

Item Number: 9

**NHS VALE OF YORK CLINICAL
COMMISSIONING GROUP**

GOVERNING BODY MEETING



Vale of York

Clinical Commissioning Group

Meeting Date: 6 March 2014

Title: Procurement Decision Making Process

Responsible Chief Officer and Title

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Strategic Priority

Ensuring the CCG has the capacity and processes to deliver its statutory duties

Purpose of the Report

To provide the Governing Body with proposed options for decision making on future procurements where Governing Body members may have a conflict of interest.

Recommendations

The Governing Body is asked to consider their preferred approach to decision-making in the event of not being quorate due to declared interests as detailed in 4.2 (a-c).

Impact on Patients and Carers

N/a

Impact on Resources (Financial and HR)

N/a

Risk Implications

Not setting out clear decision making processes for major procurements could affect the ability of the procurement to continue and potentially have an impact on the reputation of the CCG.

Equalities Implications

n/a

Sustainability Implications

N/a

GOVERNING BODY MEETING: 6 MARCH 2014

Procurement Decision Making Process

1. Purpose of the Report

To provide the Governing Body with proposed options for decision making on future procurements where Governing Body members may have a conflict of interest.

2. Background

- 2.1 The NHS Vale of York CCG is reviewing a number of service areas, where the current contractual arrangement is coming to an end. These reviews will consider the future model for those services and could in some instances lead to a procurement process..
- 2.2 In making decisions on procurement options and future providers for these services, it is important that anyone with an **actual or perceived** interest is not involved in those decisions. Failure to manage this process can lead to legal challenges, reputational damage and an end of the procurement process.

3. Evidence base

- 3.1 The process for managing procurements is detailed in the NHS Vale of York CCG Constitution, Scheme of Delegation and Procurement Policy. These are based on the national regulations. This paper does not propose any changes to those arrangements, but seeks approval to manage procurements where there is a potential for a significant number of Governing Body members to have a potential conflict of interest within the guidance set out in these documents.
- 3.2 The paper also takes account of the NHS England guidance 'Code of Conduct: Managing conflicts of interest where GP practices are potential providers of CCG-commissioned services' which is accessible at: <http://www.england.nhs.uk/wp-content/uploads/2012/09/c-of-c-conflicts-of-interest.pdf>

4. Decision Making Arrangements

- 4.1 The NHS Vale of York CCG Constitution delegates the decisions on procurement to the Governing Body. It sets out the process for managing conflicts of interest within section 8 of the Constitution and provides options for the management of those interests at Governing Body and Committee level. Should the Governing Body not be quorate

(6 members including 2 GPs) as a result of conflicts of interest, the options available are:

- a) To implement the exceptional circumstances clause in Appendix C - Standing Orders (3.6.2) '*where all the GP Members have a conflict of interest the decision will be made by a minimum 4 of the remaining Governing Body members including either the Chief Operating Officer or the Chief Finance Officer*'.
- b) Delegate the decision to a Committee who can be quorate (e.g. the Performance and Finance Committee)
- c) Invite on a temporary basis one or more of the following to make up the quorum (where these are permitted members of the governing body) so that the group can progress the item of business:
 - i. a member of the clinical commissioning group who is an individual;
 - ii. an individual appointed by a member to act on its behalf in the dealings between it and the clinical commissioning group;
 - iii. a member of a relevant Health and Wellbeing Board;
 - iv. a member of a governing body of another clinical commissioning group.

4.2 The Programme Managers responsible for the procurement will set out the communication and decision-making arrangements in line with the Governing Body's preferred approach above in each business case in the event of the Governing Body not being quorate due to declared interests.

5. Legal Implications

The preferred approach based on the options above will enable compliance with the regulatory arrangements in relation to procurement.

6. Equalities Implications

There are no identified equalities implications in relation to this,

7. Recommendations

The Governing Body is asked to consider their preferred approach to decision-making in the event of not being quorate due to declared interests as detailed in 4.2 (a-c).