

Standards of Business Conduct Policy



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Applies To	South West London ICB (SWL ICB), Governing Body Members, Committee Members, and all staff working for, or on behalf of the ICB		
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Controlled Document

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Target Audience	South West London ICB (SWL ICB), Board Members, Committee Members, and all staff working for, or on behalf of South West London ICB
Brief Description	This policy describes the standards and public service values which underpin the work of the NHS and reflects current guidance and best practice which is applicable to everyone who works for or on behalf of ICB.
Action Required	Ensure that the contents of this Policy are shared at all Team Meetings

Change History

Version Number	Significant Changes
0.1	Draft ICB SoBC policy supersedes SWLCCG/G04. Updated to reflect naming conventions and strengthen context around person conduct responsibilities (sections 9-14) in line with NHSE/I SoBC Policy. Additionally, removal of previous content relating to Elected posts, and canvassing of votes from the Membership Body as part of Clinical Leadership roles.
1.1	Updated LCFS contact information
1.2	Updated policy names and references

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1. Introduction

- 1.1. The Standards of Business Conduct policy describes the standards and public service values which underpin the work of the NHS and reflects current guidance and best practice which all NHS South West London Integrated Care Board (hereby known as the ICB) Board members, committee and sub-committee members, and everyone who works for or on behalf of the ICB must follow. Through this policy individuals will be aware of their own responsibilities as well as the ICB's responsibilities as a corporate body.
- 1.2. Importantly, the policy draws attention to the consequences of non-compliance with the requirements which may include disciplinary action and/or legal action.
- 1.3. As well as promoting the standards of business conduct expected of public bodies, this policy aims to protect the ICB and everyone who works for or on behalf of the ICB from any suggestion of corruption, partiality, or dishonesty by providing a clear framework through which the organisation can provide guidance and assurance that individuals conduct themselves with honesty, integrity, and probity.
- 1.4. As a publicly funded organisation, we have a duty to set and maintain the highest standards of conduct and integrity. We expect the highest standards of corporate behaviour and responsibility from Board members and everyone who works for or on behalf of the ICB.
- 1.5. The policy should be read in conjunction with all relevant organisational policies which are developed and agreed in line with the principles set out in this policy.
- 1.6. The [NHS Constitution](#) sets out some of the key responsibilities of NHS staff. The ICB endorses the three crucial public service values which must underpin the work of the health service:
 - **Accountability** - everything done by those who work in the NHS must be able to stand the test of parliamentary scrutiny, public judgements on propriety and professional codes of conduct.
 - **Probity** - there should be an absolute standard of honesty in dealing with the assets of the NHS: integrity should be the hallmark of all personal conduct in decisions affecting patients, staff, and suppliers, and in the use of information acquired in the course of NHS duties and
 - **Openness** - there should be sufficient transparency about NHS activities to promote confidence between the NHS body and its staff, patients, and the public.
- 1.7. In addition to the public service values described above, all individuals within the scope of this policy are expected to act in accordance with the 'Seven Principles of Public Life' (Nolan Principles) which apply to all in the public service, and which are embodied within the ICB's Constitution. These are attached at Appendix 1.
- 1.8. Under the Prevention of Corruption Act (1916) any money, gift or consideration received by a public service employee from a person or organisation holding or seeking to obtain a contract will be deemed by the Courts to have been received corruptly, unless the employee can prove to the contrary

2. Scope

- 2.1. Everyone who works for or on behalf of the ICB is within the scope of the policy. This includes but is not limited to staff (interims, secondees, agency staff, contractors, sub-contractors, students, trainees, and apprentices) and employees of partner organisations who are members of the Board, sub-committees, or other decision-making groups.

- 2.2. It is recognised that some individuals are more likely than others to have a decision-making influence on the use of taxpayers' money, because of the requirements of their role. For the purposes of this guidance these people are referred to as 'decision making staff.'
- 2.3. Decision making staff are:
- Executive and non-executive members (or equivalent roles) of SWL ICB.
 - Members of the Board, committees, sub-committees, and advisory groups which contribute to direct or delegated decision making.
 - Staff at Agenda for Change (AfC) band 8d and above.
 - Staff who have the power to enter into contracts on behalf of the organisation and / or are involved in decision making concerning the procurement of services, purchasing of good, medicines, medical devices or equipment, and formulary decisions.

3. Responsibilities

- 3.1. The ICB is responsible for ensuring that the requirements of this policy and supporting documents are brought to the attention of all staff and that systems are put in place for ensuring that the guidelines are effectively implemented. These responsibilities are particularly important given the corporate responsibility set out in the Bribery Act (2010) for organisations to ensure that their anti-fraud and bribery procedures are robust. Such awareness will be promoted in:
- A clause statement written in Job Descriptions; and
 - Publication of this policy on the intranet for staff.
- 3.2. In line with the Managing Conflicts of Interest (including Gifts & Hospitality) Policy, the guiding principle is to ensure that decisions are made in the public interest by avoiding any undue influence.
- 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.'
- 3.4. A conflict of interest may be:
- **Actual** - there is a material conflict between one or more interests.
 - **Potential** – there is the possibility of a material conflict between one or more interests in the future.
- 3.5. Interests fall into the following categories:
- **Financial interests** - Where an individual may get direct financial benefit from the consequences of a decision they are involved in making.
 - **Non-financial professional interests** - 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 promoting their professional career.
 - **Non-financial personal interests** - 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, because of decisions they are involved in making in their professional career.
 - **Indirect interests** - 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 and could stand to benefit from a decision they are involved in making.

- **Gifts and hospitality** - acceptance of hospitality from current or prospective business contacts, and acceptance of gifts.

3.6. **All staff** must apply the following principles in the conduct of their employment:

- They must not accept gifts, hospitality, or benefits of any kind from a third party which might be perceived as compromising their personal judgement or integrity.
- They must not make use of their official position to further their private interests or those of others.
- They must declare any private interests which are relevant and material relating to the position they hold in the NHS.

3.7. In addition, staff must:

- Base all purchasing decisions and negotiations of contracts solely on achieving best value for money for the taxpayer.
- Refer to their line manager when faced with a situation for which the guidance available requires further interpretation.

3.8. If in any doubt, they must seek advice from the ICB's Senior Governance Advisor.

3.9. It is the responsibility of all staff to raise any concerns regarding staff business conduct.

3.10. All staff should ensure that they are not placed in a position that risks, or appears to risk, conflict between their private interests and their NHS duties.

3.11. The **Local Counter Fraud Specialist** (LCFS) is responsible for taking forward all anti-fraud work locally in accordance with national NHS Counter Fraud Authority standards and reports directly to the Chief Finance Officer. Adherence to the NHS Counter Fraud Authority counter fraud standards is important in ensuring that the organisation has appropriate counter fraud, bribery, and corruption arrangements in place.

3.12. The LCFS works with key colleagues and stakeholders to promote anti-fraud work and effectively respond to system weaknesses and investigate allegations of fraud and corruption. This will include the undertaking of risk assessments to identify fraud, bribery, and corruption risks at the ICB.

3.13. Suspected fraud, bribery, and corruption can be reported to:

- The LCFS: Kasia Gruszka who can be contacted on 020 3201 8530 or Kasia.Gruszka@rsmuk.com;
- Using the NHS Fraud and Corruption Reporting Line on Freephone 0800 028 40 60 or by filling in an online form at www.reportnhsfraud.nhs.uk, as an alternative to internal reporting procedures and if staff wish to remain anonymous.

3.14. Board, Committee/Sub-Committee Members, and individuals acting on behalf of the ICB, must act in accordance with this policy in circumstances whether they are either employed fully by the ICB, hold appointments with the ICB, are employed on a sessional basis or on an honorary contract, or provide services under a service level agreement with the ICB.

4. The Guidance in Practice

4.1. Overriding Principle

- 4.1.1. As a public body, the ICB has a duty to ensure fairness and honesty in its relationships with suppliers, contractors, service providers and service users or any other person or organisation with whom the ICB has or might have business connections.
- 4.1.2. All employees and others acting on behalf of the ICB must uphold the highest standards of business conduct within such relationships. This is important to ensure that no employee, especially those responsible for making decisions in relation to purchases and procurement, acts in any way that is inconsistent with the organisation's objectives or compromises the integrity of the business by accepting a gift in circumstances where it could influence, or be perceived to influence, that employee's business actions or decisions.
- 4.1.3. Everyone who works for or on behalf of the ICB, including its Board, Committee or sub-committee members must not accept any fee or reward for work done whilst on ICB matters other than that agreed under their terms and conditions of employment. As a general rule, employees should not accept gifts or hospitality arising from their employment or appointment with the ICB, except where these are of a token nature only, in which case employees should inform their manager. Further information is provided in the Managing Conflicts of Interest (including Gifts & Hospitality) Policy.

4.2. Commercial sponsorship

- 4.2.1. In recognition that NHS bodies work together, and in collaboration with other agencies, to improve health services for the populations they serve, the Department of Health published guidance 'Commercial Sponsorship: Ethical Standards for the NHS' (2000).
- 4.2.2. The guidance acknowledges that collaborative partnerships with industry can have a number of benefits. It advises that it is important to have a transparent approach about any proposed sponsorship which would benefit the ICB and for the ICB to consider fully the implications of a proposed sponsorship deal before entering into any arrangement. If any such partnership is to work, there must be trust and reasonable contact between the sponsoring company and the NHS.
- 4.2.3. For the purpose of this policy, commercial sponsorship is defined as:

'NHS funding from an external source, including of all, or part of, the costs of a member of staff, NHS research, staff training, pharmaceuticals, equipment, meeting rooms, costs associated with meetings, meals, gifts, hospitality, hotel, and transport costs (including trips abroad), provision of free services (speakers), buildings or premises.'

4.3. Procurement processes

- 4.3.1. When testing the market for potential providers of services and when initiating a procurement process to invite expressions of interest, tenders, or applications to an Any Qualified Provider framework, the ICB will ensure compliant notices are published on Contracts Finder and where required by the Public Contract Regulations 2015 (as amended), and where applicable on the Find a Tender Service.
 - No private, public, or voluntary organisation or company which may bid for ICB business should be given any advantage over its competitors, such as advance notice of ICB

requirements. This applies to all potential contractors, whether or not there is a relationship between them and the ICB, such as a long-running series of previous contracts.

- Each new contract should be awarded solely on merit, taking into account the requirements of the ICB and the ability of the contractors to fulfil them; and
- No special favour is to be shown to current or former employees or their close relatives or associates in awarding contracts to private or other businesses run by them or employing them in any capacity. Contracts may be awarded to such businesses when they are won in fair competition against other tenders, but scrupulous care must be taken to ensure that the selection process is conducted impartially, and that staff who are known to have a relevant interest play no part in the selection.

4.3.2. Public procurement ethics must be observed to avoid accusations of impropriety, and it is, therefore, essential to maintain a complete audit trail.

4.3.3. Anyone participating in procurement processes will be required to make a declaration of interest, in line with contract and policy processes. Declarations should be made when the interest arises, annually and at the start of each tendering process. Where individuals do not have any declarations, a nil declaration must be made.

4.3.4. The ICB's Contract and Procurement Policy will ensure the ICB's compliance with relevant procurement legislation, regulation, and guidance.

4.4. Private Transactions

4.4.1. Anyone working for or on behalf of the ICB, must not seek or accept preferential rates or benefits in kind for private transactions carried out with companies with which they have had, or may have, official dealings on behalf of the ICB. (This does not apply to concessionary agreements, negotiated with companies by NHS management, or by recognised staff interests, on behalf of all staff – for example, NHS staff benefits schemes).

4.5. Employees outside employment

4.5.1. The standard contract used across the ICB sets out terms concerning outside employment: 'Staff employed by SWL ICB are not precluded by their Contracts of Employment from accepting other employment outside of their working hours. However, staff must seek prior approval from their manager before accepting such employment and ensure that the employment does not in any way hinder or conflict with the interest of their employment with the SWL ICB or in any way contravene the Working Time Regulations. New staff already working elsewhere must inform their immediate manager on commencement of employment with SWL ICB.'

4.5.2. Any employee who may be considering outside employment should discuss this in the first instance with their line manager or director before undertaking the employment.

4.5.3. If staff wish to take on additional paid work, such as panel membership, speaking at conferences, undertaking peer review, which is directly related to their role in the NHS, the following process will apply:

- All requests to participate in additional activities must be submitted in writing to their director.
- If agreed, the assumption will be made that in these cases staff will be released for additional activities during work time with any remuneration to be paid directly to the ICB.
- Any participation in additional activities must be explicitly agreed with the relevant director and recorded; and
- In all cases staff must declare any additional paid work as part of the Declaration of Interests

process.

- 4.5.4. Employees must not engage in outside employment during any periods of sickness absence from the ICB. To do so may lead to a referral being made to the Local Counter Fraud Specialist for investigation which may lead to criminal and/or disciplinary action in accordance with the ICB's policy in relation to Anti-Fraud.

4.6. Donations in relation to the organisation

- 4.6.1. Employees must check with their line manager or director before making any requests for donations (e.g. to Charitable Funds) to clarify appropriateness and/or financial or contractual consequences of acquisition. Requests for equipment or services should not be made without the express permission of a senior manager.
- 4.6.2. Further guidance regarding Charitable Funds and gifts and donations can be requested from the Chief Finance Officer.
- 4.6.3. Any gifts to the organisation should be managed in accordance with the Managing Conflicts of Interest (including Gifts & Hospitality) Policy.

4.7. Patents and Intellectual Property

- 4.7.1. Individuals should declare other intellectual property rights they hold (either individually or by virtue of their association with a commercial or other organisation) relating to goods and services which are, or might reasonably be expected to be, procured, or used by the ICB.
- 4.7.2. Any patents, designs, trademarks, or copyright resulting from the work (e.g. research) of an officer carried out as part of their employment shall be the Intellectual Property of the ICB.
- 4.7.3. Where the undertaking of external work, gaining patent or copyright or the involvement in innovative work, benefits or enhances our reputation or results in financial gain, consideration will be given to rewarding officers subject to any relevant guidance for the management of Intellectual Property in the NHS issued by the Department of Health and Social Care (DHSC).
- 4.7.4. Individuals must seek prior permission through their line manager before entering into any agreement with bodies regarding product development where this impacts on normal working time or uses our equipment and/or resources.
- 4.7.5. Where holding of patents and other intellectual property rights give rise to a conflict of interest, then this must be declared in accordance with the Managing Conflicts of Interest (including Gifts & Hospitality) Policy.

4.8. Candidates for appointment

- 4.8.1. Candidates for any appointment with the ICB must disclose in writing if they are related to, or in a significant relationship with (e.g. spouse or partner), any Board member or employee of the ICB. The application form requests this information and therefore must be disclosed before submission.
- 4.8.2. A member of an appointment panel which is to consider the employment of a person to whom he/she is related must declare the relationship before an interview is held.
- 4.8.3. Candidates for any appointment with the ICB shall, when applying, also disclose cases where

they or their close relatives or associates have a controlling and/or significant financial interest in a business (including a private company, public sector organisation, other NHS employer and/or voluntary organisation), or in any other activity or pursuit, which may compete for an NHS contract to supply either goods or services to the ICB.

4.9. Canvassing for appointments

- 4.9.1. It is acknowledged that informal discussions concerning an advertised post can be part of the recruitment process. However, canvassing or lobbying of ICB employees, Board members, or any members of an appointments committee, either directly or indirectly, shall disqualify a candidate. This shall not preclude a member from giving a written reference or testimonial of a candidate's ability, experience, or character for submission to an appointments panel. Jobs will be awarded on the merit of the individual candidate.

4.10. Trade or discount cards

- 4.10.1. Trade or discount cards, by which personal benefit is obtained from the ICB's purchase of goods or services at a reduced price gives rise to the potential for real or perceived conflicts of interest. If offered or received, such cards are classified as gifts and should be politely declined and/or returned to the sender. The exceptions to this are benefits negotiated by the ICB on behalf of its staff.

4.11. Awards or prizes

- 4.11.1. Staff should consult their line manager or Chief Finance Officer if they are offered an award or prize in connection with their official duties. They will normally be allowed to receive it, provided:
- there is no risk of public criticism.
 - it is offered strictly in accordance with personal achievement.
 - it is not in the nature of a gift nor can be construed as a gift, inducement of payment for publication or invention to which other rules apply.

5. Recording of Gifts, Hospitality and Sponsorship

- 5.1. All offers of gifts and hospitality must be declared and recorded in accordance with the Managing Conflicts of Interest (including Gifts & Hospitality) Policy. Failure to comply with the policy may lead to disciplinary action.
- 5.2. No gifts from suppliers above a value of £6 can be accepted and nor can gifts with a value in excess of £50 per item, either individually or cumulatively (from the same or closely related source) in a 12-month period.
- 5.3. It is acknowledged that there may be circumstances where hospitality may be offered by an organisation, as an integral element of a strategic partnership relationship. Acceptance of such hospitality and associated funding agreement will be authorised by the ICB CEO and recorded in the Register of Gifts and Hospitality.

6. Declaration of Interests

- 6.1. All individuals must ensure that any declarations of interest are identified, declared, and appropriately mitigated or resolved in accordance with the ICB's Managing Conflicts of Interest (including Gifts & Hospitality) Policy.

- 6.2. Where an individual becomes aware of an interest which could lead to a conflict of interest in the event of the ICB considering an action or decision in relation to that interest, that interest must be declared and managed in line with the ICBs policy.

7. Raising Concerns

- 7.1. The ICB's Freedom to Speak Up Policy is an appropriate route for staff to raise legitimate and genuine concerns about conflicts of interest, criminal activity, breach of a legal obligation (including negligence, breach of contract or breach of administrative law), miscarriage of justice, danger to health and safety or the environment, and other financial integrity and business conduct issues raised by this policy. The Freedom to Speak Up Policy gives full details of how such concerns should be raised and the legal protection afforded staff who raise concerns based on a genuine belief.

8. Confidentiality¹

- 8.1. Everyone who works for or on behalf of the ICB must, at all times, operate in accordance with the General Data Protection Regulation and Data Protection Act (2018) and maintain the confidentiality of information of any type, including but not restricted to patient information; personal information relating to officers; commercial information. This duty of confidence remains after staff (however employed) leave the ICB.
- 8.2. For the avoidance of doubt, this does not prevent the disclosure or information where there is a lawful basis for doing so (e.g. consent). Staff should refer to the suite of Information Governance and ICT policies for detailed information.
- 8.3. Disclosure of information which counts as "commercial in confidence" and which might prejudice the principle of a purchasing system based on fair competition may be subject to scrutiny and disciplinary or criminal action, or both.
- 8.4. This does not affect the ICB's grievance or complaints procedures in terms of freedom of expression and is not intended to restrict any of the freedoms protected under Article 10 of the Human Rights Act (1998). It is designed to complement professional and ethical rules, guidelines, and codes of conduct on an individual's freedom of expression.
- 8.5. An employee or individual who has exhausted all the locally established procedures, including reference to the Freedom to Speak Up Policy, and who has taken account of advice which may have been given, may wish to consult their MP or the Secretary of State for Health in confidence.
- 8.6. Section 43B (1) of the Public Interest Disclosure Act (1998) provides protection for disclosure of information where the worker making the disclosure has a reasonable belief that the disclosure is in the public interest, and tends to show that:
- a criminal offence has been committed, is being committed or is likely to committed.
 - a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject.
 - an injustice has occurred, is occurring or is likely to occur.
 - the health or safety of any individual has been, is being or is likely to be endangered.
 - the environment has been, is being or is likely to be damaged; or
 - information tending to show any matter falling within points a) to e) has been, is being or is

¹ Refer to Freedom to Speak Up Policy

likely to be deliberately concealed.

- 8.7. Disclosure must be made to either the employer or to a prescribed third party, such as the Health & Safety Executive or HM Revenue & Customs. Wider disclosure, for instance to the media, is only protected if the worker believes the information is substantially true, is in the public interest, and not for their own personal gain.

9. Personal Conduct

9.1. Corporate Responsibility

- 9.1.1. As an organisation made up of partners, our ability to make collective decisions through our agreed governance processes is key to ensure consistency of approach. Therefore, we expect everyone who works for or on behalf of the ICB has a responsibility to respect and promote the corporate or collective decision of the ICB, even though this may conflict with their personal views. Directors and staff commenting as individuals should make it clear that they are expressing their personal view and not the view of the ICB.
- 9.1.2. **When speaking as a member of the ICB**, whether to the media, in a public forum or in a private or informal discussion, individuals should ensure that they reflect the current policies or view of the organisation.
- 9.1.3. For any public forum or media interview, opportunities should be discussed in advance:
- In the case of the Board, with the ICB CEO / Chair or their nominated deputy, and Communications Team.
 - In the case of all other individuals, with the Communications Team.
- 9.1.4. When this is not possible, they should report their action to the ICB CEO / Chair or their nominated deputy, as soon as possible.
- 9.1.5. All individuals must ensure their comments are informed and made in the public interest and that they aim to enhance and protect the reputation of the ICB. This does not affect whistleblowing rights.
- 9.1.6. Failure to follow the guidance for communication with the media may result in disciplinary action.

9.2. Use of Social Media

- 9.2.1. Everyone who works for or on behalf of the ICB is expected to comply with the ICB's [Social Media guidelines](#). They should be aware that social networking websites are public forums and should not assume that their entries will remain private. Individuals communicating via social media must comply with the relevant organisational social media and associated policies. All individuals must not:
- Make false, misleading, or defamatory statements, and must not promote hate or discrimination against any group or individual on the grounds of race, religious belief, gender, or sexuality.
 - Encourage or endorse behaviour that could be linked to safeguarding issues.
 - Post anything that is disparaging about a group or individual on social media.
 - Post anything that is factually inaccurate or defamatory or incite people to act.
 - Illegally or present negative behaviours.

- Air grievances or publish anything that risks bringing their organisation or any.
- Partner organisations into disrepute.
- Include materials in their posts that are copyrighted.
- Post images containing patient information on personal social media accounts that could identify the patient or lead the patient to identify themselves.

9.3. Gambling

- 9.3.1. No individual is permitted to bet or gamble when on duty or on ICB premises, with the exception of small lottery syndicates or sweepstakes related to national events such as the World Cup or Grand National among immediate colleagues within the same offices where no profits are made or the lottery is wholly for purposes that are not for private or commercial gain (e.g. to raise funds to support a charity).

9.4. Lending and Borrowing

- 9.4.1. The lending or borrowing of money between individuals should be avoided, whether informally or as a business, particularly where the amounts are significant.
- 9.4.2. It is a particularly serious breach of discipline for any individual to use their position to place pressure on someone in a lower pay band, a business contact, or a member of the public to loan them money.

9.5. Trading on NHS premises

- 9.5.1. Trading on official premises is prohibited, whether for personal gain or on behalf of others. This includes, but is not limited to:
- Flyers advertising services/products in common areas; and
 - Catalogues in common areas.
- 9.5.2. Canvassing within the office by, or on behalf of, outside bodies or firms (including non-ICB interests of individuals or their relatives) is also prohibited. Trading does not include small tea or refreshment arrangements solely for individuals.

9.6. Individual Voluntary Arrangements, County Court Judgment (CCJ), Bankruptcy / Insolvency

- 9.6.1. Any individual who becomes bankrupt, insolvent, has active CCJ, or made individual voluntary arrangements with organisations must inform their line manager and the HR team as soon as possible. Officers who are bankrupt or insolvent cannot be employed, or otherwise engaged, in posts that involve duties which might permit the misappropriation of public funds or involve the approval of orders or handling of money.

9.7. Use of Resources

- 9.7.1. Under the Code of Conduct for NHS Managers, all managers are required to use the resources available to them in an effective, efficient, and timely manner having proper regard to the best interests of the public and patients.

9.8. Suspicions of Fraud/Theft

- 9.8.1. Staff should not be afraid of raising concerns and will not experience any blame or recrimination as a result of making any reasonably held suspicion known. Further information is available in

the Anti-Fraud and Bribery Policy and Fraud Response Plan.

- 9.8.2. Where a suspected breach also includes suspected commission of fraud or bribery, this should be reported to the ICB's Local Counter Fraud Specialist team or directly to the NHS Counter Fraud Authority.
- 9.8.3. The ICB is committed to fostering an environment that encourages individuals to raise concerns relating to malpractice within the ICB, and to investigate matters raised thoroughly, promptly, and confidentially.

10. Non-Compliance with Policy

10.1. Failure to comply.

- 10.1.1. Failure by an employee to comply with the requirements set out in this policy may include disciplinary action and/or legal action where appropriate.

10.2. Failure to Disclose or Declare

- 10.2.1. 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.'
- 10.2.2. Failing to respond to a request for information in relation to the policy, including a request to submit a declaration, will also be considered a breach of the policy.
- 10.2.3. The ICB 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 Disciplinary Policy for more information.
- 10.2.4. It is an offence under the Fraud Act (2006) for personnel to fail to disclose information to the ICB 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 Anti-Fraud and Bribery Policy with a view to an appropriate investigation being conducted and potential prosecution being sought.
- 10.2.5. Breaches of this policy addressed internally may result in a Board member being removed from office in line with the ICB's Constitution. A contractor may be prevented from obtaining further work with the ICB or an employee may face disciplinary action and dismissal. Breaches which amount to criminal offences may result in criminal prosecution and civil recovery action.

10.3. Identifying and Reporting Breaches

- 10.3.1. 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 Senior Governance Advisor.
- 10.3.2. To ensure that interests are effectively managed, staff are encouraged to discuss actual or perceived breaches. Every individual has a responsibility to do this.

10.3.3. The ICB 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 Freedom to Speak Up Policy.

10.3.4. Following investigation, the ICB will:

- Decide if there has been or is potential for a breach and if so what the severity of the breach is.
- Assess whether further action is required in response – this is likely to involve any staff member involved and their line manager, as a minimum.
- Consider who else inside (and outside, e.g. the CQC, GMC, NMC, etc) the ICB should be made aware; and
- Take appropriate action.

10.4. Taking Action in Response to Breaches

10.4.1. Action taken in response to breaches of the policy will be in accordance with the disciplinary procedures of the ICB 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 ICB's auditors.

10.4.2. Breaches could require action in one or more of the following ways:

- Clarification or strengthening of existing policy, process, and procedures.
- Consideration as to whether HR/employment law/contractual action should be taken against staff or others; and
- 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.

10.4.3. Sanctions should not be considered until the circumstances surrounding breaches have been thoroughly investigated. However, if such investigations establish wrongdoing 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:

- 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 described above for them to consider what further investigations or sanctions might be.
- Contractual action, such as exercise of remedies or sanctions against the body or staff which caused the breach and
- Legal action, such as investigation and prosecution under fraud, bribery, and corruption legislation.

10.5. Learning and Transparency Concerning Breaches.

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

10.6. Criminal Implications

- 10.6.1. 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 ICB and any linked organisations, and the individuals who are engaged by them.
- 10.6.2. An essential ingredient of the offences defined within the Fraud Act (2006) 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.
- 10.6.3. The Bribery Act (2010) makes it a criminal offence to give or offer a bribe, or to request, offer to receive or accept a bribe. The Act introduced a corporate offence which means that organisations, including NHS bodies, will be exposed to criminal liability, punishable by an unlimited fine, for failing to prevent bribery.
- 10.6.4. Anyone working for or on behalf of the ICB 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.
- 10.6.5. They should also be aware that a breach of the Bribery Act (2010), or of this guidance, renders them liable to disciplinary action by the ICB 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.
- 10.6.6. 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.
- 10.6.7. The ICB 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. The declaration of interest process is a key part of these adequate procedures.
- 10.6.8. Full compliance with the requirements of this policy is expected by everyone who works for or on behalf of the ICB in order to demonstrate the ICB's commitment to openness and transparency, in the spirit of the Act.

11. Monitoring and Review

- 11.1. The Audit and Risk Committee is responsible for reviewing this policy and ensuring its implementation. If you have any suggestions for the improvement of this policy, please contact the Governance Team.
- 11.2. This policy will be reviewed in in the first year following the establishment of the ICB and every 2 years thereafter, or earlier if there are significant changes to national guidance affecting Standards of Business Conduct across the organisation.

12. Equality Impact Assessment

- 12.1. An Equality Impact Assessment must be carried out as part of the development of each policy; this can be found in Appendix 2.

13. Related Documents

- ICB Constitution
- Managing Conflicts of Interest (including Gifts & Hospitality) Policy
- Prime Financial Policies, Scheme of Reservation and Delegation
- Anti-Fraud and Bribery Policy
- Freedom to Speak Up Policy
- Contract and Procurement Policy
- [Standards for members of NHS boards and Clinical Commissioning Group governing bodies in England](#)
- [Code of Conduct for NHS Managers](#)
- Principles of Public Life drawn up by the Nolan Committee – Appendix 1
- Department of Health's guidance (2000) - Commercial Sponsorship – Ethical Standards for the NHS

Appendix 1 - The Nolan Principles on Standards in Public Life

The Nolan Committee was set up in 1994 to examine concerns about standards of conduct of all holders of public office, including arrangements relating to financial and commercial activities, and make recommendations as to any changes in arrangements which might be required to ensure the highest standards of propriety in public life. The committee published “Seven principles of Public Life,” which it believes should apply to all those operating in the public sector. These principles should be adopted by ICB staff and are as follows:

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 material 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 that 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.

All staff will be expected to adopt these principles when conducting official business for and on behalf of the ICB so that appropriate ethical standards can be demonstrated at all times.

Appendix 2 – Equality Impact Assessment

Mandatory Questions	Yes/No/NA	Comments
1. Does the Policy affect any group less or favourably than another on the basis of:		
• Age?	No	
• Disability?	No	
• Gender?	No	
• Marriage or civil partnership?	No	
• Pregnancy/ Maternity or paternity?	No	
• Race?	No	
• Religion or Belief?	No	
• Sexual Orientation?	No	
2. Is there any evidence that any groups are affected differently by the Policy and if so, what is the evidence?	No	
3. Is any impact of the Policy likely to be negative	No	
4. If any impact of the Policy is likely to be negative, can the impact be avoided and if so, how?	N/A	
5. If a negative impact can't be avoided, what, if any, are the reasons the policy should	N/A	
6. Where relevant, does the Policy support the FREDA Principles: Fairness, Respect, Equality, Dignity and Autonomy?	Yes	

If you have identified a potential discriminatory impact of this Policy, please contact Senior Governance Advisor.