

<b>Whistleblowing Policy</b>		
Number: THCCG00XX	Version: 0d6	

<b>Executive Summary</b>	<ul style="list-style-type: none"> <li>• This policy covers the right and duty of members of the CCG and CCG employees to raise any matters of concern that they may have about health issues concerned with the delivery of care services to patients or clients.</li> <li>• The policy also makes it clear that those raising concerns in good faith can do so without fear of reprisal or victimisation and demonstrates the CCG's commitment and support to those who may need to come forward to express their concerns.</li> <li>• If the CCG is made aware of issues from a member of staff from another organisation, the CCG will follow this policy and formally notify the organisation, in order to investigate.</li> </ul>
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<b>Who has been consulted?</b>	Archna Mathur – Deputy Director Quality and Performance – 24 July 2013 Mariette Davis – Lay Member for Governance – 01 August 2013 Susanna Compton – Local Counter Fraud Specialist – 01 August 2013
<b>Was an Equality Analysis required?</b>	No
<b>With what standards does this document demonstrate compliance?</b>	The Public Interest Disclosure Act 1998 (PIDA), NHS Guidance in HSC 1999/198. Guidance produced by Public Concern at Work Human Rights Act 1998 Children's Act 1989/2004 Whistleblowing for a health practice Whistleblowing guidance for GPs, NHS Employers Independent Inquiry into care provided by Mid Staffordshire NHS Foundation Trust - Robert Francis QC BMA (2009) Whistleblowing: Advice for BMA members working in NHS secondary care about raising concerns in the workplace Independent oversight of NHS and Department of Health investigations into matters relating to Jimmy Savile
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<b>Is this document fit for the public domain? Y / N</b>	Y	<b>If No, why?</b>	-



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## **1 Purpose and scope**

### **1.1 Purpose**

The purpose of this policy is to provide a framework to promote responsible whistleblowing. It intends to protect anyone who wishes to raise a concern. NHS Tower Hamlets CCG (the CCG) is committed to developing a culture where it is safe and acceptable for individuals to raise concerns about unacceptable practice situations.

The CCG also has a separate policy on complaints which advises patients, carers and the public how they can raise concerns.

This policy should be used if a CCG employee or a member wishes to raise a concern. If, however, an employee is aggrieved about their personal position, they should use the Grievance Procedure which can be obtained from their manager or a Human Resources representative. This Policy is primarily for dealing with concerns raised by members and staff where the interests of others, or the organisation itself, are at risk.

The organisation will strive to address any concerns at the initial stage.

### **1.2 Scope**

This policy is for people employed by NHS Tower Hamlets Clinical Commissioning Group. This includes:

- Members of the CCG
- employees on a substantive contract;
- employees on secondment
- employees on a temporary contract or employed through an agency
- independent consultants for the CCG
- contractors and suppliers of services to the CCG

## 2 Responsibilities

Role	Responsibilities
Lay Member for Governance	<p>The Lay Member of the CCG has specific responsibility for addressing concerns raised in confidence.</p> <p>The Member will:</p> <ul style="list-style-type: none"> <li>• Be notified of all matters raised under this policy</li> <li>• Be kept informed at all stages of the procedure and,</li> <li>• Ensure that matters are dealt with as outlined by this policy.</li> <li>• Lead on <a href="#">stage 3</a> level investigations (see page 11) when <a href="#">stage 1</a> (page 9) and <a href="#">stage 2</a> (page 10) have not been able to resolve the concern.</li> </ul> <p>The rationale for the Lay Member for Governance being at the top of the escalation process comes from the NHS England document ‘CCG Governing Body Members: Role outlines, attributes and skills’: Their (the Lay Member for Governance) role is</p> <ul style="list-style-type: none"> <li>• strategic and impartial, to provide an external view of the work of the CCG that is removed from the day-to-day running of the organisation.</li> <li>• oversee key elements of governance including audit and conflicts of interest. They will need to be able to chair the audit committee.</li> <li>• have a lead role in ensuring that the governing body and the wider CCG behaves with the utmost probity at all times.</li> <li>• <b>Good practice would suggest that this person would also have a specific role in ensuring that appropriate and effective whistle blowing and anti-fraud systems are in place.</b></li> </ul>
Chair	<p>When requested, lead on <a href="#">stage 2</a> (page 10) level investigations when <a href="#">stage 1</a> (page 9) have not been able to resolve the concern,</p> <p>Ensure that concerns raised are taken seriously,</p> <p>Where appropriate, request an investigation and make an objective assessment of the concern, keep the individual advised of progress and ensure that the necessary action is taken to resolve a concern.</p>
Vice Chair	<p>When requested, lead on <a href="#">stage 2</a> (page 10) level investigations when <a href="#">stage 1</a> (page 9) have not been able to resolve the concern,</p> <p>Ensure that concerns raised are taken seriously,</p> <p>Where appropriate, request an investigation and make an objective assessment of the concern, keep the individual advised of progress</p>

Role	Responsibilities
	and ensure that the necessary action is taken to resolve a concern.
Chief Officer	<p>When requested, lead on <a href="#">stage 2</a> (page 10) level investigations when <a href="#">stage 1</a> (page 9) have not been able to resolve the concern,</p> <p>Ensure that concerns raised are taken seriously,</p> <p>Where appropriate, request an investigation and make an objective assessment of the concern, keep the individual advised of progress and ensure that the necessary action is taken to resolve a concern.</p>
All Managers	<p>When requested, lead on <a href="#">stage 1</a> (page 9) level investigations,</p> <p>Ensure that concerns raised are taken seriously,</p> <p>Where appropriate, request an investigation and make an objective assessment of the concern, keep the individual advised of progress and ensure that the necessary action is taken to resolve a concern.</p>
Investigating Officers	When requested by a Designated Officer, Chair, Vice Chair, Chief Officer or Manager investigate the concern in line with this policy
All members and staff	<p>Use this policy if they wish to raise a concern.</p> <p>Understand that the commencement of an investigation does not presume guilt and that the reporting of concerns should not, accordingly, be delayed..</p>

### 3 Definitions

#### 3.1 Whistleblower / whistleblowing

Whistleblowing, or public interest disclosure, occurs when a worker in good faith reports the actual or prospective improper actions of his /her organisation or colleagues.

#### 3.2 Grievance

An actual or supposed circumstance regarded as just cause for complaint

#### 3.3 Concern

The term 'concern' is used to describe circumstances where employees or members, individually or collectively, wish to raise an issue regarding the activities of the CCG or persons employed by the CCG.

Whilst this is not an exhaustive list, examples of incidents which may constitute a cause for concern are:

- Criminal acts
- Dangerous acts (or omissions) which create a hazard to health, safety or the environment
- Fraud or bribery
- Miscarriage of justice
- Non-compliance with a legal obligation
- Poor standard of patient care
- Serious maladministration
- Unethical practices, not necessarily of a criminal nature
- Safeguarding children
- Victimisation or harassment of a patient or colleague

## **4 Policy**

### **4.1 Introduction**

The CCG wishes to encourage a free and open culture in dealings between its members, officers, employees and all people with whom it engages. The CCG recognises that effective, timely and honest communication is essential to its success.

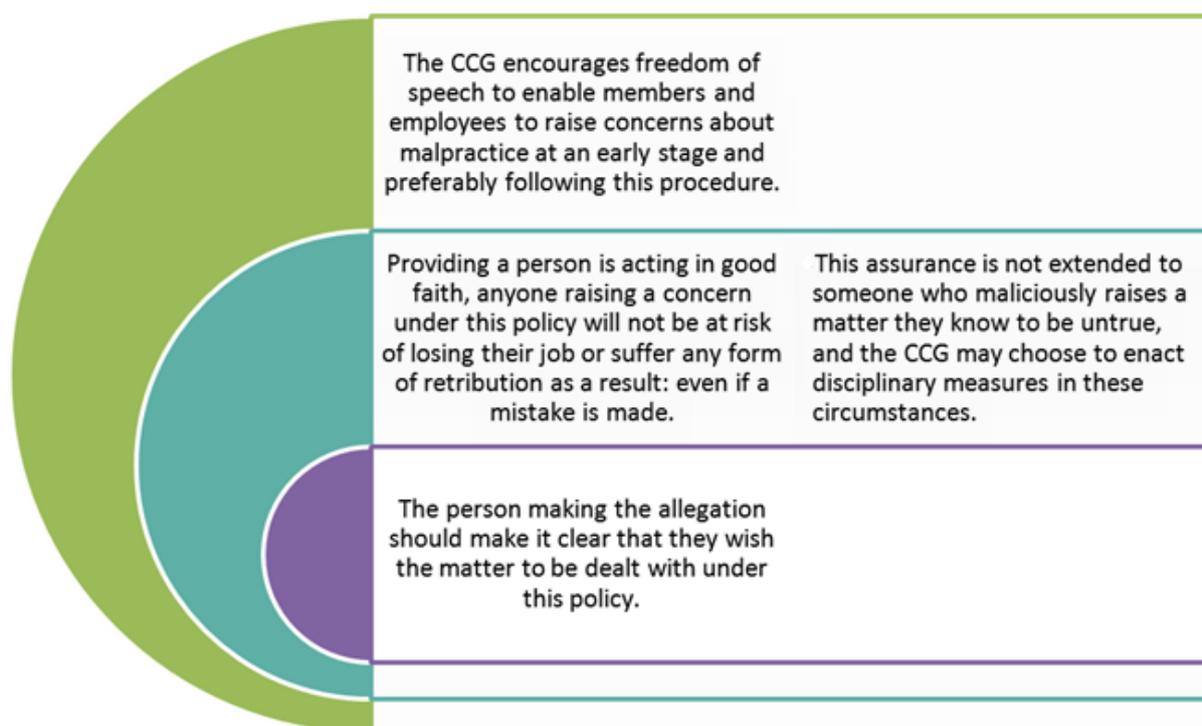
This policy is designed to provide guidance to all those who work within the CCG either as an employee (or in some other associated capacity with or within the CCG) who may from time to time feel that they need to express concerns relating to the CCG with someone in confidence.

This policy does not replace any existing policy, for example the Grievance Procedure, and is designed to ensure that concerns relating to the wider public interest may be raised.

This policy does not replace professional or ethical responsibilities, rules, guidance and codes of conduct.

The CCG wishes to encourage disclosures to be made internally but recognises that there may be occasions when an individual feels this is not possible.

## 4.2 Guiding principles



## 4.3 Reporting Concerns

Staff have a duty to raise any concerns they may have as soon as possible. Any delay could result in the matter deteriorating and make an investigation more difficult.

## 4.4 Confidentiality

NHS Tower Hamlets CCG recognises that workers may want to raise a concern in confidence under this policy and will work to sustain confidentiality in all disclosures by ensuring the anonymity / identity of the individual concerned will, so far as is possible, be kept confidential.

The worker disclosing must realise that in some circumstances, there can realistically be no absolute promise of confidentiality following disclosure if this is to be investigated or the concern resolved.

Once a worker has made a disclosure they equally have a responsibility to maintain confidentiality about this disclosure since this could compromise the worker and the process.

NHS Tower Hamlets CCG will not disclose the person's identity without first discussing this with the worker and outlining how this can proceed. Appropriate steps will be taken to ensure that their working environment and/or working relationship is/are not prejudiced by the fact of the disclosure.

There will be some disclosures, that once disclosed, cannot be investigated or resolved without revealing the workers identity, and that Tower Hamlets CCG will be obliged to continue to investigate and resolve. Workers may be required to attend a disciplinary or investigative hearing as a witness. It needs to be remembered that this was why the framework of legal protection for individuals who disclose information was required. The

Public Interest Disclosure Act (1998) was devised to protect workers from suffering from detriment, discrimination, victimisation or dismissal if they criticise the working practices of the organisation which employs them.

#### **4.5 Disclosure to Outside Agencies**

Disclosure to agencies outside the CCG should only be made when internal procedures have been exhausted. Provided that the procedures have been followed, CCG employees or members making allegations should feel able to do so without fear of disciplinary or other action against them.

An employee or Member, having exhausted all the stages without satisfaction and having sought advice from their appropriate union representative or professional organisation may wish to consult his or her Member of Parliament in confidence.

An issue may be raised directly with the Secretary of State for Health although the CCG encourages employees to use internal procedures if at all possible.

An approach to the media should only be considered after all the stages of this procedure have been exhausted. It should be considered only as a last resort. Such action, if entered into unjustifiably may unreasonably undermine public confidence and may result in disciplinary or other action.

Where an employee or Member raises a concern in good faith to a prescribed body, for example the Health and Safety Executive, Environment Agency, Inland Revenue, Serious Fraud Office, Data Protection Registrar, Financial Services Agency, and reasonably believes the information and any allegation in it are substantially true, they will remain protected under this policy.

#### **4.6 Whistleblowing from provider or other external organisations**

If the CCG is made aware of issues from a member of staff from another organisation, the CCG will follow this policy and formally notify the organisation, in order to investigate.

#### **4.7 Representative and Professional Organisations**

When entering into this procedure all employees and members are encouraged to seek guidance from their Trade Union, Professional Organisation or appropriate statutory body, particularly if the issue remains unresolved at Stage 3.

If you are unsure whether to use this policy, or you want independent advice at any stage, you may contact the charity [Public Concern at Work on 020 7404 6609](http://www.publicconcernatwork.org). Their lawyers will give free confidential advice at any stage about how to raise a concern about serious malpractice at work.

#### **4.8 Safeguarding children**

In the event of a Safeguarding concern then the following actions must be taken:

- Ensure the safeguarding issue is raised in the appropriate way so it can be addressed without delay, by referring to the CCG safeguarding policy in the first instance or by seeking advice from the Designated Professionals for Safeguarding Children.

- Any inaction on behalf of the CCG in addressing a safeguarding concern should follow this (whistleblowing Policy) In addition the Designated Professionals may be required to raise with safeguarding leads within NHS England.

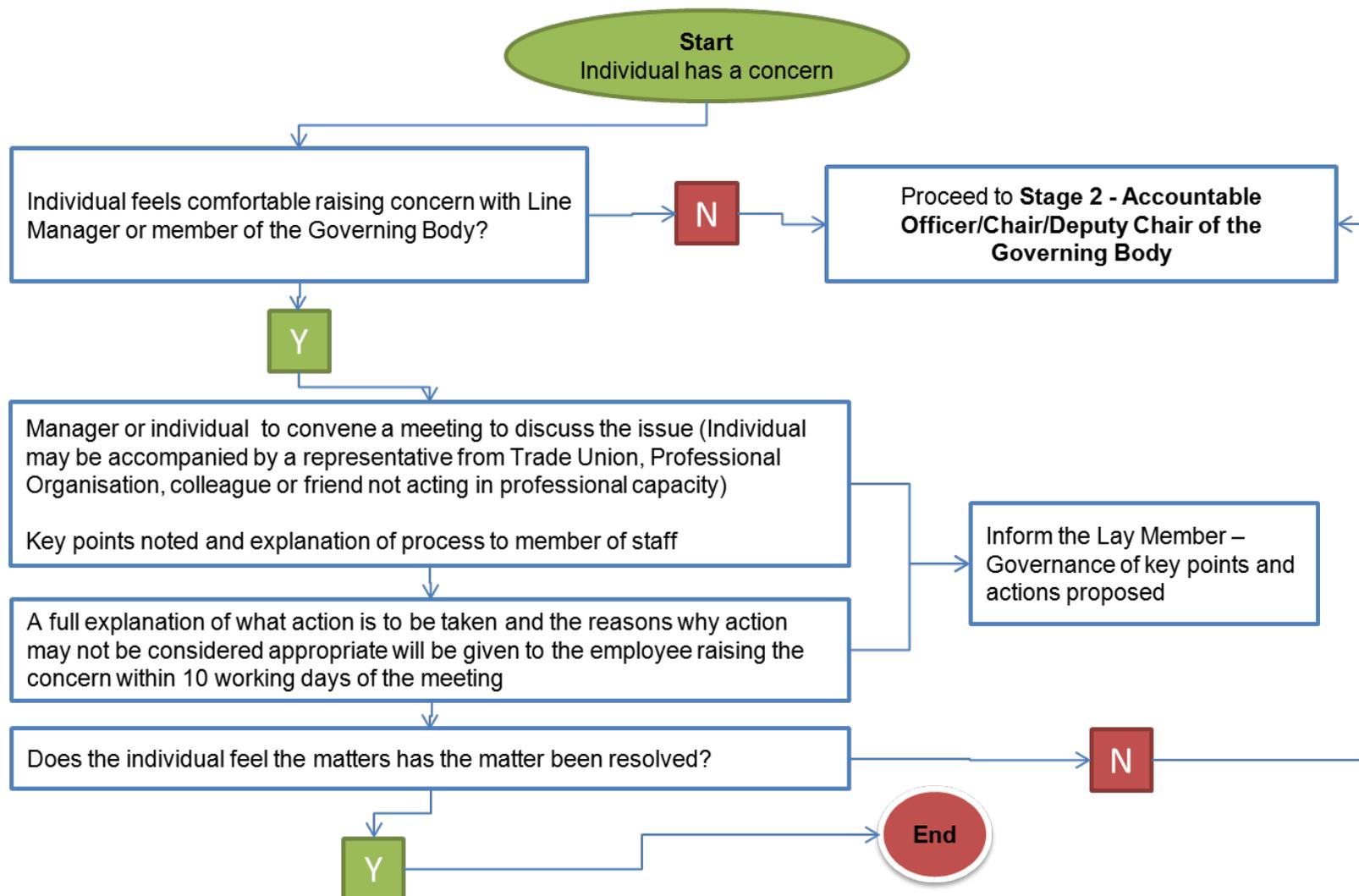
## **5 Awareness Raising**

In order for this procedure to be effective, the CCG believes it is important that all employees and members are aware of the processes, and that managers are trained in their use. Action to ensure this will be as follows:

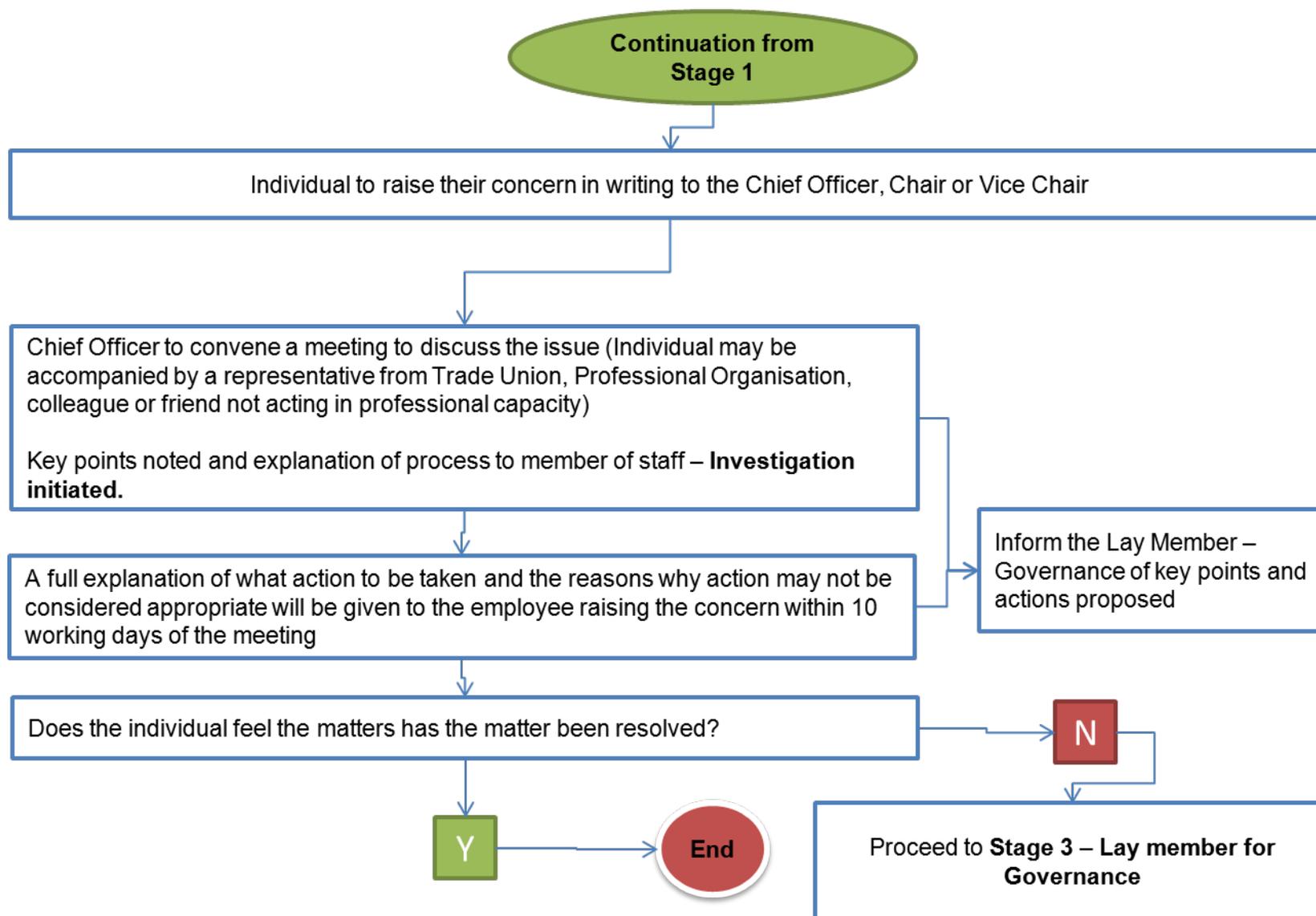
- policy will be issued to all staff and members;
- copies will be available on the CCG's website;
- managers will keep a copy in an accessible file with other human resource policies and procedures, and be aware of the provisions;
- managers will explain the provisions to new employees as part of the local induction process.

## 6 Procedure

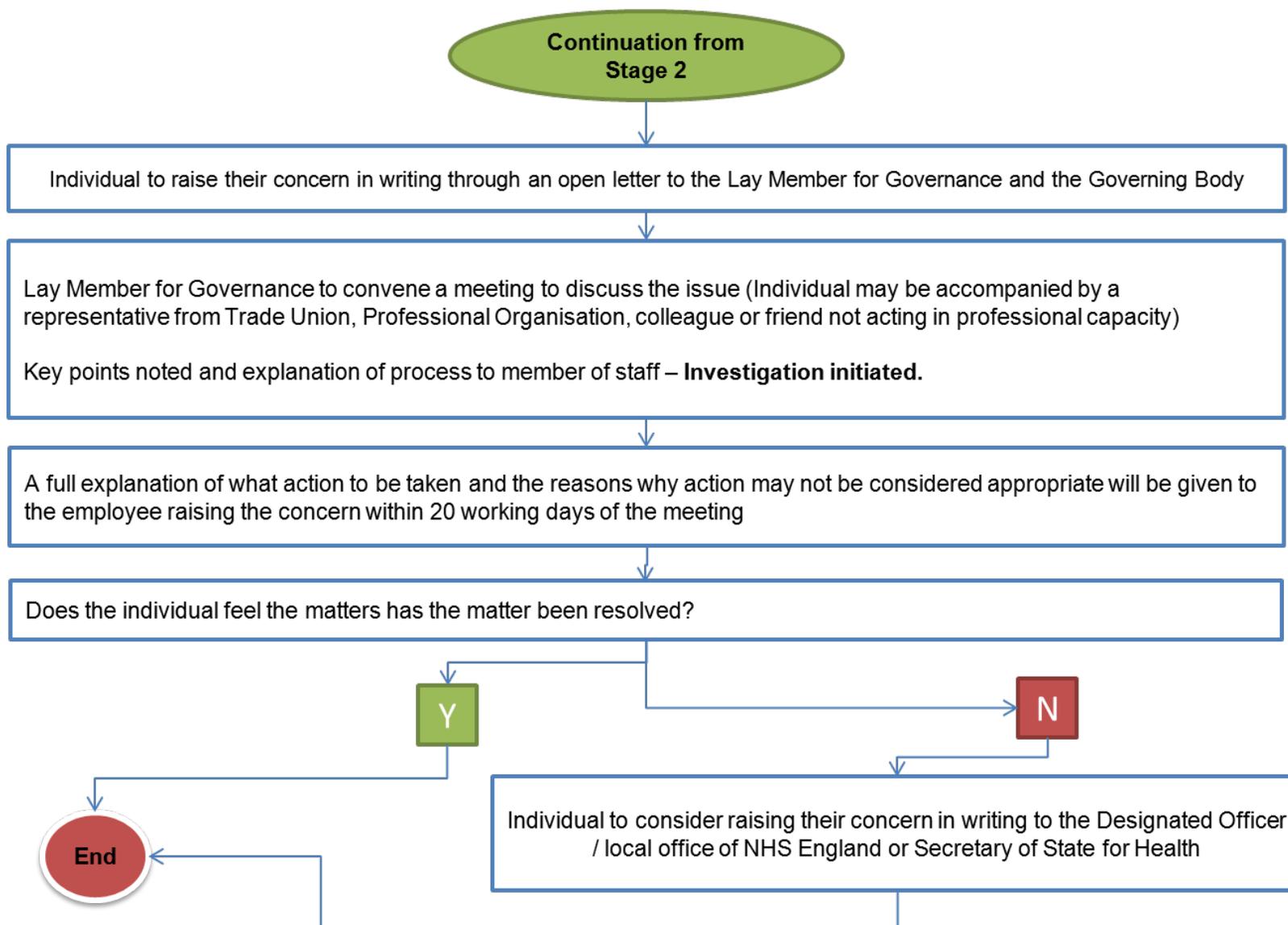
### 6.1 Stage 1 – Informal: Line Manager / Member of the Governing Body



## 6.2 Stage 2 - Chief Officer/ Chair/ Vice Chair of the Governing Body



### 6.3 Stage 3 - Designated Officer and the Governing Body



## **7 Investigation process**

Once a concern has been raised it will be assessed and the investigating officer (dependant on the stage of investigation) will consider what action may be appropriate.

This may involve an informal review, an internal inquiry or a more formal investigation.

The individual who raised the concern will be informed who will be handling the matter, how they can be contacted, and what further assistance may be needed.

When the concern is raised it will be helpful for the investigator to know how the concerned individual believes the matter might best be resolved. If you have any personal interest in the matter, we do ask that you make the investigator aware at the outset.

If the investigator thinks the concern falls within the CCGs grievance, bullying, harassment or other relevant procedure, this will be communicated to the concerned individual.

If the matter is related to fraud or bribery, staff should contact the Local Counter Fraud Specialist for NHS Tower Hamlets CCG. These details are available on the CCG's website.

Whenever possible, feedback on the outcome of any investigation will be communicated to the concerned individual. Please note, however, that the CCG may not be able to tell you about the precise actions taken where this would infringe a duty of confidence owed to another person.

While we cannot guarantee that we will respond to all matters in the way the concerned individual may wish, the CCG will strive to handle the matter fairly and properly.

## **8 Monitoring, Audit and Evaluation**

This policy will be reviewed twice a year. Any new statutory provisions affecting the procedure will come into automatic effect.

An evaluation of the policy 12 months from implementation. The evaluation will include:

- i. an analysis of the source (anonymised) and nature of any issues raised;
- ii. recommendations for a change in the procedure, where and if this is required;

## **9 Related CCG documents**

- Code of conduct
- Complaints Policy
- Disciplinary Policy and Procedure
- Equalities and Diversity in Employment Policy
- Gifts, Hospitality and Anti-Bribery Policy
- Grievance Policy and Procedure
- Incident reporting Policy
- Respect & Dignity at Work Policy

- Safeguarding Adults Policy
- Safeguarding Children Policy

These policies can be found on the CCGs website

<http://www.towerhamletsccg.nhs.uk/Working-here/policies-and-guidelines.htm>

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Or available upon request from the Quality and Performance team.