



Disciplinary Policy			
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Appendices/electronic forms			
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Training requirements	Appropriate training for Commissioning Manager and Investigating Officers will be required.		
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	Non-Clinical	Human Resources	Choose an item.

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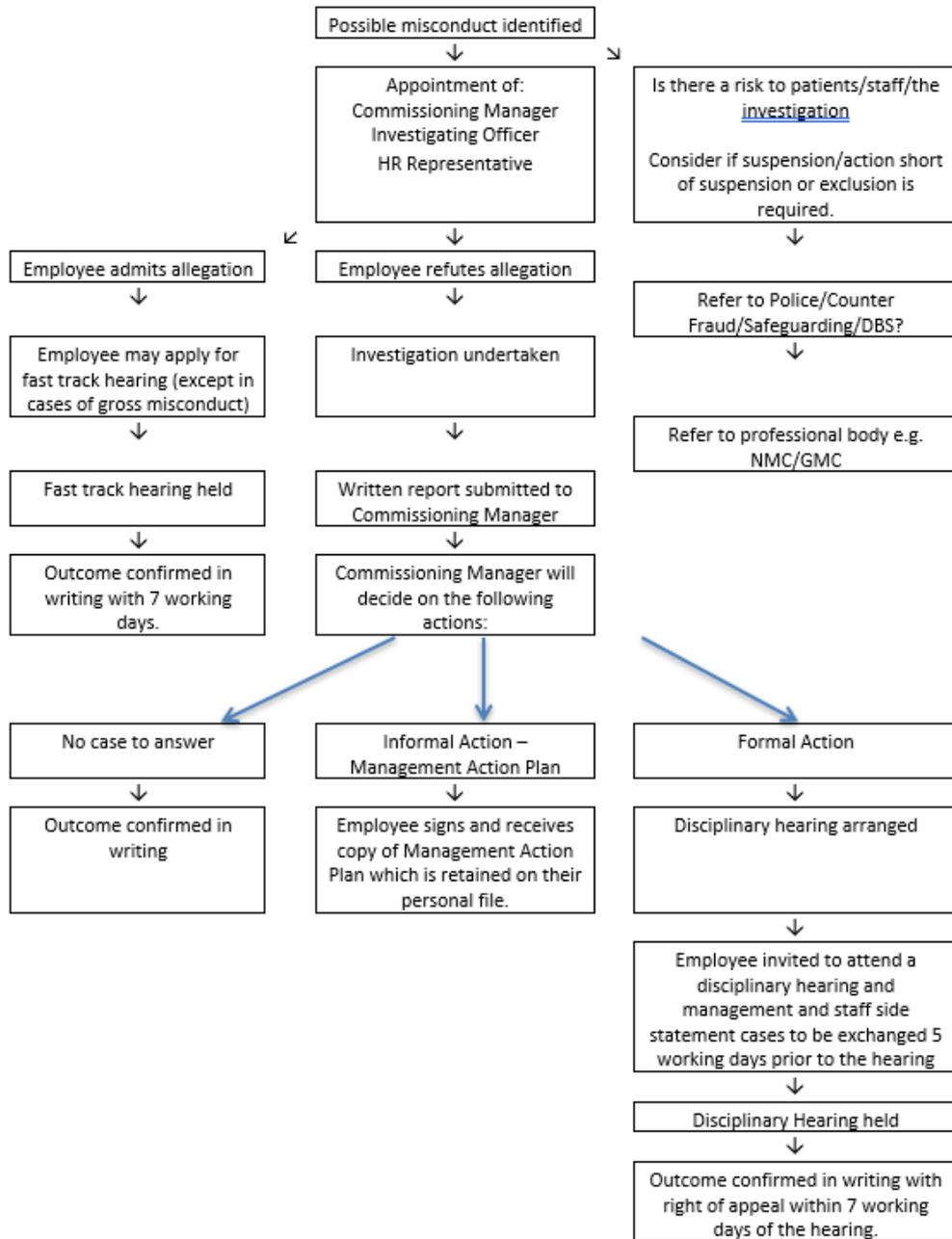
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1. Flowchart of process



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2. Executive Summary

Warrington and Halton Teaching Hospitals NHS Foundation Trust recognises and values the contribution of all its employees. We are committed to utilising the skills and experience of our workforce to provide the best possible care for patients in a safe environment. It is important that high standards of conduct and performance are established and maintained in line with the Trust values and behaviours.

This policy sets out a framework whereby employees will be held accountable for their actions and behaviours. It is designed to help and encourage employees to achieve and maintain the standards of conduct expected by the trust in a supportive culture of fairness, openness and learning and it also sets out procedures for addressing conduct matters. The Trust is committed to ensuring a fair and consistent approach throughout the process.

This policy observes current employment, equality and human rights laws and the Advisory, Conciliation and Arbitration Service's (ACAS) Code of Practice.

This policy has been developed in line with NHS England's and NHS Improvement's Just Culture Guide and the Just and Learning Culture in the North West Guiding Principles developed by the North West Social Partnership Forum. Copies of these documents can be found in Appendix 1.

In general, minor cases of misconduct will initially be brought to the employees' attention informally through advice, coaching and counselling rather than through the formal disciplinary route.

3. Purpose & Scope

3.1 To define the procedure for dealing with misconduct.

3.2 This policy applies to all staff. For Consultant staff only, any reference in this procedure to Line Manager for contractual issues is deemed to be the Chief Executive.

3.3 In respect of Medical and Dental professional (rather than personal) misconduct/competency issues these will be investigated in accordance with the Trust's "Maintaining High Professional Standards Procedure (MHPS) for Medical and Dental Staff". Where cases involve both professional and personal conduct issues please refer to the guidance contained in the MHPS procedure.

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4. Duties & Responsibilities

Role	Responsibilities
Board of Directors	To ensure systems and processes are in place to monitor and implement this procedural document.
Chief Executive	Ultimate responsibility for assuring the quality of the application of the policy and procedure
Executive Directors	Authorised leads to sign off corporate policies within their areas of responsibility.
Delegated Executive Lead	The Chief People Officer has been delegated by the Chief Executive to take the executive ownership for this procedural document.
Human Resources (HR)	<p>HR Representatives have an important professional advisory role in all disciplinary matters. HR provides advice to both managers and employees. Their role includes:</p> <ul style="list-style-type: none"> • Ensuring the policy is applied equitably across the Trust and that an equal and consistent standard of discipline is applied. • Ensuring there is equity and consistency in the issuing of disciplinary sanctions. • Advising managers and employees on the application of the policy. • On commencement of an investigation ensuring that the relevant disciplinary toolkit is shared with the Commissioning Manager and Investigating Officer • Providing professional advice to the hearing/appeal panel in relation to best practice, employment law principles and Equality legislation.

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	<ul style="list-style-type: none"> • Asking further questions for clarification during investigation meetings and hearings to ensure that all salient points are explored to establish the facts of the case. • Ensure there is an accurate written record of all meetings and hearings, accepting that notes taken will not be verbatim. • Advising managers to ensure that all arrangements for investigations and hearings are in place. • Maintaining a central log of all formal cases and providing reports to the Trust’s governing committees where required. • Maintaining a log of trained investigating officers • Maintaining a log of cases assigned to each investigating officer and commissioning manager to ensure there is capacity. • Administration tasks. <p>HR advisors to hearing/appeals panel are not decision makers. They will advise the hearing officer and/or appeal panel but decisions regarding the findings of a case and the appropriate sanction to be issued is the responsibility of the hearing officer / appeal panel.</p>
Commissioning Manager	<p>The Commissioning Manager is responsible for the overall management of any formal disciplinary investigation and advice will be sought from HR. Their role includes:</p> <ul style="list-style-type: none"> • Setting the terms of reference for the investigation and appointing an investigating officer. • Monitoring progress of cases and ensuring matters are dealt with in a timely way and in line with the Trust’s values.

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	<ul style="list-style-type: none"> • Updating the employee as to any delays, the reason for it and the amended timeframes. • Considering any issues raised throughout the disciplinary process by the employee or their representative and making a decision on the most appropriate course of action to deal with and/or resolve the issue. • Where applicable, reviewing the terms of suspension or action short of suspension regularly. • Reviewing the investigation report and making a decision as to whether the case should progress to a hearing or whether any other informal action is required. • Confirming all matters relating to the above in writing to the employee. • Ensure appropriate professional input
Investigating Officer	<p>The investigating officer is responsible for the overall investigation of the allegations as set out for them by the Commissioning Manager and advice from HR will be sought. Their role includes:</p> <ul style="list-style-type: none"> • Familiarising themselves with the Investigating Officers Toolkit documents. • Undertaking a thorough, balanced and reasonable investigation in a timely way and report any necessary delays to the Commissioning Manager. • Ensuring the investigation is carried out in line with the Trust's values and that any employee under investigation and witnesses are treated with dignity and respect. • Ensuring that at all times the confidentiality of the individuals involved in the investigation is maintained.

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	<ul style="list-style-type: none"> • Ensuring that the employee and their representative are kept informed of progress and that they are advised regarding any delays. • Ensuring that consideration is given throughout the investigation process to any reasonable adjustment needs of any employee, in line with the Equality Act. • Ensuring that all administrative arrangements are in place to facilitate the investigation process i.e. meeting invitations. • Writing the investigation report which sets out the findings of the facts of the case. • Escalating any additional allegations or concerns that arise during the investigation to the Commissioning Manager • Attending hearings to present the case
<p>Hearing Manager/Appeal Panel Chair</p>	<p>The hearing manager / appeal panel chair has overall responsibility for the disciplinary or appeal hearing. Their role includes:</p> <ul style="list-style-type: none"> • Ensuring that a fair hearing takes place, where the employee has ample opportunity to state their case and where decisions are made without bias and in good faith. • Ensuring a reasonable and balanced investigation has been undertaken. • Ensuring the hearing is conducted in line with the Trust's values and that any employee under investigation and witnesses are treated with dignity and respect. • Ensuring that consideration is given throughout the hearing process to any reasonable adjustments needs of any employee, in line with the Equality Act.

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	<ul style="list-style-type: none"> • Writing to the employee with the outcome/decision of the disciplinary/appeal hearing. • Ensuring that all administrative arrangements are in place to facilitate the hearing process.
All Line Managers	All Line Managers are responsible for ensuring compliance with this Policy within their areas of responsibility.
All Staff	All staff are expected to maintain the appropriate standards of behaviour/conduct in line with Trust standards and professional codes of conduct and comply with the requirements of this policy.

5. Policy Details

5.1 Principles

- It is essential that this Policy is adhered to throughout the informal stages and formal investigation and hearing process and that all employees are treated fairly and consistently.
- The Trust will endeavor to ensure that where appropriate, matters of misconduct will be considered informally as part of the day-to-day management arrangements.
- When an allegation is made an objective and prompt examination of issues and circumstances will be carried out to establish if there are reasonable grounds for a formal investigation or if informal interventions such as training, support and guidance would be more appropriate and productive.
- No employee will be dismissed for a first offence except in cases of gross misconduct/negligence.
- All employees have the right of appeal against any formal disciplinary sanction.
- All employees have the right to be accompanied by their Trade Union Representative or a workplace colleague during the formal stages of this Policy.
- All investigations and hearings will be approached in a balanced, fair manner without being prejudged.

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- The application of this Policy will be undertaken in a manner that ensures confidentiality of the issues and of the members of staff and management involved. Information relating to action being taken in this procedure will not be shared more widely than operationally necessary.
- Employees subject to allegations of misconduct will be signposted to support throughout the process with regular communications from their manager or nominated management support and the Commissioning Manager and be signposted to Freedom to Speak Up, counselling and health and wellbeing support
- Participants in the process will be signposted to support throughout the process by an appropriate manager and will be offered Freedom to Speak Up, counselling and health and wellbeing support
- All managers who chair or sit on hearing panels, wherever possible, should have had appropriate training
- All panel members will take into consideration equality and diversity matters relating to the process.

5.2 Concerns about the Process

Wherever possible, concerns about the procedure and investigation raised during a disciplinary process will be dealt with by either the Commissioning Manager or during the disciplinary or appeal hearing. Employees or their representative should raise concerns at the earliest opportunity to allow issues to be resolved in a timely way and not cause any unnecessary delays to the process.

Consideration will be given to the benefit of suspending the proceedings whilst the concerns are dealt with. This consideration will be balanced against the impact of any delay to the procedure and will take into account that the majority of concerns can be dealt with by the Commissioning Manager and/or disciplinary panel/appeal panel.

In some circumstances, involving formal grievances, it may be appropriate to hear the grievance and the disciplinary concurrently. The Commissioning Manager will make that decision with advice from HR and the employee will be informed.

5.3 Support for Staff

It is acknowledged that employees who are subject to disciplinary proceedings may need access to additional support during this period. Supporting the employee can take many forms such as physical or emotional support. There are a vast range of support options available to staff

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via their line manager, trade union representative, HR representative, the Occupational Health and Wellbeing Service or the mental wellbeing hub. Employees can also access a vast range of external support mechanisms via the national NHS People webpages, the organisation's Employee Assistance Programme and the Cheshire and Merseyside resilience hub.

If staff have concerns about risk, malpractice or wrongdoing that they feel is harming the service we deliver, patients or staff, then they can raise their concerns through the Freedom to Speak Up Guardian. Further information can be found in the Trust's 'Freedom to Speak Up' policy.

5.4 Handling allegations of misconduct and investigating the facts

All allegations of misconduct will be carefully assessed by the relevant manager with HR advice to decide if the matter can be managed informally or whether there are grounds for a formal investigation.

Some initial fact finding will be undertaken with the employee to establish their version of events.

If it is considered that further investigation is required, the decision to commence a formal investigation must include due consideration from the CBU HR Business Partner and relevant CBU Manager or other senior manager who has had no previous involvement in the case. They will check that:

- The manager will be assured that an investigation is proportionate and consistent
- That all informal interventions such as training, support and guidance have been fully explored to ensure the matter is dealt with in the most constructive way and in accordance with just culture principles
- That the welfare of the employee has been given full consideration and support and a communication plan is in place
- That the manager has the right support
- To ensure objectivity and impartiality and to reduce the potential of any bias or conflict of interest influencing the decision

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5.5 Personal Action Plan

The most common response to very minor issues of unsatisfactory conduct or standards of performance will normally be to hold an informal discussion on a one-to-one basis; this should be in private and as soon as possible. This will be a two-way conversation to talk through shortcomings and encourage improvement. In many cases additional coaching, training and advice may be required. Due to the informality of these discussions, there will not be a requirement to keep a written record however; managers may keep brief notes of the main points discussed for their own records.

Where minor issues persist, but do not warrant formal action, the response will normally be the resetting of expected standards through the issuing of a personal action plan. An informal action plan is seen as a private discussion between a manager and the employee to discuss a problem and ascertain the reasons for it. It is not a formal sanction of the disciplinary procedure and does not have to occur before such procedure is initiated. A personal action plan could also form an outcome from a disciplinary hearing or may form part of a formal sanction such as a formal warning.

Where an action plan fails to resolve the matter, employees should understand that it may be pursued under a formal Human Resources procedure. To avoid ambiguity a brief record of the main issues, discussions and action agreed will be confirmed in writing setting out the standards of behaviour and remedial actions to be taken. A note of the standards set will remain on the employees file separately to any formal sanction and may be referred to during any subsequent formal disciplinary hearings, if the issues under consideration are of a similar nature. This note will be signed by both the manager and employee. A template for a personal action plan is attached at Appendix 5.

5.6 Fast Track Cases

In cases of alleged misconduct not considered to be potential gross misconduct and where an employee does not wish to contest the allegations, employees can opt to have their case dealt with by way of the fast-track process. If the fast track process is followed there will be no need for a formal investigation.

In such cases the following process will apply:

In all cases where after the fact finding the employee admits the allegations put to them in full but they can't be managed informally and would usually warrant a formal investigation the manager will offer them the opportunity to access the fast track process. Equally a trade union Do not retain a paper version of this document, always view policy / guidance documents from the desktop icon on your computer.



representative or other suitable adviser supporting the employee may suggest this option to the employee.

If the employee wishes to take this route (it is very desirable that advice is taken from a trade union representative or work colleague before reaching this decision) they should complete and sign “The application of Fast Track Hearing” within appendix 6 which includes,

- Admitting the allegations put to them by their manager.
- Explaining the circumstances in which the misconduct occurred including any mitigating circumstances they would wish to be taken into account.
- Requesting a fast track hearing on the understanding that ‘limited sanction(s)’ (the employee has four choices to consider; verbal warning, written warning, first and final written warning or final warning) can be imposed.

If the manager feels that the fast track approach is appropriate, they must, within two working days of receipt of the fast track request form, seek professional HR advice before agreeing to invoke the process.

There will only be agreement to proceed via the fast track route if a reasonable initial fact finding exercise has been carried out to establish sufficient facts about the case and if there is an agreement by all parties that a sanction up to the maximum on the form within Appendix 6 can be imposed. If there is no agreement to proceed then a full, formal investigation may be commenced. If a full investigation has however already commenced the employee may still elect at a later stage to complete and sign a fast track request form requesting a fast track disciplinary hearing. In this situation the investigation will be suspended pending a management decision.

At any point an employee and/or manager can choose to stop the fast track process. An employee must not suffer any detriment if they choose to proceed with a full investigation.

Once an employee has agreed to proceed with the fast track process, a disciplinary hearing will be scheduled. The employee will be provided with a minimum of 5 working days written notice of the date of the hearing. The Hearing Manager will not be the manager who was involved

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with any previous direct discussions with the employee or with HR about progressing with the fast track process. The hearing manager will consider the completed Fast Track Application Form along with any additional evidence relating to the allegation/s and mitigation presented by the employee. The hearing will follow the format as outlined in appendix 7.

The employee can appeal against the decision or if they consider that the fast track disciplinary hearing has not been conducted in a fair manner i.e. in accordance with the procedure.

5.7 Action to consider before an investigation

In most cases suspension from work will not be necessary and the employee will be able to continue to do their job while matters are investigated. In some cases it may be necessary to suspend the employee from work, for example whilst the investigation is underway or where management considers it is in the best interests of the Trust, the employee, members of staff or patients. Suspension is a neutral measure and not a disciplinary action/sanction.

Suspension will be for as short a time as possible. All suspensions/action short of suspension will be reviewed regularly by the Commissioning Manager and will be regularly formally reviewed at the Operational People Committee. The employee will be kept informed of the result of the review.

The suspending manager will consider risks that may include reputation, working relationships and ensuring the investigation isn't compromised (this list is not exhaustive, and each case will be assessed on its own circumstances):

Not all cases of this nature will result in suspension and an employee may still be dismissed even if they have not been suspended.

Before suspending an employee the manager (who has authority to suspend) must alert a Director of the Trust of the circumstances and wherever possible HR advice should be sought. Prior to suspending an employee serious consideration must be given to action short of suspension. All discussions and decisions made regarding suspension must be documented.

Action short of suspension could be:

- Temporary assignment in a broadly similar role in another service or location.
- Restricted duties in existing role and location.
- Placing the employee under additional supervision.

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- Temporary assignment to a different role
- Exploring other meaningful activities that the individual could do including working from home

Suspension and any associated conditions will be confirmed in writing within five working days.

The fact of and reason for suspension will be kept confidential as far as reasonably practicable.

Suspension should be communicated in person wherever possible (Further guidance on Suspension/Taking Action Short of Suspension is available to managers in the management toolkit). Ordinarily employees should be given the opportunity to be represented by a trade union official or workplace colleague at a suspension meeting however where a representative is not immediately available, it is permissible to suspend without a representative or work-based colleague being present.

The manager communicating the decision to suspend will:

- Explain the reasons for suspension and how long it is expected to last
- Explain the employees responsibilities during suspension
- Provide a point of contact that they can contact if they have any concerns
- Agree how they will maintain contact with the employee
- Provide details of the health and wellbeing and counselling service
- If it is necessary to explain the employee's absence to colleagues and/or patients the manager will discuss with the employee how they would like this to be explained.

Officers authorised to take disciplinary sanctions will also have authority to suspend (**see appendices 3 and 4**). For the exclusion of medical staff, see appendix 4, this should also be done in line with the "Maintaining High Professional Standards Procedure for Medical and Dental Staff".

Suspension is on normal pay (based on a 12-week reference period). Pay rate will be considered if professional registration has lapsed or they have lost their right to work under the Immigration and Asylum Act.

A regular review of the suspension will take place. If at any point circumstances change and it is decided that the suspension should be lifted the employee should return to work

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immediately and be provided with support through a return to work interview with their manager.

5.8 Investigation

No formal investigation will be undertaken unless an initial fact-finding exercise has taken place and it has been decided that a formal investigation is required.

No disciplinary hearing will be convened against an employee until the matter has been appropriately investigated.

An appropriate Senior Manager (band 8 and above) will be identified as the Commissioning Manager for the investigation and they will appoint a trained Investigating Officer and where this relates to professional conduct that the investigating officer is from that profession. Or where this is not possible that the Commissioning Manager will identify a named professional that the investigating officer must consult for professional advice.

The investigation will: -

- Be reasonable and as objective as possible.
- Will be balanced, looking for evidence as much as to prove as to disprove the allegations
- Establish all the facts of the case including any mitigation.
- Be undertaken in a timely manner without any unreasonable delay and the investigating officer will keep the employee and their representative updated on progress and timescales.
- Be undertaken in an impartial and thorough manner.
- Be undertaken with advice and support from HR.
- Will include professional input/expert opinion around professional code of conduct matters

If evidence suggests that the allegations are supported the Commissioning Manager will decide if there is a case to answer at a disciplinary hearing and identify what the potential grounds for disciplinary action are in relation to the disciplinary rules found at Appendix 2. Professional input and advice should be sought from the relevant HR Business Partner/Advisor.

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Upon completion of the investigation, the Investigating Officer will be expected to produce an investigation report. The investigation report will include an examination of the evidence gathered, details of the findings and a conclusion. Copies of relevant witness statements, notes of investigation meetings, relevant policy documents and any other associated documentation must be included.

Where there is a case to answer the Commissioning Manager will write to the employee outlining the allegations and informing them that the matter will proceed to a hearing. Professional advice should be sought from the HR Business Partner/Advisor. The Commissioning manager will consider and advise if there needs to be professional input/advice to the panel.

A Hearing Manager will then be appointed, and an appropriate HR professional will be assigned. The hearing manager will be assigned by the Commissioning Manager and will have the appropriate delegated authority i.e. potential gross misconduct, the hearing manager will have authority to dismiss. It will then be the responsibility of the hearing manager, with professional HR advice to write to the employee and their union representative where known, confirming the arrangements for the hearing.

The format of disciplinary hearings is attached at Appendix 8.

Where the Commissioning Manager decides that the matter will not proceed to a disciplinary hearing they will make appropriate arrangements to feedback the outcome of the investigation to the employee and implement any recommendations / personal action plan which have been recommended. Wherever possible this feedback will take place via a meeting with the employee.

5.9 Allegations of Fraud and the Interface with NHS Counter Fraud Authority

It is important for all staff 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 are 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.

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Where a disciplinary issue of possible fraud of this nature is being considered, the matter should be discussed in the first instance with the Trusts Anti-Fraud Specialist (AFS). Depending on the exact nature and scale of the possible misconduct, it may be that a criminal investigation into the activities of the employee is considered necessary. In such cases, commencing disciplinary action at the outset may not always be appropriate especially if it would alert the employee 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 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 Counter Fraud Authority 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 Fraud, Bribery and Corruption Policy.

5.10 Vexatious Allegations

If, during the course of the investigation, it appears that an individual has made vexatious allegations regarding the employee under investigation, the Commissioning Manager will decide whether there needs to be an investigation into the individual making the vexatious complaint and disciplinary action may be taken.

5.11 Resignation during investigation

Where a member of staff's employment terminates before the completion of the procedure under this Policy, the Commissioning manager will have discretion to decide whether the case will proceed to completion, with advice from HR. This will be assessed on a case by case basis. The factors to be taken into account will be the nature of the misconduct and potential professional implications and effect on patient safety. This is particularly relevant where completing the investigation will allow the Trust to make a judgement on whether further action is required e.g. a referral to a regulatory body or the issue of an alert letter to protect the public. The employee will be invited to participate in the process. Any findings should also be reflected in any future work or professional references. This is in line with NHS Employment Check Standards. There will be the right of appeal against any decision.

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5.12 Documentation

Management shall send the employee the investigation report that will be considered at the hearing a minimum of 14 calendar days prior to any disciplinary/appeal hearing taking place.

The employee will be expected to submit their case in response to the investigation report to the HR Representative at least 7 working days prior to the disciplinary hearing to allow time for copying of documents prior to the hearing. Any new documents which the investigating officer or employee wish to refer to at the disciplinary/appeal hearing that are received after the date of exchange or at the hearing itself, will only be accepted with the agreement of the hearing manager or chair of the appeal panel. This should also be discussed with the relevant HR Representative.

In exceptional circumstances, and by mutual agreement, hearings may be held with less notice than stated in this policy and this agreement will be confirmed and recorded at the hearing.

5.13 Witnesses

Employees, the investigating officer and the panel should be given reasonable opportunity to call and question witnesses particularly where the content is disputed or motivation for the witness testimony is in question.

Employees will be expected to attend formal disciplinary hearings as witnesses when requested to do so by the Hearing Manager/Investigating Officer and should make themselves available to attend. All parties should be made aware of any intended witnesses to be called 5 working days before the hearing. All reasonable adjustments to aid witnesses to attend at hearings and provide evidence will be accommodated where possible. In sensitive situations the hearing manager/chair of the panel may make arrangements for witnesses to be questioned in another room. Although not a statutory right, any witnesses requested to attend an investigatory, disciplinary or appeal hearing, are able to be accompanied if they so wish, by a Trade Union Representative or Workplace Colleague. In these circumstances the representative will only be there in an observer capacity to provide moral/emotional support and not to provide representation at such meetings.

5.14 Disciplinary Hearing – Professional Misconduct

In instances of professional misconduct (where the Trust's Maintaining High Professional Standards Procedure does not apply), where the panel does not include a manager from the same profession, an advisor from the same profession will support the panel in an advisory capacity. This advisor will not participate in the panel's decision making.

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5.15 Sanctions

The Disciplinary Procedure will be operated following normal line management accountability levels. Authority to issue disciplinary sanctions up to and including dismissal is detailed in the Schedules of Delegated Responsibility at Appendices 3 and 4.

Where a case has been proven and disciplinary action is warranted, any of the sanctions listed below can be issued. The panel must follow the panel decision making guidance in the manager's toolkit. When issuing any sanction the panel are required to consider what will be the likely impact on the health and wellbeing of the individual(s) concerned and on their respective teams and services, and what immediate and on-going direct support can be provided to them and how they will ensure that the dignity of the individual(s) involved is respected.

The sanctions will reflect the circumstances and seriousness of the incident. It does not follow that the sanction taken will necessarily be issued in the order listed below.

Any future incidents of a broadly similar nature which occur during the life of a live warning will be considered in the context of any further disciplinary action.

5.15.1 Verbal Warning

This will be given for minor breaches of discipline, but only in line with the formal part of this procedure. A record of the verbal warning will be placed on the employees file for 6 months.

5.15.2 Written Warning

This will be given for a serious breach of discipline and confirmed in writing.

The warning will be placed on an employee's file for up to 12 months and will be reviewed after 6 months.

5.15.3 First and Final Warning

This will be given where there has been a serious breach of discipline which cannot be tolerated a second time. It will be confirmed in writing and placed on an individual's file for 18 months.

5.15.4 Final Warning

This will be given where there has been a repeat of instances leading to a written warning. The final warning will be confirmed in writing and placed on an individual's file for 18 months.

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5.15.5 Warnings for Patient Care/Professional Conduct

Warnings issued for patient care/professional conduct will incorporate a relevant development programme which, for professionally qualified staff will include professional issues.

5.15.6 Downgrading

It is the aim of the Trust to promote positive discipline and therefore there may be occasions when action alternative to dismissal may be considered, for example, downgrading. In such cases the employee, together with his/her representative may be offered the opportunity of downgrading but may still pursue an appeal if necessary. In these circumstances pay protection would not apply.

5.15.7 Dismissal

Dismissal will not take place for a first breach of discipline unless it is a case of gross misconduct/gross negligence, but it may take place if an employee's conduct remains unsatisfactory (following subsequent warnings). The employee will always be entitled to the appropriate period of notice unless dismissal occurs on grounds of gross misconduct/negligence when the Manager justifies summary dismissal – without notice.

Copies of the warnings will be kept on an individual's personal file. Live warnings for matters of a broadly similar nature may be referred to by the investigation officer in the presentation of the case. In these circumstances, the live warning will also be taken into account by the hearing manager when considering the level of sanction to be issued.

5.16 Expired warnings / Personal Action Plans

The details of expired warnings may be brought to the attention of the hearing manager/appeal panel if there is contradictory information relating to an individual's background i.e. where the individual claims to have an unblemished background and no previous disciplinary offences during their employment.

A disciplinary warning that has expired or the presence of an informal action plan should not form the basis on which an employee is dismissed. Expired warnings will not be used to determine whether allegations of misconduct/gross misconduct are proven.

Once a disciplinary or appeal panel has concluded that there is a case to answer and there is breach of disciplinary rules, they may at this stage take into account the existence of an informal action plan or an expired warning when determining an appropriate sanction. These matters will be considered on a case by case basis and will take into account:

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- Length of time since the action plan/warning was issued.
- Whether the issue of misconduct is a repeat of a previous similar issue.

The commencement/continuation of disciplinary sanctions may be suspended in the event of any long-term absence during the duration of the sanction e.g. during maternity leave or long term sickness absence.

5.17 Written Explanation

In every case of disciplinary action, the employee will be given a written confirmation of the full or fast-track hearing and an explanation for any penalty imposed within seven working days of the hearing. The letter will include reference to any previous warnings, the length of any warning issued, the consequences of further offences, standards required and any training/remedial actions which will be put in place. The right of appeal to the appropriate level of management will also be included. In dismissal cases, it will also include the effective date of termination.

5.18 Appeals

Employees have the right of appeal against disciplinary sanctions issued against them. An Appeal Panel can overturn the decision at the disciplinary hearing, uphold the decision of the disciplinary hearing or decrease the sanction previously applied.

Employees wishing to raise an appeal should do so in writing to the Chief People Officer using the appeal template at Appendix 9, stating the grounds for the appeal within 21 days of date of the letter confirming the sanction.

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 disciplinary policy and procedure has not been applied properly or fairly.

The Schedule of Delegated Authority for appeals is set out at Appendix 3 and 4. Those involved in the original decision making at the disciplinary hearing will not sit on the appeal panel.

The Format of Appeal Hearings is set out in Appendix 10.

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A copy of the hearing panel case and the employee response to the case will be exchanged at least five working days prior to the appeal and sent to the panel.

The manager who issued the disciplinary sanction at the original disciplinary hearing will present the hearing panel case and may call the investigating officer as a witness or any other witnesses included in the investigation report. The HR Representative who provides professional HR advice to the hearing officer that issued the disciplinary sanction may attend the hearing to answer procedural questions and advise the hearing officer.

If the manager who issued the disciplinary sanction is unavailable/left the Trust, the Chair of the appeal panel will decide who is most appropriate to present the case.

The appeal hearing will not be run as a re-hearing of the original disciplinary hearing and will be heard as a review of the disciplinary sanction and the clear grounds of appeal should be provided by the employee. The employee is required to state why they have appealed against the sanction issued at the disciplinary hearing and the manager is required to explain the rationale for the outcome of the hearing.

Should new information come to light at the appeal hearing that was not available at the time of the disciplinary hearing, the appeal panel will have discretion to decide whether to continue to hear the appeal or to revert the issues back for further investigation. The decision in these circumstances around the next steps will need to be considered by the Chair of the Appeal panel on a case by case basis which may include further investigation and a new disciplinary hearing if appropriate. The decision of the appeal panel will be final.

Wherever possible, appeals will be heard within 6 weeks of receipt of the application. Reasons for delays will be discussed between management, employee and union representatives.

5.19 Failure to attend Disciplinary/Appeal Hearings / Postponement of Hearings

Where an employee fails to attend a disciplinary or appeal hearing for good reason the hearing will be arranged for a second time. The employee will be informed in writing of the re-arrangement and should they fail to attend the hearing will proceed in their absence.

If an employee feels unable to attend the hearing, advice should be sought from the Occupational Health and Wellbeing service to ascertain their fitness to attend and to identify any reasonable adjustments that can be made to facilitate their attendance. Where the Occupational Health and Wellbeing service advise that they are unfit to attend, the employee

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may request that their Trade Union representative attends on their behalf or that they provide a written submission for the panel.

Employees are encouraged to attend the hearing in person and all reasonable adjustments will be made to allow this to happen. This may include a delay in the process to enable the employee to reach a position where they can attend in person and /or provide written submissions as described above. However, delays must not be unnecessary and cannot be indefinite. Once reasonable efforts to facilitate the employee's attendance at a hearing have been exhausted the hearing will proceed. Where the employee does not attend in person, decisions will be made on the information available.

Where an employee requests that the hearing be postponed due to the availability of their chosen companion, the hearing will be rescheduled as soon as possible and by mutual agreement between all parties but within two weeks from that date, in exceptional circumstances with mutual agreement the deadlines may be extended. If the employee fails to attend the rearranged hearing, the hearing may proceed in their absence.

5.20 Disciplinary Action against Trade Union Officers

No disciplinary action will be taken against a Union Representative or Health and Safety Representative in the course of official union duties without first discussing the circumstances of the case with a Full Time Officer of the Union concerned. Normal disciplinary standards should apply to their conduct as employees.

5.21 Criminal Offences

An employee who is arrested on any charge, served with a summons on a criminal charge or cautioned (whether verbally or in writing) must inform their manager as soon as possible. The manager will ensure the relevant Director and HR are notified immediately.

Criminal offences unconnected with employment will not automatically be treated as reasons for disciplinary sanctions including dismissal. The main considerations will be whether the offence is one that has a bearing on their employment. Where there is an ongoing criminal investigation, the Trust is not obliged to wait until the outcome of the case is known before making a decision as to how they should proceed. However, the relevant manager may need to seek confirmation from any relevant external body that the Trust is permitted to commence internal investigations and advice should be sought from HR in all cases.

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5.22 Referral to external organisations

Depending on the nature of a concern raised, it may be necessary to consider referring to an external organisation for additional advice or guidance i.e. Police, Mersey Internal Audit Agency, and Safeguarding.

5.23 Professional Bodies

The Trust may report any incidents of professional misconduct to the appropriate professional body e.g. the General Medical Council, the Nursing Midwifery Council, etc where appropriate.

5.24 References

Managers may be requested to provide a reference for an employee where they have been subject to a disciplinary investigation resulting in a disciplinary sanction. In these circumstances, managers must seek advice from Human Resources and refer to the Trust Policy on Employment References, which is available on the extranet.

5.25 Alert Letters

The Trust will follow guidance laid down in Health Service Circular 2002/011 – The issue of Alert Letters for Health Professionals in England. An alert letter is the way in which all NHS bodies and the wider health service are made aware of a doctor or other Registered Health Professional whose performance or conduct could place patients or staff at serious risk, and who is believed likely to be working or seeking work elsewhere in a health or social setting. Alert letters are usually issued after an employee has ceased to be employed by an organisation. However, they can also be issued prior to completion of internal sickness or disciplinary procedures and while investigations of alleged offences or other matters are being undertaken by the Police, the Regulatory Body or the employer.

5.26 Implementation and Dissemination

The Chief People Officer will be responsible for ensuring that the HR Directorate circulates and implements this procedure.

This procedure will be made available to all managers and staff via the Trust intranet where a database of all Trust policy documents is held.

6. Document monitoring

This policy will be monitored and reviewed on a 3-yearly basis.

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A non-scheduled review may be initiated in certain circumstances, for example, following a specific incident, changes to, or introduction of new legislation.

Compliance with the policy may be periodically audited by MIAA and the results will be reviewed by the Audit Committee and the Operational and Strategic People Committees.

7. Glossary of Terms

NICE - The National Institute for Health and Care Excellence

8. Associated Documents

9. Sources/References

HSC 2002/ 011 – Issue of Alert Letters for Health Professionals in England,

CIPD Website

ACAS Code of Practice

The ACAS Guide on Discipline and Grievance at Work

Improving People Processes

10. Training Needs Analysis

Staff Role	Training Requirement	Frequency	Training Delivery Method
Commissioning Manager	Appropriate training or equivalent experience which will be formally assessed on a case by case basis by Human Resources having due regard to knowledge/skills/experience.	Once	Dependent on needs of the individual.
Investigating Officer	Appropriate training or equivalent experience which will be formally assessed on a case by case basis by HR having due regard to knowledge/skills/experience.	Once	Dependent on the needs of the individual.

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Appendix 1 – Just Culture Guide and Just and Learning Culture in North West Guiding Principles

A Just Culture Guide – NHS England and NHS Improvement: Link provided below.

[A Just Culture Guide – NHS England and NHS Improvement](#)

Just and Learning Culture in North West – Guiding Principles – June 2021

Background

Discussions in the North West SPF consistently show a strong desire to develop and sustain a restorative just and learning culture for people working in the NHS across the region.

Principles

Informed by the above, employers and trade unions working in partnership through the NW SPF have agreed the following-guiding principles, as suggested good practice across the region:

- 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

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- 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.

Whilst the NW SPF is hopeful all employers will consider embedding a local policy reflective of the above, the principles also outline a broader attitude/mindset, constructive for all to reflect on in their day to day work at a time when the NHS is at its most challenged.

Signed by the Joint Chairs of the North West SPF:

Mike Gibney, The Walton Centre

James Bull, UNISON

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Appendix 2 – Disciplinary Rules

The following are examples of offences which may be regarded by the Trust as warranting disciplinary action. This list is not to be regarded as exclusive or exhaustive.

GROSS MISCONDUCT / NEGLIGENCE – such offences may warrant dismissal without previous warnings and will be summary (without notice):

1. Ill treatment or willful neglect of patients by staff.
2. Theft, attempted theft (or unlawful possession of property) from the Trust's premises (including theft from patients, service users, colleagues and visitors) or any other offence of dishonesty or deceit including fraud.
3. Misuse of drugs (through misappropriation) or being under the influence of drugs, alcohol or substances.
4. Sexual misconduct at work.
5. Violence or exceptionally offensive behaviour.
6. Misuse or failure to safeguard confidential information and/or patient data.
7. Falsification of any official Trust documentation.
8. Falsification of qualifications or information used in support of an application for any post.
9. Damage to Trust property or records caused maliciously or by gross negligence.
10. Breach or failure to adhere to local Policies and Procedures and protocols i.e. Conflicts of Interest Policy, Health and Safety, COSHH, and standing orders etc.
11. Disobeying lawful and reasonable instructions or repeated refusal to undertake reasonable orders which could result in immediate serious consequences.
12. Criminal conduct at work, or other than at work, which may have relevance to the duties and tasks the employee is required to perform and/or impact on professional registration.

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13. Discrimination against staff or the public on grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and/or belief, sex and/or sexual orientation.
14. Serious cases of harassment, victimisation or bullying of an employee or others including through the use of the internet and or social networking sites.
15. Inappropriate access onto internet sites for non-work activities e.g. pornographic etc.
16. Excessive access onto internet sites for non-work activities.
17. Posting of seriously derogatory, inappropriate or offensive comments on any internet or social networking site, which is in breach of the IT accessible use policy.
18. Serious professional misconduct.
19. Engaging in activities that may bring the Trust into disrepute, including through the use of the internet and social networking sites.
20. Misappropriation or attempted misappropriation of the Trust funds or resources or non-compliance with Trust SFI's.
21. Physical or indecent assault on any person whilst on or off duty and/or on the Trust premises.
22. Negligent or deliberate failure to comply with the legal requirements and/or the Trust regulations concerning medicines.
23. Working whilst contravening an enactment or breach of the rules laid down by statutory bodies for example, erasure or non-renewal from the register or roll of the NMC for Nursing, Midwifery and Health Visiting.
24. Serious or repeated breach of Trust Values & Behaviors.
25. Possession or use of unlawful drugs.
26. Unprofessional relationship with patients.
27. Disqualification from driving where possession of a driving license is essential for the performance of the job.

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28. Serious examples of disrespectful/negative attitude to patients/visitors/staff
29. Making serious malicious allegations
30. Covert tape recording of meetings.
31. Falsification or inaccurate statements in official documentation.
32. Unauthorised sleeping on duty.
33. Repeated unauthorised absence/lateness
34. Failure to disclose any arrests, cautions, convictions or reprimands during employment.

MISCONDUCT – such offences may result in disciplinary action being taken.

1. Disobeying reasonable instructions or non-co-operation with Management activities or requests.
2. Abuse of authority.
3. Unauthorised absence from duty and/or poor timekeeping or being absent from the workplace during the working day for an unauthorised reason.
4. Negligence and/or inadequate/unsatisfactory performance.
5. Engaging in employment outside normal working hours which adversely affects their work with the Trust.
6. Dangerous horseplay or unacceptable behaviour whilst on duty.
7. Breach, abuse of or failure to adhere to Trust Policies and Procedures, including Departmental protocols.
8. Being an accessory to a disciplinary offence.
9. Smoking, including the use of e-cigarettes, on trust premises
10. Posting of inappropriate, derogatory or offensive comments on any internet or social networking site, which is breach of the Trust's IT accessible use policy.

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11. Breach of Trust Value's and Behaviors.
12. Personal or professional misconduct of a nature sufficiently serious to affect an employees' position at work
13. Failing to maintain acceptable standards of dress/personal hygiene

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Appendix 3 – Schedule of Delegated Responsibility to Suspend and take Formal Disciplinary Action (Non-Medical Staff)

GRADE	SUSPENSION	WRITTEN/ VERBAL WARNING	APPEAL AGAINST FIRST WARNING	FINAL/FIRST AND FINAL WARNING	APPEAL AGAINST FINAL/FIRST AND FINAL WARNING	DOWNGRADING OR DISMISSAL	APPEAL AGAINST DOWNGRADING, TRANSFER OR DISMISSAL
Chief Executive Officer (CEO)	Trust Chair	Trust Chair	Non-Executive Director	Trust Chair	Non-Executive Director	Trust Chair plus 2 Non-Executive Directors	Remaining Members of Remuneration Committee
Directly responsible to CEO (e.g. Exec Directors)	Chief Executive	Chief Executive	Trust Chair or other Non-Exec Director	Chief Executive	Trust Chair plus 2 Non-Executive Directors	Chief Executive plus Trust Chair	Remaining Members of Remuneration Committee
All other staff	Executive Director / Deputy Director / Associate Director	Executive Director / Deputy Director / Associate Director	Executive Director / Deputy Director / Associate Director	Executive Director / Deputy Director / Associate Director	Executive Director / Deputy Director / Associate Director	Executive Director / Deputy Director / Associate Director	One Executive Director, one Non-Executive Director and one Deputy or Associate Divisional Director
	Clinical Director	Clinical Director	Clinical Director	Clinical Director	Clinical Director	Clinical Director	<i>(or above and have had no prior involvement in the case)</i>
	CBU Manager	CBU Manager	CBU Manager	CBU Manager	CBU Manager	CBU Manager	
	Lead Nurse	Lead Nurse	Lead Nurse	Lead Nurse	Lead Nurse	Lead Nurse	
	Matron (or equivalent)	Matron (or equivalent)	<i>(must be the next tier of management in relation to the original decision maker and have had no prior involvement in the case)In cases involving very senior managers, this</i>	Matron (or equivalent)	<i>(Must be next tier of management in relation to the original decision maker and have had no prior involvement in the case).In cases</i>		
Head of Service / Department who reports	Head of Service / Department who reports directly to a		Head of Service / Department who reports		Head of Service / Department who reports directly to		

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	directly to a Deputy Director or Exec Director (or person with delegated responsibility)	Deputy Director or Exec Director <i>person with delegated responsibility</i>	<i>may be another Director at the same level)</i>	directly to a Deputy Director or Exec Director (or person with delegated responsibility)	<i>involving very senior managers, this may be another Director at the same level)</i>	a Deputy Director or Exec Director (or person with delegated responsibility)	
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*HR Representative will be in attendance to support all hearings.

Night Duty

Where it is necessary to suspend a member of staff during a night shift the senior staff available on-site will have delegated authority from the first on-call Manager who must be notified and consulted with, prior to any action taking place. All suspension issued in this way must be discussed and reviewed with the relevant Director with support from HR the next working day.

Deputising Arrangements

It is the responsibility of each department to put in place their own deputizing arrangements and identify who in the absence of the appropriate Manager will assume this role to suspend or take disciplinary action.

- (b) Managers taking disciplinary action (including suspension) against staff do not have to work within the same Department or CBU/Corporate area or be from the same staff group or specialty unless professional issues are involved.
- (c) Any professional issues must be heard by the relevant senior professional eg Lead AHP, Associate Director of Nursing etc

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Appendix 4 – Schedule of Delegated Responsibility to Suspend and take Formal Disciplinary Actions/Appeals (Medical Staff)

Grade	Exclusion/Restriction	Verbal/Written/Final/First and Final Warning	Appeal Against Verbal/Written /Final/First and Final Warning	Dismissal	Appeal Against Dismissal
Medical Director /Deputy Medical Director (in managerial and professional capacity)	Chief Executive	Chief Executive (*)	Trust Chairman and 1 Non-Executive Director (*)	Chief Executive (*)	3 member Appeal Panel of the Trust Board i.e. the Trust Chairman and 1 Non-Executive Director and 1 Executive director (*)
Associate Medical Director /Clinical Director/Associate Clinical Director	Chief Executive or Medical Director/Deputy Medical Director	Medical Director or Chief Executive (*) (**)	Chief Executive or Trust Chairman and 1 Non-Executive Director (*) (***)	Chief Executive (*) or Medical Director	3 member Appeal Panel of the Trust Board ie the Trust Chairman and 1 Non-Executive Director and 1 Executive Director (*)
Consultant	Chief Executive or Medical Director/Deputy Medical Director	Medical Director or Deputy Medical Director (*)	Chief Executive (*)	Chief Executive or Medical Director (*)	3-member Appeal Panel of the Trust Board ie the Trust Chairman and 1 Non-Executive Director and 1 Executive Director (*)
SAS Doctors	Chief Executive or Medical Director or Deputy Medical Director	Medical Director or Deputy Medical Director	Chief Executive (*)	Chief Executive or Medical Director (*)	3-member Appeal Panel ie 1 Executive Director, 1 Non-Executive Director and 1 Deputy/Associate Medical Director (*)

(*) – Where the alleged misconduct relates to matters of a professional nature or where the investigation identifies issues of professional conduct/capability, all panels will include a member who is medically qualified. For hearings and appeals against a Verbal/Written/Final/First and Final Warning, the medically qualified member can be from within the Trust provided they have had no prior involvement or where necessary from outside of the Trust. For a hearing involving a potential dismissal or an appeal against a dismissal, the medically qualified member will be from outside the Trust. The medically qualified member will be a non-voting professional adviser.

(**) Where the Medical Director is the Case Manager, the Chief Executive will hear the case.

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(***) Where the Chief Executive has issued the sanction, the Trust Chairman plus 1 Non-Executive Director will hear the appeal.

NB In all cases the members hearing a case or an appeal must not normally have had any prior involvement in the case unless this involved an 'exclusion or restriction'. In appropriate cases, deputising arrangements can be followed.

Appendix 4a continued: DISMISSAL AND DISCIPLINARY SCHEME OF DELEGATION FOR MEDICAL & DENTAL STAFF IN TRAINING POSTS (INCLUDING TRUST GRADES AND LOCUMS)

	Exclusion / Restriction	Informal Counselling	Verbal/Written/Final/First and Final Warning/Dismissal	Appeal Against Verbal/Written/Final /First and Final Warning
Who has authority to take action Shown	Medical Director or Deputy Medical Director (The Medical Director/Deputy Medical Director may delegate such matters to a Clinical Director but only after taking the advice of the Postgraduate Dean)	Supervising Consultant/Postgraduate Deanery Representative (If appropriate Royal College Specialty Advisor or Deputy)	Medical Director or Deputy Medical Director and Postgraduate Deanery Representative and Royal College Advisor (*) (If the Royal College Advisor is the Supervising Consultant or in the same Trust, the Deputy Advisor will be required or a Consultant from another Trust in the same specialty)	3 Member Panel: Trust Chairman Clinical Lead Postgraduate Representative Deanery

(*) Due account will be taken of the Lead Employer Disciplinary Policy where the trainee is directly employed by the Lead Employer.

All exclusions or restrictions for Medical and Dental staff must also be undertaken in line with the Trust Maintaining High Professional Standards Procedure for Medical and Dental staff.

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Appendix 5 – Personal Action Plan

Name of Employee		Job Title	
Name of Manager		Job Title	
Department		Date	

Summary of conduct under review

Standard Required	Action to support achievement of required standard	Who	Review Date / Completion Date

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Signature Employee		Date	
Signature Manager		Date	

A Personal Action Plan does not constitute formal disciplinary action. However, employees should be aware that where an improvement in conduct is not achieved or sustained, this may lead to formal disciplinary action.

A copy of this document must be provided to the employee.

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<p>By committing to the fast track process, you are willing to accept one of the sanctions as listed below this will be determined by the panel chair.</p>
<p>Verbal Warning: This will be given for minor breaches of discipline, but only in line with the formal part of this procedure. A record of the verbal warning will be placed on the individuals file for 6 months.</p>
<p>Written Warning: This will be given for a serious breach of discipline and confirmed in writing. The warning will be placed on an individual's file for up to 12 months and will be reviewed after 6 months.</p>
<p>First and Final Warning: This will be given where there has been a serious breach of discipline which cannot be tolerated a second time. It will be confirmed in writing and placed on an individual's file for 18 months.</p>

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Final Warning: This will be given where there has been a repeat of instances leading to a written warning. The final warning will be confirmed in writing and placed on an individual's file for 18 months.

- ***I the employee understand that by completing and signing this form that I admit to the misconduct detailed within.***
- ***I confirm that I am happy to accept up to the maximum sanction. I understand that a record of my misconduct will be held on my file for the specified period.***
- ***I understand that further misconduct of a similar nature during the lifetime of a warning may result in further disciplinary action.***

Name:

Date:.....

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Appendix 7 – Format for Fast Track Disciplinary Hearings

Prior to a Disciplinary Hearing the fast track application form and results of the fact finding will be shared with both sides at least 5 working days prior to the meeting. The format for the Hearings is identified below but upon agreement between Management and Staff Side Representatives and the Panel the format can be amended as deemed appropriate.

- Introductions
- The Panel chair supported by a HR representative, outlines the nature of the allegation(s) accepted by the employee and advises that it (they) may result in disciplinary action up to and including the limited sanction.
- The Panel chair confirms with the employee that they accept the allegations previously stated.
- The employee or their representative will have the right to put forward any comments or statements relating to the incident (including any mitigation).
- The Panel Chair may wish to question the employee.
- The Panel Chair will adjourn briefly to give consideration to the case. If more information is required to make a decision on the sanction the hearing may be adjourned to allow a further investigation to take place.
- The Panel Chair will then communicate their decision to the employee and their representative. The penalty will not exceed the previously stated limited sanction but in exceptional circumstances (e.g. the employee denies some of the allegations) the Panel Chair may decide that the matter should be referred to a full investigation.
- The Panel Chair will send a letter confirming the decision to the employee. The record of any warning will be kept on the personal file.
- The disciplinary sanction imposed will be given in accordance with the Trusts' disciplinary policy.

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Appendix 8– Format for Hearings

Prior to a Disciplinary Hearing the management and staff side’s case will be shared with both sides at least 5 working days prior to the meeting. The format for the Hearings is identified below but upon agreement between Management and Staff Side Representatives and the Panel the format can be amended as deemed appropriate.

1. Introductions.
2. Chairman of the panel clarifies the reason for the hearing.
3. The investigating officer presents their case calling witnesses, as appropriate.
4. The employee/or their representative ask questions of the investigating officer and their witnesses.
5. The panel ask questions of the investigating officer and their witnesses.
6. The investigating officer may re-examine the case. At this stage no new evidence should be produced unless agreed by the Hearing Manager.
7. The employee/representative presents their case, calling witnesses as appropriate.
8. The investigating officer can ask questions of the employee/representative and their witnesses.
9. The panel ask questions of the employee/representative and their witnesses.
10. The employee/representative may re-examine the case. At this stage no new evidence can be introduced.
11. The investigating officer summarises their case. No new evidence can be introduced.
12. The employee/representative summarises their case. No new evidence can be introduced.
13. The panel adjourn to reach a conclusion.
14. The participants (excluding witnesses) reconvene to hear the decision presented by the disciplinary officer or chair of the appeal panel.

15. The outcome of the hearing will be confirmed in writing.

Appendix 9 – Registration of Appeal Form

In accordance with the Trusts Disciplinary Policy, employees have the right to Appeal against any formal sanctions which have been imposed by the Disciplinary Hearing Panel.

Only the employee has a right to appeal against the decision of the Disciplinary Hearing Panel although they may choose to exercise this right via their representative.

Employees should appeal to the next level of manager, not previously involved in the case within 21 days of the disciplinary hearing in writing, using the form below. Appeals against dismissal should be forwarded directly to the Chief People Officer in writing, using the form below.

It is important to note that an Appeal Hearing will not be arranged until the Trust has received the information outlined below.

Employees Name:	
Date of Hearing:	
Panel Members:	
Outcome of Hearing:	

Reason for Appeal	Please tick to identify
The Trust procedure was not applied properly or fairly.	<input type="checkbox"/>
The decision reached at the hearing was unfair and unreasonable	<input type="checkbox"/>
Further information has come to light which had it been known by the disciplinary panel at the time of the hearing, may have affected the panel's decision	<input type="checkbox"/>
Please identify the key elements of your Appeal including any additional information or documents to be presented.	

--

Any documents that has been identified and will be submitted at a later date:

--

Employees Signature:	
Date of submission:	



Appendix 10 – Format for Appeal Hearings

Prior to an Appeal Hearing information relating to the staff side request for an appeal will be shared with both sides at least 5 working days prior to the hearing. The format for the Appeal is identified below upon agreement the Panel the format can be amended as deemed appropriate.

1. Introductions.
2. Chairman of the panel clarifies the reason for the hearing.
3. The employee/representative presents their case, calling witnesses as appropriate.
4. The manager who issued the disciplinary sanction at the disciplinary hearing can ask questions of the employee/representative and their witnesses.
5. The panel ask questions of the employee/representative and their witnesses.
6. The employee/representative may re-examine the case. At this stage no new evidence can be introduced.
7. The manager who issued the disciplinary sanction at the disciplinary hearing presents their case calling witnesses, as appropriate.
8. The employee/or their representative ask questions of the manager who issued the disciplinary sanction at the disciplinary hearing and their witnesses.
9. The panel ask questions of the manager who issued the disciplinary sanction at the disciplinary hearing and their witnesses.
10. The manager who issued the disciplinary sanction at the disciplinary hearing may re-examine the case. At this stage no new evidence can be produced.
11. The employee/representative summarises their case. No new evidence can be introduced.
12. The manager who issued the disciplinary sanction at the disciplinary hearing summarises their case. No new evidence can be introduced.
13. The panel adjourn to reach a conclusion.
14. The participants (excluding witnesses) reconvene to hear the decision presented by the chair of the appeal panel.
15. The outcome of the hearing will be confirmed in writing.

N.B. In exceptional circumstances the HR representative who supported the original disciplinary hearing may be required to present the case at appeal on behalf of the manager who issued the disciplinary sanction.

Equality Impact Assessment (EIA)		
Initial assessment	Yes/No	Comments
<ul style="list-style-type: none"> • Age • Disability - learning disabilities, physical disability, sensory impairment and mental health problems • Gender reassignment • Race • Religion or belief • Sex • Sexual orientation including lesbian, gay and bisexual people • Marriage and civil partnership • Pregnancy and maternity 	No No No No No No No No No	
Is there any evidence that some groups are affected differently?	No	
If you have identified potential discrimination, are there any exceptions valid, legal and/or justifiable?	n/a	
Is the impact of the document likely to be negative? <ul style="list-style-type: none"> • If so can the impact be avoided? • What alternatives are there to achieving the document without the impact? • Can we reduce the impact by taking different action? 	N/a	
<p>Where an adverse or negative impact on equality group(s) has been identified during the initial screening process a full EIA assessment should be conducted.</p> <p>If you have identified a potential discriminatory impact of this procedural document, please refer it to the Human Resource Department together with any suggestions as to the action required to avoid /reduce this impact. For advice in respect of answering the above questions, please contact the Human Resource Department.</p>		
Was a full impact assessment required?	No	
What is the level of impact?	n/a	