

# Personal and corporate reputations

Dealing with and managing conflicts of interest in clinical commissioning groups

## Foreword

The Healthcare Financial Management Association (HFMA) is the representative body for finance staff in healthcare. With a long and established history, it has a track record in providing independent and objective advice, issuing authoritative guidance, delivering training and helping to spread best practice in financial management and governance.

As the seventh briefing in the *GP Finance* series, this guide is designed to help all those involved with clinical commissioning groups as they prepare for the challenges ahead. Useful for the members of governing bodies, member practices, GPs and managers alike, the briefing covers conflicts of interest as they have a particular focus and magnitude for all public sector organisations.

The need to demonstrate that healthcare and public resources are in safe hands can easily be compromised by both actual and perceived conflicts of interest. There is the potential to significantly damage the reputations of organisations and individuals.

Conflicts of interest will exist in the new healthcare system as many different people become involved in decision-making. Therefore it is important to be proactive and to manage these conflicts, as well as having systems and processes in place to ensure that they are recognised and dealt with

appropriately and proportionately. This guide will examine how and where conflicts of interest arise and look at some practical ways of dealing with and managing them as clinical commissioning groups move towards authorisation.

The HFMA is active at national and local level in raising the awareness of how NHS finance works, influencing policy development and raising the skill base of those involved in financial management. The association supports NHS organisations and individuals in improving financial management and governance through periods of challenge and change as the transition to the new NHS gathers speed.

We hope it will be helpful to GPs, lay members, managers, auditors, commissioning support and procurement staff and many others and would be delighted to hear your feedback. We would also welcome any suggestions you may have for ways in which we might further support your practice and the development of clinical commissioning groups in the future.

**Cathy Kennedy, chair of the HFMA Commissioning Finance Group**

For more details see [www.hfma.org.uk/gp](http://www.hfma.org.uk/gp) and send your feedback to [info@hfma.org.uk](mailto:info@hfma.org.uk)

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## Overview

Conflicts of interest exist in all walks of life and throughout the public and private sectors and are not a new phenomenon. However, they do have a particular focus and magnitude for public sector organisations as they operate with an underlying principle of the need to demonstrate that all decisions and actions about healthcare and public resources are taken in the public's best interest. This principle can easily be compromised by both actual and perceived conflicts of interest.

Public perception plays a critical role and has the potential to significantly damage the reputations of both organisations and individuals. The Charity Commission uses the following definition:

*'A conflict of interest is any situation in which a trustee's personal interests, or interests that they owe to another body, may (or may appear to) influence or affect the trustee's decision-making.'*

From this, it can be seen that not only is a genuine conflict of interest a concern, but so is the appearance of one.

Conflicts of interest already exist in the NHS. Their presence indicates the involvement of many different professions and professionals embedded in the local health economy and they can't necessarily be avoided – for example, through business links with the private, independent and voluntary sectors.

Therefore it is important to manage both actual and potential conflicts and have systems and processes in place to ensure that they are recognised and dealt with appropriately. Public sector officers need always to be able to show accountability for and transparency of decision-making while guarding against any suspicion of wrongdoing.

This high-profile issue is supported by the Code of Accountability for NHS Boards, which requires chairs and board directors to declare any personal or business interests that may 'influence (or be perceived to influence) their judgement'.

This briefing will examine how and where conflicts of interest arise and give some practical ways of dealing with and managing them as clinical commissioning groups (CCGs) move

towards authorisation and taking on their statutory responsibilities from 1 April 2013.

## What are conflicts of interest?

Conflicts of interest arise when a person or organisation has, or has recently had, a relationship or involvement in something elsewhere that may influence their decision-making. It is particularly important in terms of the public sector as the existence of a conflict of interest may influence how taxpayers' money is spent or how a decision is made.

It is important that stakeholders in a CCG – those with an interest in the organisation and its actions – can be sure their interests are safeguarded, that the organisation is well managed and that stated objectives will be met. Successfully managing conflicts of interest is one element of providing such assurance. It is so important that it is recognised as a key duty for CCGs (see box below).

Conflicts of interest are not solely related to the opportunity for financial gain but have a much wider definition:

- A direct financial interest – where an individual or organisation receives a direct financial benefit from the decision made
- An indirect financial interest – where a relative or other key person receives a financial benefit from the decision made
- Non-financial or personal interests – where someone is influenced by external factors, for example, gaining status or wider recognition from the decision made
- Conflicts of loyalty – for example, between acting as a commissioner and caring for a patient or being a member of the CCG's governing body and a member of the Local Medical Committee.

Therefore, when examining the potential for conflicts of interest to arise, it is helpful to consider

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## CCGs' KEY STATUTORY DUTIES

**Clinical commissioning groups will be required to meet key statutory duties – financial and non-financial – including several relating to the governance of the organisation. They will be required to 'make arrangements for managing conflicts and potential conflicts of interest in such a way as to ensure that they do not, and do not appear to, affect the integrity of the CCG's decision-making processes, and to have regard to guidance published by the NHS Commissioning Board on management of conflicts of interest'.**



whether anyone benefits directly or is likely to benefit from the decision made. All types of conflicts of interest need to be recognised for what they are and given equal status. If a benefit is identified, the extent of the conflict and how material it is will then need to be established. This can influence the action taken: from being required to make a declaration of the conflict's existence to being excluded completely from a decision-making process.

It is also important to identify where the perception of a conflict may exist. This can be as damaging as where a conflict actually does exist and have an equally damaging impact to reputation. The issue is summarised in the Charity Commission's guidance for trustees:

*'The issue is not the integrity of the trustee concerned, but the management of any potential to profit from a person's position as trustee, or for a trustee to be influenced by conflicting loyalties. Even the appearance of a conflict of interest can damage the charity's reputation, so conflicts need to be managed carefully.'*

### Where do you find conflicts of interest?

Given that conflicts of interest are not confined to financial benefits but have a much wider scope, it is helpful to identify a number of areas of day-to-day operations where there is the potential for them to arise. Identifying potential conflicts and where they may influence decision-making can help to shape the organisation's response to them. The areas identified are not exhaustive in their coverage but aim to provide an overview of issues to be considered further.

#### Commissioning

There are two central issues here: individual commissioning decisions taken by GPs and commissioning decisions taken by the CCG itself. When a patient is referred by the GP for further care, diagnosis or treatment, an individual commissioning decision is made. As well as being mindful of affordability, GPs must be aware of the potential for a conflict of interest to arise.

It is important to promote the choices open to patients, particularly if the GP is also a service provider. For example, the GP may have recently been the owner of a nursing home or be part of a consortium that operates a private clinic to

which patients could be referred. It would be appropriate for a patient to be made aware of these facts so they can take this into consideration when deciding on their treatment or care.

On a larger scale, there is the potential for conflicts of interest to arise in commissioning decisions taken by CCGs – for example, in relation to service reconfiguration. In March, NHS Peterborough was found to have inappropriately managed a potential conflict of interest when redesigning primary and urgent care services. The ruling by the Co-operation and Competition Panel found 'NHS Peterborough had failed to manage a potential conflict of interest resulting from the involvement in its consultation process of two lead clinicians who were partners in GP practices that would be directly affected' by the proposed changes.

#### Procurement

Good procurement practices will be fundamental to the success of a CCG both in relation to commissioning contracts themselves and commissioning support services. This is reflected in initial guidance published by the NHS Commissioning Board Authority, which states that 'procurement procedures need to be right from the outset'. In relation to procurement, there is the potential for conflicts when:

- Staff-side unions are involved in both discussions to determine future service models and the procurement decision itself
- Potential and/or incumbent providers are engaged to develop service specifications on which the provider may later bid – for example, where a group of GPs has established a social enterprise that is then the means by which services can be delivered
- A GP whose practice belongs to a CCG is also a board member of a business that is tendering for a contract with his/her own CCG. This may be seen as giving the business a competitive advantage
- The CCG is commissioning a service via any qualified provider and one or more GP practices (or other providers in which CCG members have an interest) are among the qualified providers from whom patients can choose
- The procurement itself is under way – for example, by including or excluding specific potential providers
- Links already exist to companies with a vested interest in the CCG – for example, through having trialled equipment or drugs
- Sponsorship is offered, including gifts and hospitality (see page 5).



Identifying potential conflicts and where they may influence decision-making can help to shape the organisation's response to them

It may be that the perception or possibility of wrongdoing is enough for a provider to 'cry foul play' and complain they have been unfairly disadvantaged by the procurement process.

### Recruitment

It is possible for conflicts of interest to arise in the course of making appointments, promotions and in relation to the performance management of staff. For example, the chief officer may appoint their son as a locality manager within the CCG. Even if he is the best candidate as a result of the recruitment process, it could easily be assumed that there had been preferential treatment.

Transparency of appointment to the governing body and committees of a CCG is vital in avoiding real or perceived favouritism of friends, spouses or acquaintances. It can be quite innocuous and/or easy to fall into a difficult situation as the example below shows (see box).

### Internal decision-making

There will be decisions taken by the CCG that affect all member practices – for example, a practice incentive scheme or the allocation of quality premium payments. Here money from the CCG's commissioning allocation is put into a pot in order to reward the changing of prescribing or referral patterns. It is the CCG itself that is required to divide up the available money based on individual practice or locality performance whereby all GPs are likely to benefit.

The key point is to recognise that the decision-makers will themselves be able to benefit from the decisions they take and therefore a conflict of interest is inherently present. The situation must

be appropriately managed as it cannot be avoided – by enabling non-GP members of the governing body to make decisions, for instance.

### Gifts and hospitality

It is an offence to accept gifts or hospitality as an inducement or reward for doing something in a public role. NHS staff are advised to refuse to accept such gifts or hospitality rather than declare that they have after the event. There is some leeway for minor gifts, such as pens or diaries, but the offer of higher value items should always be questioned. A perception of preferential treatment or access to key individuals can easily be created if, for example, a CCG accepts the sponsorship of an event from a drugs company whose contract to supply drugs to it is shortly to expire.

The governing body, committee members and staff must be open about any gifts they have received or are offered. A good test is to think about how it would look on the front page of the local newspaper – if the action or gift could not be defended it should not be carried out or accepted.

### When things go wrong

Unfortunately, where actual or perceived conflicts of interest do arise, the consequences can be very visible and highly publicised. The Haxby Practice in York found itself the subject of media attention in October 2011 when some of its patients were offered the option of having treatment at several private clinics, including one which the practice owned. As well as attracting extensive media attention, the issue drew comment from the local hospital trust, the Department of Health and the British Medical Association.

This situation also highlights the importance of public perception. Even if an organisation has gone through the right procedures and management processes to ensure that there is no conflict of interest, it may still look as if one exists to someone outside the organisation.

In addition to unwelcome attention, regulatory and/or criminal action may also be taken against organisations as a whole and/or individuals themselves. CCGs must also be aware of the legislation that may apply here.

### Monitor

In its future role as sector regulator, Monitor (currently the regulator of foundation trusts) will



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### CONFLICT DURING RECRUITMENT

**A former assistant commissioner of the Metropolitan Police passed on a friend's daughter's CV for consideration during a recruitment process. Following a review by the Independent Police Complaints Commission, the former assistant commissioner was reported to have shown 'poor judgement' by appearing to favour a particular candidate.**

For details see the *Mirror*, April 2012, at [www.mirror.co.uk/news/uk-news/metropolitan-police-chiefs-judgement-poor-789022](http://www.mirror.co.uk/news/uk-news/metropolitan-police-chiefs-judgement-poor-789022)

have powers to investigate formal complaints in relation to potential misconduct, if someone thinks a contract has been awarded where the decision has been influenced by an interest in the successful provider. Monitor will be able to gather evidence and require an explanation of the information provided, investigate the commissioner's conduct and take action if commissioners are found to be in breach of the regulations.

#### **Co-operation and Competition Panel**

If an organisation is accused of a potential conflict of interest, the injured party may appeal to the Co-operation and Competition Panel (CCP). The CCP aims to help 'support the delivery to patients and taxpayers of the benefits of competition by investigating and advising the Department of Health and Monitor on potential breaches of the Principles and Rules of Co-operation and Competition'. Cases may be referred to the CCP in four specific categories:

- Merger cases between NHS-funded healthcare providers
- Conduct cases where an organisation may have behaved in a way that contradicts the principles and rules of co-operation and competition – for example, by restricting patient choice
- Procurement dispute appeals
- Advertising and misleading information dispute appeals.

The CCP is also able to investigate non-case-specific matters referred to it by either the Department or Monitor. The CCP draws on the expertise of reference groups to inform its decisions, taking into account both clinical and economic factors. The secretary of state for health is then advised whether or not a breach of the rules has taken place and can direct commissioners to take remedial action. In the new structure of the NHS, the CCP will be retained as a separate identity within Monitor.

#### **Bribery Act 2010**

The Bribery Act 2010 requires organisations to have adequate procedures to prevent bribery taking place. Under the Act, an organisation can be prosecuted for failing to prevent a bribe being paid on its behalf – for example, when placing a contract for a major service or investment. This applies whether or not an individual employee is also prosecuted. Lavish hospitality or expenditure beyond that which may be considered reasonable in the circumstances

can generate an inference that it is intended to encourage or reward improper performance or reward an individual. The business rules of the organisation are fundamental here in protecting both organisations and their staff (see page 9 for further details).

#### **Equalities Act 2010**

The Equalities Act 2010 is the law that bans unfair treatment and aims to help achieve equal opportunities in the workplace. It places all public sector organisations under a general equality duty affecting everything they are required and allowed to do. It requires public sector bodies to assess the impact of existing and new policies and practices on equality and determine how different people will be affected. This ensures the opportunity for discrimination is minimised and everyone is treated fairly.

CCGs will need to give careful consideration to the legal requirements of the Act and 'have due regard to equality considerations' in all that they do. As well as the obvious area of employment law, it also affects business planning, budgeting, commissioning and procurement – including where services are contracted to a third party. For example, it would be inappropriate for a service specification to contain criteria that, were the service to be commissioned on that basis, would have an adverse impact on a particular group of patients.

#### **How to minimise the chance that a conflict of interest will occur**

Ideally CCGs would have a specialist to advise on conflicts of interest but this option is likely to be unaffordable within the management cost allowance. Therefore, CCGs will need the necessary skills to be spread across their management team and have in place robust processes and approaches to decision-making. They will then be well placed to both identify and manage potential and actual conflicts of interest.

#### **Robust processes**

This requires a proactive approach by creating systems and processes in advance that identify the potential for a conflict to exist and handle any actual conflicts when they occur. According to a paper from the NHS Confederation and the Royal College of GPs' Centre for Commissioning, it is important to 'agree in advance how a range of different situations and scenarios will be handled,



*CCGs will need the necessary skills to be spread across their management team and have in place robust processes and approaches to decision-making*

rather than waiting until they arise.' It can be helpful to consider the following at the earliest opportunity:

- Clear, formal, documented policies relating to procurement, employment and dealing with external bodies or individuals – which must be stuck to once agreed
- Clear bid documentation, including an explicit policy on the management of conflicts of interest when they arise during a procurement process
- The monitoring of contracts and how to ensure that all parties keep to what was agreed
- A robust register of interests system, including clear processes for considering potential conflicts when identified and a mechanism for approving any management actions. The register must be in place by 31 March 2013. It is also worth considering whether the register should be extended to cover any other staff. The system for declaring interests and the register itself should be subject to audit review
- The proper recording of all interests and subsequent conflicts, including holding signed declarations for governing body and committee members covering recent and current interests. This can be supported by accurate meeting minutes covering all interactions
- When it may be appropriate to seek other assurances, both internal and external, to the organisation – for example, from audit, the local counter fraud specialist or complaints records and patient surveys
- When it may be appropriate to seek independent advice and where that advice might best come from – for example, the governing body of a neighbouring CCG
- Using and following the available guidance:
  - The Department of Health's *Procurement guide for commissioners of NHS-funded services*
  - NHS standard contract clause 53
  - General Medical Council (GMC) guidance
  - Royal College of General Practitioners guidance
  - NHS procurement standards – although aimed at providers, these contain key points that commissioners may also find helpful
  - NHS Commissioning Board guidance. For more about the initial guidance from the NHS Commissioning Board, see box right.

### Approaches to decision-making

Robust approaches to decision-making will help identify situations where there is the potential for conflicts of interest to arise and minimise their

occurrence. It is important to consider how the governing body of the CCG and its committees approach the making of decisions to spend public money, including the need to:

- Be open and transparent about all potential conflicts of interest, including sharing information with patients where their referral involves a conflict
- Treat everyone equally and fairly and not exclude anyone from commenting on service specifications or proposed changes to services, so that all potential bidders are treated exactly the same
- Create ethical walls where appropriate. These are zones of non-communication that can be used to limit the disclosure of information between the holders of the information and colleagues who represent interests or hold opinions that conflict. If applied effectively, they create an insurmountable barrier for the passage of information
- Specify outcomes rather than inputs and leave potential providers to find a suitable solution as to how best to deliver them
- Clearly document and keep appropriate records of how and why a decision has been reached (not just a record of the decision itself), evidence of review and a full options appraisal. Records must reflect how any conflicts of interest have been managed
- Welcome external review.



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### NHS COMMISSIONING BOARD GUIDANCE

The NHS Commissioning Board has published initial guidance in relation to managing conflicts of interest where GP practices are potential providers of CCG-commissioned services. It contains a number of requirements to be placed on CCGs in relation to the following:

- Procurement processes – CCGs must adhere to good practice throughout the whole process, demonstrating that 'the service meets local needs and priorities and has been developed in an inclusive fashion, involving other health professionals and patients and the public'
- The role of the audit committee – CCGs must be able to demonstrate to their audit committee and, if necessary, external auditors 'that a robust process has been followed in deciding to commission the service' from a potential GP provider
- The role of health and wellbeing boards (HWBs) – CCGs must appropriately involve their HWB and be able to demonstrate how the proposal supports the local needs and priorities identified in the joint health and wellbeing strategy. This will enable the HWB to challenge the process if there are concerns about the approach being taken.



*CCGs should have a culture of 'nothing to hide' at both an organisational and individual level*

## What can be done in practical terms?

### Culture

The culture of the organisation and the way in which it operates must be underpinned by the Nolan principles. Central to the CCG constitution, they give 'a clear steer regarding the need to declare and be honest about any potential conflicts'. CCGs must also be aware of and take into consideration both the NHS and GMC codes of conduct and are required to include a 'policy on business conduct' in their constitution.

As well as having an appropriate formal basis for dealing with conflicts of interest, it is important for CCGs to create a level of expectation in relation to the standards of behaviour required of all staff. This should include a culture of 'nothing to hide' at both an organisational and individual level.

Although all public sector organisations are subject to regular external review and scrutiny by regulators, peer groups and their customers, it is important that the organisation is ready for and open to challenge. Rather than seeing external review as a threat, lessons can be learned and systems and processes improved as a direct result. It is important that decisions taken are able to stand an external test of scrutiny.

In addition, staff need to be as objective as possible and stand back from their decisions to

gain a wider perspective. If any doubt arises as to the action to be taken, colleagues can be asked for advice or, if appropriate, the decision can be referred elsewhere.

### Governance framework

It is important for NHS organisations to have the right governance framework in place. This is the system by which organisations are directed and controlled and concerns how an organisation is run – how it structures itself and how it is led. In terms of managing conflicts of interest there are several important elements to be considered:

#### *The governing body*

The governing body will have a separate chair and chief officer who is the accountable officer as well as a chief finance officer. These are key roles in governance terms and have a number of important associated responsibilities. However, if one or more of these officers are 'conflicted', it may be appropriate to bring in a lay member or the chair of the audit committee for a more objective view.

The governing body will need to monitor performance against objectives and confirm that things are working as they should, as well as look for potential problems. The lay members can also help here. By bringing a breadth of experience to the governing body, lay members can act as a sounding board against which a potential conflict of interest is identified.

#### *Audit committee*

The mechanisms in place need to be open to internal review and challenge. It is important to consider how, and by whom, conflicts of interest might be reviewed and challenged. The audit committee has a vital role here. When establishing the membership of the audit committee, it is important to bear in mind that the lay member (governance) is a pivotal role.

The lay member and the committee itself will need to work with internal and external audit to secure third-party or independent assurance when appropriate, as well as looking for other sources of internal and external assurance. The committee will then be able to provide suitable assurance to the governing body and the accountable officer that the appropriate systems and controls are in place and working as they should.

It can also be helpful for arrangements to be

## STANDING ORDERS CASE STUDY

The standing orders of NHS North of Tyne – a management body working on behalf of North Tyneside Primary Care Trust (PCT), Newcastle PCT and Northumberland Care Trust – require all board members to declare interests that are 'relevant and material' to the NHS board of which they are a member. They then go on to identify examples of interests that should be declared:

- Directorships, including non-executive directorships held in private companies
- Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS
- Majority or controlling share holdings in organisations likely or possibly seeking to do business with the NHS
- A position of authority in a charity or voluntary organisation in the field of health and social care
- Any connection with a voluntary or other organisation contracting for NHS services
- Research funding/grants that may be received by an individual or their department
- Interests in pooled funds that are under separate management.



reviewed periodically by the local counter fraud specialist as part of their proactive planned work, particularly in the CCG's first full year of operation as a statutory body (2013/14).

#### **Business rules and the declaration of interests**

The business rules of the organisation are vital in helping to manage potential and actual conflicts of interest. All CCGs are required to have a constitution, prime financial policies and a scheme of delegation.

The constitution contains the standing orders, including clear requirements in relation to the expected level of business conduct – for example, the requirement for members of the governing body and its committees to declare their current and recent interests.

The standing orders may also require the declaration of any interest to be recorded in the minutes of the meeting concerned and information relating to directors' interests to be published in the annual report. For an example, see box page 8.

The prime financial policies set out the organisation's detailed financial procedures and responsibilities. They are designed to ensure the CCG accounts fully and openly for all that it does. They cover areas such as the role of audit, the processes for tendering for goods and services, including where services can only be provided by one particular provider (single tender action) and what should happen if staff are offered gifts or other benefits.

By setting out guidelines and expectations, prime financial policies help to provide a consistent approach to key areas of the business. They also serve to protect staff by clearly setting out what must be done to ensure that resources are used appropriately and the best outcome achieved. It is vital that all CCG staff are aware of and encouraged to refer to the prime financial policies.

The final component of the business rules is the scheme of delegation – for details, see box right.

#### **Commissioning framework**

As commissioning plans are drawn up and decisions made, it is important that the CCG makes sure that specific commissioning decisions can be backed up by the health and wellbeing strategy. In this way, a clear link can be made to the basis for each decision. It is also important that commissioning and procurement processes follow clearly documented

policies, including a process for dispute resolution and escalation. For example, NHS North East Essex publishes its dispute resolution process policy on its website (see page 10). Targeted at potential bidders who wish to raise a dispute relating to a tender, the policy sets out a clear process for resolving disputes in conjunction with the Department's principles and rules for co-operation and competition.

#### **Behaviours**

The right culture and underlying frameworks can help to drive the right behaviours within the organisation. It is important that both current and recent conflicts of interest are declared as any outside interest, hospitality or sponsorship represents the risk of a conflict arising. The aim is to encourage all staff to declare potential conflicts – a policy of full disclosure, in order to minimise the risk of an actual conflict of interest arising.

If, in spite of all efforts, a conflict of interest does arise, it is best to come clean quickly, explain fully and review the circumstances in which the conflict arose. There needs to be clarity over the action to be taken when both a potential and an actual conflict is identified. For example, it is preferable for the conflicted members of a meeting to remove themselves entirely from the room and therefore the discussion, rather than just exclude themselves from the decision-making and concluding vote.

This will avoid any suggestion that the individuals concerned have unduly influenced the debate and related decision. If by leaving the room the meeting is left non-quorate, the standing orders can provide for a review of the decision made by another committee or a partner organisation. In this way, the CCG can seek the views of an independent body – for example, the local authority or another commissioner.

The organisation needs to encourage the co-operation of individual members of staff while



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### **SCHEME OF DELEGATION**

**By specifying who the governing body empowers to take actions or make decisions on its behalf, the scheme of delegation ensures that decisions are made at the right level within an organisation. For example, the CCG can delegate to its governing body the requirement for its members and other staff to formally declare their interests. The scheme of delegation is key to protecting staff and ensuring that they use the organisation's resources in line with an appropriate level of responsibility and accountability.**

## REFERENCES AND FURTHER READING

● Section 8 of the model CCG Constitution: [tinyurl.com/CBAmodel](http://tinyurl.com/CBAmodel)

● *Managing conflicts of interest in clinical commissioning groups*, NHS Confederation and Royal College of GPs' Centre for Commissioning joint paper, Sept 2011: [tinyurl.com/RCGPman](http://tinyurl.com/RCGPman)

● *Code of conduct: managing conflicts of interest where GP practices are potential providers of CCG-commissioned services*, NHS Commissioning Board Authority, July 2012: [tinyurl.com/conflictscode](http://tinyurl.com/conflictscode)

● Co-operation and Competition Panel: [www.ccpanel.org.uk](http://www.ccpanel.org.uk)

● Equalities Act 2010: [www.homeoffice.gov.uk/equalities/equality-act](http://www.homeoffice.gov.uk/equalities/equality-act)

● Bribery Act 2010: [www.hfma.org.uk](http://www.hfma.org.uk)

● *Procurement guide for commissioners of NHS-funded services*, Department of Health, 2010: [tinyurl.com/DH-procurement](http://tinyurl.com/DH-procurement)

● NHS North East Essex dispute resolution policy: [tinyurl.com/neEssex-policy](http://tinyurl.com/neEssex-policy)

● *Procurement of Healthcare (clinical services): briefings for CCGs*, NHS Commissioning Board Authority, September 2012: [tinyurl.com/procure-ccgs](http://tinyurl.com/procure-ccgs)

assuming that everyone concerned will seek to act ethically and professionally.

However, in spite of the best intentions they may not be sensitive to all potential or actual conflicts of interest, so appropriate prompts and checks are needed in order to reinforce what is required.

The CCG, its member practices and staff must develop a clear understanding of the business rules, including how to go about procuring goods and services and what constitutes appropriate relationships with other organisations – both health organisations and other suppliers. It is also important to encourage and establish a clear role for collective decision-making.

### Conclusion

It can be seen that there are clear and specific responsibilities involved in managing conflicts of interest as there is the potential for the reputations of both the CCG and its staff to be damaged by a failure to do so.

There is also a clear role for co-operation among CCG members and staff and a shared understanding of what conflicts of interest are, where they are likely to be found and how proactive the organisation must be to deal with them successfully and minimise the risk to its reputation.

To fulfil its key statutory duty in this area, appropriate systems and processes must be in place alongside a balanced and proportionate approach. It is important to assume that people intend to comply with the necessary requirements while considering how the CCG can both judge and grade the conflicts of interest with which it is faced.

Decisions do need to be made while ensuring that suppliers and providers of goods and services believe they have had a fair shot at a business opportunity. At its most fundamental level, the solution is to always act with the public sector principles in mind and underpinning all decisions made and actions taken.

Above all, NHS organisations need to be open to scrutiny and be able to demonstrate that the principles outlined here have been upheld. As the Department's *Securing best value for patients* consultation in August sets out:

*'Commissioners should always follow transparent, rigorous processes as a necessary step to securing best value and they should always be able to objectively justify their decisions.'*

Fundamentally, no one should use their public position for private gain, either for their own benefit or for the benefit of those close to them. ■

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