

Disciplinary Policy V2.0

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Summary of changes from last version:

- Investigations should be completed within 25 working days of the employee being notified of the allegations or concerns.
- Now verbal warning and two levels of written warning (1st & final) rather than three levels of written warning
- Length of validity of warnings has changed and warnings now valid for appropriate no. of calendar months, not “worked time”
- Fast Track process changed to “Fast track Disciplinary Meeting”
- Levels of manager authorised to dismiss is defined

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1 Introduction/Purpose

The purpose of this policy is to describe the steps required to deal with staff who have alleged to have failed to maintain acceptable standards of conduct in line with the Trust's Rules Visions and Values. The procedure aims to provide staff with the opportunity to improve their conduct and/ or, where necessary, receive disciplinary sanction, to ensure consistent and equitable treatment.

2 Policy Statement

This Policy applies to all employees of the Trust regardless of length or tenure of service. It does not apply to bank workers, agency workers or self-employed contractors. Where there are concerns regarding the professional conduct or professional competence of doctors or dentists, these must be dealt with in accordance with the Trust's "Maintaining High Professional Standards (MHPS)" policy.

3 Definitions

- 3.1 Misconduct** refers to unsatisfactory work behaviour, generally as a result of a lack of motivation, negligence or a lack of attention to detail or maintaining a duty of care, which if recurrent could result in disciplinary action. A list of examples of misconduct can be found in [Appendix C](#).
- 3.2 Gross misconduct** is misconduct of such a serious and fundamental nature that it breaches the contractual relationship between the employee and the Trust. In the event that an allegation of gross misconduct is proven, following an investigation and disciplinary hearing, the Trust will be entitled to terminate the employee's contract of employment without notice or pay in lieu of notice (summary dismissal). A list of conduct that may amount to gross misconduct can be found in [Appendix D](#)
- 3.3 Trade Union Representatives** are Trust employees who have been formally accredited by a Trade Union recognised by the Trust or officials of those Trade Unions. **Trade Union Officials** are staff employed by recognised Trade Unions to represent members of that Trade Union.

4 Policy Requirements

4.1 General Principles

- 4.1.1** No formal disciplinary action will be taken against an employee until the case has been appropriately investigated. It is in the interest of all parties concerned that all disciplinary matters are dealt with promptly but without compromising a proper and thorough investigation.

- 4.1.2** The employee will be advised of the allegations relating to them and be given the opportunity to state their case before any decision or outcome is made. If additional allegations are identified as part of the investigation process the employee will be notified in writing and be invited to respond to the additional allegation(s).
- 4.1.3** Employees will not normally be dismissed for a first disciplinary offence, except in cases involving gross misconduct/negligence.
- 4.1.4** At all formal meetings held under this policy, employees have the right to be accompanied by a Trade Union representative or appropriate work colleague employed by the Trust. Where an employee wishes to exercise their right to be accompanied, the employee will be required to provide details of their intended representative in advance of the meeting. If the employee's chosen representative is considered to be inappropriate by the Trust (for example because they will be interviewed as a witness in the same case), reasons for this will be provided and the employee will be asked to find an alternative representative. In the event that an employee has a reasonable need for a specific or additional companion (e.g. a deaf employee may require a sign language interpreter) who is not a work colleague or staff representative, the employee must request in advance of the meeting that the specific or additional companion is allowed to attend and provide reasons.
- 4.1.5** It is recognised that an employee's chosen representative may not always be available at the times suggested by management for meetings/hearings. If this is the case an alternative date and time will be arranged which will normally take place within 5 working days of the original date. If the employee's chosen representative is still unable to attend then it will be the employee's responsibility to arrange a different representative for the meeting
- 4.1.6** An employee will have the right of appeal against any formal disciplinary sanction.
- 4.1.7** No disciplinary action will be initiated in relation to an accredited and recognised Trade Union representative until the relevant Trade Union Regional Office has been notified. This will also include any plans to suspend unless an official of the Trade Union cannot be contacted and the suspension is an immediate requirement. However, the Trade Union will be notified at the earliest possible opportunity thereafter.
- 4.1.8** If an employee falls sick during the formal process then advice should be sought from Occupational Health as to the employee's ability to participate in the on-going process. Any investigation meetings or disciplinary meetings/hearings may only be delayed on health grounds if the advice from Occupational Health is that attending will be detrimental to the employee's health. The advice must also detail any reasonable adjustments or support that could enable the employee to attend in order to avoid unnecessary delay.

4.1.9 Where an employee raises a grievance during a disciplinary process the two processes will normally run concurrently. Where the grievance is related to the application of the disciplinary policy advice must be sought from the HR Team.

4.1.10 The Trust will deal with all disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat information provided in connection with the disciplinary process as confidential.

4.1.11 The Trust, employees and their representative and witnesses will not make electronic recordings of any meetings or hearings, unless there are exceptional circumstances that are agreed between the Deputy Director of Workforce (in their absence the Head of Operational HR) and the Investigating Officer or Disciplinary Panel Chair.

4.1.12 Employees who are issued with a formal warning will have their incremental date deferred for the period of time that the warning is live.

4.1.13 Investigations should be completed within 25 working days of the employee being notified of the allegations or concerns.

4.2 Informal Action

4.2.1 Managers are responsible for addressing an employee's minor misconduct by holding informal discussions with that employee. The employee will be informed of any specific improvements required and a summary of the meeting will be issued in writing to the employee. These discussions must be held in private and without delay whenever there is cause for concern. Such discussions do not form part of the formal disciplinary process however attendance by the employee would be considered a reasonable management request.

4.2.2 There is no right to formal representation at such meetings and a member of the HR team does not need to be present. Managers must follow up the meeting with a letter to the employee detailing the discussions held, the employee's response and any actions agreed to rectify the issue. This letter may be referred to in the event that there are further issues of misconduct.

4.3 Suspension

4.3.1 At any point in cases of alleged misconduct or gross misconduct, it may be necessary to consider suspension. Suspension is a neutral act, not an assumption of guilt, and does not constitute a warning or other sanction. Suspension will be for no longer than is necessary and should only be used in the following circumstances:

- To remove the employee from the workplace in order to conduct an unimpeded management investigation.

- To remove the employee from the workplace where there is a tangible and quantifiable risk of the employee causing risk to the health, safety or wellbeing of patients/colleagues/visitors or self.
 - To remove the employee from the workplace if that person is not capable of performing their normal duties e.g. by virtue of intoxication through drugs or alcohol.
- 4.3.2** Prior to suspension, full consideration must be given to the possibility of temporarily re-deploying the employee or applying temporary restrictions to their duties to enable them to remain at work.
- 4.3.3** Prior to suspension, managers must contact the relevant HR Manager / HR Consultant to discuss the case and must seek approval from the relevant Divisional Director/ Head of Operations/ Head Nurse (in their absence their nominated deputy) or Corporate equivalent. Final authorisation to suspend must be given by an Executive Director or their deputy.
- 4.3.4** Once authorisation to suspend has been given, a discussion with the employee needs to take place in order to suspend them. Where a discussion is not possible e.g. the employee is in police custody or they are not contactable, a letter should be sent confirming the action taken. Suspension is usually undertaken by the appropriate Senior Manager/Senior Nurse.
- 4.3.5** Where a concern arises outside of normal working hours (Monday – Friday, 9am - 5pm) which could potentially result in an employee being suspended, the senior on site or on-call manager may decide to curtail the employee's shifts until a decision can be made on whether to formally suspend him/her. The employee will be informed that they must go off duty and not return to work until they have been contacted (which will most likely be on the next working day). The employee will receive pay as if he/she had been at work.
- 4.3.6** Suspension will always be on full pay (calculated as an average of the person's earnings over the preceding 13 weeks) unless there is a situation where a specific policy requirement is to suspend without pay (e.g. lapse of statutory registration or expiry of right to work in the UK)
- 4.3.7** While suspended the employee should not visit Trust premises or contact any patients, staff or contractors, unless this has been previously authorised by the relevant manager. The employee may attend for an investigation meeting, to meet with a Union representative or, attend Occupational Health. The employee may attend as a patient or visitor however must notify their manager at the earliest opportunity.
- 4.3.8** While suspended, an employee may not undertake any additional paid work or employment (including Bank work) and will have their Trust ICT access temporarily revoked.

4.3.9 At the suspension meeting the suspending manager should:

- Explain the reasons for suspending;
- Advise the individual that an investigation will take place;
- Inform the individual that they are not permitted to enter the Trust premises unless it is for an investigation meeting, to attend Occupational Health or to meet with a Trade Union representative. Employees may attend as a patient or visitor however they must notify their manager in advance wherever possible.
- Inform the employee of

4.3.10 The suspension should be confirmed in writing within 3 working days stating the reasons for suspension and the conditions that apply.

4.3.11 Suspension will be for the shortest period possible. The investigating officer will review the suspension every 2 weeks, ask the employee to confirm that they are complying with the conditions of suspension and inform the employee of the outcome of the review in writing. The investigating officer will inform the line manager of the outcome of the suspension review.

4.3.12 Whilst suspended an employee must be available to attend any investigation interview arranged during the hours they would normally have been at work unless they have pre booked annual leave in accordance with normal annual leave booking arrangements for their department or team. The annual leave will take precedence over the suspension and the employee will not be expected to attend investigation meetings during this period.

4.3.13 An employee who is suspended may still request annual leave in accordance with the procedures for their team or department which will not be unreasonably withheld.

4.3.14 If the employee is absent from work due to sickness at the time a decision is made to suspend, the sickness will supersede the suspension and the absence will continue to be recorded as sickness. In this instance, employees should be advised of the need to adhere to the conditions of suspension. However, if an employee is signed fit to return to work whilst the investigation and need for suspension is on-going, then the suspension from duty will take effect from the day they are fit to work.

4.3.15 If an employee becomes sick whilst on suspension then they must notify their manager and will be recorded as absent due to sickness for the relevant period. If an employee is signed fit to return to work but the need for suspension is ongoing, then they will be recorded as suspended with effect from the day they are fit to work.

4.4 Formal Disciplinary Investigation

4.4.1 Where informal action (as described in paragraph 4.2) fails to resolve an issue or an incident occurs / an allegation is made which, due to the seriousness of the incident or allegation, is not deemed appropriate to be dealt with informally, the line manager

must discuss with the relevant HR Advisor, HR Consultant or HR Manager the possibility of instigating a formal investigation before proceeding any further.

4.4.2 If the decision is taken to instigate a disciplinary investigation, the manager, with support from HR will determine the allegations which are to be investigated and, in conjunction with senior managers and HR, identify an appropriate manager to undertake the role of Investigating Officer.

4.4.3 The Investigating Officer and HR representative will determine the methodology of the investigation which must be proportionate, balanced, unbiased and examine all relevant evidence.

4.4.4 The role of the Investigating Officer, with the support and advice of the HR representative, will be to:

- Ascertain the full facts of the case including investigation of any supporting evidence and information.
- Prepare relevant questions in relation to the allegations to put to the employee and any witnesses.
- Invite the relevant employee to a formal fact finding meeting with at least 5 working days' notice.
- Invite any relevant parties/witnesses to a formal fact finding meeting with at least 5 working days' notice.
- Ensure notes of meetings are sent out to the individual interviewed and signed copies returned.
- Collate the evidence gathered, establish whether the allegations can be substantiated and take appropriate next steps to take in accordance with this policy.

4.4.5 On completion of the investigation, if the Investigating Officer concludes that, on the basis of the evidence gathered, there is either no case to answer or that the matter should be dealt with at the informal stage of this procedure (see paragraph 4.2), the Investigating Officer will brief the employee's line manager accordingly. The investigating officer will be responsible for providing feedback to the employee. The line manager will be responsible for making any necessary follow up arrangements (e.g. return to work if suspended or lifting of any restrictions imposed).

4.4.6 On completion of the investigation, if the Investigating Officer concludes that, on the basis of the evidence gathered, there is a case to answer the Investigating Officer will prepare a full report of the findings. The Investigation report will outline:

- Relevant background information and circumstances of the case
- Investigation methodology
- Evidence based findings
- Conclusions

4.4.7 The Investigating Officer, with HR support, will determine whether it is appropriate to refer the case to a Fast Track Disciplinary Meeting or a full disciplinary hearing.

4.5 Fast Track Disciplinary Meeting

4.5.1 In reaching a decision to refer to a Fast Track Meeting the Investigating Officer must be satisfied that the following criteria is met:

- The employee has accepted the allegations made against them and taken full responsibility for his/her actions
- The allegations are not serious enough to warrant dismissal
- The employee does not currently have a “live” written warning on their file

4.5.2 The Investigating Officer will advise the employee that it is the intention to refer the case into the Fast Track Disciplinary process where a formal warning will be issued. If the employee agrees to the Fast Track Process, a fast track meeting will be arranged.

4.5.3 The employee will be given a minimum of 5 working days’ notice of the meeting.

4.5.4 The meeting will be chaired by an independent manager and a HR Representative. Also present at the meeting will be the employee and their representative (if applicable), the Investigating Officer and the HR representative.

4.5.5 The investigating officer will provide a brief report of the investigation to the meeting and the employee will be required to provide their reflections on the incident outlining any mitigation and lessons learnt.

4.5.6 At the conclusion of the meeting, the Chair will confirm the decision to issue a formal warning and the level of this warning unless during the course of the meeting a valid reason has arisen for not proceeding with this course of action. The warning will be dated from the date of the meeting and remain “live” in accordance with the following schedule:

Verbal Warning – 6 calendar months
First Written Warning - 12 calendar months
Final Written Warning – 24 calendar months.

(as detailed in sections 4.7.2, 4.7.3 and 4.7.4)

The warning will be confirmed in writing and the letter will set out the nature of the misconduct and will advise the employee that further misconduct whilst the warning is live is liable to result in further disciplinary action. After expiry of the warning the letter will remain on an employee's file but the warning will be considered spent. The employee will have the right to appeal against this decision in accordance with paragraph 4.8 of this policy.

4.5.7 If the employee does not agree to enter into the Fast Track process then a full disciplinary hearing will be convened in line with paragraph 4.6 below.

4.5.8 If the employee fails to attend the Fast Track Meeting without good reason the matter will proceed to a full disciplinary hearing in line with paragraph 4.6 below.

4.6 Disciplinary Panel Hearing

4.6.1 A disciplinary panel hearing will be convened following a disciplinary investigation in any of the following circumstances:

- The case is particularly complex or serious enough to potentially result in dismissal.
- The employee has a “live” Final Written warning on file
- The employee has declined, failed to respond to the offer of or failed to attend a Fast Track Disciplinary Meeting

4.6.2 The Investigating Officer and HR representative will liaise with the relevant Divisional Director/Head of Operations/Head Nurse or equivalent(or in their absence their nominated deputy) to determine who will be an appropriate person to chair the Disciplinary Panel Hearing in accordance with [Appendix B](#). In addition to the panel chair, the panel will also include a representative from Human Resources who has not previously been involved in the case. In certain cases a specialist advisor may also be asked to sit on the hearing panel to provide advice to the chair e.g. for professional misconduct issues.

4.6.3 The Investigating Officer will make the arrangements for the Disciplinary Panel Hearing and will notify the employee at least 10 working days prior to the hearing of

- The date, time and location of the hearing
- The issues or allegations to be considered
- Details of any management witnesses being called to the hearing
- The employee's right to be accompanied at the hearing by a Trade Union representative or work colleague not acting in an official capacity.
- The employee's right to state their case at the hearing
- The employee's right to submit a written statement of case to the Disciplinary Panel Chair no later than 5 working days prior to the hearing;

- The employee's right to call additional witnesses relevant to the allegations (i.e. not character referees) to the hearing. It will be the employee's responsibility to make the necessary arrangements with any witnesses they wish to call
- The possibility of dismissal in the most serious cases.

- 4.6.4** The employee will also be sent the Management Case (i.e. investigation report including relevant witness statements and any other relevant documentation) and a copy of the Disciplinary Policy no later than 10 working days prior to the hearing.
- 4.6.5** At the commencement of the Disciplinary Panel Hearing the Chair will outline the structure of the proceedings (see [Appendix E](#)). Both management and the employee will have the opportunity to state their case, ask questions and call any relevant witnesses. If at any point the Disciplinary Panel Chair determines that further investigation of the facts is required the hearing will be adjourned.
- 4.6.6** If the employee is accompanied by a Trade Union representative, that representative may address the hearing and present and sum up the employee's case on their behalf. The representative does not have the right to answer questions put to the employee or, address the hearing without the agreement of the employee. If the employee is accompanied by a work colleague who is not a Trade Union representative, that companion will act in a supportive capacity only and will not address the hearing.
- 4.6.7** Once both parties have had the opportunity to state their case the hearing will be adjourned so that the panel can make a decision. Wherever possible a decision will be made on the day however there may be occasions where a decision is delayed (e.g. if there is a considerable volume of evidence to consider and there is insufficient time on that day to thoroughly consider this evidence) and if that is the case the employee will be informed when the decision is likely to be made.
- 4.6.8** When reaching their decision, the disciplinary panel will consider all information presented to the hearing, both verbal and written, and will then make a judgement based on the balance of probabilities. If the panel decides that the allegations are proven, before deciding what sanction is appropriate they must consider whether there were any relevant mitigating circumstances and establish whether there are any previous "live" written warnings on the employee's file. Only then will the panel determine what sanction, if any, should be issued.
- 4.6.9** The hearing will then reconvene and the employee will be verbally informed of the decision of the panel in relation to the allegation(s), any sanction to be issued and their right to appeal any sanction issued. The outcome will be confirmed in writing and the employee will have the right to appeal any formal sanction within 10 working days of receipt of the outcome letter.
- 4.6.10** The potential outcomes from a Disciplinary Panel Hearing are set out in paragraph 4.7 below.

4.7 Outcomes from Disciplinary Panel Hearing

4.7.1 No case to answer

In the event that the panel finds that there is no case to answer, the employee will be informed verbally and in writing and their line manager will be informed of this decision. The line manager will then be responsible for dealing with any practical issues arising (e.g. lifting of suspension or lifting of restriction)

4.7.2 Formal Verbal Warning

A formal verbal warning will be issued for minor conduct issues and this warning will remain live for 6 months from the date of the disciplinary meeting/hearing. The warning will be confirmed in writing and the letter will set out the nature of the misconduct and will advise the employee that further misconduct may result in further disciplinary action under this procedure. After 6 months the warning will be considered “spent” however the letter will remain on the employee’s file. The employee will have the right to appeal against this decision in accordance with paragraph 4.8 of this policy.

4.7.3 First Written Warning

Where there is a finding of serious or repeated misconduct, the employee will be issued with a First Written Warning. This warning will remain live for 12 months (1 year) from the date of the disciplinary meeting/hearing. The warning will be confirmed in writing and the letter will set out the nature of the misconduct and will advise the employee that further misconduct may result in further disciplinary action under this procedure. After 12 months the warning will be considered “spent” however the letter will remain on the employee’s file. The employee will have the right to appeal against this decision in accordance with paragraph 4.8 of this policy.

4.7.4 Final Written Warning

A Final Written Warning will usually be appropriate where there is a finding of serious misconduct which is sufficiently grave to warrant a final written warning even though there are no active warnings on the employee’s record or where there is a finding of serious or repeated misconduct and there is already a “live” warning on the employee’s file. The warning will remain live for 24 months (2 years) from the date of the hearing. The warning will be confirmed in writing and the letter will set out the nature of the misconduct and will advise the employee that further misconduct may result in further disciplinary action under this procedure. After 24 months the warning will be considered “spent” however the letter will remain on the employee’s file. The employee will have the right to appeal against this decision in accordance with paragraph 4.8 of this policy.

4.7.5 Dismissal

Dismissal may occur where there is a finding of gross misconduct, or where the employee has previously been issued with a Final Written Warning and a further instance of misconduct has occurred before that warning has expired. An employee will be summarily dismissed (i.e. dismissed without notice or a payment in lieu of notice) where the reason for dismissal is gross misconduct.

Where a case is serious enough to warrant dismissal however is not deemed to be Gross Misconduct, the Disciplinary Panel may consider other options such as demotion as an alternative to dismissal in conjunction with a Final Written Warning. If the panel consider that an alternative option to dismissal is desirable and feasible, the employee will be informed what alternative is being offered and given 5 working days to consider this. Should the employee decline the offer or fail to respond within 5 working days, the dismissal will stand and will be effective from 5 working days following the hearing. The employee will have the right to appeal against a decision to dismiss in accordance with paragraph 4.8 of this policy.

4.8 Appeals

4.8.1 Employees have a right to appeal against a sanction issued at a formal Disciplinary Panel or Fast Track Disciplinary Meeting. Appeals will only be accepted on the following grounds and the employee will be required to state in their letter of appeal which of these applies and provide the necessary detail:

- The Trust has failed to follow procedures and this failure has had a detrimental impact on the employee.
- The decision was not reasonable in the circumstances
- The sanction imposed was disproportionate

4.8.2 An appeal will not re-hear the disciplinary case but will review the fairness of the decision and outcome in light of the employee's grounds of appeal.

4.8.3 To lodge an appeal against a disciplinary sanction the employee or their representative on instruction of the employee, must write to the next most senior manager to the Disciplinary Panel Chair (the name of this person will be stated in the outcome letter). In instances where the decision is to dismiss, the appeal must be directed to the Director of Workforce. All grounds of appeal must be received within 10 working days of the date of the correspondence confirming the disciplinary outcome.

4.8.4 The manager in receipt of the appeal will, in conjunction with the Divisional HR Manager, ensure that the stated grounds of appeal meet the requirements indicated in this policy (set out in 4.8.1). An appropriate Appeal Panel Chair, who is impartial and more senior than the original Disciplinary Panel Chair, and appropriate HR

support will be identified. The date of the appeal hearing will be confirmed within 10 working days of receipt of the appeal letter.

4.8.5 The employee and/or their representative will provide the HR support to the Appeal Panel Chair with their written case, including copies of all relevant documentation they wish to rely on at the hearing, at least 10 working days prior to the hearing. This will be forwarded to the original Disciplinary Panel Chair and HR Support who will compile the management response to the stated grounds of appeal and forward to the Appeal Panel Chair and the employee and their representative 5 working days in advance of the appeal hearing.

4.8.6 The purpose of the appeal hearing is to review whether the disciplinary outcome was reasonable and proportionate based on the evidence available at the original hearing, and to consider whether the procedure has been followed correctly. The appeal hearing is not a re-hearing of the case.

Appeals will be conducted in the same manner as a disciplinary hearing, except that the employee will state their case first and management side will then respond. The structure of the appeal hearing can be found in [Appendix F](#)

4.8.7 The appeal panel will have the authority to:

- Confirm the original decision and uphold the sanction
- Revoke the original decision
- Substitute a different penalty which could be higher or lower.

4.8.8 The appeal panel will in most cases make a decision and deliver it on the same day but there may be occasions when an adjournment is necessary. Written confirmation of the outcome will be provided within 10 working days.

4.9 Criminal Charges

4.9.1 Where the alleged misconduct of an employee is also the subject of a criminal investigation, prior to commencing a disciplinary investigation the Trust will consult with the Police/Local Counter Fraud Specialist to establish whether an investigation would impede the police investigation.

4.9.2 A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if the Trust considers that it is relevant to the employee's employment or that it brings the Trust into disrepute. Consideration should be given as to whether the criminal offence, if proven, would render the employee unsuitable to continue in their present role and whether pending trial the employee should be allocated to other duties or suspended in accordance with this policy. The Trust will use all reasonable endeavours to investigate the matter fully.

4.9.3 The Trust will not usually wait for the outcome of any prosecution before deciding what action, if any to take. Where an employee is unable to or has been advised not to attend a disciplinary hearing or say anything pending a criminal matter, the Trust may have to take a decision based on the available evidence.

4.10 Referral to Relevant Authorities

4.10.1 It may be appropriate at any point in the disciplinary procedure to refer the employee to the appropriate professional body e.g. NMC/GMC/HPC. The decision will be made by the relevant professional lead and will not be seen as a sanction.

5. Role and Responsibilities

5.1 Chief Executive

To ensure that the policy is being implemented appropriately within the Trust.

5.2 Directors

To ensure that managers are aware of and correctly apply the policy.

5.3 Local Managers

Managers are required:

- To address minor misconduct by holding informal discussions with the employee.
- To liaise with Operational HR team in situations where conduct issues require investigation.
- To make every effort to avoid suspension unless there is no other alternative
- To ensure that warnings are not kept for longer than their official lifespan

6. Training

Awareness of this policy will be through standard trust communications. The Operational HR team will provide specific training to managers.

7. Monitoring

See Appendix A

APPENDIX A Monitoring Matrix

Monitoring of implementation	Monitoring Lead	Reported to	Monitoring process	Frequency
Appropriate application of policy	Operational HR	Analysis of cases to be included in Annual Report to Operational Workforce Group	Logged on ESR Employee Relations module	Annual

APPENDIX B - List Of Disciplining Officers

The following managers are authorised to Dismiss at Disciplinary Panel Hearings

- Executive Directors
- Deputy/Associate Directors
- Divisional Directors
- Head Nurses
- Heads of Operations
- Deputy Heads of Operations
- Heads of Department

APPENDIX C – Examples Of Misconduct

Matters that the Trust views as potentially amounting to misconduct include but are not limited to:-

- Unauthorised absence or breaks from duty (including non-notification of absence or failure to return from a period of authorised absence).
- Poor standard of dress
- Non-cooperation, insolence, insubordination or refusing to obey reasonable instructions from a line manager or other manager.
- Poor standard of work where this relates to conduct rather than skill/competence (which should be addressed through the Capability Procedure).
- Failure to attend mandatory training

APPENDIX D – Examples Of Gross Misconduct

Matters that the Trust views as potentially amounting to gross misconduct include but are not limited to-:

- Serious or deliberate breach of Trust Policy
- Theft or unauthorised possession of any property belonging to the Trust, a patient, contractor or colleague
- Deliberate and serious damage to Trust property, or the property of a patient, contractor or colleague;
- Fraud, forgery or other dishonesty and probity issues (including falsification of reports, records, accounts, expense claims, time sheets, medical certificates, or self-certification forms)
- Repeated or serious failure to follow reasonable instructions, or any other act of subordination;
- Serious neglect of duties, or a serious or deliberate breach of contract or operating procedures
- Being under the influence of alcohol, illegal drugs or other substances during working hours
- Possession, use or supply or attempted supply of illegal drugs on Trust premises
- Violent, aggressive, dangerous or intimidating conduct;
- Unlawful discrimination or harassment of a colleague, patient or member of the public;
- Causing loss or damage or injury through gross negligence
- Conviction for a criminal offence that may affect the Trust's reputation or relationship with staff, patients or the public or otherwise affects the employee's suitability to continue in their employment;
- Conduct likely to bring the Trust into disrepute;
- Conduct which breaches the Trust's trust and confidence in the employee;

- Misuse of the Trust's property or name (including posting inappropriate information onto social networking sites or any other internet sites);
- Serious or repeated breach of Health & Safety regulations & rules or serious misuse of safety equipment;
- Serious misuse of the Trust's information technology systems contrary to the Trust policy in this regard;
- Unauthorised use or disclosure of confidential information or failure to ensure that confidential information is kept secure;
- Acceptance of bribes or unauthorised payments or gifts;
- Giving false and misleading information;
- Making false or vexatious allegations;
- Unauthorised entry into an area of the Trust premises to which access is prohibited;
- Conduct which contravenes the standard of professional behaviour required by the employee's regulatory body.

APPENDIX E - Procedure to be followed at a Disciplinary Panel Hearing

1. Chair of Panel to introduce all present and confirm the role each will play in the proceedings.
2. Chair to ensure that any employee who appears at the hearing unrepresented or , unaccompanied is happy to proceed with the hearing alone.
3. Chair to check if either party intends to call any witnesses in support of their case
4. Chair to explain the process to be followed:
5. The Investigating Officer will state the management case and call any management witnesses.
7. The employee will have the opportunity to question the management witnesses and the Investigating Officer.
8. The panel will have the opportunity to question the management witnesses and the Investigating Officer.
9. The employee or their Trade Union representative will state his/her case and call any witnesses.
10. The Investigating Officer will have the opportunity to question the employee's witnesses and the employee.
11. The panel will have the opportunity to question the employee's witnesses and the employee.
12. Chair to confirm with the Investigating Officer and employee that they are satisfied they have had sufficient opportunity to state their respective cases. If so, both parties should be offered the opportunity of a short adjournment to produce a summing up statement.
13. Management to sum up their case.
14. The employee or their Trade Union representative to sum up their case.
15. Adjournment for the Panel to deliberate and reach a decision.
16. The hearing is re-convened for the Chair of the Panel to deliver the panel's findings and decision.
17. The employee will be advised that this will be confirmed to them in writing within 10 working days.

APPENDIX F - Procedure to be followed at a Disciplinary Appeal Hearing

1. Chair of Panel to introduce all present and confirm the role each will play in the proceedings.
2. Chair to ensure that any employee who appears at the hearing unrepresented or , unaccompanied is happy to proceed with the hearing alone.
3. Chair to check if either party intends to call any witnesses in support of their case
4. Chair to explain the process to be followed:
5. The employee or their Trade Union representative will state his/her case and call any witnesses.
6. The presenting manager will have the opportunity to question the employee's witnesses and the employee
7. The panel will have the opportunity to question the employee's witnesses and the employee
8. The presenting manager will state the management case and call any management witnesses.
10. The employee will have the opportunity to question the management witnesses and the presenting manager
11. The panel will have the opportunity to question the management witnesses and the presenting manager.
12. Chair to confirm with the presenting manager and employee that they are satisfied they have had sufficient opportunity to state their respective cases. If so, both parties should be offered the opportunity of a short adjournment to produce a summing up statement.
13. Management to sum up their case.
14. The employee or their Trade Union representative to sum up their case.
15. Adjournment for the Panel to deliberate and reach a decision.
16. The hearing is re-convened for the Chair of the Panel to deliver the panel's findings and decision.
17. The employee will be advised that this will be confirmed to them in writing within 10 working days.