

Disciplinary Policy

Important Note - July 2021

In line with national requirement following release of the Harding recommendations, review and amendment of the Trusts disciplinary policy has been undertaken. This revised document and its associated procedure can be found on Microguide.

Please note. This policy refers to an associated Workforce Investigation Policy which is due to be ratified by OMB in August.

Therefore for possible disciplinary matters that arise between 28th July and the end of August 2021, please contact your Divisional People Business Partner/Advisor for further advice and support.

Disciplinary Policy

1. Quick Reference Guide

This policy provides an overview of the roles, responsibilities and monitoring practices linked to the

3.3 This policy and its associated procedure apply to all staff directly employed by the Trust. For Medical Staff and Dentists see 3.4. This includes trainees, secondees and staff on honorary contracts or joint contracts with the Trust and another employer.

3.4. Disciplinary matters relating to Medical staff and Dentists should be addressed

circumstances refer matters back to this Disciplinary policy.

3.5. Cases of alleged staff misconduct committed outside of the work environment may also be managed through this policy. In such cases careful consideration will be given as to whether the alleged

4. Definitions

4.1. Conduct is defined

demonstration of inappropriate or unacceptable behaviours. Appendix A provides examples of activities that the Trust would interpret as misconduct.

4.2. For the purposes of this policy and its associated procedure, misconduct is broken down into two distinct categories - misconduct and gross misconduct. These categories are defined below:

- Misconduct constitutes behaviours that transgress acceptable boundaries but which could be managed incrementally to address shortfalls. Examples of such misconduct are included in appendix A.
- Usually conduct would relate to the actions of the employee within the workplace. However in certain circumstances it may be appropriate to apply this policy to incidents outside the workplace (to include arrests or criminal proceedings) which bring the Trust into disrepute.
- Gross misconduct constitutes behaviours that exceed acceptable boundaries and which, given their nature cannot be managed incrementally. Cases can be so serious that they destroy the trust, confidence and employment relationship between employer and employee. In such instances disciplinary action up to and including summary dismissal may be required. Examples of such gross misconduct are included in Appendix A.

4.3 **Reasonable belief:** Any disciplinary action taken will be based on a reasonable belief that misconduct has occurred. This is significantly different to a criminal investigation whereby the onus is

5. Roles and Responsibilities

5.1. Trust

5.1.1. Through regular communications, appraisal and training opportunities the Trust is committed to develop a skilled and knowledgeable workforce who fully understands the behaviours expected of them.

5.1.2 The Trust is also committed, through the development of policies and procedures, to ensure all employees are treated fairly and in a consistent manner.

5.2 Line Managers

Line Managers will be expected to:

5.2.1. Promote awareness of Trust policies and procedures and cascade how such documents will be used to manage situations as they arise.

and hence the wider Trust.

5.2.3 Ensure staff have current job descriptions which accurately reflect their roles and responsibilities.

5.2.4. Ensure that annual appraisals are completed within their areas of responsibility

5.3 Employees

Employees will be expected to:

5.3.1 Familiarise themselves with the Trust policies and procedures to ensure they understand Trust expectation associated with appropriate behaviour.

5.3.2. Ensure they have current job descriptions, which accurately reflect their role and responsibilities. Where this is not the case, they should discuss with their Line Manager at the earliest opportunity.

5.3.3. Ensure they have an annual appraisal with their Line Manager which, through objective setting reinforces responsibilities for the upcoming year.

5.3.4. Raise concerns with the Line Manager if they feel they are struggling in their role or within their team.

5.3.5. Raise concerns with the Line Manager if they believe the behaviour of others is inappropriate or unacceptable.

5.3.6. Where issues are raised engage with the Line Manager to bring about a resolution as quickly as possible.

6.6. Wherever possible solutions such as redeployment may be considered

6.7 All managers who chair or sit on hearing panels must have completed appropriate Trust training or have equivalent experience in such matters.

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

7. Handling Allegations of Misconduct and Investigating the Facts

7.1 Allegations of misconduct will be carefully assessed by the relevant manager, with support from the People Operations team, to decide the next course of action i.e. whether the situation can be managed informally or whether formal investigation appears warranted.

7.2 Such consideration should involve discussion with the employee to establish their version of events and may also involve discussion with other individuals associated with the alleged misconduct.

whether the incident falls within this policy

8.3 In line with the legislative requirements of the UK GDPR, incidents relating or potentially relating to a personal data breach must be reported to the Trusts Data Protection Officer (DPO) and dependent upon severity, reported to the Information Commissioners Office.

8.4 Where appropriate, investigations by the counter fraud team and other agencies such as the police or social services may be carried out separately from investigations completed under this procedure. In such instances the Trust will fully co-operate with these external investigations but will not delay its internal investigations unless absolutely necessary.

9. Informal Management of Allegations (Please refer to Procedure Document for Specific Process Details - Available on Microguide)

9.1 The Trust recognises that cases of minor misconduct can often be resolved informally through open dialogue which details both shortcomings and possible remedial action.

9.2 In many cases additional training, coaching and advice may be recommended to help resolve a situation.

9.3 When a matter arises and the Line Manager chooses to initiate an informal discussion with the employee, they must still make it clear that the meeting forms part of the disciplinary process. As such and in advance of the meeting the employee should be provided with a copy of the Disciplinary Policy and Procedure and a description of the matters that are to be discussed. This is to ensure that all parties are aware of the context of the meeting.

9.4 During such meetings the Manager must ensure that the employee fully understands the need for behavioural improvement and that failure to achieve this, following appropriate support, may lead to instigation of the formal procedure.

9.5 The informal stage of this policy is not time-bound and whilst some instances of misconduct can be managed through conversation or via the establishment of an action plan, others will need to be progressed more quickly. Any such decision on how the case might be progressed should be discussed in conjunction with the People Operations Team

9.6 Where appropriate, managers may summarise concerns and expectations in writing, a copy of which will be placed on the

11.1 A disciplinary hearing should be chaired by a Manager of appropriate seniority and authority to make necessary decisions i.e. up to and including dismissal. Such authority to dismiss is explained further in appendix B. The Chair should have no previous connection with the case.

An OD and People representative of appropriate seniority and/or experience should also be appointed. For Registrants (eg NMC/ HCPC) a Divisional Head of Nursing or Deputy Director of Nursing/ AHP must be invited to join the panel as a Professional Advisor. In certain circumstances a specialist/ technical expert may also sit on the panel to support the Chair.

11.2 Throughout the formal stages of the disciplinary procedure the employee has the right to be accompanied by their Trade Union representative, a work colleague who has not been involved in the matter of concern or where agreed by the case manager, a family member.

11.3 The Trust reserves the right to refuse the staff member from being accompanied by a work colleague whose presence it is perceived might undermine the disciplinary process.

11.4 Formal hearings should be considered as meetings between the Trust and the individual employee and as such discussions should primarily be undertaken between the Trust and the individual; however we recognise the important function of a Trade Union representative, or work colleague, and in such

17.5 All employees being subject to allegations will be given the contact details of the Trust Freedom to Speak Up Guardian.

18. Monitoring Compliance with, and the Effectiveness of, this Policy

18.1. The People Operations team will gather and analyse data on a quarterly basis and use this data to ensure policy compliance and the consistent management of cases. Trend data will also be identified and used to address problem areas

18.2. Subsequently, this data will be used to inform and improve policies and provide recommendations