



Disciplinary Policy and Procedure

This procedural document supersedes: Disciplinary Procedures – CORP/EMP 2 v.6.



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Amendment Form

Please record brief details of the changes made alongside the next version number. If the procedural document has been reviewed **without change**, this information will still need to be recorded although the version number will remain the same.

Version	Date Issued	Brief Summary of Changes	Author
Version 7		Policy Re-Write	Diane Culkin
Version 6	Re-issued 19 March 2019	Corrected numbering errors in the Disciplinary Procedure.	Anthony Jones
Version 6	31 May 2018	Changes to format plus some changes to monitoring arrangements and title updates Minor amendments for factual accuracy	Sam Francis/ Anthony Jones
Version 5	17 August 2015	Minor amendments for factual accuracy	Ruth Cooper

Version 4	January 2010	<p>'Disciplinary Procedure Guidance Note for Managers' is now incorporated in this policy as Appendix 3 - major adjustments have been made and therefore needs to be re-read in full.</p> <p>1.4 Points the reader to examples of gross misconduct.</p> <p>2.1 Clarification of alternative arrangements for medical staff.</p> <p>3.4 Slight amendment of wording for clarification</p> <p>3.5 Update of where additional information can be found</p> <p>3.6 Clarification of who to report fraud and/or corruption to.</p> <p>3.7 Slight amendment to words to remove reference to gender.</p> <p>3.8 More detailed information regarding rights to representation.</p> <p>4.2 Clarification on responsible manager decisions.</p> <p>5. Rewording and clarification on roles and responsibilities</p> <p>6.4 Removal of a duplicate statement regarding pay.</p> <p>7.3 Clarification on right to be accompanied.</p> <p>8 Re-wording around involvement of LCFS in disciplinaries involving criminal offences.</p> <p>9 Clarification of the role of 'responsible manager' and consideration given at hearings to professional codes of conduct.</p>	J Lang
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		<p>10.1 Points reader to further reading on investigations</p> <p>10.2 Amendment to wording</p> <p>10.3 Points reader to further reading on investigations and wording amended for clarification.</p> <p>10.4 Re-wording of 'responsible' manager</p> <p>11 [1] Clarification of requirement.</p> <p>11[4] Removal of some unnecessary words</p> <p>11.2 Clarification of requirements for posting of Letters</p> <p>12[5] Details inserted to ensure consideration of referral to appropriate external bodies is made.</p> <p>12.2 Clarification of requirements of posting of letters</p> <p>16 Additional reference document added</p>	
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Contents

	Page No.
1 INTRODUCTION.....	6
2 EQUALITY STATEMENT	7
3 JUST CULTURE.....	7
4 PURPOSE	8
5 DUTIES AND RESPONSIBILITIES.....	9
6 PROCEDURE	11
6.1 General Principles	11
6.2 Delegation of Authority to Deal with Disciplinary Matters	14
6.3 Preliminary Investigation – Establishing the Facts.....	15
6.4 Terms of Reference for Investigation.....	16
6.5 Supporting Colleagues and Managing the Disciplinary Process	16
6.6 Suspension	17
6.7 Informal Resolution	20
6.8 Criminal Offences	20
6.9 Formal Disciplinary Action	21
6.10 Investigation	22
6.11 Disciplinary Warnings.....	24
6.12 Dismissal	25
6.13 Action Short of Dismissal - Transfer or Demotion.....	26
6.14 Time Limits.....	26
6.15 Right of Appeal	27
7 TRAINING/SUPPORT	27
8 MONITORING COMPLIANCE WITH THE PROCEDURAL DOCUMENT	28
9 DEFINITIONS.....	28
10 EQUALITY IMPACT ASSESSMENT	28
11 ASSOCIATED TRUST PROCEDURAL DOCUMENTS.....	29

12 REFERENCES.....	29
APPENDIX 1 – SCHEDULE OF DELEGATED AUTHORITY TO DEAL WITH DISCIPLINARY MATTERS.....	30
APPENDIX 2 – DISCIPLINARY RULES FOR COLLEAGUES.....	31
APPENDIX 3 – SUPPORTING TOOLKIT.....	35
APPENDIX 4 - EQUALITY IMPACT ASSESSMENT PART 1 INITIAL SCREENING.....	37

1 INTRODUCTION

1.1 The Trust is committed to providing an excellent standard of patient care and to achieving a Just Culture, where accountability is balanced with learning and where the practice of lessons learnt is embedded in the Trust. The Trust, therefore, requires high standards of conduct from colleagues. To achieve this, we rely on colleagues receiving support to enable them to fully understand their role and the Trust’s expectations of them and on all individuals being committed to demonstrating positive and effective behaviours. This commitment is underpinned by appropriate supportive policies and procedures, in addition to the Trust’s commitment to help people to improve and to learn from mistakes. This procedure should be regarded as one of mutual and joint working, which enables individuals to restore standards of performance to an acceptable level.

1.2 All employees of DBTH will lead by example and role model the DBTH Way and our We Care values. The DBTH Way describes examples of behaviours we would expect to see and those we would not expect to see from all people working in the Trust. This includes volunteers, learners, and those working on a temporary basis; for example, secondment or from an agency. The Trust believes that all employees of DBTH have the capacity to lead and the DBTH Way acts as a guide and practical tool to ensure that all colleagues are living the DBTH Way and our We Care values. More information on the DBTH Way and the Trust’s Values and Vision can be found via the following links [DBTH Way](#) and [Values and Vision](#).

1.3 This policy provides a fair, systematic and consistent process for those instances when an individual’s behaviour or their actions may be in breach of workplace rules or fall short of the expected standards of conduct. The policy and its associated documents, therefore, apply to all Trust employees. The policy also provides a mechanism through which individuals are able to appeal and seek a review of conduct decisions that have been made regarding them.

1.4 The fair treatment of colleagues supports a culture of fairness, openness and learning by ensuring colleagues feel confident to speak up when things go wrong, rather than fearing blame.

1.5 The content of this policy complies with the principles and standards as set out in the ACAS (Advisory, Conciliation and Arbitration Service) Code of Practice on Disciplinary and Grievance Procedures, 2015.

1.6 This procedure should not be used to address issues of capability, which are dealt with under the Trust's Capability Procedure - CORP/EMP 25.

1.7 Management of personal and professional conduct, capability & ill health concerns involving medical and dental staff will be undertaken in accordance with the national framework detailed in 'Maintaining High Professional Standards in the Modern NHS (MHPS)' and these are set out in Conduct, Capability, Ill Health and Appeals Policies and Procedures for Practitioners - CORP/EMP 13. However, the process for the hearing itself will follow the provisions of the Trust Disciplinary Procedure.

2 EQUALITY STATEMENT

2.1 In applying this policy, the organisation will have due regard to the need to eliminate unlawful discrimination, to promote equality of opportunity, and to provide for good relations between people of diverse groups. In particular this will be on the grounds of the following characteristics protected by the Equality Act (2010); Age, Disability, Gender, Gender Assignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, and Sexual Orientation, in addition to disrespecting the background, trade union membership, or any other personal characteristic.

2.2 At an organisational level, The Trust will seek to reduce the overall likelihood and number of colleagues, including those with protected characteristics, entering the formal disciplinary process. The Trust will seek to identify where individuals with protected characteristics may be disproportionately entering formal disciplinary processes and take steps to reduce the relative likelihood of them entering the formal disciplinary process compared to colleagues without the associated protected characteristic.

2.3 The fair treatment of our colleagues supports a culture of fairness, openness, learning and accountability in the NHS by making individuals feel confident to speak up when things go wrong, rather than fearing blame.

3 JUST CULTURE

3.1 The Trust is committed to enabling a Just Culture. This provides a working environment where accountability and learning are balanced and where the practice of lessons learnt is fully embedded. With this supportive approach, when there is an adverse event/are shortfalls we will discuss with you how this happened, what impact it has had on you and others, and what support you need.

3.2 When there is an adverse event, a Just Culture allows the emphasis to be placed on “what caused this”, rather than “who caused this”. It is a culture that is, therefore not seeking blame but rather seeking any systemic causes. It is important to understand, however, that this does not mean that matters will not be managed appropriately. It is the aim of this policy to ensure that colleagues understand the Trust’s expectations of high standards of behaviour and conduct and their obligations to this. Where misconduct is alleged or shortfalls occur, it is also the aim of this policy that individuals are managed in a fair, consistent and timely manner and feel that they have been treated with consideration.

4 PURPOSE

This procedure is intended to provide a framework to allow managers to work with colleagues in-order to maintain appropriate standards of conduct. We want to ensure that when things go wrong, there is a process to decide what actions are required and that lessons are learnt.

The aim of this policy is enable disciplinary matters to be dealt with quickly, fairly, consistently and reasonably, having regard to the equity and substantial merits of each case. Therefore, an objective and prompt preliminary examination of the issues and circumstances should be carried out, following the principles of Just Culture, to establish whether there are grounds for a formal investigation and/or formal action or if there are opportunities for an alternative resolution. Consideration should be given to “what was responsible” rather than “who is responsible” and colleagues should be given the opportunity to respond to any concerns before formal action is instigated.

This procedure should not be viewed primarily as a means of imposing sanctions. The procedure's prime purpose is to help and encourage colleagues to achieve and maintain standards of conduct, attitude and job performance, and to ensure that every individual reflects the values and behaviours expected within Doncaster and Bassetlaw Teaching Hospitals NHS Foundation Trust, treating patients, carers, members of the public and colleagues with dignity and respect, promoting a professional attitude at all times.

Managers will ensure that all action taken under this policy and procedure is reasonable and proportionate. At an early stage, colleagues will be told why disciplinary action is being considered and they will be given the opportunity to provide an initial response to allegations before decisions about formal sanctions are taken. Wherever possible and appropriate, problems should be resolved through support/retraining/counselling and informal management, referring to other Trust Policies and Procedures, before resorting to

formal disciplinary procedures, with appropriate advice and support from Human Resources (See paragraph 6.7 – Informal Resolution).

Apart from proven cases of gross misconduct, which generally warrant dismissal, no employee will be dismissed for a first offence, without having first received a warning and without having been given the opportunity to attain the required standards. Except in cases of gross misconduct, dismissal should only be used as a disciplinary sanction for misconduct, where earlier procedural stages have failed to produce the required improvement. Examples of acts which may be considered as gross misconduct can be found in Appendix 2 – Disciplinary Rules for Colleagues.

This procedure requires that, at all stages of the formal procedure, the individual should be informed, in advance of any hearing or interview, of the nature of the allegation or complaint and they should be notified of the right to be accompanied by a ‘Companion’ in accordance with paragraph 6.1.9. They should also be given advance notice of the purpose of any interview or hearing.

The principles to be followed are that disciplinary issues will be managed as a priority and that any interview or hearing should be, wherever practicable, convened without causing undue delay to the disciplinary process. At the disciplinary hearing the employee, should have the opportunity to bring witnesses, to offer evidence, to respond to the management case and to state their case to the disciplinary panel who will make the disciplinary decision, before the decision is made. Upon notification of the decision, they should be informed of their rights and method of appeal (see section 6.15).

The level at which the procedure is invoked will be determined by the seriousness of the allegation/misconduct and/or where appropriate, the existence of previous informal actions or formal warnings

N.B. **Gross misconduct** (see Appendix 2 – Disciplinary Rules for Colleagues) is defined as a breach of discipline which is so wilful; pre-meditated; serious or irresponsible, that it strikes at the root of the employment contract. It is misconduct which effectively destroys the trust and confidence which the Trust must have in an employee. This includes criminal offences outside employment where the offence is one that makes the individual unsuitable for the type of work for which they are employed. If an employee is charged with, or convicted of a criminal offence this is not normally in itself reason for disciplinary action. Consideration needs to be given to what effect the charge or conviction has on the employee’s suitability to do the job and their relationship with their employer, work colleagues and service users.

5 DUTIES AND RESPONSIBILITIES

A summary of duties and responsibilities is included below.

Board of Directors – Has overall responsibility to ensure this policy is applied fairly, consistently and in a non-discriminatory way.

People & Organisational Development (P&OD) - Colleagues in People and Organisational Development are responsible for ensuring they maintain up to date knowledge of best practice and the application of employment law, seeking advice as required.

P&OD have a duty to monitor the application of this policy to ensure that it is being applied in a timely and non-discriminatory manner and in accordance with the Equality Act 2010.

All Managers - All managers are responsible for ensuring that their teams are made aware of this policy and should encourage them to familiarise themselves with its content. Individuals should be informed of the standards of conduct and work performance expected in their job and the implications of failing to meet these expectations.

Managers have a duty to stay up to date with best practice and to apply this policy fairly and consistently. They should seek advice and support from a representative of the People and Organisational Development team if they are considering taking action against an individual under the formal stage of this procedure.

Responsible Manager – This is the manager who has responsibility, under the delegation of authority, to appoint an investigating officer, review the investigatory information and decide whether the issue should be heard in a formal disciplinary hearing, and make decisions around the level of disciplinary action to be taken following a disciplinary hearing.

Trust Colleagues – Are responsible for maintaining an appropriate and professional standard of conduct, seeking advice from their manager as required. Where appropriate individuals are responsible for upholding the standards of their professional body.

Individuals should familiarise themselves with and act in accordance with Trust policies and procedures.

Individuals have the duty to co-operate with the requirements of this policy and are expected to attend associated meetings, unless there are extenuating circumstances preventing attendance. It is recognised that it is in the interests of any affected individual and the Trust to ensure the procedures set out in this document are carried out efficiently and without unnecessary delay. All parties will, therefore, reasonably co-operate at all times to ensure that this occurs.

The Companion – A companion can be an accredited trade union official from a certified union or a work colleague.

Responsibilities will include:-

- ensuring they familiarise themselves with this policy.
- advising members/colleagues in accordance with this policy.

- assisting members/colleagues in preparing a written statement/attending meetings if required, encouraging them to provide a clear explanation of the concern with supporting evidence wherever possible.

The companion may address the disciplinary hearing in order to:

- put forward the members/colleague's case
- sum up the member/colleague's case
- respond on the member/colleague's behalf to any view expressed at the disciplinary hearing.

The companion can also confer with the member/colleague during the disciplinary hearing. It is good practice to allow the companion to participate as fully as possible in the disciplinary hearing, including asking witnesses questions.

The companion has no right to answer questions on the member/colleague's behalf, or to address the disciplinary hearing if they do not wish it, or to prevent the individual from explaining their case.

Further information on the right to be accompanied can be found in the ACAS Code of Practice 1 – Disciplinary and Grievance Procedures.

Investigating Officer – Appointed by the Responsible Manager, with regard to the type of allegations and the skill set required to conduct an appropriate investigation, the investigating officer will collect and collate all the available evidence, provide a summary of the facts of the case to the responsible manager. The Investigating Officer may be required to attend any resultant disciplinary hearing and present the supporting facts and material; it follows, therefore, that the investigating officer can neither adjudicate at the hearing nor be in any way involved/connected with the allegation.

Wellbeing Advocate

This is an independent person assigned to provide pastoral support to the individual undergoing a formal investigation. This should be agreed in conjunction with the individual so that the individual has a voice in deciding who is most appropriate to provide them with personal and pastoral support.

6 PROCEDURE

6.1 General Principles

6.1.1 It is the Trust's policy that the agreed procedures set out in this document shall be observed in the handling of disciplinary cases. Exceptionally, there may be cases in which procedure may be amended, examples of which are:

[a] where an employee has been given a term of imprisonment; A hearing will be held in their absence, with the opportunity for written information to be considered by a panel.

[b] When an individual refuses or fails to attend a disciplinary hearing without good reason; a hearing will be reconvened once only and may be held in the absence of the employee.

[c] Where an individual admits the allegations without challenge and agrees to receive a sanction outside of a hearing - see paragraph 6.10.

6.1.2 In cases of gross misconduct, such amendments to procedure will only be fair where guilt is so obvious that failure to follow the procedure will not render an injustice to an employee. In extreme cases, subject to the observations of the principles of natural justice as set out in paragraph 6.1.8, the Trust reserves the right to immediately initiate a hearing.

6.1.3 This procedure will be reviewed, should it be necessary, and as a result of changes in legislation, or at the request of either parties to the agreement, or as a consequence of local conditions of service being agreed and implemented by the Trust.

6.1.4 Disciplinary action against a trade union official can lead to a serious dispute if it is seen as an attack on the union functions. Although normal disciplinary standards apply to their conduct as employees, with their agreement, any concerns should be discussed at an early stage with a full time official employed by the union. Therefore, no formal disciplinary action should normally be taken until it has been possible to discuss the circumstances of the case with a Full Time Official. Where disciplinary action is to be taken a Trade Union Official has the right to be accompanied by a companion who is a Full Time Officer or more senior union colleague. In all cases where disciplinary action against union officials is contemplated the Chief People Officer/Deputy Director of People and Organisational Development should be notified.

6.1.5 In addition to investigating the matter in accordance with the normal disciplinary procedure, managers should also report all suspected financial irregularities to the Chief Finance Officer in-order to ensure co-ordination of agencies such as Internal Audit, the Trust's Local Counter Fraud Specialist (LCFS), the Police etc. and to ensure that the allegations and evidence are properly co-ordinated. Examples may include suspected thefts or frauds. Further information is given in relation to matters of Fraud and Corruption in the Trusts Fraud, Bribery and Corruption Policy and Response Plan.

6.1.6 Where allegations of fraud or corruption are raised, the LCFS should be contacted immediately and prior to an informal or a formal investigation being commenced. The LCFS will advise on this matter and liaise with the manager and P&OD regarding appropriate next steps. This could involve notifying the police, internal and external audit and the NHS Counter Fraud Authority (NHSCFA). The LCFS may need to conduct an investigation in

accordance with the Trust's Fraud, Bribery and Corruption Policy and Response Plan (CORP/FIN 1). It may be possible, on the advice of the LCFS, to conduct a disciplinary investigation alongside the LCFS's fraud investigation. However, there will be instances where it will be necessary for the fraud investigation to be completed prior to any disciplinary investigation being commenced. The Director of the Division/Directorate should be informed regarding these matters and, if there is dispute regarding the progress of the matter, the Director of Finance must be consulted.

6.1.7 In cases of potential Safeguarding matters, the Trust's Safeguarding Lead must be informed and advice sought on appropriate action towards the patients involved next steps to safeguard and person(s) at risk. The Safeguarding Lead will consider whether it is necessary to make a report to the Local Authority Designated Officer (LADO).

6.1.8 In dealing with disciplinary matters, even where the procedure is amended in extreme cases of proven gross misconduct, it is essential that the following rules are observed:

- [a] The individual should know the nature of any accusation(s) against them;
- [b] The individual should be given an opportunity to state their case to the person (or body) who will take the disciplinary decision, before the decision is made;
- [c] That those hearing the matter should act in good faith.
- [d] Each step in the procedure and action taken within it, must be taken without unreasonable delay.
- [e] The timing and locations of meetings must be reasonable.

6.1.9 All individuals have a statutory right to be accompanied by a companion at a disciplinary hearing, held under the provisions of the procedure. A companion can be a recognised trade union official or work colleague and should not be acting in a legal capacity. This statutory right does not extend to other meetings within the disciplinary process e.g., investigatory meetings. However, individuals may be accompanied by a companion at these, provided that this does not cause an unreasonable delay in the process. Further details regarding rights to representation can be found in Document Formal Investigation Roles and Responsibilities using this [link](#).

6.1.10 Individuals must take all reasonable steps to attend investigatory; disciplinary or appeal hearings convened under this policy. If they or their companion cannot attend the disciplinary hearing, they must offer an alternative date for a hearing within a reasonable timeframe. If it is acceptable, the employer will re-arrange the hearing for the new date. Generally, and unless there are very mitigating circumstances, a hearing may only be rescheduled on one occasion. Should an individual fail to attend a hearing, this may be held in their absence.

6.1.11 Management reserve the right, with agreement, to inform a full time official/senior

local official of a trade union, professional organisation or staff association of any disciplinary proceedings or action involving a member.

6.1.12 In cases where disciplinary action is taken against an employee regarding allegations that could be a breach of the code of practice of the applicable Professional Registration Body, the Trust reserves the right to refer their case to that professional body. Consideration should be given in respect of what stage this should occur and an immediate referral at investigation stage may be required. Where the professional body then suspends, removes or places conditions on an employee's professional registration, the Trust may need to take further disciplinary action.

6.1.13 If an individual raises a formal grievance or formal complaint of bullying or harassment during the course of a disciplinary case, consideration will be given to suspending procedures whilst the grievance or complaint is addressed. Where the grievance and disciplinary cases are connected, it may be appropriate to deal with both issues concurrently. If an investigation finds that the grievance is groundless and that it was raised solely with the intention of avoiding or disrupting the disciplinary process, this will be resumed and consideration given to whether further disciplinary action should be taken in relation to this matter.

6.1.14 In order to comply with the Data Protection Act 2018, unauthorised electronic or digital recording of any meetings held as part of this procedure is not permitted by the Trust. This includes any covert recording or recording where an individual isn't aware that they are being recorded. Where covert recordings have been made, the Trust reserves the right to include this in disciplinary decisions and this could result in disciplinary action being considered. In circumstances where both parties agree to proceedings being audio/visually recorded, this should be by agreement in advance of the hearing commencing. If requested, a copy of this recording will be made available and terms for the retention of the recording shall be agreed.

6.1.15 All managers who Chair or sit on disciplinary hearing panels should be briefed appropriately and should ensure they stay up to date with best practice with the support and guidance of P&OD.

6.2 Delegation of Authority to Deal with Disciplinary Matters

6.2.1 The authority to deal with disciplinary matters is delegated in accordance with the schedule attached at Appendix 1 to these procedures. It should be noted that the Managers referred to in the schedule are the level to whom authority is delegated. However the Trust reserves the right, where it considers it appropriate, to delegate such authority to other Managers. Should the level of a Manager, against whom disciplinary action is being contemplated, be equal to or higher than that of the level described in the schedule, a more senior decision maker will be required. As a general rule, no Manager may dismiss an immediate report.

6.2.2 It is the manager with delegated responsibility who will, having reviewed the investigatory information, decide whether the matter needs to proceed to a disciplinary hearing.

6.3 Preliminary Investigation – Establishing the Facts

6.3.1 A formal conduct case should not normally be initiated until this step has been undertaken. It is acknowledged that this may not always be necessary or may be condensed when relevant facts have already been gathered.

6.3.2 When disciplinary allegations arise, initial consideration should be given to establishing whether, on first impression, a case exists which, if substantiated could lead to disciplinary action being taken. In-order to do this, the Responsible Manager should identify an appropriate person to undertake a preliminary fact-finding investigation. The Responsible Manager should be clear on the terms of the preliminary investigation, setting out what information may/will be required to make a determination. This process should be undertaken in partnership with People and OD and should involve the gathering of statements and other relevant factual evidence promptly from any colleagues involved or witnesses to the allegations before recollection of events fade.

6.3.3 Therefore, an objective and prompt preliminary examination of the issues and circumstances should be carried out to establish whether there are grounds for a formal investigation and/or formal action or if the matter can be resolved through other measures.

6.3.4 A template checklist for undertaking a preliminary investigation can be found at using this [link](#) .

6.3.5 The purpose of the preliminary investigation is to determine whether or not a case exists. It should be made clear to the individual involved that this is not a formal part of the disciplinary process, although they should be informed that statements taken and notes made during the preliminary investigation may be referred to should the matter become formal. The preliminary investigation should be completed as quickly as possible and the Preliminary Investigation Checklist fully completed and returned to the Responsible Manager, including relevant supporting evidence. However, the Responsible Manager should agree indicative timescales for the preliminary investigation based on the complexity of the issues.

6.3.6 The outcome of the Preliminary Investigation will be reviewed by the Responsible Manager who may decide:-

- That there is no case to answer and there is no requirement to pursue the matter further.
- That there is a case to answer and that it is appropriate for this to be addressed under the informal stage of this policy.
- That there is a case to answer and that, if the individual is agreeable to this, it is appropriate for this to be addressed as a sanction outside of a hearing – see section 6.10.

- That there is a case to answer and that it is appropriate for this to be addressed under the formal stage of this policy.

6.3.7 The individual will be notified in writing of the outcome of the preliminary investigation and the Responsible Manager will appoint an appropriate manager/Investigating Manager to undertake the next identified steps, keeping a record of their decision making in this matter.

6.4 Terms of Reference for Investigation

6.4.1 The Responsible Manager should ensure that clear Terms of Reference for the conduct investigation are prepared. This should include the allegations, the nature of the investigation and the timescales for the investigation. A template Terms of Reference document can be accessed using this [link](#).

6.5 Supporting Colleagues and Managing the Disciplinary Process

6.5.1 The following principles should be considered:-

- Being the subject of disciplinary allegations can be very upsetting and stressful for individuals, as well as other colleagues who may be affected.
- It is important that this process and any timeframes it contains are adhered to and that there are no unreasonable delays to the process.
- It is important throughout the procedure for the (investigating) manager to keep talking with both the individual and any other colleagues affected. Clear, regular and confidential communication can help to make sure individuals are kept informed of what is happening, have the opportunity to ask questions and can avoid stress and other mental health issues.
- Managers should agree the Investigation Communication and Welfare Plan ([link](#)) with the individual. This will ensure they receive clear, timely, comprehensive and sensitive information and regular progress updates until the matter is concluded.
- In addition to agreeing a keeping in touch plan, the individual should be given access to the following supportive measures.

6.5.2 Wellbeing Advocate - An appropriate impartial Wellbeing Advocate should be identified who can provide the individual with the necessary personal and pastoral support throughout the above process. The individual should be provided with the Wellbeing Advocate's contact details and they should be encouraged to make contact with them. The role of the Wellbeing Advocate is included in Document Formal Investigation Roles and Responsibilities using this [link](#).

6.5.3 Employee Assistance Programme – Individuals should be provided with the details of the Employee Assistance Programme provided by Vivup – Tel 03303 800658 or vivup.co.uk

6.5.4 Wellbeing Pack – Individuals should be provided with a copy of the Wellbeing Support Pack ([link](#)) which details the support services offered by the Trust.

6.5.5 Individuals should be encouraged to seek advice and support for their union representative where they are a member of a Trade Union. Where they are not a member of a Trade Union, alternative advocacy may be discussed with P&OD.

6.5.6 Where there are concerns about an individual's health or wellbeing, a referral to Occupational Health should be considered to seek advice.

6.5.7 Consideration should be given to the support that may be required by other individuals who are involved with the process as a witness and any of the above supportive measures may be made available to them

6.6 Suspension

6.6.1 In most cases, suspension from duty will not be necessary and the person involved will be able to continue doing their normal job whilst matters are investigated.

6.6.2 Where there appears to be serious misconduct, or risk to property or other people, for example where gross misconduct is alleged and where continued working may give rise to further misconduct or interference with the process of fair investigation, a period of suspension with pay may be considered while the concerns are being investigated. A period of suspension can support facilitation of proper investigation and prevent further misconduct or allegations. Where it is necessary to suspend, this is intended to be a neutral act, not a disciplinary action and it does not imply that any judgement has been made prior to completion of investigations. However, the Trust recognises the emotive impact suspension can have on individuals. It is important, therefore, that the appropriate senior manager should not exercise the right to suspend someone without proper grounds to do so and without full consideration of whether there is an alternative to suspension.

6.6.3 Suspension from duty must only take place should there be no other option that would ensure the safety of patients and colleagues, protect the integrity of the investigation and ensure the alleged misconduct does not take place again. Some examples of alternatives to suspension that must be considered are working under restricted duties, in an alternative environment, working from home where appropriate or on non-clinical duties.

6.6.4 Authority to suspend rests with the appropriate senior manager on duty at the time. Following receipt of information which may lead to a suspension, they may seek advice from a more senior manager on-call within the Trust before taking the decision to suspend. Advice must also be sought from a member of the People and Organisational Development Department.

6.6.5 The Suspension Risk Assessment and Guidance for Managers can be accessed using the following [link](#). This has been developed to be supportive of the principles of Just Culture and to assist with decision making around whether or not to suspend/redeploy or amend the duties of an employee. This should be completed by the appropriate manager who is requested to work through this risk assessment to ensure their decision and rationale for suspension are clearly documented. This should be done with advice from a member of the People and Organisational Development Department and a senior manager with authority to suspend, wherever possible.

6.6.6 Whenever possible a suspension meeting will be arranged to advise an individual of their suspension. If they are off duty and all reasonable enquiry fails to contact them at home, they should be informed in writing not to commence duty, but to contact the writer of the letter (or some other named officer) as a matter of urgency.

6.6.7 At the time of suspension, the individual will be notified of the reason for the suspension and, where established, its duration, together with advice that they should contact their trade union or professional organisation. This will be confirmed in writing to them as soon as possible. A template letter of suspension is included on the Employee Relations Tracker and a copy of the completed suspension letter must be sent to P&OD Business Partner Team. Victoria Pay Services should be advised in writing of the suspension with no reduction in normal pay.

6.6.8 In order to support the individual's emotional wellbeing, the individual should be allocated an impartial Wellbeing Advocate to provide them with pastoral support during the suspension and investigation. In addition, the individual should be informed of the Trust's Wellbeing Provision through the confidential VIVUP Employee Assistance Programme (EAP) on 0330 380 0658. Other emotional wellbeing resources are available through the South Yorkshire and Bassetlaw Health and Wellbeing Hub or www.getselfhelp.co.uk.

6.6.9 Any suspension or alternative arrangements to a suspension must be reviewed every two weeks and fortnightly contact maintained with the individual by the suspending manager or other designated person should the suspension extend beyond 2 weeks. The review will be undertaken by the investigating manager and their P&OD support. The purpose of this is to determine if these arrangements are still necessary and proportionate. The individual and their representative (where appropriate) will be notified in writing of the outcome of the review. If the original reasons for the suspension no longer apply, or an alternative arrangement becomes available, this should be discussed with the individual, who will be required to return to work if appropriate.

6.6.10 If alternative working arrangements to suspension become unworkable or if someone refuses to agree to them, suspension may be the only available option.

6.6.11 Where a period of suspension exceeds 12 calendar weeks, the case should be referred to the Chief People Officer or nominated deputy for their review. An explanation and an agreed action plan for the continuing period of suspension must be provided. This process should be repeated on a rolling 12 week basis should this be necessary.

6.6.12 Whilst on suspension individuals will continue to receive their normal pay which means an average of contracted pay, paid over the previous 3 months.

6.6.13 Where a suspended employee fails to engage with the disciplinary process and does not maintain contact with the Trust, the Trust reserves the right to suspend all pay, although such a decision can only be taken by a manager at Director Level.

6.6.14 Where an employee has been charged or convicted of a criminal offence and is in custody or on remand, and thus unavailable for work, the period of absence will be considered as unauthorised and therefore they will not be paid by the Trust. Where an individual is under legal restrictions, such as curfew, the Trust will consider the individual circumstances and, wherever appropriate, apply flexibility to enable the individual to continue to carry out their role or alternative duties.

6.6.15 Where an individual's registration with their professional body has been suspended or is subject to conditions of practice, reference should be made to the Trust's Professional Registrations Policy – Fitness to Practice – CORP/EMP 11. A lapse in registration can lead to suspension without pay or alternative employment arrangements; or possible dismissal where lapses in registration are not acted upon within a reasonable period of time.

6.6.16 During a period of suspension, it is expected that an individual should remain available for work. If professional registration is required, this should be maintained during suspension. It is also reasonable to expect attendance at meetings in normal working hours, unless a period of annual leave has been booked and notified in advance of the meeting.

6.6.17 Whilst on suspension, normal rules regarding the booking and taking of annual leave apply and suspended colleagues should continue to book and take annual leave as they would if they were not suspended. In common with others who remain at work, suspended colleagues will not normally be able to carry over annual leave entitlement between financial years. If someone requests a holiday during a period of suspension, and this can be approved, they should follow the usual process to book their holiday. The Trust can refuse or cancel someone's holiday while they're on suspension. The impact on the individual should be kept in mind, particularly if this affects a holiday they have already booked or planned. If cancelling a holiday, the individual should be given notice as usual.

6.6.18 Due to the nature of the concerns an individual may be advised that they cannot undertake any NHSP shifts at the Trust while the investigation is ongoing and the Trust reserves the right to notify NHSP of any individual restrictions.

6.6.19 If an individual becomes too ill to work during suspension, this should be reported to their manager following normal absence notification procedures. Where this means they are unable to attend meetings held under this procedure, advice will be sought from Occupational Health regarding their ability to participate. In terms of administration, sickness absence takes precedence over suspension and this period will be paid as per Section 14.2 of NHS Terms and Conditions. This has the effect that the suspension is placed on hold until the individual is well enough to return to work. Once they are well enough to return, if the matter is ongoing, the suspension would be reinstated.

6.6.20 In order to allow for an unhindered investigation, suspended colleagues should not contact other members of the Trust (other than their allocated Wellbeing Advocate and their trade union representative) or enter Trust premises (unless attending meetings connected with their suspension or medical appointments). If someone who is suspended wishes to contact another Trust colleague or enter Trust premises for any other reason, they should seek permission from their designated contact person.

6.7 Informal Resolution

6.7.1 Many unsatisfactory situations of a minor nature occur because of misunderstandings about the content of the job, because colleagues have different learning styles, or, in some cases, because individuals do not realise the full importance of complying with particular parts of their terms and conditions.

6.7.2 There will, therefore, be many opportunities to resolve difficulties of a minor nature without the need to resort to formal disciplinary procedures. This can take many forms which will generally be referred to as informal resolution and which will be conducted by the immediate manager. At this stage efforts will be made to determine whether there are problems facing the individual either at work or domestically which could have a bearing on the situation and efforts will be made to try and resolve any such difficulties.

6.7.3 At this stage, there will be no necessity or right to involve a companion, firstly because the matter is being addressed through informal resolution and secondly because many such discussions will take place, and indeed are best undertaken immediately. If an individual is dissatisfied with how the informal resolution process has been conducted, it will, of course, be open to them to raise this with their manager.

6.7.4 A written record should be made of any informal resolution discussions and provided to the individual, to enable clarification of what standards are expected, what follow up actions are required and what support needs to be put in place. This should be agreed and signed by both the manager and individual concerned.

6.8 Criminal Offences

6.8.1 The Trust reserves the right to take disciplinary action where alleged conduct or incidents, either within or outside the workplace, are subject to criminal or counter fraud investigations and, in certain circumstances, this could lead to dismissal. The Trust will consider the circumstances, the ability of the individual to fulfil their obligations in a satisfactory manner and their suitability for continued employment. This will include undertaking an assessment of the potential risk to patients and colleagues as well as if the matter has a direct bearing on the Trust's operation or causes reputational damage.

6.8.2 Where it appears that a criminal offence has been committed within employment (e.g. theft, fraud, assault etc.) the Trust will inform the LCFS, police or other appropriate parties.

6.8.3 Such cases will be dealt with, so far as possible, in accordance within this disciplinary procedure. However, this may not be possible if it interferes with either LCFS or police investigations or prejudices any court proceedings.

6.8.4 A senior manager will decide whether disciplinary action is appropriate at any stage during or after the police investigation, prosecution, or any appeal procedure. A criminal offence within employment may amount to gross misconduct and result in dismissal, even if it is a first offence.

6.8.5 Where separate disciplinary matters arise from the same incident, apart from those directly related to the alleged criminal offence, they will be investigated and dealt with in accordance with the disciplinary procedure.

6.8.6 Where an individual is unavailable for work due to a criminal conviction, this should be addressed as detailed in paragraph 6.6.14, where appropriate.

6.9 Formal Disciplinary Action

6.9.1 The selection from the disciplinary procedure of the sanctions appropriate for each breach of discipline is a matter of judgement for Responsible Managers having considered all the appropriate evidence at a disciplinary hearing and having regard to;

- [a] The seriousness of the disciplinary breach in question;
- [b] The circumstances or features of the particular case;
- [c] The employee's length of service and previous record;
- [d] Any relevant professional codes of practice or conduct;
- [e] Consideration of fairness, justice and consistency;
- [f] The requirements of employment legislation that the employer acts reasonably, having regard to equity and the substantial merits of the case.

6.9.2 The operation of this procedure will include one or more of the following options:

- [1] **A Recorded Verbal Warning**
- [2] **First Written Warning**
- [3] **Final Written Warning**
- [4] **Dismissal**

6.9.3 See Section 6.14 for full information regarding sanction time limits.

6.9.4 Managers are strongly advised to seek the guidance and/or the assistance of the Chief People Officer and P&OD, at any stage in the procedure but always when formal sanctions are being considered.

6.9.5 Disciplinary Hearing panel members will have had no previous involvement with the case.

6.10 Investigation

6.10.1 Where, following a properly conducted preliminary investigation (see section 6.3) the Responsible Manager believes there is a requirement for a formal disciplinary investigation, the individual should be advised accordingly of the nature of the allegations that are to be investigated and the arrangements made for an investigatory interview to be convened by the Investigating Officer.

6.10.2 After the Responsible Manager has given the individual notice of the allegation, the Investigating Officer will seek to establish the facts in accordance with the guidance given in Document Formal Investigation Roles and Responsibilities using this [link](#). In collecting evidence, the Investigating Officer has a duty to act in good faith. No less than 7 calendar days prior to being called to any disciplinary hearing, the individual must be given a statement of the Investigating Officer's findings and all available documentation necessary for him/her to make sense of those alleged facts. In hearing the case and weighing the evidence, it is for the Chair of the panel to decide the degree of weight they attach to written evidence, as opposed to that which can be challenged by cross questioning of witnesses.

6.10.3 Having investigated a case where the facts warranted the consideration of disciplinary action, the individual must be called to a disciplinary hearing. They must be informed in writing, in advance, of the allegations against them that, if founded, may result in disciplinary action, and of their right to be accompanied. At this hearing they must be given the opportunity to state their case, to call witnesses if required, and to respond to the investigating officer's findings. They should also be informed, in advance, of any witnesses that will be called by the Investigating Officer to the hearing. They should be given the opportunity to address and to make representation to the panel with authority to take disciplinary decisions, prior to any decision being made. Upon being informed of the disciplinary decision, the employee must also be informed as to their right of appeal (see section 6.15).

6.10.4 Where an employee is accused of a breach of disciplinary rules which falls short of gross misconduct and acknowledges and admits their actions, issuing a sanction outside of hearing may be appropriate. This should be identified at an early stage and before a formal investigation has been undertaken. A sanction outside of a hearing may be requested by the individual or their representative. Alternatively, this may be suggested by the investigating manager. However, to demonstrate engagement with this process, it must also then be requested, either by the individual or by the individual's representative.

6.10.5 Usually a sanction outside of a hearing would not require the full and normal investigation process to be undertaken and concluded. However, the individual requires confirmation of the allegations against them in writing ensuring they are clear on the detail of each allegation. A senior manager, usually General Manager / Head of Nursing, would be required to consider the request for a sanction outside of a hearing and can either agree to the request or reject the request. If the senior manager chooses to reject the request for a sanction outside a hearing the normal investigation and disciplinary hearing process will be followed. Any rejection should be accompanied by the rationale for this decision.

6.10.6 If, however, the Senior Manager chooses to agree to the request for a sanction outside of a hearing, then the Senior Manager will consider the allegations against the individual, seek advice from colleagues in the People & OD Directorate and if appropriate discuss any mitigating circumstances with the individual or their representative. After giving the matter due consideration the Senior Manager will arrange to meet with the individual and their representative, with support from P&OD, and confirm the level of sanction and any other remedial action required. This will be confirmed in writing to the individual.

6.10.7 Due to the nature of requesting a sanction outside of a hearing and the fact that the individual has admitted misconduct and accepted the allegations against them and the breach in Trust disciplinary rules, it is not anticipated that they will exercise their right of appeal against the sanction given. However, if they do choose to exercise their right of appeal the Trust reserves the right to undertake a full investigation into the matter and follow the disciplinary process outlined in this policy.

6.10.8 In all cases, investigations should be completed in a timely manner. If, for any reason, an investigation is still **on-going twelve weeks** after the alleged misconduct first came to light, the investigating manager will be required to notify the Chief People Officer in writing of the reason for the delay. The rationale will also be made available to the individual concerned.

6.10.9 The Trust reserves the right to involve independent parties in the disciplinary process. This could be internal managers with relevant skills or professional background and external specialists or agencies and could be at investigation or decision-making stage.

6.10.10 The main reason why the Trust might choose to involve an independent party would be:-

- Where legal privilege would be helpful
- To gain objectivity or preserve credibility, for example if the concerns relate to the reputation of the Trust and its culture, or where allegations are against very senior colleagues.
- To maintain impartiality and to avoid compromising the fairness of the process
- When the matter is (professionally) complex and to benefit from external experience when we do not have internal colleagues with the appropriate expertise - for example a finance specialist, if the allegations concern complex financial mismanagement

- When conducting procedures related to criminal or regulatory issues, for example where matters are investigated by Counter Fraud.
- When there is an internal lack of resource to address matters and to prevent undue delays to the process.

6.11 Disciplinary Warnings

6.11.1 If it is appropriate to the particular stage of the procedure to issue a warning, then a letter confirming the warning should be provided within seven days of the disciplinary decision. The letter of warning must include:

- [1] The nature of the disciplinary action and a clear statement of the misconduct, i.e. the allegations
- [2] The reason for the action, together with a summary of the facts on which the disciplinary action is being based;
- [3] What is expected of the individual in the future;
- [4] an explanation that this is a formal disciplinary warning which will be recorded and will be retained on the employee's personal file. The type of warning will be specified (e.g. verbal, first written warning or final written warning) as will any time limit given for improvement or review. (e.g. 6-18 months).

It must be made clear to the individual how this will be monitored and if this will take place at the end of the specified period or whether review will be a continuous process undertaken throughout the period. Similarly, the individual should be informed what the consequences might be in the event of further unsatisfactory behaviour and that this could be reviewed/assessed/determined at any time during the period of an active warning.

In cases where a training need has been identified, as part of the review process, appropriate arrangements will be made for the individual to receive any necessary instruction and/or training to afford them an opportunity to acquire skills to appropriately discharge the duties of the post for which they are employed (in exceptional cases retraining may not be either appropriate or practical, and in such cases they and their companion will be given the reasons as to why management have taken this view). Normal rights to be accompanied will apply if further action is contemplated/discussions are necessary.

- [5] Any warning will clearly state the period during which it will remain extant and/or upon the personal file for reference purposes;
- [6] Notice that any subsequent misconduct of the same or of a similar nature could result in further, more severe, disciplinary action;

[7] a statement of the employee's right and method of appeal.

6.11.2 All written warnings must be either handed to the individual in the presence of a management witness, be posted to their stated or last known home address using signed for delivery, or sent using a secure, verified e-mail address. A copy will be given to their companion.

6.11.3 In all cases where there is a quantifiable financial loss to the Trust that is proven to be attributable to an individual's actions, then the Responsible Manager at the disciplinary hearing must consider the provisions of Section 9.8 of the Fraud, Bribery and Corruption Policy and Response Plan (CORP/FIN 1 D) that outlines the process for the recovery of losses incurred to fraud. This is particularly relevant where a decision to dismiss is considered so that the Trust has the opportunity to recover losses from any final salary payments.

6.11.4 Records of disciplinary hearing warnings issued and/or circumstances of dismissal will be retained by managers for the time limit specified at paragraph 6.14. On expiry of this period of time a written summary of the circumstances of each case will be made by the manager and retained on the personal file. Original documents, e.g. witness statements, will be removed from the personal file. Any expired warnings will be disregarded for the issuing of further sanctions. Whilst they will not be relied on for disciplinary decisions, they may be relied on to demonstrate repeated patterns of same/similar conduct.

6.11.5 Additional action as a result of being issued with a disciplinary warning: If a formal disciplinary sanction is issued, the individual will not be eligible to receive a pay step (where one is due) during the period of the formal sanction. This will result in a delayed pay step in accordance with Section 5.3 of the Trust's Pay Progression Policy (CORP/EMP 56). In those situations, the manager should initiate a pay step review meeting before the expiry of the warning and if all other requirements have been met, they will progress to the next pay step effective from the date after the warning expires.

6.12 Dismissal

6.12.1 Where a decision has been taken to dismiss, in accordance with this procedure, then the facts of dismissal must be confirmed by letter. The letter will include:

- [1] The nature of the disciplinary action;
- [2] A statement of the full reason for dismissal, together with a summary of the facts leading to the decision;
- [3] Full details of relevant current warnings taken into consideration;
- [4] confirmation of the employee's right and method of appeal, giving time limits for appeal and stating how and to whom the appeal should be addressed.

[5] Whether details of the case will be referred to any outside agency for example a professional body, ISA or the issue of an alert letter.

6.12.2 The letter concerning the decision to dismiss should be provided, if practicable, within seven days of the decision, either being handed to the individual or by being sent using signed for delivery to their stated or last known home address, or sent using a secure, verified e-mail address. The letter will be signed by the person having delegated authority to dismiss (see Appendix 1).

6.13 Action Short of Dismissal - Transfer or Demotion

6.13.1 In addition to warnings and/or in place of other disciplinary outcomes a decision may be made to transfer or demote an individual. This decision cannot be made unless the misconduct was such to warrant dismissal, but has been reduced to another sanction when mitigating factors have been taken into account.

6.13.2 The individual will have a choice as to whether or not to accept these sanctions as an alternative to dismissal. If they refuse then dismissal will apply.

6.13.3 An individual who agrees to work at the downgraded position will accept that their wages / salary will be adjusted accordingly (i.e. protection of salary will not apply).

6.14 Time Limits

6.14.1 In order to ensure a measure of consistency in respect of the period for which warnings will remain extant (i.e. the period during which repetition of the same or a similar offence will result in automatic reference to a subsequent stage of the procedure) the following limits will prevail in respect of the different types of warning:

[1] A **Recorded Verbal Warning** will generally remain active for a period of six (6) months from the date of the hearing

[2] A **First Written Warning** will generally remain active for a period of twelve (12) months from the date of the hearing.

[3] A **Final Written Warning** will generally remain active for a period of eighteen (18) months from the date of the hearing.

6.14.2 If the individual is absent from work for a period of over 4 weeks during the warning period, this will be extended to reflect this.

6.14.3 Full written records of circumstances leading to the decision will be retained for in line with the NHS Records Management Code of Practice which is currently 6 years.

Retention begins once the case is heard and any appeal process completed. The record may be retained for longer, but this will be a local decision based on the facts of the case. The more serious the case, the more likely it will attract a longer retention period. Likewise, a one-off incident may need to only be kept for the minimum time stated. This applies to all cases, regardless of format.

6.14.4 Whenever a formal sanction is given, with exception of dismissal, the individual will be informed that the consequence of a failure to change the behaviour that has led to the warning could be further disciplinary action. Where a final written warning is issued, the individual should be informed that this could result in their dismissal.

6.15 Right of Appeal

6.15.1 Individuals have the following rights of appeal:

[1] against the issue of a recorded verbal warning or First or Final written warning, to the next higher level of management not previously involved. The appeal to be lodged within 21 calendar days of the date of the warning letter;

[2] against dismissal, to the Chief Executive of the Trust, within 21 calendar days of the date of the letter of termination or, alternatively, the date when they could reasonably have received the letter. Such appeals will be heard by a sub-committee of the Trust Board.

6.15.2 Such appeals should normally take place within five weeks of the receipt of the appeal by the Trust although it is acknowledged that there will be circumstances when it is required for this period to be extended. The individual shall be given at least 10 calendar days' notice of the appeal hearing. The outcome of any appeal hearing will be confirmed in writing.

7 TRAINING/SUPPORT

The training requirements of colleagues will be identified through a training needs analysis. Role specific education will be delivered by the service lead.

Managers should speak to their People Business Partner if they require any further guidance or support.

8 MONITORING COMPLIANCE WITH THE PROCEDURAL DOCUMENT

What is being Monitored	Who will carry out the Monitoring	How often	How Reviewed/ Where Reported to
All Disciplinary cases	Responsible line manager	Commencement of the informal stage	People Business Partner Team
Effectiveness of and non-compliance with policy	People Business Partners/Senior Mangers	Monthly	In conjunction with line managers and senior leadership teams
Suitability of Policy	People Business Partner Team	Ongoing	Monitor developments in good practice/legislation
<ul style="list-style-type: none"> Overview of themes and number of cases 	People Committee	Annually (or exceptionally)	Report considered and actions/changes commissioned

9 DEFINITIONS

None identified

10 EQUALITY IMPACT ASSESSMENT

The Trust aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are disadvantaged over others. Our objectives and responsibilities relating to equality and diversity are outlined within our equality schemes. When considering the needs and assessing the impact of a procedural document any discriminatory factors must be identified.

An Equality Impact Assessment (EIA) has been conducted on this procedural document in line with the principles of the Equality Analysis Policy (CORP/EMP 27) and the Fair Treatment For All Policy (CORP/EMP 4).

The purpose of the EIA is to minimise and if possible remove any disproportionate impact on colleagues on the grounds of race, sex, disability, age, sexual orientation or religious belief. No detriment was identified. (See Appendix 4)

11 ASSOCIATED TRUST PROCEDURAL DOCUMENTS

CORP/EMP 1 - Sickness Absence Policy

CORP/EMP 4 – Fair Treatment for All

CORP/EMP 11 - Professional Registrations Policy – Fitness to Practice

CORP/EMP 13 - The Conduct, Capability, Ill-Health and Appeals Policies and Procedures for Practitioners

CORP/EMP 14 – Freedom to Speak Up Policy ‘Speak up to make a difference’

CORP/EMP 25 – Capability Procedure: Managing Poor Performance

CORP/FIN 1D – Fraud, Bribery and Corruption Policy and Response Plan

CORP/EMP56 – Pay Progression Policy

12 REFERENCES

ACAS Code of Practice 1 – Disciplinary and Grievance Procedures. (Ref CP01)

ACAS Discipline and grievances at work – the ACAS guide (Ref H02)

www.acas.org.uk

The Data Protection Act 2018

Maintaining High Professional Standards in the Modern NHS (MHPS)

APPENDIX 1 – SCHEDULE OF DELEGATED AUTHORITY TO DEAL WITH DISCIPLINARY MATTERS

The Executive Directors may only be suspended/disciplined/dismissed by the Chief Executive or Acting Chief Executive in their absence.

Deputy Directors, Divisional/Directorate Managers, and Heads of Service may only be suspended/disciplined/dismissed by the Director of Service or equivalent.

All other individuals may only be suspended or disciplined by the appropriate Senior Line Manager, except in cases of potential gross misconduct. Individuals would then normally only be disciplined by the Divisional/Directorate/Business/Unit/Ward Manager, Heads of Nursing, Senior Managers acting in a General Manager capacity, Matrons or the Director of that service.

In the case of potential gross misconduct advice must be sought from the People & Organisational Development Department

APPENDIX 2 – DISCIPLINARY RULES FOR COLLEAGUES

This document forms part of your contract of employment

To help in your work, the following information sets out some of the circumstances when disciplinary action may arise:

[i] **Contractual Obligations** - As a member of the staff of the Trust, it is expected that at all times you will comply with the contractual requirements which you have entered into between yourself and your employer.

Your contract of employment, of which you have already received a copy, details the obligations which you have entered into in accepting employment.

[ii] **General Conduct** - All employees of DBTH will lead by example and role model the DBTH Way and our We Care values. The DBTH Way describes examples of behaviours we would expect to see and those we would not expect to see from all people working in the Trust. The Trust believes that all employees of DBTH have the capacity to lead and the DBTH Way acts as a guide and practical tool to ensure that all colleagues are living the DBTH Way and our We Care values. More information on the DBTH Way and the Trust's Visions and Values can be found via the following links <https://extranet.dbth.nhs.uk/dbth-way/> and <https://www.dbth.nhs.uk/about-us/our-values-and-vision/> You are reminded that your behaviour and actions both inside and outside of work should uphold the reputation of the Trust and your own professional/personal integrity. This includes postings on social networking sites.

[iii] **Attendance for Duty** - Your contract requires that you will present yourself for duty at the correct time and work for the hours stated. If you are subject to shift work your commencement of duty time may vary from week to week. You will be expected to present yourself for duty in such a manner that you can carry out your work competently and effectively.

[iv] **Smoking on Duty**. The Trust has a policy of no smoking on its sites. A copy of this may be seen on request. You are reminded that smoking in all areas of Trust premises is strictly forbidden.

[v] **Theft/Fraud** - Theft will involve any action in which property is removed without permission and subsequently used for your own purposes. There are occasions when it will not necessarily even involve the removal of property, e.g. the consumption of food which has been provided for patients or other people, making private telephone calls without declaring them, and passing through the official mail, letters that are not of official business.

Claiming payment for time that you did not work is also a form of fraud, e.g. making false entries on a time sheet or arranging for another person to clock you in or out.

Where disciplinary matters are associated with attempts to defraud or corrupt, then although normal disciplinary standards apply, the Trust will be required to notify the LCFS, Internal and External audit and, possibly, the Police.

[vi] **Personal Harassment** - As a member of staff of the Trust it is expected that you will uphold the Trust policy, that it is the right of every employee to work in an atmosphere free of personal harassment and that you should take steps to promote such a workplace.

Personal harassment may include; bullying, unwelcome remarks or suggestions, malicious gossip, practical jokes, offensive literature or pictures, gestures, unnecessary physical contact, physical assault.

[vii] **Criminal/Civil Offences** - All charges and cautions brought against you for any criminal or civil offence, whether connected with your employment or not, must be reported immediately to your Head of Department.

[viii] **Unauthorised Presence on Health Service Premises** - Staff are reminded that they should only be on Health Service premises for official purposes or in a private capacity in the same way as hospital visitors or as a visitor to an official or private function, except for those staff who are resident when they have access to their area of residence and to the hospital dining rooms.

[ix] **Private Business** - Private business arrangements in paid time are forbidden. Private business arrangements are where an individual member of staff undertakes other work during paid time, where patients and other members of staff are customers, the results of which provide additional personal income by way of cash or goods, i.e. running mail order catalogues.

[x] **Confidentiality** - The nature of all Health Service work especially that relating to information about patients and staff is highly confidential. Any unauthorised disclosure to any outside person or agency or misuse of information will be treated as a serious breach of discipline. All staff are required to safeguard personal data in accordance with the requirements of the Data Protection Act 2018. If you are ever in doubt please consult with your Head of Department or Manager.

[xi] **Gifts** - All staff are strictly forbidden to seek gifts, including money, in respect of any services provided. Staff are also strictly forbidden to accept money, or any gifts which are offered as an inducement to provide or accept services.

[xii] **Declaration of Interests** - All employees should declare such interests to the Trust where they have a relevant and material interest in a business or other activity which may

lead to the supply of either goods or services to the Trust. This also includes declarations of secondary employment with another employer.

[xiii] **Unauthorised Use of Computer Systems** - Staff must not make unauthorised access to, modification to or copy computer material in breach of the Computer Misuse Act 1990. Staff should only access information required to do their job

Access to Internet sites which are not work related is strictly forbidden, as is the download of any programs or utilities which are not supported by Computer Services or which may affect the computer systems.

Receiving, sending or distributing offensive material, e.g. racist, sexist or pornographic material will result in disciplinary action, possibly dismissal.

The examples quoted above do not constitute an exhaustive list.

Gross Misconduct

Gross misconduct is an act which is so serious that it overturns the employment contract, and will justify summary dismissal (this is dismissal without notice)

It is for the Trust to determine if an act is gross misconduct, however examples of what gross misconduct might include are;

- Theft or fraud
- Physical violence or bullying
- Deliberate and serious damage to property
- Serious misuse of an organisation's property or name
- Deliberately accessing internet sites containing pornographic, offensive or obscene material
- Serious insubordination
- Unlawful discrimination or harassment
- Bringing the organisation into serious disrepute
- Serious incapability at work brought on by alcohol or illegal drugs
- Causing loss, damage or injury through serious negligence
- A serious breach of health and safety rules
- A serious breach of confidence

Appeals

You will have a right of appeal if you have been subject to disciplinary action resulting in your employment being terminated this will be submitted to the Chief Executive. However, if you are dissatisfied with the issuing of a verbal warning or written warning, you may appeal in writing to the next higher level of management.

All staff are reminded that they may have access to the official disciplinary procedure operating within the Trust via the Trust intranet.

APPENDIX 3 – SUPPORTING TOOLKIT

Below is a list of the supporting documents that are available to reference for each of the stages of the conduct procedure. These are available on the hive using the following [link](#). They are also available on the ER Tracker at the appropriate stage along with related template letters and documents.

Preliminary Investigation

- Preliminary Fact Finding Checklist
- Wellbeing Support Pack

Investigation

- Formal Investigation Roles and Responsibilities
- Investigation Communication and Welfare Plan
- FAQ's – Request to Attend Investigation – Respondent
- FAQ's – Request to Attend Investigation – Witness
- Script Introduction to Investigation Meeting – Witness
- Script Introduction to Investigation Meeting – Respondent
- Template Management Statement of Case
- Template Investigation Meeting Notes
- Template Terms of Reference
- Wellbeing Support Pack
- Script – Sanction Outside of a Hearing

Disciplinary Hearing

- Disciplinary Hearing Script
- Meeting Request Form
- Wellbeing Support Pack

Appeal

- Appellant Statement of Case Guidance
- Appeal Panel Guidance

Suspension

- Suspension Guidance

- Suspension Script
- Wellbeing Support Pack

APPENDIX 4 - EQUALITY IMPACT ASSESSMENT PART 1 INITIAL SCREENING

Service/Function/Policy/Project/ Strategy	Care Group/Executive Directorate and Department	Assessor (s)	New or Existing Service or Policy?	Date of Assessment
Disciplinary Policy	People & OD	Diane Culkin	Existing	29 February 2024
1) Who is responsible for this policy? People & OD				
2) Describe the purpose of the service / function / policy / project/ strategy? Set out principles and procedures for disciplinary arrangements in the Trust				
3) Are there any associated objectives? Fairness and consistency of process in line with current employment law and ACAS Code of Practice				
4) What factors contribute or detract from achieving intended outcomes? – Capability of managers and understanding of Policy				
5) Does the policy have an impact in terms of age, race, disability, gender, gender reassignment, sexual orientation, marriage/civil partnership, maternity/pregnancy and religion/belief? No				
<ul style="list-style-type: none"> • If yes, please describe current or planned activities to address the impact 				
6) Is there any scope for new measures which would promote equality? No				
7) Are any of the following groups adversely affected by the policy?				
Protected Characteristics	Affected?	Impact		
a) Age	No			
b) Disability	No			
c) Gender	No			
d) Gender Reassignment	No			
e) Marriage/Civil Partnership	No			
f) Maternity/Pregnancy	No			
g) Race	No			
h) Religion/Belief	No			
i) Sexual Orientation	No			
8) Provide the Equality Rating of the service / function /policy / project / strategy – tick (✓) outcome box				
<input checked="" type="checkbox"/> Outcome 1	<input type="checkbox"/> Outcome 2	<input type="checkbox"/> Outcome 3	<input type="checkbox"/> Outcome 4	
<i>*If you have rated the policy as having an outcome of 2, 3 or 4, it is necessary to carry out a detailed assessment and complete a Detailed Equality Analysis form – see CORP/EMP 27.</i>				
Date for next review:		February 2027		
Checked by:		Adam Evans		Date: 29 February 2024