



Complaints, Standards and Grievance Policy and Procedures for Members of the Cumbria LINK

September 2008

Introduction

Inclusiveness is one of the key values of the Cumbria LINK and we are committed to supporting a wide diversity of people in the work of the Cumbria LINK. The Cumbria LINK will play an active role in influencing health and social care related decision making within their local communities. LINK members are committed volunteers who give up their time in support of the overall aims and objectives of the Cumbria LINK

LINK members carry out a public statutory role for which they are accountable. When members do not meet the required standards, it is essential to ensure that Cumbria LINK, the LINK Support Team and the LINK Governing Body take action which is fair, proportionate and appropriate.

We ensure that:

- LINK members understand their rights and obligations
- LINK members promote and maintain standards of conduct and commitment to public services values (as described in the Seven Principles of Public Life) – Nolan Principles
- Networks operate safely and effectively
- every effort is made by LINK members themselves and the LINK Support Team to resolve any issues before the LINK Governing Body takes action under this Standards of Conduct policy
- action taken under this standards of conduct policy is fair and consistent

1. Continuing membership not in the interests of the LINK

A list of examples of behaviour that could potentially trigger conduct action under this policy follows. The list is not exhaustive and other situations of potentially inappropriate behaviour may also be considered, provided that the LINK Governing Body agrees.

- Physical assault on other LINK Members or any other individuals in the course of Cumbria LINK work, or action perceived by the recipient to be intimidating;
- Making comments or acting in a way a recipient or witness considers to be discriminatory;
- Failing to observe agreed confidentiality, particularly patient confidentiality;
- Deception in completing an application or other official Cumbria LINK form;
- Fraud (e.g. submitting false expenses claims);
- Theft of or malicious damage to Cumbria LINK or LINK Support Team property;
- Gross carelessness or negligence (an act or failure to act which endangers others' health and safety);
- Convicted of a criminal offence during LINK membership that might threaten the credibility of the Cumbria LINK;
- Not adhering to the standards of behaviour as stated in the Code of Conduct;
- Preventing other LINK Members from participating;
- Acting against the Cumbria LINK guidance to Members hence impeding the Cumbria LINK's work or damaging its reputation;
- Acting against the agreed action plan of the Cumbria LINK;

2. General information

2.1 Record Keeping

The person being complained about has the right to make a request to see all documents relevant to the complaint on request in line with the Data Protection Act 1998 and Freedom of Information Act 2000 (See Section 2.3). All notes will be taken on the assumption that they will be made available to the complainant. If the complaint reaches a Standards of Conduct hearing a copy of the final Investigation Report will be sent to the member before the hearing.

All material relevant to the complaint and any paperwork relating to a Standard of Conduct Hearing and its outcome will be kept on file for a period of three years.

2.2 Data Protection Act 1998 and Freedom of Information Act 2000

Under the Freedom of Information Act 2000 and the Data Protection Act 1998 the Cumbria LINK is under a duty not to disclose any information provided by another that would give rise to an actionable breach of confidence. LINK members taking part in Standards of Conduct hearings will be asked to undertake to respect the confidentiality of the hearing.

2.3 Consent to sharing and accessing information

In compliance with the guidance provided under these Acts the Cumbria LINK Governing Body has a duty to consider whether the information obtained can be disclosed without revealing the identity of a third party. This might be achieved by editing the information to remove names or other identifying details. If this cannot be achieved, the documentation should be withheld if explicit consent when sought is not forthcoming from the third party.

2.4 Representation

Members are entitled to be accompanied by a friend, colleague or independent advocate not acting in a legal

capacity, during any stage of the formal standards of conduct procedure. This person may participate in any discussions or communications.

2.5 Suspension

The LINK Governing Body has the authority to suspend the LINK Member for the duration of the procedure. Although suspension is a neutral act, it is usually perceived as punitive. Hence a LINK member should only be suspended in exceptional circumstances, where it is clear that their continued membership during an investigation would seriously affect the work of the Cumbria LINK, or expose people to an unacceptable risk.

A member can be suspended at any point in the formal procedure unless they are alleged to have committed a criminal offence in the course of their LINK activities, in which case they will be suspended immediately. The Chair of the Cumbria LINK will write to the member explaining that he or she will be suspended for the period of the standards of conduct procedure, and will not be entitled to attend training or LINK meetings or carry out the duties of a LINK Member while suspended.

Suspension is a neutral act and does not imply that the complaint is upheld.

3. Standards of Conduct Procedure

3.1 The conduct procedure may be initiated by either

- A formal written complaint
- A verbal complaint. Cumbria LINK staff will confirm the content of the verbal report in writing to the complainant to ensure it accurately reflects the original comments.

Anyone may make a complaint about a LINK member's behaviour. Such complaints should be addressed to the Chair of the Cumbria LINK. A complaint that becomes a

Standard of Conduct case will be dealt with under this procedure not the Complaints Policy.

3.2 *LINK action when complaint is made*

In response to a complaint being made to the Cumbria LINK local office the Chair of the Cumbria LINK will:

- a) First establish whether local resolution efforts have been exhausted.
- b) If not, refer the matter to the LINK Support Team to seek local resolution
- c) In exceptional, very serious cases of 'gross misconduct' recommend to the LINK Support Manager that local resolution is inappropriate and that the formal process begins immediately and also recommend whether suspension is merited
- d) Inform the LINK member concerned in writing that a complaint has been made and what action is being taken (e.g. referred to the LINK Support Team for local resolution).
- e) If local resolution efforts have been exhausted, the Chair of the Cumbria LINK will recommend to the LINK Support Team Manager whether the matter is serious enough i.e. seriously disrupting the work of the Cumbria LINK or bringing the Cumbria LINK into disrepute and hence whether involvement of LINK staff is appropriate. This may involve further discussion with the complainant and will lead either to the next stage of the process or the complaint being taken no further (See Section 3.4).
- f) If a breach of a standard of conduct involves criminal activity, LINK staff should inform the police. The standards of conduct procedure should continue only with the confirmation from the police that it will not interfere with their investigations.

3.3 Informal Process

LINK Governing Body's clear intention is to ensure complaints and difficulties are dealt with in the first instance at LINK Support Team level. It is anticipated this would be

achieved via communication, mediation or training as appropriate.

Therefore, whenever possible and with due regard for the seriousness of an individual complaint, the LINK Support Team will do all they can to resolve the matter informally. This will usually consist of:

- A phone call to the member (if possible) to tell him or her about the complaint;
- If the member requests it a letter to the member setting out the outline of the complaint (the letter will also be sent if phone contact was not possible) and enclosing a copy of this policy
- A discussion with the objective of helping the member to reach an appropriate standard of conduct or resolve the particular problem which led to the complaint; and setting a date for a meeting to review the issue.
- Following the discussion a letter summarising the action taken should be sent to the member.

It is important that notes are taken of all meetings and conversations with the member during this process.

3.4 LINK Governing Body Investigation

Following the recommendation from the LINK Support Team that a complaint about a LINK member cannot be resolved by the LINK Support Team or it is considered to be too serious a matter to be handled informally, the Chair of the Cumbria LINK will appoint an Investigating Team to carry out the investigation.

All information including evidence relating to the complaint e.g. witness statements should be forwarded to the Investigating Team who will commence a formal investigation.

The Investigating Team will write to the member explaining that a formal investigation is to take place and the reasons why.

The target is to conclude this investigation within 20 working days. If this deadline is not possible then the reasons for the delay and the revised deadline will be agreed with the complainant.

The Investigating Team will review the facts and assemble an Investigation File for the Governing Body to review.

The Governing Body will review the file and decide on the outcome of the investigation.

If the outcome of the investigation is that there is no Standards of Conduct case to answer, that should be communicated in writing to the member (and where possible face-to-face).

If the member had previously been suspended, this suspension will cease upon receipt of the letter. The Chair of the Cumbria LINK will ensure that appropriate arrangements are made for the suspended members return to Cumbria LINK activities, in association with the LINK Support Team.

If the Governing Body decides that, after considering the evidence, the complaint could be dealt with at a local level the Governing Body should write to the LINK Member with their recommendations.

If the outcome is that there is a conduct case to be considered, a Standards of Conduct hearing will be held and any suspension will continue.

3.5 Standards of Conduct Hearing

The Standards of Conduct hearing will be held at a location convenient to the member, in an appropriate venue.

The Hearing should be held within 20 working days of the conclusion of the investigation.

The Governing Body will decide who makes up the Panel for the Standards of Conduct hearing. None of the panel members will have had previous involvement with the issues involved.

A note taker will also be present to produce the notes of the hearing.

Whoever is chairing the hearing writes to the LINK Member inviting them to attend the Hearing and enclosing a copy of the Information File containing the evidence in the case to be presented.

Members are entitled to be accompanied by a friend, colleague or independent advocate not acting in a legal capacity.

A Standards of Conduct hearing can be held in the member's absence if he or she fails to attend without reasonable cause.

The member will be asked to give an explanation in response to the allegation and if they have any supporting information this should be sent to the panel chair at least 5 days before the date of the hearing for distribution to the Panel Members.

In the event that a panel's decision is not unanimous, the Panel Chair will have the deciding influence.

There are three possible outcomes to a Standards of Conduct hearing:

- **Issue not upheld** - Panel Chair to contact LINK member in writing to confirm outcome and any suspension will end on receipt of the letter.
- **Written Warning** – to be issued by the Panel Chair, which will state:

- Details of the misconduct that has resulted in the warning;
 - Details of the necessary action (which could optionally include a period of suspension for retraining) to improve the situation and any period of review decided upon;
 - That any further breach of conduct may result in a further standards of conduct interview and removal from the Cumbria LINK.
 - The date from which the Members suspension (if applicable) will end unless suspension is considered a necessary ongoing action or if it is linked to a condition of the written warning
- **End of Cumbria LINK membership** – the member will be provided with confirmation in writing by the Panel chair of the reasons for and the date on which the membership will end.

If the outcome is End of Cumbria LINK membership the member will then be disqualified from membership for a minimum period of two years. If the disqualified member wishes to reapply for membership thereafter, his or her case will be reviewed by the Cumbria LINK Governing Body.

The Panel Chair should also communicate in writing the outcome of the standards of conduct hearing to the Cumbria LINK Governing Body

3.5 Right of Appeal

A member has the right to appeal against any standards of conduct penalty imposed.

Appeals should be lodged within 10 working days of receipt of the outcome of the standards of conduct hearing.

There are three grounds for appeal:

- **Appeal against the facts** – Where the LINK Member feels that evidence the Panel used to come to their conclusion was either untrue or incomplete.

- **Appeal against the reasonableness of the decision**
- Where the LINK Member does not dispute the evidence, but believes that the decision made is not reasonable in the light of the evidence.
- **Appeal on procedural grounds** – Where the LINK member feels that the process was so flawed that the outcome was not reliable. Please note that minor procedural errors which would not have affected the final outcome are not grounds for appeal

On receiving the appeal the Cumbria LINK Governing Body will decide if the appeal is valid i.e. falls into one of the above categories.

If the appeal is not valid the Cumbria LINK Governing Body will write to explain why the appeal is not valid. If the matter is border-line or if the reasons for the appeal are unclear then the Cumbria LINK Governing Body will write asking for further explanation giving a 10 working day limit for reply.

If the appeal is valid the Cumbria LINK Governing Body will ensure;

- The LINK Member receives written acknowledgment and information about of the procedure and timescales.
- 3 copies of the Investigation File and notes of the hearing are obtained from the relevant LINK Support Team.
- The appeal panel is organised.

The Appeal Panel will have had no previous dealings with the issue

The role of the Appeal Panel is to decide whether the outcome of the original hearing was a reasonable one and in the event of conflicting evidence whether the hearing's decision was based on the balance of probability.

The Panel should meet with 20 days of the Appeal being received and the LINK Member will be informed if there is any delay in the process.

The Panel will meet and review the paperwork and base their decision about the Appeal on that.

The Appeal Panel Chair decides if the LINK Member and the Chair of the original hearing should attend the Appeal Hearing. This would be due to:

- If an alleged flaw in the investigation or the hearing has an impact which cannot be judged on paperwork alone.
- The LINK Member has new evidence, which for a valid reason was not available at the original hearing and could possibly result in a different outcome.

If the LINK Member and Chair are attending the Appeal, then it should be conducted in a similar manner to a hearing.

The Appeal Panel Chair will contact the LINK Member to let them know the outcome and write to confirm this within 5 working days.

FLOW CHART – STANDARDS OF CONDUCT PROCEDURE

