

# Disciplinary Procedure

## Disciplinary Procedure

1.



have the required level or seniority to undertake the role, an alternative should be sought from the line managers peer group or from the next upwards tier of management. The People Operations Team must be involved in such a decision.

3.1.3 As per the Workforce Investigation Policy, the case manager will need to appoint an investigating officer to determine the facts of the matter.

3.1.4 Following completion of the investigation and review of the investigation report, the case manager with support from the People Operations team must decide upon the next course of action and whether a disciplinary hearing is necessary.

3.1.5 As such the case manager should write to the employee informing them of the investigation outcome. This would normally indicate either:

There is no case to answer – the case manager should share any learning from the investigation with the employee and discuss next steps i.e. any informal learning or any rebuilding of working relationships that may be required. Any exclusions or restrictions should be removed and if necessary a return to work programme introduced.

There is a case to be heard – the case manager should advise the employee in writing that a disciplinary panel is to be convened to consider the findings of the investigation. If the employee is excluded the case manager should review whether it is possible for them to return to the workplace to attend the hearing or whether an external venue needs to be sourced.

If the case manager believes an act of gross misconduct has been committed, the potential consequences of this should be clearly detailed in the letter so as to ensure that the employee is fully aware of the seriousness of the hearing.

## **3.2. Convening a Disciplinary Hearing**

3.2.1 A disciplinary hearing should be held as soon as reasonably practicable following the conclusion of the investigation.

3.2.2 The case manager, with People Operations team support, should convene a disciplinary hearing panel which consists of:

A manager of appropriate seniority and authority to chair the hearing. This manager, who must not have had any previous connection to the case, must have the necessary decision making authority to align with the potential outcomes of the hearing i.e. authority to dismiss if necessary. This is discussed further in Appendix 3

An OD and People representative of appropriate seniority and/or experience.

For all registrant disciplinary hearings (e.g NMC/HCP) the chair should invite an appropriate professional advisor to support the panel. This could be for example, the Deputy Director of Nursing. The Chair, even if a registrant themselves should not take on this role and an additional panel member should be invited.

In disciplinary cases where specialist/ technical expertise is a factor, consideration should be made as to whether a relevant expert should be invited to join the panel in an advisory capacity.

3.2.3. The case manager should identify an appropriate person to act as notetaker during the hearing. For matters of efficiency the Trust may choose to record the hearing, however this measure would need to be agreed by all parties.

3.2.4. It is expected that the employee will attend the disciplinary hearing. They also have the right to be accompanied by their Trade Union representative, a work colleague who has no direct connection to the case or in exceptional circumstances and where agreed by the case manager, a family member.

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

3.2.6. Where an employee or their representative are unable to attend the first set date for the disciplinary hearing, the Trust must postpone to a time proposed by the employee, providing that the alternative time is both reasonable and not more than 5 working days after the date originally proposed.

If that date proves problematic the Trust would offer one further date that is both reasonable and not more than 5 working days after the date proposed by the employee.

date.

3.2.7 For all potential disciplinary hearing dates the employee will receive written confirmation at least five (5) working days in advance of the hearing. Please note. Every effort should be made to provide the employee with as much notice as possible and 5 working days should be seen as the absolute minimum.

This notification letter should detail:

- That the employee is being called to a disciplinary hearing.
- The date, time and venue of the hearing.
- The names and titles of the disciplinary panel members.
- The allegations or matters of concern subject to investigation, which will be explored during the hearing.
- The potential consequences if the allegations are substantiated.
- The right to be accompanied by either a Trade Union representative or a work colleague (who is not a relative and has no direct connection to the case).
- That any papers they wish to submit to the panel in response to the case

hearing date. It is appreciated that this timescale may need amendment if disciplinary hearings are arranged at very short notice.

0078]ETQ.000008871 0 595.32 841.92 reW\*nE



Such a warning, which would not normally exceed 18 months, should be detailed in writing to the employee explaining the corrections that are to be achieved, the training and support which will be available to help facilitate this and the potential consequences that the employee may face should the actions not be achieved.

Importantly the warning should be supported by a conduct action plan that is reviewed etc.).

In cases relating to:

- abuse or negligence towards patients, fellow employees or the general public,
- or in cases of serious misconduct such as harassment, where dismissal was not warranted,

if the warning itself has expired. This longer period must be specified at the time of issue.

#### 3.4.4 Consequences of Failing to Improve as per a Written Warning

Where formal warnings are given as a disciplinary sanction, correspondence to the employee

A dismissal checklist is included in appendix 4

Should the panel reach the decision to dismiss, two options are available:

Dismissal with Contractual Notice.

Such a decision is generally associated with misconduct dismissals where a prior warning has been given.

Where dismissal with contractual notice is the sanction, the employee will be required to leave

4.1.2





In cases of susp  
team should be consulted to ascertain whether ongoing Trust investigations may impede fraud  
considerations.

**July 2021**

- Breach of IG security and governance standards and Data Protection Guidelines, including misuse, inappropriate use or abuse of access to information systems including smartcards or access cards and passwords.
- Inappropriate use of social media, e.g. incidents of bullying of colleagues or bringing the Trust reputation in to disrepute.
- Health and safety breaches including failing to maintain a roadworthy motor vehicle if used for Trust business.
-

This includes discrimination or harassment to members of staff, patients or clients on the grounds of race, sex, nationality, ethnic origin, disability, trade union activity, sexual orientation or chosen gender expression or identity.

- Serious acts of insubordination.
- Breach of Copyright and Patent Rules It is illegal to use unlicensed software, breach copyright or abuse intellectual property rights.
- 
- Any action/omission, which can reasonably be judged to have resulted in a complete lack of confidence/trust in the individual by the Trust.
- Serious negligence or wilfully disobeying a reasonable instruction or Health & Safety rule where the result may result in injury/danger to patients, staff or the public.
- Misuse of Trust property.

The Trust may pursue internal disciplinary action if any of the above offences are alleged to have taken place, regardless of parallel Court Prosecution. The Trust has a right to dismiss an employee without awaiting the outcome of legal proceedings at the point they are satisfied that the allegation was committed.

**Appendix 2 – Conduct Action Plan**

**Name:**

**Manager:**

**Date of meeting to discuss/agree the Conduct Action Plan:**

**Review meeting date(s):**

Objective	Expected level of behaviours /Success criteria	Support to achieve objectives	Required evidence of achievement	Timescale for improvement	Review dates and comments

Failure to improve your conduct in accordance with this Conduct Action Plan will result in further action in accordance with Policy and Procedure

**Signature:** ..... **Date:** .....  
(Member of staff)

**Signature:** ..... **Date:** .....  
(Manager)

**Manager to provide a copy of the meeting record to the member of staff and to securely retain the original.**

# 3 - Authority to Dismiss

## APPENDIX C

### Authority to Dismiss

Salisbury NHS Foundation Trust has an obligation to provide clear guidance as to Trust roles which have been assigned authority to sanction employee dismissals.

This document provides such guidance and should be used by Commissioning Managers and the People Operations team when establishing disciplinary hearing panels.

#### **AUTHORITY TO DISMISS**

The Chair of a formal hearing that may culminate in a dismissal must have authority to dismiss awarded by the Trust; their role then potentially becomes the

The following role categories have been designated as having authority to dismiss:

Band 8a role with leadership and managerial responsibility and accountability e.g. Area Manager; Area Matron

Band 8b role with leadership and managerial responsibility and accountability

Band 8c and 8d with leadership and managerial responsibility and accountability

Band 9 and Executive Officers

The selection of the appropriate role of the Dismissing Officer will be considered on a case-by-case basis. Consideration will be given to the following:

- The role of the person subject to the process
- Impartiality
- The nature of the case e.g. highly clinical, of a sensitive nature
- The complexity of the case
- The experience and training to the Dismissing Officer

When a potential dismissal is identified following investigation a band 8a or above senior OD & People professional must be involved in the Disciplinary hearing.

Training will be made available for those staff undertaking the role of Dismissing Officer to ensure a consistent and fair process is maintained.

In the case of dismissal of the Chief Executive, the panel would comprise half of the Non-Executive Directors of the Trust Board plus the Chairman. There is no right of internal appeal against the decision of the panel.

#### **APPEALS AGAINST DISMISSAL**

The Chair of a formal appeal hearing against dismissal must already be designated as having the authority to dismiss by the Trust.

The following role categories have been designated as having authority to consider appeals against dismissal:

Band 8b role with leadership and managerial responsibility and accountability

Band 8c and 8d with leadership and managerial responsibility and accountability

Band 9 and Executive Officers

#### **AUTHORITY TO DISMISS MEDICAL STAFF**

Dismissal of medical staff may only be effected with the involvement of the Chief Medical Officer (CMO) and must adhere to the Maintaining High Professional Standards in the Modern NHS.

For doctors in Training Grades, this must involve the Chief Medical Officer (CMO) with the knowledge of the Post Graduate Dean or their nominee.

## 4 - Dismissal checklist

APPEn?5 Tm0.2 g0.2 G[TJETC]EMC P MCID 2-BDC 0.0000

You are required to complete this form and submit it within ten (10) working days of receiving written notification of the decision of your Hearing/Meeting. Your written notification will state who the completed appeal form should be sent to. Once you have formally submitted your Appeal, it will be acknowledged in writing.

Late appeals or appeals on any other grounds will only be considered in exceptional circumstances.

You are advised to consult your representative before submitting this completed form.



NB If you are claiming information not available at the time you MUST explain why the previously undisclosed information was not presented at the Hearing before the decision you are appealing against was made.

I confirm that the above statements are true to the best of my knowledge, information and belief. I understand that making any false, malicious or untrue allegations may result in disciplinary action being taken against me by the Trust. (In the most serious cases, making false, malicious or untrue allegations can be treated as gross misconduct).

I give my consent for this information to be circulated to relevant members of staff on a need-to-know basis for the purpose of investigati