



National Audit Office

Report

by the Comptroller
and Auditor General

Department of Health, NHS England and Monitor

Managing conflicts of interest in NHS clinical commissioning groups

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Managing conflicts of interest in NHS clinical commissioning groups

Report by the Comptroller and Auditor General

Ordered by the House of Commons
to be printed on 9 September 2015

This report has been prepared under Section 6 of the
National Audit Act 1983 for presentation to the House of
Commons in accordance with Section 9 of the Act

Sir Amyas Morse KCB
Comptroller and Auditor General
National Audit Office

4 September 2015

We have carried out this investigation in response to Parliamentary and public concerns over the risk of conflicts of interest influencing local NHS commissioners' decisions in ways that favour a secondary interest over patients' interests.

Investigations

We conduct investigations to establish the underlying facts in circumstances where concerns have been raised with us, or in response to intelligence that we have gathered through our wider work.

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This report can be found on the National Audit Office website at www.nao.org.uk

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What this investigation is about

1 A conflict of interest is circumstances that risk an individual's ability to apply judgement or act in one role being impaired or influenced by a secondary interest. The potential for conflicts of interest is commonplace in both the public and private sectors. Conflicts of interest can occur naturally as a product of the way a system is designed, or as a result of policy decisions. While it may not be reasonable or efficient to remove the risk of conflicts of interest entirely, it is essential to recognise the risks and put measures in place to identify and manage conflicts when they arise.

2 Reforms under the Health and Social Care Act 2012 (the Act) created a new clinically led local NHS commissioning system in England. This system gives local health professionals a key role in commissioning health services to deliver quality health outcomes for the populations they serve, but also increases the potential for conflicts of interest. This investigation was in response to Parliamentary and public concerns over the risk of conflicts of interest influencing local NHS commissioners' decisions in ways that favour secondary interests, such as personal gain, over patients' interests.

Background

3 The Act established 211 NHS clinical commissioning groups (CCGs) as clinically led commissioners of local NHS services in England from April 2013. These CCGs make decisions about local health services and funding levels. From April 2015 the number of CCGs reduced to 209 when 3 CCGs merged.

4 All GP practices are members of their local CCG. Within each CCG, some GPs, along with other clinical experts, CCG officials and lay members, are members of their CCG's board – its governing body. Under these arrangements there is potential for some GPs and their colleagues to make commissioning decisions about services they provide, or in which they have an interest. Where this is the case there is a risk that commissioners may put, or be perceived to put, personal interests ahead of patients' interests. Because they are also providers of local clinical services, GP commissioners are particularly likely to have potential conflicts of interest.

5 CCGs control around two-thirds of the NHS commissioning budget, with £64.3 billion allocated to CCGs in 2014-15. CCGs commission a wide range of local services including planned hospital care; urgent and emergency care; community health services; out-of-hours GP services; mental health services; learning disability services; and extra local primary medical services beyond the scope of the standard GP contract. In 2013-14 and 2014-15 NHS England was responsible for commissioning most primary medical services. From 1 April 2015, NHS England's new primary care co-commissioning arrangements give CCGs the option to have much greater involvement in GP service commissioning.

6 The Department of Health (the Department) recognised the new local commissioning arrangements increased the potential for significant conflicts of interest. However, it felt the benefits it expected from clinically led commissioning would outweigh the risks, and that CCGs could manage the risks.

Scope of our investigation

7 The objective of our investigation was to establish the facts about:

- the risk of conflicts of interest in the local NHS commissioning system (Part One);
- the accountability, control and assurance arrangements for managing conflicts of interest which were established by the Act and associated regulations (Part Two); and
- how these arrangements were working in the 211 CCGs active in 2014-15, based on analysis of information on CCGs' websites, undertaken prior to April 2015 (Part Three).

8 We have previously set out good practice principles for managing conflicts of interest in our investigation *Cross-government: Conflicts of interest*.¹ We used these principles for this review. Our methods are in Appendix One.

¹ Comptroller and Auditor General, *Cross-government: Conflicts of interest*, Session 2014-15, HC 907, National Audit Office, January 2015.

Summary

Key findings

The risk of conflicts of interest

9 Some 1,300 (41%) of clinical commissioning group (CCG) governing body members in position at the time of our analysis in 2014-15 were also GPs, who may, potentially, have made decisions about local health services and have been paid by their CCG for providing them. Non-GP commissioners may also have potential conflicts of interest, for example where they have financial or other interests in organisations providing locally commissioned health services (paragraph 1.8).

10 Stakeholders raised concerns about the potential for conflicts of interest in the new system, particularly, but not exclusively, when CCGs commission services where GPs are likely to be involved as providers. In practice, in 2013-14 and 2014-15 CCGs had a relatively limited role in commissioning and managing primary medical services. Most contracts and spend were for commissioning care from NHS trusts under well-established arrangements, reducing the likelihood of conflicts. The Department of Health (the Department) told us that relatively few new contracts were awarded by CCGs during 2013-14 and 2014-15; and Monitor found this was the case for community services in its 2014 survey. The limited new commissioning activity lessened a common scenario in which a risk of conflict can arise. Conflicts of interest can occur in other situations too, for example when CCGs decide to extend or roll-over existing contracts, or when they make performance management decisions about existing contracts (paragraphs 1.6 and 1.9 to 1.12).

11 The new arrangements from April 2015 for co-commissioning primary care services from GPs increase the risk of significant conflicts of interest in CCGs. From April 2015, CCGs could choose to take an enhanced role in GP service commissioning. This included an option to take on fully delegated responsibility from NHS England for commissioning primary medical services. NHS England believes that those CCGs who opted to do so will be able to commission care for their patients and populations in more coherent and joined-up ways — but they also expose themselves to a greater risk of conflicts of interest, both real and perceived. CCGs will need to think through carefully how they handle the likely increases in the range and frequency of potential conflicts, particularly where they use fully delegated primary care commissioning. Under the new arrangements, it is increasingly likely that sometimes all GPs on a decision-making body could have a material interest in a decision. NHS England recognised the increased risk and is developing plans to manage it, including issuing statutory guidance for CCGs for the first time in December 2014 (paragraphs 1.14 to 1.16 and 2.12 to 2.14).

Accountability, control and assurance

12 The Department considered the nature and scale of the risk of conflicts of interest when designing the accountability, control and assurance arrangements for them. It formed these arrangements from statute and regulation, assigning explicit statutory roles, responsibilities and requirements to help prevent and detect conflicts of interests and respond to them. These roles and responsibilities are assigned, locally, to CCGs and, nationally, to the Department, NHS England and Monitor (paragraphs 2.2 and 2.3).

Locally

13 The Health and Social Care Act 2012 (the Act) places a legal duty on CCGs to manage conflicts of interest. CCGs must do this in a way that protects the integrity of their decision-making. They also have to keep and publish specified registers of interests. Regulations, and statutory guidance from NHS England and Monitor, support the statutory provisions (paragraphs 2.4 to 2.6 and 3.4).

14 Beyond statutory requirements, local management, monitoring, assurance and reporting for conflicts of interest, and other risks, are matters for a CCG's governing body. Practice will, necessarily, vary from one CCG to another. NHS England issued guidance for CCGs on managing conflicts of interest in March 2013, to which all CCGs had to have regard. In December 2014, NHS England strengthened its approach by issuing statutory guidance for CCGs from April 2015. This statutory guidance prescribed stronger assurance measures in line with the increased risks of primary care co-commissioning. NHS England expects these measures to improve the consistency of local reporting, enhance transparency and strengthen the overall assurance available about how CCGs are managing potential and actual conflicts. The strengthened assurance measures in the statutory guidance include requiring CCGs, from 2015-16, to publish on their websites details of procurement decisions, including how any conflicts have been managed to promote transparency. Also, where CCGs undertake joint or delegated commissioning responsibilities for primary care services, their audit committee chair and accountable officer must provide direct formal attestation to NHS England that the CCG has complied with this guidance. Such measures are important for maintaining confidence in the local accountability system (paragraphs 2.13 and 2.15).

Nationally

15 The Department does not get regular information on how CCGs manage conflicts of interest from NHS England or Monitor. The Department focuses on ensuring the assurance system (NHS England) and regulatory system (Monitor) hold CCGs to account, rather than specific areas of governance, such as conflicts of interest. However, the Department, NHS England and Monitor said that conflicts of interest would be raised at their regular accountability meetings if they were a cause for concern (paragraph 2.5).

16 NHS England has a limited understanding of how effectively CCGs are managing conflicts of interest or whether they are complying with requirements, which will hamper its ability to respond promptly to the likely increase in conflicts.

NHS England's role with regard to CCGs is one of both assurance and support in a system where CCGs have a large degree of autonomy, and NHS England's direct intervention is by exception. By design, NHS England does not routinely collect detailed assurance or information on CCGs' conflict of interest risks and how they manage them. It considers CCGs' management of conflicts of interest as part of its wider assurance on an 'exception' basis, for example when CCGs or third parties raise issues about conflicts with it. NHS England believes its 'by exception' approach is proportionate and consistent with its assurance role over devolved independent bodies which have a statutory responsibility to manage conflicts locally. NHS England has acted to obtain information from CCGs about their management of conflicts when specific concerns are present, and reported that it has not found conflicts of interest to give rise to significant cause for concern. However, in our report *Out-of-hours GP services in England*² we concluded that, in this case, its assurance about how CCGs had managed any potential conflicts was limited (paragraphs 2.7 to 2.11).

17 Our analysis, to June 2015, found Monitor had only undertaken one formal investigation that included a concern about conflicts of interest in a CCG. It is Monitor's role to enforce NHS regulations on procurement, patient choice and competition. These regulations include not awarding contracts for services where there is an actual or perceived conflict of interest. Monitor's role includes investigating such claims and it can issue directions to commissioners that alter contractual arrangements for NHS services. Since January 2014, Monitor has launched four formal investigations under these regulations; only one of these investigations featured concerns about conflicts of interest in a CCG. The investigation was in response to a complaint from a healthcare trust that the process used by Northern, Eastern and Western Devon Clinical Commissioning Group to award a contract for community services for adults with complex care needs was not consistent with the CCG's regulatory obligations. It also alleged that conflicts of interest affected the integrity of the proposed contract award decision. In August 2015 Monitor concluded that the integrity of the CCG's decision had not been affected by conflicts of interest (paragraphs 2.16 to 2.18).

² Comptroller and Auditor General, *Out-of-hours GP services in England*, Session 2014-15, HC 439, National Audit Office, September 2014.

Managing conflicts of interest in 2014-15

18 In 2014-15 almost all CCGs had put in place most key elements of the legislative requirements which help them to prevent and manage conflicts.

Our analysis of CCG websites in February 2015 showed that all 211 CCGs had at least the required minimum number of lay members on their governing bodies. All CCGs published their governing body papers and minutes of meetings. Some 209 CCGs had published registers of interests online for governing body members, although only 40 published details of the interests of the wider CCG membership, and 45 published employees' interests. And 210 CCGs had published information online on how they will manage any conflicts that arise (paragraphs 3.3 to 3.6).

19 During 2014-15, a minority of CCGs had reported they had to manage actual or perceived conflicts of interest.

We reviewed CCGs' governing body minutes for April to December 2014. Potential conflicts were declared for agenda items in 22% of CCGs during this period. This related to 75 recorded instances of potential or actual conflicts, including on a range of services commissioned by CCGs to be provided by GP; schemes to improve access to general practice; the proactive care programme; and the primary care co-commissioning arrangements (paragraphs 3.7 and 3.8).

20 We could not always assess from publicly available information how CCGs had managed specific conflicts of interest, which limits local transparency.

In the 75 instances of potential or actual conflicts we found from our sample of governing body minutes, the level of detail given about the conflict and how it had been managed varied. In 14 cases the information provided was insufficient for us to assess how the CCG managed the conflict. Transparent information is an enabler of local accountability, and as such is important for promoting confidence in the local health commissioning system. NHS England expects its updated guidance for CCGs, issued in December 2014, to lead to more consistent disclosures across the sector (paragraphs 2.13 to 2.15, 3.7 and 3.8).

21 Where CCGs reported information about their controls for managing risks of conflicts of interest, it showed the adequacy of those controls had varied.

Some 117 CCGs included information on conflicts of interest in their governance statement in their 2013-14 annual report and accounts. Of these, 15 CCGs reported that internal auditors had found weaknesses and areas for improvement in their systems and processes to manage conflict of interest risks. Other disclosures included positive assurance statements that required processes were in place, details about actions taken to improve controls, and information on how CCGs had managed specific conflicts of interest (paragraphs 3.9 to 3.12).

Overall observation

22 The Department recognises the potential for conflicts of interest in the new system for NHS commissioning, and the need for public confidence that conflicts are dealt with appropriately. Its adoption of a statutory framework and assignment of explicit responsibilities for managing conflicts of interest indicates it took a proportionate response to the high potential risk. Our limited evidence suggests that in 2014-15 CCGs generally had arrangements for managing conflicts of interest to reduce the risk of commissioners' decisions being improperly influenced. These arrangements rely on both personal integrity and local transparency. NHS England has so far, however, collected little data centrally on how effectively CCGs are managing conflicts. It has relied instead on an exception-based assurance process, and on Monitor as the system regulator. Developments in the health service, in particular new arrangements for co-commissioning primary care services, are likely to significantly increase the number and scale of conflicts of interest. Public confidence that conflicts are well managed will be vital: Parliament and the public will want to know that CCGs are safeguarding patients' interests and taxpayers' money by managing these risks. To promote this confidence:

- the Department will need to be clear that it has assurance that conflicts of interest are being managed in a way that is sufficient to meet its needs as steward of the health system;
- NHS England will need to be satisfied that it has sufficient and timely information to assure itself that CCGs are managing conflicts promptly and effectively. This will include needing to be satisfied that CCGs have implemented the strengthened assurance measures in its new statutory guidance, and that these measures are operating as intended and that they are effective;
- Monitor will need to be confident that it could respond to an increased number of complaints about conflicts at appropriate scale and pace; and
- CCGs will need to ensure transparency at the local level when making commissioning decisions and when handling of conflicts of interest, to promote accountability.

Part One

Risk of conflicts of interest

What is a conflict of interest

1.1 Conflicts of interest are a commonplace part of management, which can arise in many situations and environments. They can result from policy decisions or systems or can occur naturally in certain management situations. Our previous work on conflicts of interest has set a definition, based on generally accepted standards.³ A conflict of interest is circumstances that risk an individual's ability to apply judgement or act in one role being impaired or influenced by a secondary interest. It can occur in any situation where a person or organisation (private or public) can exploit a professional or official role for personal or other benefit. Perceived competing interests, impaired judgement or undue influence can also be a conflict of interest.

Why manage conflicts of interest

1.2 If not managed, conflicts of interest can bring decision-making into disrepute but often perceiving conflict alone is enough to cause concern. This can risk reputations and undermine public confidence in the integrity of institutions. In the public sector, failing to recognise a conflict of interest can suggest the organisation or individual is not acting in the public interest. In the health sector potential conflicts of interest might mean that commissioners may not put patients' interests first when they make decisions about local health services, or might be perceived not to do so.

1.3 Failure to manage conflicts of interest also leads to a potential risk of legal challenge to public bodies' decisions. More seriously, if unresolved, some conflicts can result in criminal action, for example fraud, bribery or corruption through abuse of position.

Conflicts of interest in NHS clinical commissioning groups

1.4 Reforms under the Health and Social Care Act 2012 (the Act) increased the potential for significant conflicts of interest in local NHS commissioning in England. The Act established NHS clinical commissioning groups (CCGs) as clinically led commissioners of health services for their local communities. CCGs' decisions determine what health services will be purchased, how they will be provided and who will provide them, and funding levels.

³ Comptroller and Auditor General, *Cross-government: Conflicts of interest*, Session 2014-15, HC 907, National Audit Office, January 2015.

1.5 CCGs are independent statutory bodies. All GP practices are members of their local CCG. Within each CCG, some GPs, along with other clinical experts, CCG officials and lay members, are members of their CCG's board – its governing body. Under these arrangements there is potential for some GPs and their colleagues, especially those who are also members of their CCG's governing body, to make commissioning decisions about services they provide, or in which they have a financial or other interest. Because they are also providers of clinical services, GP members are particularly likely to have potential conflicts of interest under these arrangements. Providers may be NHS bodies, such as acute trusts, community trusts, mental health trusts, and ambulance trusts. Providers also include GP practices, private firms, social enterprises and charities.

1.6 When developing the health reforms, several stakeholders, including the Committee of Public Accounts, raised concerns about the increased potential for conflicts of interest in NHS commissioning.⁴ One example, **Figure 1**, highlights the view of the Royal College of GPs and NHS Confederation.

1.7 The Department of Health (the Department) recognised that the reforms increased the potential for significant conflicts. However, it felt the benefits it expected from clinically led commissioning outweighed the risks, which it felt could be managed. We consider the accountability, control and assurance framework in Part Two.

Figure 1

Views on managing conflicts of interest in clinical commissioning groups

Royal College of GPs and NHS Confederation, 2011

"It is crucial that an interest and involvement in the local healthcare system does not also involve a vested interest in terms of financial or professional bias toward or against particular solutions or decisions. The fact that in their provider and gatekeeper roles GPs and their colleagues could potentially profit personally (financially or otherwise) from the decisions of a commissioning group of which they are also members, means that questions about their role in the governance of NHS commissioning bodies are legitimate. Failure to acknowledge, identify and address them could result in poor decision-making, legal challenge and reputational damage."

Source: Royal College of GPs and NHS Confederation's briefing paper on managing conflicts of interest, September 2011

4 HC Committee of Public Accounts, *National Health Service Landscape Review*, Thirty-third Report of Session 2010–2012, HC 764, April 2011.

Risk of conflicts of interest during 2013-14 and 2014-15

Governing body members

1.8 NHS England does not hold a central record of the members of each CCG's governing body. Our analysis found that in 2014-15 there were 3,150 governing body members in total across the sector. Of these, 1,300 (41%) were also GPs, who may, potentially, make decisions about local health services and be paid by their CCG for providing these services. Non-GP commissioners may also have potential conflicts of interest, for example where they have financial or other interests in organisations providing locally commissioned health services.

Commissioning activity

1.9 From April 2013 to March 2015 there were 211 CCGs, controlling around two-thirds of the NHS commissioning budget in England. From April 2015 the number of CCGs reduced to 209 when 3 CCGs merged. In April 2014-15, NHS England allocated £64.3 billion to CCGs to commission health services, plus £1.3 billion to cover CCGs' administration costs. This was out of a total allocation to NHS England for 2014-15 of £96.6 billion. CCGs' commissioning responsibilities included: planned hospital care; urgent and emergency care; community health services; out-of-hours GP services; mental health services; learning disability services; and extra local primary medical services beyond the scope of the standard GP contract.⁵ During this period NHS England was responsible for commissioning the majority of primary medical services.

1.10 In April 2013, CCGs took over existing contracts from primary care trusts. These contracting arrangements were well established. Most contracts and spend were – and continue to be – for commissioning care from NHS trusts, including acute trusts, community trusts, mental health trusts and ambulance trusts. There is no central record of commissioning activity, however, the Department told us that relatively few new contracts were awarded by CCGs during 2013-14 and 2014-15. It felt that this would have lessened, in one respect, the risk of conflicts during this period. However, conflicts of interest can also occur in other situations, for example when CCGs roll-over or extend existing contracts, or when they make performance management decisions about existing contracts.

⁵ Primary medical services refers to services carried out within general practice.

1.11 One area where some data do exist on commissioning activity is on community health services. These services may be supplied by a range of different providers, increasing the potential for conflicts of interest among commissioners. In 2014 Monitor surveyed all CCGs about the community services they commissioned and received responses from 145 CCGs.⁶ The survey found that 87% of the value of community health services contracts is currently provided by NHS community trusts, acute trusts and mental health trusts. A minority (13%) of the value of contracts for community services are currently provided by other organisations where there may be a higher likelihood of potential conflicts, including private companies, GP practices, charities and social enterprises. Monitor's report also found substantial use of roll-over of contracts, with 61 CCGs planning to roll-over contracts, representing 61.5% of the total value of contracts expiring in 2015. Some 14 CCGs had decided to competitively tender at least one community service contract in 2015, accounting for 6.5% of total annual value of contracts; for the remaining 32% value of contracts, CCGs were undecided or did not specify plans.

1.12 The risk of conflicts is greater when CCGs make decisions about services where CCG members are more likely to have a significant interest as a provider. One high-risk area is primary medical services because of the likelihood that some GPs who are board members may also be involved as providers. In the first two years of operation CCGs had a relatively limited role in commissioning and managing primary medical services. CCGs have been responsible for commissioning:

- **Out-of-hours GP services** where GP practices have opted out of providing the care. NHS England has delegated responsibility for commissioning these services to CCGs.
- **Extra primary health services** to meet the needs of their local population.⁷ These health services go beyond the scope of those GPs provide under the standard GP contracts.

Impact of changes in health care from 2015

Greater integration and new models of care

1.13 NHS England's *NHS five year forward view* considers that services must be better integrated around the patient, by developing new models of care.⁸ And in Greater Manchester a new partnership board was created to improve integration of health and social care.⁹ As CCGs develop new networks of care, with increased relationships between providers, the risk of conflicts of interest is also likely to increase.

⁶ Monitor, *Commissioning better community services for NHS patients*, January 2015.

⁷ Extra primary health services were previously known as local enhanced services.

⁸ NHS England, Public Health England, Monitor et al, *NHS five year forward view*, October 2014.

⁹ For details of Manchester integrated care see NHS England announcement: www.england.nhs.uk/2015/02/25/manchester-new-partnership/

Co-commissioning of primary care services

1.14 From April 2015, NHS England has introduced new optional arrangements for joint and delegated co-commissioning of primary medical services. There are three possible models of primary care co-commissioning for CCGs (**Figure 2**). NHS England considers that the new arrangements will allow CCGs to commission care for their patients in more coherent ways. However, as it recognises in its publication *Next steps towards primary care co-commissioning*, the arrangements are likely to increase real and perceived conflicts of interest, especially where primary medical care commissioning arrangements are fully delegated to CCGs by NHS England.¹⁰

1.15 NHS England assessed the CCGs' proposals to undertake joint or delegated co-commissioning against specified criteria. These included whether their proposed governance arrangements met the conflicts of interest guidance; whether there was a clear assessment of potential benefits; and the level of financial risk. The assessment also considered NHS England's assessment of the CCGs' capability and skills, and support. From April 2015, 86 of the now 209 CCGs took on joint commissioning arrangements and another 63 CCGs adopted fully delegated responsibility for commissioning primary medical services. NHS England says it will continue to work with CCGs who want to gain approval so they can eventually take on this responsibility.

1.16 Under the new co-commissioning arrangements, it is increasingly likely that sometimes all GPs on a decision-making body could have a material interest in a decision. For example, where the CCG proposes to commission a service directly from all GP practices in the area. CCGs must plan how to handle increases in potential conflicts, particularly those CCGs which have fully delegated commissioning responsibilities. NHS England is mitigating these risks through a series of measures to support CCGs (see paragraphs 2.12 and 2.13).

Figure 2
Models of primary care co-commissioning

Model	Key elements
More involvement in primary care decision-making	NHS England retains statutory decision-making responsibility.
Joint commissioning arrangements	One or more clinical commissioning groups jointly commission primary medical services with their local NHS England regional team.
Delegated commissioning arrangements	Clinical commissioning groups have full responsibility for commissioning primary medical services. Legally, NHS England remains liable for the performance of these services.

Source: NHS England, *Next steps towards primary care co-commissioning*, November 2014

Part Two

Accountability, control and assurance

2.1 We have previously set out good practice principles for managing conflicts of interest in our investigation *Cross-government: Conflicts of interest*.¹¹ We used our good practice model as a framework to assess arrangements for managing conflicts of interest in local NHS commissioning. Our model includes steps to:

- understand and recognise the risks and design a proportionate response; and
- manage conflicts, including assurance and controls.

Risk and proportionate response: the framework to manage conflicts of interest

2.2 The Department of Health (the Department) sees the Health and Social Care Act 2012 (the Act) reforms on locally led commissioning as critical to delivering quality health outcomes for local populations. Clinical commissioning groups (CCGs) have an important role both as commissioners of local health services, and in reflecting the role of their member practices as providers of, and gatekeepers to, NHS care. But the Department is aware that these arrangements also increased the risk of conflicts of interest in local commissioning. The Department's view is that it is not possible or reasonable to avoid conflicts of interest in the NHS, especially in the new commissioning system. It believes that it is essential to manage the risks by putting processes in place to recognise where and how conflicts of interest arise and how these can be managed to ensure proper governance, robust decision-making and appropriate decisions about the use of public money. The Act put in place accountability, control and assurance arrangements which require CCGs to manage conflicts of interest and potential conflicts of interest, so they do not affect, or appear to affect, the integrity of decision-making.

2.3 The arrangements are based in statute and regulation that have local and national elements. The statutory basis gives a strong foundation to arrangements for preventing and managing conflicts. The arrangements assign explicit statutory roles, responsibilities and requirements to CCGs. The Act also assigns roles nationally, to the Department, NHS England and Monitor that help to prevent, detect and respond to conflicts of interest. Under our model of good practice, the approach is consistent with taking a proportionate response to an environment in which there may be high risk of severe conflicts.

¹¹ Comptroller and Auditor General, *Cross-government: Conflicts of interest*, Session 2014-15, HC 907, National Audit Office, January 2015.

2.4 In particular, the Act assigns the following statutory duties:

- **CCGs:** a legal duty to manage conflicts of interest when deciding which health services to procure to meet patients' interests. In doing this, CCGs must manage any actual or perceived conflicts in a way that protects the integrity of their decision-making.
- **NHS England:** to publish guidance for CCGs on their responsibility to manage conflicts of interest. CCGs must have regard to this guidance, which includes publishing information such as registers of interest. Part Three gives more detail on how CCGs complied with the relevant legislation and guidance in 2014-15.
- **Monitor:** to ensure that CCGs follow NHS regulations on procurement, patient choice and competition.

Assurance and oversight

The Department

2.5 The Department is accountable to Parliament for the overall value for money of health services. It receives assurance on commissioning, providing and regulating healthcare through its accountability systems. The Department focuses on ensuring the assurance system (NHS England) and regulatory system (Monitor) hold CCGs to account, rather than on specific areas of governance, such as conflicts of interest. It does not get regular information on how CCGs manage conflicts of interest from NHS England or Monitor. However, the Department, NHS England and Monitor said that conflicts of interest would be raised at their regular accountability meetings if they were a cause for concern.

NHS England

2.6 NHS England's role with regard to CCGs is one of both assurance and support in a system where CCGs have a large degree of autonomy. Direct intervention in CCGs by NHS England is by exception. NHS England supports and holds CCGs to account through an overall assurance framework, supported by operational guidance. This framework focuses on a range of issues including governance. Separately, it is required by the Act to issue guidance on conflicts of interest. This guidance covers topics such as maintaining registers of interests and records of how conflicts of interests have been addressed.

2.7 Through its overall assurance framework, NHS England considers CCGs' management of conflicts of interest on an 'exception' basis, for example when CCGs or third parties raise issues about conflicts with it. It does not routinely get or hold detailed assurance or other information on CCGs' conflict of interest risks and how they manage them. NHS England investigates complaints about weak governance or about conflicts of interest, but to date any complaints on this topic have been collected within a general care complaints category rather than a specific conflicts of interest category, reflecting the relatively low level of complaints on the topic to date. Adopting this exception-based approach means that NHS England has a limited understanding of how effectively CCGs are complying with requirements and managing conflicts of interest, or the scale and nature of conflicts arising. NHS England told us that it is considering how it might adapt its approach to complaints so it might capture any potential increases due to joint and delegated primary care commissioning.

2.8 NHS England's view is that its 'by exception' approach to considering conflicts of interest is proportionate and consistent with its assurance of devolved independent bodies with statutory responsibility to manage conflicts locally. NHS England reported that neither it nor its regional or local teams have found conflicts of interest to be a significant cause for concern through this approach. However, NHS England confirmed it would discuss and record issues about conflicts of interest as appropriate.

Out-of-hours GP services commissioning

2.9 NHS England has obtained information from CCGs about their management of conflicts when specific concerns are present, for example in out-of-hours GP services commissioning. Previously this was the main element of primary care GP service commissioning that NHS England had delegated to CCGs. CCGs face risks of conflicts of interest when commissioning these services because the GPs who lead CCGs sometimes also work for, or lead, out-of-hours service providers. In 2014 we investigated out-of-hours GP services, including local and national assurance arrangements for conflicts of interest.¹² Our report and subsequent work found:

- CCGs understand the conflict of interest risks and were acting to manage them, although the safeguards relied on the individuals concerned disclosing their interests; a common feature in approaches to managing conflicts.
- 206 CCGs initially gave NHS England's area teams written assurance that they managed conflicts of interest for out-of-hours services relating to 2013-14 appropriately. However, the assurance gained was limited because the format was 'yes-or-no' and self-reported. NHS England confirmed through assurance discussions with the remaining 5 CCGs that they had appropriately managed conflicts.

¹² Comptroller and Auditor General, *Out-of-hours GP services in England*, Session 2014-15, HC 439, National Audit Office, September 2014.

2.10 The Committee of Public Accounts was concerned that some CCGs may have awarded out-of-hours contracts without a competitive procurement. Combined with the potential for conflicts of interest, this increases the risk to propriety and value for money. It recommended that:

“NHS England should test whether its guidance on conflicts of interest is being followed and assess whether it offers enough safeguards. Where contracts for out-of-hours GP services have been awarded since 1 April 2013, it should seek documentary evidence that no one with an interest in the successful provider organisation was involved in the procurement process.”¹³

2.11 In its formal response to the Committee of Public Accounts’ recommendations, NHS England did not address explicitly the Committee’s recommendation to seek documentary evidence that no one with an interest in the successful provider was involved in the procurement process where contracts for out-of-hours services had been awarded. NHS England is satisfied, however, that it obtained sufficient evidence through the written assurances it received from the 206 CCGs, supplemented with oral assurance from the remaining 5 CCGs (paragraph 2.9).¹⁴

NHS England’s response to increased risk

2.12 NHS England recognises the increased risk of conflicts of interest associated with primary care co-commissioning from April 2015. NHS England has worked to update both its overall assurance framework and the specific legislative guidance on conflicts of interest. It published a revised CCG assurance framework in March 2015.¹⁵ The framework requires that for co-commissioning functions and for out-of-hours services, CCGs will be required to prepare a quarterly self-certification of compliance against five key areas, one of which is governance and the management of potential conflicts of interest. NHS England published the operational guidance to support this framework in August 2015.¹⁶

¹³ HC Committee of Public Accounts, *Out-of-Hours GP services in England*, Twenty-second Report of Session 2014-15, HC 583, November 2014.

¹⁴ HM Treasury, *Treasury Minutes: Government responses on the Eighteenth, the Twenty-First to the Twenty-Fourth, and the Thirty-Third reports from the Committee of Public Accounts*, Session 2014-15, Cm 9031, February 2015.

¹⁵ NHS England, *CCG Assurance Framework 2015-16*, March 2015.

¹⁶ NHS England, *CCG assurance Framework 2015-16 operating manual*, August 2015. Available at: www.england.nhs.uk/commissioning/wp-content/uploads/sites/12/2013/10/ccg-ass-op-man-2015.pdf

2.13 NHS England also updated its guidance to commissioners on managing conflicts of interest in December 2014, before primary care co-commissioning began.¹⁷ The new guidance is statutory and, when developing it, NHS England considered stakeholder comments, including from the Department and Monitor. It now brings together in one place all the legislative requirements on conflicts of interest and draws on the 2013 guidance from NHS England and Monitor. From 2015-16, the statutory nature of the guidance means that CCGs must comply or explain any non-compliance. NHS England expects this will enhance its assurance about how CCGs are managing potential and actual conflicts, and help to promote confidence in the local health commissioning system, including through increased local transparency. NHS England's new guidance strengthened its previous approach in several ways:

- Where CCGs undertake joint or delegated primary care commissioning, the audit committee chair and accountable officer must sign a formal attestation that their CCG has complied with the guidance or explain any non-compliance.
- CCGs must publish a register of procurement decisions including details of how any conflicts were managed.
- Extra emphasis is placed on recording the discussion and decisions made if a conflict of interest is noted during a governing body meeting.
- New sections for managing conflicts of interest when co-commissioning primary care, including new primary care commissioning committees with a lay and executive majority, so that the committee remains quorate even if all GPs are conflicted.
- National training for CCG lay members to support and strengthen their role. By July 2015 more than 20 training events had seen nearly 300 attendees from 145 CCGs.
- A requirement for GPs to publish their earnings.

2.14 In addition, NHS England is acting to strengthen its own assurance and the governance within CCGs:

- **Case studies**
NHS England is developing good practice case studies and proposes to share these with CCGs through an interactive web portal in October 2015.
- **Webinars**
NHS England has held a webinar in the North of England and plans to hold others in its other regions.
- **Review of the implementation of NHS England's guidance**
In September 2015 NHS England plans to audit 10 randomly selected CCGs that have taken on delegated or joint commissioning responsibilities. The review will assess the effectiveness of the revised guidance on managing conflicts of interest and CCGs' experiences in implementing it. NHS England plans to use any results of the audit to inform ongoing development of assurance measures.

17 NHS England, *Managing Conflicts of Interest: Statutory Guidance for CCGs*, December 2014.

Clinical commissioning groups

2.15 The governing body of each CCG must ensure that it works well and economically, with good governance and meeting the terms of its constitution. Each governing body judges how to assess and control how well it manages conflicts, and other risk areas. Beyond statutory requirements, the CCGs determine their local control procedures and arrangements to monitor compliance with them. To do that, they should assess the nature and frequency of the assurance they need. Each assessment will need to consider the specific risk faced by the CCG. Consequently, control and monitoring practices will necessarily vary from one CCG to another, although NHS England expects its strengthened statutory guidance (see paragraph 2.13) to improve the consistency of local reporting and to enhance transparency, which promotes local accountability for commissioning decisions.

Monitor

2.16 As a health sector regulator, one part of Monitor's role is to enforce NHS regulations on procurement, patient choice and competition. These regulations state that a CCG must not award a contract for services where an actual or potential conflict of interest affects, or appears to affect, the integrity of the CCG's decision-making process. As set out in its annual accountability report to the Health Select Committee, Monitor's work in 2014 focused on two aspects:

- **Advocacy** through educating and informing patients, commissioners and providers how the rules on procurement, choice and competition affect them.
- **Regulatory action**, including answering informal requests for advice; formal investigations; and taking enforcement action.¹⁸

2.17 Monitor's regulatory action is only triggered by requests for advice or complaints from sources including the public, patients, commissioners, providers and clinicians. Monitor encourages early requests for advice as they can usually be resolved informally, avoiding the need for formal procedures. Monitor's most recent records show that in the year to 31 October 2014, it received 191 requests for advice about procurement, choice and competition. Monitor's analysis of these requests for advice indicated that relatively few were about specific concerns to do with conflicts of interest. Monitor told us it had expected a greater number of requests for advice on conflicts of interest.

¹⁸ Monitor, *Annual Accountability Report*, written evidence presented to the Health Select Committee for the 2014 annual accountability hearing held on 5 December 2014.

2.18 Monitor's regulatory role includes investigating complaints on procurement, choice and competition. If warranted, it can issue directions to commissioners that alter contractual arrangements for NHS services. Monitor has begun four formal investigations since January 2014. Of these, two investigations were about CCGs and one contained reference to an alleged conflict of interest. The investigation of Northern, Eastern and Western Devon Clinical Commissioning Group followed a complaint by the Northern Devon Healthcare Trust concerning the CCG's commissioning of community services for adults with complex care needs. The contract is valued at more than £100 million. There were several aspects to the complaint, including the possibility that conflicts of interest may have affected the proposed contract award. In August 2015 Monitor concluded that the integrity of the CCG's decision had not been affected by conflicts of interest.¹⁹

¹⁹ See Monitor's website for more details: www.gov.uk/government/collections/procurement-choice-and-competition-in-the-nhs-documents-and-guidance

Part Three

How clinical commissioning groups managed conflicts of interest in 2014-15

3.1 In this Part we assess how clinical commissioning groups (CCGs) managed conflicts locally in 2014-15, against their legislative requirements and our good practice principles.²⁰ Our work has not considered how CCGs are managing conflicts in 2015-16. We have made our assessment using information available on CCGs' websites as at February 2015. Making information public – being transparent – about how potential and actual conflicts are being managed is an important way to counter concerns that conflicts are influencing decisions. Transparency also enables people to be held to account for their actions.

Preventing and managing risks

3.2 As we describe in Part Two, the Health and Social Care Act 2012 (the Act) set out clear requirements for CCGs to make arrangements for managing conflicts of interest and potential conflicts of interest, to ensure they do not affect, or appear to affect, the integrity of their decision-making processes. It also required CCGs to be transparent about how they work.

Legislative requirements for governing bodies

3.3 The Act set out detailed requirements about the composition of CCGs' governing bodies. Although the Act's requirements for governing bodies did not specifically refer to conflicts of interest, they can help CCGs to better manage conflicts of interest in two ways. First, lay members can bring an independent view and offer constructive challenge, and strengthen governing bodies' decision-making. Second, requiring CCGs to publish their constitution and governing body papers supports transparency. We reviewed the websites of all 211 CCGs operating in 2014-15 and **Figure 3** overleaf sets out our findings.

²⁰ Comptroller and Auditor General, *Cross-government: Conflicts of interest*, Session 2014-15, HC 907, National Audit Office, January 2015.

Figure 3

NAO assessment of compliance with the main legislative requirements for clinical commissioning groups' governing bodies as at February 2015

Legislative requirement

A clinical commissioning group must publish its constitution.

The governing body for the clinical commissioning group must have at least 6 members

The governing body must include at least 2 lay members.

The governing body must have a chair and an accountable officer, who cannot be the chair.

A governing body must publish papers considered at meetings of its governing body, except where the governing body considers that it would not be in the public interest to do so.

Note

1 Medway Clinical Commissioning Group's constitution was not available on the website at the time of our review due to a technical fault.

CCGs' compliance

209 (99%) CCGs published their constitution on their websites.

We did not analyse constitutions for Bracknell and Ascot Clinical Commissioning Group and Medway Clinical Commissioning Group as these were not on their websites.

All **211 CCGs** exceeded the minimum number of governing body members, with the number of members ranging from 7 to 27.

More than 90% of these CCGs have between 9 and 20 members.

All **211 (100%) CCGs** had at least 2 lay members.

71 (34%) CCGs had 3 or 4 lay members.

All **211 CCGs** had a separate chair and accountable officer.

For 184 (87%) CCGs, one post was filled by a GP and the other by a non-clinician, giving a balance of clinical and non-clinical skills in the two leadership roles.

In 25 (12%) CCGs both roles are filled by GPs, which may strengthen clinical input in decision-making but increases the potential for conflicts of interest.

All **211 CCGs** published their meeting papers and minutes.

Sources: The National Health Service (Clinical Commissioning Groups) Regulations 2012, the National Health Service Act 2006 (as amended to reflect the Health and Social Care Act 2012) and NAO analysis of 211 Clinical Commissioning Groups' websites

Legislation on managing conflicts of interest

3.4 The legislation sets out specific requirements on managing conflicts of interest (**Figure 4**). The following paragraphs set out our assessment of whether the CCGs have met these provisions.

Figure 4
Legislation on managing conflicts of interest

Topic	Relevant extract from legislation
Maintenance of, and access to, registers of interest	<p data-bbox="834 725 1161 748">Health and Social Care Act 2012</p> <p data-bbox="834 779 1437 831">14O(1) Each clinical commissioning group must maintain one or more registers of the interests of:</p> <ul style="list-style-type: none"> <li data-bbox="834 846 1123 869">(a) the members of the group; <li data-bbox="834 887 1206 909">(b) the members of its governing body; <li data-bbox="834 927 1406 978">(c) the members of its committees or sub-committees or of committees or sub-committees of its governing body; and <li data-bbox="834 996 1007 1019">(d) its employees. <p data-bbox="834 1037 1469 1122">(2) Each clinical commissioning group must publish the registers maintained under subsection (1) or make arrangements to ensure that members of the public have access to the registers on request.</p>
Management of conflicts of interest	<p data-bbox="834 1149 1461 1256">(4) Each clinical commissioning group must 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 group's decision-making processes.</p>
Maintenance of a record of management	<p data-bbox="834 1283 1449 1335">The National Health Service (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013</p> <p data-bbox="834 1361 1477 1491">6—(1) A relevant body must not award a contract for the provision of health care services for the purposes of the NHS where conflicts, or potential conflicts, between the interests involved in commissioning such services and the interests involved in providing them affect, or appear to affect, the integrity of the award of that contract.</p> <p data-bbox="834 1509 1477 1639">6—(2) In relation to each contract that it has entered into for the provision of health care services for the purposes of the NHS, a relevant body must maintain a record of how it managed any conflict that arose between the interests in commissioning the services and the interests involved in providing them.</p>

Source: Health and Social Care Act 2012 and The National Health Service (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013

Keeping a register of interests

3.5 The legislation does not require CCGs to publish registers online, but this is a simple and cost-effective way to make them widely available. Our analysis showed that 209 CCGs had published a register of interests online. **Figure 5** shows how far the registers cover the required categories of registers as set out in the legislation. All 209 published registers included details of the governing body members. However, only 13 CCGs (6%) published registers with the full range of categories in the legislation.

Management of potential conflicts of interest

3.6 NHS England requires CCGs to set out their policy for managing conflicts of interest either in their constitution or in a separate conflicts of interest policy. We found that 121 CCGs (57%) had published a separate conflicts of interest policy on their websites. We reviewed CCGs' constitutions and conflicts of interest policies to determine their stated approaches to managing conflicts of interest. We found that most CCGs had several arrangements including those of excluding conflicted members from decision-making or seeking third-party advice or scrutiny (**Figure 6**).

Figure 5
Publishing registers of interest

Required categories for registers of interests	Number of clinical commissioning groups publishing register on their website	Percentage of clinical commissioning groups
Group members	40	19
Governing body members	209	99
Members of its committees or sub-committees, or of committees or sub-committees of its governing body	68	32
Its employees	45	21

Notes

- 1 The members of a clinical commissioning group are the GP practices which deliver primary medical services.
- 2 Results are based on a review of all 211 clinical commissioning groups' websites.

Source: National Audit Office analysis of clinical commissioning group websites

Figure 6

Clinical commissioning groups' approaches to managing conflicts of interest as set out in their policies

Stated approach to managing conflicts of interest	Number and percentage of the 210 CCGs where information was available
Excluding conflicted governing body members from decision-making. (either from the whole discussion or from the vote).	210 (100%)
Arrangements for managing governing body meetings if more than 50% of members are conflicted.	205 (98%)
Obtaining third-party advice during decision-making (for example, clinical input if GPs were conflicted).	184 (88%)
Arrangements for third-party scrutiny of decision-making.	42 (20%)

Note

- 1 We could not find out Medway Clinical Commissioning Group's approach to managing conflicts of interest due to a problem with its website at the time.

Source: National Audit Office analysis of the 210 clinical commissioning groups' websites where information was available

Recording how actual conflicts of interest are managed

3.7 Accessible information on how CCGs manage conflicts of interest helps to improve transparency and demonstrate that CCGs manage these conflicts appropriately. The legislation does not require CCGs to publish specific records of how they manage conflicts of interest. However, it does require them to publish governing body papers and meeting minutes, which are the formal record of its deliberations and decisions. We reviewed CCGs' governing body minutes for April to December 2014. Potential or actual conflicts of interest arose in 47 CCGs (22%) for decisions their governing bodies made. This related to 75 recorded instances of conflicts of interest covering a range of scenarios. The level of detail given about the conflicts varied, but we found that in 37 cases the conflict related to specific services provided by or payments to GPs, either as part of enhanced service contracts or additional commissioning activity, such as phlebotomy, anticoagulation clinics or services for diabetes patients. Other actual or potential conflicts of interest discussed related to primary care co-commissioning (9 cases), the proactive care programme including for those aged 75 and over (9 cases) or schemes to improve access to general practice (7 cases). For 12 cases, the conflict of interest related to strategy or administration associated with the CCG, such as the composition of the governing body, remuneration of its members or its local improvement plans.

3.8 We reviewed the meeting minutes to see how the CCG handled the conflict of interest (**Figure 7**). We also looked back at the CCG's stated approach and found that in most cases, the actual approach taken was consistent with that set out in its policies. Transparency is an important enabler of local accountability, and as such is important for promoting confidence in the local commissioning system. However, the level of detail provided varied and in some cases we were not able to determine the action taken from information available on CCGs' websites.

Figure 7

How clinical commissioning groups dealt with 75 recorded conflicts of interest between April and December 2014

Approach to managing conflict	Number of conflicts where this approach was used
Excluded conflicted governing body members from decision-making.	45
Of which:	of which:
Excluded conflicted members from the vote	22
Excluded conflicted members from the meeting for that agenda item	23
Replaced meeting chair	38
Obtained third-party advice during decision-making	6
Increased number of members to ensure it remained quorate	6
Chair ruled no action necessary as item for discussion only, or conflict not material	8
Other (included referral to another committee, or change in governing body membership)	5
Not able to determine action taken	14

Note

1 For some conflicts more than one of the above actions was taken, so the table does not sum to 75.

Source: National Audit Office review of 211 clinical commissioning groups' websites

Reporting conflicts in governance statements

3.9 Within their annual report and accounts, CCGs must prepare a governance statement that records the stewardship of the organisation.²¹ As part of this, the statement should give a sense of how successfully the CCG has managed its most significant risks and how vulnerable its performance is or might be. Beyond some specific requirements, decisions about what a CCG discloses in its governance statement are matters for a CCG's accountable officer and governing body, with the advice and support of the CCG's audit committee. The accountable officer may decide to mention conflicts of interest if considered significant to the CCG's management of risk or systems of internal control, although there is no specific requirement to do so.

3.10 NHS England requires CCGs to publish their audited annual report and accounts on their website.²² For 209 of the CCGs we were able to find a full final governance statement within the CCG's published 2013-14 annual report and accounts at the time of our website review.²³ We reviewed these governance statements to assess references to conflicts of interest. We found that some 117 CCGs (55%) included information on conflicts of interest in their governance statement. **Figure 8** sets out our analysis of that information.

Figure 8

How conflicts of interest are reported in governance statements

Type of reference to conflicts of interest	Number of clinical commissioning groups
Described the policies and processes, for example declaring interests, keeping registers, publishing policies for staff.	74
Reference to conflicts of interest within internal audit assurance statement.	27
Established a separate committee/sub-committee/panel within the CCG to make decisions where the governing body is conflicted.	19
Referred to a review of the operation of controls for conflicts of interest.	19
Provided training on conflicts of interest.	16
Referred to a review of the adequacy of framework of controls for conflicts of interest.	9
Incorporated the risk of conflicts of interest into risk-management processes.	7
Set out how they had managed a specific conflict of interest.	7

Note

1 Some CCGs reported more than one instance of good practice so numbers do not sum to 117.

Source: National Audit Office analysis of the clinical commissioning groups' governance statements in their 2013-14 annual report and accounts

21 NHS England, *CCG Annual Reporting Guidance 2013-14*, May 2014, Chapter 6. Available at: www.england.nhs.uk/wp-content/uploads/2014/06/ccg-ann-rep-guidance.pdf

22 In their audit, external auditors must read the governance statement and may report if they believe content is materially inconsistent with their knowledge of the organisation. No such reports were made in 2013-14.

23 For the other two CCGs we were unable to find a final 2013-14 governance statement on their websites at the time of our analysis, although we have since confirmed with both bodies that they did produce governance statements.

3.11 Figure 9 shows that some 74 CCGs reported that they had set up the processes required by the legislation and guidance. Others reported they had commissioned reviews of their controls, or decided to establish specialist procurement or investment committees to deal with instances where governing body members were conflicted. Some 7 CCGs set out how they had managed specific conflicts of interest.

3.12 For 27 CCGs, the head of internal audit's report contained information on conflicts of interest. Within the governance statement, the accountable officer should refer to assurance from the CCG's internal auditors, including the overall level of assurance and any instances where the head of internal audit raised concerns. Often the accountable officer reproduces in full the annual statement from the CCG's head of internal audit. In the 27 cases where internal audit referred to conflicts of interest, for 12 CCGs the assurance provided was positive and in 15 CCGs the report referred to weaknesses that needed attention. Figure 9 sets out examples of weaknesses reported.

Figure 9

Examples of weaknesses reported in internal audit statements

- Lack of registers for GP members and for staff of the CCG (other than board members).
- The register of interests was not complete for members and employees for the whole year.
- No mapping of conflicts of interest from the conflicts register to the contracts register.
- Conflicts of interest not a consistent agenda item on all meetings within the CCG.
- When conflicts of interest have occurred, minutes have not always clearly recorded action taken.
- The constitution needed to be updated to reflect the creation of a conflicts of interest governance committee.

Source: National Audit Office analysis of the governance statements in clinical commissioning groups' 2013-14 annual reports

Appendix One

Our investigative approach

Scope

1 This report examined how clinical commissioning groups (CCGs) manage conflicts of interest. Our objectives were to:

- understand the risk of conflicts of interest in CCGs, now and in the future;
- examine the design and operation of the framework for managing conflicts of interest; and
- examine how CCGs are managing conflicts of interest.

Methods

2 In examining these issues, we used the following methods:

- We interviewed the main stakeholders – the Department of Health, NHS England and Monitor.
- We reviewed relevant documents including: legislation; NHS England and Monitor's guidance; and policy documents.
- We visited two CCGs to understand how they approached conflicts of interest.
- Without centrally held records we collected information from the websites of all 211 CCGs between November 2014 and February 2015. We used this information to assess CCGs' compliance with key legislation about managing conflicts of interest and how they have handled conflicts of interest as they have arisen. Our work did not consider how CCGs are managing conflicts of interest in 2015-16.

3 Our investigation did not examine whether CCGs met wider requirements of the Health and Social Care Act 2012 or the rules on procurement, patient choice and competition.

4 As NHS England's external auditors, we rely on the external auditor of each CCG to give assurance on the annual report and accounts. Without detailed examination of the records of each local CCG, we can not conclude on whether:

- conflicts of interest have occurred but CCGs have not reported them in public documents;
- weaknesses in the systems of internal control have gone unreported; or
- conflicts of interest have been managed inappropriately, and the matter has not come to the CCG's internal or external auditor's attention.

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National Audit Office

Design and Production by NAO Communications
DP Ref: 10799-001

£10.00

ISBN 978-1-78604-003-9



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