICB requires a diversity of perspectives in order for it to make good decisions; therefore, interests will be managed sensibly and proportionately in line with NHSE guidance and the ICB's Standards of Business Conduct and Declarations of Interest Policy.
- Decision making will be made with a regard to the Triple Aim: considering the effects of the decisions on; the health and wellbeing of the people of England; the quality of services provided or arranged by both the ICB and other relevant bodies and the sustainable and efficient use of resources by the ICB and other relevant bodies.

2.7 This policy has been produced considering all of the current NHS managing conflict of interest guidance and legal framework.

## 2.8 Placing of orders and contracts

2.8.1 The ICB will procure in a fair, open, transparent and non-discriminatory manner between prospective contractors or suppliers for contracts (including where the ICB is commissioning a service through Any Qualified Provider) as is the requirement of NHS England and the ICB Standing Orders and the European procurement regulations – Public Contracts Regulations 2015 (PCR 2015). This means that:

- No private, public or voluntary organisation or company which may bid for ICB business should be given any advantage over its competitors, such as advance notice of the ICB's requirements. This applies to all potential contractors, whether or not there is a relationship between them and the ICB, such as a long-running series of previous contracts.
- Each new contract should be awarded solely on merit, taking into account the requirements of the ICB and the ability of the contractors to fulfil them.
- No special favor is to be shown to current or former employees or their close relatives or associates in awarding contracts to private or other businesses run by them or employing them in any capacity. Contracts may be awarded to such businesses when they are won in fair, open and transparent competition against other tenders, but scrupulous care must be taken to ensure that the selection process is conducted impartially, and that staff who are known to have a relevant interest play no part in the selection.

2.8.2 All staff, Board members, Committee members and individuals acting on behalf of the ICB, in contact with suppliers and contractors (including external consultants), and in particular those who are authorised to sign orders or place contracts for goods, materials or services, are expected to adhere to professional standards of a kind set out in the [ethical code of the Institute of Purchasing and Supply](#) are also required to declare any interest if they are participating in a specific procurement and tendering processes.

2.8.3 This policy should also be read in-conjunction with the ICB's Procurement policy.

## **2.9 Partnership Governance**

The Board will ensure effective arrangements are in place for the governance of Integrated Care Partnerships (ICPs) (both at system and place level). The increasing development of partnership-based approaches to the commissioning and delivery of care place further emphasis on the necessity for strong governance and performance management in partnership working arrangements. In this respect, there needs to be a clear approach to ensure and demonstrate that investment in partnerships delivers effective and appropriate outcomes for the local population.

As part of an effective governance and assurance process the Board will satisfy itself that managing conflicts of interests and the principles of this policy are applied to ICPs (both at system and place level).

## **2.10 Private Transactions**

Individual staff, Board members and Committee members and individuals acting on behalf of the ICB, will 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 the ICB. (This does not apply to concessionary agreements negotiated with companies by NHS management, or by recognised staff interests, on behalf of all staff – for example, NHS staff benefits schemes).

## **3. Application of Public Service Values and Principles to the NHS**

3.1 Public service values must be at the heart of the NHS. High standards of corporate and personal conduct, based on recognition that patients come first, have been a requirement throughout the NHS since its inception. Moreover, since the NHS is publicly funded it is accountable to Parliament for the services it provides and for the effective and economic use of taxpayers' money.

3.2 The Code of Conduct: Code of Accountability in the NHS (Appointments Commission/DOH - 2nd Rev: 2004) defines three crucial public service values which must underpin the work of the health service:

- **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.
- **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, staff and suppliers, and in the use of information acquired in the course of NHS duties.
- **Openness** – there should be sufficient transparency about NHS activities to promote confidence between the NHS body and its staff, patients and the public.

3.3 Following the findings of the Nolan Committee in 1994, a set of recommendations was published by the government setting out ‘Seven Principles of Public Life’ which apply to all in the public service and which are embodied within the ICB Constitution. These are attached in Appendix A.

## 4. Appointments and Roles and Responsibilities

### 4.1 NHS employers

The Board is responsible for ensuring that the requirements of this policy and supporting documents are brought to the attention of all employees and contractors and that mechanisms are put in place for ensuring that the guidelines are effectively implemented. These responsibilities are particularly important given the corporate responsibility set out in the Bribery Act for organisations to ensure that their anti-corruption procedures are robust.

Such awareness will be promoted through:

- A clause in written statements of terms and conditions of employment.
- Publication on the ICB's website for relevant staff.
- Regular reminders to staff of their obligations
- Requirements re mandatory training
- All staff required to complete declaration of interests returns, which will be collated and held centrally
- Induction processes
- Inclusion in Board and committee processes

In line with the Health and Social Care Act 2008 (Regulations 2014 (SI 2014/2936), the Chair of the Board is responsible for confirming that the fitness of all new Executive Directors has been assessed, and that they are satisfied those appointees are fit and proper individuals for their specific Executive Director role. The ICB is responsible for ensuring that all relevant assessments have taken place, as part of the recruitment process including assessing Executive Directors are:

- Of good character
- Have the necessary qualifications, skills and experience
- Are able to perform the work they are employed for
- Can supply information, such as certain checks and a full employment history.

NHS staff are expected to:

- Ensure that the interests of patients remain paramount at all times.
- Be impartial and honest in the conduct of their official business.
- Use the public funds entrusted to them to the best advantage of the service, always ensuring value for money.
- Register with the ICB any interest outside the workplace which could be construed as affecting any part of their work within the ICB e.g., outside / secondary employment.

It is also the responsibility of staff to ensure that they do not:

- Abuse their official position for personal gain or to benefit their family or friends.
- Seek to advantage or further private business or other interests, in the course of their official duties

It is the responsibility of all staff to raise any concerns regarding staff business conduct.

All NHS staff should ensure that they are not placed in a position that risks, or appears to risk, conflict between their private interests and their NHS duties.

#### **4.2 Board and Committee/Sub-Committee Members and individuals acting on behalf of the ICB.**

All Board, committee and sub-committee members, and employees of the ICB, will comply with this policy in line with their terms of office and/ or employment. This will include but not be limited to declaring all interests on a register that will be maintained by the ICB

Individuals acting on behalf of the ICB, must act in accordance with this policy in circumstances whether they are either employed fully by the ICB, hold appointments with the ICB, are employed on a sessional basis or on an honorary contract, or provide services under a service level agreement with the ICB.

#### **4.3 CSU Staff**

Whilst working on behalf of the ICB, CSU staff will be expected to adhere to the ICB's standards of behaviour, including observing and adhering to the Nolan Principles and openly declaring any conflict of interests to the ICB. CSU staff will continue to be governed by all policies and procedures issued by their employer.

#### 4.4 **Candidates for appointment**

Candidates for any appointment with the Board must disclose in writing if they are related to or in a significant relationship with (e.g, spouse or partner) any Board member or employee of the ICB. The NHS Jobs application form requests this information and therefore must be disclosed before submission.

A member of an appointment panel which is to consider the employment of a person to whom they are related or have a significant relationship with, must declare the relationship before an interview is held.

Candidates for any appointment with the ICB shall, when applying, also disclose cases where they or their close relatives or associates have a controlling and/or significant financial interest in a business (including a private company, public sector organisation, other NHS employer and/or voluntary organisation), or in any other activity or pursuit, which may compete for an NHS contract to supply either goods or services to the Board. For appointments out- with NHS Jobs, through the local requirement procedures.

#### 4.5 **Canvassing for appointments**

It is acknowledged that informal discussions concerning an advertised post can be part of the recruitment process. The canvassing or lobbying of ICB employees, Board members or any members of an appointments panel, either directly or indirectly, shall disqualify a candidate. This shall not preclude a ICB employee, Board member or any members of an appointments panel from giving a written reference or testimonial of a candidate's ability, experience or character for submission to an appointments panel. Jobs will be awarded on the merit of the individual candidate and not through any such canvassing or lobbying.

#### 4.6 **Appointing Board or committee members and senior employees**

On appointing Board, committee or sub-committee members and senior staff, the ICB will, on a case by case basis, consider whether conflicts of interest should exclude individuals from being appointed to the relevant role. General principles are reflected in the ICB Constitution (section 6.2.1).

As outlined in section 4.1 of this policy, the Chair of the Board is responsible for confirming that the fitness of all new Executive Directors has been assessed, and that they are satisfied those appointees are fit and proper individuals for their specific Executive Director role. The ICB is responsible for ensuring that all relevant assessments have taken place, as part of the recruitment process including assessing Executive Directors are:

- Of good character
- Have the necessary qualifications, skills and experience
- Are able to perform the work they are employed for
- Can supply information, such as certain checks and a full employment history.

#### 4.7 Conflicts of Interest Guardian

The ICB has appointed a Conflicts of Interest Guardian. This role is undertaken by the Audit Committee Chair. In collaboration with the ICB's governance lead, their role is to:

- Act as a conduit for members of the public and members of the partnership who have any concerns with regards to conflicts of interest.
- Be a safe point of contact for employees or workers to raise any concerns in relation to conflicts of interest.
- Support the rigorous application of conflict-of-interest principles and policies.
- Provide independent advice and judgment to staff and members where there is any doubt about how to apply conflicts of interest policies and principles in an individual situation;
- Provide advice on minimising the risks of conflicts of interest.

Whilst the Conflicts of Interest Guardian has an important role within the management of conflicts of interest, executive members of the Board have an on-going responsibility for ensuring the robust management of conflicts of interest, and all ICB employees, Board and committee members will continue to have individual responsibility in playing their part on an ongoing and daily basis.

#### 4.8 Employees' outside employment

The standard contract used across the ICB sets out terms concerning outside employment: "Your contract of employment does not preclude you from accepting other employment outside normal working hours. However, such other employment or business activity must not in any way hinder or conflict with the interests of your employment with the ICB. You should consult your manager before accepting other employment in the interests of your ICB employment and Working Time Regulations. The relevant documentation relating to this can be obtained from your manager".

Any employee who may be considering outside employment should discuss this in the first instance with their manager before undertaking the employment.

Employees must not engage in outside employment during any periods of sickness absence from the ICB. To do so may lead to a referral being made to the Local Counter Fraud Specialist for investigation which may lead to criminal and/or disciplinary action in accordance with the ICB's Counter-Fraud, Bribery and Corruption Policy.

The Board will take all reasonable steps to ensure that employees, committee members, contractors and others engaged under contract are aware of the requirement to inform the ICB if they are employed or engaged in, or wish to be employed or engage in, any employment or consultancy work in addition to their work with the ICB. The purpose of this is to ensure that the ICB is aware of any potential conflict of interest. Examples of work which might conflict with the business of the ICB, including part-time, temporary and fixed term contract work, including:

- Employment with another NHS body;
- Employment with another organisation which might be in a position to supply goods/services to the ICB;
- Directorship of a GP Federation or non-executive roles; and
- Self-employment, including private practice, charitable trustee roles, political roles and consultancy work in a capacity which might conflict with the work of the ICB or which might be in a position to supply goods/services to the ICB .

These conflicts of interest should be identified as soon as possible, and appropriately managed and recorded on the ICB's Register of Interests. The position should also be reviewed whenever an individual's role, responsibility or circumstances change in a way that affects the individual's interests. For example where an individual takes on a new role outside the ICB, or enters into a new business or relationship, these new interests should be promptly declared and appropriately managed in accordance with the statutory guidance.

Where an individual, including any individual directly involved with the business or decision-making of the ICB and not otherwise covered by one of the categories above, has an interest, or becomes aware of an interest which could lead to a conflict of interest in the event of the ICB considering an action or decision in relation to that interest, that must be considered as a potential conflict, and is subject to the provisions of the ICB Constitution, and this policy.

## **5. Gifts and Hospitality**

### **5.1 Gifts**

#### **5.1.1 Overarching Principle**

Employees of the ICB, individuals of the Board and Committee members and individuals acting on behalf of the ICB must not accept any fee or reward for work done whilst on ICB duty other than that agreed under their terms and conditions of employment.

Situations where the acceptance of gifts could give rise to conflicts of interest should be avoided. ICB staff and members should be mindful that even gifts of a small value may give rise to perceptions of impropriety and might influence behaviour if not handled in an appropriate way.

ICB staff should not accept gifts that may affect, or be seen to affect, their professional judgement. This overarching principle should apply in all circumstances.

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 ICB) must always be declined, whatever their value and whatever their source, and the offer which has been declined must be declared to the ICB governance lead who has designated responsibility for maintaining the register of gifts and hospitality and recorded on the register.

Any offers of gifts, hospitality or sponsorship shall be recorded in accordance with section 6.

### **5.1.2 Gifts**

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.

Gifts from suppliers or contractors doing business (or likely to do business) with the ICB 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 must declare the offer to the ICB governance lead with designated responsibility for maintaining the register of gifts and hospitality so the offer which has been declined can be recorded on the register.

Gifts offered from other sources (e.g. patients, families, service users) may be accepted if they are under a value of £50 and do not need to be declared to the ICB governance lead with designated responsibility for maintaining the register of gifts and hospitality, nor recorded on the register.

Gifts valued at over £50 should be treated with caution and only be accepted on behalf of an organisation (i.e. to an organisation's charitable funds), not in a personal capacity and must be declared to the ICB governance lead with designated responsibility for maintaining the register of gifts and hospitality and recorded on the register.

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.

In cases of doubt, advice should be sought from the line manager/Governance Lead or Executive Director for Corporate Governance, Communications and Involvement, or the gift should be politely declined, and declared.

## **5.2 Hospitality**

Delivery of services across the NHS relies on working with a wide range of partners (including industry and academia) in different places and, sometimes, outside of 'traditional' working hours. As a result, ICB staff will sometimes appropriately receive hospitality. Staff receiving hospitality should always be prepared to justify why it has been accepted, and be mindful that even hospitality of a small value may give rise to perceptions of impropriety and might influence behaviour.

Hospitality means offers of meals, refreshments, travel, accommodation and other expenses in relation to attendance at meetings, conferences, education and training events etc.

### **5.2.1 Overarching principles**

- ICB staff should not ask for or accept hospitality that may affect, or be seen to affect, their professional judgement;
- 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 approval from the Executive Director for Corporate Governance, Communications and Involvement or ICB governance lead and declare these.

### **5.2.2 Meals and Refreshments**

Meals and refreshments under a value of £25 may be accepted and need not be declared. If they are of a value between £25 and £75 they may be accepted and must be declared.

Over a value of £75 should be refused unless (in exceptional circumstances) Executive Director for Corporate Governance, Communications and Involvement approval is given. A clear reason should be recorded on the ICB's Gifts and Hospitality register as to why it was permissible to accept. A common sense approach should be applied to the valuing of meals and refreshments (using an actual amount, if known, or an estimate that a reasonable person would make as to its value).

### **5.2.3 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 ICB itself might not usually offer, need approval by Executive Director for Corporate Governance, Communications and Involvement / ICB governance lead, should only be accepted in exceptional circumstances and must be declared. A clear reason should be recorded on the Gifts and Hospitality register as to why it was permissible to accept travel and accommodation of this type;

A non-exhaustive list of examples of 'beyond modest' offers includes:

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

### **5.3 Payment for speaking at a meeting/conference**

Should a member of staff, Board or Committee member or individual acting on behalf of the ICB, be asked to speak at an event relating to ICB business for which a payment is offered and it is delivered in working hours then there are two choices open to them, which must be agreed with their line manager:

- The payment should be credited to the ICB.
- The member of staff takes annual leave or unpaid leave and the payment is made to the member of staff as a private matter between the organisation making the payment and the individual member of staff. The member of staff remains responsible for any tax liability which arises.

### **5.4 Commercial Sponsorship**

**5.4.1** ICB staff, Board and committee members, may be offered commercial sponsorship for courses, conferences, post/project funding, meetings and publications in connection with the activities that they carry out for, or on behalf of, the ICB

**5.4.2** All such offers (whether accepted or declined) must be declared and recorded, and the ICB governance lead designated by the ICB to provide advice, support, and guidance on how conflicts of interest should be managed should provide advice on whether or not it would be appropriate to accept any such offers. If such offers are reasonably justifiable and otherwise in accordance with statutory guidance then they may be accepted.

- 5.4.3** For the purpose of this policy, commercial sponsorship is defined as including “[NHS funding] from an external source, including funding of all, or part of, the costs of a member of staff, NHS research, staff training, pharmaceuticals, equipment, meeting rooms, costs associated with meetings, meals, gifts, hospitality, hotel and transport costs (including trips abroad), provision of free services (speakers), buildings or premises”.
- 5.4.4** In all these cases, ICB employees, Board and Committee members and individuals acting on behalf of the ICB must declare sponsorship or any commercial relationship linked to the supply of goods or services and be prepared to be held to account for it. This should be recorded in the Gifts, Hospitality and Sponsorship Register (see section 6).
- 5.4.5** Where such collaborative partnerships involve a pharmaceutical company, the proposed arrangements must also comply fully with the relevant regulations and the ICB's Commercial Sponsorship and Joint Working with the Pharmaceutical Industry Policy.
- 5.4.6** As a general rule, sponsorship arrangements involving the ICB will be at a corporate organisational level, rather than Executive Director level.
- 5.4.7** Acceptance of commercial sponsorship must not in any way compromise commissioning decisions of the ICB or be dependent on the supply of goods or services. Sponsors should have no influence over the content of an event, meeting, seminar publication or training. The company logo can be displayed on materials, but no advertising or promotional information should be displayed. Materials should contain a disclaimer which states that sponsorship of the material does not imply that the ICB endorses any of the company's products or services. No information should be supplied to a company for their commercial gain unless there is a clear benefit to the NHS.
- 5.4.8** All ICB employees, Board and Committee members and individuals acting on behalf of the ICB should discuss the implications, with their manager/ Executive Director for Corporate Governance, Communications and Involvement, before accepting an invitation to speak at a meeting organised by a pharmaceutical company. The company should have no influence over the content of any presentation made by the ICB's employee/representative. It should be made clear that the ICB's presence does not imply that the ICB endorses any of the company's products or services.
- 5.4.9** Under no circumstances will the ICB agree to 'linked deals' whereby sponsorship is linked to future purchase of particular products or to supply from particular sources.
- 5.4.10** Sponsorship of ICB events by appropriate external bodies should only be approved if a reasonable person would conclude that the event will result in clear benefits of the ICB and NHS.
- 5.4.11** During dealings with sponsors there must be no breach of confidentiality or data protection legislation and, as a rule, information which is not in the public domain should not normally be supplied.

**5.4.12** Organisations external to the ICB or NHS may also sponsor posts or research. However, there is potential for conflicts of interest to occur, particularly when research funding by external bodies does or could lead to a real or perceived commercial advantage, or if sponsored posts cause a conflict of interest between the aims of the sponsor and the aims of the organisation, particularly in relation to procurement and competition. There needs to be transparency and any conflicts of interest should be well managed. For further information, please see Managing Conflicts of Interest in the NHS: Guidance for staff and organisations.

## **5.11 Donations in relation to the organisation**

5.11.1 Employees must check with their line manager or Executive Finance Director before making any requests for donations to clarify appropriateness and/or financial or contractual consequences of acquisition. Requests for equipment or services should not be made without the express permission of a senior manager.

5.11.2 Donations/gifts from individuals, charities, companies (as long as they are not associated with known health-damaging products) – often related to individual pieces of equipment or items – provide additional benefits to patients but may have resource implications for the ICB. Further guidance regarding charitable funds and gifts and donations can be requested from the Executive Finance Director.

5.11.3 Any gifts to the organisation should be receipted and a letter of thanks should be sent.

5.11.4 Any gifts to the organisation should be declared and registered onto the Gifts, Hospitality and Sponsorship register.

## **5.12 Donations to an individual**

5.12.1 Personal monetary gifts to an employee or appointed member should be politely but firmly declined. Where a member of staff is a beneficiary of a Will of a patient who has been under their care, the member of staff must inform their line manager of the gift or gifts so that consideration can be given to whether or not it is appropriate in all the circumstances for that member of staff to retain the gift or gifts in order to avoid subsequent claims by the beneficiaries to the Estate of inducement, reward or corruption.

5.12.2 In order to determine whether the bequest should be accepted it may be necessary to have the gift valued and where the gift has a value over a certain amount for the gift to either be returned to the Estate or the gift to be donated to a Charity of the member of staff's choice. Where the gift is to be returned to the Estate and the Trustees of the Estate are of the view having regards to all the circumstances that the member of staff should retain the gift regardless of its value, it may be appropriate for the Trustees to provide a disclaimer for future claims against the gift to avoid subsequent claims on the gift or allegations of inducement or reward being made against the member of staff or the ICB at some point in the future.

## **5.13 Rewards for Initiative**

- 5.13.1 The ICB will identify potential intellectual property rights (IPR), as and when they arise, so that they can protect and exploit them properly, and thereby ensure that they receive any rewards or benefits (such as royalties), in respect of work commissioned from third parties, or work carried out by individuals in the course of their NHS duties. Most IPR are protected by statute; e.g. patents are protected under the Patents Act 1977 and copyright (which includes software programmes) under the Copyright Designs and Patents Act 1988. To achieve this, NHS organisations and employers should build appropriate specifications and provisions into the contractual arrangements which they enter into before the work is commissioned, or begins. They should always seek legal advice if in any doubt, in specific cases.
- 5.13.2 With regard to patents and inventions, in certain defined circumstances the Patents Act gives employees or individuals in the course of their duties a right to obtain some reward for their efforts, and the ICB will see that this is effected. Other rewards may be given voluntarily to employees or other individuals who, within the course of their employment or duties, have produced innovative work of outstanding benefit to the NHS.
- 5.13.3 In the case of collaborative research and evaluative exercises with manufacturers, the ICB will obtain a fair reward for the input it provides. If such an exercise involves additional work for an ICB employee or individual outside that paid for by the ICB under his or her contract of employment, or sessional arrangements, arrangements will be made for some share of any rewards or benefits to be passed on to the employee(s) or individuals concerned from the collaborating parties. Care will, however, be taken that involvement in this type of arrangement with a manufacturer does not influence the purchase of other supplies from that manufacturer.
- 5.13.4 The ICB Intellectual Property Policy should be adhered to.

## **6. Recording of gifts, hospitality and sponsorship**

- 6.1 Gifts, hospitality and sponsorship will be recorded in a central register in accordance with the guidelines. The form at Appendix B should be completed and returned to the governance lead promptly so that the details can be recorded on the central Register. Failure to notify the ICB may lead to disciplinary action against a member of staff.
- 6.2 Where gifts, hospitality or sponsorship are offered, but declined, the offer should still be recorded using the form at Appendix B.
- 6.3 All hospitality or gifts declared must be transferred to the gifts, hospitality and sponsorship register.

- 6.4 It is acknowledged that there may be circumstances where hospitality may be offered by an organisation, as an integral element of a strategic partnership relationship. A fund should be established so that the ICB may meet the costs of that hospitality, thus enabling the benefits to the strategic relationship, but not compromising compliance with the Standards of Business Conduct. Acceptance of such hospitality and associated funding agreement will be authorised by the Executive Director for Corporate Governance, Communications and Involvement and recorded in the gifts, hospitality and sponsorship register.

## **7. Declaration of Interests**

### **7.1 Identification and definition of conflicts of interest**

- 7.1.1 A conflict of interest occurs where an individual's ability to exercise judgement, or act in a role is, could be or is seen to be impaired or otherwise influenced by his or her involvement in another role or relationship. In some circumstances, it could be reasonably considered that a conflict exists even when there is no actual conflict. In these cases it is important to manage these perceived conflicts in order to maintain public trust.
- 7.1.2 A conflict of interest is 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.
- 7.1.3 Conflicts of interest can arise in many situations, environments and forms of commissioning, with an increased risk in primary care commissioning, out-of- hours commissioning and involvement with integrated care organisations and new care models such as Multi-specialty Community providers, Primary and Acute Care Systems or other arrangements of a similar scale and scope, may here find themselves in a position of being both commissioner and provider of services. Conflicts of interest can arise throughout the whole commissioning cycle from needs assessment to procurement exercises, to contract award & monitoring.
- 7.1.4 Where an individual, i.e. an employee, a member of the Board, or a member of its committees or sub-committees has an interest, or becomes aware of an interest which could lead to a conflict of interest in the event of the ICB considering an action or decision in relation to that interest, that must be considered as a potential conflict, and is subject to the provisions of the ICB Constitution and this Policy.

7.1.5 Interests can be captured in four different categories (see below and Appendix C):

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 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; or
- A provider of clinical private practice

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);
- 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; or

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
- 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 ICB.

Note that the Declaration of Interest Form sets out the range of interests as a reminder of the types of interests which should be declared.

## 7.2 Questions to ask when declaring Interests

In determining what needs to be declared, individuals should ask themselves the following questions:

- Am I, or might I be, in a position where I or my family or associates gain from the connection between my private interests and my employment with the ICB?
- Do I have access to information which could influence purchasing decisions?
- Could my outside interest be in any way detrimental to the ICB or to patient’s interests?
- Do I have any other reason to think I may be risking a conflict of interest?

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

## 7.3 Declaring and Registering Interests

7.3.1 It is a requirement of the relevant legislation section 14Z30 of the 2006 Act, for the ICB to maintain registers of the interests of:

- **All ICB employees**, 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 ICB under a contract for services should make a declaration of interest in accordance with this policy, as if they were ICB employees.

**Members of the Board:** All members of the Board's committees, sub-committees/sub-groups, including:

- Co-opted members;
- Appointed deputies; and
- Any members of committees/groups from other organisations.
- Partner members and Ordinary members
- Regular participants and observers

7.3.2 The ICB will need to ensure that, as a matter of course, declarations of interest are made and regularly confirmed or updated. All persons referred to above must declare any interests as soon as reasonably practicable and by law within 28 days after the interest arises. Further opportunities include;

- **On appointment:**  
Applicants for any appointment to the ICB or its Board or any committees should be asked to declare any relevant interests. When an appointment is made, a formal declaration of interests should again be made and recorded. As part of the ICB's induction process, Line Manager's are responsible for ensuring employee's have completed a declaration of interest form.
- **Annually: When prompted by the ICB:**  
Because of their role in spending taxpayers' money, ICB's should ensure that, at least annually, staff are prompted to update their declarations of interest, or make a nil return where there are no interests or changes to declare.
- **At meetings:** All attendees are required to declare their interests as a standing agenda item for every Board, committee, sub-committee or working group meeting, before the item is discussed. Even if an interest is recorded in the register of interests, it should be declared in meetings where matters relating to that interest are discussed. Declarations of interest and action taken to manage that conflict of interest at the meeting should be recorded in minutes of meetings.  
In the case of Board and its Committees, any known interests should

also be recorded on the Chair's sheet and be provided to the Chair before the meeting. They should also be included on the report's front cover sheet. (the Chair's sheet and Report Cover Sheet cover the requirements of the alternative indicative templates for recording interests during meetings, as provided in the 2017 Managing Conflicts of Interest Statutory Guidance)

The chair of a meeting of the ICB's Board 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.

- **On changing role, responsibility or circumstances:**

Whenever an individual's role, responsibility or circumstances change in a way that affects the individual's interests (e.g., where an individual takes on a new role outside the ICB or enters into a new business or relationship), a further declaration should be made to reflect the change in circumstances as soon as possible, and in any event within 28 days. This could involve a conflict of interest ceasing to exist or a new one materialising.

7.3.5 Individuals will declare any interest that they have, in relation to a decision to be made in the exercise of the commissioning functions of the ICB, in writing to the Executive Director for Corporate Governance, Communications and Involvement, as soon as they are aware of it and in any event no later than 28 days after becoming aware. The ICB must record the interest in the appropriate register as soon as the ICB becomes aware of it.

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

7.3.7 The Executive Director for Corporate Governance, Communications and Involvement will ensure that the registers of interest are reviewed annually and updated as necessary.

7.3.8 In addition, all ICB Board and Executive members' appointments are offered on the understanding that they subscribe to the "Codes of Conduct and Accountability in the NHS".

7.3.9 The Declaration of Interest proforma for completion by Board members, members of a committee or sub-committee and employees within the ICB is available at Appendix C.

7.3.10 Failure to notify the Board of a relevant conflict of interest, additional employment or business may lead to disciplinary action against the member of staff and/or criminal action (including prosecution) under the relevant legislation.

7.3.11 An interest should remain on the public register for a minimum of six months after the interest has expired and the ICB will retain a private record of historic interests for a minimum of 6 years after the date on which it expired. The published register will state that historic interests are retained by the ICB for the specified timeframe and details of whom to contact to request this information.

#### **7.4 Managing Conflicts of Interest: general**

7.4.1 Members of the Board, committees or sub-committees and employees will comply with the arrangements determined by the ICB for managing conflicts or potential conflicts of interest as set out in this Policy.

7.4.2 The ICB governance lead will ensure that for every interest declared, either in writing or by oral declaration, arrangements are in place manage the conflict of interests or potential conflict of interests, to ensure the integrity of the ICB's decision making processes.

7.4.3 Individual are responsible for managing the specific conflict of interest or potential conflicts of interest, within 28 days of declaration. On review of the register the ICB's governance lead will confirm the following:

- when an individual should withdraw from a specified activity, on a temporary or permanent basis;
- monitoring of the specified activity undertaken by the individual, either by a line manager, colleague or other designated individual.

7.4.4 Where an interest has been declared, either in writing or by oral declaration, the declarer will ensure, wherever possible, that before participating in any activity connected with the ICB's exercise of its commissioning functions, they have received confirmation of the arrangements to manage the conflict of interest or potential conflict of interest from the Executive Director for Corporate Governance, Communications and Innovation.

7.4.5 Declaration of Interests should be an agenda item on all Board and Committee agendas. Declarations should be made with regard to any specific agenda items. If a conflict of interest is established with regard to a specific agenda item, the conflict of interest should be recorded in the minutes, notified to the Conflicts of Interest ICB Governance Lead and published in the register. Similarly, any new offers of gifts or hospitality (whether accepted or not) which are declared at a meeting must be notified to the Conflicts of Interest ICB governance lead and included on the ICB's gifts, hospitality and sponsorship register to ensure it is up-to-date. The information provided to the ICB governance lead should include the relevant information as detailed on Appendices C and E.

- 7.4.6 Where an individual member, employee or person providing services to the ICB is aware of an interest which:
- i. Has not been declared, either in the register or orally, they will declare this at the start of the meeting;
  - ii. Has previously been declared, in relation to the scheduled or likely business of the meeting, the individual concerned will bring this to the attention of the chair of the meeting, together with details of arrangements that have been confirmed for the management of the conflict of interests or potential conflict of interests.
- 7.4.7 The chair of the meeting will then determine how this should be managed and inform the member of their 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. They will not be able to vote on the issue under any circumstances. Where a prejudicial interest is identified that person must leave the room during the discussion of the relevant item, and cannot seek to improperly influence the decision in which they have a prejudicial interest. The Chair's decision will be final in the matter and the individual will then comply with these arrangements, which must be recorded in the minutes of the meeting.
- 7.4.8 Where the chair of any meeting of the ICB, including committees or sub-committees, or Board, has a personal interest, previously declared or otherwise, in relation to the scheduled or likely business of the meeting, they must make a declaration and the deputy chair will act as chair for the relevant part of the meeting. Where arrangements have been confirmed for the management of the conflict of interests or potential conflicts of interests in relation to the chair, the meeting must ensure these are followed. Where no arrangements have been confirmed, the deputy chair may require the chair to withdraw from the meeting or part of it. Where there is no deputy chair, the members of the meeting will select one in line with the provisions in the ICB's Constitution and Standing Orders.
- 7.4.9 Any declarations of interests, and arrangements agreed in any meeting of the ICB, including committees or sub-committees, or the Board, will be recorded in the minutes. The interest must be subsequently reported to the designated governance lead for recording in the Register.
- 7.4.10 Where members of a meeting are required to withdraw from a meeting or part of it, owing to the arrangements agreed for the management of conflicts of interests or potential conflicts of interests, the chair (or deputy) will determine whether or not the discussion can proceed in accordance with the provisions of the Constitution and Standing Orders or the terms of reference.

7.4.11 In making this decision the chair will consider whether the meeting is quorate, in accordance with the number and balance of membership set out in the ICB Constitution and Standing Orders or the terms of reference. Where the meeting is not quorate, owing to the absence of certain members, the decisions 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 Executive Director for Corporate Governance, Communications and Involvement on the action to be taken.

7.4.12 In any transaction undertaken in support of the ICB's exercise of its functions (including conversations between two or more individuals, e-mails, correspondence and other communications), individuals must ensure, where they are aware of an interest, that they conform to the arrangements confirmed for the management of that interest. Where an individual has not had confirmation of arrangements for managing the interest, they must declare their interest at the earliest possible opportunity in the course of that transaction, and declare that interest as soon as possible thereafter. The individual must also inform either their line manager (in the case of employees), or the Executive Director for Corporate Governance, Communications and Involvement of the transaction.

7.4.13 The Executive Director for Corporate Governance, Communications and Involvement will take such steps as deemed appropriate, and request information deemed appropriate from individuals, to ensure that all conflicts of interest and potential conflicts of interest are declared.

## **7.5 Managing Conflicts of Interest throughout the commissioning cycle**

7.5.1 Conflicts of interest need to be managed appropriately throughout the whole commissioning cycle. At the outset of a commissioning process, the relevant interests of all individuals involved should be identified and clear arrangements put in place to manage any conflicts of interest. This includes consideration as to which stages of the process a conflicted individual should not participate in or receive papers for, and, in some circumstances, whether that individual should be involved in the process at all.

7.5.2 In designing service requirements attention should be given to public and patient involvement throughout the commissioning cycle.

7.5.3 It is good practice to engage relevant providers, especially clinicians, in confirming that the design of service specifications will meet patient needs. This may include providers from the acute, primary, community, and mental health sectors, and may include NHS, third sector and private sector providers. 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.

7.5.4 Provider engagement should follow the three main principles of

procurement law, namely equal treatment, non-discrimination and transparency. This includes ensuring that the same information is given to all at the same time and procedures are transparent. This mitigates the risk of potential legal challenge.

7.5.5 Specifications should be clear and transparent, reflecting the depth of engagement, and set out the basis on which any contract will be awarded.

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

7.5.7 Anyone contracted to provide services or facilities directly to the ICB will be subject to the same provisions of the ICB's Constitution and this policy in relation to managing conflicts of interests. This requirement will be set out in the contract for their services.

7.5.8 The ICB must refer to the organisations Procurement Policy and comply with relevant Procurement legislation.

7.5.9 The procurement template (Appendix D) should be used to complete the register of procurement decisions and to provide evidence of the ICB's deliberations on conflicts of interest.

7.5.10 The ICB must maintain a register of procurement decisions taken, including.

- The details of the decision
- Who was involved in making the decision?
- A summary of any conflicts of interest in relation to the decision and how this was managed
- The award decision taken

7.5.11 The register should be updated whenever a procurement decision is taken and must be made publicly available by.

- Ensuring that the register is available in a prominent place on the web site and
- Making the register available upon request for inspection at the ICB's headquarters

7.5.12 The management of conflicts of interest applies to all aspects of the commissioning cycle, including contract management.

7.5.13 Any contract monitoring meeting needs to consider conflicts of interest as part of the process i.e., the chair of a contract management meeting should invite declarations of interests; record any declared interests in the minutes of the meeting; and manage any conflicts appropriately and in line with this guidance. This equally applies where a contract is held jointly with another organisation such as the Local Authority or with other ICBs under lead commissioner arrangements.

7.5.14 The individuals involved in the monitoring of a contract should not have any direct or indirect financial, professional or personal interest in the incumbent provider or in 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.

## **7.6 Raising Concerns and breaches**

Individuals, who have concerns regarding conflict of interest or ethical misconduct either in respect of themselves or colleagues, should raise it in the first instance with their manager. Alternatively, they can raise it as an issue using the Raising Concerns at Work Policy or contacting the Conflict of Interest Guardian. If the concern relates to any suspected fraudulent practice, staff should follow the advice given in section 10 of this document.

The ICB has agreed a process for managing breaches of this policy, summarised at Appendix E, which includes:

- How the breach is recorded
- How it is investigated
- The governance arrangements and reporting mechanisms
- Links to the Raising Concerns at Work Policy and HR policies
- Communications and management of any media interest
- When to notify NHS England and how
- Process for publishing the breach on the ICB web site

The ICB will publish anonymised details of breaches on its web site.

## **7.7 Publication of Registers**

The ICB will publish the register(s) of interest and register(s) of gifts, hospitality and sponsorship, the register of Procurement Decisions in a prominent place on the ICB's website and will also be referenced in the ICB's Annual Report and Annual Governance Statement (in line with Annual Reporting requirements issued each year).

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 submit a written request that the information is not published. Decisions must be made by the Conflicts of Interest Guardian for the ICB, who should seek appropriate legal advice where required, and the ICB should retain a confidential un-redacted version of the register(s).

## **8. Confidentiality**

- 8.1 Employees, ICB members, members of the Board, or a member of a committee or a sub-committee of the ICB should be particularly careful using or making public, internal information of a confidential nature, particularly regarding details covered under the Data Protection Act 1998 or other legislation whether or not disclosure is prompted by the expectation of personal gain.
- 8.2 Disclosure of information which counts as “commercial in confidence” and which might prejudice the principle of a purchasing system based on fair competition may be subject to scrutiny and disciplinary or criminal action or both.
- 8.3 This does not affect the ICB's grievance or complaints procedures in terms of freedom of expression and is not intended to restrict any of the freedoms protected under Article 10 of the Human Rights Act 1998. It is designed to complement professional and ethical rules, guidelines and codes of conduct on an individual's freedom of expression.
- 8.4 An employee or individual who has exhausted all the locally established procedures, including reference to the Raising Concerns at Work Policy, and who has taken account of advice that may have been given, may wish to consult their MP or the Secretary of State for Health in confidence. Extreme caution should be exercised by anyone considering contacting the media.
- 8.5 Section 43B (1) of the Public Interest Disclosure Act 1998 provides protection for disclosure of information where the reasonable belief of the worker making the disclosure, tends to show that:-
- a. A criminal offence has been committed, is being committed or is likely to be committed,
  - b. That a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject,
  - c. That a miscarriage of justice has occurred, is occurring or is likely to occur,
  - d. That the health or safety of any individual has been, is being or is likely to be endangered,
  - e. That the environment has been, is being or is likely to be damaged, or
  - f. That information tending to show any matter falling within points a. to e. has been, is being or is likely to be deliberately concealed.
- 8.6 Protection from disclosure to the media is highly unlikely to be given, if the person making the disclosure has not exhausted all internal and external avenues.

- 8.7 Any employee, member of the Board, or a member of a committee or a sub-committee of the Board making a disclosure to the media should be mindful that any information that they provide may be misinterpreted thus undermining their genuine concern and potentially wrongly threatening the reputation of colleagues and the ICB. In addition, if they choose to contact the media and the disclosure is not protected by the Public Interest Disclosure Act 1998 their actions might constitute misconduct and will be considered in accordance with the ICB Disciplinary Policy and Procedure.

## **9. Use of Resources**

All managers are required (under the Code of Conduct for NHS Managers) to use the resources available to them in an effective, efficient and timely manner having proper regard to the best interests of the public and patients.

## **10. Fraud/Theft**

If you suspect theft, fraud, or other untoward events taking place at work you should:

- Make a note of your concerns and;
- In the case of theft contact your Local Security Management Specialist;
- In the case of fraud contact the Local Counter Fraud Specialist on or the Executive Director of Finance
- You can also report to the national NHS Fraud and Corruption Reporting Line on 0800 028 40 60 or [www.reportnhsfraud.nhs.uk/](http://www.reportnhsfraud.nhs.uk/)

Staff should not be afraid of raising concerns and will not experience any blame or recrimination as a result of making any reasonably held suspicion known.

If staff have any concerns about any of the issues raised in this document, they should contact their manager or Human Resources Manager.

## **11. Non-compliance with Policy**

Failure to notify the ICB of a relevant conflict of interest, additional employment or business may lead to disciplinary action against the individual including potential dismissal or removal from office in accordance with the ICB's Disciplinary Policy and procedure and/or criminal action (including prosecution) under the relevant legislation.

A review of lessons learned will be conducted by the Accountable Officer or nominated deputy following any incident of non-compliance with this policy and the report to be reviewed by the ICB's Audit Committee.

If conflicts of interest are not effectively managed, ICB's could face civil challenges to decisions they make. In extreme cases, staff and other individuals could face personal civil liability, for example a claim for misfeasance in public office.

Failure to manage conflicts of interest could lead to criminal proceedings including for offences such as fraud, bribery and corruption. This could have implications for ICBs and linked organisations, and the individuals who are engaged by them.

Concerns can be raised using the Raising Concerns at Work Policy or contacting the Conflict of Interest Guardian, of this policy. If the concern relates to any suspected fraudulent practice, staff should follow the advice given in [section 10](#) of this document.

The ICB has agreed a process for managing breaches of this policy, outlined in Appendix E.

## **12. Internal Audit**

It is recognised that there is no statutory requirement (at present), to undertake an annual audit of conflict of interest, however, an annual audit will be considered as part of the annual audit planning exercise.

## **13. Linked Policies/Guidance**

- ICB Constitution
- NHS England: Standards of Business Conduct Policy 2017
- [Standards for members of NHS Boards and Clinical Commissioning Group governing bodies in England published by the Professional Standards Authority for Health and Social Care 2012](#)
- ABPI Code of Professional Conduct relating to hospitality/gifts from pharmaceutical/external industry
- Counter-Fraud, Bribery and Corruption Policy
- Raising Concerns at Work (Whistleblowing) policy
- Guidance to staff on travel expenses
- Travel and Expenses policy
- Intellectual Property Management and Revenue Sharing Policy
- Commercial Sponsorship and Joint Working with the Pharmaceutical Industry Policy
- Secondary Employment guidance
- Code of Conduct and Code of Accountability for NHS Boards 2013
- Institute of Purchasing and Supply
- Ethical code of the Institute of Purchasing and Supply

## **14. Further Information**

If there are any queries on declaration of interests, acceptance or registering of gifts etc. the Executive Finance Director, Executive Director for Corporate Governance, Communications and Involvement, ICB governance Lead and Conflict of Interest Guardian can be contacted for further information.

## **15. Monitoring, Review and Archiving**

### **15.1 Monitoring**

The Board will ensure there is in place for monitoring the dissemination and implementation of this policy. Monitoring information will be recorded in the policy database.

### **15.2 Review**

15.2.1 The Board will ensure that this policy document is reviewed in accordance with the timescale specified at the time of approval. No policy or procedure will remain operational for a period exceeding three years without a review taking place.

15.2.2 Staff who become aware of any change that may affect a policy should advise their line manager as soon as possible. The Executive Director will then consider the need to review the policy or procedure outside of the agreed timescale for revision.

15.2.3 For ease of reference for reviewers or approval bodies, changes should be noted in the 'version control' table on the second page of this document.

**NB:** If the review consists of a change to an appendix or procedure document, approval may be given by the sponsor director and a revised document may be issued. Review to the main body of the policy must always follow the original approval process.

### **15.3 Archiving**

The Board will ensure that archived copies of superseded policy documents are retained in accordance with Records Management: NHS Code of Practice for Health and Social Care 2021.

## 16. Equality Impact Assessment

### Initial Screening Assessment

As a public body organisation we need to ensure that all our current and proposed strategies, policies, services and functions, have given proper consideration to equality, diversity and inclusion, do not aid barriers to access or generate discrimination against any protected groups under the Equality Act 2010 (Age, Disability, Gender Reassignment, Pregnancy and Maternity, Race, Religion/Belief, Sex, Sexual Orientation, Marriage and Civil Partnership).

This screening determines relevance for all new and revised strategies, policies, projects, service reviews and functions.

Completed at the earliest opportunity it will help to determine:

- The relevance of proposals and decisions to equality, diversity, cohesion and integration.
- Whether or not equality and diversity is being/has already been considered for due regard to the Equality Act 2010 and the Public Sector Equality Duty (PSED).
- Whether or not it is necessary to carry out a full Equality Impact Assessment.

#### Name(s) and role(s) of person completing this assessment:

**Name:** Aimee Tunney

**Job Title:** Governance & Assurance Manager

**Organisation:** North of England Commissioning Support Unit

**Title of the service/project or policy:** Standards of Business Conduct and Declaration of Interest policy

#### Is this a;

**Strategy / Policy**

**Service Review**

**Project**

**Other** N/A

#### What are the aim(s) and objectives of the service, project or policy:

The purpose of this policy is to ensure exemplary standards of business conduct are adhered to by Board members, committee and sub-committee members and employees of the Integrated Care Board (ICB) (as well as individuals contracted to work on behalf of the Board or otherwise providing services or facilities to the ICB such as those within commissioning support services). Throughout this Policy individuals will be aware of their own responsibilities as well as the ICB's responsibilities as a corporate body. The Policy also sets out the responsibilities of the ICB as an employer, taking account of the individual and corporate obligations set out in the Bribery Act 2010

## Who will the project/service /policy / decision impact?

(Consider the actual and potential impact)

- **Staff**
- **Service User / Patients**
- **Other Public Sector Organisations**
- **Voluntary / Community groups / Trade Unions**
- **Others, please specify** [Click here to enter text.](#)

Questions	Yes	No
Could there be an existing or potential negative impact on any of the protected characteristic groups?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Has there been or likely to be any staff/patient/public concerns?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Could this piece of work affect how our services, commissioning or procurement activities are organised, provided, located and by whom?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Could this piece of work affect the workforce or employment practices?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Does the piece of work involve or have a negative impact on: <ul style="list-style-type: none"> <li>• Eliminating unlawful discrimination, victimisation and harassment</li> <li>• Advancing quality of opportunity</li> <li>• Fostering good relations between protected and non-protected groups in either the workforce or community</li> </ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**If you have answered no to the above and conclude that there will not be a detrimental impact on any equality group caused by the proposed policy/project/service change, please state how you have reached that conclusion below:**

No detrimental impact on an protected equality group. However, breaches of conflict of interest could have an overall impact to service delivery, commissioning, and procurement.

Accessible Information Standard	Yes	No
Please acknowledge you have considered the requirements of the Accessible Information Standard when communicating with staff and patients.  <a href="https://www.england.nhs.uk/wp-content/uploads/2017/10/accessible-info-standard-overview-2017-18.pdf">https://www.england.nhs.uk/wp-content/uploads/2017/10/accessible-info-standard-overview-2017-18.pdf</a>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## Governance, ownership and approval

Please state here who has approved the actions and outcomes of the screening		
Name	Job title	Date
Claire Riley	Executive Director of Corporate Governance, Communications & Involvement	June 2022
Presented to (Appropriate Committee)		Publication Date
ICB Board		July 2022

## **Publishing**

This screening document will act as evidence that due regard to the Equality Act 2010 and the Public Sector Equality Duty (PSED) has been given.

## Appendix A

### The Nolan Principles on Standards in Public Life

The Nolan Committee was set up in 1994 to examine concerns about standards of conduct of all holders of public office, including arrangements relating to financial and commercial activities, and make recommendations as to any changes in arrangements which might be required to ensure the highest standards of propriety in public life. The committee published “*seven principles of Public Life*”, which it believes should apply to all those operating in the public sector. These principles should be adopted by ICB staff and are as follows:

#### **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.

#### **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.

All staff will be expected to adopt these principles when conducting official business for and on behalf of the ICB so that appropriate ethical standards can be demonstrated at all times.

## Appendix B

### Template: Gifts, Hospitality and Sponsorship Form

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

*The information submitted will be held by the ICB for personnel or other reasons specified on this form and to comply with the organisation's policies. This information may be held in both manual and electronic form in accordance with the Data Protection Act 1998. Information may be disclosed to third parties in accordance with the Freedom of Information Act 2000 and published in registers that the ICB 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 ICB as soon as practicable and no later than 28 days after the interest arises. I am aware that if I do not make full, accurate and timely declarations then civil, criminal, professional regulatory or internal disciplinary action may result.

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

**Signed:**

**Date:**

**Signed:**

**Position:**

**Date: (Line Manager or a Senior ICB Manager)**

Please return to <insert name/contact details for team or individual in CCG nominated to provide advice, support, and guidance on how conflicts of interest should be managed, and administer associated administrative processes>



## Types of interest

Type of Interest	Description
<b>Financial Interests</b>	<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"> <li>• 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;</li> <li>• 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.</li> <li>• A management consultant for a provider;</li> <li>• In secondary employment);</li> <li>• In receipt of secondary income from a provider;</li> <li>• In receipt of a grant from a provider;</li> <li>• In receipt of any payments (for example honoraria, one off payments, day allowances or travel or subsistence) from a provider</li> <li>• 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</li> <li>• 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).</li> </ul>
<b>Non-Financial Professional Interests</b>	<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"> <li>• An advocate for a particular group of patients;</li> <li>• A GP with special interests e.g., in dermatology, acupuncture etc.</li> <li>• 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);</li> <li>• An advisor for Care Quality Commission (CQC) or National Institute for Health and Care Excellence (NICE);</li> <li>• A medical researcher.</li> </ul>
<b>Non-Financial Personal Interests</b>	<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"> <li>• A voluntary sector champion for a provider;</li> <li>• A volunteer for a provider;</li> <li>• A member of a voluntary sector board or has any other position of authority in or connection with a voluntary sector organisation;</li> <li>• Suffering from a particular condition requiring individually funded treatment;</li> <li>• A member of a lobby or pressure groups with an interest in health.</li> </ul>
<b>Indirect Interests</b>	<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"> <li>• Spouse / partner;</li> <li>• Close relative e.g., parent, grandparent, child, grandchild or sibling;</li> <li>• Close friend;</li> <li>• Business partner.</li> </ul>

## Appendix D

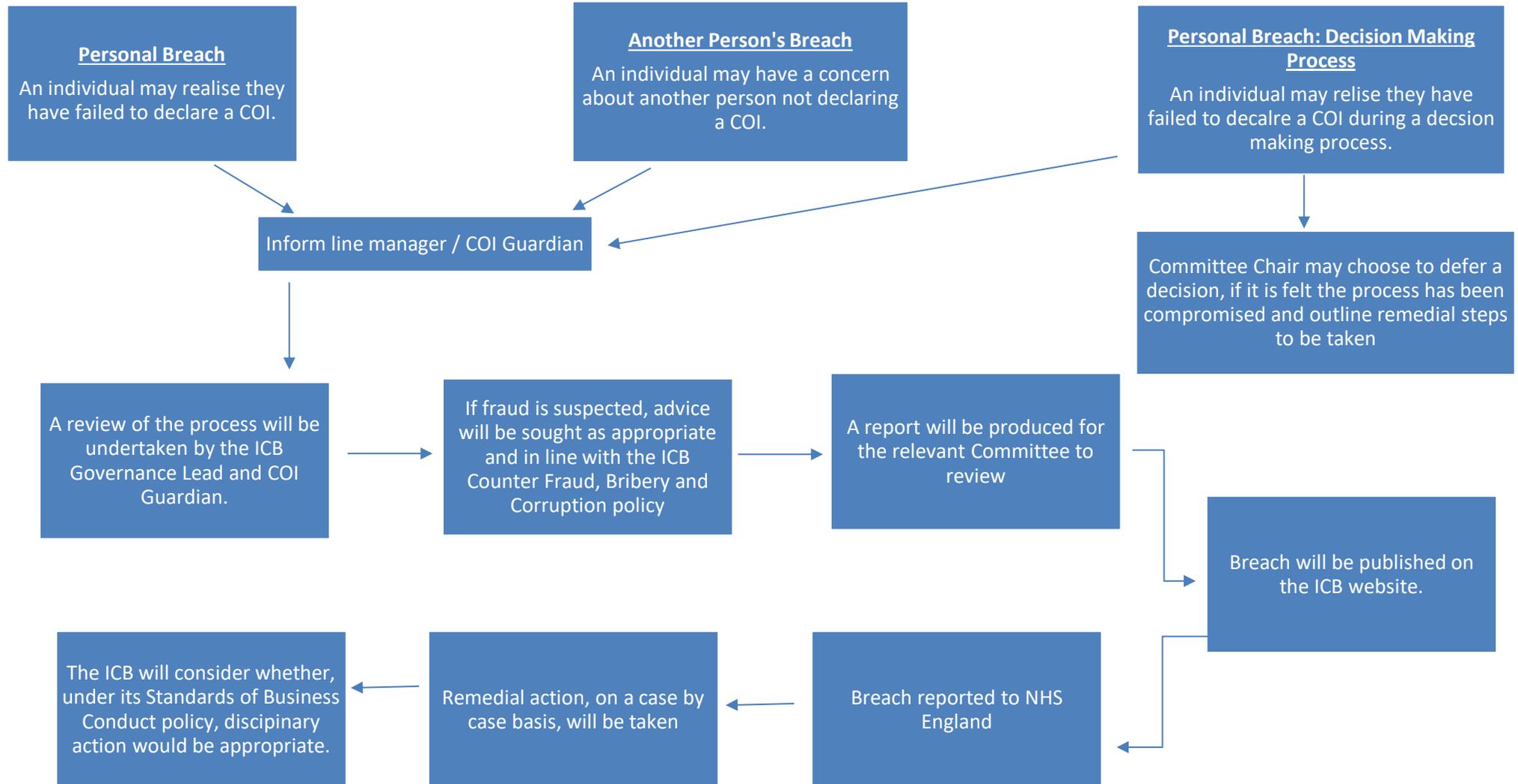
### Procurement Template

Service:	
Question	Comment/ Evidence
1. 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 ICB's proposed commissioning priorities? How does it comply with the ICB's commissioning obligations?	
2. How have you involved the public in the decision to commission this service?	
3. What range of health professionals have been involved in designing the proposed service?	
4. What range of potential providers have been involved in considering the proposals?	
5. 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)?	
6. What are the proposals for monitoring the quality of the service?	
7. What systems will there be to monitor and publish data on referral patterns?	
8. Have all conflicts and potential conflicts of interests been appropriately declared and entered in registers?	
9. In respect of every conflict or potential conflict, you must record how you have managed that conflict or potential conflict. Has the management of all conflicts been recorded with a brief explanation of how they have been managed?	
10. Why have you chosen this procurement route e.g., single action tender?	

11. What additional external involvement will there be in scrutinising the proposed decisions?	
12. How will the ICB make its final commissioning decision in ways that preserve the integrity of the decision-making process and award of any contract?	
<b>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)</b>	
13. How have you determined a fair price for the service?	
<b>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</b>	
14. How will you ensure that patients are aware of the full range of qualified providers from whom they can choose?	
<b>Additional questions for proposed direct awards to GP providers</b>	
15. What steps have been taken to demonstrate that the services to which the contract relates are capable of being provided by only one provider?	
16. In what ways does the proposed service go above and beyond what GP practices should be expected to provide under the GP contract?	
17. 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 E

### Managing breaches and conflicts of interest process



## Appendix F

### Template declarations of interest checklist

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 the board, 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><b>1. The agenda</b> 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><b>2. A definition of conflicts of interest</b> should also be accompanied with each agenda to provide clarity for all recipients.</p>	Meeting Chair and secretariat
	<p><b>3. Agenda</b> 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><b>4. Members should contact the Chair</b> as soon as an actual or potential conflict is identified.</p>	Meeting members
	<p><b>5. Chair to review a summary report (which could be included on the Chair's sheet) from preceding meetings</b> i.e., sub-committee, working group, etc., detailing any conflicts of interest declared and how this was managed.</p>	Meeting Chair
	<p><b>The Chair's sheet would include information relating to</b> discussions at preceding meetings, e.g.,</p> <p><b>6. A summary of the members' declared interests</b> is checked to establish any actual or potential conflicts of interest that may occur during the meeting.</p>	Meeting Chair

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