

Date:	14 July 2016
Meeting:	Joint Commissioning Committee
Item Number:	6.0
Public/Private:	Public <input checked="" type="checkbox"/> Private <input type="checkbox"/>

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Report Title:	Managing Conflicts of Interest: Revised Statutory Guidance for CCGs
Decisions to be made:	To note the content of the revised statutory conflicts of interest guidance for CCGs and to consider specific implications for the Joint Commissioning Committee

Continue to improve the quality of services	<input type="checkbox"/>	Improve patient experience	<input type="checkbox"/>
Reduced unwarranted variations in services	<input type="checkbox"/>	Reduce the inequalities gap in North Lincolnshire	<input type="checkbox"/>
Deliver the best outcomes for every patient	<input type="checkbox"/>	Statutory/Regulatory	<input checked="" type="checkbox"/>

Executive Summary (Question, Options, Recommendations):	
<p>NHS England has recently published 'Managing Conflicts of Interest: Revised Statutory Guidance for CCGs'. This guidance is applicable to all CCG business but was developed particularly to mitigate conflicts of interest which are inherent in primary medical services being commissioned or co-commissioned by GP led CCGs. Consequently there are a number of specific implications for the Joint Commissioning Committee that are outlined in this report relating to the committee's terms of reference and to the future conduct of meetings.</p> <p>In order to comply with the revised statutory guidance it will be necessary to amend the committee's terms of reference to make all GPs on the committee non-voting members.</p>	

Equality Impact	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Sustainability	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Risk	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Legal	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Finance	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	

Patient, Public, Clinical and Stakeholder Engagement to date									
	N/A	Y	N	Date		N/A	Y	N	Date
Patient:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Clinical:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Public:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Other:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Managing Conflicts of Interest: Revised Statutory Guidance for CCGs

1. Introduction

- 1.1 NHS England has recently published 'Managing Conflicts of Interest: Revised Statutory Guidance for CCGs' which can be accessed at: <https://www.england.nhs.uk/commissioning/wp-content/uploads/sites/12/2016/06/revsd-coi-guidance-june16.pdf>
- 1.2 This guidance is applicable to all CCG business but was developed particularly to mitigate conflicts of interest which are inherent in primary medical services being commissioned or co-commissioned by GP led CCGs. Consequently there are a number of specific implications for the Joint Commissioning Committee relating to the committee's terms of reference and to the future conduct of meetings.
- 1.3 It should be noted that in a number of areas the guidance makes recommendations rather than specifying requirements. However it is clear that compliance with these recommendations is expected and will be assessed as part of the new CCG Improvement and Assessment Framework in respect of which conflicts of interest management is a key indicator. For example paragraph 64 of the guidance **strongly recommends** CCGs to consider appointing to their governing bodies a minimum of three lay members. Yet paragraph 123 **requires** CCGs to self-certify annually that they do indeed have a minimum of three lay members. The CCG would therefore need to be able to cite compelling justification or special circumstances if it were to decide to ignore a recommendation contained in the statutory guidance.

2. Joint Commissioning Committee Terms of Reference

- 2.1 A whole section of the guidance (paragraphs 82-94) relates to primary care commissioning committees and sub-committees. In amending its terms of reference at the meeting held on 12 May 2016 the Joint Commissioning Committee anticipated most of the changes included in the revised statutory conflicts of interest guidance. For example the revised terms of reference:
- specify that all lay members appointed to the Governing Body will also be members of the Joint Commissioning Committee in anticipation of the appointment of a third lay member
 - state that both the chair and vice chair should be lay members without mentioning specific designations thus enabling the new lay member when appointed to take on the vice chair role replacing the governance lay member whose new role as conflicts of interest guardian is incompatible with being vice chair of the Joint Commissioning Committee.

2.2 The one change not anticipated was the recommendation relating to the role of GP members of the committee. Whilst paragraph 86 states that “GPs can and should be members of the primary care commissioning committee to ensure sufficient clinical input”, paragraph 90 states that “in the interest of minimising the risks of conflicts of interest, it is recommended that GPs do not have voting rights on the primary care commissioning committee”. If it is accepted that this recommendation is a de facto requirement then it is necessary to further amend the terms of reference of the Joint Commissioning Committee to move the two GP members and the Medical Director (for so long as that post is held by a GP member of the Governing Body) from the list of voting members (paragraph 8a) to the list of non-voting members (paragraph 12).

3. Conduct of Joint Commissioning Committee Meetings

3.1 The section of the revised guidance on managing conflicts of interest at meetings (paragraphs 72-81) provides some useful clarification on how best the chair of the Joint Commissioning Committee can manage and mitigate conflicts of interest during the course of meetings. In particular paragraph 81 sets out a spectrum of potential remedies that the chair can adopt. These range from requiring a member not to attend a meeting where s/he is profoundly conflicted to allowing full participation in discussion and decision making in the case of minor declared conflicts.

3.2 In the absence of such detailed guidance the Joint Commissioning Committee chair has in the past tended to adopt what could be considered to be an overly cautious approach to the management of conflicts of interest. This has included requiring members with a conflict of interest to leave the room during discussion of the item concerned. The revised guidance makes clear that this is only necessary in the case of the most serious conflicts. Normally asking the conflicted member to join the ‘public gallery’ will suffice. However the guidance also recognises that it will often be expedient to allow a conflicted individual with knowledge and experience of the issue being considered to participate in discussion but to withdraw before a decision is taken.

4. Recommendations

4.1 That the content of ‘Managing Conflicts of Interest: Revised Statutory Guidance for CCGs’ be noted

4.2 That GP members of the Joint Commissioning Committee and the Medical Director (for so long as the post is held by a GP member of the Governing Body) be re-categorised as non-voting members