

SUSPENSION AND REMOVAL POLICY FOR OFFICE HOLDERS

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SUSPENSION & REMOVAL OF OFFICE HOLDERS POLICY

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RELATED DOCUMENTS

These documents will provide additional information

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| Constitution |
| Code of Conduct |
| Gifts and Hospitality |
| Counter Fraud, Bribery and Corruption |
| Standards for Business Conduct |
| Managing Conflicts of Interest: Statutory Guidance For CCGs – December 2014 |
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1. POLICY OVERVIEW

1.1 Purpose

In order to operate effectively, high standards of performance and conduct are expected from all of our Office Holders. Officer Holders can be removed from office for various reasons under the CCG's constitution. This policy aims to ensure that where removal from office is being considered this is dealt with reasonably and within the principles of natural justice.

1.2 Who this policy applies to

This Suspension and removal policy provides the process to follow for the suspension or removal of an office holder of the CCG (i.e. those that are not directly employed by the CCG under NHS employment contracts and terms and conditions). For the purpose of this Policy, these roles will be referred to as Office Holders.

This Policy applies to the following Office Holders described within the CCG Standing Orders (appendix to the Constitution)

- The Governing Body Chair
- Governing Body Elected Members
- Lay Members
- The Secondary Care Clinician
- Any other non-employed individual who undertakes a role on Committees of the Governing Body, or fulfils a Lead Clinician role for the CCG or operates as a Practice Representative

For individuals who are not engaged as an office holder by the CCG the principles of the organisation they work for will apply in the management of the individual. However, the principles of this report will be applied should there be a need to consider removal of them as a representative on the Governing Body

1.3 Key principles

In the case of a proposed removal from office the Office Holder will be advised of the CCG's concerns and will be given the opportunity to respond to those concerns state his or her case before any decision is made by a Suspension and Removal panel. The Suspension and Removal panel will normally be the Chair of the Governing Body, the Accountable Officer, a Lay member and a GP elected member. It is recognised that there may be exceptional occasions where the need to suspend an individual is in the interest of safety and reputation and therefore the decision is needed to be made quickly and without the opportunity for the Office Holder to respond. In exceptional circumstances the Chair and Vice Chair of the CCG may override the need for a panel and they should seek advice from the HR team prior to making this decision.

1.4 Legal considerations

Office Holders are not employees and are not able to claim unfair dismissal and do not have redundancy rights. It is possible to remove an Office Holder for reasons specified under the CCG's constitution or within the Office Holders contracts.

2. SUPPORTING PRINCIPLES

- The CCG must raise and deal with issues promptly and must not unreasonably delay meetings, decisions or confirmation of those decisions.
- Informal action will be considered, where appropriate, to resolve problems.
- For formal action the Office Holder will be advised of the nature of the concerns against him or her and will be given the opportunity to state his or her case before any decision is made at a hearing for removal. Office Holders will be provided, where appropriate, with

written copies of evidence and relevant witness statements in advance of a removal hearing.

- The CCG will carry out any necessary investigations, to reasonably establish the facts of the case.
- The CCG will inform Office Holders of the basis of the problem and give them an opportunity to put their case in response before any decisions are made regarding the decision to remove.
- The CCG will allow, except where this will prejudice the proceedings, the Office Holder to be accompanied at any investigation meetings or Removal Panel Hearing. The principles applied to staff for who can accompany the Office Holder will be applied whilst recognising that the Office Holder is not an employee. The companion must not be acting in a legal capacity.

3. THE POLICY

3.1 Informal Discussions

Wherever possible, an initial discussion should be held between the Office Holder and the Chair. It is in everyone's best interest for an issue to be dealt with quickly and fairly at the lowest possible level and we hope that the majority of concerns will be resolved at this stage. If the concerns are not resolved, proportionate and appropriate investigation will be undertaken.

3.2 Establish the facts of each case

It is important to carry out proportionate and appropriate investigations of issues that may lead to Suspension or Removal without unreasonable delay to establish the facts of the case. In some cases this investigation stage will require the holding of an investigatory meeting with the Office Holder before proceeding to any Removal and Suspension Panel hearing. In others, the investigatory stage will be the collation of evidence by the CCG for use at any panel meeting.

In cases where a period of suspension with pay is considered necessary, this period must be as brief as possible, must be kept under review and it must be made clear that this suspension is a neutral act to protect all parties.

Any investigation under this policy will be carried out by a Senior Officer of the CCG and a Lay Member with HR support and advice, external advice and support may also be sought e.g. legal or auditor investigation. The investigation should conclude with a report that will be shared with the office holder and presented to a Removal Panel

3.3 Inform the individual of the problem

If it is decided that there is a case to answer that may lead to suspension or removal, the Office Holder will be notified of this in writing. This notification will contain sufficient information about the allegations and concerns. It is important that the notification also includes the possible outcomes and the next stages of consideration. It would normally be appropriate to provide copies of any written evidence, which may include any witness statements, with the notification.

If appropriate the notification may also give details of the time and venue for the Removal and Suspension hearing and advise the Office Holder of their right to be accompanied at the hearing.

3.4 Consider Suspension

In any case where removal of an Office Holder is being considered it may be necessary to suspend the Office Holder pending determination of the concerns giving rise to the removal being considered.

The decision to suspend an Office Holder may be taken by the CCG Chair in consultation with the Accountable Officer. It may be appropriate to call an Extraordinary Remuneration Committee to consider the concerns and the Chair may present the facts of the case to the committee for an independent decision about whether Suspension is appropriate.

Where the Office Holder is a member of the Remuneration Committee, the member will be asked to leave the meeting whilst the facts of the case as is currently known is considered.

Suspension is a neutral act and carries no assumption of guilt. It is a means of protecting the interests of the Office Holder and the organisation whilst the investigation is taking place. It may be appropriate to consider suspension when the CCG considers that having them in the organisation poses a significant, specific and legitimate risk to the organisation, to CCG property, to other staff, or to themselves, or where you have any reason to believe that they may interfere with the investigation in any way. It is also likely to be appropriate if the nature of the concerns is such that there has been a serious breach of the organisations trust and confidence resulting in a breakdown of relations. Given the public accountable roles of Office Holders on the Governing Body consideration should also be given to the nature of the concerns and whether a suspension would be in the public interest or protect the reputation of all parties.

Any decision to suspend should be followed up in writing to the Office Holder, including the conditions of the suspension.

The conditions of the suspension may include (but not limited to);

- Must not carry out any of their normal duties.
- Must not contact any colleagues, (with the exception of their Trade Union representative or named contact at the CCG), or patients. If they have any queries, these should be referred to the Chair or the link manager.
- Will be required to maintain confidentiality, and not discuss the case with patients, Service Users, colleagues or partners
- Is required to co-operate with any investigations.
- Must not represent the CCG or act on behalf of the CCG during the suspension

Whilst Office Holders do not attract pay for non-attendance due to the nature of the contract the CCG will continue to pay the Office Holder during any period of suspension to ensure that suspension is seen as a neutral act.

3.5 Temporary appointments and informing membership

Where a decision has been made to suspend an Office Holder there may be a requirement to appoint a temporary replacement. The CCG will be sensitive in its approach to temporary replacements and will carefully consider the message provided to members and colleagues. For a temporary replacement it may be appropriate to consider an amended appointment or election process depending on the likely length of suspension.

3.6 Removal Panel Hearing

The CCG will establish a removal panel to consider any removal from office. The Removal Panel as a minimum should include the Chair or Vice Chair of the Governing Body, the Accountable Officer, a Lay member and GP elected member of the Governing Body, whilst considering the management of any conflicts of interest and considering the independence of such members. The investigating team will present the facts of the case to the removal panel.

Prior to any decision to remove an Office Holder from office it is important for the Removal Panel to establish the reason for considering removal and the facts of the case.

The reasons for removing an Office Holder from office are detailed within the constitution and the Office Holder contract, these are summarised in the enclosed appendices.

The Removal hearing should be held without undue delay and allow the Office Holder reasonable time to prepare their case. The Office Holder must make every effort to attend the hearing; however the hearing can take place in their absence. At the hearing the CCG will explain the complaint against the Office Holder and go through the investigation that has been conducted. The Office Holder will be allowed to set out their case and answer any allegations that have been made.

3.7 The Companion

This policy gives the Office Holder the right to be accompanied by a companion at the investigation and hearing stage of the process. Office Holders must make a request to be accompanied and state the name of the companion; it would usually be a Dudley CCG employee or Office Holder or an official Trade Union representative. As this is an internal process the companion must not be a legal representative.

The CCG may refuse the request for a companion if their attendance would prejudice the hearing or they are significantly delaying the process due to their unavailability.

The companion may address the hearing to put and sum up the Office Holders case, respond on behalf of the worker to any views expressed at the hearing and confer with the Office Holder during the hearing. The companion does not, however, have the right to answer questions on the Office Holders behalf, address the hearing if the Office Holder does not wish it or prevent the CCG from explaining their case.

3.8 Decide on appropriate action

After the Removal Panel hearing a decision will be taken whether or not to remove the Office Holder from office and will inform the Office Holder accordingly setting out the reasons for the decision and the date on which this will take effect.

The Office Holder will be informed that they are not able to apply for re-election or appointment of any future posts in the organisation.

3.9 Appeal

As Office Holders are not employees there is no right to appeal the decision of the Removal and Suspension panel. However, the Office Holder may request an independent review of the decision. The CCG will appoint an independent officer, who may be external to the organisation, to undertake a review of the decision made. The review will form a view of and submit this to the CCG for consideration.

Set out below are the reasons for which removal from office of specific Office Holders may be considered under this policy.

CCG Chair

The Removal Panel may terminate this appointment by written notice with immediate effect if the Chair:

- is in breach of any of the terms of this appointment, which in the case of a breach capable of remedy shall not have been remedied by the Chair within 14 days of receipt by the Chair of written notice from the CCG Governing Body specifying the breach and requiring its remedy;
- in the reasonable opinion of the Removal Panel is incompetent, or the acts and/or omissions of the Chair amount to serious or persistent negligence in respect of his/her obligations under this appointment;
- is guilty of any fraud, dishonesty or serious misconduct; or is subject to sanctions delivered by his/her professional body in relation to his/her professional or clinical practice
- a motion of no confidence is carried by over 50% of member practices which will trigger a process through the appropriate CCG policies.
- a motion of no confidence is carried by over 50% of the Governing Body which triggers a process through the appropriate CCG policies
- the office holder fails to attend at least 60% of Governing Body meetings without prior consent in liaison with the Deputy Chair.

Executives or Elected Members

- is in breach of any of the terms of this appointment, which in the case of a breach capable of remedy shall not have been remedied by the member within 14 days of receipt by the member of written notice from the CCG Governing Body specifying the breach and requiring its remedy;
- in the reasonable opinion of the Removal Panel is incompetent, or the acts and/or omissions of the member amount to serious or persistent negligence in respect of his/her obligations under this appointment;
- is guilty of any fraud, dishonesty or serious misconduct; or is subject to sanctions delivered by his/her professional body in relation to his/her professional or clinical practice
- a motion of no confidence is carried by over 50% of member practices which will trigger a process through the appropriate CCG policies.
- a motion of no confidence is carried by over 50% of the Governing Body which triggers a process through the appropriate CCG policies
- the office holder fails to attend at least 60% of Governing Body meetings without prior consent in liaison with the Chair.

Lay members

The Removal Panel may terminate this appointment by written notice with immediate effect if the Lay member of the CCG:

- is in breach of any of the terms of this appointment, which in the case of a breach capable of remedy shall not have been remedied by the lay member within 14 days of receipt by the lay member of written notice from the CCG Governing Body specifying the breach and requiring its remedy;
- in the reasonable opinion of the Removal Panel, is incompetent, or the acts and/or omissions of the lay member amount to serious or persistent negligence in respect of his/her obligations under this appointment;
- is guilty of any fraud, dishonesty or serious misconduct;
- the office holder fails to attend at least 60% of Governing Body meetings without prior consent from the Chair.
- a motion of no confidence is carried by over 50% of member practices or a motion which will trigger a process through appropriate CCG Policies.
- a motion of no confidence is carried by a majority of 50% of Governing Body Members which will trigger a process through appropriate CCG policies.

Secondary care Specialist Doctor

The CCG Governing Body may terminate this appointment by written notice with immediate effect if the Secondary care Specialist Doctor:

- is in breach of any of the terms of this appointment, which in the case of a breach capable of remedy shall not have been remedied by the Secondary care Specialist Doctor within 14 days of receipt by the Secondary care Specialist Doctor of written notice from the CCG Governing Body specifying the breach and requiring its remedy;
- in the reasonable opinion of the Removal Panel, is incompetent, or the acts and/or omissions of the Secondary care Specialist Doctor amount to serious or persistent negligence in respect of his/her obligations under this appointment;
- is guilty of any fraud, dishonesty or serious misconduct; or is subject to sanctions delivered by his/her professional body in relation to his/her professional or clinical practice
- A motion of no confidence is carried by over 50% of member practices or a motion which will trigger a process through appropriate CCG policies.
- A motion of no confidence is carried by a majority of 50% of Governing Body Members which will trigger a process through appropriate CCG policies.

Any other non-employed individual who undertakes a role on Committees of the Governing Body or fulfils a Lead Clinician role for the CCG or operate as a Practice Representative

The Removal Panel may terminate this appointment by written notice with immediate effect if the Independent Committee Members of the CCG, Lead clinician or Practice Representative:

- is in breach of any of the terms of this appointment, which in the case of a breach capable of remedy shall not have been remedied by the independent committee member within 14 days of receipt by the independent committee member of written notice from the CCG Governing Body specifying the breach and requiring its remedy;
- in the reasonable opinion of the Removal Panel, is incompetent, or the acts and/or omissions of the independent committee member amount to serious or persistent negligence in respect of his/her obligations under this appointment;
- is guilty of any fraud, dishonesty or serious misconduct;
- A motion of no confidence is carried by over 50% of member practices or a motion which will trigger a process through appropriate CCG policies.
- A motion of no confidence is carried by a majority of 50% of Governing Body Members which will trigger a process through appropriate CCG policies.