

Managing Conflicts of Interest Policy

2019-2022

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CONTROL RECORD			
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			Sponsor Associate Director of Governance
			Team Corporate Governance and Assurance
Title	Managing Conflicts of Interest Policy		
Amendments	Update to v1.6 – to further extend the Review Date to 31 March 2022.		
Purpose	To support a culture of openness and transparency in business transactions and to set out the CCG's requirements regarding conflicts of interests, ensuring that all individuals are aware of their responsibilities.		
Superseded Documents	Managing Conflicts of Interest Policy v1.5		
Audience	All employees of Nottingham and Nottinghamshire CCG (including all individuals working within the CCG in a temporary capacity, including agency staff, seconded staff, students and trainees, and any self-employed consultants or other individuals working for the CCG under contract for services), individuals appointed to the Governing Body and its committees, all member GP practices (single-handed practitioners, practice partners, or their equivalent; or where the practice is a company, each Director) and any other individual directly involved with the business or decision-making of the CCG.		
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<p>This is a controlled document and whilst this policy may be printed, the electronic version available on the CCG's document management systems is the only true copy. As a controlled document, this document should not be saved onto local or network drives.</p>			

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Contents		Page
1	Policy Summary	4
2	Introduction	5
3	Scope of Policy	6
4	Purpose	7
5	Definitions	7
6	Roles and Responsibilities	8
7	Guiding Principles	9
8	Conflicts of Interest	11
9	Conflicts of Interest Guardian	12
10	Declaring and Registering Interests	12
11	Management of Declared Interests	14
12	Management of Conflicts of Interests at Meetings	15
13	Transparency in Procurement	17
14	New Models of Care	19
15	Raising Concerns	19
16	Consequences of Non-Compliance	20
17	Equality and Diversity Statement	21
18	Communication, Monitoring and Review	22
19	References and Supporting Documents	22
	Appendix A: The Seven Principles of Public Life set out by the Committee on Standards in Public Life (The Nolan Principles)	24
	Appendix B: Template Declaration of Interests Form (Individuals)	25
	Appendix C: Template Declaration of Interests Form (Bidders/Contractors)	30
	Appendix D: Procurement Checklist (Commissioning Services from GP Practices)	31
	Appendix E: Contact Details	33
	Appendix F: Equality Impact Assessment	34

1. Policy Summary

This policy is in place to help ensure the proper use of NHS money, best value for taxpayers and accountability to the local populations of the Nottingham and Nottinghamshire CCG for the decisions we take.

As a member of staff you should ...	The CCG will ...
<ul style="list-style-type: none"> • Ensure you have sufficient knowledge on conflicts of interest to perform your role in line with this policy. This includes: <ul style="list-style-type: none"> ➢ Familiarising yourself with this policy and ensuring it is followed; ➢ Seeking further advice from the individuals stated in this policy where there is any uncertainty as to the requirements or your own specific responsibilities; and ➢ Ensuring you undertake the mandatory annual training of Conflicts of Interest. • Use your common sense and judgement to consider whether the interests you have could affect the way taxpayers' money is spent – or whether your interests could be <i>perceived</i> to be an influencing factor. • Regularly consider what interests you have (or be perceived to have) and declare these as they arise. If in doubt, declare – the CCG's Governance Leads can advise as to whether this is a relevant interest or not. • NOT misuse your position to further your own interests or those close to you. • NOT be influenced, or give the impression that you have been influenced by outside interests. • NOT allow outside interests you have to inappropriately affect the decisions you make when using taxpayers' money. 	<ul style="list-style-type: none"> • Ensure that this policy and its supporting processes are clear and help staff understand what they need to do. • Ensure that resources are in place to: <ul style="list-style-type: none"> ➢ Keep this policy under review and ensure it stays in line with national guidance and best practice; ➢ Provide advice, training and support for staff as to how interests should be managed; ➢ Maintain and publish Register(s) of Interest, in line with the statutory requirements. • Ensure a culture of transparency and openness, which assures the public, our staff and our partner organisations that all of our dealings are conducted to the highest standards of integrity. • NOT avoid managing conflicts of interest or underestimate the potential impact of the perception of conflicts of interest. • NOT interpret this policy in a way that stifles collaboration and innovation.

2. Introduction

- 2.1. This policy applies to the Nottingham and Nottinghamshire Clinical Commissioning Group, hereafter referred to as '**the CCG**'.
- 2.2. All CCGs have a responsibility for ensuring that high standards of business conduct are maintained across their organisations and all Governing Body members are expected to show leadership by example in order to successfully influence the behaviour of staff. As such, members of the CCG's Governing Body and established committees must at all times comply with the expectations set out in the *Standards for members of NHS Boards and Clinical Commissioning Group Governing Bodies in England*.
- 2.3. Conflicts of interest occurs when an individual's ability to exercise judgement, or act in a role, is or could be impaired or otherwise influenced by his or her involvement in another role or relationship. The individual does not need to exploit his or her position or obtain an actual benefit, financial or otherwise, for a conflict of interest to occur.
- 2.4. The CCG is required to manage conflicts of interest as part of its day-to-day activities. The minimum requirements for discharging these duties are set out in Section 14O of the NHS Act 2006 (as amended) and within the NHS Procurement, Patient Choice and Competition (No. 2) Regulations 2013 and Public Contracts Regulations 2015.
- 2.5. Effective handling of conflicts of interest is crucial for the maintenance of public trust in the commissioning system. Importantly, it also serves to give confidence to patients, providers, Parliament and tax payers that the CCG's commissioning decisions are robust, fair, transparent and offer value for money. As such, this policy is aligned with the three crucial public service values that are required to underpin the work of the CCG:
 - **Accountability:** Everything done by those who work in the NHS must be able to stand the test of parliamentary scrutiny, public judgements on propriety, and professional codes of conduct.
 - **Probity:** There should be an absolute standard of honesty in dealing with the assets of the NHS: integrity should be the hallmark of all personal conduct in decisions affecting patients, staff and suppliers, and in the use of information acquired in the course of NHS duties.
 - **Openness:** There should be sufficient transparency about NHS activities to promote confidence between the NHS organisation and its staff, patients and the public.

- 2.6. Failure to manage conflicts of interest could lead to legal challenge resulting in civil or criminal implications for the CCG and the individual, as well as disciplinary and professional regulatory implications in respect of the individual.
- 2.7. All individuals within the CCG are required to abide by the Seven Principles of Public Life (as set out by the Committee on Standards in Public Life) shown in **Appendix A**, ensuring that:
- The interests of patients remain paramount at all times.
 - They are impartial and honest in the conduct of their official business.
 - Public funds entrusted to them are used to the best advantage of the service, always ensuring value for money.
 - They do not abuse their official position for personal gain or to the benefit of their family or friends.
 - They do not seek to advantage or further their other interests in the course of their official duties.
- 2.8. In addition, the CCG must ensure that any possibility for fraud, bribery and corruption is eliminated. Organisations must act in accordance with the Bribery Act 2010 and have appropriate policies and procedures in place to mitigate the risk of acts of bribery and corruption committed by persons associated with them, in the course of their work. This policy has been developed as part of the CCG's suite of Standards of Business Conduct policies to achieve compliance with relevant legislation and national guidance and ensure high standards of behaviour throughout the organisation. Other CCG policies that should be read in conjunction with this policy are shown in section 19.
- 2.9. The CCG will comply with the legal requirements and national guidance for the management of conflicts of interest.

3. Scope of Policy

- 3.1. The CCG requires this policy to be followed by:
- All employees of the CCG (including all individuals working within the CCG in a temporary capacity, including agency staff, seconded staff, students and trainees, and any self-employed consultants or other individuals working for the CCG under contract for services).
 - Individuals appointed to the Governing Body and sub-committees.
 - All member GP practices of the CCG (GP Partners, or where the practice is a company, each director).
 - Any other individuals directly involved with the business or decision-making of the CCG.

These are collectively referred to as ‘**individuals**’ hereafter.

4. Purpose

4.1. The purpose of this policy is to:

- Support a culture of openness and transparency in business transactions and uphold confidence and trust in the NHS.
- Support good judgement about how to approach and manage interests.
- Ensure that all individuals are aware of their responsibilities in relation to the CCG’s requirements regarding the management of conflicts of interest.
- Safeguard clinically led commissioning, whilst ensuring objective decision-making.
- Ensure that the CCG is operating within the legal framework.

4.2. This policy supports the CCG’s Constitution, Standing Orders, Scheme of Reservation and Delegation and Prime Financial Policies, which set out the statutory and governance framework in which the CCG operates. All individuals are required to comply with the requirements of the CCG’s Constitutions, Standing Orders, Schemes of Reservation and Delegation and Prime Financial Policies when carrying out their duties and these shall prevail over the requirements of this policy where conflicting advice is given.

4.3. All clinically qualified individuals must also refer to their respective codes of conduct relating to conflicts of interest.

5. Definitions

Term	Definition
Conflict of Interest	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.
<i>A conflict of interest may be:</i>	
An <i>Actual</i> Conflict of Interest	There is a material conflict between one or more interests.
A <i>Potential</i> Conflict of Interest	There is the possibility of a material conflict between one or more interests in the future.

Term	Definition
A Perceived Conflict of Interest	Where an individual could be incorrectly seen to have a conflict of interest, due to false perceptions about their responsibilities, their interests or their relationships.

6. Roles and Responsibilities

Roles	Responsibilities
The CCG's Governing Body and Committees	The Governing Body, and all Committees of the Governing Body, are responsible for upholding the principles of good corporate governance and ensuring that the CCG is acting in the best interests of stakeholders at all times.
The Audit and Governance Committee	The Audit and Governance Committee is responsible for reviewing the establishment and maintenance of an effective system of integrated governance and internal control. In particular, the Committee is responsible for monitoring compliance with the CCG's Standards of Business Conduct Policies.
The Accountable Officer	The Accountable Officer has overall accountability for the CCG's management of conflicts of interest.
The Chief Finance Officer	The Chief Finance Officer is responsible for ensuring the adequacy of the CCG's counter fraud arrangements.
The Associate Director of Governance (supported by the Corporate Governance and Assurance Team as appropriate)	<p>The Associate Director of Governance is responsible for:</p> <ul style="list-style-type: none"> • The day-to-day management of conflicts of interest matters and queries; • Maintaining the following registers: <ul style="list-style-type: none"> – Register of Declared Interests. – Gifts, Hospitality and Sponsorship Register. – Register of Procurement Decisions. • Providing advice, support, and guidance on how conflicts of interest should be managed (see section 8); • Ensuring that appropriate administrative processes are put in place; • Supporting the Conflicts of Interest Guardian in carrying out their role effectively.

Roles	Responsibilities
Conflicts of Interest Guardian	The Conflicts of Interest Guardian is in place to further strengthen the scrutiny and transparency of the CCG's decision-making processes (section 9 of this policy describes this role in more detail).
Lay Members	Lay members provide scrutiny, challenge and an independent voice in support of robust and transparent decision-making and management of conflicts of interest.
Executive Management and Senior Management Team	All members of the Executive Management and Senior Leadership Team have an ongoing responsibility for ensuring the robust management of conflicts of interest.
All Individuals	All individuals are responsible for complying with all elements of this policy and for seeking advice if unsure how it applies to them.

7. Guiding Principles

7.1. In addition to the Nolan Principles, the CCG observes the following principles of good governance in the way that it conducts its business:

- The Good Governance Standards for Public Services (2004), Office for Public Management (OPM) and Chartered Institute of Public Finance and Accountancy ("CIPFA").
- The seven key principles of the NHS Constitution.
- The Equality Act 2010.
- The UK Corporate Governance Code.
- Standards for members of NHS Boards and CCG Governing Bodies in England.

7.2. Conflicts of interest are inevitable in commissioning, but in most cases it is possible to handle them with integrity and probity by ensuring they are identified, declared and managed in an open and transparent way. With this in mind, the CCG has adopted the following guiding principles for managing conflicts of interest:

- a) **Doing business appropriately:** ensuring that our needs assessments, consultation mechanisms, commissioning strategies and procurement procedures are right from the outset, resulting in conflicts of interest becoming

much easier to identify, avoid and/or manage, because the rationale for all decision-making will be clear and transparent and should withstand scrutiny.

- b) **Being proactive, not reactive:** seeking to identify and minimise the risk of conflicts of interest at the earliest possible opportunity, for instance by:
 - Considering potential conflicts of interest when electing or selecting individuals to join the Governing Body or other decision-making bodies.
 - Ensuring individuals receive proper induction and training so that they understand their obligations to declare conflicts of interest.
 - Establishing and maintaining the register of interests and agreeing in advance how a range of possible situations and scenarios will be handled, rather than waiting until they arise.
- c) **Assuming that individuals will seek to act ethically and professionally:** ensuring there are prompts and checks to identify when conflicts occur, supporting individuals to exclude themselves appropriately from decision-making.
- d) **Being balanced and proportionate:** identifying and managing conflicts, but not expecting to eliminate them completely.
- e) **Openness:** ensuring early engagement with patients, the public, clinicians and other stakeholders, including Healthwatch and the local in relation to proposed commissioning plans.
- f) **Responsiveness and best practice:** ensuring that commissioning intentions are based on local health needs and reflect evidence of best practice – securing ‘buy in’ from local stakeholders to the clinical case for change.
- g) **Transparency and sound record keeping:** documenting clearly the approach taken at every stage in the commissioning cycle so that a clear audit trail is evident, including an up-to-date register of interests.
- h) **Securing expert advice:** Ensuring that plans take into account advice from appropriate health and social care professionals (e.g. through clinical senates and networks) and draw on commissioning support, for instance around formal consultations and for procurement processes.
- i) **Engaging with providers:** engaging early with both incumbent and potential new providers over potential changes to the services commissioned for the local population.
- j) **Creating clear and transparent commissioning specifications:** reflecting the depth of engagement and setting out the basis on which any contract will be awarded.
- k) **Following proper procurement processes and legal arrangements:** having an unbiased approach to providers and a clear, recognised and easily enacted system for dispute resolution.

- l) **Creating an environment and culture** where individuals feel supported and confident in declaring relevant information and raising concerns.

8. Conflicts of Interest

- 8.1. For individuals from the CCG's member practices, a conflict of interest can exist when their judgement as a commissioner could be, or could reasonably be perceived to be, influenced and/or impaired by their own concerns and obligations as a healthcare provider or as an owner, director or shareholder in an organisation doing business (or who may do business) with the NHS.
- 8.2. An individual does not need to exploit their position or obtain an actual benefit, financial or otherwise, for a conflict of interest to occur. In fact, a *perception* of wrongdoing, impaired judgement, or undue influence can be as detrimental as any of them actually occurring. It is important to manage these perceived conflicts in order to maintain public trust.
- 8.3. Interests fall into the following categories:

Type of Interest	Description
Financial interests	Where an individual may get direct financial benefit* from the consequences of a decision they are involved in making.
Non-financial professional interests	Where an individual may obtain a non-financial benefit from the consequences of a decision they are involved in making, such as increasing their professional reputation or promoting their professional career.
Non-financial personal interests	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 because of decisions they are involved in making in their professional career.
Indirect interests	Where an individual has a close association** with another individual who has a financial interest, a non-financial professional interest or a non-financial personal interest and could stand to benefit from a decision they are involved in making.

* This may be a financial gain, or avoidance of a loss.

** A common-sense approach should be applied to the term 'close association'. Such an association might arise, depending on the circumstances, through relationships with close family members and relatives, close friends and associates, and business partners.

- 8.4. The above categories are not exhaustive and each situation must be considered on a case-by-case basis. Where individuals are unsure whether a situation falling outside of the above categories may give potential for a conflict of interest, they should seek advice from the Associate Director of Governance or the CCG's Conflicts of Interest Guardian. If in doubt, the individual concerned should assume the existence of a conflict of interest and ensure that it is managed appropriately, rather than ignore it.
- 8.5. Examples of each of the above categories of interest are provided at **Appendix B**.

9. Conflicts of Interest Guardian

- 9.1. The CCG has appointed the Chair of the Audit and Governance Committee as the Conflicts of Interest Guardian. The Conflicts of Interest Guardian, in collaboration with the Associate Director of Governance, will:
- 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;
 - Be a safe point of contact for employees or workers of the CCG to raise any concerns in relation to conflicts of interest, this Policy, or any other policy relating to conflicts of interest;
 - Support the rigorous application of conflict of interest principles and policies;
 - Provide independent advice and judgement where there is any doubt about how to apply conflicts of interest policies and principles in an individual situation;
 - Provide advice on minimising the risks of conflicts of interest.
- 9.2. Details of the CCG's Conflicts of Interest Guardian is provided at **Appendix E**.

10. Declaring and Registering Interests

- 10.1. Where an individual has an interest or becomes aware of an interest that could lead to a conflict of interest, whether real or perceived, then this should be made as soon as reasonably practicable and by law within 28 days after the interest arises. This could also include interests an individual is pursuing.
- 10.2. The CCG will establish arrangements to ensure that, as a matter of course, declarations of interest are made in the following circumstances:
- a) **On appointment:** Applicants for any appointment to the CCG or the Governing Body will be asked to declare any relevant interests. When an appointment is made, a formal declaration of interests will again be made and recorded in advance of them commencing their position.

- b) **On changing role or responsibility:** When an individual changes their role or responsibilities within the CCG, Governing Body and Committees, any change to the individual's interests should be declared.
- c) **On any other change of circumstances:** Whenever an individual's circumstances change in a way that affects the individual's interests (e.g. where an individual takes on a new role outside the CCG or sets up a new business or relationship), a further declaration should be made to reflect the change in circumstances. This could involve a conflict of interest ceasing to exist or a new one materialising.

10.3. A template Declaration of Interests Form is provided at **Appendix B** for this purpose. Alternatively, this form can be requested from ncccq.interests@nhs.net.

10.4. In order to promote confidence in the probity of commissioning decisions and the integrity of those involved, the CCG will maintain and make publically available a register that details the interests of:

- All employees of the CCG (including all individuals working within the CCG in a temporary capacity; including agency staff, seconded staff, students and trainees, and any self-employed consultants or other individuals working for the CCG under contract for services).
- Individuals appointed to the Governing Body and Committees.
- Any other individual directly involved with the business or decision-making of the CCG.

10.5. The CCG will maintain and publish a separate register that details the interests of all member GP practices (single-handed practitioners, Practice partners, or their equivalent; or where the Practice is a Company, each Director).

10.6. The Associate Director of Governance will maintain the Register of Declared Interests which will include the following information (as set out in the statutory guidance):

- Name of the person declaring the interest;
- Position within, or relationship with, the CCG;
- Type of interest;
- Description of the interest;
- The dates to which the interest relates; and
- The actions to be taken to mitigate risk.

10.7. The Register of Declared Interests will be updated whenever a new or revised interest is declared. ***NB this means that the versions published on the CCG's website may not always be the most up-to-date.***

- 10.8. The CCG will assure itself on an annual basis that the Register of Declared Interests (for individuals directly involved with the CCG) is accurate and up-to-date. A request will be sent to all individuals, on behalf of the Associate Director of Governance, asking them to check their entry on the register. Where an individual has no interest to declare, or no interest in addition to those already declared, they must confirm this by way of 'nil return'. ***The request is designed to prompt individuals and does not negate the responsibility of individuals to proactively declare, as stipulated in Section 6 of this policy.***
- 10.9. The CCG will assure itself that the Register of Declared Interests of member GP practices is accurate and up-to-date on an annual basis.
- 10.10. Interests will remain on the published Register of Declared Interests for a minimum of six months after the interest has expired.
- 10.11. A private record of historic interests will be retained for a period of six years after the date on which the interest expired.
- 10.12. Whilst it is recognised that some individuals are more likely than others to have a material influence on how public money is spent, to ensure complete transparency in all of the CCG's business activities, the Governing Body has agreed that the complete Register of Declared Interests will be published and/or made available if requested.
- 10.13. Where an individual has substantial grounds for believing that publication of their interests should not occur, they may request in writing that the information is not published, explaining the reasons why. In exceptional circumstances, the information may be withheld on the public register. However, this would be the exception and information will not be withheld or redacted merely because of a personal preference.
- 10.14. The decision as to whether or not to publish information will be made by the Conflicts of Interest Guardian in consultation with the Associate Director of Governance.
- 10.15. In line with the statutory requirements, the register will be published at least annually.

11. Management of Declared Interests

- 11.1. The Associate Director of Governance is responsible for ensuring that for every interest declared, arrangements are in place to manage the conflict of interests or potential conflict of interests following an assessment of the:

- **Materiality of the interest:** in particular whether the individual (or family member or business partner) could benefit from any of the CCG's decisions.
- **Extent of the interest:** in particular, whether it is related to a business area significant enough that would impact on the individual's ability to make a full and proper contribution to relevant commissioning activities.

11.2. These arrangements will confirm the following:

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

11.3. All individuals that have declared interests are responsible for ensuring that they understand any requirements for managing their declared interests before participating in any decision-making activities.

11.4. There will be occasions where an individual declares an interest in good faith but upon closer consideration, it is clear that this does not constitute a genuine conflict of interest. The Associate Director of Governance will provide advice on this and decide whether it is necessary for the interest to be added to the Register of Declared Interests.

12. Management of Conflicts of Interests at Meetings

12.1. In advance of any meetings of the Governing Body and its Committees, the Chair of the meeting will consider, together with members of the Governance and Assurance Team and Conflicts of Interest Guardian (as appropriate), whether conflicts of interest are likely to arise in relation to any agenda item and how they should be managed. This may include steps to be taken prior to the meeting, such as ensuring that supporting papers for a particular agenda item are not sent to conflicted individuals.

12.2. All agendas for meetings of the Governing Body and its Committees will contain a standing item at the commencement of each meeting, requiring members and attendees to declare any interests relating specifically to the agenda items being considered. The Chair of the meeting is then responsible for ensuring that the appropriate course of action is taken on agenda items against which interests have been declared.

12.3. For instances where an individual is aware of a conflict, or potential conflict of interest, which relates to the scheduled or likely business of the meeting, then the individual concerned will bring this to the attention of the Chair of the meeting. The individual is responsible for ensuring that the interest is included on the Register of Declared Interests.

- 12.4. The Chair of the meeting, supported by the CCG's Governance Leads, will determine how conflicts should be managed and inform the individual of their decision, which is likely to involve one the following actions:
- a) Requiring the individual to withdraw from the meeting for that part of the discussion if the conflict could be seen as detrimental to the CCG's decision-making arrangements.
 - b) Allowing the individual to participate in the discussion, but not part of the decision-making process.
 - c) Allowing full participation in discussion and the decision-making process as the potential conflict is not perceived to be material or detrimental to the CCG's decision-making arrangements.
- 12.5. The CCG will always endeavour to identify where conflicts of interest occur in advance of its decision-making forums.
- 12.6. The default response should not always be to exclude members with interests, as this may have a detrimental effect on the quality of the decision being made. Good judgement is required to ensure proportionate management of risk.
- 12.7. Where the Chair of any meeting has a personal interest, previously declared or otherwise, in relation to the scheduled or likely business of the meeting, then they are required to make a declaration and the Deputy Chair (or other nominated non-conflicted individual if the Deputy Chair is also conflicted) will act as Chair for the relevant part of the meeting. Where there is no Deputy Chair, the members of the meeting will select one from the remaining non-conflicted members.
- 12.8. Where arrangements have been confirmed for the management of the conflict, or potential conflict of interest in relation to the Chair, then the Deputy Chair (or other nominated non-conflicted individual if the Deputy Chair is also conflicted) is required to ensure that these arrangements are followed. Where no arrangements have been confirmed, the Deputy Chair (or other nominated non-conflicted individual if the Deputy Chair is also conflicted) shall decide how the conflict is to be managed, and may require the Chair to withdraw from the meeting or part of it.
- 12.9. For previously recorded declarations of interest, steps will be taken to ensure that meeting membership supports decision making as far as is reasonably practicable. However, should a situation arise where more than 50% of members of a meeting are required to withdraw from a meeting, or part of it, due to agreed arrangements for managing conflicts of interest, then the Chair (or their Deputy) will determine whether or not the discussion can proceed. In making this decision the Chair will consider whether the meeting is quorate, in accordance with the number and balance of membership as defined within the relevant Terms of Reference.

12.10. Where a quorum cannot be achieved from the membership of the meeting, owing to the arrangements for managing conflicts, or potential conflicts of interest, the Chair of the meeting will consult with the Associate Director of Governance on the action to be taken. This may include:

- Deferring the item to a future meeting where the quorum can be achieved (if timescales allow).
- Requiring another of the CCG's decision-making forums, 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 Governing Body or Committees in question) so that the item of business can be progressed:
 - A member of the Nottingham City/Nottinghamshire County Health and Wellbeing Board.
 - A member of a Governing Body of another Clinical Commissioning Group.

12.11. Minutes of meetings will record all declarations made, including the following details:

- Who has the interest.
- The nature of the interest and why it gives rise to a conflict.
- The item(s) on the agenda to which the interest relates.
- How the conflict was agreed to be managed.
- Evidence that the conflict was managed as intended, including confirmation that any exclusions occurred.

It is the responsibility of the Chair of the meeting to ensure that the above information is recorded in the minutes of the meeting.

12.12. The Register of Declared Interests will also be updated for all instances where interests have not been previously declared.

13. Transparency in Procurement

13.1. Procurement should be managed in an open and transparent manner, compliant with procurement and other relevant law, to ensure there is no discrimination against or in favour of any provider. Procurement processes should be conducted in a manner that does not constitute anti-competitive behaviour – which is against the interest of patients and the public.

13.2. Those involved in procurement exercises for and on behalf of the organisation should keep records that show a clear audit trail of how conflicts of interest have been identified and managed as part of procurement processes. At every stage of

procurement, steps should be taken to identify and manage conflicts of interest to ensure and to protect the integrity of the process.

- 13.3. An assessment of any actual or potential conflicts of interest should occur during the production of procurement specifications, scoring of bids or in meetings where final procurement decisions are made (eg. a decision to procure, a decision to use a single tender action, or a decision on the outcome of an evaluation process).
- 13.4. Responsibility for managing conflicts of interest remains the statutory responsibility of the CCG, even when procurement processes are led by other organisations. The CCG needs to ensure that any Commissioning Support Unit (CSU) or Commissioning Support Service (CSS) involved in a procurement process is made aware of the statutory requirements.
- 13.5. The CCG's Governing Body has approved a Procurement Policy which ensures that:
 - All relevant clinicians (not just members of the CCG) and potential providers, together with local members of the public, are engaged in the decision-making processes used to procure services.
 - Service redesign and procurement processes are conducted in an open, transparent, non-discriminatory, and fair way.
 - All potential bidders/contractors are requested to declare relevant interests as part of every procurement process (see **Appendix C**).
- 13.6. The Procurement Policy also sets out a number of specific safeguards that have been established for all instances where the CCG is commissioning services that could potentially be provided by a GP Practice (or consortium of Practices). In these instances, a number of factors are required to be considered as set out in the Procurement Template at **Appendix D**. These safeguards are designed to maintain confidence and trust between patients and GPs, enabling the CCG and its GP member practices to demonstrate that they are acting fairly and transparently, and that members of the CCG will always put their duty to patients before any personal financial interest.
- 13.7. In the interests of transparency, the CCG will maintain and make publicly available a register of procurement decisions taken. This will include the following areas (as set out in the statutory guidance):
 - a) The details of the decision.
 - b) Who was involved in making the decision.
 - c) A summary of any conflicts of interest in relation to the decision and how this was managed.

14. New Models of Care

- 14.1. In terms of new models of care, there may be individuals with roles in both the CCG and a new care model provider/potential provider. The CCG should identify these conflicts of interest as soon as possible and manage them in accordance with this policy.
- 14.2. Where a member of staff participating in a meeting has dual roles, for example a role within the CCG and a role with a new care model provider organisation, but it is not considered necessary to exclude them from the whole or any part of a CCG 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. Where it is appropriate for them to participate in decisions they must only do so if they are acting in their CCG role.
- 14.3. The CCG 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 CCG 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 CCG. This could apply to new care model arrangements or any other organisation which may conflict with their role in the CCG.
- 14.4. The CCG should identify as soon as possible where staff might be affected by the outcome of a procurement exercise, eg, they may transfer to a provider (or their role may materially change) following the award of a contract. This should be treated as a relevant interest, and the CCG will ensure it is managed as a potential conflict. This conflict of interest arises as soon as individuals are able to identify that their role may be personally affected.

15. Raising Concerns

- 15.1. It is the duty of every individual to speak up about genuine concerns in relation to the management of conflicts of interest. If an individual has any such concerns then they should not ignore such suspicions; however, nor should they seek to investigate the matter themselves.
- 15.2. In respect of individuals who are employees or workers of the CCG, regard should be had to the CCG's Raising Concerns (Whistleblowing) Policy. In the case of an employee or worker of another organisation, they should consider the provisions within that organisation's whistleblowing policy when reporting a suspected breach.

- 15.3. Where an individual has concerns in relation to the management of conflicts of interest they should raise this with the Conflicts of Interest Guardian and/or the Associate Director of Governance.
- 15.4. At the time of raising the concern, the individual should state whether they wish to remain anonymous whilst the concern is being investigated.
- 15.5. If an individual has any particular concerns as to confidentiality then they may raise the matter solely with the Conflicts of Interest Guardian who will initially discuss the matter with the individual and consider how to retain confidentiality between themselves and the individual. The Conflicts of Interest Guardian should be seen as a safe point of contact where matters can be raised on a confidential basis.
- 15.6. The concern will be investigated by the Conflicts of Interest Guardian and Associate Director of Governance. The individual raising the concern will be asked to provide details of their concern. The Conflicts of Interest Guardian and Associate Director of Governance will consider the concern and take further steps, as considered appropriate on a case by case basis, to investigate the concern.
- 15.7. The decision as to the outcome of the investigation will be made by the Associate Director of Governance. In the event that a breach of this policy is identified, the Associate Director of Governance will consider, on a case-by-case basis, any further action required taking into account all of the circumstances of the case and with reference to this policy.
- 15.8. All concerns raised will be reported to the CCG's Audit and Governance Committee as the investigation progresses and as to the final outcome of the investigation. Any identified breach will be reported to the CCG's Audit and Governance Committee, including any action taken.
- 15.9. Where a breach is identified, the Associate Director of Governance will be responsible for reporting the breach to NHS England. A confidential record of the breach will be retained by the Associate Director of Governance.
- 15.10. An anonymised record of breaches of this policy will be made available on the CCG's websites.

16. Consequences of Non-Compliance

- 16.1. Failure to comply with this policy can result in serious consequences for the CCG and any individuals concerned, including:
 - **Civil Implications** – if conflicts of interest are not effectively managed then the CCG could face civil challenges to decisions it makes.

In the case of breaches occurring during a service re-design or procurement exercise, for example, this could result in legal challenge to the decision of the CCG which could result in the award of contract being overturned, lead to damages claimed against the CCG, and require a further procurement process.

- **Criminal Implications** – potential criminal proceedings could result from a failure to manage conflicts of interest for offences such as fraud, bribery and corruption. This could have implications for the CCG and linked organisation, and the individuals who are engaged by them.

Reference should be made to the CCG's Fraud, Bribery and Corruption Policy.

- **Disciplinary Implications** – the CCG will view instances of non-compliance with this policy as serious and may take disciplinary action against individuals. This may result in dismissal or removal from office.

All individuals who fail to disclose any relevant interests or who otherwise breach the CCG's policy relating to the management of conflicts of interest will be subject to investigation and, where appropriate, disciplinary action.

- **Professional Regulatory Implications** – statutorily regulated healthcare professionals working for, or engaged by, the CCG are under professional duties imposed by their relevant regulator to act appropriately with regard to conflicts of interest.

- 16.2. Where it is considered that such a healthcare professional has acted improperly, the CCG will report them to the appropriate regulator so that such concerns may be investigated. Such individuals may be subject to fitness to practise proceedings and could, if appropriate, be struck off by their regulator as a result.

17. Equality and Diversity Statement

- 17.1. The Nottingham and Nottinghamshire CCG pays due regard to the requirements of the Public Sector Equality Duty (PSED) of the Equality Act 2010 in policy development and implementation, both as a commissioner and as an employer.
- 17.2. As a commissioning organisation, we are committed to ensuring our activities do not unlawfully discriminate on the grounds of any of the protected characteristics defined by the Equality Act, which are age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 17.3. We are committed to ensuring that our commissioning activities also consider the disadvantages that some people in our diverse population experience when accessing health services. Such disadvantaged groups include people experiencing economic and social deprivation, carers, refugees and asylum

seekers, people who are homeless, workers in stigmatised occupations, people who are geographically isolated, gypsies, roma and travellers.

- 17.4. As an employer, we are committed to promoting equality of opportunity in recruitment, training and career progression and to valuing and increasing diversity within our workforce.
- 17.5. To help ensure that these commitments are embedded in our day-to-day working practices, an Equality Impact Assessment has been completed for, and is attached to, this policy.

18. Communication, Monitoring and Review

- 18.1. The CCG will establish effective arrangements for communicating the requirements of this policy, to include:
 - Communicating the publication of this policy at the time of issue.
 - All employees of the CCG and all individuals appointed to the Governing Body and its Committees completing annual mandatory conflicts of interest training. Training can be accessed via ESR (if employed by the CCG) or via the E-learning for Health at <https://portal.e-lfh.org.uk/>
 - Ensuring that the existence of this policy, and the requirements, are highlighted to new starters as part of the local induction process.
 - As a minimum, bi-annual reminders of the existence and importance of this policy will be sent out via established staff communication methods.
- 18.2. The implementation of this policy, and the effectiveness of the arrangements detailed within it, will be monitored by the CCG's Audit and Governance Committee on a bi-annual basis. This will include, as a minimum, the Register of Declared Interests and Register of Procurement Decisions being presented for review and scrutiny.
- 18.3. This policy will be reviewed by the Governing Body annually or in light of any legislative changes or best practice guidance.
- 18.4. Any individual who has queries regarding the content of this policy, or has difficulty understanding how this policy relates to their role, should contact the CCG's Associate Director of Governance (details shown at **Appendix E**).

19. References and Supporting Documents

- 19.1. This policy should be read in conjunction with the following CCG documents and supporting national guidance documents:

- The Constitution of the CCG (including Standing Orders, Scheme of Reservation and Delegation and Prime Financial Policies).
- The CCG's Fraud, Bribery and Corruption Policy.
- The CCG's Raising Concerns (Whistleblowing) Policy.
- The CCG's Gifts, Hospitality and Sponsorship Policy.
- The CCG's Procurement Policy.
- Respective professional Codes of Conduct.
- [Managing Conflicts of Interest: Revised Statutory Guidance for CCGs](#) (NHS England, June 2017).
- Standards for members of NHS Boards and Clinical Commissioning Group Governing Bodies in England (November 2012).
- The Healthy NHS Board: Principles for Good Governance (2010).
- Good Medical Practice - Financial Interests in Institutions providing Care or Treatment (2008).
- Code of Conduct for NHS Managers (2002).

19.2. In addition, further guidance can be found in the following documents:

- [Managing Conflicts of Interest in the NHS: Guidance for Staff and Organisations](#) (NHS England, 2017).
- [Role-specific summary guides on conflicts of interest](#) (NHS England, 2017).
- [Best Practice Update on Conflicts of Interest Management: Call to Action for CCGs](#) (NHS England, February 2019).
- [Managing Conflicts of Interest: CCG Case Studies](#) (NHS England, 2016).

Appendix A:

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

Selflessness	Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.
Integrity	Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
Objectivity	In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
Accountability	Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
Openness	Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
Honesty	Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
Leadership	Holders of public office should promote and support these principles by leadership and example.

Appendix B:

Template Declaration of Interests Form (Individuals)

All individuals within the CCG (including employees, appointees and temporary staff) must declare any conflict of interest or potential conflict of interest in the capacity of their role with the CCG. A conflict of interest can be described 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.”

Interests fall into one of four categories, as shown at section D of this form and a benefit may arise from the making of a gain or the avoidance of a loss.

Declarations of interest should be made as soon as reasonably practicable and by law; within 28 days after the interest arises (this could include an interest an individual is pursuing).

Further details on conflicts of interest can be found in the CCG’s Managing Conflicts of Interest Policy (available on the intranet or by contacting the Governance team at Ncccq.interests@nhs.net).

Please complete the following:

Full Name:		Position within, or relationship with the CCG:	
Role Start Date:		Line Manager:	

Please complete:

Section A and **Section C** if you have interests to declare.

Section B and **Section C** if you have no interests to declare.

Section A

Description of Interest - please include all relevant details, eg: - Nature of interest - Name of the organisation and the nature of business - Details of relationship for indirect interests	Type of Interest (See section D)				Date of Interest		How is the interest relevant to your CCG role? (If you see no relevance or are unsure, please state this in the box).
	Financial Interests	Non-Financial Professional Interests	Non-Financial Personal Interests	Indirect	Date From	Date To	

Section B

Please tick the box to confirm that you have **no relevant interests** to declare.

Section C

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

The information submitted will be held by the CCG for personnel or other reasons specified in this email and to comply with the CCG's policies. This information will be held in both manual and electronic form in accordance with the Data Protection Act 2018 and may be disclosed to third parties in accordance with the Freedom of Information Act 2000.

The CCG is obliged to publish the register of interests on the CCG's website. If you have any concerns about this, please raise these in your response and explain why you consider that the information you supply should not be made publicly available.

Signed:

Date:

A scanned, signed copy can be returned to the Corporate Governance Team via Ncccq.interests@nhs.net or by post to Nottingham City CCG, Room 3.07, 3rd Floor, Nottingham City CCG, 1 Standard Court, Park Row, Nottingham, NG1 6GN.

Section D - Types of interest

Type of Interest	Description
Financial Interests	<p>This is where an individual may get direct financial benefits from the consequences of a commissioning decision. This could, for example, include being:</p> <ul style="list-style-type: none"> • A director, including a non-executive director, or senior employee in a private company or public limited company or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations. • A shareholder (or similar owner interests), a partner or owner of a private or not-for-profit company, business, partnership or consultancy which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations. • A management consultant for a provider. • In secondary employment. • Having patents or other intellectual property rights (either individually, or by virtue of their association with a commercial or other organisation), including where applications to protect have started or are ongoing, which are, or might be reasonably expected to be, related to items to be procured or used by the organisation. • 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 eg, in dermatology, acupuncture etc. • A member of a particular specialist professional body (although routine GP membership of the RCGP, BMA or a medical defence organisation would not usually by itself amount to an interest which needed to be declared). • An advisor for Care Quality Commission (CQC) or National Institute for Health and Care Excellence (NICE). • A medical researcher.

Type of Interest	Description
Non-Financial Personal Interests	<p>This is where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit. This could include, for example, where the individual is:</p> <ul style="list-style-type: none"> • A voluntary sector champion for a provider. • A volunteer for a provider. • A member of a voluntary sector board or has any other position of authority in or connection with a voluntary sector organisation. • Suffering from a particular condition requiring individually funded treatment. • A member of a lobby or pressure groups with an interest in health.
Indirect Interests	<p>This is where an individual has a close association with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest in a commissioning decision (as those categories are described above). For example, this should include:</p> <ul style="list-style-type: none"> • Spouse/partner. • Close relative eg, parent, grandparent, child, grandchild or sibling. • Close friend. • Business partner.

**Appendix C:
Template Declaration of Interest Form (Bidders/Contractors)**

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

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

Signed:

On behalf of:

Date

Appendix D:

Procurement Checklist (Commissioning Services from GP Practices)

Service:	
Question	Comment/Evidence
How does the proposal deliver good or improved outcomes and value for money – what are the estimated costs and the estimated benefits? How does it reflect the CCG’s proposed commissioning priorities? How does it comply with the CCG’s commissioning obligations?	
How have you involved the public in the decision to commission this service?	
What range of health professionals have been involved in designing the proposed service?	
What range of potential providers have been involved in considering the proposals?	
How have you involved your Health and Wellbeing Board(s)? How does the proposal support the priorities in the relevant joint Health and Wellbeing Strategy (or strategies)?	
What are the proposals for monitoring the quality of the service?	
What systems will there be to monitor and publish data on referral patterns?	
Have all conflicts and potential conflicts of interests been appropriately declared and entered in the register which is publicly available? Have you recorded how you have managed any conflict or potential conflict?	
Why have you chosen this procurement route eg. single action tender? ¹	

¹ Taking into account all relevant regulations (eg the NHS (Procurement, patient choice and competition) (No 2) Regulations 2013 and guidance (eg that of Monitor).

Service:	
Question	Comment/Evidence
What additional external involvement will there be in scrutinising the proposed decisions?	
How will the CCG make its final commissioning decision in ways that preserve the integrity of the decision-making process and aware of any contract?	
Additional question when qualifying a provider on a list or framework or pre-selection for tender (including but not limited to any qualified provider) or direct award (for services where national tariffs do not apply)	
How have you determined a fair price for the service?	
Additional question when qualifying a provider on a list or framework or pre-selection for tender (including but not limited to any qualified provider) where GP practices are likely to be qualified providers	
How will you ensure that patients are aware of the full range of qualified providers from whom they can choose?	
Additional question for proposed direct awards to GP providers	
What steps have been taken to demonstrate that the services to which the contract relates are capable of being provided by only one provider?	
In what ways does the proposed service go above and beyond what GP practices should be expected to provide under the GP contract?	
What assurances will there be that a GP practice is providing high-quality services under the GP contract before it has the opportunity to provide any new services?	

Appendix E:

Contact Details

If you have further questions about conflicts of interest, you can contact either of the emails addresses below:

- Lucy Branson – Associate Director of Governance
Tel: 0115 8839538
Email: lucy.branson@nhs.net
- Generic Interests Mailbox:
Email: Ncccq.interests@nhs.net

If you have any concerns regarding conflicts of interest and do not feel able to raise them internally, you can contact the CCG's Conflicts of Interest Guardian. This role is fulfilled by the Chair of the CCG's Audit and Governance Committee and provides a safe point of contact for staff or anyone else who may have concerns and wish to discuss them with someone independent. The details of the Conflicts of Interest Guardian are:

- Sue Sunderland
Email: sue.sunderland1@nhs.net

Any suspicions or concerns of acts of fraud and/or bribery should be reported to the CCG's nominated [Counter Fraud Specialist](#) (0115 883 5319 / 07464251746). All referrals are treated with confidentiality and any individual who wishes to remain anonymous may do so. Suspicions can also be reported online via www.reportnhsfraud.nhs.uk or via the NHS Fraud and Corruption Reporting Line on 0800 028 40 60. This provides an easily accessible and confidential route for the reporting of genuine suspicions of fraud within or affecting The NHS.

Appendix F – Equality Impact Assessment

Date of assessment:	July 2019			
Name of Policy:	Managing Conflicts of Interest Policy			
For the policy, and its implementation, please answer the questions against each of the protected characteristic and inclusion health groups:	Has the risk of any potential adverse impact on people in this protected characteristic group been identified, such as barriers to access or inequality of opportunity?	If yes, are there any mechanisms already in place to mitigate the adverse impacts identified?	Are there any remaining adverse impacts that need to be addressed? If so, please state any mitigating actions planned.	Are there any positive impacts identified for people within this protected characteristic group? If yes, please briefly describe.
Age²	No	N/A	N/A	N/A
Disability³	No	N/A	N/A	N/A
Gender reassignment⁴	No	N/A	N/A	N/A
Marriage and civil partnership⁵	No	N/A	N/A	N/A
Pregnancy and maternity⁶	No	N/A	N/A	N/A
Race⁷	No	N/A	N/A	N/A

² A person belonging to a particular age (for example 32 year olds) or range of ages (for example 18 to 30 year olds).

³ A person has a disability if she or he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.

⁴ The process of transitioning from one gender to another.

⁵ Marriage is a union between a man and a woman or between a same-sex couple.

Same-sex couples can also have their relationships legally recognised as 'civil partnerships'.

⁶ Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.

⁷ Refers to the protected characteristic of race. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.

Appendix F – Equality Impact Assessment

Date of assessment:	July 2019			
Name of Policy:	Managing Conflicts of Interest Policy			
For the policy, and its implementation, please answer the questions against each of the protected characteristic and inclusion health groups:	Has the risk of any potential adverse impact on people in this protected characteristic group been identified, such as barriers to access or inequality of opportunity?	If yes, are there any mechanisms already in place to mitigate the adverse impacts identified?	Are there any remaining adverse impacts that need to be addressed? If so, please state any mitigating actions planned.	Are there any positive impacts identified for people within this protected characteristic group? If yes, please briefly describe.
Religion or belief⁸	No	N/A	N/A	N/A
Sex⁹	No	N/A	N/A	N/A
Sexual orientation¹⁰	No	N/A	N/A	N/A
Carers¹¹	No	N/A	N/A	N/A

⁸ Religion refers to any religion, including a lack of religion. Belief refers to any religious or philosophical belief and includes a lack of belief. Generally, a belief should affect your life choices or the way you live for it to be included in the definition.

⁹ A man or a woman.

¹⁰ Whether a person's sexual attraction is towards their own sex, the opposite sex, to both sexes or none. <https://www.equalityhumanrights.com/en/equality-act/protected-characteristics>

¹¹ Individuals within the CCG which may have carer responsibilities.