

DISCIPLINARY POLICY & PROCEDURE

1. CONTENTS AND PAGE NUMBERS

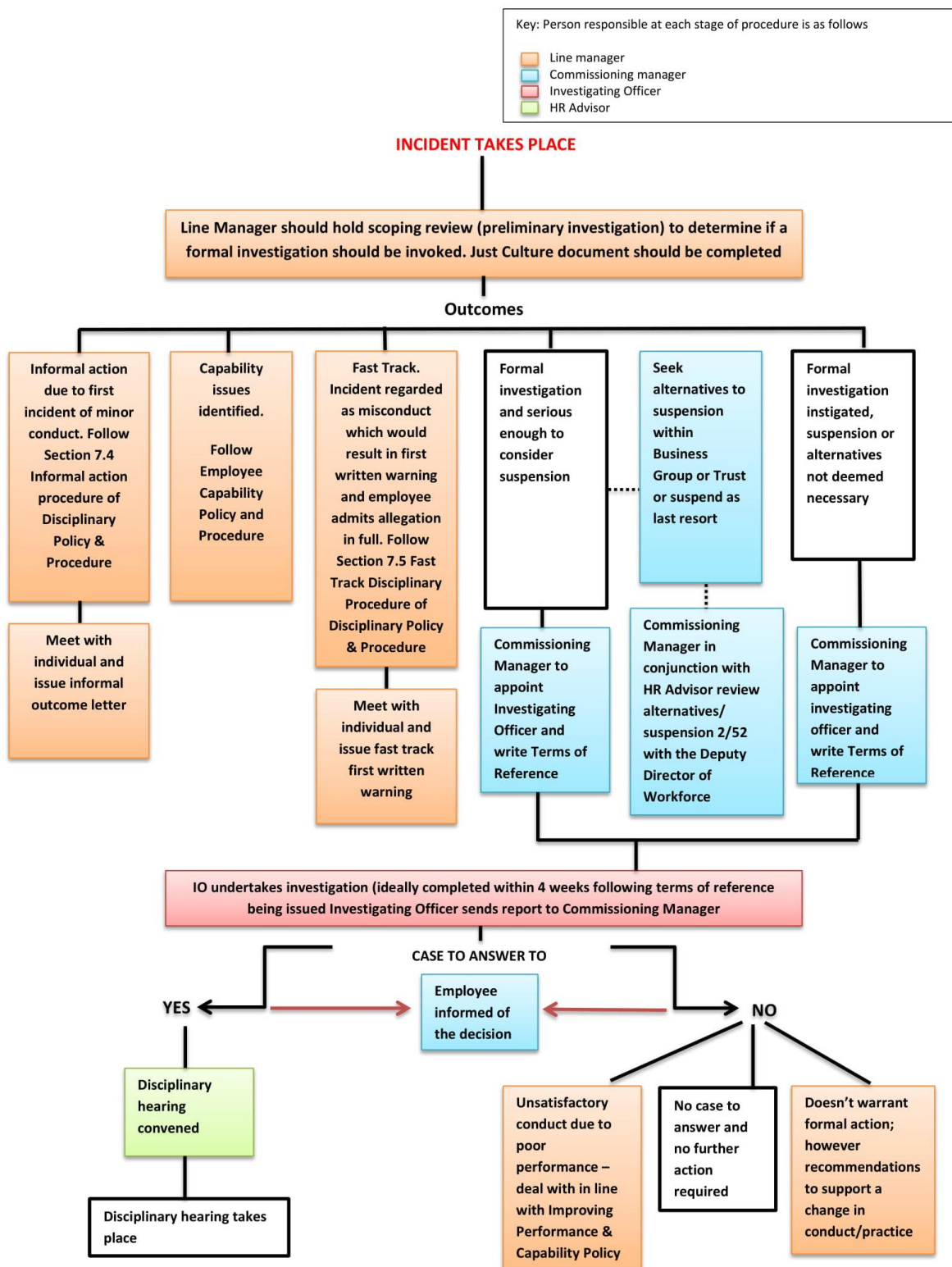
1.	Contents	2
2.	Step by step process – at a glance	4
3.	Executive summary	5
4.	Scope and purpose	5
5.	Roles and responsibilities	5
6.	Glossary of terms	6
7.	Conduct Issues	7
7.1	Minor Misconduct	7
7.2	Misconduct Issues	7
7.3	Gross Misconduct Issues	8
7.4	Statutory Regulating Bodies	12
8.	Policy	12
8.1	Confidentiality	12
8.2	Investigations	12
8.3	Right to be accompanied	13
8.4	Trade Union Representatives	13
8.5	Criminal Allegations	13
8.6	Fraud	14
8.7	Suspension	14
8.8	Notification of Hearing	15
8.9	Dealing with sickness during the disciplinary process	15
9.	Process	16
9.1	Fast Track Disciplinary Process	16
9.2	Procedures at Disciplinary Hearings	16
9.3	Disciplinary Sanctions	17
9.3.1	First Written Warning	17
9.3.2	Final Written Warning	17
9.3.3	Dismissal	18
9.3.4	Alternatives to Dismissal	18

Disciplinary Policy & Procedure		Page:	Page 2 of 25
Author:	Caroline Durdle, HR Business Manager	Version:	8.1
Date of Approval:	16 Jul 2020	Date for Review:	30 Sep 2021
To Note:	Printed documents may be out of date – check the intranet for the latest version.		

9.4	Written confirmation following a disciplinary hearing	18
9.5	Appeals	18
9.6	Deferring disciplinary sanctions	19
9.7	Overlapping disciplinary and grievance cases	19
10.	Medical Staff	20
11.	Monitoring Compliance	20
12.	Document Launch and Dissemination	20
13.	References and associated documentation	21
14.	Equality Impact Assessment	22
15.	Document Information and Control	24

Disciplinary Policy & Procedure		Page:	Page 3 of 25
Author:	Caroline Durdle, HR Business Manager	Version:	8.1
Date of Approval:	16 Jul 2020	Date for Review:	30 Sep 2021
To Note:	Printed documents may be out of date – check the intranet for the latest version.		

2. STEP BY STEP PROCESS – AT A GLANCE



Disciplinary Policy & Procedure		Page:	Page 4 of 25
Author:	Caroline Durdle, HR Business Manager	Version:	8.1
Date of Approval:	16 Jul 2020	Date for Review:	30 Sep 2021
To Note:	Printed documents may be out of date – check the intranet for the latest version.		

3. EXECUTIVE SUMMARY

This document aims to support managers and employees to achieve and maintain satisfactory standards of conduct and to encourage improvement where necessary. The standards of conduct expected of all employees are set out in the Code of Conduct which can be found on the Trust intranet and the Human Resources Department.

Director of Workforce & OD

4. SCOPE AND PURPOSE

The main purpose of this policy is to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond before taking any formal action.

The policy & procedure applies to all employees regardless of length of service. It does not apply to agency workers, self-employed contractors, volunteers or students who are not employed by the Trust.

This policy & procedure is used to deal with misconduct. It does not apply to cases involving sickness absence or poor performance. In those cases reference should be made to the appropriate policy or procedure on the Trust intranet or from the Human Resources Department.

Concerns relating to the clinical competence and capability of Medical and Dental staff will be dealt with in the framework set out in 'Maintaining High Professional Standards in the Modern NHS' issued under the direction of the Secretary of State for Health on 11 February 2005.

This procedure has been agreed and implemented following consultation with the management and staff side representative.

This procedure does not form part of any employee's contract of employment and it may be amended at any time.

5. ROLES AND RESPONSIBILITIES

Chief Executive

The Chief Executive has responsibility for the provision of a policy and procedure on Disciplinary.

Disciplinary Policy & Procedure		Page:	Page 5 of 25
Author:	Caroline Durdle, HR Business Manager	Version:	8.1
Date of Approval:	16 Jul 2020	Date for Review:	30 Sep 2021
To Note:	Printed documents may be out of date – check the intranet for the latest version.		

Director of Workforce & OD

The Director of Workforce & OD has delegated responsibility from the Chief Executive for workforce governance that includes the development of standard approaches through frameworks in developing policy, procedures and strategy documents. The Director of Workforce & OD also has responsibility for monitoring suspensions within the Trust and ensuring they are appropriate and regularly reviewed.

Executive Directors

The Executive Directors will be responsible for ensuring policies, procedures and strategies are developed, and that they are reviewed, approved or ratified through agreed structures.

Deputy Director of Workforce & OD

The Deputy Director of Workforce & OD is responsible for overseeing the review process and that workforce policies, procedures and strategies are reviewed within timescales and monitored as agreed. The Deputy Director of Workforce & OD also has delegated responsibility from the Director of Workforce & OD for monitoring suspensions within the Trust and ensuring they are appropriate and regularly reviewed.

Business Group Directors

The Business Group Directors are responsible for ensuring application of the policy within their Business Group.

Line Managers

Managers have a responsibility to manage conduct effectively in accordance with this policy and to consider offering support where it may be useful. Managers are expected to take and retain notes of conversations and meetings with employees and should always be able to justify their decision making process.

All Trust staff

All staff are responsible for complying with all requests associated with this document and to ensure they act in accordance with this policy at all times.

6. GLOSSARY OF TERMS

Investigation

An investigation will be undertaken to establish the facts of a case before formal disciplinary action is taken.

Misconduct

Misconduct can be defined as unacceptable or improper behaviour/ conduct.

Gross Misconduct

Gross Misconduct is behaviour or an offence that so undermines the trust and confidence the Trust has in an employee that he/ she cannot be retained in employment in any capacity with the Trust.

Disciplinary Policy & Procedure		Page:	Page 6 of 25
Author:	Caroline Durdle, HR Business Manager	Version:	8.1
Date of Approval:	16 Jul 2020	Date for Review:	30 Sep 2021
To Note:	Printed documents may be out of date – check the intranet for the latest version.		

Suspension

In some cases it will not be appropriate for an employee to remain at work whilst an investigation is being carried out and employees may be placed on suspension with full pay. The suspension of any individual is not a disciplinary penalty and does not imply that any decision has been made about the allegations. Suspension is a holding measure to ensure any allegations can be investigated fully.

Representation

Any employee subject to this policy has the opportunity to bring a companion to any formal investigation meeting, disciplinary hearing or appeal hearing under this procedure. Their companion can be either a Trade Union Representative or a Workplace Colleague. Whilst their Workplace Colleague may not work in the same department, they must be employed by the Trust.

7. CONDUCT ISSUES

7.1 Minor Conduct Issues

Minor conduct issues can often be resolved informally between the employee and their line manager with the objective of improving the employee's conduct. These discussions should be held in private and without undue delay whenever there is cause for concern.

Where appropriate, a note of any such informal discussions should be placed on the employee's personnel file and may be referred to at any future disciplinary hearings provided the informal file note is relevant to the disciplinary case. In some cases an informal verbal warning may be given, which will not form part of their disciplinary records. Where the matter is more serious or where the employee fails to improve their conduct, more formal action will be taken.

If there is difficulty at any stage of the procedure because of a disability, the employee should discuss the situation with their manager or a Human Resources Advisor as soon as possible.

7.2 Misconduct Issues

Misconduct refers to general unsatisfactory work behaviour. This list is intended as a guide and is not exhaustive.

Deviations from satisfactory standards of conduct will normally result in a written warning being issued. However, if the behaviour is recurrent and has not been resolved following an informal verbal warning, this may be regarded as gross misconduct, and could lead to dismissal, depending on the circumstances.

Misconduct Rules:

1. Failure to follow a lawful and reasonable instruction. An employee has a right to refuse to follow an unlawful instruction or an unreasonable instruction which breaches their professional code of conduct;

Disciplinary Policy & Procedure		Page:	Page 7 of 25
Author:	Caroline Durdle, HR Business Manager	Version:	8.1
Date of Approval:	16 Jul 2020	Date for Review:	30 Sep 2021
To Note:	Printed documents may be out of date – check the intranet for the latest version.		

2. Failure to observe the appropriate uniform policy;
3. Failure to maintain records required;
4. Unauthorised use of Trust resources or information gained during the course of one's employment;
5. Misuse, abuse or lack of proper care of Trust equipment, facilities, funds or resources;
6. Negligence in job performance;
7. Unauthorised absence including: persistent lateness, being absent from the workplace during the working day for an unauthorised reason (e.g. time off to attend college/training granted, but non-attendance at college/training persists);
8. Attending for work or any meetings smelling of alcohol;
9. A breach of the code of conduct laid down by one's professional body where applicable;
10. Failure to comply with the requirement of agreed Trust policies and procedures including Health and Safety Policies;
11. Failure to comply with the Trust or departmental notification requirements for sickness absence, annual leave booking or any other types of absence;
12. Engaging in employment outside of normal working hours which conflicts with or has a negative impact on the employee's work within the Trust or with the interests of the Trust;
13. Failure to maintain essential professional registration and eligibility to practice;
14. Smoking, including e-cigs in an unauthorised area or on any of the premises occupied by the Trust.

7.3 Gross Misconduct Issues

Gross Misconduct is defined as any fundamental breach of a satisfactory standard of behaviour which irreparably breaks down the employment relationship.

This will normally result in summary dismissal with no entitlement to a notice period or payment in lieu of a notice period.

Certain cases of gross misconduct may be so serious that they justify a separate criminal investigation. Whilst the Trust will fully cooperate with criminal investigations, internal procedures will remain separate to the criminal investigation and independent of it.

Disciplinary Policy & Procedure		Page:	Page 8 of 25
Author:	Caroline Durdle, HR Business Manager	Version:	8.1
Date of Approval:	16 Jul 2020	Date for Review:	30 Sep 2021
To Note:	Printed documents may be out of date – check the intranet for the latest version.		

A decision to involve the Police in any investigation which relates to this procedure will be acted upon only after the appropriate Director and/or Chief Executive have been advised of the circumstances and given authorisation to proceed.

The following are examples of behaviours which constitute gross misconduct. It is intended as a guide and is not exhaustive:

Gross Misconduct Rules:

1. Theft or attempted theft or taking without permission, unlawful possession of property including patients or colleagues property during the course of one's employment or on the Trust premises;
2. Misappropriation, or attempted misappropriation, of the Trust's funds or resources;
3. Fraud or other type of dishonesty, including but not exclusive to:
 - Falsification of any document or system concerned with the recording of hours worked/duties undertaken;
 - Falsification of any document which makes a financial claim to the Trust, including expenses;
 - Fraudulent manipulation or falsification of accounts and financial statements;
 - Receipt of bribes;
 - Working for another employer without authorisation during a period of sickness, study leave or any time allocated as being at work.
4. Serious wilful misrepresentation at the time of appointment or anytime during employment including:
 - Declaration of health;
 - Qualifications held;
 - Previous positions/employment held;
 - Falsification of date of birth;
 - Falsification or inappropriate references;
 - Failure to disclose a criminal offence in accordance with the Rehabilitation of Offenders Act 1974;
 - Failure to disclose a relationship to any Board Member or senior officer of the Trust.
5. Falsification/mutilation of official records, including patient records;
6. Misuse of or failure to safeguard confidential information and/or patient data. Disclosure of privileged / confidential information to unauthorised people;

Disciplinary Policy & Procedure		Page:	Page 9 of 25
Author:	Caroline Durdle, HR Business Manager	Version:	8.1
Date of Approval:	16 Jul 2020	Date for Review:	30 Sep 2021
To Note:	Printed documents may be out of date – check the intranet for the latest version.		

7. Being unfit for work due to the abuse of alcohol, drugs, or other substances self-administered which may affect work performance (please also refer to the Alcohol & Substance Misuse Policy);
8. Being asleep on duty;
9. Malicious or wilful damage to property belonging to the Trust, patients, clients, visitors or staff;
10. Physical or indecent assault or exceptionally offensive behaviour during the course of one's employment, or on the Trust premises;
11. Behaviour during work or out of working hours and work location resulting in or likely to result in a conviction which affects the employee's ability to perform his/her duties, particularly when there is an element of trust involved or where there is a perceived risk to patients or other staff;
12. Working while contravening a duty of restriction in force by law or professional code of conduct;
13. Ill treatment of patients, clients, visitors or staff;
14. Sexual offences against patients, clients, visitors or staff;
15. Harassment and bullying of patients, clients, visitors or staff;
16. Failure to comply with the legal requirements and/or Trust regulations concerning drugs;
17. Acceptance of a gift, favour or hospitality which might be interpreted as seeking to exert undue influence to obtain preferential treatment;
18. Unlawful discrimination against patients, clients, visitors or staff;
19. Failure to comply with individual responsibilities imposed by the legislation, e.g. Health and Safety at Work, etc. Acts 1974;
20. Refusal to follow or a serious breach of Trust policies and procedures;
21. Unauthorised use of computers, including illegal copying of software and accessing inappropriate sites;
22. Gross negligence, serious failure, or refusal to achieve an acceptable work performance;
23. Serious misuse, abuse or lack of proper care of Trust equipment, facilities, funds or resources;
24. Refusal to follow reasonable instructions. However, an employee has a right to refuse to follow an unlawful or unreasonable instruction or an instruction which breaches their professional code of conduct;

Disciplinary Policy & Procedure		Page:	Page 10 of 25
Author:	Caroline Durdle, HR Business Manager	Version:	8.1
Date of Approval:	16 Jul 2020	Date for Review:	30 Sep 2021
To Note:	Printed documents may be out of date – check the intranet for the latest version.		

25. Failure to follow or a serious breach of rules set out in a statutory or regulatory body Code of Conduct to which the employee is subject;
26. Any act within or outside of the workplace which brings the reputation of the Trust, a profession, colleagues or patients/service users into disrepute not withstanding an employee's right to raise concerns in line with the Trust's Raising Concerns at Work Policy. This includes conduct online on social networking sites. Including the following:
 - Sharing confidential information
 - Post inappropriate comments/pictures
 - Using social networking sites to bully or intimidate colleagues
 - Pursue a relationship with patient or service users
 - Distribute sexually explicit material
 - Use of social networking sites in any way which is unlawful.
27. Inappropriate relationships with patients or service users.
28. Deliberately engaging in employment outside of normal working hours that has a serious negative impact or conflicts with the employees work within the Trust or with the interests of the Trust;
29. No legal entitlement to work in the UK;
30. Loss of statutory qualification essential to meet the requirements of the job, e.g., loss of driving licence or registration;
31. Unauthorised/illegal copying of copyright material;
32. Divulging a password to another person or sharing a SMART card;
33. Inappropriate access to confidential and /or patient data which is not relevant to your job role, e.g. accessing your own confidential and/or medical records or that of colleagues, friends, family or any other individual which is not relevant to your work;
34. Failure of an officer to give notice of any pecuniary interest of which he/she is aware, in a contract which has been, or proposed to be, entered into by the Trust;
35. Verbal assault, use of abusive, objectionable or insulting language or behaviour during the course of one's employment or on the Trust premises;
36. Personal conduct of a sufficiently serious nature to affect an employee's position at work.

Disciplinary Policy & Procedure		Page:	Page 11 of 25
Author:	Caroline Durdle, HR Business Manager	Version:	8.1
Date of Approval:	16 Jul 2020	Date for Review:	30 Sep 2021
To Note:	Printed documents may be out of date – check the intranet for the latest version.		

7.4 Statutory Regulating Bodies

The Trust has an obligation to report any relevant allegations to the employee's statutory regulating body and/or the Disclosure and Barring Service as appropriate.

Where an allegation is in respect of possible abuse or mistreatment of a vulnerable adult or child appropriate advice and guidance should be taken from the Human Resources Department and the Trust Lead Adult or Child Protection Nurse.

8. POLICY

8.1 Confidentiality

The Trust aims to deal with disciplinary matters sensitively and with due respect for the privacy of all involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

The employee, their companion (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure.

The employee will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against them, unless it is believed that a witness's identity should remain confidential.

8.2 Investigations

The purpose of an investigation is to establish a fair and balanced view of the facts relating to any disciplinary allegations against the employee, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from the employee against whom the allegations have been made and any witnesses, and/or reviewing relevant documents. A senior manager and a Human Resources representative will usually appoint an Investigating Officer to carry out the investigation.

Investigative interviews are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.

The employee will have the right to bring a companion to an investigative interview.

Employees are expected to co-operate fully and promptly in any investigation. This will include providing confirmation of the names of any relevant witnesses, disclosing any relevant documents to us and attending investigative interviews if required.

As part of the investigation, cases involving any form of abuse to vulnerable adults or children should also be discussed with the relevant body i.e. LADO, Safeguarding Adults/Children's Lead, Disclosure and Barring Service etc.

Disciplinary Policy & Procedure		Page:	Page 12 of 25
Author:	Caroline Durdle, HR Business Manager	Version:	8.1
Date of Approval:	16 Jul 2020	Date for Review:	30 Sep 2021
To Note:	Printed documents may be out of date – check the intranet for the latest version.		

The Trust has a duty to ensure that workers are not treated detrimentally as a result of raising a concern (i.e. “speaking up “ or whistleblowing), including disciplinary action. Investigations into the alleged conduct of a worker who has previously spoken up will seek to identify whether the allegations are motivated by a desire to cause detriment because the worker spoke up. Where evidence is found, further action will be taken.

8.3 Right to be accompanied

The employee may bring a companion to any investigation meeting, disciplinary hearing or appeal hearing under this procedure. The companion may be either a trade union representative or a colleague. The employee must tell the manager chairing the hearing who their chosen companion is, in good time before the hearing.

A companion is allowed reasonable time off from duties without loss of pay but no-one is obliged to act as a companion if they do not wish to do so.

If the companion is unavailable at the time a meeting is scheduled and will not be available for more than seven days afterwards, the employee may be asked to choose someone else.

The employee may be allowed to bring a companion who is not a colleague or union representative (for example, a member of their family) if this will help overcome a disability, or if they have difficulty understanding English. This is at the discretion of the Trust.

8.4 Trade Union Representatives

Before formal disciplinary action or suspension in cases of gross misconduct can be taken against an accredited Staff Representative, the Full Time Officer of the union concerned should be notified. The Staff representative has a right to be accompanied to any meeting under this procedure.

8.5 Criminal Allegations

Where an employee’s conduct is the subject of a criminal investigation, charge or conviction, the matter will be investigated before deciding whether to take formal disciplinary action.

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

A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if we considered it to be relevant to the employee’s employment.

Disciplinary Policy & Procedure		Page:	Page 13 of 25
Author:	Caroline Durdle, HR Business Manager	Version:	8.1
Date of Approval:	16 Jul 2020	Date for Review:	30 Sep 2021
To Note:	Printed documents may be out of date – check the intranet for the latest version.		

If the Trust received notification that an employee has been detained in custody pending committal or has been found guilty of an offence and is serving a custodial sentence, it will be considered that this will have a bearing on the employee's employment. The Trust reserves the right to commence disciplinary proceedings without the presence of the employee and will be given the opportunity to send a representative or make written submissions.

8.6 Fraud

Where a manager or employee suspects or has been notified of any act of misconduct which involves, fraud, bribery or corruption, these should be reported immediately to the Trust's Anti-Fraud Specialist (AFS) prior to any action being taken. The nominated AFS for the Trust can be contacted on 0161 206 8162 or 07825 853630 or reported via the NHS Fraud and Corruption Reporting Line (FCRL) Freephone 0800 028 4060; or via the NHS Online Fraud Reporting Form www.reportnhsfraud.nhs.uk; or, via the Trusts Director of Finance.

Investigative action should not be commenced prior to a referral to the AFS. If the AFS discovers any evidence of fraud, disciplinary proceedings against the employee will commence, which may result in dismissal.

8.7 Suspension

In some circumstances it may be necessary to suspend an employee from work. The suspension will be for no longer than is necessary to investigate any allegations of misconduct against the employee or so long as is otherwise reasonable while any disciplinary procedure against the employee is outstanding. The arrangements will be confirmed to the employee in writing within 2 days of the suspension. While suspended the employee should not visit Trust premises or contact any Trust clients, customers, suppliers, contractors or staff, unless they have been authorised to do so by a manager.

Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. The employee will continue to receive their full contractual pay during the period of suspension

The full protections of the Raising Concerns at Work Policy still apply, including the ability to contact the Trust's Freedom to Speak Up Guardian.

Alternatives to suspension such as restrictions on practice, relocation or working under the direct supervision of another manager will be considered before making the decision to suspend.

Employees who are suspended due to a lapse in professional registration or other essential requirements (e.g. legal entitlement to work in the UK) and as such are unable to work will be suspended on no pay until the matter is resolved.

The final decision to suspend sits with the Director/Deputy Director or Workforce & OD and will be taken following discussion with an Executive Director, Business Group Director or delegated Deputy/Assistant Director, or a delegated Senior Manager on duty as appropriate.

Disciplinary Policy & Procedure		Page:	Page 14 of 25
Author:	Caroline Durdle, HR Business Manager	Version:	8.1
Date of Approval:	16 Jul 2020	Date for Review:	30 Sep 2021
To Note:	Printed documents may be out of date – check the intranet for the latest version.		

In the event that the decision needs to be confirmed outside of usual working hours this must be reported as soon as practicably possible to the Director/Deputy Director or Workforce & OD who will review the decision taken.

After 2 weeks following the initial suspension a formal review will take place by the Deputy Director of Workforce and details of the review will be put in the letter. During the course of the investigation the status of the suspension should be reviewed regularly (usually every 2 weeks) and the individual informed in writing.

8.8 Notification of Hearing

Following any investigation, if it is considered that there are grounds for disciplinary action, the employee will be required to attend a disciplinary hearing. The employee will receive written notification of the allegations against them, the basis for those allegations, and what the likely range of outcomes will be if it is decided after the hearing that the allegations are proven.

The following will also be included where appropriate: a summary of relevant information gathered during the investigation; a copy of any relevant documents which will be used at the disciplinary hearing; and a copy of any relevant witness statements, except where a witness' identity is to be kept confidential, in which case the employee will receive as much information as possible while maintaining confidentiality.

The letter will also contain the date, time and place of the disciplinary hearing. The hearing will be held as soon as reasonably practicable, and the employee will be given a reasonable amount of time seven calendar days to prepare their case based on the information they have received.

If there is no case to answer following the outcome of the investigation the Investigating Officer will arrange to meet with the employee and his/her line manager present to explain the findings of the investigation and to discuss/agree any relevant actions deemed appropriate to conclude the matter. The outcome of this meeting will be confirmed in writing to the employee by the Investigating Officer and a copy placed on their personal file.

8.9 Dealing with sickness during the disciplinary process

If an employee reports sick during the disciplinary process, this does not necessarily mean that a disciplinary hearing will be delayed. The panel may seek advice from the Occupational Health Department in considering how best to progress the matter.

In cases where an employee is diagnosed with anxiety or stress due to the investigatory process/formal proceedings, the date for these meetings will not be moved unless the individual's General Practitioner and/or Occupational Health gives a firm and unequivocal written statement that the individual will not be fit to attend the investigation or the disciplinary hearing. Any such hearing may be postponed for a reasonable period only. Advice will be sought from Occupational Health with regard to the level of engagement that can be expected from the employee.

Disciplinary Policy & Procedure		Page:	Page 15 of 25
Author:	Caroline Durdle, HR Business Manager	Version:	8.1
Date of Approval:	16 Jul 2020	Date for Review:	30 Sep 2021
To Note:	Printed documents may be out of date – check the intranet for the latest version.		

If no satisfactory medical evidence is produced or following a previous postponement, the hearing will be scheduled again and written notification sent to the employee. The employee will be asked to send in written representations if they wish.

9. PROCESS

9.1 Fast Track Disciplinary Process

The Fast Track Disciplinary Process may be suitable for incidents regarded as 'Misconduct' and which would normally result in a first written warning; also where the employee against whom the allegations are made has admitted to them in full. It is unsuitable for allegations of gross misconduct.

If the manager feels that the fast track approach is appropriate, they must, in the first instance, discuss this with the HR Advisor. A review of the information will be undertaken in conjunction with the manager, the employee and (as appropriate) his /her representative and a decision taken as to whether the fast track procedure should be adopted. This must be agreed by all parties including HR.

If the decision is made to Fast Track then the following will take place:

The manager will ensure that there is a written statement from the employee who reported the incident (witness) and the employee against whom the allegations are made, along with any supporting information gathered;

The manager will write to the employee detailing the nature of the allegations and the discussions and confirm the outcome of the Fast Track disciplinary process stating that there is no right to an appeal against a first written warning issued following this process.

9.2 Procedures at Disciplinary Hearings

If the employee or their companion cannot attend the hearing they should inform the Human Resources Advisor immediately so that an alternative time may be arranged. The employee must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct in itself. If the employee fails to attend without good reason, or are persistently unable to do so (for example for health reasons), a decision may have to be taken based on the available evidence.

The hearing will be chaired by a member of the Business Group's senior Triumvirate (ie Director, AMD or Deputy Director). Delegated authority may be given by any member of the Business Group Senior Triumvirate to another manager if appropriate. The Investigating Officer and a member of the Human Resources Department will also be present. The employee may attend the disciplinary hearing with a companion (see section 7). Where appropriate, professional advisors may be included as members of disciplinary hearing or appeal panels. Their role would be to provide advice to the panel on matters relating to professional conduct or professional competence

Disciplinary Policy & Procedure		Page:	Page 16 of 25
Author:	Caroline Durdle, HR Business Manager	Version:	8.1
Date of Approval:	16 Jul 2020	Date for Review:	30 Sep 2021
To Note:	Printed documents may be out of date – check the intranet for the latest version.		

At the disciplinary hearing the panel will go through the allegations against the employee and the evidence that has been gathered. The employee will be able to respond and present any evidence of their own. The companion may make representations to the panel and ask questions, but should not answer questions on behalf of the employee. The employee may confer privately with their companion at any time during the hearing.

The employee may ask relevant witnesses to appear at the hearing, provided sufficient advance notice was given to arrange their attendance. The employee will be given the opportunity to respond to any information given by a witness.

The panel may adjourn the disciplinary hearing if they need to carry out any further investigations such as re-interviewing witnesses in the light of any new points raised at the hearing. If this is the case, the employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

After hearing all the evidence presented, the Panel will adjourn to decide on the appropriate action to be taken. Where possible this decision will be given in person on the day. In any case, the employee will be informed of the panel's decision and the reasons for it in writing within seven days of the disciplinary hearing. The employee will also be notified of their right to appeal against the decision.

9.3 Disciplinary Sanctions

The usual sanctions for misconduct are set out below. No sanction should be imposed without a hearing. For fairness and consistency, a sanction imposed on another employee for a similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits. An employee will not normally be dismissed for a first act of misconduct, unless it is decided that it amounts to gross misconduct.

9.3.1 First Written Warning

Misconduct, repetition of minor offences or a failure to respond to an informal discussion/informal verbal warning will usually result in a first written warning being issued. This sanction may be authorised by the Business Group Director and is usually appropriate for a first act of misconduct where there are no live written warnings on the employee's record. It is also suitable if it is an incident of a serious nature, resulting in significant risk or harm to patients, colleagues or organisational interests. A First Written Warning will be live and remain on the employee's personal file for a period **12 months**.

First Written Warning will also be issued as a result of an agreed Fast Track process (section 9.1 of this procedure).

9.3.2 Final Written Warning

A failure to meet the required standards laid out in a first written warning may result in further disciplinary action and a final written warning being issued by a Business Group

Disciplinary Policy & Procedure		Page:	Page 17 of 25
Author:	Caroline Durdle, HR Business Manager	Version:	8.1
Date of Approval:	16 Jul 2020	Date for Review:	30 Sep 2021
To Note:	Printed documents may be out of date – check the intranet for the latest version.		

Director. A final written warning may also be issued for a first offence where the misconduct is sufficiently serious not to be tolerated a second time for instance in circumstances of a very serious nature, resulting in very significant risk or harm to patients, colleagues or organisational interest. This is usually the case where the offence is classed as Gross misconduct. A final written warning may be issued where multiple cases of general misconduct have occurred.

A Final Written Warning will be live and remain on the employee's personal file for a period of **12 months**.

9.3.3 Dismissal

If the employee's conduct continues to be unsatisfactory following a final warning, dismissal will normally result. Dismissal may be authorised by a Business Group Director.

Any incident of gross misconduct will normally be subject to summary dismissal with no entitlement to a notice period or payment in lieu of a notice period. Examples of these are set out in section 4 of this procedure. The reasons for dismissal will be confirmed in writing by the appropriate Director/Associate Director.

9.3.4 Alternatives to Dismissal

In some cases, the panel may consider alternatives to dismissal in serious cases where it is considered that there are sufficient mitigating circumstances. This will usually be accompanied by a final written warning.

Alternatives to dismissal include downgrading, transfer to another role or loss of seniority.

9.4 Written confirmation following a disciplinary hearing

A letter stating the outcome of the hearing will be sent to the employee within seven days of the hearing and a copy will be placed on the personal file for the duration of the warning.

The letter will set out the nature of the misconduct; the change in behaviour required with timescale, the length of time the warning will remain current and their right of appeal against the decision.

The letter will also remind the employee that a recurrence or other subsequent misconduct may lead to further disciplinary action being taken against them, including dismissal.

9.5 Appeals

The appeal should be made in writing within seven calendar days of the date the outcome was given and should state clearly the reasons for the appeal. The appeal should be addressed to the Deputy Director of Workforce, Human Resources Department, Aspen House, Stepping Hill Hospital.

Disciplinary Policy & Procedure		Page:	Page 18 of 25
Author:	Caroline Durdle, HR Business Manager	Version:	8.1
Date of Approval:	16 Jul 2020	Date for Review:	30 Sep 2021
To Note:	Printed documents may be out of date – check the intranet for the latest version.		

Appeals against first written warnings and final warnings will be heard by an appropriate manager not previously involved in the case.

An appeal against dismissal will be heard by a panel consisting of three people. The panel will comprise of at least one operational director. The other members may be an executive director or a director not previously involved in the case.

The date on which the dismissal takes effect will not be delayed pending the outcome of the appeal hearing. However if the appeal is successful, the employee will be reinstated with no loss of continuity or pay.

The employee will be sent written notice of the date, time and place of the appeal hearing. This will normally be seven days in advance of the appeal hearing.

The appeal hearing will be a review of the fairness of the original decision in the light of the procedure that was followed and any new information which may have come to light.

The panel may adjourn the appeal hearing if they need to carry out any further investigations in the light of any new points raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

Following the appeal hearing, the panel may confirm the original decision; revoke the original decision; or issue a different sanction.

The panel will inform the employee of their decision in person on the day if possible. In any case the panel will confirm their final decision in writing to the employee within seven days of the appeal hearing. There will be no further right of appeal

9.6 Deferring disciplinary sanctions

The purpose of a warning is to give the employee an opportunity to improve their standards of behaviour at work. If an employee is absent from work immediately or soon after, a warning is issued (for two weeks or more), such a warning may be deferred until the employee returns to work.

The manager will write to the employee stating the terms of the deferment once they are absence due to sickness or any other period of long term absence including maternity leave, special leave and career break.

9.7 Overlapping Disciplinary and Grievance Cases

Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

In any case, advice should be sought from Human Resources before proceeding.

Disciplinary Policy & Procedure		Page:	Page 19 of 25
Author:	Caroline Durdle, HR Business Manager	Version:	8.1
Date of Approval:	16 Jul 2020	Date for Review:	30 Sep 2021
To Note:	Printed documents may be out of date – check the intranet for the latest version.		

10. MEDICAL STAFF

This procedure applies to Doctors and Dentists in respect of personal conduct only. The procedure for handling concerns about doctors' and dentists' conduct and capability is the framework set out in 'Maintaining High Professional Standards in the Modern NHS' issued under the direction of the Secretary of State for Health on 11 February 2005.

11. MONITORING COMPLIANCE

CQC Regulated Activities	Process for monitoring e.g. audit	Responsible individual / group / committee	Frequency of monitoring	Responsible individual / group / committee for review of results	Responsible individual / group / committee for development of action plan	Responsible individual / group / committee for monitoring action plan and implementation
S4, E3, E4, R1, WL4	Audit of number of disciplinary investigations and suspensions	Deputy Director of Workforce	Annual	Workforce Efficiency Group (WEG)	People Performance Committee (PPC)	Deputy Director of Workforce

12. DOCUMENT LAUNCH AND DISSEMINATION

Launch

Once the document is approved, it will be uploaded to the intranet and shared by HR.

Dissemination

It will be disseminated by using links to the Trust Document Microsite through:

- Information cascade via relevant management teams
- Communication via Management / Departmental / Team meetings
- Inclusion of relevant information in Team Brief
- Notice board administration
- Articles in bulletins

Disciplinary Policy & Procedure		Page:	Page 20 of 25
Author:	Caroline Durdle, HR Business Manager	Version:	8.1
Date of Approval:	16 Jul 2020	Date for Review:	30 Sep 2021
To Note:	Printed documents may be out of date – check the intranet for the latest version.		

13. REFERENCES AND ASSOCIATED DOCUMENTATION

References in relation to:

- Trust Grievance Procedure
- Capability Policy & Procedure
- Supporting Attendance Policy
- Alcohol & Substance Misuse Policy
- DBS Policy
- Safeguarding Children SOP
- Maintaining High Professional Standards in the Modern NHS
- Photography/Video and Audio Recording of Patients or Staff Policy
- Raising Concerns at Work Policy
- Disciplinary Toolkit and Template Letters

14. EQUALITY IMPACT ASSESSMENT

Office Use Only	
Submission Date:	09.07.20
Approved By:	A Hussain
Full EIA needed:	Yes/No

To be completed by document author			
1	Name of the Policy / SOP	Disciplinary Policy & Procedures	
2	Department / Business Group	Human Resources	
3	Details of the Person responsible for the EIA	Name:	Caroline Durdle
		Job Title:	HR Business Manager
		Contact Details:	0161 419 5575
4	What are the main aims and objectives of the Policy / SOP?	The main purpose of this policy is to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond before taking any formal action.	

For the following question, please use the EIA Guidance document for reference:

Disciplinary Policy & Procedure		Page:	Page 21 of 25
Author:	Caroline Durdle, HR Business Manager	Version:	8.1
Date of Approval:	16 Jul 2020	Date for Review:	30 Sep 2021
To Note:	Printed documents may be out of date – check the intranet for the latest version.		

5	A) IMPACT Is the policy / SOP likely to have a differential impact on any of the protected characteristics below? Please state whether it is positive or negative. What data do you have to evidence this? Consider: <ul style="list-style-type: none"> What does existing evidence show? E.g. consultations, demographic data, questionnaires, equality monitoring data, analysis of complaints. Are all people from the protected characteristics equally accessing the service? 	B) MITIGATION Can any potential negative impact be justified? If not, how will you mitigate any negative impacts? <ul style="list-style-type: none"> Think about reasonable adjustment and/or positive action Consider how you would measure and monitor the impact going forward e.g. equality monitoring data, analysis of complaints. Assign a responsible lead. Produce action plan if further data/evidence needed Re-visit after the designated time period to check for improvement. <p style="text-align: right;">Lead</p>
Age	The policy has no adverse impact on this group	
Carers	The policy has no adverse impact on this group	If necessary, any meetings could be arranged to accommodate caring responsibilities
Disability	This policy has no adverse impact on this group	<p>Policy is available in different formats on request.</p> <p>If a staff member is on sick leave throughout the disciplinary process, Occupational Health will advise on their fitness to attend a hearing.</p> <p>The Trust recognizes disabilities and makes reasonable adjustments, i.e. interpreters, hearing loops, arranging meeting times</p>
Race / Ethnicity	The policy has no adverse impact on this group	
Gender	The policy has no adverse impact on this group	
Gender Reassignment	The policy has no adverse impact on this group	
Marriage & Civil Partnership	The policy has no adverse impact on this group	

Disciplinary Policy & Procedure		Page:	Page 22 of 25
Author:	Caroline Durdle, HR Business Manager	Version:	8.1
Date of Approval:	16 Jul 2020	Date for Review:	30 Sep 2021
To Note:	Printed documents may be out of date – check the intranet for the latest version.		

Pregnancy & Maternity	The policy has no adverse impact on this group	If necessary, meetings could be arranged around any appointments	
Religion & Belief	The policy has no adverse impact on this group		
Sexual Orientation	The policy has no adverse impact on this group		
General Comments across all equality strands			

Action Plan What actions have been identified to ensure equal access and fairness for all?			
Action	Lead	Timescales	Review & Comments

EIA Sign-off	<p>Your completed EIA and document should be sent to Equality, Diversity & Inclusion Manager for approval prior to final approval: equality@stockport.nhs.uk</p> <p>0161 419 4784</p>
---------------------	--

Disciplinary Policy & Procedure		Page:	Page 23 of 25
Author:	Caroline Durdle, HR Business Manager	Version:	8.1
Date of Approval:	16 Jul 2020	Date for Review:	30 Sep 2021
To Note:	Printed documents may be out of date – check the intranet for the latest version.		

15. DOCUMENT INFORMATION

Type of Document:	Policy
Title:	Disciplinary Policy and Procedure
Version Number:	8.1
Recommended By:	Workforce Efficiency Group
Approved By:	Policy Review Group Joint Consultative / Negotiating Committee People Performance Committee
Approval Date:	Policy Review Group: 07 Jul 2020 Joint Consultative / Negotiating Committee: 13 Jul 20 People Performance Committee: 16 Jul 20
Next Review Date	30 Sep 2021
Document Author:	Caroline Durdle, HR Business Manager
Document Director:	Director of Workforce & OD
For use by:	All Trust employees

Version	Date of change	Date of release	Changed by	Reason for change
2	July 2012	July 2012	Human Resources	Review of SFT, SCH and TCH policies
3	July 2014	July 2014	Human Resources	Time limits amended and measured in calendar days
3	July 2014	July 2014	Human Resources	Outcome Meeting procedure amended
4	December 2014	December 2014	Human Resources	Fast track disciplinary included. Review of fraud section
5	December 2015	December 2015	Human Resources	Amendment regarding the recording of investigation meetings
6	August 2016	August 2016	Human Resources	Changed ISA to DBS
7	December 2017	December 2017	Human Resources	Amendment to authority of dismissal
8	February 2018	February 2018	Human Resources	Implementation of recommendations from National Guardian Office case review
8	July 2018	July 2018	Human Resources	Inclusion of Gross Misconduct Rule 36

Disciplinary Policy & Procedure		Page:	Page 24 of 25
Author:	Caroline Durdle, HR Business Manager	Version:	8.1
Date of Approval:	16 Jul 2020	Date for Review:	30 Sep 2021
To Note:	Printed documents may be out of date – check the intranet for the latest version.		

8.1	July 2020		Caroline Durdle, HR Business Manager	Update of Suspension section
-----	-----------	--	--------------------------------------	------------------------------

Disciplinary Policy & Procedure		Page:	Page 25 of 25
Author:	Caroline Durdle, HR Business Manager	Version:	8.1
Date of Approval:	16 Jul 2020	Date for Review:	30 Sep 2021
To Note:	Printed documents may be out of date – check the intranet for the latest version.		