



## Standards of Business Conduct Policy

1.	<b>SUMMARY:</b>	This policy sets out the North Central London Clinical Commissioning Group's Standards of Business Conduct policy.			
2.	<b>RESPONSIBLE OFFICER:</b>	Executive Director of Corporate Services.			
3.	<b>ACCOUNTABLE OFFICER:</b>	Accountable Officer.			
4.	<b>AUTHOR:</b>	Christopher Hanson, Governance and Risk Lead.			
5.	<b>APPLIES TO:</b>	All CCG members, employees, self-employed consultants, contractors, officers and office holders, Governing Board (including committee) members.			
6.	<b>GROUPS/ INDIVIDUALS WHO HAVE OVERSEEN THE DEVELOPMENT OF THIS POLICY:</b>	Ian Porter, Executive Director of Corporate Services; Andrew Spicer, Head of Governance and Risk; Kate Harrington-Stillwell, Local Counter Fraud Specialist.			
7.	<b>GROUPS WHICH WERE CONSULTED AND HAVE GIVEN APPROVAL:</b>	This policy has been adapted from the policy approved by the NCL Audit Committee in Common.			
8.	<b>EQUALITY IMPACT ANALYSIS COMPLETED:</b>	<b>Policy Screened</b> ✓	<b>Not required</b>	<b>Template completed</b>	<b>Yes</b>
9.	<b>RATIFYING COMMITTEE(S) &amp; DATE OF FINAL APPROVAL:</b>	The Audit Committee approved this policy on 17 <sup>th</sup> September 2020			
10.	<b>VERSION:</b>	1			
11.	<b>AVAILABLE ON:</b>	CCG website and staff intranet.			

12.	<b>RELATED DOCUMENTS:</b>	Conflicts of Interest Policy Counter Fraud, Bribery and Corruption Policy Disciplinary Policy Speaking Up (Whistleblowing) Policy CCG Constitution Procurement Policy Sponsorship and Joint Working With The Pharmaceutical Industry Policy; Standing Financial Instructions.
13.	<b>DISSEMINATED TO:</b>	Governing Body and all staff.
14.	<b>DATE OF IMPLEMENTATION:</b>	18 <sup>th</sup> September 2020.
15.	<b>DATE OF NEXT FORMAL REVIEW:</b>	16 <sup>th</sup> September 2021.

### Document Control

Date	Version	Action	Author
2.09.2020	1	Policy drafted to ensure exemplary Standards of Business Conduct to be adhered to by the Clinical Commissioning Group. It was adapted from the previous Standards of Business Conduct Policy of the five Clinical Commissioning Groups in North Central London.	Christopher Hanson, Governance and Risk Lead.

**“The CCG incorporates and support the human rights of the individual as set out in the European Convention on Human Rights and the Human Rights Act 1998”**

# **NHS NORTH CENTRAL LONDON CLINICAL COMMISSIONING GROUP STANDARDS OF BUSINESS CONDUCT POLICY**

Policy to ensure exemplary standards of business conduct to be adhered to by the Clinical Commissioning Group

## Table of Contents

1.	Introduction .....	5
2.	Constitution, Standing Financial Instructions, and Scheme of Reservation and Delegation .....	6
3.	Conflicts of Interest .....	7
4.	Outside or Secondary Employment .....	9
5.	Declaration of gifts and hospitality .....	9
6.	Charitable Collections .....	10
7.	Political Activity .....	11
8.	Personal Conduct .....	11
9.	Raising concerns .....	12
10.	Breaches of the Policy .....	12
11.	Criminal Implications .....	14
12.	Related Documents .....	15
13.	Dissemination .....	16
14.	Advice .....	16
15.	Compliance Monitoring .....	16
	Appendix A The Nolan Principles .....	17
	Appendix B Process for managing policy breaches .....	18
	Appendix C Breach reporting Form .....	19

# 1 Introduction

- 1.1 This document sets out the Standards of Business Conduct Policy ('Policy') for NHS North Central London Clinical Commissioning Group ('CCG').
- 1.2 The CCG, as a publicly funded organisation, has a duty to set and maintain the highest standards of conduct and integrity. The CCG expects the highest standards of corporate behaviour from its Governing Body, officers, staff, Clinical Leads, self-employed consultants, and contractors.

## Aims

- 1.3 Public sector organisations must act impartially and honestly in the conduct of their business, and their staff must act in accordance with the seven principles of public life, the 'Nolan Principles' (see **Appendix A**)
- 1.4 Therefore, the Policy aims to establish the CCG's high standard of conduct and ensure that all relevant parties are aware of their own responsibilities regarding business conduct. The Policy also aims to protect the CCG, its decision-making, investments and stewardship of public funds from any impropriety.
- 1.5 The Policy provides guidance by:
  - a. Setting out consistent principles and standards of public service;
  - b. Advising appropriate courses of action for commonly arising situations; and
  - c. Facilitating good judgement and best practice

## CCG Constitution and Policies

- 1.6 The Policy is designed to be as clear and comprehensive as possible. However, we operate in a dynamic and evolving work environment and, when applying or interpreting any of the CCG's policies, attention should be paid to the spirit of the policy as well as the letter. Good practice informed by policy and guidance, rather than policies alone, guarantees effective behaviour and the delivery of key objectives.
- 1.7 The policy should be read in conjunction with the NHS's and CCG's Constitution and the following policies (or equivalent(s)):
  - a. Conflict of Interest Policy;
  - b. Raising a Concern (Whistleblowing) Policy;
  - c. Counter Fraud, Bribery and Corruption Policy;
  - d. Disciplinary Policy;
  - e. Equality & Diversity Policy;
  - f. Sponsorship and Joint Working With The Pharmaceutical Industry Policy.
- 1.8 The Appendices to the Policy do not form part of the Policy and may be amended or updated by the Governance Team at any time without the need to formally amend this policy.

## Legal Framework and Principles

- 1.9 The Policy is to assist with CCG compliance with the obligations under Sections 14A and 14Z24 of the National Health Service Act 2006 and other relevant primary and secondary legislation.

- 1.10 The Policy encourages compliance with:
- a. NHS and CCG Constitution, Standing Financial Instructions, and Scheme of Delegations;
  - b. Standards for members of NHS Boards and CCG Governing Bodies on England;
  - c. Code of Conduct for NHS Managers;
  - d. The 'Seven Principles of Public Life' (the 'Nolan Principles') included in **Appendix A**;
  - e. Good Governance Standards of Public Services principles; and
  - f. The Seven Key Principles of the NHS constitution, and the Equality Act 2010.
- 1.11 The Policy is to work alongside national and local guidance on child and adult safeguarding, as applicable.

#### Scope

- 1.12 The Policy applies to all CCG members, staff (including students, trainees, agency staff, seconded staff, prospective staff and joint appointments), self-employed consultants, contractors, Clinical Leads, officers, and office holders.
- 1.13 It also applies to Governing Body members and members of its committees and subcommittees (and attendees), and all groups relating to commissioning, contracting and procurement processes, where decision-making is required by those members. This includes:
- a. Co-opted members;
  - b. Appointed deputies; and
  - c. Any members of committees/groups from other organisations.
- 1.14 The Policy is applicable to all member practices of the CCG and as far as possible the scope extends to all GP partners and any individual directly involved in the business of the CCG.
- 1.15 The CCG will ensure that North and East London Commissioning Support Unit (CSU), Commissioning Support Services, and other Contractors and CCGs are aware of and will comply with the contents of this policy, where applicable.

#### Review of Policy

- 1.16 The Policy will be reviewed every two years by the Audit Committee. Further, the Policy will be reviewed subject to new or amended pertinent legislation/guidance published and/or evolution in best practice.

## **2 Constitution, Standing Financial Instructions, and Scheme of Reservation and Delegation**

- 2.1 Individuals must carry out the CCG's obligations in accordance with the NHS Constitution, the CCG Constitution, Standing Financial Instructions, and Scheme of Reservation and Delegation, Policies listed in paragraph 1.7, and Standards and Codes listed in paragraph 1.10 above.
- 2.2 In the case of doubt, the provisions of the Constitution, Standing Financial Instructions and Scheme of Reservation and Delegation take precedence.

- 2.3 In addition, a number of individuals are obliged to adhere to high professional standards set by their respective professional statutory bodies' Code of Conduct, or equivalent regimes.

### **3 Conflicts of Interest**

- 3.1 In the performing of their duties, individuals are expected at all times to act with integrity and objectivity in the best interests of the CCG, and must not use their position for personal advantage or gain. Individuals are to avoid circumstances that give rise to an actual or potential Conflict of Interest.
- 3.2 Individuals will familiarise themselves, and act in accordance, with the CCG's Conflict of Interest Policy. Key definitions and extracts are set out below for ease of reference.
- 3.3 In addition to the Conflicts of Interest Policy the CCG has created a supplementary policy which builds upon and strengthens the provisions of the Conflicts of Interest Policy for joint working with the Pharmaceutical Industry. Staff must follow both the Conflicts of Interest Policy and the Sponsorship and Joint Working With The Pharmaceutical Industry Policy when working, or proposing to work, with the pharmaceutical industry.

#### Definition of a Conflict of Interest

- 3.3 A 'conflict of interest' is defined 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."<sup>1</sup>
- 3.4 A conflict of interest may be:
- a. Actual - there is a material conflict between one or more interests;
  - b. Potential – there is the possibility of a material conflict between one or more interests in the future.
- 3.5 As a general guide:
- a. Perception of wrongdoing, impaired judgement or undue influence can be as detrimental as any of them actually occurring;
  - b. If in doubt it is better to assume a conflict of interest exists and manage it, rather than ignore it; and
  - c. Financial gain is not necessary for a conflict to exist.

#### Types of Interest

- 3.6 Conflicts of interests can be split into four different categories:
- a. Financial Interests;
  - b. Non-financial Professional Interests;
  - c. Non-financial Personal Interests; and
  - d. Indirect Interests.
- 3.7 These are defined as follows:

---

<sup>1</sup> Paragraph 12 of NHS England's Managing Conflicts of Interest: Revised Statutory Guidance for CCGs 2017, published 16 June 2017.

- a. **Financial Interests** are where an individual may financially benefit from the consequences of a commissioning decision (for example, as a provider of services);
- b. **Non-financial Professional Interests** are 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;
- c. **Non-financial Personal Interests** are 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.
- d. **Indirect Interests** are 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 described above).

### Declarations of Interest

- 3.7 The CCG will ensure that those individuals identified in the scope of the Policy regularly declare any conflict or potential conflict. The individual is to declare the conflict to the CCG in any event within 28 days of identification of the conflict.
- 3.8 The CCG will ensure that regular declarations of interest are made and recorded, and in any event:
  - a. On appointment of an individual;
  - b. At meetings;
  - c. On changing role or responsibility or other relevant change of circumstance; and
  - d. When prompted by the CCG, annually.
- 3.9 Declarations are made by completing and signing the Declaration of Interest form (Appendix B of the Conflict of Interest Policy) and sending the signed declaration to the Board Secretary.
- 3.10 In the case of declarations made during a CCG meeting, the minutes ought to reflect the method by which the particular conflict management solution was arrived at. See the Governance Team for further assistance.

### Register of Interest

- 3.11 The CCG will maintain the following registers of interests:
  - a. Governing Board members;
  - b. Staff and Contractors;
  - c. Clinical Leads; and
  - d. Commissioning Leads at member practices.
- 3.12 The registers of interests will be published annually on the CCG's website, in addition to the CCG's Register of Gifts, Hospitality and Sponsorship, as well as being made available at the CCG's headquarters. They will be included in the CCG's Annual Report and Annual Governance Statement.

### Practical Guidance

- 3.13 Practical guidance in relation to Managing Conflicts of Interest during meetings and throughout the Commissioning Cycle can be found in the CCG's Conflicts of Interest policy.

## **4 Outside or Secondary Employment**

- 4.1 Individuals are required to seek approval from their line manager if they are engaged in or wish to be engaged in outside or secondary employment. The CCG reserves the right to refuse permission where it reasonably believes a conflict will arise.
- 4.2 Such outside or secondary employment must be declared in accordance with the CCG's Conflict of Interest Policy. The individual in question may be subject to further provisions of the CCG's HR policies.

## **5 Declaration of Gifts and Hospitality**

- 5.1 For details relating to the acceptance, declaration, and publication of Gifts, Hospitality, Donations, and Sponsorship see the CCG's Conflict of Interest policy. Individuals will familiarise themselves, and act in accordance, with the CCG's Conflict of Interest policy. Those working (or proposing to work) with the pharmaceutical industry must also act in accordance with the Sponsorship and Joint Working With The Pharmaceutical Industry Policy. Key definitions and extracts from the Conflicts of Interest Policy are set out below for ease of reference.

### Gifts

- 5.2 A 'gift' is defined as "any item of cash or goods, or any service, which is provided for personal benefit, free of charge, or at less than its commercial value"<sup>2</sup>
- 5.3 Any personal gift of cash or cash equivalent (e.g. vouchers), in any circumstances, must be declined and declared.
- 5.4 Gifts from suppliers or contractors doing business, or likely to do business with the CCG:
- Should be declined and declared, whatever their value (subject to b. below);
  - Branded promotional aids (such as pens or post-it notes) may be accepted where they are under the value of £6<sup>3</sup> in total, and need not be declared.
- 5.5 With regards to gifts from other sources (e.g. patients, families, service users):
- Staff should not ask for any gifts;
  - Gifts valued at under £50 may be accepted and do not need to be declared;
  - Gifts valued at over £50 should be treated with caution and only be accepted on behalf of the CCG, not in a personal capacity. In any event these should be declared by staff;
  - A common sense approach should be applied to the valuing of gifts (an estimate that a reasonable person would make as to its value, if the actual value is not known);

---

<sup>2</sup> Paragraph 32 of NHS England's Managing Conflicts of Interest: Revised Statutory Guidance for CCGs 2017, published 16 June 2017.

<sup>3</sup> The £6 value has been selected with reference to existing industry guidance issued by the ABPI:

<http://www.pmcpa.org.uk/thecode/Pages/default.aspx>

- e. Multiple gifts from the same source over a 12 month period should be treated in the same way as single gifts over £50 where the cumulative value exceeds £50.

## Hospitality

- 5.6 Hospitality means offers of meals, refreshment, travel, accommodation, and other expenses in relation to attendance at meetings, conferences, education and training events etc.<sup>4</sup>
- 5.7 Meals and refreshments:
  - a. Under a value of £25 - may be accepted and need not be declared;
  - b. Of a value between £25 and £75<sup>5</sup> - may be accepted and must be declared;
  - c. Over a value of £75 - should be refused unless (in exceptional circumstances) senior approval is given. A clear reason should be recorded on the organisation's register(s) of interest as to why it was permissible to accept;
  - d. A common sense approach should be applied to the valuing of meals and refreshments (an estimate that a reasonable person would make as to its value, if the actual value is not known).
- 5.8 Travel and accommodation:
  - a. Modest offers to pay some or all of the travel and accommodation costs related to attendance at events may be accepted and must be declared.
  - b. Offers which go beyond modest, or are of a type that the CCG might not usually offer, need approval by the Governance Team. They should only be accepted in exceptional circumstances and must be declared. A clear reason should be recorded on the organisation's register(s) of interest as to why it was permissible to accept travel and accommodation of this type. A non-exhaustive list of examples includes:
    - i. Offers of business class or first class travel and accommodation (including domestic travel);
    - ii. Offers of foreign travel and accommodation.

## Declarations of Gifts, Hospitality and Sponsorship

- 5.9 Declarations are made by completing and signing the Declaration of Gifts, Hospitality, and Sponsorship (Appendix D of the CCG's Conflict of Interest policy) and sending the signed declaration to the CCG Board Secretary. It may also be necessary to sign and submit a Declaration of Interest, circumstances dependant.

## **6 Charitable Collections**

- 6.1 The CCG supports individuals who wish to undertake charitable collections amongst immediate colleagues. The CCG's authorisation of such charitable collections does not equate to endorsement of the charity in question or its principles, methods, or outcomes.

---

<sup>4</sup> Paragraph 37 of NHS England's Managing Conflicts of Interest: Revised Statutory Guidance for CCGs 2017, published 16 June 2017.

<sup>5</sup> The £75 value has been selected with reference to existing industry guidance issued by the ABPI <http://www.pmcpa.org.uk/thecode/Pages/default.aspx>

- 6.2 Any charitable collections which reference the CCG must be authorised in writing by a director in advance of the event and/or collection(s).

## **7 Political Activity**

- 7.1 Any political activity should not identify an individual's relationship with the CCG. Conferences or functions run by a party political organisation should not be attended in an official capacity, except where the same has been authorised in writing by a director in advance of the event.
- 7.2 Governing Body members, clinical leads, staff and interim contractors should declare any formal links to political parties on their Declaration of Interests Form.

## **8 Personal Conduct**

### Public Comment

- 8.1 All Individuals must respect, promote, and act consistently with the CCG's corporate decisions, whether agreed with or otherwise. The private views of Individuals can be made public, however, it must be made clear that they are expressing their personal view and not that of the CCG.
- 8.2 In speaking in public, whether to the media, in a public forum, in a private forum or informal discussion (including expressing views on or through Social Media), Individuals should ensure that they reflect current policies or the view of the CCG. For any public forum or media interview approval from the Board, the Chair and/or Accountable Officer or nominated deputies, and the CCG's Communication Team prior to the event or as soon as is practical thereafter.
- 8.3 Comments made in the circumstances outlined in 8.1 and 8.2 above ought to be well considered, sensible, well informed and made in good faith. They are to be made in the public interest, without malice, and that they may enhance the reputation of the CCG. Nothing in this policy generally or this section 8 prohibits or restricts an individual's ability to make a protected disclosure in line with the Counter Fraud, Bribery and Corruption Policy or the CCG's Speaking Up (Whistleblowing) Policy.

### Confidentiality

- 8.4 Individuals must at all times act in accordance with the Data Protection Act 2018 and the General Data Protection Regulations 2016 and maintain the confidentiality of information of any type, including but not restricted to patient information; personal information relating to officers; and commercial information. This duty remains after the Individual leaves the CCG, however previously retained.
- 8.5 For the avoidance of doubt, the provisions of the Policy do not prevent the disclosure of information where there is a lawful basis for doing so. Staff should refer to the suite of CCG Information Governance policies for detailed information.

### Private Financial matters

- 8.6 No individual may gamble when on duty or on CCG premises, with the exception of small lottery inter-colleague syndicates or sweepstakes related to national events such as the World Cup or Grand National where no profits are made or the lottery is wholly for purpose that are not for private or commercial gain (e.g. for charitable purposes).

- 8.7 Individuals are encouraged not to lend or borrow money, whether informally or as a business, to or from their work colleagues.
- 8.8 Trading on the CCG's premises is prohibited, whether for personal gain or on behalf of others. This prohibition includes but is not limited to flyers advertising services/products in common areas.
- 8.9 Individuals are to familiarise themselves with and act in accordance with any HR policy or guidance in relation to Individual Voluntary Arrangements, County Court Judgments, Bankruptcy/Insolvency and or Criminal convictions.

## 9 Raising Concerns

- 9.1 If an individual has concerns regarding the suspected or known breach of, or non-compliance with, this policy they are to contact the Board Secretary or Governance Team in the first instance, as soon as is reasonably possible (on an informal basis).
- 9.2 Where deemed necessary, due to the severity and/or complexity of the material event, the Board Secretary or Governance and Risk Leads will escalate the report to the Head of Governance and Risk and a report will be completed. Reports are to be made using the Reporting Form at **Appendix C**. Individuals should also be advised that they are able to contact the Conflicts of Interest Guardian on a strictly confidential basis.
- 9.3 Where a suspected breach also includes suspected commission of fraud or bribery, this should be reported to the CCG's Local Counter Fraud Specialist team or directly to the NHS Counter fraud Authority.

The Local Counter Fraud Specialists:

[matt.wilson2@nhs.net](mailto:matt.wilson2@nhs.net) or +44 (0)7484 040691

[kate.harrington-stillwell@nhs.net](mailto:kate.harrington-stillwell@nhs.net) or +44 (0)7778 862 713

NHS Counter Fraud Authority:

<https://cfa.nhs.uk/reportfraud> or 0800 028 4060.

- 9.4 The CCG is committed to fostering an environment that encourages Individuals to raise concerns relating to malpractice within the CCG, and to investigate matters raised thoroughly promptly and confidentially. Individuals are referred to the Speaking Up (Whistleblowing) Policy and particularly the Procedures contained within.

## 10 Breaches of the Policy

### Failure to Disclose or Declare

- 10.1 There will be situations when interests, and offers of gifts, hospitality and sponsorship will not be identified, declared or managed appropriately and effectively. This may happen innocently, accidentally, or because of the deliberate actions of staff or other organisations. For the purposes of the Policy these situations are referred to as 'breaches'.
- 10.2 Failing to respond to a request for information in relation to the Policy, including a request to submit a declaration form, will also be considered a breach of the Policy.

- 10.3 The CCG takes the failure to comply with this and other policies seriously. If an individual fails to declare an interest or the full details of an interest, and/or offers of gifts, hospitality and sponsorship, or otherwise breach the Policy this may result in disciplinary action being undertaken. Please see the CCG's Disciplinary Policy for more information.
- 10.4 It is an offence under the Fraud Act 2006 for personnel to fail to disclose information to the CCG in order to make a gain for themselves or another, or to cause a loss or expose the organisation to a loss. Therefore, if an individual becomes aware of any financial or other irregularities or impropriety which involve evidence or suspicion of fraud, bribery or corruption they should contact the Local Counter Fraud Specialist in accordance with the CCG's Counter Fraud, Bribery and Corruption Policy with a view to an appropriate investigation being conducted and potential prosecution being sought.
- 10.5 Breaches of this policy addressed internally may result in a Governing Body member being removed from office in line with the CCG's Constitution. A contractor may be prevented from obtaining further work with the CCG or an employee may face disciplinary action which may lead to sanctions including dismissal. Breaches which amount to criminal offences may result in criminal prosecution and civil recovery action.

#### Identifying and Reporting Breaches

- 10.6 Staff who are aware of actual breaches of the Policy, or who are concerned that there has been, or may be, a breach, should report these concerns to the Governance Team.
- 10.7 To ensure that interests are effectively managed staff are encouraged to discuss actual or perceived breaches. Every individual has a responsibility to do this.
- 10.8 The CCG will investigate each reported breach according to its own specific facts and merits, and give relevant parties the opportunity to explain and clarify any relevant circumstances. For further information about how concerns should be raised please see the Speaking Up (Whistleblowing) Policy.
- 10.9 Following investigation, the CCG will:
- a. Decide if there has been or is potential for a breach and if so what the severity of the breach is;
  - b. Assess whether further action is required in response – this is likely to involve any staff member involved and their line manager, as a minimum;
  - c. Consider who else inside (and outside, e.g. the CQC, GMC, NMC, etc) the CCG should be made aware;
  - d. Take appropriate action.
- 10.10 A flow diagram of the process of managing policy breaches is annexed to this policy at **Appendix B**.

#### Taking Action in Response to Breaches

- 10.10 Action taken in response to breaches of the Policy will be in accordance with the disciplinary procedures of the CCG and could involve organisational leads for staff support (e.g. Human Resources), fraud (e.g. Local Counter Fraud Specialists), members of the management or executive teams and the CCG's auditors.
- 10.11 Breaches could require action in one or more of the following ways:

- a. Clarification or strengthening of existing Policy, process and procedures;
- b. Consideration as to whether HR/employment law/contractual action should be taken against staff or others;
- c. Consideration being given to escalation to external parties. This might include referral of matters to external auditors, the NHS Counter Fraud Authority, the Police, statutory health bodies (such as NHS England, NHS Improvement or the CQC), and/or health professional regulatory bodies.

10.12 Sanctions should not be considered until the circumstances surrounding breaches have been properly investigated. However, if such investigations establish wrongdoing or fault then the CCG can and will consider the range of possible sanctions that are available, in a manner which is proportionate to the breach. This includes:

- a. Employment law action against staff, which might include:
  - i. Informal action (such as reprimand or signposting to training and/or guidance);
  - ii. Formal disciplinary action (such as formal warning, the requirement for additional training, re-arrangement of duties, re-deployment, demotion, or dismissal);
- b. Reporting incidents to the external parties described above for them to consider what further investigations or sanctions might be;
- c. Contractual action, such as exercise of remedies or sanctions against the body or staff which caused the breach;
- d. Legal action, such as investigation and prosecution under fraud, bribery and corruption legislation.

#### Learning and Transparency Concerning Breaches

10.13 Reports on any breaches, the impact of these, and action taken will be considered by the Audit Committee.

## **11 Criminal Implications**

11.1 Failure to manage conflicts of interest could lead to criminal proceedings including for offences such as fraud, bribery and corruption. This could have implications for the CCG and any linked organisations, and the individuals who are engaged by them.

#### Fraud Act 2006

11.2 The Fraud Act 2006 defines a number of offences including:

- a. Fraud by false representation;
- b. Fraud by failing to disclose information and;
- c. Fraud by abuse of position.

11.3 An essential ingredient of the offences is that, the offender's conduct must be dishonest and their intention must be to make a gain, or cause a loss (or the risk of a loss) to another. Fraud carries a maximum sentence of 10 years imprisonment and /or a fine if convicted in the Crown Court or 6 months imprisonment and/or a fine in the Magistrates' Court. The offences can be committed by a body corporate.

#### Bribery Act 2010

11.4 Office holders, officers, Staff, Clinical Leads, members, committee and sub-committee members of the CCG and members of the Governing Body (and its committees) should be aware that in committing an act of bribery they may be subject to a penalty of up to

ten years' imprisonment, a fine, or both. They may also expose the organisation to a conviction punishable with an unlimited fine.

- 11.5 They should also be aware that a breach of this Act, or of this guidance, renders them liable to disciplinary action by the CCG whether or not the breach leads to prosecution. Where a material breach of this guidance is found to have occurred, the likely sanction will be dismissal.
- 11.6 In short, the offences cover the offering, promising or giving of a financial or other advantage and the requesting, agreeing to receive or accepting of a financial or other advantage where the overall intention of such an action is to bring about an improper performance or a relevant function or activity.
- 11.7 The organisation may be liable where a person associated with it commits an act of bribery. An associated person is defined by the Act as a person who 'performs services' for or on behalf of the organisation. This person can be an individual or an incorporated or unincorporated body, and the capacity in which a person performs services for or on behalf of the organisation does not matter.
- 11.8 The CCG will have a defence to the corporate offence if it can show that, despite a particular case of bribery, it nevertheless had 'adequate procedures' in place to prevent persons associated with it from committing bribery offences in line with the Ministry of Justice guidance<sup>6</sup>. The adequate procedures should be informed by the following six principles:
  - a. Proportionate procedures;
  - b. Top-level commitment;
  - c. Risk assessment;
  - d. Due diligence;
  - e. Communication (including training);
  - f. Monitoring and review.
- 11.9 Full compliance with the requirements of this policy is expected of office holders, officers, staff, members, committee and sub-committee members of the CCG and members of the Governing Body (and its committees) in order to demonstrate the CCG's commitment to openness and transparency, in the spirit of the Act.

## 12 Related Documents

- 12.1 The following documents contain information that relates to this policy:
  - a. Conflicts of Interest Policy;
  - b. Counter Fraud, Bribery and Corruption Policy;
  - c. Speaking Up (Whistleblowing) Policy;
  - d. Disciplinary Policy;
  - e. Equality and Diversity Policy;
  - f. Procurement Policy;
  - g. Sponsorship and Joint Working With The Pharmaceutical Industry Policy;
  - h. The CCG Constitution;
  - i. Standing Financial Instructions.

---

<sup>6</sup> <https://www.justice.gov.uk/downloads/legislation/bribery-act-2010-guidance.pdf>

### **13 Dissemination**

- 13.1 This policy will be published on the CCG's staff intranet and website for access by all CCG employees and other relevant individuals.

### **14 Advice**

- 14.1 Advice on the Policy can be sought from the Board Secretary and/or the Governance Team. Advice in relation to interpretation requirements and policy and procedure can also be sought from the Governance Team].

### **15 Compliance Monitoring**

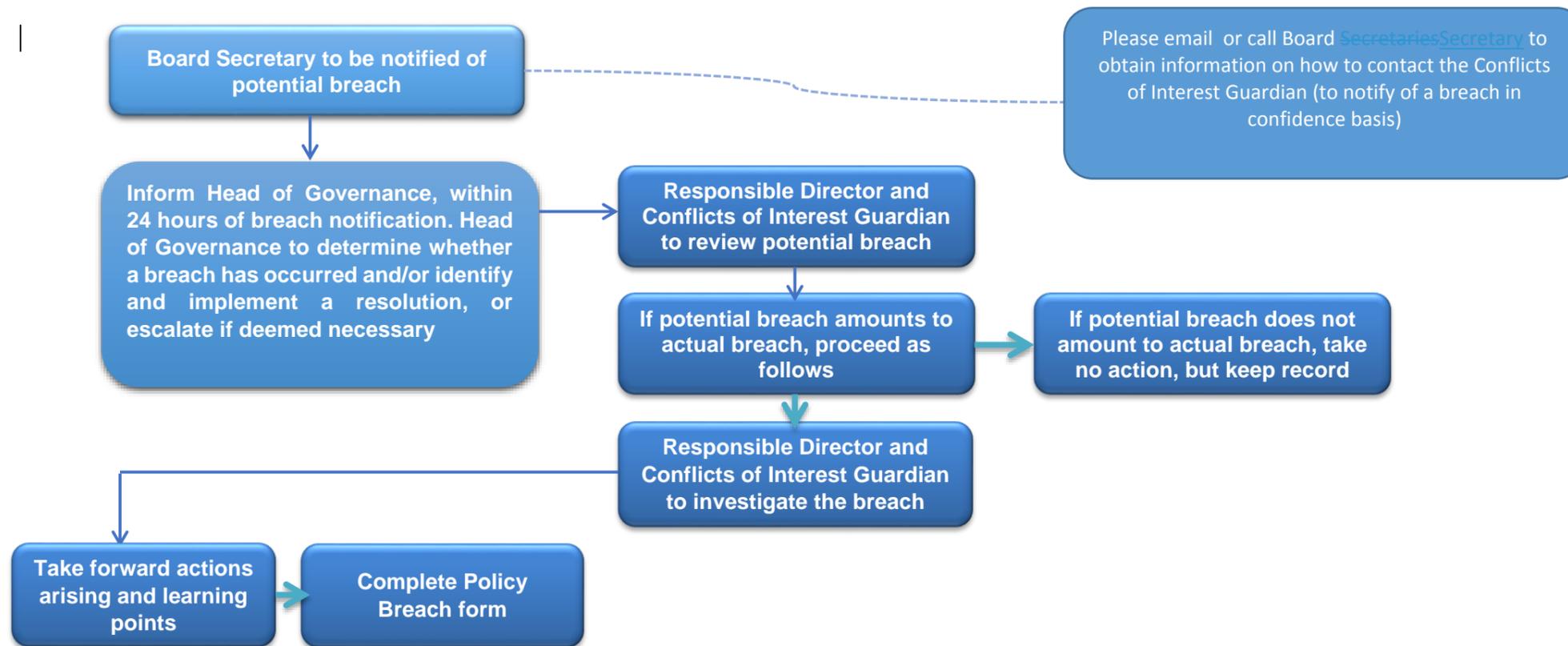
- 15.1 The Audit Committee will require assurance annually on compliance with the Policy as part of its assurance programme.

## 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 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.

## Process for managing policy breaches

## Appendix B



**Appendix C**

**Breach Reporting Form for CCG Staff and Members**

<b>Date of Breach</b>	
<b>Details of breach the policy</b>	
<b>Immediate Action Taken</b>	
<b>Actions Taken to Mitigate the risk</b>	
<b>Learning/Actions Arising: [Please complete &amp; state None if nothing/no action]</b>	
<b>Other Information</b>	
<b>To be completed by the relevant Executive Director</b>	
<b>Date COI Guardian was notified of breach</b>	
<b>Is this a Material Breach? (Definition of materiality breach to be agreed)</b>	
<b>Date Material breach was reported to NHS England?</b>	

I certify that the information I have given in this declaration form is correct and to the best of my knowledge. Should it later be discovered that I have given false information, I understand that my employment/contract could be terminated by dismissal and that I may be subject to criminal investigation.'

Name of employee.....Signature of  
Employee.....

Date.....

Name of Line Manager.....Signature of Line  
Manager.....

Date.....

Executive Director

Signature.....Date.....

*This form must be completed and returned to the Board Secretary within five working days of the initial report to the Conflicts of Interest Guardian.*

Please return this form to: The Board Secretary

**Signed:**

**Date:**