

DISCIPLINARY POLICY

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1. INTRODUCTION

- 1.1 The Disciplinary Policy is in accordance with all legal requirements and ACAS guidance. The policy aims to encourage employees to achieve and maintain the required standards of conduct, performance and attendance. It ensures fairness and consistency in the treatment of individuals. In cases where an employee fails to attain the required standard or level of conduct the disciplinary policy will be instigated and this may result in disciplinary action.

2. SCOPE

- 2.1 This policy will apply to all employees within the Clinical Commissioning Group (CCG), hereafter known as the organisation.

3. EQUALITY IMPACT ASSESSMENT (EIA)

- 3.1 This document has been assessed for equality impact. This policy is applicable to every member of staff within the organisation and In applying this policy, the organisation will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.

4. PRINCIPLES

- 4.1 Alleged breaches of conduct, performance or attendance will be fully investigated before any disciplinary action is taken and wherever possible, the manager will attempt to resolve the matter through informal discussion with the employee.
- 4.2 Managers considering whether or not an issue should be progressed to a disciplinary hearing should discuss the matter with an HR Representative before making a decision.
- 4.3 All cases of suspected fraud within the Organisation must initially be referred to the CFO Executive lead for Finance and Local Counter Fraud Specialist prior to a full investigation being initiated as required under the Standing Financial Instructions. This is to assess the

case and exercise discretion as to the need to involve others or whether to allow the matter to be dealt with internally.

- 4.4 No disciplinary action will be taken against a trade union representative without firstly discussing with the relevant full time officer.
- 4.5 Employees will be informed in writing of the issues causing concern and will be given the opportunity to present their views before any decision is made at a disciplinary hearing.
- 4.6 Employees are entitled to be accompanied at all formal meetings by a Trade Union Representative or work colleague.
- 4.7 Employees are required to attend all meetings relating to the disciplinary process. If they, or their representative are unable to attend the arranged meeting, they must give notice and reasons why they are unable to attend. The meeting will then be rescheduled to a mutually convenient time, within 10 working days of the original date wherever possible. However, where an employee fails to attend such meetings without reasonable grounds, then the meeting may be held in their absence. The employee will be informed of this in writing.
- 4.8 If an employee has a valid objection to the person appointed to undertake the investigation or to hear the case, they must raise this objection in writing, clearly stating their reasons, to the HR Business Manager.
- 4.9 The level of disciplinary action to be taken will be determined according to the seriousness and nature of the alleged misconduct. Once the formal disciplinary procedure has been initiated subsequent misconduct within the warning period may lead to further, and perhaps more serious, disciplinary action, which may ultimately lead to dismissal.
- 4.10 Warnings are active from the date of issue for the periods detailed in Section 7.1, except in exceptional circumstances.
- 4.11 No employee will be dismissed for a first instance of misconduct: however summary dismissal may occur in the case of Gross Misconduct.
- 4.12 The employee will have the right of appeal against any disciplinary warning or sanction issued in the formal stages of the procedure.
- 4.13 It is important that employees know what standards of behaviour and conduct are expected of them and the obligations expected of them whilst at work. Employees should be given all the necessary support, training and guidance to achieve good performance.

4.14 There should be regular reviews of performance, including discussions of development needs and employees should be aware of what standards of performance are required and what support is available to achieve these standards. Where an employee cannot achieve an acceptable level of performance due to lack of ability or skill, rather than any wilful refusal to carry out the duties of the job, the Performance Management (Capability) Policy should be used.

5. SCHEME OF DELEGATION

Informal procedure	Line Manager or equivalent level manager from elsewhere within the organisation
Formal procedure	Line manager or equivalent level manager from elsewhere within the organisation
Appeal following formal procedure	Line Managers manager or equivalent who has not previously been involved or implicated
Dismissal Hearings	Chaired by a manager at grade 8B or above plus one other manager (which may be an HR representative)
Appeal against dismissal	Chaired by a manager at Exec level or above plus one other manager and HR representative

6. PROCESS

INFORMAL PROCESS

- 6.1 In cases of suspected minor misconduct in relation to conduct or behaviour, the following process will be followed:
- The employee's line manager will speak to the individual, in private, as soon as possible after an issue comes to light. This will be a two-way discussion aimed at establishing the circumstances and encouraging improvement.

- If, during the discussion, it becomes evident that there is no problem the manager will confirm to the employee that no formal disciplinary action will be taken.
- Where an improvement in conduct is required, the manager will make sure the employee understands what needs to be done, and over what period of time. The required improvement, the length of the review period and any sanctions imposed, for example withdrawal of flexi time, will be confirmed in writing following the meeting and the letter will also include the consequences of a failure to improve.
- Further meetings will be held to review progress during, and at the end of, the review period. Notes of all meetings will be taken and agreed.
- If, during the initial discussion, it becomes obvious that the matter may be more serious, the meeting will be adjourned and the employee advised that an investigation will be instigated under the formal stages of the disciplinary procedure.
- If managed informally there is no right to be accompanied by a staff side representative or workplace colleague to the meeting with the line manager.

FORMAL PROCESS

- 6.2 Before any disciplinary hearing is held, an investigation will take place to establish the facts of the case. However in exceptional circumstances and with advice from an HR Representative, other forms of evidence may be sufficient. For example in the case of short-term persistent absence, absence records, return to work interviews and Occupational Health reports may be used as the basis for disciplinary proceedings.
- 6.3 Normally the investigation process should take no longer than 4 weeks. Where it is not possible to complete the process within this timescale, the reasons for the delay will be recorded and the expected date for completion of the investigation process communicated in writing to all parties involved.
- 6.4 An employee is entitled to be accompanied at the investigation meeting by a Trade Union Representative or a workplace colleague.
- 6.5 If an employee is unwilling or unable to attend an investigation meeting or disciplinary hearing the organisation will consider all the facts and evidence available and decide how to proceed, taking into account: the seriousness of the matter being investigated; the employees disciplinary record; work performance; length of service etc., medical opinion on whether the employee is likely to be fit to attend the meeting, and if so in what timeframes;

how any similar cases may have been dealt with.

- 6.6 If an employee is unavailable to attend a meeting or hearing the matter will be concluded taking into account all the evidence available. The employee will be advised of this in writing and offered the opportunity for a colleague or union representative to attend on their behalf or provide a written statement for consideration.

MANAGERS AUTHORISED TO TAKE DISCIPLINARY ACTION

- 6.7 To ensure fairness and impartiality, where reasonably practicable, the disciplinary panel should consist of no less than two members. The meeting will be led by a manager of sufficient authority to take sanction, where this is anticipated, who has not been previously involved in the matter, in consultation with either another impartial manager or an HR Representative. Where dismissal is a possibility, the disciplinary hearing will be conducted by a manager authorised to dismiss and an HR Representative.
- 6.8 The outcome of a disciplinary hearing will generally fall into one of the following categories:-
- Case dismissed
 - No action required
 - The employee is required to attend counselling or retraining
 - First written warning
 - Final written warning
 - Dismissal

NO ACTION REQUIRED

- 6.9 If following the conclusion of the investigation and having reviewed all the evidence it is decided no disciplinary hearing should be held the employee concerned will be notified by their line manager or another appropriate manager.
- 6.10 The employee has the right to be accompanied at the meeting by a Union representative or work colleague. The meeting should:
- outline the process carried out
 - summarise the evidence
 - provide the reasons for taking no further action
 - allow the employee an opportunity to respond
 - discuss and agree an action plan to prevent recurrence where appropriate

- put in place any necessary improvements/controls/procedures/processes required
- stress the continued confidentiality and sensitivity of the issue
- advise of the importance of behaving in a professional manner towards work colleagues who may have provided evidence or witness statements and any retaliation of any nature will be regarded as a serious matter

6.11 The details of the meeting should be confirmed in writing to the employee within 5 (five) working days and state that the documentation will be retained on the employees personal file.

DISCIPLINARY HEARING

6.12 A disciplinary hearing will normally be held by a panel consisting of a manager of appropriate level (see scheme of delegation), who has not been previously involved in the matter, who will act as the Panel Chair. They will either be accompanied by another appropriate manager or an HR Representative, or in some cases both. Should the attendance of an HR Representative be required, their role will be to provide advice on Human Resources policies and employment legislation and to ask questions to obtain clarification on any issues that are discussed or new relevant information disclosed.

6.13 Before the disciplinary hearing the employee will be advised in writing of the purpose of the meeting and details of the complaint or allegation being considered, covering all issues to be discussed. The individual will be given a minimum of 5 working days' notice of the disciplinary hearing. If the individual, or their chosen companion, is not available to attend on the date proposed, the Organisation will endeavour to offer an alternative reasonable date within 10 working days of the original date wherever possible. Note: This meeting will normally only be re-arranged once, except in exceptional circumstances.

6.14 Should either party wish to call any witnesses to the disciplinary hearing they must give at least 2 working days' notice to the Disciplinary Panel, and will have full responsibility for arranging the attendance of these witnesses.

6.15 All relevant facts and evidence (including a copy of the disciplinary investigation report) will be made available to the employee at least 5 working days prior to the disciplinary hearing. Additional information gathered by the employee, that they wish to present at the meeting, must also be made available to the disciplinary panel at least 2 working days prior to the meeting.

- 6.16 Either party may present evidence including details of previous relevant warnings, witness statements, call witnesses and have the opportunity to ask questions.
- 6.17 Adjournments may be called by the panel at any time during the hearing should new facts emerge which require investigation or clarification. If the employee becomes distressed an adjournment may be called in order for them to regain their composure.
- 6.18 An adjournment must be held in order that there can be a period of dispassionate reflection by the disciplinary panel to consider what action, if any, is to be taken. Where possible, both parties will be verbally informed of the outcome after the adjournment.
- 6.19 The employee will be advised in writing of the outcome of the disciplinary hearing within 7 working days unless a longer period is specified and can be justified. If disciplinary action is taken, the employee will be informed of the required improvements which are necessary and if applicable details of timescales for achievement, the duration of the warning and the consequence of a failure to improve performance as required. The letter must include the date of the disciplinary hearing, the reason for issuing the warning as well as details of any sanctions which may be imposed. It should also be noted whether the employee invoked their right to be accompanied. The right of appeal will also be included.

FIRST WRITTEN WARNING

- 6.20 If the issue is serious, a First Written Warning will normally be issued and will be kept on the employee's personal file for 12 months. A copy of the written warning will be kept on file but should be disregarded for disciplinary purposes after 12 months from the date of issue. The warning may be declared on any employment references.

FINAL WRITTEN WARNING

- 6.21 If the issue is more serious or if there is still an active First Written Warning in place and insufficient improvement has been made or further misconduct occurs, a Final Written Warning will normally be issued and will be kept on the employee's personal file for 24 months. A copy of the written warning will be kept on file but should be disregarded for disciplinary purposes after 24 months from the date of issue. The warning may be declared on any employment references.

DISMISSAL WITH NOTICE

- 6.22 If, within 12 months of the issue of a Final Written Warning, further misconduct occurs or insufficient improvement has been made, the employee will normally be dismissed with notice. Dismissal may be declared on employment references.
- 6.23 The employee will be provided with written reasons for dismissal, the date on which the employment will terminate, their entitlement to pay, and the right of appeal.
- 6.24 The organisation reserves the right to make a payment in lieu of notice.

SUMMARY DISMISSAL

- 6.25 Where behaviour or misconduct is sufficiently serious to constitute gross misconduct the employee will normally be summarily dismissed - i.e. without notice. Dismissal may be declared on employment references.
- 6.26 The employee will be provided with written reasons for dismissal, the date on which the employment will terminate and the right of appeal.

POTENTIAL ADDITIONAL SANCTIONS

- 6.27 Additional sanctions may be included after full discussion with an HR Representative who will be able to advise on the appropriateness, equity and viability of any further sanction. These can include, but are not limited to:
- Demotion or transfer to another job or location
 - Deferred increment
 - Loss of privileges e.g. removal of right to self-certificate absence and the requirement for all absences to be covered by a medical certificate, removal of flexi-time.

SUSPENSION

- 6.28 This does not constitute disciplinary action or sanction. Suspension is only to be invoked when an individual's continued presence at work places themselves/other person(s) at risk, or hampers any investigation. If appropriate, suspension should be effected as soon as

possible after the matter to be investigated comes to light or a need for suspension is identified. Suspension will always be on full pay and should be for as brief a period as possible. It is expected that suspension will be no longer than 4 weeks, but may be extended in exceptional circumstances. Employees who are suspended will be informed in writing of the reasons for the suspension. The necessity or otherwise for suspension, will be agreed between the manager and an HR Representative.

- 6.29 Should it be concluded that no further action is necessary following investigation; a briefing session should be held between the individual, their trade union representative or work colleague if required, and their manager prior to a return to work.
- 6.30 During any period of suspension the employee should not:
- attend the workplace
 - have direct contact either in person, by telephone, text or in writing (including email, Facebook, Twitter or other networking sites) with work colleagues or other employees on work related issues, including in private or in a social environment; in particular the case should not be discussed outside of the investigation or hearing and confidentiality should be maintained at all times. A named individual will be provided as a point of contact for any queries relating to the case. This may include a member of the HR department.
 - carry out any bank or agency work at a time when they would normally be working for the organisation
 - Work for any other employer at a time when they would normally be working for the organisation. The organisation reserves the right to make the other employer aware of the reasons for suspension where this may relate to patient safety or care.
- 6.31 Arrangements can be made for any meetings requested by any party as part of the process to take place at an alternative location or room away from the normal work area.
- 6.32 Where an employee falls sick during a period of suspension, the normal contractual sick pay entitlements will apply in accordance with the occupational sick pay scheme. The investigation process will continue if an employee is ill, however, it may be necessary to seek advice from Occupational Health concerning the employee's requirement to attend any meetings but this will not prevent the process continuing.
- 6.33 Where an employee wishes to take annual leave during a period of suspension, the normal arrangements for the authorisation and taking of annual leave will apply.

7. AGREED OUTCOME

- 7.1 If an employee accepts and admits all of the allegations made against them and the facts are not in dispute it may be pertinent for a Manager of appropriate level to take sanction, in consultation with HR, and the employee and any representative to hold a meeting discuss an agreed outcome (including any required sanction) and prevent a lengthy investigation and hearing taking place. Sign off for this to take place is required from the Head of Service and HR.
- 7.2 Any agreed outcome cannot apply to cases of Gross Misconduct or cases involving Safeguarding issues or where dismissal is anticipated and should not compromise due process e.g. audit.
- 7.3 Any agreed outcome forms part of the Disciplinary process and will be recorded in writing and retained on file for the relevant duration.
- 7.4 If an employee or their representative does not consent to such a meeting taking place the matter will be investigated as outlined in this policy and if necessary a hearing panel convened.
- 7.5 Any Agreed Outcome meeting will be minuted and an HR representative will be present.
- 7.6 At the meeting all information should be available relating to the allegation to enable a full discussion to take place.
- 7.7 A level of warning short of dismissal can be issued as part of the Agreed outcome process.

8. APPEALS

- 8.1 An employee in receipt of a disciplinary warning or notice of dismissal has the right of appeal.
- 8.2 Appeals, outlining the grounds on which the appeal is being made, must be lodged in writing to the person specified in the disciplinary hearing outcome letter within 10 working days of the receipt of the written notice of disciplinary action or dismissal. The letter must include details of the grounds for appeal. In exceptional circumstances this period may be extended.

- 8.3 Appeals will be heard within 20 (twenty) working days of receipt of the letter requesting the appeal but either party may, with the consent of the other and in exceptional circumstances, be entitled to extend this period.
- 8.4 The employee must be given at least 5 working days' notice of the date of the appeal hearing.
- 8.5 The Appeals Hearing Procedure (Appendix D) should be followed.
- 8.6 Appeals will be heard by a more senior manager to the person taking the first instance disciplinary action and will follow the Scheme of Delegation. All Appeal hearings will include a representative of the HR Department.
- 8.7 The employee will have the right to be accompanied at the Appeal Hearing by either a staff side representative or workplace colleague.
- 8.8 Both parties must provide to the Appeal Hearing Panel, a full written 'statement of case' including the grounds upon which the appeal is presented/resisted, with copies of any documents the party concerned intends to use in evidence, and, the identities of any witnesses the party concerned intends to call, at least 2 working days prior to the Appeal Hearing. This should be done via the HR representative managing the case.
- 8.9 The Chair of the original hearing panel will be required to present the 'statement of case' as they were the manager issuing the disciplinary sanction. However the Chair of the original hearing may call the Investigating Officer, line manager or any other witnesses that they see fit in order to 'resist' the case put to the hearing panel.
- 8.10 The decision of the Appeal panel will be communicated to both parties verbally, following the adjournment wherever possible, and in any case will be confirmed later in writing (again to either party), within 5 working days of the Appeal Hearing.
- 8.11 The decision of the Appeal panel is final. There is no further internal redress following the appeal outcome.

9. VARIATION TO TIMESCALES

- 9.1 Time scales regarding the procedural steps contained within this policy are subject to reasonable variation, dependent on circumstances.

10. ISSUES RELATING TO AND RESULTING FROM DISCIPLINARY ACTION

REPORTING TO STATUTORY BODIES

- 10.1 Professional healthcare staff are responsible for complying with the relevant standards set by their regulatory or professional bodies for example for nurses, the Nursing & Midwifery Council's (NMC) Code of Professional Conduct.
- 10.2 All registered healthcare professionals are required, in addition to their responsibilities to the organisation, to report details of professional misconduct to the appropriate statutory body in accordance with the relevant code of professional conduct.
- 10.3 Employees in these professions, practising within their relevant Profession's Statutory Code of Professional Practice and Conduct are encouraged and will be supported, in bringing to the organisation's attention, practice and/or behaviour which is professionally unacceptable.
- 10.4 Following the conclusion of an investigation or disciplinary hearing HR, in consultation with a relevant Senior Manager (e.g. Head of Service Assistant Director etc.) will decide whether to refer the matter to the relevant professional body e.g. NMC for them to determine if Codes of Conduct or Codes of Practice have been breached and take the action considered appropriate by them.

REGISTRATION MATTERS

- 10.5 These standards include a requirement by law to maintain state registration in certain professions, for the duration of an individual's employment. To practice unregistered will be considered a direct breach of the relevant Code of Professional Practice and Conduct, as well as a breach of the employee's contract of employment, as it will render the employee unable to perform their full duties for which they were employed.
- 10.6 Where an employee allows their registration, as necessary for their employment, to lapse it will be treated as a disciplinary matter. However in *exceptional* circumstances the organisation will make a distinction, in situations where registration has mistakenly lapsed, and has been brought *immediately* to the attention of the manager.

CRIMINAL OFFENCES

- 10.7 An employee who is arrested on any charge or served with a summons on a criminal charge or is convicted, is required to inform his/her manager as soon as possible.
- 10.8 As a public forum, the organisation has a right to attend any court proceedings in order to assess the implications of any criminal charges/convictions upon the employee's ability to undertake his/her contractual duties. This is whether those charges/convictions arise from acts committed in the course of employment or otherwise.
- 10.9 The organisation may take appropriate disciplinary action, including dismissal in the most serious cases, in circumstances where there is some connection between the criminal charge or conviction and the employment relationship – for example if it is felt that such actions have brought about a loss of trust and confidence or where the organisation has been brought into disrepute.
- 10.10 Disciplinary action may be taken where an offence relating to the individual's employment is subject to criminal inquiries/prosecution.
- 10.11 The facts of the case should be investigated in the same way as for any other case and a decision taken on whether the conduct justifies disciplinary action. The police will not conduct any investigation on behalf of the organisation or be present at any meeting or disciplinary hearing, unless required to be so by Law.
- 10.12 Management may await the outcome of any criminal procedure but is not precluded from taking action based on the evidence that it has available to it where it has been able to undertake its own investigation and conclude that a disciplinary hearing is warranted. In this situation, the decision will not be based on the criminal standard of proof 'beyond reasonable doubt' but will be in accordance with the civil standard 'on the balance of probabilities'.
- 10.13 The organisation may take disciplinary action, including dismissal, where management have reasonable grounds to suspect that a criminal offence has been committed by an employee during the course of their employment or otherwise. Notwithstanding any action taken by its managers/employees, the organisation reserves the right to institute criminal proceedings against employees whose actions constitute a breach of law.

CUSTODIAL SENTENCES

- 10.14 If an employee receives a custodial sentence and is imprisoned this will usually amount to a fundamental breach of contract and the employee should be written to and advised they are in breach of their contract of employment.
- 10.15 Imprisonment, or remand in advance of a court appearance, might be for a work related or non-work related event. Each case will be considered on an individual basis with the involvement of HR.

WORK RELATED EVENT

- 10.16 For a custodial sentence which has arisen from a work related event the normal disciplinary process should be followed as outlined in this Policy. If the disciplinary process has not commenced or been completed prior to any conviction it is accepted that employers can rely on a certificate of conviction as evidence for internal disciplinary action, notwithstanding any claims to the contrary by the employee or innocence or appeal against conviction.

NON WORK RELATED EVENT

- 10.17 Each case should be considered on its merits, taking into account the following factors:
- The nature of the offence
 - Length of service
 - How long the service can sustain the absence of the employee
- 10.18 Having considered the above the manager, in conjunction with HR will decide whether or not a job can be kept open for an employee. If the job is kept open, the employee would receive no pay or benefits until they return to work. If the job cannot be kept open the contract should be terminated.

EMPLOYEES ON REMAND

- 10.19 Where employees are remanded in prison, awaiting trial, irrespective of whether or not the alleged offences are work related, an investigation should be conducted and a disciplinary hearing convened. This should be done, even if, as will often be the case, the employee will be unable to attend such a hearing. In these circumstances the employee should elect a representative who should be allowed an opportunity to put the employee's case in their absence. If the employee declines to elect a representative the case will be heard in their absence.
- 10.20 Each case will be considered on its merits and legal advice will be sought where appropriate.

APPENDIX A – EXAMPLES OF MISCONDUCT

Misconduct of a minor or serious nature may result in a formal warning under these procedures, the level of which will be determined by the individual circumstances of the case. Misconduct so serious, or repeated misconduct causing an amalgamation of misconduct, which leads to a breakdown in trust and confidence could also result in dismissal. The individual circumstances of the case will be taken into account in determining whether the matter is regarded as misconduct or serious misconduct.

The following is a non-exclusive and non-exhaustive list of offences which may be regarded as misconduct for the purposes of this Policy:

- Unauthorised absence from work
- Procedures for notification of absence have not been adhered to
- Lateness/poor timekeeping
- Failure to follow procedures for booking and returning from leave
- Unsatisfactory and unacceptable performance of duties
- Failure to maintain proper records
- Time wasting
- Contravention of safety offences
- Inappropriate standard of dress
- Use of unacceptable language
- Misuse of IT equipment, internet access, email or other information technology
- Failure or refusal to follow a reasonable, legitimate management instruction. Any concerns about the practicality, legality or safety of any such instruction should be raised with the relevant manager
- Failure to comply with health & safety requirements
- Inappropriate behaviour or misuse of authority towards either a colleague, patient, service user, contractor or member of the public
- Conduct at work which is offensive
- Negligence in the performance of duties which threatens or could threaten the security or health & safety of a patient, service user, employee, contractor or member of the public or which seriously damages public confidence
- Misuse of Trust facilities, equipment or vehicle

- Abuse of organisational policies e.g. annual leave, parental leave
- Breaches of confidentiality
- Unauthorised divulging of organisational business to a third party (not including issues raised through the Whistleblowing Policy)
- Acceptance of any additional employment which may hinder or conflict with an employee's contractual obligations to the organisation.
- Non-declaration of any business interests by employees, their immediate families or households in any contracts between the organisation and third parties
- Breach of regulations e.g. failure to declare interests and any gifts or hospitality
- Smoking on organisational premises.
- Any other acts of misconduct of a similar level or gravity
- Failure to inform any statutory body of a misconduct or capability issue

APPENDIX B – EXAMPLES OF GROSS MISCONDUCT

Gross Misconduct is defined as misconduct of such a serious nature that the organisation can no longer tolerate the employee's continued presence at work. All allegations of gross misconduct will normally require the employee to be suspended, pending an investigation. However, there may be instances when the employee is not suspended but the investigation reveals evidence that leads to an employee being dismissed on the grounds of gross misconduct.

The following is a non-exclusive and non-exhaustive list of offences which may be regarded as gross misconduct for the purposes of this Policy.

- Fighting
- Physically or verbally (or attempting to) assaulting any person whilst at work
- Violent, abusive or intimidating behaviour or conduct
- Breaches of the organisation's Equality in Employment Policy, including acts of incitement, acts of discrimination or verbal abuse against employees, patients, clients, service user, contractor or members of the public on any grounds outlined in the Policy
- Serious bullying and harassment or breaches of the Dignity at Work Policy, including intimidation directed at employees, patients, clients or members of the public
- Serious breach of organisational rules relating to electronic communications and computers
- Serious act of insubordination
- Failure to comply with relevant statutory or regulatory requirements
- Wilful failure or refusal to follow a reasonable, legitimate management instruction
- Sexual misconduct at work
- Incapability through alcohol or being under the influence of illegal drugs
- Being unfit for duty, other than for medical reasons. This may include sleeping whilst on duty
- Serious breaches of the organisation's or relevant professional Code of Practice and Conduct, including practicing whilst unregistered. This includes actions outside of the normal workplace and hours of work which may result in bringing the organisation into disrepute
- Serious breaches of the NHS Code of Conduct for NHS Managers. This includes actions outside of the normal workplace and hours of work which may result in bringing the organisation into disrepute.
- Selling or possession of illegal drugs on organisational premises

- Serious negligence which causes unacceptable loss, damage or injury
- Serious breach of health and safety rules
- Serious misrepresentation / falsification e.g. qualifications, health declaration, criminal convictions
- Gross negligence in the performance of duties
- Reckless or serious misuse of equipment or premises
- Falsification of qualifications or other documentation which are a stated requirement of employment or which may result in financial gain
- Failure to disclose any criminal offences which occurred prior to employment and any conviction for any serious criminal offence whilst an employee of the organisation.
- Failure to disclose any sanction or reprimand from a relevant professional body or Independent Safeguarding Authority, which occurred prior to employment or whilst an employee of the organisation.
- Theft, stealing or dishonestly obtaining organisational property, or property belonging to other employees, patients, clients, service user, contractor or member of the public
- Fraud e.g. falsification of timesheets, sickness certification or other claim forms in use
- Deliberate falsification of records
- Dishonest completion of timesheets, flexitime records, expense claims etc.
- Acceptance of goods, favours or excessive hospitality in respect of services rendered or to influence the outcome of organisational related business
- Bringing the organisation into disrepute including conduct in or outside of the workplace or working hours
- Any abusive or defamatory remarks made on any social networking or website, which the organisation views to be detrimental or prejudicial regarding the organisations employees, clients or to the organisation itself.
- Misuse of the organisation's name e.g. using the logo on 'unofficial' documents
- Misuse or deliberate damage of premises or property belonging to the organisation
- Serious breach of confidentiality or the Data Protection Act
- Serious breach of the organisation's Standing Orders or Financial Instructions
- Any actions or offences which seriously threaten the security of the organisation, its employees, patients, clients, service user, contractor or member of the public, or which seriously damages public confidence
- Any other acts of misconduct regarded as sufficiently serious to come within the definition of Gross Misconduct

APPENDIX C – CONDUCTING A DISCIPLINARY HEARING

The Disciplinary hearing should follow the following stages:

1. Opening the meeting by Panel Chair
2. Management side present their case (summary of allegation by the investigating officer), including calling of any witnesses
3. Employee side, then the Disciplinary Panel, will have the opportunity to ask questions
4. Employee side to present their case, including calling of any witnesses
5. Management side, then the Disciplinary Panel, will have the opportunity to ask questions
6. Summing up by management side, then by employee side
7. Adjournment
8. Action to be taken (if any)
9. Establishment of a review date (if appropriate)

Opening the Disciplinary Hearing

All employees are entitled to be accompanied by their Trade Union representative or a work colleague. Where an employee is not accompanied, the employee must be reminded of this right, and if declined, this must be recorded.

Those 'hearing' the disciplinary must introduce those present and outline the reasons for the disciplinary meeting taking place (the reason/s outlined in the invite to disciplinary letter) and the format the meeting will take.

Summary of Allegation(s)

At this stage the investigating officer(s) must summarise the case on behalf of management. The investigating officer(s) presenting the case must adhere to the facts and not introduce opinions, hearsay or issues that have not previously been mentioned. All documentation that will be used as evidence (including previous relevant warnings and witness statements where applicable) will already have been made available to the individual prior to the disciplinary hearing taking place (copies will have been sent with the invite to disciplinary meeting letter).

Should a new matter arise during the course of the disciplinary meeting then the Disciplinary Panel should adjourn in order that consideration may be given to the appropriateness of the introduction of this new matter. To avoid unnecessary duplication of the process as well as ensuring fairness, it may be more beneficial to adjourn the disciplinary meeting in order that further investigations may be carried out in relation to the new matter.

The aim of the disciplinary meeting is to seek verification and clarification about the issues of concern, through questions. Where it is appropriate to call witnesses, either party may call and question them.

After the investigating officer has stated their case the employee will be given the opportunity to ask questions and state their case. The employee's representative will be able to ask questions for clarification purposes.

If the disciplinary hearing is dealing with multiple issues, each issue should be addressed in turn and the employee and/or their representative be allowed to state their case in relation to each issue as it is addressed.

Exploration of any differences in facts, as they appear to the manager and employee should be carried out in a constructive manner in order to gain an understanding of the facts which are, as far as possible, acceptable to both manager and employee.

The investigating officer should remain present during the disciplinary hearing to allow for any questions.

Both parties will be given the opportunity to sum up their case if they so wish. The summing up shall not introduce any new matter. If at any stage new facts are alleged or new evidence produced, the Disciplinary Panel may adjourn the meeting (of its own volition or at the request of one of the parties) for so long as it thinks fit.

Adjournment

Before any decision is taken, it is necessary to adjourn the disciplinary hearing to give adequate consideration to the facts as they have been presented and the responses that have been given to the allegations, including any mitigating circumstances. At this stage both parties will be asked to leave the room and the panel must decide the facts of the case, with advice from an HR Representative, where appropriate, and whether the behaviour requires disciplinary action to be taken and if so, at what level.

Where possible, an indication of the length of time of the adjournment should be given, including the reasons for the adjournment, i.e. to consider what action to take, if any.

The disciplinary hearing may also be adjourned to consider other issues, e.g. to direct further investigations to take place or to investigate new information/facts that have been brought to light.

There is no set time for an adjournment and adjournments can be called at any time during the disciplinary meeting, by either party.

Taking disciplinary action is not a matter to be taken lightly and should only be taken if it is to be constructive in attempting to produce the desired behaviour. Managers will also need to consider, if disciplinary action is to be taken, whether any other sanctions will be attached to the warning

Action

When the disciplinary hearing is reconvened the Panel Chair should explain that consideration has been given to all of the issues raised at the beginning of the hearing, and all of the facts and issues raised during the course of the hearing. The Panel Chair must then outline what action, if any, will be taken including any sanctions.

It is important that where a warning/sanction is given, the employee is informed of the length of time it will remain on their record, their right of appeal, the procedure that will be followed in relation to confirming the action in writing and any arrangements for the review of sanctions imposed.

APPENDIX D – APPEAL HEARING PROCESS

An employee may choose to appeal if:

- They think a finding or penalty is unfair
- New evidence comes to light
- They think the Disciplinary procedure was not used correctly

The procedure for an appeal hearing is as follows:

1. The appellant will present their case first, detailing the grounds for their appeal including the calling of any witnesses.
2. The management side will then be able to ask any questions about the case the appellant has presented
3. The appeal panel members will also have an opportunity to ask any questions.
4. The management side (led by the Chair of the original hearing panel) will then be asked to present their case, explaining the reasons for the action taken, including the calling of any witnesses.
5. The appellant may then wish to ask management side any questions about the case.
6. The appeal panel members will also have the opportunity to ask any questions.
7. Both parties will have the chance to sum up their case.
8. There will then be an adjournment when both sides will be asked to leave the room while the appeal panel consider the information they have heard and reach their decision.
9. The decision of the panel will be communicated to both parties verbally, following the adjournment wherever possible, and in any case will be confirmed later in writing (again to either party), no later than 7 working days after the Appeal Hearing.