

Disciplinary Policy

HRP1

(Version 7.1)

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Document summary	Provides a framework to ensure that all issues of misconduct are managed in a fair and consistent manner, in accordance with the Just & Learning Culture principles as well as the principles of natural justice outlined in the ACAS Code of Practice.

Document History		
Version number	Comments	Date
1	New	
2	Planned review	EWC – January 2014
3	Planned review	EWC – March 2017
3.1	Correction (to wording in section 10 and update of FT logo)	June 2017
4	Update to policy (examples of misconduct moved from toolkit to policy)	August 2017
5	Revised (Trust logo and name updated to represent new Trust name - no material changes)	June 2019
6	Planned review	EWC – August 2021
6.1	further review/ amendment with JUSS	December 2021

6.2	Update to informal counselling and how to deal with allegations concerning staff from other organisations	January 2024
7	Scheduled 3 yearly review	February 2025
7.1	Amendment to appendix 2 to include reference to PSIRF	March 2025

Policy on a page

This policy is designed to facilitate and encourage all employees to maintain acceptable standards of conduct whilst safeguarding the interests of the Trust, its patients, service users and staff. It sets out the standards of conduct expected and identifies clear procedures for addressing adverse events, ensuring a fair and consistent approach is applied by all parties and “just and learning” principles are applied.

This policy observes current employment, equality and human rights laws and the Advisory, Conciliation and Arbitration Service (ACAS) Code of Practice. The principles of a just and learning culture will be considered before any disciplinary action is taken.

In general, minor cases these will initially be managed informally through advice, coaching and counselling rather than through the formal disciplinary route. The Trust is committed to taking a restorative approach where the focus is on understanding “what” has happened and understand where there is a need for learning by an individual or the organization, rather than seeking to apportion blame immediately.

Where formal disciplinary processes are deemed appropriate, the policy details that investigation requirements, including timescales, are clear and that facts relating to each case will be established through an appropriately conducted investigation process.

The NHS People Promise enables us to embed a consistent and enduring offer to all staff in the NHS where we are compassionate and inclusive towards one another and strive to create a culture where employees feel safe and confident when expressing their views as well as feeling comfortable when they need to speak up, knowing they will be listened to and supported, helping one another through challenges showing respect and civility to one another.

SUPPORTING STATEMENTS

This document should be read in conjunction with the following statements:

SAFEGUARDING IS EVERYBODY'S BUSINESS

All Wirral Community Health & Care NHS Foundation Trust employees have a statutory duty to safeguard and promote the welfare of children and adults, including:

- being alert to the possibility of child/adult abuse and neglect through their observation of abuse, or by professional judgement made as a result of information gathered about the child/adult;
- knowing how to deal with a disclosure or allegation of child/adult abuse;
- undertaking training as appropriate for their role and keeping themselves updated;
- being aware of and following the local policies and procedures they need to follow if they have a child/adult concern';
 - ensuring appropriate advice and support is accessed either from managers, *Safeguarding Ambassadors* or the Trust's safeguarding team;
- participating in multi-agency working to safeguard the child or adult (if appropriate to your role; ensuring contemporaneous records are kept at all times and record keeping is in strict adherence to Wirral Community Health & Care NHS Foundation Trust policy and procedures and professional guidelines. Roles, responsibilities and accountabilities, will differ depending on the post you hold within the organisation;
- ensuring that all staff and their managers discuss and record any safeguarding issues that arise at each supervision session.

EQUALITY AND HUMAN RIGHTS

Wirral Community Health & Care NHS Foundation Trust recognises that some sections of society experience prejudice and discrimination. The Equality Act 2010 specifically recognises the protected characteristics of age, disability, gender, reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Equality Act also requires public authorities to have due regard to the need to eliminate unlawful discrimination against someone because of their marriage or civil partnership.

The Trust is committed to equality of opportunity and anti-discriminatory practice both in the provision of services and in our role as a major employer. The Trust believes that all people have the right to be treated with dignity and respect and is committed to the elimination of unfair and unlawful discriminatory practices.

Wirral Community Health & Care NHS Foundation Trust also is aware of its legal duties under the Human Rights Act 1998. Section 6 of the Human Rights Act requires all public authorities to uphold and promote Human Rights in everything they do. It is unlawful for a public authority to perform any act which contravenes the Human Rights Act.

Wirral Community Health & Care NHS Foundation Trust is committed to carrying out its functions and service delivery in line with a Human Rights based approach and the FREDA principles of **F**airness, **R**espect, **E**quality **D**ignity and **A**utonomy.

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1. PURPOSE AND RATIONALE

Wirral Community Health and Care NHS Foundation Trust (the Trust) recognises the need for managers to manage their staff in a supportive, consistent and fair manner. This policy is designed to facilitate and encourage all employees to maintain acceptable standards of conduct whilst safeguarding the interests of the Trust, its patients, service users and staff.

The purpose of this policy is to provide a framework to ensure that a fair process is followed in the management of employee conduct, in accordance with the just and learning culture and in line with the ACAS Code of Practice.

The Trust wants to ensure a process is followed when an incident occurs which gives cause for concern. We want to encourage improvement where necessary and ensure the practice of lessons learnt is embedded in the Trust. Opportunities for Organisational learning will be explored following any incident and/or during and following all disciplinary investigations whereby improvement actions will be assigned by the relevant manager.

This policy is a key People policy and encourages employees and workers to uphold the Trusts values



2. OUTCOME FOCUSED AIMS AND OBJECTIVES

Through implementation of this policy the Trust aims to:

- encourage employees and workers to achieve and maintain standards of acceptable conduct
- provide a consistent and fair process for dealing with alleged unacceptable standards of conduct
- emphasise the need to seek resolution of issues at the earliest possible stage, to avoid any delay and to bring about learning and improvement rather than simply impose formal sanctions
- ensure that, where appropriate, matters of misconduct will be considered informally as part of the day-to-day management arrangements
- ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts
- use the Just and Learning Culture principles and to give employees the opportunity to respond before taking formal action.

2.1 The Just and Learning Culture

A Just and Learning Culture is an environment where we put equal emphasis on accountability and learning. It's where we ask the employee to give an account of how the event happened and what support is needed by those affected by the event both directly and indirectly. Here is the link to the just culture guidance [NHS England » A just culture guide](#)

The Just Culture Guide supports a consistent, constructive and fair evaluation of the actions of staff involved in an incident which gives cause for concern. There will be some situations

where a disciplinary procedure will clearly be appropriate; however, the principles of a just and learning culture seek in all other circumstances, to provide an alternative and supportive mechanism to resolve issues (appendix 2).

The Trust has adopted the guiding principles developed by the North West Social Partnership Forum in relation to developing and sustaining a restorative just and learning culture for staff in the NHS as good practice in the region. These can be seen in full in appendix 2.

2.2 Patient Safety Incident Response Framework (PSIRF)

The Patient Safety Incident Response Framework (PSIRF) sets out the NHS's approach to developing and maintaining effective systems and processes for responding to patient safety incidents for the purpose of learning and improving patient safety. It sets out how we should engage and involve patients and families following an incident and promotes a proportionate approach to responding to patient safety incidents by ensuring resources allocated to learning are balanced with those needed to deliver improvement. The process will be led by our Quality and Governance Team and should be utilised alongside any formal HR processes, however the outcome of the PSIRF review actions should be shared with HR before any decisions or outcomes are made in relation to a concern that is being formally investigated under this policy. Further information can be found in the Patient Safety Incident Response Policy GP60 on StaffZone.

3. SCOPE

This policy applies to all staff, including employees and bank workers, in respect of their personal and professional conduct (including conduct external to the organisation where it can be demonstrated to have a bearing on the employment contract or employment relationship).

Employees on secondment to the Trust will also be expected to observe the standards of conduct identified within this policy however if anyone on secondment to the Trust was subject to an allegation of misconduct this would be referred back to their substantive organisation to address under their relevant organisational policy in most situations, unless otherwise agreed by the organisations.

If concerns around conduct of a doctor or dentist arise the Doctors and Dentists Disciplinary Framework (HRP1a) should be referred to in the first instance.

This policy does not apply to agency workers.

4. DEFINITIONS (Glossary of Terms)

Glossary of Terms	Definition
Case Manager	The Case Manager will usually be a Service Director/Head of Service or an appropriate delegated manager. They are responsible for commissioning any formal investigations, appointing an investigating officer, as well as making decisions on the outcome of investigations and chairing disciplinary panels.
Investigating Officer	The investigating officer is responsible for investigating the matters outlined in the Terms of Reference

Terms of Reference	a document completed by the Case Manager to identify the scope of an investigation and confirm the allegations to be investigated under this policy
Work-based Colleague	An employee of the Trust able to accompany an employee /worker who is subject to an investigation and/or hearing for moral support, providing there is no conflict of interest.
Action plan	A document that lists what steps must be taken in order to achieve a specific goal within a specified timeframe
Case to answer	Where there is sufficient evidence following a disciplinary investigation to proceed to a disciplinary hearing
Conflict of Interest	When an individual has competing interests, which might impair, appear to, or could be perceived to, influence their ability to make objective, unbiased decisions.
Employee	Refers to anyone that has a contract of employment which includes substantive employees and those on fixed term contracts.
Staff	The term 'staff' refers to employees as well as 'workers'. 'Workers' are those who do not have a contract of employment, this includes bank and agency.

5. RESPONSIBILITIES, ACCOUNTABILITIES AND DUTIES

5.1 The Board of Directors

The Board has responsibility for the implementation of this policy and the monitoring of compliance

5.2 People and Culture Committee

The People and Culture Committee will be responsible for ratifying the policy.

5.3 Chief People Officer

The Chief People Officer is the named officer responsible for ensuring the content of this policy is applied fairly and consistently across the Trust. The Chief People Officer has responsibility for monitoring compliance with this policy.

5.4 Joint Union Staff Side (Trade Unions)

Joint Union Staff Side representatives have an important role in supporting and advising employees / workers on policies and procedures and for promoting just and learning principles. Joint Union Staff Side representatives are able to accompany employees to an investigation meeting / disciplinary hearing, ask questions on behalf of their member, sum up the employee / worker case and, in some cases, answer questions on behalf of their member.

5.5 Deputy Director/Service Director/Head of Service

Deputy Directors/Service Directors/Heads of Service are responsible for overseeing the dissemination and implementation of this policy across their service. If appointed as Case Manager they become responsible for commissioning and providing terms of reference for any investigations carried out under this policy, ensuring that Investigating Officers are supported to undertake thorough, robust investigations.

They also have a responsibility for chairing any hearings as well as taking forward any learning identified as a result of any investigations.

5.6 Team Leader/Line Manager

Line managers and team leaders are responsible for ensuring that staff are aware of this policy and understand the rules relating to conduct and the potential consequences if they are not adhered to.

The key responsibilities for line managers in respect of this policy are:

- Appropriately challenging and managing poor conduct or behaviours that fall short of the Trusts Behavioural Standards Framework or Trust policies and procedures.
- Reviewing incidents, errors or allegations using the just culture guide and liaise with HR to consider if informal resolution can be undertaken.
- If an informal resolution cannot be undertaken, then gathering the facts to enable application of the Just and Learning principles by the Case Manager
- Where an investigation is required, informing the member of staff of the allegations
- Keeping written records and ensuring confidentiality
- Making a referral to Occupational Health if a member of staff feels they are not fit to be interviewed to gain an assessment of their fitness to engage with the process
- Ensuring any concerns raised by the staff member that are related to the investigation are appropriately acted on.
- Adhere to and be a role model for the Behavioural Standards Framework

5.7 All Staff

All staff are to ensure that their conduct is aligned with Trust values and behaviours. It is the responsibility of employees and staff to observe the standards of conduct expected of them along with any professional codes and safeguarding requirements. Employees and staff are expected to perform their duties in accordance with contractual obligations and relevant agreements (i.e., bank worker agreement, secondment agreement).

Staff subject to disciplinary investigation involved in any incident, whether informal or formal must attend any meetings as requested by their manager or the investigating officer, participate fully in the disciplinary process and cooperate with the requirements of this policy, it is their responsibility to carry out any agreed actions and seek support from their line manager where required.

In exceptional circumstances where the staff member is unable to attend any meetings held in line with this policy they are expected to inform their manager and the Investigating Officer, if applicable, at the earliest opportunity.

Staff working for the Trust are obliged to bring to the attention of their manager any concerns regarding practices within the Trust which could have a damaging effect on service users, other staff or the reputation of the Trust (see also Speaking Up policy, GP51).

If any staff member is unsure of the appropriate standards of conduct, it is their responsibility to ensure that they seek guidance and clarity from their line manager.

Staff should adhere to strict standards of confidentiality at all times and should not discuss any investigation or its nature with anyone other than the Investigating Officer, their Trade Union representative or the People team. This applies to all parties including any party

that has made a complaint, any party that is the subject of an investigation and any witness.

5.8 Human Resources Department

The HR department has responsibility for ensuring that the policy is followed fairly and consistently. Their duties will involve:

- Advising and supporting managers on the application of the policy.
- Ensuring the effective and consistent implementation of the policy.
- Promoting just and learning principles and supporting the development of a just and learning culture through a consistent approach.
- Providing advice and guidance to managers and clarification of this policy as required.
- Providing advice for line managers following an adverse event to decide the next steps.
- Providing support and guidance to an Investigating Officer as part of an investigation and at formal hearings.
- Providing support to the panel chair in formal hearings and appeals.
- Providing challenge and examine cases to ensure no biases or conflicts of interest exist.
- Maintaining records of outcomes of formal disciplinary's for the purposes of ensuring a consistent approach and reporting to the executive team via board meetings.
- Reviewing and amending the policy as necessary.
- Adhering to the protocol between HR and the Anti-Fraud Specialists (AFS).

5.9 The Case Manager

This will usually be a senior manager, for example, Head of Service/ Service Director.

It is the responsibility of the Case manager to consider the information provided regarding an incident by the line manager, following a fact-finding process to decide the next steps using the principles of a just and learning culture.

If required, the Case Manager will commission an investigation, assign an investigating officer and oversee the progress to ensure that the timescales within this policy are observed. On completion of the investigation, the Case manager is responsible for deciding appropriate outcomes.

The Case Manager will ensure that the staff member has allocated support throughout the investigation process. In cases where the staff members line manager is involved in the process it is crucial that support is available from another identified manager, a Joint Union Staff Side representative, a work-based colleague who has not been involved in the sequence of events and /or the Trust's Employee Assistance Programme.

The Case Manager will be responsible for reviewing any staff member suspended regularly, (at least every 4 weeks) and they should inform the staff member of the outcome of the review.

The Case Manager will also be responsible for offering a debrief to the service manager following the outcome of any processes following within this policy.

5.10 The Investigating Officer (IO)

The Investigating Officer is an individual assigned by the Case Manager to investigate allegations against a staff member. It is the responsibility of the Investigating Officer to

obtain all relevant information/facts and take all reasonable steps to determine the validity and accuracy of the allegations. The Investigating Officer will be responsible for:

- Conducting a thorough, fair, impartial investigation in order for the Case Manager to determine whether there is a case to answer.
- Arranging and conducting investigative meetings with the staff member and any witnesses as appropriate.
- Gathering statements and all relevant information/data as appropriate.
- Making the Case manager aware of anything additional that arises during the investigation and/or if there are any anticipated delays.
- Updating relevant parties on where the investigation is up to, including any delays and the reasons for these.
- Producing an investigation report outlining the facts of the case and the evidence produced for consideration by the Case Manager.
- Attending a disciplinary hearing to present the evidence, when requested (if there is a case to answer).

The investigating officer will normally be a staff member of the Trust or a sessional Investigating Officer from the Trust's bank. In exceptional cases where a conflict of interest cannot be resolved by the appointment of an alternative internal Investigating Officer, or due to the complexity of the case, capacity issues or seniority of the individual being investigated, an external investigator will be used. Such external appointments will be approved by the Chief People Officer or Deputy Chief People Officer.

The Investigating Officer will be supported by a HR representative who can advise on process and ensure that the investigation is thorough; they will also support the Investigating Officer at any subsequent hearing.

6. STANDARDS OF CONDUCT

Staff are required to be familiar with and to follow departmental rules, their own professional codes of conduct and Trust policies and procedures relevant to their job.

All staff members are expected to be professional, courteous and considerate to others including service users, members of the public and other staff members. They are also required to respect confidentiality and sensitive information, and to ensure that their actions are not detrimental to the condition or safety of patients/service users.

All staff members at all times on Trust premises, on business and in any work-related setting outside the workplace must avoid using abusive, obscene or offensive words/remarks, either verbally or in writing which can include email, social media or messaging services/Apps.

6.1 Behavioural Standards Framework

WCHC Behavioural Standards Framework is how we live our values 'Everyone is a leader' all staff, at all levels, we each lead and influence regardless of our role. We enable people to be the best they can be in order to deliver integrated, high quality, person-centred care. Our culture is based on our values of compassion, open and trust. We celebrate the diversity of our staff and the unique contribution everyone brings. We promote and expect kindness, civility and respect for everyone, encouraging and supporting people to speak up when this is not the case. The framework sets a clear standard of expectations for your behaviour and the behaviour you can expect from colleagues and it applies to all roles across the Trust and can be found on Staffzone.

6.2 Raising Concerns (Speaking Up)

When concerns are raised about the safety of an individual being cared for or a staff member is being compromised by clinical/professional practice, systems, policies or procedures, this will be investigated in line with the Trust's Speaking Up policy. If, as a result of this, there are concerns about the conduct of a staff member, the disciplinary procedure will be convened.

In cases where there is a concern or allegation that someone working or volunteering with children or vulnerable adults:

- has or may have harmed a child or vulnerable adult
- may have committed a criminal offence related to a child or vulnerable adult
- has behaved in a way that indicates they may pose a risk of harm to children or vulnerable adults and therefore unsuitable to work with this group

then the manager who becomes aware of the concern should refer to the Policy for Management of Allegations (SG06). This may result in referral to the Wirral LADO/ALADO and referrals may also be required to the Central Advice & Duty Team (CADT). Specific advice can be sought from the Safeguarding team. The Trust also has the legal duty to refer to DBS and relevant professional body, where appropriate, as detailed in section 16.

6.3 Dignity and Respect at Work

Any complaints made in relation to bullying and harassment will be investigated in line with the Trust's Bullying and Harassment policy. If it is found that there is a case to answer, the normal disciplinary investigation process will be followed, as per this policy. Please see the Civility & Respect (HRP4) for further information.

6.4 Criminal Charges and Other Formal Agency Investigations

Staff members are required to inform their line manager and Service Director/Head of Service immediately if they are investigated, cautioned, warned, arrested, charged or have allegations brought against them by an external organisation or agency, e.g., the police, social services, the Independent Safeguarding Authority, Her Majesty's Revenue and Customs, The Child Support Agency or their professional body. You must also notify your Service Director or Head of Service of the outcome of any investigations, hearings or court proceedings as soon as you are notified. Failure to disclose may result in disciplinary action being taken against them.

A criminal investigation, charge or conviction relating to anything outside work may be treated as a disciplinary matter if considered that it is relevant e.g., affect the staff members suitability for their role or reputations of the Trust, or where the existence of the allegations, charge or conviction could otherwise seriously undermine the trust and confidence that the Trust has in the staff member.

6.5 Confidentiality

Staff and workers should be aware that all information concerning service users is confidential. Any breach of service user/staff members confidentiality will be treated as a disciplinary matter. Serious breaches will be treated as gross misconduct and may be reported to the Information Commissioner's Office.

Staff should not access patient or staff information on any system (electronic or paper) that relates to family (including spouses; children; parents etc.) or friends, even if it is considered to be within their role in the organisation or access their own record.

Treatment of family members, when planned, can be subject to approval from a Service Director. If unplanned, it is important for the Trust to understand the reason why care was provided to a family member as this is not advocated, as the trust need to be assured that there have not been any safeguarding concerns identified. Staff members should stay objective and have clear professional boundaries at all times with people in their care.

Disciplinary cases will be treated sensitively and confidentially. Information will only be shared with those who have a legitimate right to be informed in accordance with Data Protection Act 2018 and the Common Law Duty of Confidentiality. Breaches of confidentiality by any party may result in disciplinary action.

Staff who are asked to provide evidence as part of an investigation will be reminded of their responsibilities, not to divulge information to anyone, apart from their Joint Union Staff Side Representative, work-based colleague or HR.

It should be noted that the rules relating to confidentiality should also be applied to information that is received by staff members about their colleagues, whether they be subordinates or senior members of the team, in the course of their duties. This information may include sensitive information on topics such as details of pay or other benefits, patient health records or development plans to address capability. Such information should not be inappropriately shared and all staff members are reminded to maintain professionalism when in possession of sensitive or restricted information regarding other Trust staff members.

It is recognised that in certain circumstances information may have to be given e.g. to the police and authorisation should be sought where there may be uncertainty in respect of the legal position e.g. The Children's Act 1989, Amended 2004.

Access to patient/service user information, including treatment regime by Trust staff members, may be agreed where prior authorisation is sought, in order to support individual staff members in legal proceedings.

6.6 Allegations of Fraud and the interface with NHS Counter Fraud

It is important for all staff members to be aware that some forms of misconduct could potentially be considered 'fraudulent' under criminal law, and could lead to criminal prosecution as well as disciplinary or civil action examples could include (but not limited to) deliberately making false or exaggerated mileage claims on travel expenses forms, making false claims on timesheets for hours not actually worked, making false statements about, or forging documentation relating to, qualifications/references when applying for a particular job, working elsewhere whilst off sick, or obtaining financial or other property/services of the Trust by deception.

Where a disciplinary issue of possible fraud of this nature is being considered, the matter should be discussed in the first instance with the Trust's Anti-Fraud Specialist (AFS). All cases of suspected fraud within the Trust must initially be reported to the Chief Finance Officer & Deputy Chief Executive Officer and the Trust's nominated Anti-Fraud Specialist (AFS) immediately, or to the Chief Executive if those individuals are implicated. Any staff member can also contact any senior manager of the Trust, Freedom to Speak Up Guardian, or the Chair of the Audit Committee to discuss their concerns if they feel unable, for any reason, to report the matter to the AFS or Chief Finance Officer & Deputy Chief Executive.

Depending on the exact nature and scale of the possible misconduct, it may be that a criminal investigation into the activities of the staff member is considered necessary. In such cases, commencing disciplinary action at the outset may not always be appropriate especially if it would alert staff member to any criminal investigation and lead to the possible altering or destruction of evidence of potentially criminal activity. In any such situation, decisions on the way to proceed should only be taken after consultation with the Trust's Anti-Fraud Specialist, the Chief Finance Officer & Deputy Chief Executive and Chief People Officer.

Any internal investigation into allegations of potential fraud should be deferred until a full and detailed discussion has taken place with the nominated Anti-Fraud Specialist. The involvement of NHS Protect does not necessarily mean a disciplinary investigation will not take place and each situation is to be judged on its own merits. For both the Anti-Fraud Specialists and HR, any matter referred which raises any suspicion of fraud, bribery or corruption must be dealt with in accordance with the requirements set out in this policy and the Trust's Anti-Fraud, Bribery and Corruption Policy (FP03).

6.7 Bribery

In line with the Bribery Act 2010, staff must:

- ensure the interests of patients and service users are paramount and that use or management of public funds ensures value for money
- declare any external interest which may result in gaining direct or indirect financial advantage as a consequence of the work which could influence any decisions they make; or which could interfere with their contractual obligations / agreements to the Trust
- not misuse or make available confidential information on patients, service users, staff members or the Trust inappropriately
- not abuse their official position for personal gain or in showing favoritism
- not accept inappropriate gifts or hospitality

Refer to Trust's Anti-Fraud, Bribery and Corruption Policy (FP03) for more information.

6.8 Allegations against staff members from other organisations

This policy applies to Trust staff members who wish to raise concerns about staff members employed by other organisations. In these cases, if staff members are unable to informally resolve their concerns or the allegations are of a serious nature, staff members are encouraged to report these to their manager at the earliest opportunity and the HR team will link in with the employing organisation to establish an appropriate way forward in managing the concerns or allegations, in line with relevant organisational policies.

Line managers will be responsible for keeping the Trust staff member updated, maintain communication and provide support during the process. Support can also be obtained from Joint Union Staff Side, the Trust's confidential Employee Assistance Programme, Occupational Health and/or HR.

6.9 Maintaining Professional Registration

Staff who are required to maintain a professional registration must ensure that they take all the necessary actions to ensure their registration does not lapse during the course of employment, even if absent through sickness absence, annual leave or suspension.

7. PRELIMINARY REVIEW

As soon as management are made aware of an adverse event/incident then there should be a review of the whole of the event, in line with the principles of a just and learning culture (Appendix 2). Usually this will be the line manager but senior managers in each service or locality will decide who is appropriate to carry out the review on a case by case basis, dependent on the circumstances.

This step of the procedure is to ensure the initial facts are established to enable decision makers to decide upon the next steps, for example, the reviewer should assess if it was a system or process that led to the event rather than a staff members conduct.

This will require initial facts to be established promptly such as dates & times of incident, people involved or people who have potentially witnessed the incident, where the incident took place and any other information available, for example CCTV when appropriate in line with Trust policies.

To gather the initial information, it may be that managers need to ask people involved for their account of the adverse event. This will not be an official investigation meeting but a “fact-finding” process and will be informal.

The review of an event/incident should be completed as quickly as possible with management treating this as a high priority. As a guideline this should not take any longer than 3 days. However, this is not a strict timeframe as it will depend on the specific circumstances. If the facts cannot be swiftly established, then other action may need to happen such as suspension/move to alternative duties. If further information shows that these measures are no longer appropriate, then they will end.

Having reviewed all the facts, as part of the preliminary review, the Line Manager should consider the appropriate action using the Just Culture Guide (appendix 2). The line manager will make a recommendation to the Service Director as follows:

- Performance Management Policy to be followed
- No further action
- Lessons learnt conversation (engage with staff member to involve them in the solution)
- Informal action, such as informal counselling, training, coaching, mediation or modifying systems or protocols
- Fast track procedure to be used, following a preliminary review, where disciplinary action is required that is likely to result in a low level sanction and the staff member admits to the allegation. This may not be appropriate for allegations that fall within the remit of gross misconduct (refer to Service Director and Section 10).
- Formal investigation needed (refer to Service Director)
- Escalation to professional lead for advice - breaches of code and if a referral to the professional body is appropriate.

Any evidence from the preliminary review should be provided to the Investigating Officer to include in their final report.

8. BREACHES OF CONDUCT

Failure to meet the standards of conduct outlined in Section 6 of this policy may result in disciplinary action being taken by the Trust (refer to section 11). The Trust's policy is to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts using the Just and Learning Culture principles and to give staff members the opportunity to respond before taking formal action.

8.1 Misconduct

A first offence will not normally lead to dismissal unless it is deemed to be gross misconduct (section 8.3) but it may result in formal disciplinary warning being issued. Subsequent offences (within prescribed time limits) could lead to escalation of sanction or dismissal.

Examples of levels of misconduct (though not an exhaustive list) can be found in Appendix 1.

8.2 Serious Misconduct

Offences that are considered serious misconduct are outlined in Appendix 1. These concerns may result in a higher level of warning, if proven.

8.3 Gross misconduct

Gross misconduct is misconduct that is so serious that, by itself, it fundamentally breaches the contract of employment / contractual agreement (for workers) and justifies dismissal without notice (i.e. summary dismissal). It refers to any breach of conduct which, following investigation, could reasonably be considered to have severed the trust and confidence which exists between employer and staff member. The action taken will reflect the seriousness of the offence (and therefore culpability of the staff member) and will depend on the individual circumstances and consequences of each case, but particular consideration will be given to the implications or resultant consequences of the offence and whether the offence is persistent.

Examples of levels of gross misconduct (though not an exhaustive list) can be found in Appendix 1.

8.4 Alternatives to Suspension

The decision to suspend a staff member should be a last resort and should only be taken when alternative courses of action have been fully explored and considered, such as:

- Temporary assignment in a broadly similar role in another service or location
- Restricted duties in existing role and location
- Placing the staff member under additional supervision
- Temporary assignment to a different role that is within the skills and knowledge of the staff member
- A risk assessment would be conducted when considering any alternatives to suspension.

8.5 Suspension

Alternatives to suspension should always be considered e.g. temporary redeployment to other duties or restricted duties (section 8.3). In cases of potential gross misconduct or where management otherwise considers it to be in the best interests of either the Trust or the staff member to remove them from the workplace pending a disciplinary investigation then they may be temporarily suspended from work. Suspension is a precautionary neutral measure and not a disciplinary action/sanction. Suspension will always be on full pay and the staff member will be kept informed throughout the period of suspension.

It may be necessary to suspend and staff member in the following instances:

- The allegations made are sufficiently serious to constitute gross misconduct and may justify dismissal if substantiated. In this regard a staff member may however still be dismissed even if not previously suspended.
- The continued presence of a staff member at work could impede a proper fact-finding process.
- The staff member could be at risk if they remained at work or could put other staff members, service users, the public or the interests of the Trust at risk.

Before suspending a staff member the Deputy Chief People Officer must be consulted and serious consideration given to any possible alternative measures that may be available. At this stage it is important to ensure that any conflict of interest is avoided in relation to those making the decision to suspend.

Ordinarily staff member should be given the opportunity to be represented at a suspension meeting however where this is not immediately available, or where the allegation(s) are so serious, then, as a last resort, it is permissible to suspend without a Joint Union Staff Side representative or work-based colleague present.

The line manager or another appropriate manager will act as a buddy support during this process to ensure that contact is maintained and the staff member is kept updated and supported whilst not in work.

During a period of suspension staff members should not attend any of the premises of the Trust without prior permission, unless in emergency situations or to receive treatment/accompany a family member for treatment. Staff members should not contact anyone who is potentially a witness in the investigation at all but can contact other staff members not likely to be directly involved in the investigation so long as matters relating to the investigation are not discussed.

The suspension will be regularly reviewed (at least every 4 weeks) by the Case manager.

If a staff member reports sick during a period of suspension then they should be put on sick leave and the normal entitlements to sick pay will apply. If they then become fit for work during a period of suspension they would be placed back on suspension and receive full pay.

9. INFORMAL COUNSELLING

Most concerns can often be addressed effectively and swiftly by the staff members immediate line manager having a structured 1:1 discussion with the staff member regarding the standards required and the required improvement in their conduct. Counselling is not a disciplinary action. It is usually an informal 1:1 discussion designed to offer advice and guidance and individuals should be informed of this. Counselling would follow instances of carelessness or minor misconduct. A counselling meeting will take the form of a two-way, constructive discussion with the objective of encouraging and supporting the staff member in improving their conduct.

During this meeting the manager should:

- discuss the concerns that have come to light and provide examples and/or relevant documents
- listen to the staff members response, allow opportunity for reflection and any reasons for the behaviour change
- inform the staff member of the standards expected by the Trust and the level of improvement needed

- discuss support and training to achieve the required standards
- a time bound process for review and resolution, if appropriate (usually up to 3 months)

Possible outcomes could include the issuing of a management instruction, provision of informal advice, coaching, training or other learning and development activities (if training/development needs are identified) and/or no further action.

Agreements/outcomes from informal counselling should be recorded in writing by the manager, marked as “informal counselling” and shared with the staff member. This can be done in various ways. An option is to use the suggested template within this policy (Appendix 5)

If the informal counselling takes place as part of supervision, separate documentation marked “informal counselling” should still be completed in accordance with above.

Staff members should be made aware that that the discussion is in line with the informal stage of the disciplinary policy and any further minor breaches of misconduct, following an informal counselling, could lead to formal disciplinary action with a copy of the disciplinary policy provided to them.

Should a staff member have any concerns with regards to the outcome of an informal counselling meeting they should raise this with the next level line manager and/ or a Joint Union Staff Side representative for advice. Alternatively, staff members can refer to the Trust’s Grievance and Resolution Procedure.

10. FAST TRACK PROCEDURE

If the staff member admits to the allegation(s), and the Case Manager deems the allegation(s) would more than likely result in a sanction (first/final written warning) being issued at the hearing stage, a decision can be reached to fast track the disciplinary process. This will remove the need for producing a formal investigation report and proceeding to a disciplinary hearing, although a thorough examination of the known facts will take place. An investigating officer will not, therefore need to be appointed.

If suggestion is given to adopting the fast track process the Case Manager must consult with the relevant HR Business Partner. Fast tracking must be agreed by all parties, i.e. staff member (and his/her representative), the Case Manager, and the HRBP.

If the fast track process is adopted the staff member will be informed of the level of sanction that is being proposed before the disciplinary sanction will be confirmed in writing. The staff member will be given 5 working days to reflect on their agreement to this process (as an alternative to an appeal). If the staff member wishes to withdraw from the fast track process during this 5 day period, the case will be referred back to the Case Manager for consideration of either proceeding to an investigation or a hearing, if there is sufficient evidence.

This process is not appropriate for matters relating to gross misconduct that may result in a dismissal.

11. FORMAL DISCIPLINARY (REFER TO APPENDIX 3 FOR TIMESCALES)

The formal procedure will only be applied where the conduct breach is too serious to be managed informally or informal counselling has failed to reach the required improvements in conduct.

In some cases, this will require the holding of an investigatory meeting with the staff member before proceeding to any disciplinary hearing. In others, the investigatory stage will be the collation of evidence by the line manager or next level manager for use at any disciplinary

hearing and a formal investigation will not be required e.g. continued minor misconduct for lateness where an informal counselling is live.

Where a formal investigation is required the Case Manager will commission an investigation by developing a terms of reference and appoint an appropriate Investigating Officer to gather the relevant facts relating to the allegation(s) in line with agreed terms of reference. If new issues come to light during the course of the investigation, the terms of reference must be amended and the staff member will be informed verbally and then followed up in writing.

The line manager will meet with the staff member initially to inform them of the need to proceed to a disciplinary investigation including the exact allegations that will be investigated. This meeting will usually take place within 5 working days from the preliminary review. It is inappropriate for the staff member to respond to any allegation at this stage. The meeting will be confirmed in writing and the Investigating Officer will be in contact with the staff member to progress with the investigation.

In the case that a Joint Union Staff Side Representative is subject to a disciplinary investigation, the Trust will advise the full time officer.

11.1 Assigning an investigating officer

Before commencing an investigation and appointing an investigating officer the Case Manager should consider the specific responsibilities they are assigning.

Careful consideration should be given to ensuring that the investigating officer has sufficient resources that will fully support the thorough completion of the process and their ability to conduct an objective and independent process, to ensure that there is no conflict of interest. They should be suitably trained and also be able to demonstrate the aptitude and competencies to carry out the role they are being assigned, this will include an awareness of relevant aspects of best practice and principles of natural justice and an appreciation of race and cultural considerations.

It is the role of the Investigating Officer to thoroughly investigate all the facts of the case, collecting all relevant information (i.e., witness statements, employee records, supporting evidence) to enable them to compile a robust investigation report. No disciplinary action will be considered until a thorough investigation has been conducted to establish the facts and circumstances of the case.

As part of the investigation process, the Investigating Officer will arrange to meet with the staff member to establish the facts of the case and provide them with the opportunity to respond to the allegations. The Investigating Officer will confirm the meeting details in writing clearly stating the allegations being investigated and, during the meeting, record of discussions will be captured and sent to the individual for review. HR will be present at the meeting and the staff member can be accompanied by a Joint Union Staff Side Representative or a work-based colleague.

Investigations should be completed as quickly, but as thoroughly as possible and in any event should normally be completed within a maximum of 13 weeks from the date the issue is reported to HR. With some cases there may be aspects that fall outside of the control of the Investigating Officer that mean the expected timescale for conducting the investigation is not achievable, examples of this may include staff members annual leave, availability of key witnesses and/or the quantity of evidence needing examination. Any requests to exceed this timeframe must be authorised by the Case Manager and the staff member will be informed in writing.

On completion of the investigation the Investigating Officer is required to submit an Investigation Report to the Case Manager. This report should not comment on any possible disciplinary outcome but purely act as a summary of the investigation findings to enable the Case Manager to determine if there is a disciplinary case to answer. The staff member will be informed when the report has been submitted.

11.2 Attendance at Meetings

All staff members subject to disciplinary investigation are required to participate and have a duty to take all reasonable steps to attend meetings/submit relevant evidence as requested by the Investigating Officer. If, due to unavailability or difficulties arranging representation, the staff member cannot attend an investigatory meeting on a proposed date, they can suggest an alternative time and date so long as it is reasonable and it is not more than five working days after the original date.

If the staff member fails to attend a meeting or does not respond without good reason, the investigating officer will attempt to reschedule another meeting. If the staff member does not attend, without good reason, the investigation may progress without the staff members input which will result in the report being submitted based on the evidence available and decisions may be taken on the basis of the facts available at the time.

11.3 Absence during an Investigation

It should be noted that in the event of a staff member ~~worker~~ being absent from work due to sickness during an investigation, the investigation should continue as far as is reasonably practicable. Occupational Health and Human Resources should be consulted as to the appropriate support mechanisms for the staff member. The process outlined in HRP5 Managing Attendance Policy will be followed in relation to their absence from work.

11.4 Resignation during an investigation

If a staff member resigns during an investigation, then the process will continue to a conclusion and the investigation report will be submitted to Case Manager to decide if there is a case to answer. If the outcome is that there is a case to answer, then a hearing won't be convened, however the staff member will need to be informed of the outcome, as well as any referral to a Professional Body that is will be made (where appropriate), and that any references will state that individual left during an investigation process.

11.5 Witnesses

The investigation process is likely to involve the Investigating Officer meeting with key witnesses. Initial contact with witnesses is often in the form of a telephone conversation followed up in writing confirming date and time of an investigation meeting where they would attend in a witness capacity. The witness can choose to be accompanied by a work-based colleague providing this does not lead to any breach of confidentiality, is not considered a conflict of interest or it does not hinder the completion of the investigation. If the witness is a Joint Union Staff Side member then they would be entitled to be represented by their relevant Regional Officer.

Alternatively, the Investigating Officer may deem it more appropriate to collate witness statements. If on receipt of a written statement the investigating officer needs further clarification, then they will need to decide on whether to interview the witness or seek clarification in writing. If a face to face interview is required, this can take place in person or on MS Teams.

There is a duty on all staff members to be open and honest and provide evidence upon request. In cases where staff members are reluctant to participate or attend a meeting, Investigating Officers should explore the reasons, provide reassurance and seek to resolve any concerns they have. If a staff member refuses to attend an investigation meeting, the Investigating Officer should try to find out why and see if there is a way to resolve the issue. It may be that they are unable to attend for a legitimate reason, such as illness, and it could be possible for the meeting to be rearranged, or the staff member is able to produce a witness statement instead. Where the Investigating Officer does not consider that a legitimate reason has been given it may be considered that the staff member is unreasonably refusing to follow a management request and should be raised with the Case Manager.

Anonymity should be avoided as far as possible, as it may not be possible to guarantee this throughout the whole process e.g. at an Employment Tribunal.

It should be clearly outlined to the witnesses involved that they may be required to attend a hearing, if there is a case to answer. The investigating officer should ascertain whether the witnesses have any concerns regarding attending a hearing. If a key witness refuses to take part in a hearing, then this should be communicated to the Case Manager and the Case Manager will need to review the impact this may have on the case.

11.6 Outcome of Investigation

The investigation report will be shared with the Case Manager who will determine whether there is a disciplinary case to answer.

It is important for Investigating Officers and any subsequent disciplinary panel members to be aware that the 'burden of proof' rests with the investigation report.

On considering the investigation report the Case Manager can decide:

- there is no case to answer based on the information presented and therefore no further action will be necessary
- there is a case to answer and a need to refer the case to a disciplinary hearing due to there being sufficient concern (section 13)
- further action will be necessary however this would be under other Trust policies e.g. Performance Management Policy (HRP24), or identification of learning and development needs, or through an informal counselling
- to instruct further investigations due to apparent gaps in the investigation findings

The staff member will be informed of the outcome in writing within 5 working days of the report being submitted. If there is a case to answer, the Case manager will invite the staff member to a disciplinary hearing.

If there is a case to answer, then the Professional Lead (where applicable) must be advised and consulted before proceeding to disciplinary hearing. This is to ensure that the principle of plurality is adopted such that important decisions which have potentially serious consequences are well informed, reviewed from multiple perspectives and never taken from one person alone. This also ensures senior level oversight for consistency and objectivity.

If the member of staff wishes to have an alternative Case Manager to hear the case at a hearing then they should request this via the HR Business Partner.

12. SUPPORTING STAFF MEMBERS

Staff members may require additional support during these procedures which can be obtained from the staff members line manager, trade union representative, designated HR representative, Occupational Health and/or the Trust's Employee Assistance Programme (Health Assured). In addition, individual counselling may be offered to affected staff members via Health Assured, which is a free counselling service available to all Trust staff members.

The likely impact on the health and wellbeing of those involved should be considered during the period of any process, which would normally be the responsibility of the line manager. It is important throughout the procedure for the line manager to keep talking with both the staff member and any other staff members affected. Clear, regular and confidential communication can help make sure staff members are kept informed of what is happening, have the opportunity to ask questions and can minimise the potential for stress and other mental health issues. This support will be formalised in the terms of reference.

Managers and investigating officers are responsible for maintaining communications and will make every effort to ensure staff members receive clear, comprehensive and sensitive information about the allegations and regular progress updates on any investigation until the matter is concluded.

An assessment of the individual needs of those affected should be considered and all aspects of support should be explored, this may include utilising tools available on Staff Zone in relation to Mental Wellbeing such as the Wellbeing Recovery Action Plan (WRAP) tool. Further guidance can be obtained in the Supporting Mental Wellbeing Policy HRP29. Where there are concerns about a staff members health or wellbeing, Occupational Health advice will be obtained.

13. DISCIPLINARY HEARINGS

If, on completion of the investigation, the Case Manager believes a disciplinary hearing is warranted as they consider the findings suggest sufficient concern, a hearing should be convened as soon as is reasonably practicable. A hearing panel will be appointed in accordance with the scheme of delegation (refer to the toolkit). The Case Manager will usually be the chair of the panel at any disciplinary hearing and along with another manager or professional advisor depending on the allegations. Panel members will have no previous involvement in the case or any conflict of interest that could influence decision making.

A minimum of 10 working days' notice in writing shall be given of the date of the hearing at which point will confirm if the Investigating Officer intends to call any witnesses and a copy of the investigation report and appendices will also be shared. If the staff member wishes to submit any papers to be considered in addition to those shared by management and/or call any witnesses they will need to provide these details to the panel and Investigating Officer no later than 5 working days prior to the date of the hearing, unless otherwise agreed.

There will be a member of the Human Resources team present to advise the panel and also one to support the Investigating Officer as they present the findings of the investigation. The staff member will have the right to be accompanied by a JUSS representative or a work-based colleague. The hearing shall be conducted in line with the protocol set out in Appendix 6.

If, due to unavailability or difficulties arranging representation, the staff member cannot attend a hearing on the proposed date, they can suggest an alternative time and date so long as it is reasonable and it is not more than five working days after the original date. Where a staff member fails to attend a disciplinary hearing with no reasonable explanation, the hearing may be held in their absence and a decision will be made based on all available evidence. Similarly, advice

should be sought on the options available in respect of an employee staff member who is unable to attend due to ill health.

The outcome of any hearing will be confirmed in writing within 5 working days of the date of the hearing, this letter will also need to clearly set out the staff members right of appeal.

If a staff member resigns but in cases where there is consideration for a referral to a professional body will continue, where appropriate. Any future employment references requested about the staff member will reflect any outstanding issues eg that the staff member left during an investigation/hearing process.

14. FORMAL DISCIPLINARY OUTCOMES

A staff member will not normally be dismissed for a first breach of conduct except in cases of gross misconduct. When determining the appropriate outcome the test of reasonableness needs to be applied, taking into account any mitigating factors.

Where formal disciplinary warnings are issued this may also result in the withholding of incremental pay progression.

The formal outcomes available are as follows:

A) First written warning:

A first written warning may be given in the following circumstances:

- in cases more serious than would warrant informal action, but not serious enough to require higher sanction; or
- in cases of repetition by the staff member of minor acts of misconduct which have been the subject of informal counselling

A first written warning will normally remain live for a period of 12 months from date of issue. If a further act of misconduct of a similar nature occurs while the warning is live, then further disciplinary action may be appropriate, which a final written warning or dismissal (depending upon the seriousness) may follow.

B) Final written warning:

A final written warning may be given in the following circumstances:

- misconduct where there is already an active written warning on the staff members record; or
- misconduct that is considered sufficiently serious to warrant a final written warning even though there are no other active warnings on the individual's record
- action short of dismissal providing there are sufficient mitigating circumstances

A final warning shall include an explanation that further acts of misconduct will result in serious action, possibly including dismissal. A final written warning will remain live for a period of 12 months from date of issue. If a further act of misconduct of a similar nature occurs while the warning is live, then further disciplinary action may result following which dismissal may follow.

C) Dismissal:

Dismissal will usually be appropriate for further misconduct where there is an active disciplinary warning on the staff members record. Notice will be normally served and paid in lieu.

D) Summary Dismissal.

Summary dismissal will usually be appropriate for any gross misconduct or other conduct which justifies such dismissal. A summary dismissal is without notice and therefore with immediate effect.

E) Alternatives to Dismissal

In some cases of gross misconduct alternatives to dismissal or action short of dismissal may be considered e.g.:

- Downgrading (without pay protection)
- Redeployment
- Extension of previous warning period (where applicable and no longer than 12 months)

These alternatives will usually be accompanied by a disciplinary sanction, i.e., a final written warning, and a development plan.

14.1 Management of Disciplinary Sanctions

It is the responsibility of the staff members line manager to monitor the conduct of the staff member on an ongoing basis but specifically as outlined in any warning immediately following its issue. Line managers will also ensure that any remedial action as set out in a warning is actioned.

If there have been no further causes for concern or misconduct within the period of any warning it will expire after the period indicated above.

All records in connection with a disciplinary investigation should remain confidential and not kept for longer than necessary in line with GDPR. Records of any warnings will be disregarded for cumulative disciplinary purposes but will be retained on file once they have expired except in cases involving safeguarding issues or where there appears to be a history of recurring misconduct.

In exceptional circumstances an expired warning may be relied upon where there is a history of recurring misconduct, advice on such cases must always be sought from the relevant HR Business Partner.

15. APPEALS

Staff members have the right of appeal against any formal disciplinary action taken against them and will be informed of this right at the time they are advised of the outcome of the disciplinary hearing. There is a right of appeal if the disciplinary outcome was agreed through invoking the Fast Track process as detailed in section 10 above.

Any appeal must be made in writing within 10 working days by the staff member from the date of the hearing decision letter and must contain clear grounds for its submission. Management reserves the right not to allow access to an appeal where no reasonable grounds for appeal are given. Grounds of the appeal may relate to either:

- the severity of the sanction
- the identification of substantial new and relevant information to the case
- evidence to demonstrate that the Trust procedure has not been applied properly

Where the grounds for appeal are based on the severity of the imposed sanction and the facts relied upon by the dismissing officer are not in dispute, there will not be a re-hearing of the case but a review of the case. Where the grounds for appeal are for the two latter reasons the appeal will take the form of a full re-hearing.

The appeal hearing (or review of the case and severity of imposed sanction) will be conducted by a manager with the level of authority as detailed in the scheme of delegation (Appendix 7) and the staff member will have the right to be accompanied by a Joint Union Staff Side representative or a work-based colleague. The chair of the original disciplinary hearing will also be in attendance to present their response to the appeal. Alternatively, further investigation of the facts may be required and a pause to the hearing before the panel can make a decision.

The hearing shall be conducted in line with the protocol set out in the toolkit.

Possible outcomes from appeal hearings include:

- Upholding of original disciplinary action
- Change to the original level of warning (reduction)
- Overturning original decision and potential reinstatement/re-engagement in cases of dismissal

The staff member will be given at least 5 working days' notice of the date of the appeal hearing. If the staff member or accompanying person is unable to attend, another meeting will be arranged within 5 working days.

16. DUTY TO REFER

16.1 Disclosure & Barring Service (DBS)

The Trust has a legal duty to refer to the DBS any relevant information concerning a staff member working with children or vulnerable adults on a regulated activity, where that person has caused harm or poses a risk of harm to children and/or vulnerable adults.

16.2 Professional Body

Where a disciplinary matter arises that involves a staff member who is a registered with a professional body, then depending upon the nature and seriousness of the case, the appropriate professional lead in association with a member of the Human Resources team will consider a referral to the professional body. Advice must be sought from a HR Business Partner or Head of HR.

16.3 Other public bodies

Consideration should also be given to other public bodies that may need to be informed of disciplinary proceedings/outcomes. Examples of this include the Information Commissioner Office (ICO) for breaches of data protection.

17. ORGANISATIONAL LESSONS LEARNED

The Trust wants to ensure that, when an incident happens that gives cause for concern, we follow a process to decide what actions need to happen next to either address learning/skills issues or improve systems and processes. We want to encourage improvement and ensure the practice of lessons learnt is embedded in the Trust.

Following the completion of any internal disciplinary process a meeting will be convened with key stakeholders to discuss any organisational learning that may have arisen from the investigation or any subsequent hearings or appeals. Anonymised information will be reviewed at the Trust's People Reflections and Learning Group, to oversee progress with actions/learning and identify recurrent themes and opportunities for wider organisational learning. Actions will be assigned to take forward such learning on behalf of the organisation and improvement will be monitored via the People and Culture Committee. This process will be led by the Service Director or Deputy Director who will have overall responsibility to ensure that actions are carried through and any change is implemented.

18. TRAINING

All staff members and external bodies assigned to undertake the management roles identified within this policy, i.e. investigating officer, Case manager or hearing panel member, will have the appropriate knowledge, experience and training to undertake such roles.

19. CONSULTATION

The following groups were consulted with in the development of this policy:

- Joint Union Staff Side
- People and Culture Committee

To note consultation does not imply agreement and whilst every effort is made to jointly agree there may sometimes be points on which agreement cannot be reached.

20. MONITORING COMPLIANCE

The effective implementation and review of this policy will be monitored by the Chief People Officer and the HR Policy Review Group who have delegated responsibility from the People and Culture Committee.

The impact of the policy will be monitored using existing cultural measures and performance data e.g. feedback from Staff Surveys and Speaking Up cases, data on numbers and distribution of cases. Changes to the policy will be cascaded to staff via the Staff Bulletin and made available on the Trust's Staff Zone.

This policy will be reviewed through the HR Policy Review Group no later than 3 years after implementation.

21. EQUALITY AND HUMAN RIGHTS ANALYSIS

In line with the Trust's commitment to meet its statutory requirements outlined in the Equality and Diversity Strategy each procedural document is screened using an Equality Impact Assessment (EIA) Screening Tool. This demonstrates the Trust's commitment to equality and human rights by recognising that the experiences and needs of every individual are unique and strives to value and respect the diversity of staff, patients/service users, carers and the public.

EIAs support organisations to avoid discrimination on any grounds including age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation. Carers are also protected from discrimination, as they are associated with people with a protected characteristic i.e., disabled people. Should staff become aware of any exclusions that do not comply with this statement would need to complete an incident form and an appropriate action plan put in place

An equality impact assessment tool has been completed and forwarded to the Equality and Diversity Lead – the EIA will be available on the Trust’s website.

22. LINKS TO OTHER POLICIES

HRP1a Doctors and Dentists Disciplinary Policy
HRP2 Grievance and Resolution Policy
HRP4 Civility and Respect policy (formally Bullying and Harassment policy)
HRP5 Managing Attendance policy
HRP24 Performance Management policy
FP06 Anti-Fraud, Bribery and Corruption Policy
GP51 Speaking Up policy
SG6 Management of Allegations Policy
IG10 Data Protection and Confidentiality Policy IG10

23. REFERENCES

ACAS Code of Practice
Children’s Act 1989 (Amended 2004)
General Data Protection Principles (2018)
MIAA Anti-Fraud Services: Anti-Fraud and Human Resources [HR] Liaison and Joint Working Protocol (incorporating Investigations, Sanctions and Redress)
NHS Protect - Tackling fraud and managing security Parallel criminal and disciplinary investigations (Policy statement – April 2013)
Safeguarding Vulnerable Groups Act 2006
Learning Lessons to Improve People Practices letter 24 May 2019, NHS England & Improvement

Appendix 1: Examples of misconduct, serious misconduct and gross misconduct

Examples of misconduct:

The following are examples of the most common breaches good practice and misconduct they represent. Please note this list is for illustrative purposes only, to be used as guidance, it is not exhaustive and every case will be assessed on its own merits, in light of individual circumstances.

1. Misconduct:

1.1 Behaviour:

- Refusal or failure to carry out a reasonable instruction.
- Minor instances of unprofessional behaviour including verbal abuse to others or discourtesy/rudeness to patients, visitors or others including other members of staff.

1.2 Attendance and Time-keeping:

- Failure to comply with attendance and time-keeping requirements, e.g. lateness; or repeated failure to maintain contact when off work during a period of sickness absence without good reason
- Failure to follow absence reporting procedures as specified in the Managing Attendance policy (HRP5)
- Failure to attend for duty as required (unauthorised absence)
- Taking unauthorised or excessive breaks

1.3 Poor working practices:

- Failure to maintain proper records
- Failure to follow Trust procedures

1.4 General:

- Misconduct in relation to official documents
- Minor damage to Trust property
- Failure to comply with conditions of service or working procedures;
- Failure to comply with health and safety requirements;
- failure to meet required standards of performance and behaviour as expected within the staff members role and responsibilities.
- Breach of Confidence – serious and/or persistent breaches of confidence, including the covert recording of staff conversations or meetings ie without expressed consent from those in the meeting

2. Serious Misconduct

- Failure to maintain registration with relevant mandatory professional body
- Failure to respond to previous warnings issued under this policy

- Serious misconduct in relation to official documents
- Serious instances of professional misconduct
- Personal behaviour conducted either inside or outside of work or working hours that results in bringing the Trust into disrepute or has an impact on their role
- Conduct which could bring the Trust into disrepute
- Inappropriate behaviour or abuse of authority towards a colleague or member of the public or person in the Trust's care
- Misuse of Information Technology – unauthorised and improper use of Trust IT systems
- Breach of Confidence – unauthorised/inappropriate access to records, via paper based or electronic systems; covert recording of staff conversations, meetings ie without expressed consent

3. Gross Misconduct:

- Serious Dishonesty – eg whereby the dishonesty of the staff member leads to a breakdown in the relationship of Trust between employer and staff member, including deliberate falsification of records
- Serious or repeated breaches of confidence - unauthorised/inappropriate access to records, via paper based or electronic systems; unauthorised/inappropriate access to records, via paper based or electronic systems, covert recording of staff conversations, meetings ie without expressed consent or disclosure of confidential information – eg whereby a staff member shares confidential information in relation to a patient/service users or a staff member
- Assault – any assault, fighting or threatened behaviour directed at either a patient or staff member
- Theft – actual or attempted theft on NHS or associated premises, whether on or off duty, including unauthorised or unlawful possession of property of the Trust, fellow staff members or members of the public;
- Fraud – any deliberate attempt to defraud the Trust, fellow staff members or members of the public; falsification of records to obtain money eg overtime/ enhancements
- Corruption – any receipt of money, goods, favours in respect of services rendered during the course of their duties
- Wilful or malicious damage – the intentional causing of damage to the Trust's property or property of fellow staff member, patients/service users or members of the public
- Gross negligence – any action or failure to act which could result in serious damage to property or equipment or endanger the health and safety of others. This would also include failure to give appropriate care and protection to patients within the Trust's care or fellow staff member
- Gross insubordination – eg wilful refusal to carry out a reasonable instruction or behaviour which seriously undermines management or the Trust
- Misrepresentation – falsification or failure to declare relevant information fundamental to one's employment, which may include a criminal offence
- Sexual, racial or other forms of harassment/ bullying – serious cases of racial or sexual harassment or bullying against other staff members or patients/service users; or a manager failing to take appropriate action after an incident is brought to their attention
- Harassment or victimisation against someone because they have or are perceived to have a "protected characteristic" or are associated with someone who has a protected characteristic; or a manager failing to take appropriate action after an incident is brought to their attention

- Inappropriate use of social networking sites which could bring the Trust into disrepute – including posting of defamatory comments about the Trust, staff members or patients/service users, unauthorised disclosure of business information
- Being on duty under the influence of alcohol or drugs, other than those that have been medically prescribed

These lists are not exclusive or exhaustive.

Appendix 2- Just and Learning Culture in North West – Guiding Principles

The following-guiding principles, as suggested good practice are:

- Everyone should be encouraged to live the values of compassion and kindness with colleagues, every day
- Colleagues should be able to work in an environment where they feel supported and empowered to learn when things don't go as expected, through restorative practice
- Colleagues should be encouraged to speak the truth about something which didn't go to plan, without fear of punitive individual repercussions
- In the case of an adverse event, employers should not instinctively ask 'who' was to blame but 'what' led the event to occur
- Formal disciplinary processes and suspensions should be avoided wherever possible, in favour of explorative conversations, to include discussions about all personal responsibility
- processes, which are informal and fair, adhering to just and learning principles
- It is never too late to reconsider the correct approach to an employment relations issue, and consider alternative resolution outside of formal disciplinary and grievance processes
- When there is a need for formal processes, they should be undertaken compassionately, begin with an investigation of the facts around what went wrong and be undertaken in a timely manner
- Just and learning culture should not be mistaken for an uncritical culture where 'anything goes' – which can be as harmful and inexcusable as a 'blame culture'
- Whilst the concept of just and learning culture pre-dates the pandemic, COVID-19 has only further emphasised the importance of treating people as human beings, and a just culture naturally aligns with this mindset
- In addition to creating the culture we aspire to for the good of our colleagues; employers should recognise the potential to save time and money that can be reinvested, as a result of reduced disciplinarys, suspensions and workforce turnover (based on Mersey Care data)
- Wherever possible, the natural links and alignment should be drawn between the development of just and learning restorative culture locally, and the national expectations around culture as directed by NHS Chief People Officer.



The principles also outline a broader attitude/mindset, constructive for all to reflect on in their day to day work.

Preliminary Review Checklist









Supporting consistent, constructive & fair evaluation of the actions of staff involved in incidents (i.e. disciplinary allegations)






This checklist supports a review about whether a staff member involved in an incident requires specific individual support or intervention to support appropriate changes in performance / behaviour. The checklist highlights important principles that need to be considered before formal management action is undertaken.

Staff Name:		Job Title:	
Department:		Division:	
Manager:		HR contacted:	Y <input type="checkbox"/> N <input type="checkbox"/>
FACT FINDING PROCESS			
Incident (s) details:			
Date of incident:		Date brought to manager's attention:	
Meeting with member(s) of staff for initial response:	Y <input type="checkbox"/> N <input type="checkbox"/> Date.....	DATIX completed if applicable	Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/> Date..... DATIX number:
Is this a patient safety incident?	Y <input type="checkbox"/> N <input type="checkbox"/>	Referred to PSIRF	Y <input type="checkbox"/> N <input type="checkbox"/>
Summary of staff members initial response:			
Witnesses identified and met with for initial response	Y <input type="checkbox"/> N <input type="checkbox"/> Date(s).....	Names of witnesses:	
Summary of witnesses account:			

Member(s) of staff and witnesses statements requested	Y <input type="checkbox"/> N <input type="checkbox"/>		Member(s) of staff and witnesses offered counselling	Y <input type="checkbox"/> N <input type="checkbox"/>	
	Date			Date.....	
Supporting information provided	<u>List:</u>				
6a. Who is hurt?					
6b. What are their needs?					
6c. Who's obligation is it to meet those needs?					
6d. What actions need to take place?					
6e. What is the right thing to do now?					
6f. Have we provided the skills and capability development for the staff member to do a better job every day?		Yes	Recommendation: Follow organisational guidance for appropriate management action. This could involve individual training, performance management, competency assessments, changes to role or increased supervision, and may require relevant regulatory bodies to be contacted, staff suspension and disciplinary processes. The patient safety incident investigation should indicate the wider actions needed to improve safety for future patients.		
		No	Recommendation: Provide a development plan to ensure staff member has the right support to be able to do a better job, this may include training, increased supervision, mentoring etc... The patient safety incident investigation should indicate the wider actions needed to improve safety for future patients.		

'Just culture' decision tree

Q1. Deliberate harm test				YES / NO / COMMENTS
1a. Was there any intention to cause harm?		Yes	Recommendation: Follow organisational guidance for appropriate management action. This could involve: contact relevant regulatory bodies, suspension of staff, and referral to police and disciplinary processes. Wider investigation is still needed to understand how and why patients were not protected from the actions of the individual.	
 No go to next question - Q2. Health test				YES / NO / COMMENTS
2a. Are there indications of substance abuse?		Yes	Recommendation: Follow organisational substance abuse at work guidance. Wider investigation is still needed to understand if substance abuse could have been recognised and addressed earlier.	
2b. Are there indications of physical ill health?		Yes	Recommendation: Follow organisational guidance for health issues affecting work which is likely to include occupational health referral. Wider investigation is still needed, to understand if health issues could have been recognised and addressed earlier.	
2c. Are there indications of mental ill health?				
 If no to all go to next question - Q3. Foresight test				YES / NO / COMMENTS
3a. Are there agreed protocols / accepted practice in place that apply to the action/omission in question?		If No to any	Recommendation: Action singling out the individual is unlikely to be appropriate; the patient safety incident investigation should indicate the wider actions needed to improve safety for future patients. These actions may include, but not be limited to, the individual.	
3b. Were the protocols/accepted practice workable and in routine use?				
3c. Did the individual knowingly depart from these protocols?				
 If yes to all go to next question - Q4. Substitution test				YES / NO / COMMENTS
4a. Are there indications that other individuals from the same peer group, with comparable experience and qualifications would behave in the same way in similar circumstances?		Yes to any	Recommendation: Action singling out the individual is unlikely to be appropriate; the patient safety incident investigation should indicate the wider actions needed to improve safety for future patients. These actions may include, but not be limited to, the individual.	
4b. Was the individual missed out when relevant training was provided to their peer group?				

4c. Did more senior members of the team fail to provide supervision that normally should be provided?				
 If no to all go to - Q5. Mitigating circumstances				YES / NO / COMMENTS
5a. Were there any significant mitigating circumstances?		Yes	Recommendation: Action directed at the individual may not be appropriate; follow organisational guidance, which is likely to include senior HR advice on what degree of mitigation applies. The patient safety incident investigation should indicate the wider actions needed to improve safety for future patients	
		No	Recommendation: Follow organisational guidance for appropriate management action. This could involve individual training, performance management, competency assessments, changes to role or increased supervision, and may require relevant regulatory bodies to be contacted, staff suspension and disciplinary processes. The patient safety incident investigation should indicate the wider actions needed to improve safety for future patients.	
		Yes	If a repetition of minor misconduct then in some circumstances it can proceed to a formal disciplinary hearing eg continued lateness. Advice will need to be taken from a HR Business Partner	
		No	Consider informal processes, such as training, learning, informal counselling	
Recommendation: (tick as appropriate)	Performance Management Policy to be followed			
	No further action			
	Lessons learnt conversation (engage with staff member to involve them in the solution)			
	Informal action			
	Fast track procedure to be used (refer to Service Director)			
	Formal investigation needed (refer to Service Director)			

	Formal disciplinary hearing (no investigation required)		
	Escalation to professional lead for advice - breaches of code and if a referral to the professional body is appropriate.		
Additional comments:			
Signed:		Date:	
Outcome:			
Signed (Service Director):		Date:	

Please note:

- **A just culture guide** is not a replacement for an investigation of an incident.
- **A just culture guide** can be used at any point of an investigation, and may need to be revisited as more information becomes available.
- **A just culture guide** does not replace HR advice and should be used in conjunction with organisational policy.
- **The guide** should only be used to take one action / failure to act through at a time - however it may be used if multiple actions are involved or it may be appropriate to consider them separately.

If you are recommending a formal investigation, you should now forward this document to the Service Director for your area for them to complete the next section. You should also send all statements and documents you have collated so far.

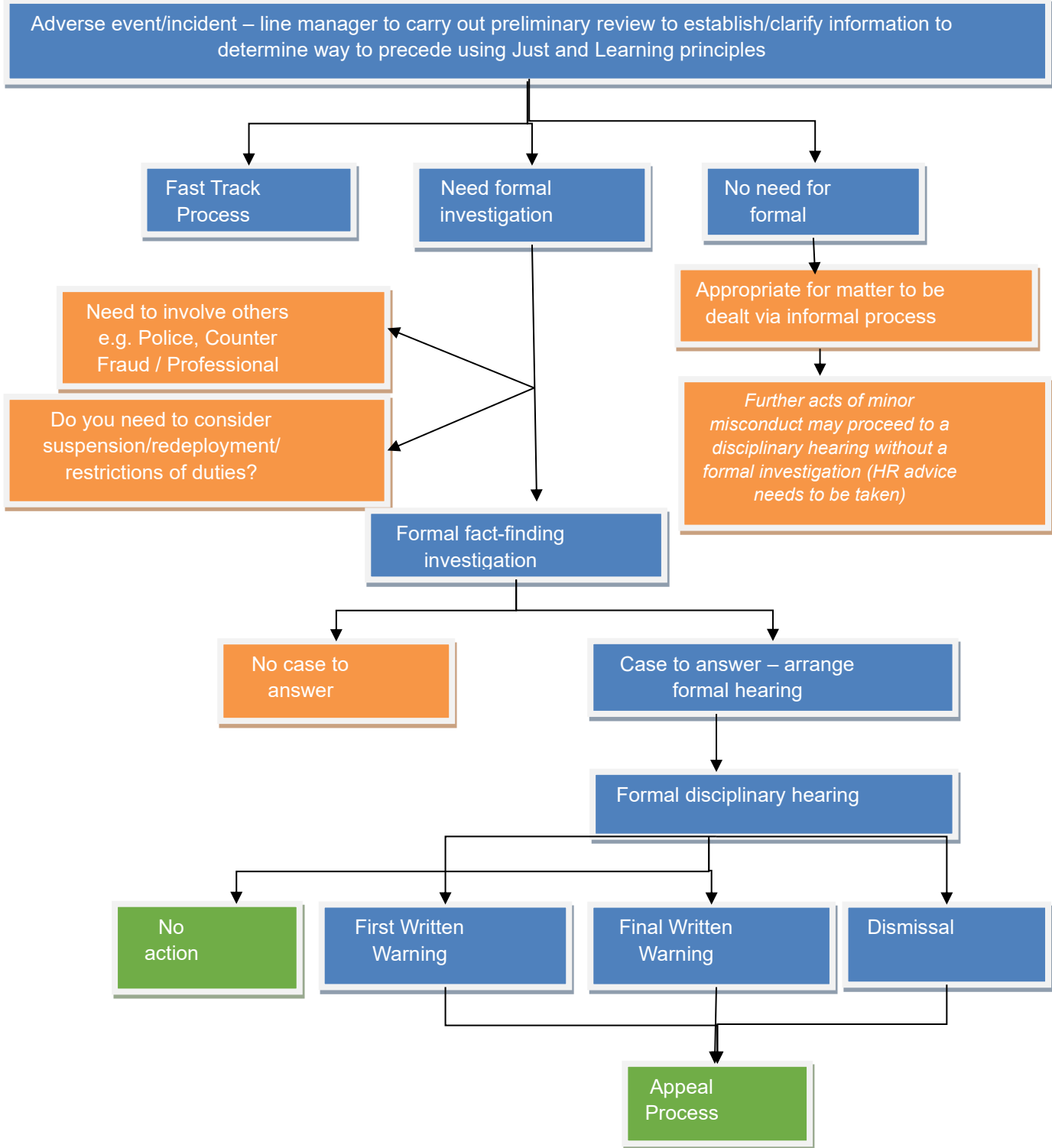
To be completed by Service Director if being formally investigated			
Case Manager:		Designation:	
Outcome:		Date:	
Suspension considered appropriate:	Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/> Date risk assessment completed.....	Alternatives to suspension considered (provide detail)	Y <input type="checkbox"/> N <input type="checkbox"/> N/A <input type="checkbox"/> Date..... .
Reason for suspension:		Date suspended:	
Manager performing suspension:		Payroll / Workforce informed:	Y <input type="checkbox"/> N <input type="checkbox"/> Date.....
Allegations reviewed and terms of reference agreed:	Y <input type="checkbox"/> N <input type="checkbox"/> Date		
Investigating Officer:		Is there an identified or perceived conflict of interest?	Y <input type="checkbox"/> N <input type="checkbox"/> <i>If yes, reassign IO</i>
HR Support:		Individual informed of outcome / next steps:	Y <input type="checkbox"/> N <input type="checkbox"/> Date.....
Communication Plan: (When / What / How)			

Appendix 3- Intended timescales of the Disciplinary Policy for formal investigations

Action	Timescale	Responsibility
Preliminary review (fact finding)	10 working days from HR becoming aware of the incident	Line manager or appropriate manager once assigned by the Service Director/Head of Service
Just & Learning Culture Questionnaire to be completed		
Suspension/restricted duties Risk Assessment (if allegations are gross misconduct)		
Employee informed (and suspension commenced – if appropriate following risk assessment)	5 working days from outcome of preliminary review	Line Manager
Terms of reference developed and IO assigned	5 working days from outcome of preliminary review	Case Manager
Staff member informed (and suspension commenced if appropriate)	5 working days from outcome of preliminary review	Line Manager
Investigation commences	When staff member is informed of allegations/ investigation or IO assigned, whichever is latest	Investigating Officer
IF CASE TO ANSWER		
Hearing date arranged	20 working days from outcome	Case Manager (Panel chair)
IO's report to be sent to member of staff	As soon as possible but at the latest 10 working days before the hearing	Investigating Officer
Hearing decision confirmed in writing to the staff member	5 working days from date of hearing	Case Manager/Panel chair
APPEAL		
Appeal submitted	10 working days from date of letter confirming hearing decision	Staff member
Hearing date arranged	20 working days from receipt of appeal	Appeal panel chair
Outcome of appeal confirmed to the staff member in writing	5 working days from date of hearing	Appeal panel chair

Appendix 4

PROCESS FLOWCHART



Appendix 6 - Disciplinary Hearing Protocol

Where a Disciplinary Panel hear a case under the terms of the Disciplinary Policy the following protocol, or an agreed abridged version, shall be used.

A Panel will consist of at least 2 panel members and a HR representative. No persons involved in a Disciplinary Panel can then be involved in the Appeal Panel for the same case.

In the case of a staff member from a professional staff group, the Panel may include the Professional Lead for that group or they may be advised by them.

The Chairperson of the Panel shall:

- Introduce all present and their role;
- Explain the purpose of the Disciplinary Hearing, i.e. to decide if disciplinary action is appropriate
- Outline the allegations and ensure people know why they are there;
- Explain the format of the Disciplinary/Appeal Hearing;
- Mention that dignity and respect must be observed by all parties.

1. Investigating Officer Presentation of Findings

- a. The Investigating Officer present the findings from the investigation in the presence of the staff member and/or his or her representative and may call witnesses;
- b. The staff member or their Joint Union Staff Side representative shall have the opportunity to ask the IO (and/or witnesses) questions relating to the investigation report;
- c. The Panel members shall have the opportunity to ask the IO (and/or witnesses) questions relating to the investigation report
- d. The Investigating Officer shall have the opportunity to re-examine his/her witnesses.

THE INVESTIGATING OFFICER WITHDRAWS

2. Staff Members Case

- a. The staff member or their Joint Union Staff Side representative shall state their case, including presenting any evidence previously submitted, and may call witnesses;
- b. The Panel members shall have the opportunity to question the staff member or their Trade Union representative;
- c. The staff member or their Joint Union Staff Side representative shall have the opportunity to re-examine his/her witnesses.

3. Summing Up - In summing-up neither party is able to introduce any new matter.

- a. The investigating officer shall have the opportunity to sum up their case
- b. The staff member or their Joint Union Staff Side representative shall have the opportunity to sum up their case

4. Adjournment

The hearing will be adjourned so that the Panel members can deliberate to consider if and/or what disciplinary action to take as appropriate, taking into account:

- All the information gathered during the investigation and presented at the hearing
- Ensure the process has been followed by management;
- The seriousness of the offence;
- The individual's work history/record (if relevant);
- Any mitigating circumstances;
- Outcomes of similar cases

The Panel will only recall both parties at this point to clear any uncertainty on evidence already given. If recall is necessary during the Panel's deliberations both parties shall return.

5. The Panel's Decision

The hearing will be re-convened with the staff member and their representative to communicate the decision and the nature of the disciplinary sanction to be applied, if appropriate.

Where a sanction is issued, the staff member should be advised of the provisions for appealing against the decision and the consequences that will follow should a sanction be imposed.

The Panel's decision will normally be confirmed in writing within 5 working days of the date of the Hearing.

In exceptional circumstances the Panel may be unable to give their decision on the day of the hearing, in such cases contact will be made with the staff member and/or their Joint Union Staff Side representative as soon as possible after the hearing but must be within 5 working days. If there are any delays, the staff member will be informed and provided with an explanation of the delay.

Appendix 7 - Disciplinary Policy Scheme of Delegation

Category of Staff Member	Issue of First Written Warning by:	Appeal to:	Issue of Final Written Warning by:	Appeal to:	Issue of Dismissal by:	Appeal to:
Chief Executive Officer (CEO)	Trust Chairman	Designated Non-Executive Trust member	Trust Chairman	Designated Non-Executive Trust member	Trust Chairman	Designated Non-Executive trust member
Executive Director	Chief Executive	Trust Chairman	Chief Executive	Trust Chairman	Chief Executive	Trust Chairman or Designated Non-Executive
Other staff directly responsible to the Chief Executive Officer	Chief Executive	Trust Chairman	Chief Executive	Trust Chairman	Chief Executive	Trust Chairman or Designated Non-Executive
Medical and Dental Staff (ie Doctors and Dentists)	Head of Service/Divisional Manager or designated other at the equivalent level	Other medical Executive Director	Head of Service/Divisional Manager or designated other at the equivalent level	Other medical Executive Director	Head of Service/Service Director or designated other at the equivalent level	Chief Executive
All other staff members	Immediate line manager	Next level manager above immediate manager	Next level manager above immediate manager	Designated Deputy Director/Service Director	Head of Service/Service Director or other at the equivalent level	Designated Executive Director or Deputy Director not previously involved

NOTES

1. Where, for any reason the Chairman is not available, the role of the Chairman may be undertaken by the Vice Chairman.
2. In all instances involving the Chief Executive or Executive Directors, discussion will first take place with the Trust's Chief People Officer
3. Appeal against a sanction will be made up of two management representatives and one HR representative (as a minimum)

Appendix 8 Monitoring Compliance

Minimum requirement to be monitored	Process for monitoring (e.g. audit)	Responsible individual / group/ committee	Frequency of monitoring	Evidence	Responsible individual for development of action plan	Responsible committee for monitoring of action plan and Implementation
Content of the policy	Review of content	HR Policy Review Group and JUSS	Every 3 years	Updated policy on SAFE	Head of HR (E&W)	People & Culture Committee
Organisational learning	Review of anonymised information to oversee progress with actions/learning and identify recurrent themes and opportunities for wider organisational learning	People Reflections and Learning Group	Every 8 weeks	Minutes	Head of HR (E&W)	People & Culture Committee
Numbers of disciplinary investigations	Reporting	Integrated Performance Board	Monthly	Report	Deputy Chief People Officer	People & Culture Committee
Employee Relation Cases and protected characteristics	Equality Analysis		Every 1 year	Workforce Equality Report (Public Sector Duties)	Head of HR (E&W)	People & Culture Committee

Appendix 9 - Stage 1 Quality and Equality Impact Assessment (QEIA) template

Summary Information for QEIA Stage 1					
Initiative/Project/Change Title	HRP1 Disciplinary Policy				
Department/service	People Team	Lead Name & Job Title	Martene Booth HR Business Partner		
Rationale for completion	A new strategy or policy	Change to an existing strategy or policy	Change to a service or function	A new service or function	Other
Initiative/Project/Change Description <i>Describe current status followed by any changes that stakeholders would experience.</i>	<p>A scheduled 3 yearly review of the existing Disciplinary Policy. Changes to the policy include:</p> <ul style="list-style-type: none"> - Change in terminology from Commissioning Manager to Case Manager - Strengthened the role of the Case Manager to include responsibility for reviewing any suspensions regularly, at least every 4 weeks and offering a debrief to the service manager following the outcome of any processes following within this policy - Added in the option to go from an informal counselling to a disciplinary hearing without a formal investigation for minor repetitive acts of misconduct eg lateness. - Removal of the Toolkit and put only the relevant documents in the Appendices - Expanded the Just & Learning culture questionnaire to consider what support staff need when subjected to the policy - Fast Track process has been updated to allow the employee 5 days to consider, this is to allow them time to access any advice from JUSS reps and has been extended to include the issuing of a final written warning - Section 2.2 added - reference to Patient Safety Incident Response Framework (PSIRF) - Added: Staff should not access patient or staff information on any system (electronic or paper) that relates to family (including spouses; children; parents etc.) or friends, even if it is considered to be within their role in the organisation or access their own record. This mirrors the Data Protection and Confidentiality Policy. - Section 6.8 added to outline employee's responsibility to maintain their professional registration - Section 8.2 added – section on 'Serious Misconduct' and updated the appendix linked to the examples - Section 8.5 Suspension - Added reference to when staff report sick during a period of suspension outlining that they are recorded as sick and pay is in line with A4C T&C's - Section 11.4 added – reference to when an employee resigns during the process (also Section 13) - Appendix 1 – examples of misconduct updated - Appendix 3 – expected timescales updated to be more clear - Included the option for staff to request a different hearing manager to the case manager 				

Who is likely to be impacted?	Patients/service users/carers	Workforce	Organisation	Partners	Other
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Quality/Equality Impact Assessment

The QEIA looks at the project/change as a whole and asks how it will impact patients/service users, staff and the organisations involved and how any identified risks or negative impacts could be mitigated.

What will be the impact of the following? Only complete the likelihood, consequence if the impact is negative. The risk should be rated considering the impacts once mitigation is in place. In all cases provide the rationale for the impact chosen for positive, neutral or negative

What will be the impact on Patient/Service User experience?	Will this scheme have a positive/negative or neutral effect on patients' experience of care, based on all interactions, before, during and after the delivery of care? Neutral Provide rationale for your decision:					
	Likelihood (L)	Choose an item.	Consequence (C)	Choose an item.	Overall score (LXC)	Click or tap here to enter text.
	Mitigation for impacts				Click or tap here to enter text.	
What will be the impact on the Workforce?	Will the scheme have a positive/negative or neutral effect on the staff safety or experience based on all interactions, before, during and after the delivery of care? Negative Impact Provide rationale for your decision:					
	Likelihood (L)	3	Consequence (C)	2	Overall score (LXC) 6	Click or tap here to enter text.
	Mitigation for impacts:				<p>Extended the option to issue a final written warning via the fast track process to reduce the number of investigations conducted which positively impact on staff's experience and reduces stress.</p> <p>Renamed the Commissioning Manager to Case Manager and emphasised/ strengthened their role in proactively managing any suspensions to support staff more effectively.</p> <p>Introduced the option for staff to request a different hearing manager to the case manager.</p>	

Quality/Equality Impact Assessment

	Expanded the Just & Learning culture questionnaire to consider what support staff need when subjected to the policy. Expected timescales have been reviewed and extended to include the whole process and allow more time for the investigation to take place – this will reduce the stress incurred by staff through extensions to timescales that are currently being used.					
What will be the impact on Clinical Effectiveness?	Will the scheme have a positive/negative or neutral effect on the aim to apply knowledge that is based on research, clinical experience and patient preferences, to achieve optimum processes and outcomes of care for patients/service users? Neutral Provide rationale for your decision:					
	Likelihood (L)	Choose an item.	Consequence (C)	Choose an item.	Overall score (LXC)	Click or tap here to enter text.
	Mitigation for impacts				Click or tap here to enter text.	
What will be the impact on Patient/Service User Safety?	Will the scheme have a positive/negative or neutral effect on the aim to treat and care for people in a safe environment and protect them from avoidable harm? Neutral Provide rationale for your decision:					
	Likelihood (L)	Choose an item.	Consequence (C)	Choose an item.	Overall score (LXC)	Click or tap here to enter text.
	Mitigation for impacts				Click or tap here to enter text.	
What will be the impact on the Trust or wider system?	Will this scheme have a positive/negative or neutral effect the Trust or wider system partners? Neutral Provide rationale for your decision:					
	Likelihood (L)	Choose an item.	Consequence (C)	Choose an item.	Overall score (LXC)	Click or tap here to enter text.
	Mitigation for impacts				Click or tap here to enter text.	
Who may be affected by this activity?	Age		Disability			
	Gender Reassignment		Race			

Quality/Equality Impact Assessment

	Marriage & Civil Partnership		Pregnancy & Maternity			
	Religion & Beliefs (including no belief)		Sex			
	Sexual Orientation	x	None of the above			
Could there be an impact on any of the below?	Armed Forces/Veterans or Reservists		Carers			
	Digital Exclusion		Domestic Abuse			
	Education (literacy)		Gypsy/Roma/Travellers			
	Homeless		Looked After Children			
	Rural/Urban Areas		Socioeconomic disadvantage			
	People with addictions or substance misuse problems		People on Probation			
	Prison Population		Undocumented migrant, refugees, asylum seekers			
	Sex Workers		Neurodiversity			
	Other (Please describe) Click or tap here to enter text.		None of the above			
	Group identified Click or tap here to enter text.	What is the impact on the group identified? Disability Neutral		Describe the impact Click or tap here to enter text.		
Likelihood (L)		Choose an item.	Consequence (C)	Choose an item.	Overall score (LXC)	Click or tap here to enter text.
Mitigation for impacts			Click or tap here to enter text.			
Group identified Click or tap here to enter text.	What is the impact on the group identified? Neurodiversity Neutral		Describe the impact Click or tap here to enter text.			
	Likelihood (L)	Choose an item.	Consequence (C)	Choose an item.	Overall score (LXC)	Click or tap here to enter text.
	Mitigation for impacts			Click or tap here to enter text.		
Group identified Click or tap here to enter text.	What is the impact on the group identified? Choose an item.		Describe the impact Click or tap here to enter text.			
	Likelihood (L)	Choose an item.	Consequence (C)	Choose an item.	Overall score (LXC)	Click or tap here to enter text.
	Mitigation for impacts			Click or tap here to enter text.		

Quality/Equality Impact Assessment

How often will the QEIA be reviewed during the project.	Choose an item.	Where a QEIA is reviewed during the project lifetime, the dates should be included within the milestones.	Where will the reviewed QEIA report?	Choose an item.
Have you completed a DPIA?	No			