

Managing Conflicts of Interest Policy

ICB/GB/070/V3.0



AMENDMENT HISTORY

VERSION	DATE	AMENDMENT HISTORY
0.1	April 2022	First Draft
ICB/GB/070/V1.1	June 2022	Unique identifier issued
2.0	April 2023	Changes agreed by Audit and Governance Committee
3.0		

REVIEWERS

This document has been reviewed by:

VERSION	DATE	NAME	TITLE/RESPONSIBILITY
0.1	April 2022	Peter McKenzie	Head of Corporate Governance Programme
1.1	April 2023	Peter McKenzie	Head of Corporate Governance Programme
2.1	July 2024	Peter McKenzie	Head of Corporate Governance Programme

APPROVALS

This document has been approved by:

VERSION	DATE	COMMITTEE
1.0	July 2022	Integrated Care Board
2.0	April 2023	Audit and Governance Committee
3.0	July 2024	Audit and Governance Committee

RELATED DOCUMENTS

These documents will provide additional information:

REFERENCE NUMBER	DOCUMENT TITLE	VERSION
	Information Governance Policy	



Table of Contents

1.0	Introduction and Purpose	3
2.0	Legislation and Governance.....	3
3.0	Roles and Responsibilities	4
4.0	Definition of an Interest.....	5
5.0	Declaring Conflicts of Interest.....	6
6.0	Gifts and Hospitality	8
7.0	General Principles for Management of Conflicts of Interest.....	9
8.0	Managing Conflicts of Interest at Meetings.....	10
9.0	Managing Conflicts in Procurement and Contracting	11
10.0	Managing Conflicts during other specific activities or tasks	12
11.0	Training	12
12.0	Raising Concern and Breaches.....	13
13.0	Review of Policy	14



1.0 Introduction and Purpose

- 1.1 Conflicts of interest, both actual and perceived, are an inevitable aspect of public life and it is crucial that public bodies such as the Integrated Care Board (ICB) have robust arrangements for managing them. As an NHS Body, the ICB is required to adopt arrangements that ensure it is able to recognise and deal with potential conflicts of interest to ensure that they are managed effectively and do not have undue influence on decisions about the use of public money.
- 1.2 This policy aims to set out the key principles for how the ICB will manage any actual or perceived conflicts of interest that arise in the course of its activities. It will, in conjunction with broader national NHS England guidance, set out the definition of conflicts, the process for identifying and recording conflicts, how conflicts will be managed, key sources of advice and guidance on the management of conflicts of interest and the consequences of breaching the policy. The policy demonstrates how the ICB will operate within the relevant legal framework and its constitution and uphold trust and confidence with the public.
- 1.3 This policy applies to members of the NHS Black Country ICB, its employees, members of the Boards Committees, and all other individuals working on behalf of the ICB. This includes individuals who may be employed by other organisations (for example representatives of partner organisations who are members of ICB Committees). Everybody to whom this policy applies should ensure that they understand its provisions and act in accordance with it. The Policy will be subject to review and if necessary amendment as and when required.

2.0 Legislation and Governance

- 2.1 This policy has been drafted in accordance with the relevant legislation and guidance, including Section 14Z30 of the NHS Act 2006 which sets out that the ICB must make arrangements to manage conflicts of interest, including:
- Maintaining and publishing registers of interests for ICB Members, employees and members of committees and sub-committees
 - Ensuring interests are declared and conflicts and potential conflicts are managed in a way that does not and does not appear to affect the integrity of decision making processes.
- 2.2 Section 12ZB of the 2006 Act also states that regulations may be made to set further rules governing the procurement of health care services to include details of how conflicts of interest will be managed. The Health Care Services (Provider Selection Regime) Regulations 2023 came into force in January 2024 and set out that relevant authorities must take appropriate measure to effectively prevent, identify and remedy conflicts of interest arising in the conduct of procurement processes covered by the Provider Selections Regime (PSR).
- 2.3 The PSR Regulations are supplemented by statutory guidance which provide further guidance on how conflicts of interest should be managed by all relevant authorities including specific requirements for ICBs. The principles set out in the guidance include:-
- Ensuring all decisions made under PSR are clearly and objectively directed towards the statutory aims and responsibilities of relevant authorities and that individuals involved in those decisions act in accordance with these aims and not in furthering their own interests.
 - Ensuring all personal and professional interests of all individuals involved in decisions under PSR are declared, recorded and managed appropriately.



- Relevant authorities should publish details of how any conflicts of interest have been managed alongside selection decisions.
- Specifically for ICBs, ensuring that any person who is involved in a PSR decision who is an employee, director, partner or otherwise holds a position within a provider taking part in a procurement process must recuse themselves from the decision making process.

2.4 Schedule 1B of the NHS Act 2006 requires the Constitution of the ICB to set out its arrangements for managing conflicts of interests and a statement of principles to be followed in doing so. The Black Country ICB's Constitution sets out the following principles for managing Conflicts of Interest:-

- To uphold the standards of Good Governance and openness and transparency at all times.
- To take a proactive and proportionate approach to the management of conflicts of interests.
- To require Board Members, Committee Members, Staff and others acting on behalf of the ICB to comply with agreed policies and procedures for the management of conflicts of interest.
- To maintain clear records of decisions made in relation to the management of conflicts of interest.

2.5 This policy builds on these principles by setting out detailed guidance for those covered by the ICB's arrangements on local processes for declaring managing conflicts of interest. It should be read alongside and links to other relevant guidance including NHS England guidance on managing Conflicts of Interest in the NHS and on ICB constitutions and governance, the NHS constitution, the good governance standard for public services 2004, the Nolan principles, the Equality Act 2010, the Bribery Act 2010, Fraud Act 2016, UK Corporate Governance Code and Standards for members of NHS Boards.

3.0 Roles and Responsibilities

3.1 The **Chief Executive** has overall responsibility for how the ICB manages conflicts of interests and every individual to whom this policy applies is responsible for acting in accordance with its requirements.

3.2 The **Conflict of Interest Guardian** (Chair of the Audit and Governance Committee) is responsible for strengthening the scrutiny and transparency of the ICB's decision making processes. Their role is set out in Paragraph 6.1.6 of the ICB's Constitution to:-

- Act as a conduit for members of the public and members of the partnership who have any concerns with regard to conflicts of interest.
- Be a safe point of contact for employees or workers to raise any concerns in relation to conflicts of interest.
- Support rigorous application of conflict of interest principles and policies.
- Provide independent advice and judgement where there is any doubt about how to apply conflicts of interest policies and principles in an individual situation.
- Provide advice on minimising the risks of conflicts of interest.

In the unlikely event that the independence of the conflict of interest guardian is brought into



question then independent expert advice will be secured.

- 3.3 The **Director of Digital and Governance** will be responsible for establish operational arrangements for managing conflict of interests in line with their overall responsibility for managing Corporate Governance arrangements.
- 3.4 The **Head of Corporate Governance Programme** and will manage the day to day management of conflicts of interest matters and queries and ensure appropriate administrative processes are in place. They will operationally manage the maintenance of the registers, support the conflict of interest guardian, and provide advice, support and guidance on how conflicts of interest should be managed.
- 3.5 The **Chairs** of all meetings must ensure that any conflicts of interest arising from the agenda items are managed. They must ensure that any conflicts of interest are declared, managed and recorded at the start of each meeting.
- 3.6 **ICB members, committee and sub-committee members and employees** must ensure that they complete the declaration of interest form as soon as it is requested and inform the Governance team of any change in professional or personal circumstances and ensure that any conflicts of interest are managed appropriately in the course of their work. **Please note – this requirement applies to representatives of other organisations who are members of ICB committees.**
- 3.7 When undertaking any recruitment (including for board members or committee and sub-committee members) the **appointing manager** with support from the governance lead and/or Conflicts of Interest Guardian, will give consideration to any conflicts of interests declared to establish whether the conflict is material to their suitability for appointment to the role on a case by case basis. If any area of interest is significant enough that the individual would be unable to sufficiently carry out their role, then the individual should not be appointed.

4.0 Definition of an Interest

- 4.1 A conflict of interest occurs when an individual's ability to exercise judgement or act in a role is, could be or is seen to be impaired or otherwise influenced by their involvement in another role or relationship. It is where there is or could be a clash between the personal or private interests of an individual and the ICB, where this would affect that individual's performance of their ICB duties.
- 4.2 This definition covers both actual conflicts of interest (where there is material conflict between one or more interests) and perceived conflicts of interest (where an impartial observer could reasonably suspect there to be a conflict of interest regardless of whether there is one or not). It also applies to circumstances where a potential conflict (either actual or perceived) could arise in the future.



5.0 Declaring Conflicts of Interest

5.1 All persons to whom this policy applies must declare any of the following categories of interests:-

- **Financial interests** – this is where an individual may get direct financial benefits from the consequences of a decision they are involved in making. For Example:-
 - Being a director, non-executive director senior manager or acting as a management consultant in a private or public limited company or other organisation which is doing or likely to do business with health or social care organisations.
 - Being a shareholder or similar ownership interests, a partner or owner of a private or not-for-profit company, business, consultancy which is likely or seeking to do business with health or social care organisations.
 - Any secondary employment.
 - Being in receipt of any secondary income or grant from a relevant organisation (including honoraria, pension, one-off payments, allowances, travel or subsistence)
 - Being in receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role.
 - Any patents or other intellectual property rights held (individually or by association with a commercial or other organisation), where items may be procured or used by the ICB.

- **Non-Financial Professional Interests** – this is where an individual may obtain a non-financial professional benefit from the consequences of a decision they are involved in making, such as increasing their professional reputation or status or promoting their professional career. For example:-
 - Being an advocate for a particular group of patients.
 - Being a GP with special interests.
 - Being a member of a particular specialist professional body.
 - Being an advisor for CQC or NICE.
 - Being a medical researcher.

- **Non-Financial Personal Interests** – this is where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit from a decision they are involved in making for example:-
 - Being a volunteer or voluntary sector champion for a relevant organisation.
 - Being a member of a voluntary sector board or has any other position of authority in or connection with a voluntary sector organisation.
 - Being in receipt of an IFR (this can be made confidentially with the conflict of interest guardian (COIG) to preserve the right to confidentiality).
 - A member of a lobby or pressure group with an interest in health.
 - A reconfiguration of hospital services which might result in the closure of a busy clinic next door to an individual's house

- **Indirect interests** – this is where an individual has a close association with another individual who has a financial interest, a non-financial professional interest or a non-financial personal interest in a commissioning decision who would stand to benefit from a decision



they are involved in making. This would include a spouse or partner, close relative or friend or a business partner.

These lists are not exhaustive. If individuals are unsure whether to declare an interest then guidance can be sought from the Conflict of Interest Guardian, the Chair or the Governance team.

- 5.2 Declarations of any interests covered under the categories listed above must be made:-
- **On appointment** - applicants for appointments to be a member of or work for the ICB, will be asked to make a formal declaration of interests prior to appointment to enable a consideration of whether any conflicts exist that cannot be effectively managed.
 - **Every 12 months** – a nil return should be recorded if there are no declarations to be made.
 - **On changing role or responsibility**- whenever an individual's role or responsibilities change in a way that affects the individuals interests they are required to update their declaration of interest on Civica Declare as soon as possible or within 28 days. It is the individual's responsibility to initiate this. This could be to either remove or add an interest.
 - **During specific activities** – when an individual is asked to be part of a specific piece of work or activity as part of their normal role, that may give rise to actual or potential conflicts of interest, due to the nature of the task.
 - **On any other change of circumstance** – as soon as the individual becomes aware and by law not later than 28 days after becoming aware of the conflict.
- 5.3 All staff are required to register their declarations of interest through Civica Declare which will automatically update the ICBs master register. If you are unsure please email the bcicb.doi@nhs.net inbox.
- 5.4 Where members of ICB Committees or other persons working on behalf of the ICB do so in their capacity with another organisation in the system (for example as a partner member of the ICB) and they have made a declaration of interests in their substantive role they will ensure that details of those declarations are included in the ICB registers.
- 5.5 The declaration of interest registers are stored centrally in the governance department. They are routinely updated annually and when there are any additional interests declared by individuals. The register will be made available to the public from the ICB website and will be made available upon request at the ICB's offices for individuals without internet access. All interests will remain on the public register for a minimum of 6 months after the interest has expired. The ICB will retain a record of the registers for a minimum of 6 years after the date on which it expired.
- 5.6 In exceptional circumstances, where the public disclosure of information could give rise to a real risk of harm or is prohibited by law, an individual's name and/or other information may be redacted from the publicly available register(s). Where an individual believes that substantial damage or distress may be caused, to him/herself or somebody else by the publication of information about them, they are entitled to request that the information is not published. Such requests must be made in writing. Decisions not to publish information must be made by the



Conflicts of Interest Guardian for the ICB, who should seek appropriate legal advice where required, and the ICB should retain a confidential un-redacted version of the register(s).

6.0 Gifts and Hospitality

- 6.1 All gifts and hospitality will be managed through the Civic Declare System. If you are unsure please email the bcicb.doi@nhs.net inbox.
- 6.2 All individuals need to consider the risks associated with accepting offers of gifts, hospitality and entertainment when undertaking activities for or on behalf of the ICB. Individuals must not ask for gifts and must not accept gifts or hospitality or other benefits which might reasonably be seen to compromise their professional judgement or integrity. This is especially important during procurement exercises as the acceptance of gifts could give rise to real or perceived conflicts of interests or accusations of unfair influence, collusion or canvassing. Staff and individuals should also be mindful of the provisions of the Bribery Act 2010, which makes the offering, giving, seeking or receiving of any 'financial or other advantage' in return for the improper performance of any function of a public nature a criminal offence.
- 6.3 All individuals must comply with the gifts and hospitality declaration requirements including completing the gifts and hospitality form via Civica Declare.

Gifts

- 6.4 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. All cash or cash-equivalent gifts ie tokens or vouchers, regardless of their source must be declined and declared on the register.
- 6.5 Gifts from current or potential contractors or suppliers should be declined and declared. An exception to this are promotional aids to the value of £6 or less which can be accepted and do not need to be declared for example items that are acquired at events or conferences e.g. diaries, pens or calendars worth less than £6. All other gifts, whatever their nature or value, must be declined and declared on the gifts and hospitality register.
- 6.6 Gifts from other sources i.e. patients and services users can be accepted and not declared if under £50. Gifts valued at over £50 should be treated with caution. They can be accepted and declared on behalf of the organisation i.e. to a charitable fund but never in a personal capacity.

Hospitality

- 6.7 Hospitality covers any food, drink, refreshments, travel, accommodation and other expenses in relation to attendance at meetings, conferences, education and training events etc. staff should not ask for hospitality. Staff receiving hospitality should always be prepared to justify why it has been accepted, and be mindful that even hospitality of a small value may give rise to perceptions of impropriety and might influence behaviour.



- 6.8 Hospitality must only be accepted where there is a legitimate business reason and is proportionate to the nature and purpose of the event and declared in line with the guidelines below:-
- **Meals and refreshments:-**
 - under a value of **£25** may be accepted and need not be declared
 - of a value between **£25** and **£75** may be accepted and must be declared
 - Over a value of **£75** should be refused unless in exceptional circumstances senior approval is given. A clear reason should be recorded on the register as to why it was permissible to accept.
 - **Travel and Accommodation:-**
 - 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
 - Offers which go beyond modest or are of a type that the ICB itself might not usually offer need approval by the Conflict of Interest Guardian and should only be accepted in exceptional circumstances. A clear reason should be recorded on the register as to why it was permissible to accept.
- 6.9 Hospitality offered by suppliers or contractors linked, currently or prospectively, to ICB business must be declared regardless of whether it was accepted or not. Individuals should obtain line management approval prior to accepting any such offers.

7.0 General Principles for Management of Conflicts of Interest

- 7.1 As highlighted above, the ICB's constitution sets out the broad principles it will follow in managing conflicts of interest. All individuals covered by this policy must comply with the arrangements outlined below and any instructions given to them under those arrangements.
- 7.2 When an actual or potential conflict of interest is identified, the individual with the conflict of interest must ensure that it is declared and appropriately recorded (for example in the minutes of the relevant meeting). The Chair of a meeting or the lead for the activity will then determine the appropriate action to be taken to mitigate the conflict. Where the conflict only becomes apparent in the course of activity, transactions or meetings, the interest must be declared at the point the conflict is identified and their interest and any action taken to mitigate it communicated to all relevant parties.
- 7.3 In line with national guidance, actions to mitigate actual or potential conflicts of interest should be proportionate and should seek to preserve the spirit of collective decision-making wherever possible. Mitigation should take account of a range of factors including the perception of any conflicts and how a decision may be received if an individual with a perceived conflict is involved in that decision, and the risks and benefits of having a particular individual involved in making the decision. The Conflict of Interest Guardian and the ICB Corporate Governance Team will act as a source of advice and guidance on actions to be taken.



- 7.4 Potential options in relation to mitigation could include:
- Including a conflicted person in the discussion but not in decision making;
 - Excluding a conflicted person from both the discussion and the decision making;
 - Including a conflicted person in the discussion and decision where there is a clear benefit to them being included in both after careful consideration of the risk. Where a conflicted person from is included in decision making the rationale for inclusion should be properly documented and included in minutes.
 - Excluding the conflicted individual and securing technical or local expertise from an alternative, unconflicted source.
- 7.5 Where a decision is taken to exclude individuals with a conflict of interest from discussion and decision making, they should also not be party to any information relating to the matter in which they have a conflict other than information that is publicly available. This means that, if they are a member of the ICB or a committee, they should not receive copies of any private papers relating to the matter in which they have a conflict of interest.
- 7.6 In line with the regulations and statutory guidance on PSR and established practice in the NHS, where decisions are being taken as part of a formal competitive procurement of services, any individual who is associated with an organisation that has a vested interest in the procurement should recuse themselves from the process.
- 7.7 **Any action taken to mitigate conflicts of interests and, where appropriate, the rationale for doing so, will be appropriately recorded and communicated as part of the process.**

8.0 Managing Conflicts of Interest at Meetings

- 8.1 All attendees are required to declare their interests as a standing agenda item for every ICB, ICB committee, sub-committee or working group meetings before any substantive items of business are discussed. Committee register of declarations will also be shared to support the Chair in the management of conflicts of interest. Even if an interest has been declared that is recorded on the register it should still be declared if it is relevant to the agenda item at the meeting. The minutes of the meeting will record any declarations of interest that are declared at the meeting and any action taken.
- 8.2 Participants must be specific when declaring interests. They should state which agenda item their interest relates to, the nature of the interest and whether or not their interest creates a potential conflict of interest. If a declaration is made, the detail of the declaration and its management must be recorded in the minutes. This must include who has the interest, the nature of the interest and type of conflict, the agenda item it relates to, the management of the conflict and evidence that this was managed as intended. The Corporate Governance team must be informed of all new declarations of interest raised during the meeting in order to update the register.
- 8.3 If a member or other invited attendee becomes aware of an interest during the course of the



discussion on a particular item they must declare it as soon as they become aware of it and, if it has not previously been included in the register of interests, take the steps outlined above to ensure the interest is registered.

- 8.4 If there is any doubt as to whether an interest that has been declared constitutes a conflict of interest advice should be sought from the Governance Team. In general terms, it is often safest to assume that a conflict does exist and act accordingly, particularly where the interest relates to a decision to be made at the meeting.
- 8.5 The Chair of a meeting has ultimate responsibility for deciding whether there is a conflict of interest and for taking the appropriate course of action in order to manage the conflict of interest. In the event that the Chair of a meeting has a conflict of interest, the vice chair is responsible for deciding the appropriate course of action to manage the conflict. If the Vice Chair is also conflicted then the remaining non conflicting members should agree between themselves how to manage the conflict. In making such a decision the Conflict of Interest Guardian may be consulted. It is good practice for the Chair with support from the Head of Corporate Governance Programme to pro-actively consider, identify and manage conflicts of interest ahead of the meeting taking place. This should include consideration of whether supporting papers for items where members may be conflicted, being circulated to them.

9.0 Managing Conflicts in Procurement and Contracting

- 9.1 The ICB must have particular regard to ensure that conflicts of interest in decisions relating to the procurement of goods and services are managed effectively. As highlighted above, the ICB is subject to the requirement of relevant regulations made under the National Health Service Act and will ensure:-
- All individuals involved in procurement decisions declare and manage any conflicts of interest appropriately.
 - Clear records associated with procurement decisions are maintained and published as appropriate in line with these requirements. This will include details of decisions made, who has made them and a summary of any conflicts of interest and how they have been managed and the award decision taken.
 - Any individual employed or holding a position with a provider involved in a procurement process recuses themselves from any procurement decisions.
- 9.2 In line with the requirements of the PSR Regulations and statutory guidance, the ICB has established processes to enable providers to make representations to the ICB about contract award decisions in certain circumstances during a 'standstill period'. These arrangements will ensure that, wherever possible, representations are reviewed by individuals not involved in the original decision and, where this is not possible, at least one individual not involved in the original decision is included in the review process.
- 9.3 Everyone involved in procurement and contracting decision making for the ICB will comply with



the requirements of this policy in exercising these responsibilities. This will include declaring and managing interests in meetings to review contract arrangements.

10.0 Managing Conflicts during other specific activities or tasks.

- 10.1 There may be, on occasions, where individuals are required to be part of specific tasks or activities, as part of their normal role, where the nature of their involvement could give rise to actual or potential conflicts of interest, for example if the specific task is to be part of an investigation team.
- 10.2 Where an actual or potential conflict of interest is identified, the individual must declare this to the lead of the activity as soon as the conflict is realised and should be documented appropriately.
- 10.3 In line with section 7.2 of this policy, the lead for the activity will then determine the appropriate action to be taken to mitigate the conflict.
- 10.4 Where advice on the management of any conflicts of interest is required, this should be sought from the governance team or the Conflicts of Interest Guardian.

11.0 Training

- 11.1 The Governance Team will ensure that all individuals covered by this policy receive appropriate training. The training will cover (but not be restricted to) the following key areas:-
- What is a conflict of interest?
 - Why is conflict of interest management important;
 - What are the responsibilities of the organisation you work for in relation to conflict of interests?
 - What should you do if you have a conflict of interest relating to your role, the work you do or the organisation your work for? (who to tell, where it should be recorded, what actions to take and the implications for your role);
 - How conflicts of interest can be managed;
 - What to do if you have concerns that a conflict of interest is not being declared or managed appropriately;
 - What are the potential implications of the ICB's rules and policies for Managing conflicts of interest.
- 11.2 For most individuals, including all members of the ICB and its committees and Sub-Committees, this will be through completion online training provided by NHS England. This training will support raising of awareness of the risks associated with conflicts of interest and support staff in managing conflicts of interest in practice. ICB Staff will be required to complete this training in line with the relevant HR Policies for Mandatory Training.



12.0 Raising Concerns and Breaches

- 12.1 There may be occasions when interests will not be identified, declared or managed appropriately and effectively. This may happen innocently, accidentally or because of the deliberate action of individuals or organisations. For the purposes of this policy this is known as a breach. A breach is a result of failure to comply with the conflict of interest policy or not declaring an interest that has or could be seen to influence involvement in another role or relationship. A concern is where someone raises an issue where there is genuine potential for a breach to have been made.
- 12.2 It is the duty of everyone to whom this policy applies to speak up about genuine concerns or breaches in relation to the administration of this policy. If there is genuine doubt then this should be raised as an informal concern rather than wait for additional evidence or individuals attempt to investigate it themselves.
- 12.3 Individuals should raise the concern or breach either verbally or in writing with the Head of Corporate Governance and/or the Conflict of Interest Guardian (COIG). If the conflict is concerning these individuals COIG, then another non-executive member of the ICB, the Chair or Chief Executive should be approached. The person raising the concern or breach will receive acknowledgement within two working days from the COIG.
- 12.4 Effective management of conflicts of interest requires an environment and culture where individuals feel supported and confident in declaring actual or suspected breaches of the policy. Individuals who raise concern or breach will be treated in line with the principles of the relevant whistle blowing policy and legislation and a have a right to request anonymity which means that whilst their identity will be known by the person the concern was reported to, this will not be disclosed to a third party unless there is a requirement to disclose it under law.
- 12.5 Each concern or breach will be investigated and judged on its own merits. The first action will be for the Head of Corporate Governance or COIG to speak to the involved individual/s to give them an opportunity to explain and clarify any relevant circumstances.
- 12.6 If the COIG determines that there is a case to answer they will commence an investigation. They will be supported by a team of individuals relevant to the case ie HR, the Fraud Officer or the Head of Corporate Governance to carry out an investigation proportionate to the concerns or breach raised. The COIG can source additional guidance, independent support or advice whenever they feel it necessary.
- 12.7 Once the investigation is complete the COIG, supported by the investigating team, will:
- Decide if there has been or there is a potential for an actual breach and its severity.
 - Assess whether further action is required in response - this is likely to involve any individual involved and their line manager or equivalent as a minimum.
 - Consider who else inside and outside the organisation should be made aware of the breach.
 - Take appropriate action such as clarifying existing policy, taking action against the individual responsible for the breach or escalating to external parties such as NHSE, police, auditors,



NHS Protect or statutory health bodies or regulatory bodies.

- 12.8 There may be occasions where it is necessary to consider taking action against individuals in relation to breaches. Such action should not be considered until the circumstances surrounding breaches have been properly investigated. However, if such investigations establish wrong-doing or fault then the ICB can and will consider the range of possible sanctions that are available, in a manner which is proportionate to the breach. This includes:
- Employment law action against staff, office holders and all individuals that are covered by the ICB's terms and conditions, which might include:
 - Informal action (such as reprimand, or signposting to training and/or guidance).
 - Formal disciplinary action (such as formal warning, the requirement for additional training, re-arrangement of duties, re-deployment, demotion, or dismissal).
 - Reporting incidents to the external parties for them to consider what further investigations or sanctions might be.
 - Contractual action, such as exercise of remedies or sanctions against the body or individual which caused the breach.
 - Legal action, such as investigation and prosecution under fraud, bribery and corruption legislation.
- 12.9 Upon receipt and throughout the process, the concern or breach will be logged onto a secure database by the Head of Corporate Governance Programme. This will include the management of the concern or breach, any learning and examples of good practice to share. The number of concerns, their management and the outcome of any investigation will be reported to the Audit and Governance committee. Details will be included in the Audit and Governance assurance report to the ICB. All conflict of interest reports will ensure that confidentiality is maintained. Where there is the potential for media interest this will be managed in line with the communications and engagement strategy.
- 12.10 All breaches will be reported. All reported breaches will be anonymised and reported on the ICB website and where appropriate detail learning and development taken by the ICB; for example, amendment to the policy or training materials. NHS England will be notified of any breaches in line with regulatory requirements for reporting.

13.0 Review of Policy

- 13.1 This policy will be reviewed by the Audit and Governance Committee on at least an annual basis. The Committee will approve any amendments to the Policy and will report to the ICB when it has done so.

