

NHS Derby and Derbyshire Integrated Care Board

Managing Conflicts of Interest Policy

KEY POLICY MESSAGES	
1.	Helps the ICB to demonstrate accountability to stakeholders on the probity and transparency in the decision-making process
2.	Supports ICB staff and relevant individuals when needing to declare an interest
3.	Conflicts of interest can arise in many situations, environments and forms of commissioning

VERSION CONTROL

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Target Audience	ICB approved policies apply to all employees, contractors, volunteers, and others working with the ICB in any capacity. Compliance with ICB policy is a formal contractual requirement and failure to comply with the policy, including any arrangements which are put in place under it, will be investigated and may lead to disciplinary action being taken.

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1. BACKGROUND

- 1.1 This policy underpins the NHS Derby and Derbyshire Integrated Care Board (the "ICB") Constitution and sets out further details of the expected conduct of all those who work within it.
- 1.2 The ICB is responsible for the stewardship of significant public resources when making decisions about the commissioning of health and social care services. In order to ensure and be able to evidence that these decisions secure the best possible services for the population it serves, the ICB must demonstrate accountability to relevant stakeholders (particularly the public), probity and transparency in the decision-making process.
- 1.3 A key element of this assurance involves management of conflicts of interest with respect to any decisions made. Although such conflicts of interest are inevitable, having processes to appropriately identify and manage them is essential to maintain the integrity of the NHS commissioning system and to protect the ICB, its Board ("ICB Board"), its employees and associated GP practices from allegations and perceptions of wrong-doing.
- 1.4 The policy should be read in conjunction with the following documents:
- British Medical Association – Guidance on Conflicts of Interest for GPs in their role as commissioners and providers;
 - General Medical Council – Good Medical Practice (2013);
 - NHS Derby and Derbyshire ICB Commercial Sponsorship and Joint Working with the Pharmaceutical Industry Policy;
 - The Public Contract Regulations 2015;
 - The NHS (Procurement, Patient Choice and Competition) (No.2) Regulations 2013;
 - The Bribery Act 2010;
 - NHS Derby and Derbyshire ICB Fraud, Bribery and Corruption Policy;
 - National Health Service Act 2006 (as amended by the Health and Social Care Act 2012);
 - Next steps towards primary care co-commissioning (NHS England November 2014);
 - Appointments Commission's Code of Conduct and Code of Accountability, Code of Conduct for NHS Managers 2002;
 - The Healthy NHS Board: Principles for Good Governance (NHS Leadership Academy, 2013);
 - NHS Derby and Derbyshire ICB Recruitment and Selection Policy;
 - NHS Derby and Derbyshire ICB Gifts, Hospitality and Sponsorship Policy; and
 - NHS Derby and Derbyshire ICB Procurement Policy.

In addition, it should be noted that this policy updates and expands upon the provisions contained in the ICB's Constitution.

2. SCOPE

2.1 This policy will apply to:

2.1.1 ICB employees

All employees, including:

- (a) full and part-time staff;
- (b) any staff on sessional or short term contracts;
- (c) any students and trainees (including apprentices);
- (d) agency staff;
- (e) seconded staff;
- (f) any self-employed consultants or other individuals working for the ICB under a contract for services.

2.1.2 Members of the ICB Board, Committees and Sub-Committees

- (a) Co-opted members.
- (b) Appointed deputies.
- (c) Any members of the committees from other organisations.

2.1.3 All member practices of the ICB

- (a) GP Partners (or where the practice is a company, each director).
- (b) Practice Managers.
- (c) GP Leads.
- (d) Any individual directly involved with the business or decision-making of the ICB.

2.1.4 Commissioning Arrangements

- (a) Commissioning arrangements including the management of delegated functions and decisions of the ICB in respect of the delegated functions and made in accordance with the terms of the Delegation Agreement which shall be binding on NHS England and the ICB.

All those mentioned in paragraph 2.1 will hereafter be referred to as "Individuals".

2.2 The ICB will ensure that Individuals are aware of the existence of this policy by:

2.2.1 an introduction to the policy being given during the induction process for new starters to the ICB;

- 2.2.2 at a minimum, an annual reminder of the existence and importance of the policy delivered via internal communication methods; and
- 2.2.3 at a minimum, a six-monthly reminder to update, if applicable, Declaration of Interests Forms, Gifts and Hospitality Forms, Procurement Decisions and Contracts Awarded Forms, and Breach Declaration Forms, will be sent to all Individuals.
- 2.3 Individuals to whom this policy applies will be personally responsible for ensuring that they:
 - 2.3.1 are familiar with its provisions;
 - 2.3.2 comply with the requirements of the ICB's constitution, the standards of conduct outlined in this policy and be aware of the responsibilities outlined within it;
 - 2.3.3 do not knowingly place themselves in a position which creates a potential conflict between their individual and personal interests and their ICB duties;
 - 2.3.4 comply with the procedures set out in the policy including making declarations of potential or actual conflicts of interest where necessary;
 - 2.3.5 attend any conflicts of interest training made available to them including training offered by NHS England and NHS Improvement; and
 - 2.3.6 if applicable, also refer to their respective professional codes of conduct relating to conflicts of interest.
- 2.4 References in this policy to "committee" and "sub-committee" shall include reference to "joint committees" where relevant.
- 2.5 The ICB will view instances where this policy is not followed as serious and may take disciplinary action against Individuals, which may result in removal from office in accordance with the provisions of the ICB's constitution and/or dismissal. A referral may also be made to the ICB's Counter Fraud Specialist for investigation and may lead to a criminal investigation as per the ICB's Fraud, Bribery and Corruption Policy. The following ICB policies (as amended) will apply to breaches of this policy where appropriate:
 - 2.5.1 Raising Concerns at Work (Whistleblowing) Policy;
 - 2.5.2 Disciplinary Policy; and
 - 2.5.3 Fraud, Bribery and Corruption Policy.
- 2.6 Where appropriate the ICB will support its Non-Executive Members in participating in any governance training programmes offered by NHS England and NHS Improvement.
- 2.7 The ICB's Audit and Governance Committee and ICB Board are committed to review this policy every two years.

3. DEFINITION OF AN INTEREST

- 3.1 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” (NHS England, 2017).
- 3.2 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, as Individuals 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 monitoring.
- 3.3 Interests can be captured in four different categories:
- 3.3.1 financial interests;
 - 3.3.2 non-financial professional interests;
 - 3.3.3 non-financial personal interests;
 - 3.3.4 indirect interests.

More details can be found on these categories in section 5 below.

4. PRINCIPLES

- 4.1 This policy reflects principles of good governance and follows the:
- 4.1.1 Good Governance Standards of Public Services (2004), Office for Public Management (OPM) and Chartered Institute of Public Finance and Accountancy (CIPFA);
 - 4.1.2 Seven Key Principles of the NHS Constitution;
 - 4.1.3 The UK Corporate Governance Code;
 - 4.1.4 Seven Principles of Public Life promulgated by the Nolan Committee, which include:
 - **Selflessness** – Individuals 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** – Individuals 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, Individuals should make choices on merit;
- **Accountability** – Individuals are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office;
- **Openness** – Individuals should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands;
- **Honesty** – Individuals 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; and
- **Leadership** – Individuals should promote and support these principles by leadership and example;

4.1.5 Equality Act 2010 where:

- the ICB aims to design and implement policy documents that meet the diverse needs of our services, population and workforce, ensuring that none are placed at a disadvantage over others. It takes into account current UK legislative requirements, including the Equality Act 2010 and the Human Rights Act 1998, and promotes equal opportunities for all. This document has been designed to ensure that no one receives less favourable treatment due to their personal circumstances, i.e. the protected characteristics of their age, disability, sex (gender), gender reassignment, sexual orientation, marriage and civil partnership, race, religion or belief, pregnancy and maternity. Appropriate consideration has also been given to gender identity, socio-economic status, immigration status and the principles of the Human Rights Act;
- in carrying out its function, the ICB must have due regard to the Public Sector Equality Duty. This applies to all activities for which the ICB is responsible, including policy development, review and implementation.

4.2 In addition to the above, the ICB will:

- 4.2.1 **do business appropriately:** conflicts of interest become much easier to identify, avoid and/or manage when the processes for needs assessments, consultation mechanisms, commissioning strategies and procurement procedures are right from the outset, because the rationale for all decision-making will be clear and transparent and should withstand scrutiny;
- 4.2.2 **be proactive, not reactive:** seek to identify and minimise the risk of conflicts of interest at the earliest possible opportunity;
- 4.2.3 **be balanced and proportionate:** rules should be clear and robust but not overly prescriptive or restrictive. They should ensure that decision-making is transparent and fair whilst not being overly constraining, complex or cumbersome;

- 4.2.4 **be transparent:** document clearly the approach and decisions taken at every stage in the commissioning cycle so that a clear audit trail is evident;
- 4.2.5 create an **environment** and **culture** where Individuals feel supported and confident in declaring relevant information and raising any concerns.

5. TRAINING

To ensure that all ICB employees (as referred to in paragraph 2.1.1), ICB Board members and Clinical Leads are trained and supported in matters related to conflicts of interest, the ICB provides training through its Electronic Staff Record or eLearning for Healthcare (supplied by Health Education England), in the form of three modules:

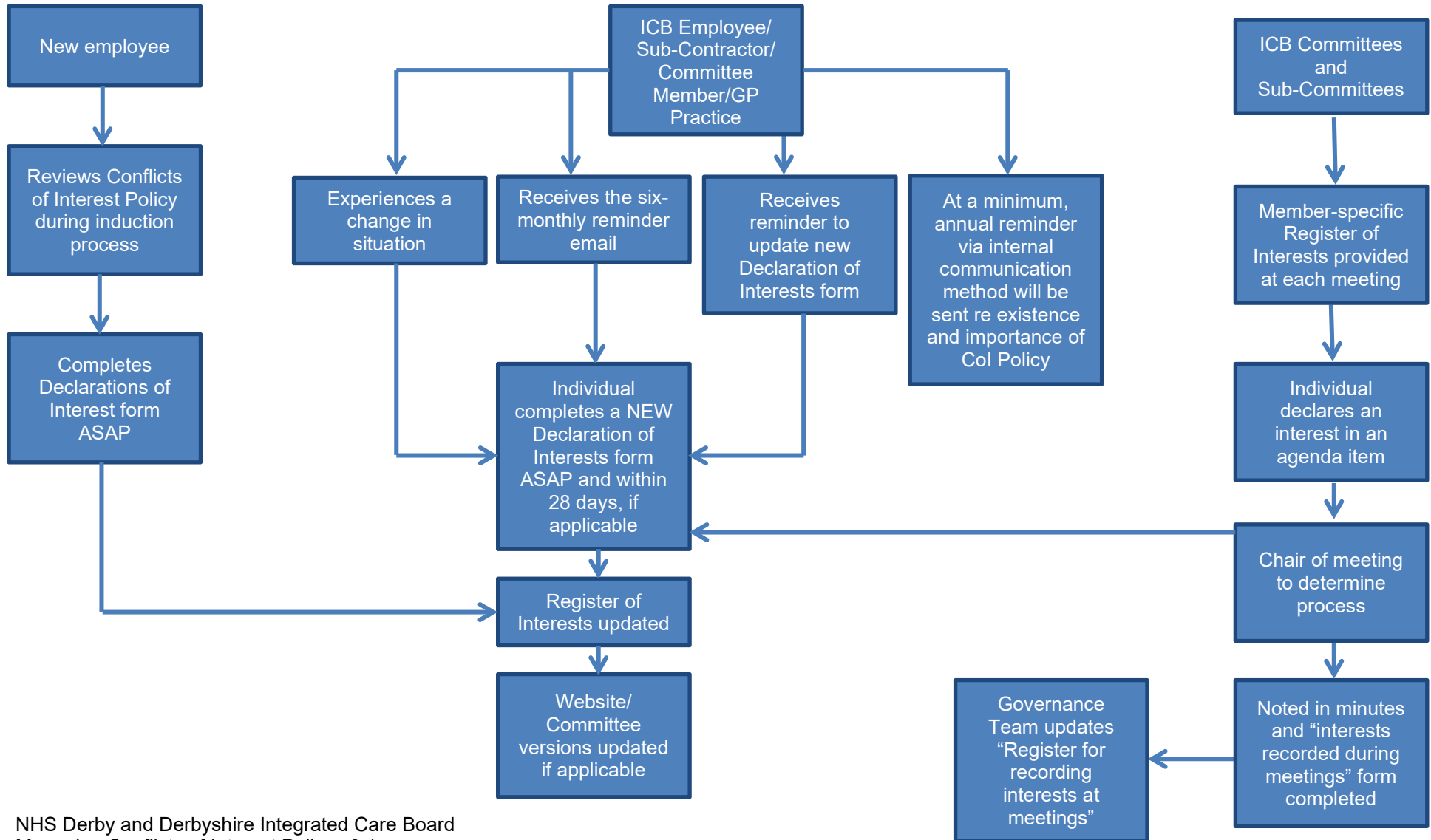
- 5.1 Module 1 – covers what conflicts of interest are; how to declare and manage conflicts of interest, including individuals' responsibilities; and how to report any concerns;
- 5.2 Module 2 – provides further information on managing conflicts of interest throughout the whole commissioning cycle and in recruitment processes; and
- 5.3 Module 3 – provides advice on how chairs should manage conflicts of interest; an overview of the safeguards that should be applied in Primary Care Commissioning Committees; and how to identify and manage breaches of conflicts of interest rules, through a series of practical scenarios.

Module 1 is mandatory to all ICB employees and the ICB's annual target is 90% achievement. Modules 2 and 3 are optional, but advisable depending on the individual's role.

6. DECLARING CONFLICTS OF INTEREST

- 6.1 The ICB must make arrangements to ensure Individuals declare any conflict or potential conflict in relation to a decision to be made by the ICB as soon as they become aware of it, and in any event within 28 days. The Declarations of Interest Form is available at Appendix 1.
- 6.2 Individuals are given other opportunities to make declarations, which include:
 - 6.2.1 on appointment, of which they must complete and return their form within 28 days of starting their new role;
 - 6.2.2 six-monthly;
 - 6.2.3 at meetings;
 - 6.2.4 on changing role, responsibility or circumstances.

See below for a flowchart detailing the process of declaring conflicts of interest in various settings:



6.3 The types of interest that should be declared are:

6.3.1 Financial interests

- (a) This is where an Individual may get direct financial benefits from the consequences of a commissioning decision. This could, for example, include being:
 - (i) 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;
 - (ii) 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;
 - (iii) a management consultant for a provider;
 - (iv) a provider of clinical private practice.
- (b) This could also include an Individual being:
 - (i) in secondary employment;
 - (ii) in receipt of secondary income;
 - (iii) in receipt of a grant from a provider;
 - (iv) in receipt of any payments (for example honoraria, one-off payments, day allowances or travel or subsistence) from a provider;
 - (v) 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
 - (vi) 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).

6.3.2 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:

- (a) an advocate for a particular group of patients;

- (b) a GP with special interests e.g. in dermatology, acupuncture etc.;
- (c) an active member of a particular specialist professional body (although routine GP membership of the Royal College of General Practitioners British Medical Association or a medical defence organisation would not usually by itself amount to an interest which needed to be declared);
- (d) an advisor for the Care Quality Commission or the National Institute for Health and Care Excellence;
- (e) engaged in a research role;
- (f) the development and holding of patents and other intellectual property rights which allow Individuals to protect something that they create, preventing unauthorised use of products or the copying of protected ideas.

GPs and practice managers, who are members of the ICB Board or committees of the ICB, should declare details of their roles and responsibilities held within their GP practices.

6.3.3 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) a voluntary sector champion for a provider;
- (b) a volunteer for a provider;
- (c) a member of a voluntary sector board or has any other position of authority in or connection with a voluntary sector organisation;
- (d) suffering from a particular condition requiring individually funded treatment;
- (e) a member of a lobby or pressure group with an interest in health.

6.3.4 Indirect interests

- (a) This is where an Individual has a close association with a person 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:
 - (i) spouse/partner;
 - (ii) close family member or relative e.g. parent, grandparent, child, grandchild or sibling;
 - (iii) close friend or associate; or

- (iv) business partner.
- (b) 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.
- (c) Whether an interest held by another person gives rise to a conflict of interest will depend upon the nature of the relationship between that person and the Individual, and the role of the Individual within the ICB.

6.3.5 Potential conflicts of interest

- (a) Where an Individual 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, this must be considered as a potential conflict.
- (b) A potential conflict of interest will include, but is not limited to:
 - (i) a direct pecuniary interest: where an Individual may financially benefit from the consequences of a commissioning decision;
 - (ii) an indirect pecuniary interest: for example, where an Individual is a partner, member or shareholder in an organisation that will benefit financially from the consequences of a commissioning decision;
 - (iii) a non-pecuniary interest: where an Individual holds a non-remunerative or not-for-profit interest in an organisation, that could benefit from the consequences of a commissioning decision;
 - (iv) a non-pecuniary personal benefit: where an Individual may enjoy a qualitative benefit from the consequence of a commissioning decision which cannot be given a monetary value;
 - (v) where an Individual is closely related to, or in a relationship, including friendship, with an individual in the above categories.
- (c) If in doubt the Individual concerned should assume that a potential conflict of interest exists.
- (d) Concerns may also relate to financial or personal commitments, special interests, other non-financial objectives (status or kudos) or professional loyalties and duties. Potential conflicts can also arise from close family members’ interests and obligations by association.

6.4 Further, it should be noted that:

- 6.4.1 the possibility of the perception of wrongdoing, impaired judgement or undue influence shall also be considered a conflict of interest for the purposes of this policy and should be declared and managed accordingly;

- 6.4.2 where there is doubt as to whether a conflict of interest exists, it should be assumed that there is a conflict of interest and declared and managed accordingly; and
- 6.4.3 for a conflict to exist, financial gain is not necessary.
- 6.5 Where an Individual has any queries with respect to conflicts of interest they should seek advice from the Head of Governance or Corporate Governance Manager.

7. REGISTER(S) OF CONFLICTS OF INTERESTS

7.1 Register of Interests

7.1.1 Process

- (a) The ICB will maintain a register of interests (see Appendix 2) of all Individuals listed in paragraph 2.1.
- (b) The register will be updated on the appointment of any Individual, when any person changes role or responsibility, and where there is any other material change in circumstances.
- (c) At a minimum, a six-monthly reminder to update Declaration of Interest Forms will be sent to all Individuals.
- (d) Conflicts of interests shall be reported to the Corporate Governance Manager who will update the register whenever a new or revised interest is declared. The Corporate Governance Manager must ensure that the register includes sufficient information about the nature of the interest and the details of those holding the interest.
- (e) An interest will be recorded on the register within 28 days of receipt and should remain on the register for a minimum of six months.
- (f) The register shall be formally reviewed and approved at the Audit and Governance Committee, and continually checked and updated throughout the year to ensure that the register is accurate and up to date.
- (g) The ICB will retain a private record of historic interests for a minimum of six years after the date on which it expires.

7.1.2 Publication

- (a) The register will be publicly available via the ICB's website or on request at the ICB's headquarters, and the ICB will include in the published register all individuals who meet the following criteria for 'decision making staff':
 - (i) all ICB Board members;
 - (ii) members of advisory groups which contribute to direct or delegated decision making on the commissioning or provision of taxpayer funded

- services such as working groups involved in service redesign or stakeholder engagement that will affect future provision of services;
- (iii) members of the Primary Care Co-Commissioning Committee;
 - (iv) members of other committees of the ICB;
 - (v) members of new care models joint provider/commissioner groups/committees;
 - (vi) members of procurement (sub-)committees;
 - (vii) those at Agenda for Change Band 8d and above;
 - (viii) management, administrative and clinical staff who have the power to enter into contracts on behalf of the ICB; and
 - (ix) management, administrative and clinical staff involved in decision making concerning the commissioning of services; purchasing of goods, medicines, medical devices or equipment; and formulary decisions.
- (b) The register will be reviewed regularly and updated as necessary and at least annually by the Corporate Governance Manager.
 - (c) The website will state that historic interests are retained by the ICB for six years, and to contact the Head of Governance to submit a request for this information.
 - (d) All Individuals who make a declaration of interest should be aware that the register(s) will be published in advance of publication.
 - (e) In exceptional circumstances, where the public disclosure of information could give rise to a real risk of harm or is prohibited by law, an Individual's name and/or other information may be redacted from the publicly available register(s). Where an Individual believes that substantial damage or distress may be caused, to him/herself or somebody else by the publication of information about them, they are entitled to request that the information is not published. Such requests must be made in writing to the Corporate Governance Manager. Decisions not to publish information must be made by the ICB's Conflicts of Interest Guardian. The ICB will retain a confidential unredacted version of the register(s), which will be confidentially presented at Audit and Governance Committee meetings.
 - (f) The register of interests will be published as part of the ICB's Annual Report and Annual Governance Statement.

7.2 Register of Gifts and Hospitality

7.2.1 Process

- (a) The ICB will maintain a register of gifts and hospitality (see Appendix 3) of all Individuals listed in paragraph 2.1. The ICB will ensure robust processes are in place to ensure that Individuals do not accept gifts and hospitality or other benefits, which might reasonably be seen to compromise their professional judgement or integrity.
- (b) All Individuals should consider the risks associated with accepting offers of gifts, hospitality, sponsorship and entertainment when undertaking activities for or on behalf of the ICB or their GP practice. This is especially important during procurement exercises, as the acceptance of gifts could give rise to real or perceived conflicts of interests, or accusations of unfair influence, collusion or canvassing.
- (c) The Corporate Governance Manager shall update the Gifts and Hospitality Register whenever a new or revised interest is declared. The Corporate Governance Manager must ensure that the register includes sufficient information about the nature of the declaration and the details of those reporting it. The Declarations of Gifts and Hospitality Form is available at Appendix 4.
- (d) Where an Individual has any queries with respect to gifts and hospitality they should seek advice from the Director of Corporate Delivery, Head of Governance or Corporate Governance Manager.

7.2.2 Publication

- (a) The ICB will publish the gifts and hospitality register on the ICB's website to ensure that members of the public have access to this register on request. In exceptional circumstances, the same process as outlined in paragraph 6.1.2(e) shall be followed.
- (b) All persons who are required to make a declaration of gifts or hospitality should be aware that the register will be published in advance of publication.
- (c) The gifts and hospitality register will be published as part of the ICB's Annual Report and Annual Governance Statement.

7.2.3 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.

(a) *Overarching principles*

- (i) Individuals should not accept gifts that may affect, or be seen to affect their professional judgement. This overarching principle should apply in all circumstances; and
- (ii) any monetary gift 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 team or individual who has designated responsibility for maintaining the register of gifts and hospitality and recorded on the register.

(b) *Gifts from suppliers or contractors*

All gifts of any nature offered to Individuals by suppliers or contractors doing business (or likely to do business) with the ICB or GP Practice 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 Individual to whom the gifts were offered should also declare the offer to the Corporate Governance Manager so the offer which has been declined can be recorded on the register.

(c) *Gifts from GP practices*

For teams within the ICB who work closely with GP practices, any gifts received of little financial value (i.e. less than £50) such as flowers, refreshments and small tokens of appreciation can be accepted, but must be declared.

(d) *Gifts from other sources*

- (i) Gifts offered from other sources should also be declined if accepting them might give rise to perceptions of bias or favouritism, and a common sense approach should be adopted as to whether or not this is the case. The only exceptions to the presumption to decline gifts relates to items of little financial value (i.e. less than £50) such as diaries, calendars, stationery and other gifts acquired from meetings, events or conferences, and items such as flowers and small tokens of appreciation from members of the public to staff for work well done. Gifts of this nature may be accepted and do not need to be declared, nor recorded on the register.

- (ii) Gifts valued at over £50 should be treated with caution and only be accepted on behalf of the ICB, not in a personal capacity. These should be declared.
- (iii) 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).
- (iv) 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.

7.2.4 Hospitality

(a) *Overarching principles*

- (i) Individuals should not ask for or accept hospitality that may affect, or be seen to affect, their personal judgement.
- (ii) A blanket ban on accepting or providing hospitality is neither practical nor desirable from a business point of view. However, Individuals should be able to demonstrate that the acceptance or provision of hospitality would benefit the NHS or ICB.
- (iii) Modest hospitality provided in normal and reasonable circumstances may be acceptable, although it should be on a similar scale to that which the ICB might offer in similar circumstances (e.g. tea, coffee, light refreshments at meetings). A common sense approach should be adopted as to whether hospitality offered is modest or not.
- (iv) When hospitality is offered by actual or potential suppliers or contractors, these can be accepted if modest and reasonable, but Individuals should always obtain senior approval and declare these.

(b) *Meals and refreshments*

- (i) Under a value of £25 may be accepted and need not be declared.
- (ii) Of a value between £25 and £75 may be accepted and must be declared.
- (iii) Over a value of £75 should be refused unless (in exceptional circumstances) senior approval is given. A clear reason should be recorded on the 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).

(c) *Travel and accommodation*

- (i) *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.*
- (ii) Offers which go beyond modest, or are of a type that the ICB itself might not usually offer, need approval by senior staff (e.g. the ICB Governance Lead or equivalent), 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.

7.2.5 Sponsored events

- (a) Sponsorship of NHS events by external parties is valued. Offers to meet some or part of the costs of running an event secures the ICB's ability to take place, benefiting staff and patients. However, there is potential for conflicts of interest between the ICB and sponsor, particularly regarding the ability to market commercial products or services.
- (b) When sponsorships are offered, the following principles must be adhered to:
 - (i) 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 benefit for the ICB and the NHS;
 - (ii) during dealings with sponsors there must be no breach of patient or individual confidentiality or data protection rules and legislation;
 - (iii) no information should be supplied to the sponsor from which they could gain a commercial advantage, and information which is not in the public domain should not normally be supplied;
 - (iv) at the ICB's discretion, sponsors or their representatives may attend or take part in the event but they should not have a dominant influence over the content or the main purpose of the event;
 - (v) the involvement of a sponsor in an event should always be clearly identified in the interest of transparency;
 - (vi) sponsorship does not equate to endorsement of a company or its products and this should be made visibly clear on any promotional or other materials relating to the event; and
 - (vii) Individuals should declare their involvement with arranging sponsored events for the ICB.

(c) *Other forms of sponsorship*

Organisations external to the ICB 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.

8. ROLES AND RESPONSIBILITIES

All Individuals have the responsibility to appropriately manage conflicts of interest.

8.1 Appointing ICB Board or committee members and senior employees

The following should be considered when appointing ICB Board or committee members and senior employees:

- 8.1.1 whether conflicts of interest should exclude someone from being appointed to the relevant role. This will be considered on a case-by-case basis reflecting the ICB's general principles within the Constitution;
- 8.1.2 the materiality of the interest, in particular whether someone (or any person whom they have a close association with, as listed in 5.3.4(a)) could benefit (whether financially or otherwise) from any decision the ICB might make;
- 8.1.3 the extent of the interest and the nature of the appointee's proposed role within the ICB. If the interest is related to an area of business significant enough that they would be unable to operate effectively and make a full and proper contribution in the proposed role, then that individual should not be appointed to the role;
- 8.1.4 a person who has a material interest in an organisation which provides, or is likely to provide, substantial services to the ICB (whether as a provider of healthcare or commissioning support services, or otherwise) should recognise the inherent conflict of interest risk that may arise and should not be a member of the ICB Board or of a committee or sub-committee of the ICB, in particular if the nature and extent of their interest and the nature of their proposed role is such that they are likely to need to exclude themselves from decision-making on so regular a basis that it significantly limits their ability to effectively perform that role.

8.2 ICB Non-Executive Members

Non-Executive Members play a critical role in ICBs, providing scrutiny, challenge and an independent voice in support of robust and transparent decision-making and management of conflicts of interest.

8.3 Conflicts of Interest Guardian

- 8.3.1 To further strengthen scrutiny and transparency of the ICB's decision-making processes, the ICB has a Conflicts of Interest Guardian, undertaken by the ICB's Audit and Governance Committee Chair. They are supported by the ICB's Head of Governance.
- 8.3.2 The Conflicts of Interest Guardian in collaboration with the ICB's Director of Corporate Delivery and Head of Governance will:
- (a) act as a conduit for GP practice staff, members of the public and healthcare professionals who have any concerns with regards to conflicts of interest;
 - (b) be a safe point of contact for employees or workers of the ICB to raise any concerns in relation to this policy;
 - (c) support the rigorous application of conflicts of interest principles and policies;
 - (d) provide independent advice and judgment where there is any doubt about how to apply conflicts of interest policies and principles in an individual situation;
 - (e) give approval, if it is requested, that conflicts of interests are not published on the ICB's website and, if necessary, seek appropriate legal advice where required; and
 - (f) provide advice on minimising the risks of conflicts of interest.

8.4 Other Key Roles

- 8.4.1 Individuals should be aware that a breach of this policy could render them liable to prosecution under provisions such as the Bribery Act 2010, as well as leading to the termination of their employment or position within the ICB.
- 8.4.2 Individuals who fail to disclose relevant interests, outside employment or receipts of gifts, hospitality, sponsorship or entertainment as required by this policy or the ICB's Standing Orders and Prime Financial Policies may be subject to disciplinary action which could ultimately result in the termination of their employment or position within the ICB.
- 8.4.3 The Director of Corporate Delivery will be responsible for maintaining the Register of Interests, holding the Gifts and Hospitality Register and Register of Breaches, monitoring the Register of Procurement Decisions, publication of the aforementioned registers and reviewing the implementation of this policy.
- 8.4.4 The Accountable Officer of the ICB has ultimate accountability for the strategic and operational management of the organisation, including ensuring all policies are adhered to.

- 8.4.5 The ICB Board Members have an ongoing responsibility for ensuring the robust management of conflicts of interest.
- 8.4.6 The Audit and Governance Committee and ICB Board will ratify this policy for use throughout the ICB.

9. GOVERNANCE ARRANGEMENTS AND DECISION MAKING

9.1 Secondary Employment

9.1.1 The ICB will take all reasonable steps to ensure that employees, committee members, contractors and others engaged under contract with them are aware of the requirement to inform the ICB if they are employed or engaged in, or wish to be employed or engaged 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, include:

- (a) employment with another NHS body;
- (b) employment with another organisation which might be in a position to supply goods/services to the ICB, including paid advisory positions and paid honorariums which relate to bodies likely to do business with the ICB;
- (c) directorship of a GP federation or non-executive roles; and
- (d) 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.

9.1.2 The ICB requires Individuals to:

- (a) obtain prior permission to engage in secondary employment, and reserve the right to refuse permission where it believes a conflict will arise which cannot be effectively managed;
- (b) declare any existing outside employment on appointment and any new outside employment when it arises.

For more information, please see the ICB's Secondary Employment Policy.

9.2 Management of meetings and decision making

9.2.1 Chairing arrangements and decision-making processes

(a) *Management of meetings*

- (i) 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.
- (ii) In making such decisions, the Chair (or Vice Chair or remaining non-conflicted members) may wish to consult with the Conflicts of Interest Guardian (see paragraph 7.3) or another member of the ICB Board.
- (iii) The Register of Interests for each committee will be circulated with the meeting papers. The Chair and ICB Meeting Lead and, if required, the Conflicts of Interest Guardian, should proactively consider ahead of the meeting what conflicts are likely to arise and how they are to be managed, including taking steps to ensure that supporting papers for particular agenda items of private sessions/meetings are not sent to conflicted Individuals in advance of the meeting, where relevant.
- (iv) To support Chairs in their role, they will be provided with a declarations of interest checklist prior to meetings (see Appendix 5).
- (v) At the beginning of all committee meetings the Register of Interests for that meeting will be highlighted and there will be an opportunity for Individuals to identify potential conflicts of interests relating to specific items of business. Individuals should also raise such items at the beginning of each agenda item so the appropriate course of action can be taken.
- (vi) Similarly, any new offers of gifts or hospitality (whether accepted or not) which are declared at a meeting must be included on the ICB's register of gifts and hospitality to ensure it is up to date.
- (vii) It is the responsibility of each individual member of the meeting to declare any relevant interests which they may have. However, should the Chair or any other member of the meeting be aware of facts or circumstances which may give rise to a conflict of interests but which have not been declared then they should bring this to the attention of the Chair who will decide whether there is a conflict of interest and the appropriate course of action to take in order to manage the conflict of interest.
- (viii) When a member of the meeting (including the Chair or Vice Chair) has a conflict of interest in relation to one or more items of business to be

transacted at the meeting, the Chair (or Vice Chair or remaining non-conflicted members, where relevant as described above) must decide how to manage the conflict. The appropriate course of action will depend on the particular circumstances, but could include one or more of the following:

- where the Chair has a conflict of interest, deciding that the Vice Chair (or another non-conflicted member of the meeting if the Vice Chair is also conflicted) should chair all or part of the meeting;
 - requiring the Individual who has a conflict of interest (including the Chair or Vice Chair if necessary) not to attend the meeting;
 - ensuring that the Individual concerned does not receive the supporting papers or minutes of the meeting which relate to the matter(s) which give rise to the conflict;
 - requiring the Individual to leave the discussion when the relevant matter(s) are being discussed and when any decisions are being taken in relation to those matter(s). In private meetings, this could include requiring the Individual to leave the room and in public meetings to either leave the room or join the audience in the public area;
 - allowing the Individual to participate in some or all of the discussion when the relevant matter(s) are being discussed but requiring them to leave the meeting when any decisions are being taken in relation to those matter(s). This may be appropriate where, for example, the conflicted Individual has important relevant knowledge and experience of the matter(s) under discussion, which it would be of benefit for the meeting to hear, but this will depend on the nature and extent of the interest which has been declared;
 - noting the interest and ensuring that all attendees are aware of the nature and extent of the interest, but allowing the Individual to remain and participate in both the discussion and in any decisions. This is only likely to be the appropriate course of action where it is decided that the interest which has been declared is either immaterial or not relevant to the matter(s) under discussion.
- (ix) Where the conflict of interest relates to outside employment and an Individual continues to participate in meetings pursuant to the preceding two bullet points, he or she are to ensure that the capacity in which they continue to participate in the discussions is made clear and correctly recorded in the minutes. Where it is appropriate for them

to participate in decisions they must only do so if they are acting in their ICB role.

- (x) It is imperative that the ICB ensures complete transparency in decision-making processes through robust record-keeping. Any declaration of interest, and arrangements agreed, in any meeting of the ICB, its committees or sub-committees, or the ICB Board, should be recorded in the register at Appendix 6, and in the relevant minutes (see the ICB's Corporate Governance Framework, Appendix 7, for example wording). The Chair must therefore ensure the following information is recorded in the minutes:
- who has the interest;
 - the nature of the interest and why it gives rise to a conflict, including the magnitude of any interest;
 - the items on the agenda to which the interest relates;
 - how the conflict was agreed to be managed; and
 - evidence that the conflict was managed as intended (for example recording the points during the meeting when particular Individuals left or returned to the meeting).
- (xi) The Corporate Governance Manager will be responsible for updating the ICB's register of interests with this information and completing the Register for "Recording Interests During Meetings" (see Appendix 6), which will be presented at each Audit and Governance Committee along with "Interests Recorded During Meetings" form (see Appendix 7), which will be made available to Audit and Governance Committee upon request.

(b) Decision Making

- (i) Where more than 50% of the members of a meeting are required to withdraw from a meeting or part of it, owing to the arrangements agreed for the management of conflicts of interests or potential conflicts of interests, the Chair (or acting Chair) will determine whether or not the discussion can proceed.
- (ii) In making this decision the Chair (or acting Chair) will consider whether the meeting is quorate, in accordance with the number and balance of membership set out in the ICB's standing orders or elsewhere. Where the meeting is not quorate, owing to the absence (temporary or otherwise) of certain members, the discussion 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 (or acting Chair) of the meeting shall consult with the Director of Corporate Delivery or Head of Governance on the action to be taken. This may include:

- requiring another of the ICB's committees or sub-committees, or the ICB's Board (as appropriate), which can be quorate, to progress the item of business; or if this is not possible
- inviting on a temporary basis one or more of the following to make up the quorum (where these are permitted members of the ICB Board or committee or sub-committee in question) so that the ICB can progress the item of business:
 - a member of the ICB who is an Individual;
 - a member of a relevant Health and Wellbeing Board;
 - a member of the ICB Board of another ICB;
 - a Non-Executive Member from any other ICB;
 - any other person.

These arrangements must be clearly recorded in the minutes of the meeting.

- (iii) In any transaction undertaken in support of the ICB's exercise of its commissioning functions (including conversations between two or more Individuals, emails, correspondence and any other form of communication), 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 staff), or the Director of Corporate Delivery or Head of Governance of the transaction.
- (iv) The Director of Corporate Delivery or Head of Governance 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.

10. MANAGING CONFLICTS OF INTEREST THROUGH THE COMMISSIONING CYCLE

10.1 Principles

The ICB will manage conflicts of interest by applying a number of principles, processes and safeguards through:

- 10.1.1 statutory requirements;
- 10.1.2 doing business appropriately – ensuring commissioning decisions are in line with the ICB’s constitution, standards of business and commissioning strategy;
- 10.1.3 being proactive not reactive by:
 - (a) considering potential conflicts of interests (e.g. when appointing Individuals to decision-making roles);
 - (b) ensuring all Individuals and decision-making staff (as referred to in paragraph 6.1.2(a)) are aware of their obligations to declare conflicts of interests;
 - (c) maintaining a register of interests; and
 - (d) agreeing in advance how to deal with scenarios where a conflict of interest occurs;
- 10.1.4 assuming Individuals will act ethically and professionally, but may not always appreciate the potential for conflicts of interest or relevant rules and procedures;
- 10.1.5 being balanced and proportionate – ensuring rules are clear and robust but not overly prescriptive or restrictive so as to hinder the decision-making process;
- 10.1.6 being open and ensuring early engagement with patients, the public, clinicians and other stakeholders, including local Healthwatch and Health and Wellbeing Boards in relation to proposed commissioning plans;
- 10.1.7 responsiveness and best practice – ensuring that commissioning intentions are based on local health needs and reflect evidence of best practice;
- 10.1.8 transparency – ensuring that the approach taken is clearly evidenced by an audit trail;
- 10.1.9 securing expert advice – ensuring that commissioning plans take into account advice from appropriate health and social care professionals and experts;
- 10.1.10 engaging with providers – ensuring early engagement with both incumbent and potential new providers over potential changes to commissioned services for the local population;
- 10.1.11 creating clear and transparent commissioning specifications;
- 10.1.12 following proper procurement processes and legal arrangements;

- 10.1.13 ensuring sound record-keeping;
- 10.1.14 having in place a clear, recognised and easily enacted system for dispute resolution.

10.2 **General Provisions**

In accordance with the ICB's constitution, the ICB shall manage conflicts of interest that are declared or arise through the commissioning cycle as stated in the following provisions:

- 10.2.1 the Accountable Officer has overall accountability for the ICB's management of conflicts of interest;
- 10.2.2 the Corporate Governance Manager will ensure that for every interest declared, either in writing or by oral declaration, arrangements are in place to manage the conflict of interest or potential conflict of interest, to ensure the integrity of the ICB's decision making processes;
- 10.2.3 arrangements for the management of conflicts of interest are to be determined by the ICB Meeting Lead or Chair of any relevant meeting and will include the requirement to put in writing to the relevant individual arrangements for managing the conflicts of interests or potential conflicts of interests, within a week of declaration. The arrangements will confirm the following:
 - (a) when an Individual should withdraw from a specified activity, on a temporary or permanent basis (this may include asking an Individual to be excluded from meetings, or relevant parts of meetings, during which relevant issues are discussed or to attend such discussions but not participate in any related vote); and
 - (b) monitoring of the specified activity undertaken by the Individual, either by a line manager, colleague or other designated Individual;
- 10.2.4 where an interest has been declared, either in writing or by oral declaration, the declarer will ensure 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 Corporate Governance Manager;
- 10.2.5 where a member of staff might transfer to a provider (or their role may materially change) following the award of a contract, it will be treated as a relevant interest, and the potential conflict shall be managed appropriately.

10.3 **Designing Service Requirements**

The way in which services are designed can either increase or decrease the extent of perceived or actual conflicts of interest. Particular attention is to be given to public and patient involvement in the ICB's service development. Public involvement supports transparent and credible commissioning decisions. It should happen at every stage of

the commissioning cycle from needs assessment, planning and prioritisation to service design, procurement and monitoring. The ICB has a legal duty under the Health and Social Care Act 2012 to properly involve patients and the public in their respective commissioning processes and decisions.

10.3.1 Provider engagement

- (a) The ICB aims 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. However, conflicts of interest, as well as challenges to the fairness of the procurement process, can arise if the ICB 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. This should also be considered when engaging with existing/ potential providers in relation to the development of new care models.
- (b) 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.
- (c) As the service design develops, it is good practice to engage with a range of providers on an ongoing basis to seek comments on the proposed design.
- (d) Engagement should help to shape the requirement to meet patient need, but it is important not to gear the requirement in favour of any particular provider(s). If appropriate, the advice of an independent clinical adviser on the design of the service should be secured.
- (e) Any decisions in regards to obligations under the National Health Service (Procurement, Patient Choice and Competition) (No.2) Regulations 2013 and the Public Contracts Regulations 2015 shall be documented.

10.3.2 Specifications

- (a) The ICB will seek, as far as reasonably possible, to specify the outcomes that they wish to see delivered through a new service, rather than the process by which these outcomes are to be achieved. As well as supporting innovation, this helps prevent bias towards particular providers in the specification of services. However, careful consideration should be given to the appropriate degree of financial risk transfer in any new contractual model.
- (b) Specifications should be clear and transparent, reflecting the depth of engagement, and set out the basis on which any contract will be awarded.

10.4 Transparency in Procurement and awarding grants

- 10.4.1 The ICB aims to recognise and manage any conflicts or potential conflicts of interest that may arise in relation to the procurement of any services or the administration of grants.
- 10.4.2 When awarding grants, the ICB will follow the same process as described in paragraphs 10.1 and 10.2.
- 10.4.3 The ICB must comply with two different regimes of procurement law and regulation when commissioning healthcare services: the NHS (Procurement, Patient Choice and Competition) (No.2) Regulations 2013 and the Public Contracts Regulations 2015. Whilst the two regimes overlap in terms of some of their requirements, they are not the same – so compliance with one regime does not automatically mean compliance with the other.
- 10.4.4 The National Health Service (Procurement, Patient Choice and Competition) (No.2) Regulations 2013 state:
- “ICBs must not award a contract for the provision of NHS health care services where conflicts, or potential conflicts, between the interests involved in commissioning such services and the interests involved in providing them affect, or appear to affect, the integrity of the award of that contract; and*
- ICBs must keep a record of how it managed any such conflict in relation to NHS commissioning contracts it has entered into.”*
- 10.4.5 Paragraph 24 of PCR 2015 states: "Contracting authorities shall take appropriate measures to effectively prevent, identify and remedy conflicts of interest arising in the conduct of procurement procedures so as to avoid any distortion of competition and to ensure equal treatment of all economic operators". Conflicts of interest are described as "any situation where relevant staff members have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure".
- 10.4.6 The Procurement, Patient Choice and Competition Regulations (PPCCR) place requirements on the ICB to ensure that they adhere to good practice in relation to procurement, run a fair, transparent process that does not discriminate against any provider, do not engage in anti-competitive behaviour that is against the interest of patients, and protect the right of patients to make choices about their healthcare. Furthermore the PPCCR places requirements on the ICB to secure high quality, efficient NHS healthcare services that meet the needs of the people who use those services. The Public Contracts Regulations 2015 are focussed on ensuring a fair and open selection process for providers. The completion of a Procurement Decisions and Contracts Awarded Form (Appendix 8) and Procurement Register (Appendix 9) must therefore be updated whenever a procurement decision is taken.

10.4.7 A Procurement Checklist (Appendix 10) sets out factors that the ICB should address when devising plans to commission general practice services.

10.4.8 The ICB will make the evidence of their management of conflicts publicly available. Complete transparency around procurement will provide:

- (a) evidence that the ICB is seeking and encouraging scrutiny of its decision-making process;
- (b) a record of the public involvement throughout the commissioning of the service;
- (c) a record of how the proposed service meets local needs and priorities for partners such as the Health and Wellbeing Boards, local Healthwatch and local communities;
- (d) evidence to the Audit and Governance Committee, and internal and external auditors that a robust process has been followed in deciding to commission the service, in selecting the appropriate procurement route, and in addressing potential conflicts.

The ICB will publish the procurement register on the ICB's website to ensure that members of the public have access to this register on request. In exceptional circumstances, the same process as mentioned in paragraph 6.1.2(c) shall be followed.

10.4.9 Commissioning Support Units (CSU), are also expected to declare any conflicts of interest they may have in relation to the work commissioned by the ICB.

10.4.10 Register of procurement decisions

- (a) The ICB will maintain a register of procurement decisions taken, either for the procurement of a new service, any extension or material variation of a current contract, awarding of grants or single tender waivers. This must include:
 - (i) the details of the decision;
 - (ii) who was involved in making the decision (including the name of the ICB clinical lead, the ICB contract manager, the name of the decision making committee and the name of any other individuals with decision-making responsibility);
 - (iii) a summary of any conflicts of interest in relation to the decision and how this was managed by the ICB (see paragraph 9.4.10(b) in relation to retaining the anonymity of bidders); and
 - (iv) the award decision taken.

- (b) The register of procurement decisions must be updated whenever a procurement decision is taken. The Procurement, Patient Choice and Competition Regulations 9(1) place a requirement on commissioners to maintain and publish on their website a record of each contract it awards. The register of procurement decisions is therefore publicly available and easily accessible to patients and the public on the ICB's website and upon request for inspection at the ICB's headquarters:

<https://www.derbyandderbyshireICB.nhs.uk/about-us/conflict-of-interest/>

10.4.11 Declarations of interests for bidders/contractors and people who provide services to the ICB

- (a) As part of a procurement process, it is good practice to ask bidders to declare any conflicts of interest. This allows the ICB to ensure that they comply with the principles of equal treatment and transparency. When a bidder declares a conflict, the ICB must decide how best to deal with it or ensure that no bidder is treated differently to any other. A Declaration of Interests Form for Bidders/Contractors must be completed (Appendix 11).
- (b) It will not usually be appropriate to declare such a conflict on the register of procurement decisions, as it may compromise the anonymity of bidders during the procurement process. The ICB will therefore retain an internal audit trail of how the conflict or perceived conflict was dealt with to allow them to provide information at a later date if required. The ICB is required under regulation 84 of the Public Contract Regulations 2015 to make and retain records of contract award decisions and key decisions that are made during the procurement process, but are not expected to publish them. Such records must include 'communications with economic operators and internal deliberations' which should include decisions made in relation to actual or perceived conflicts of interest declared by bidders. These records should be retained for a period of at least three years from the date of award of the contract.

10.4.12 Single Tender Waivers

The decision to use a single tender waiver should still be classed as a procurement decision. If it results in the ICB entering into a new contract, extending a contract, or materially altering the term of an existing contract, then it is a decision and should be recorded. Therefore, the same process in this paragraph 9.4 should be followed for all single tender waivers.

10.4.13 Contract Monitoring

- (a) The management of conflicts of interest applies to all aspects of the commissioning cycle, including contract management.

- (b) 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:
 - (i) invite declarations of interests;
 - (ii) record any declared interests in the minutes of the meeting; and
 - (iii) manage any conflicts appropriately and in line with this policy.

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.

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

11. RAISING CONCERNS AND BREACHES

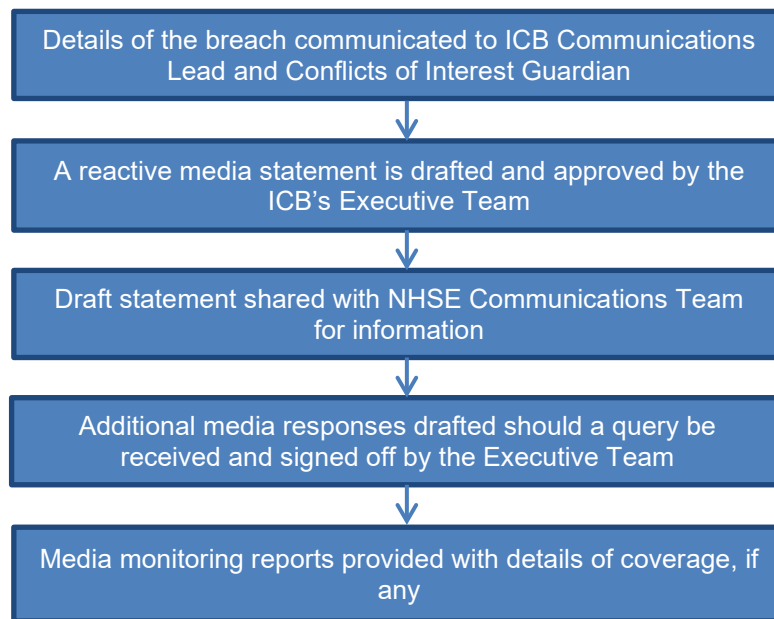
- 11.1 It is the duty of every Individual to speak up about genuine concerns in relation to the administration of the ICB's policy on conflicts of interest management, and to report these concerns. These Individuals should not ignore their suspicions or investigate themselves, but rather speak to the Head of Governance, Director of Corporate Delivery or Conflicts of Interest Guardian.
- 11.2 Breaches may occur in any of the following areas:
 - 11.2.1 at any stage of the commissioning cycle (e.g. needs assessment, strategic planning, service planning and design, procurement or contract management);
 - 11.2.2 Individuals declaring interests;
 - 11.2.3 gifts, hospitality, sponsorship and events; or
 - 11.2.4 Individuals and their outside employment.
- 11.3 Any non-compliance with the ICB's Standards of Business Conduct and Managing Conflicts of Interest Policy should be reported in accordance with the terms of that policy, and the ICB's Raising Concerns at Work (Whistleblowing) Policy (where the breach is being reported by an employee or worker of the ICB) or with the Raising Concerns at Work (Whistleblowing) Policy of the relevant employer organisation

(where the breach is being reported by an employee or worker of another organisation).

11.4 **Reporting breaches**

- 11.4.1 The ICB will maintain a Breach Declarations Register (see Appendix 12), which will record any notifications brought to the attention of the ICB. Notifications must be recorded on a Breach Declaration Form (see Appendix 13).
- 11.4.2 All such notifications should be treated with appropriate confidentiality at all times in accordance with the ICB's policies and applicable laws, and the person making such disclosures will receive an appropriate explanation of any decisions taken as a result of any investigation.
- 11.4.3 All Individuals should contact the ICB's designated Conflicts of Interest Guardian to raise any concerns. They are able to contact the Conflicts of Interest Guardian on a strictly confidential basis.
- 11.4.4 The breach will be jointly investigated by the Conflicts of Interest Guardian and Director of Corporate Delivery (providing the Director of Corporate Delivery is not conflicted – if they are conflicted, then the Head of Governance will support the investigation). The Conflicts of Interest Guardian will have access to other ICB policies on raising concerns, counter fraud or similar.
- 11.4.5 The Conflicts of Interest Guardian will make the final decision on whether a breach has occurred.
- 11.4.6 The Director of Corporate Delivery will inform the NHS England and NHS Improvement Locality Director of any breaches within seven days of the breach being identified.
- 11.4.7 Anonymised details of breaches will be published on the ICB's website for the purpose of learning and development.
- 11.4.8 Anyone who wishes to report a suspected or known breach of the policy, who is not an employee or worker of the ICB, should ensure that they comply with their own organisation's whistleblowing policy, since most such policies should provide protection against detriment or dismissal.
- 11.4.9 Providers, patients and other third parties can make a complaint to NHS Improvement in relation to a commissioner's conduct under the Procurement Patient Choice and Competition Regulations.

11.4.10 Should the ICB receive a media enquiry regarding a declared breach, the following process should be followed:



11.5 Prevention of Fraud, Bribery and Corruption

11.5.1 Fraud

- (a) The Fraud Act 2006 came into force on the 15 January 2007 and introduced the general offence of fraud. This is broken into three key sections:
 - (i) fraud by false representation;
 - (ii) fraud by failing to disclose information;
 - (iii) fraud by abuse of position.
- (b) The Fraud Act 2006 also created new offences of:
 - (i) possession and making or supplying articles for use in fraud;
 - (ii) fraudulent trading (sole traders);
 - (iii) obtaining services dishonestly.

11.6 Corruption/Bribery

- (a) The Bribery Act 2010 replaced the previous Prevention of Corruption Acts 1889–1916 and created two general offences of bribery:
 - (i) offering or giving a bribe to induce someone to behave, or to reward someone for behaving, improperly; and

- (ii) requesting or accepting a bribe either in exchange for acting improperly, or where the request or acceptance is itself improper.
- (b) A new corporate offence was also introduced – negligent failing by a company or limited liability partnership to prevent bribery being given or offered by an employee or agent on behalf of that organisation.
- (c) All Individuals are required to be aware of the Bribery Act 2010 and should also refer to the ICB’s Fraud, Bribery and Corruption Policy for further details.

11.6.2 Reporting Suspicions

- (a) All cases of suspected fraud, bribery or corruption must be investigated by an accredited NHS Counter Fraud Specialist appointed by the ICB. Any concerns or suspicions relating to fraud, bribery or corruption must therefore be reported to the ICB’s appointed Counter Fraud Specialist, Ian Morris (Email: ian.morris7@nhs.net, Telephone: 07920 138606).
- (b) Any suspicions or concerns of acts of fraud or bribery can also be reported online via <https://www.reportnhsfraud.nhs.uk/> or via the NHS Fraud and Corruption Reporting Line on 0800 0284060. This provides an easily accessible and confidential route for the reporting of genuine suspicions of fraud within or affecting the NHS. All calls are dealt with by experienced trained staff and any caller who wishes to remain anonymous may do so.

12. CONSTITUTION, STANDING ORDERS, SCHEME OF RESERVATIONS AND DELEGATION AND PRIME FINANCIAL POLICIES

- 12.1 All Individuals must carry out their duties in accordance with the ICB’s Constitution, Standing Orders, Scheme of Reservations and Delegation and Prime Financial Policies, and any applicable terms of reference. These set out the statutory and governance framework in which the ICB operates. Individuals must at all times refer to and act in accordance with the Constitution, Standing Orders, Scheme of Reservations and Delegation and Prime Financial Policies to ensure ICB processes are followed.
- 12.2 In the event of doubt Individuals should seek advice from the Governance Team. In the event of any conflict arising between the details of this policy and the Constitution, Standing Orders, Scheme of Reservations and Delegation and Prime Financial Policies, then the provisions of the Constitution, Standing Orders, Scheme of Reservations and Delegation and Prime Financial Policies shall prevail.

13. NEW CARE MODELS

- 13.1 When the ICB is commissioning a new care model (i.e. Multi-speciality Community Provider, Primary and Acute Care Systems or other arrangements of a similar scale or scope that (directly or indirectly) includes primary medical services) it is likely that there will be some Individuals with roles (whether clinical or non-clinical), that also

have roles within a potential provider, or may be affected by decisions relating to new care models. Any conflicts of interest must be identified and appropriately managed, in accordance with this policy.

- 13.2 Any Individual who has a material interest in an organisation which provides, or is likely to provide, substantial services to the ICB (whether as a provider of healthcare or provider of commissioning support services, or otherwise) is to recognise the inherent conflict of interest risk that may arise and should not be a member of the ICB Board or of a committee or sub-committee.
- 13.3 In the case of new care models, it is perhaps likely that there will be Individuals with roles in both the ICB and new care model provider/potential provider. These conflicts of interest should be identified as soon as possible, and appropriately managed locally. The position is to also be reviewed whenever an Individual's role, responsibility or circumstances change in a way that affects the Individual's interests.
- 13.4 Where an Individual participating in a meeting has dual roles, but it is not considered necessary to exclude them from the whole or any part of the meeting, he or she should ensure that the capacity in which they continue to participate in the discussions is made clear and correctly recorded in the meeting minutes, but where it is appropriate for them to participate in decisions they must only do so if they are acting in their ICB role.
- 13.5 Individuals under contract with the ICB are to inform the ICB if they are employed or engaged in, or wish to be employed or engaged in, any employment or consultancy work in addition to their work with the ICB.
- 13.6 The potential conflict should be managed where Individuals might be affected by the outcome of a procurement exercise. This is also true where Individuals are involved in both the contract management of existing contracts, and involved in procurement of related new contracts.
- 13.7 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. Individuals should therefore be mindful of these issues when engaging with existing/potential providers in relation to the development of new care models, and must ensure they comply with their statutory obligations including, but not limited to, their obligations under the National Health Service (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013 and the Public Contracts Regulations 2015.

14. EQUALITY STATEMENT

- 14.1 The ICB aims to design and implement policy documents that meet the diverse needs of our services, population and workforce, ensuring that none are placed at a disadvantage over others. It takes into account current UK legislative requirements, including the Equality Act 2010 and the Human Rights Act 1998, and promotes equal

opportunities for all. This document has been designed to ensure that no one receives less favourable treatment due to their protected characteristics of their age, disability, sex (gender), gender reassignment, sexual orientation, marriage and civil partnership, race, religion or belief, pregnancy and maternity. Appropriate consideration has also been given to gender identity, socio-economic status, immigration status and the principles of the Human Rights Act.

- 14.2 In carrying out its function, the ICB must have due regard to the PSED. This applies to all activities for which the ICB is responsible, including policy development, review and implementation.

15. DUE REGARD

This policy has been reviewed in relation to having due regard to the PSED of the Equality Act 2010 to eliminate discrimination; harassment; victimisation; to advance equality of opportunity; and foster good relations between the protected groups.

Appendix 1 – Declaration of Interests: Financial and Other Interests

This form **must** be completed by **all** employees, sub-contractors, ICB Board members, and committee or sub-committee members on an annual basis.

This form must be completed in accordance with the ICB’s Constitution and section 140 of *The National Health Service Act 2006, the NHS (Procurement, Patient Choice and Competition) Regulations 2013 and the Substantive guidance on the Procurement, Patient Choice and Competition Regulations.*

Note: Nil returns must be completed and returned.

If there is any doubt as to whether or not an interest is relevant, a declaration of the interest must be made.

Forename:.....

Surname:

Job Title:

Organisation (if not employed by ICB or Member Practice)

Position within or relationship with, the ICB (or NHS England and NHS Improvement in the event of joint committees):

ICB Employee Sub-Contractor

Member Practice Name of Member Practice:

Position held:

ICB Board Member

Committee Member

Please check all that apply:

Audit & Governance Finance & Estates People & Culture

Public Partnerships Quality & Performance Population Health & Strategic Commissioning

Remuneration System Quality Group

Other ICB Meetings
(please list)
.....

DETAIL OF INTERESTS HELD (complete all that are applicable)				
Type of Interest (see reverse of form for details)	Description of Interest (including for indirect interests, details of the relationship with the person who has the interest)	Date interest relates		Actions to be taken to mitigate risk (to be agreed with Line Manager or Senior ICB Manager)
		From	To	

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. The ICB publishes decision makers, ICB Board members, and public committee meeting registers on its website and also within public meeting papers.

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, or internal disciplinary action may result.

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

Signed.....

Date.....

Where interests change or new interests are identified this form must be updated and returned to Frances Palmer, Corporate Governance Manager. Email: frances.palmer1@nhs.net

If you require assistance in completing this form please contact Frances Palmer, Corporate Governance Manager. Email: frances.palmer1@nhs.net

TYPES OF INTEREST

Type of Interest	Description
Financial Interests	<p>This is where an individual may get direct financial benefits from the consequences of a commissioning decision. This could, for example, include being:</p> <ul style="list-style-type: none"> • a director, including a non-executive director, or senior employee in a private company or public limited company or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations. This includes involvement with a potential provider of a new care model • a shareholder (or similar owner interests), a partner or owner of a private or not-for-profit company, business, partnership or consultancy which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations • a management consultant for a provider • a provider of clinical private practice • in secondary employment • in receipt of secondary income from a provider • in receipt of a grant from a provider • in receipt of any payments (for example honoraria, one off payments, day allowances or travel or subsistence) from a provider • in receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role • having a pension that is funded by a provider (where the value of this might be affected by the success or failure of the provider)
Non-Financial Professional Interests	<p>This is where an individual may obtain a non-financial professional benefit from the consequences of a commissioning decision, such as increasing their professional reputation or status or promoting their professional career. This may, for example, include situations where the individual is:</p> <ul style="list-style-type: none"> • an advocate for a particular group of patients • a GP with special interests e.g. in dermatology, acupuncture etc. • an active member of a particular specialist professional body (although routine GP membership of the RCGP, BMA or a medical defence organisation would not usually by itself amount to an interest which needed to be declared) • an advisor for Care Quality Commission (CQC) or National Institute for Health and Care Excellence (NICE) • engaged in a research role • the development and holding of patents and other intellectual property rights which allow staff to protect something that they create, preventing unauthorised use of products or the copying of protected ideas • GPs and practice managers, who are members of the ICB Board or committees of the ICB, should declare details of their roles and responsibilities held with their GP practice
Non-Financial Personal Interests	<p>This is where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit. This could include, for example, where the individual is:</p> <ul style="list-style-type: none"> • a voluntary sector champion for a provider • a volunteer for a provider

	<ul style="list-style-type: none"> • a member of a voluntary sector board or has any other position of authority in or connection with a voluntary sector organisation • suffering from a particular condition requiring individually funded treatment • a member of a lobby or pressure groups with an interest in healthcare
Indirect Interests	<p>This is where an individual has a close association with an individual who has a financial interest, a non-financial professional interest or a non- financial personal interest in a commissioning decision (as those categories are described above). For example, this should include:</p> <ul style="list-style-type: none"> • spouse/partner • close relative e.g. parent, grandparent, child, grandchild or sibling • close friend or associate • business partner

Appendix 2 – Template Register of Interests

Name	Job Title	Committee Member/ Attendee	Declared interest (including direct/ indirect interest)	Type of Interest				Date of Interest		Action taken to mitigate risk
				Financial Interest	Non-Financial Professional Interest	Non-Financial Personal Interest	Indirect Interest	From	To	

Appendix 3 – Declarations of Gifts and Hospitality Form
(including sponsorship and entertainment)

Name of recipient	
Job Title/Position	
Date of Offer	
Date of Receipt (if applicable)	
Details of gift/hospitality/sponsorship	
Estimated Value	
Supplier/Offeror Name and Nature of Business	
Details of Previous Offers or Acceptance by this Offeror/Supplier	
Action taken to mitigate conflict, details of any approvals and 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. The Gifts and Hospitality Register is published on the ICB's website.

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

Position: **Date:**

Please return to Frances Palmer, Corporate Governance Manager. Email: frances.palmer1@nhs.net

If you require assistance in completing this form please contact Frances Palmer, Corporate Governance Manager. Email: frances.palmer1@nhs.net

Appendix 4 – Template Gifts and Hospitality Register

NHS DERBY AND DERBYSHIRE ICB GIFTS, HOSPITALITY & SPONSORSHIP REGISTER												
Name of Recipient	Job Title/ Position	Date of Offer	Date of Receipt	Details of Gift/ Hospitality/ Sponsorship	Estimated Value	Supplier/ Offeror Name and Nature of Business	Details of Previous Offers or Acceptance by this Offeror/ Supplier	Action taken to mitigate conflict, details of approvals and details of the officer reviewing and approving the declaration made and date	Accepted/ Declined	Reason for Accepting / Declining	Authorising Manager	Comments

Appendix 5 – Declarations of Interest Checklist
(including sponsorship and entertainment)

Under the Health and Social Care Act 2012, there is a legal obligation to manage conflicts of interest appropriately. It is essential that declarations of interest and actions arising from the declarations are recorded formally and consistently across all ICB 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	1. The agenda to include a standing item on declaration of interests to enable Individuals to raise any issues and/or make a declaration at the meeting.	Meeting Chair/ICB Meeting Lead/Administrator
	2. A definition of conflicts of interest should also be accompanied with each agenda to provide clarity for all recipients.	Meeting Chair/ICB Meeting Lead/Administrator
	3. Agenda to be circulated to enable attendees (including visitors) to identify any interests relating specifically to the agenda items being considered.	Meeting Chair/ICB Meeting Lead/Administrator
	4. Members should contact the Chair as soon as an actual or potential conflict is identified.	Meeting members
	5. If applicable, Chair to review a summary report from preceding meetings i.e. sub-committee, working group, etc. detailing any conflicts of interest declared and how this was managed.	Meeting Chair

Timing	Checklist for Chairs	Responsibility
	<p>6. A copy of the members' declared interests is checked to establish any actual or potential conflicts of interest that may occur during the meeting.</p>	Meeting Chair/ICB Meeting Lead
During the meeting	<p>7. Check and declare the meeting is quorate and ensure that this is noted in the minutes of the meeting.</p>	Meeting Chair/Administrator
	<p>8. Chair requests members to declare any interests in agenda items – which have not already been declared, including the nature of the conflict.</p>	Meeting Chair
	<p>9. Chair makes a decision as to how to manage each interest which has been declared, including whether/ to what extent the Individual member should continue to participate in the meeting, on a case by case basis, and this decision is recorded.</p>	Meeting Chair /ICB Meeting Lead/ Director of Corporate Delivery/ Head of Governance/ Corporate Governance Manager
	<p>10. As a minimum requirement, the following should be recorded in the minutes of the meeting:</p> <ul style="list-style-type: none"> • Individual declaring the interest (and why they are conflicted) • at what point the interest was declared • the nature of the interest • the Chair's decision and resulting action taken • the point during the meeting at which any individuals retired from and returned to the meeting – even if an interest has not been declared 	Meeting Chair/ Administrator

Timing	Checklist for Chairs	Responsibility
	<p>Visitors in attendance who participate in the meeting must also follow the meeting protocol and declare any interests in a timely manner.</p>	
<p>Following the meeting</p>	<p>11. All new interests declared at the meeting should be promptly updated onto the declaration of interest form.</p>	<p>Individual(s) declaring interest(s)</p>
	<p>12. All new completed declarations of interest should be transferred onto the register of interests.</p>	<p>Administrator/ Corporate Governance Manager</p>

Appendix 6 – Summary Register for Recording any Interests during meetings

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” (NHS England, 2017).

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. Please let the Corporate Governance Team know if you have accepted or declined any gifts or hospitality.

Meeting	Date of Meeting	Chair (name)	ICB Meeting Lead	Name of person declaring interest	Agenda item	Details of interest declared	Action taken

Chair of meeting:

Signature

Date.....

Appendix 7 – Interests Recorded During Meetings

Report from [insert details of committee]	
Details of interest declared	[Insert who declared the interest and why]
Title of paper	[Insert full title of the paper]
Meeting details	[Insert date, time and location of the meeting]
Report author and job title	[Insert full name and job title/position of the person who has written this report]
Executive summary	[Include summary of discussions held, options developed, commissioning rationale, etc.]
Recommendations	[Include details of any recommendations made, including full rationale] [Include details of finance and resource implications]
Outcome of Impact Assessments completed (e.g. Quality/Equality) Impact Assessments	[Provide details of the QIA or EIA. If this section is not relevant to the paper state “not applicable”]
Outline engagement – clinical, stakeholder and public/patient	[Insert details of any patient, public or stakeholder engagement activity. If this section is not relevant to the paper state “not applicable”]
Management of Conflicts of Interest	[Include details of any conflicts of interest declared] [Where declarations are made, include details of conflicted Individual(s) name, position; the conflict(s) details, and how these have been managed in the meeting] [Confirm whether the interest is recorded on the register of interests – if not agreed course of action]
Assurance departments/organisations who will be affected have been consulted:	[Insert details of the people you have worked with or consulted during the process: <ul style="list-style-type: none"> • Finance (insert job title) • Commissioning (insert job title) • Contracting (insert job title) • Medicines Optimisation (insert job title) • Clinical leads (insert job title) • Quality (insert job title) • Safeguarding (insert job title) • Other (insert job title)]
Report previously presented at:	[Insert details (including the date) of any other meeting where this paper has been presented; or state “not applicable”]
Risk Assessments	[Insert details of how this paper mitigates risks – including conflicts of interest]

Appendix 8 – Procurement Decisions and Contracts Awarded Form

Ref No	
Contract/Service Title	
Reason for Procurement/Investment Description	
Existing contract or new procurement (if existing include details)	
Procurement type (e.g. ICB procurement, collaborative procurement with partners, competitive, restricted, AQP, contract extension)	
Collaborative Partners (e.g. none, other ICBs, local authority)	
ICB clinical lead (Name)	
ICB contract manager (Name)	
Decision making process, name of decision making committee, and date decision made	
Summary of conflicts of interest noted	
Actions to mitigate conflicts of interest	
Justification for actions to mitigate conflicts of interest	
Contract awarded (supplier name & registered address)	

Contract value (£) (Total) and value to ICB	
Contract Date	
Status of the process	
Comments to note	

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

Signed: **Date:**

On behalf of:

Please return to Frances Palmer, Corporate Governance Manager. Email: frances.palmer1@nhs.net

If you require assistance in completing this form please contact Frances Palmer, Corporate Governance Manager. Email: frances.palmer1@nhs.net

Appendix 9 – Template Procurement Register

NHS DERBY AND DERBYSHIRE ICB PROCUREMENT REGISTER														
Ref. No	Service to be Procured	Reason for procurement	Reporting Governance <i>Which sub-committees received the procurement updates?</i>	Final decision taken and by whom at the ICB?	Comments	ICB Lead	ICB Clinical Lead	Summary of Conflicts of Interest Where was this identified?	If Yes - what actions were taken to manage the conflicts?	Successful Bidder	Value (£) excl VAT	Contract dates	Procurement Process i.e Competitive, Restricted Procedure, AQP	Collaborative Partners i.e None or other ICBs

Appendix 10 – Procurement Checklist

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?	

Question	Comment/Evidence
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?	
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)	
13. How have you determined a fair price for the service?	
Additional questions when qualifying a provider on a list or framework or pre selection for tender (including but not limited to any qualified provider) where GP practices are likely to be qualified providers	
14. How will you ensure that patients are aware of the full range of qualified providers from whom they can choose?	
Additional questions for proposed direct awards to GP providers	
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?	

Please return to Frances Palmer, Corporate Governance Manager. Email: frances.palmer1@nhs.net

If you require assistance in completing this form please contact Frances Palmer, Corporate Governance Manager. Email: frances.palmer1@nhs.net

Appendix 11 – Template Declaration of Conflicts of Interests for Bidders/Contractors

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

Name of Relevant Person(s)		
Details of interests held:		
Type of Interest	Details	Personal interest or that of a family member, close friend or other acquaintance?
Provision of services or other work for the ICB or NHS England and NHS Improvement		
Provision of services or other work for any other potential bidder in respect of this project or procurement process		
Any other connection with the ICB or NHS England and NHS Improvement, whether personal or professional, which the public could perceive may impair or otherwise influence the ICB's or any of its members' or employees' judgements,		

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

Signed:.....

On behalf of:.....

Date:

Please return to Frances Palmer, Corporate Governance Manager. Email: frances.palmer1@nhs.net

If you require assistance in completing this form please contact Frances Palmer, Corporate Governance Manager. Email: frances.palmer1@nhs.net

Appendix 12 – Breach Declarations Register

Ref No	Date of Breach	Person who reported the breach (including details of the organisation they belong to)	Description of the breach	How the person became aware of the breach	Action taken

Appendix 13 – Breach Declaration Form

Date of Breach	
Person who reported the breach (including details of the organisation they belong to)	
Description of the breach	
How the person became aware of the breach	
Action taken	

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. If information is disclosed it will be anonymised. The Breach Declarations Register is published on the ICB’s website.

I confirm that the information provided above is complete and correct. 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: **(Line Manager or Senior ICB Manager)**

Position: **Date:**

Please return to Frances Palmer, Corporate Governance Manager. Email: frances.palmer1@nhs.net

If you require assistance in completing this form please contact Frances Palmer, Corporate Governance Manager. Email: frances.palmer1@nhs.net