



Policy:

HR 001 Disciplinary

Executive Director Lead	Director of Human Resources
Policy Owner	Senior HR Advisor
Policy Author	HR Advisor

Document Type	Policy
Document Version Number	V5
Date of Approval By PGG	28 June 2021
Date of Ratification	13 July 2021
Ratified By	PEOPLE COMMITTEE
Date of Issue	August 2021
Date for Review	31/12/2022 (Extension approved from 30/06/2022)

Summary of policy

Provide a summary description of the policy

Target audience	All staff employed by the Trust
------------------------	---------------------------------

Keywords	Disciplinary, Conduct, Suspension
-----------------	-----------------------------------

Storage & Version Control

Version 5 of this policy is stored and available through the SHSC intranet/internet. This version of the policy supersedes the previous version (V4 October 2017). Any copies of the previous policy held separately should be destroyed and replaced with this version.

Version Control and Amendment Log

Version No.	Type of Change	Date	Description of change(s)
1.0	Disciplinary Policy Reviewed and amended	June 2017	A number of amendments introduced
2.0	A number of suggested changes from JPG	August 2017	Amendments made during consultation with staff side.
3.0	Changes from PGG	Sept 2017	Changes suggested by Trust Counter-Fraud Specialist
4.0	Approved by EDG	Sept 2017	Approved
5.0	Disciplinary Policy reviewed and amended	April 2021	Considerable change to policy to align with focus on early resolution and informal learning

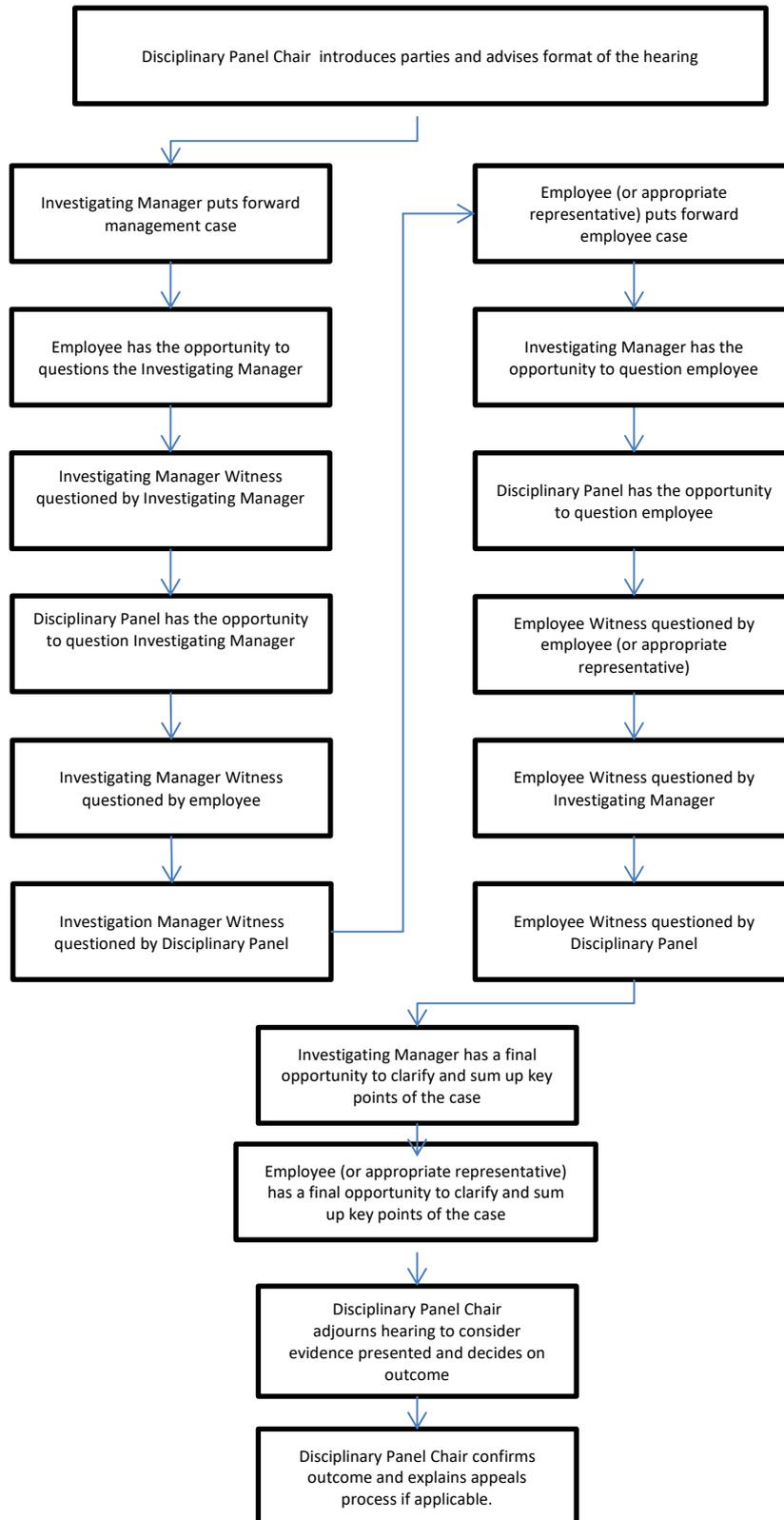
Contents

Section		Page
	Version Control and Amendment Log	
	Flow Chart	1-2
1	Introduction	3
2	Scope & Purpose of this policy	3
3	Policy Statement	4
4	Before consulting this policy and proceeding with Disciplinary action	5
5	Duties	
	5.1 Managers	6
	5.2 Employees	6
	5.3 HR Advisors and HRBP (Human Business Partners)	6
	5.4 Trade Union Representatives	6
6	Procedure	
	6.1 Formal Disciplinary Sanctions: Formal stage 1 – Recorded warning	6
	6.2 Formal stage 2 – First written, formal stage 3 – Final written warning and formal stage 4 – Dismissal	7
	6.3 Requesting warnings without a formal hearing	7
	6.4 Employee Support	8
	6.5 Disciplinary hearing	8-9
	6.6 Outcome of Disciplinary Hearing	9-10
	6.7 Failure to attend hearings	10
	6.8 Deferment of incremental progression	10
	6.9 Authority to deal with disciplinary hearing matters	10-11
	6.10 Rights to Representation	11
	6.11 Adult and children’s safeguarding team	12
	6.12 Referral to Disclosure and Barring Services (DBS) (formerly Independent Safeguarding Authority (ISA))	12-13
	6.13 Criminal Offences and Offences Committed Outside Work	13
	6.14 Right to appeal	13-14
	6.15 Appeal hearing	14-15
	6.16 Disregarded warnings	15
	6.17 Right to curtail procedure	15-16
	6.18 Timescales	16-17
7	Development, consultation and approval	17
8	Audit, monitoring and review	18
9	Implementation plan	18 - 19
10	Dissemination, storage and archiving (control)	19
11	Training and other resource implications	20
12	Links to other policies, standards, references, legislation and national guidance	20
13	Contact details	20
	APPENDICES	
	Appendix A - Roles and Responsibilities Involved in Managing Cases of Misconduct	21-24
	Appendix B - Guidance to Classification of Disciplinary Offences	25-27

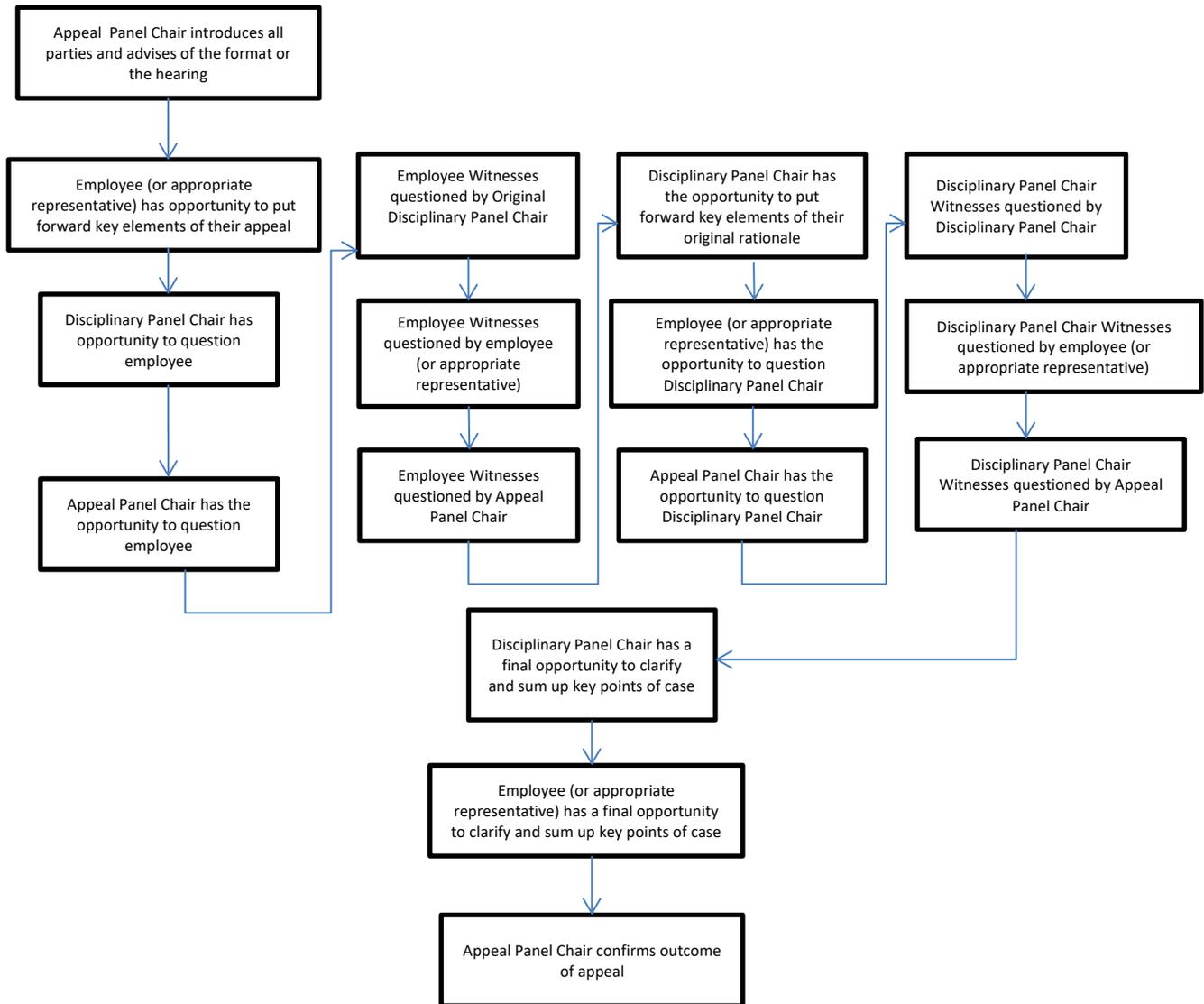
	Appendix C - Authority to Deal with Disciplinary Matters	28
	Appendix D - Suspension from duty	29-30
	Appendix E – Equality Impact Assessment Process and Record for Written Policies	31-32
	Appendix F – New/Reviewed Policy Checklist	33-34

Flowchart: Disciplinary Hearing (Written, Final Written and Dismissal)

The hearing will only take place following formal investigation has been completed and Commissioning Manager has recommended to proceed to a disciplinary hearing



Flowchart: Appeal Hearing



1 Introduction

Sheffield Health and Social Care Trust requires high standards of conduct from everyone and is committed to helping people improve and learn from mistakes. This policy and procedure is designed to ensure a fair, systematic and consistent approach is taken when an employee's behaviour or action is in breach of workplace rules or falls short of the expected standards.

The fair treatment of staff supports a culture of fairness, openness and learning in the NHS by making staff feel confident to speak up when things go wrong, rather than fearing blame. An objective and prompt examination of the issues and circumstances should be carried out to establish whether there are truly grounds for a formal investigation and/or for formal action. Alternatives to formal action should always be considered where appropriate. This policy is intended for use where the fact-finding investigation has identified no alternatives that sufficiently address the concerns. Similar Mersey Care we as a Trust are going to embrace a Just and Learning Culture and improvements has centred on the desire to create an environment where staff feel supported and empowered to learn when things do not go as expected.

This policy has been developed in consultation with the Trust's recognised trade unions and is in accordance with the ACAS Code of Practice on disciplinary and grievance procedures.

Where an employee's ability to do their job is affected by a lack of skill or knowledge, or ill health, this will be managed by following the Capability Policy.

2 Scope & Purpose of this policy

The Disciplinary Policy and procedure provides a framework to manage concerns about someone's conduct in a fair and timely way. It aims:

- To help and encourage employees to achieve and maintain acceptable standards of conduct
- To ensure that fair, equitable and reasonable action is taken where acceptable standards of conduct are not maintained
- To ensure that unacceptable conduct is addressed promptly and appropriately

This Policy will be applied to all employees of the Trust and where allegations are made in respect of doctors. There is a separate policy (Disciplinary, Capability, Ill health and Appeals for Medical Practitioners) which sets out the processes involved. This policy will apply to any areas not dealt with by that policy and with areas (such as conduct) which are for consideration under this policy subject to the appropriate modifications having been made to the procedural steps involved. Other individuals who contribute to the service of the Trust e.g. volunteers, students on placement, council employees may be subject to separate processes as appropriate.

In applying this Policy, the Trust will ensure that it does not discriminate directly or indirectly as set out in the Trust's Equal Opportunities and Dignity at Work Policy.

In respect of roles that require professional registration such as NMC, GMC, HCPC and PPA, where there are significant grounds for concern, advice from the appropriate governing body is available. However, the above professional registrations are examples and not exhaustive. Where professional registration is applicable to the role, the People Department should be contacted for any further details and before approaching appropriate governing bodies.

3 Policy Statement

Before proceeding with disciplinary action, managers should try to resolve minor matters of concern informally. For guidance on initial fact-finding and formal investigations, please refer to the Fact-finding & Investigation Guidelines for Managers, located in the Document library of the Trust's intranet). If informal approaches do not bring about improvement or if alleged misconduct is sufficiently serious, formal stages of this procedure may be followed.

Managers will ensure that all action taken under this policy and procedure is reasonable and proportionate. At an early stage, employees will be told why disciplinary action is being considered and they will be given the opportunity to respond to allegations before decisions about formal sanctions are taken. Employees will not normally be dismissed for a first breach of discipline except in the case of gross misconduct (see appendix B).

The Trust will consider disciplinary action against an employee for actions inside or outside of work which may have a bearing on an employee's continued employment or on the reputation of the Trust. Employees must notify their manager immediately of any criminal charge, conviction or any restrictions imposed by a professional body relevant to their employment. Failure to do so may result in disciplinary action and potentially could constitute gross misconduct.

If they have additional employment (either within the Trust or elsewhere) then they must notify their line manager as soon as possible of any actual or potential disciplinary proceedings, which they have been aware of, taken against them (including any suspension or change in duties/location). Failure to do so may result in disciplinary action and potentially could constitute gross misconduct.

This policy aims to deal quickly but fairly with disciplinary issues, taking into account current employment law and wider legislation.

Where capability issues are identified, such as Inadequacy of skills, Inadequacy of professional insight and Poor performance, line managers should consult the Capability Policy.

Repeated certified sickness and long-term sickness will not be the subject of the Disciplinary Policy but will be dealt with under the appropriate Promoting Attendance and Managing Sickness Absence Policy.

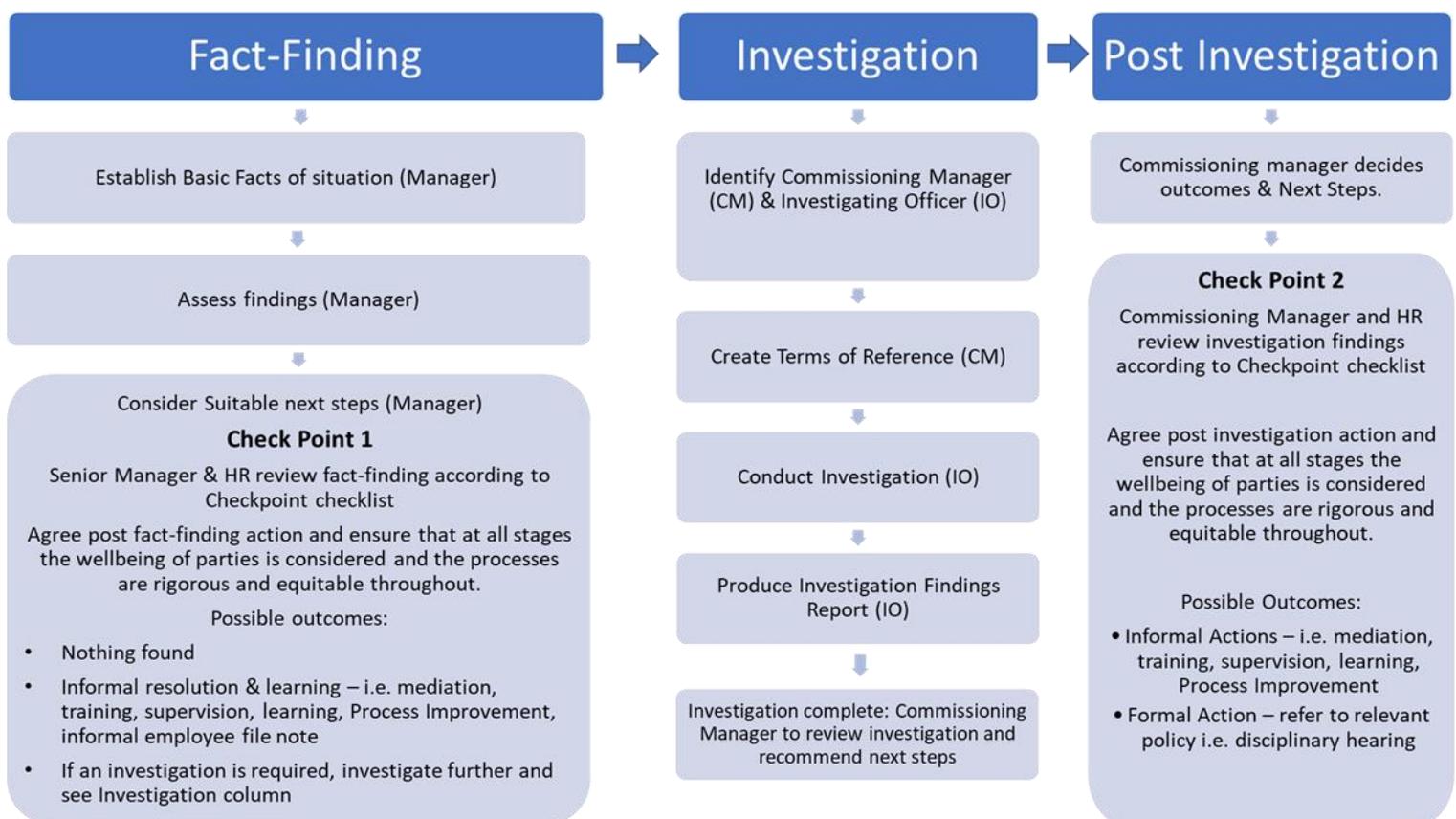
Disciplinary cases will be treated sensitively and confidentially. Information will only be shared with those who have a legitimate right to be informed in accordance with GDPR, formerly the Data Protection Act 2018 and the Common Law Duty of Confidentiality. Breaches of confidentiality by any party may result in disciplinary action. Standard Operating Procedures agreed between Human Resources and the Information Commissioner's Office (ICO) will be followed.

All managers who Chair or sit on hearing Panels must have appropriate and up to date training on managing / chairing disciplinary cases. Such training should involve appropriate refreshers within three years of the hearing.

4. Before consulting this policy and proceeding with Disciplinary action

A just and learning culture requires a balance of learning with accountability and assurance that staff and organisations take responsibility for making changes to help people work safely. Threats to this kind of culture are apparent when staff are inappropriately blamed or face suspension following an incident, or are subjected to disciplinary action and sometimes dismissed. Too often people involved in complaints, incidents and claims are not supported, and instead they potentially face disciplinary processes which can lead to a culture of fear.

Before consulting this policy, employees should consult the Fact-finding & Investigation Guidelines for Managers located in the Document library page of the Trust's intranet. Consulting this document prior to proceeding with Disciplinary action ensures all relevant steps have been followed, see below;



5 Duties

Appendix A sets out roles and responsibilities involved in managing cases of misconduct. This section outlines responsibilities for upholding standards of conduct.

- 5.1 **Managers** must ensure that their people are aware of the required standards of conduct and handle disciplinary concerns fairly and promptly in accordance with this policy and procedure. They are responsible for promoting a culture in which concerns are dealt with openly and fairly, with an emphasis on learning from mistakes. Managers must seek advice about formal disciplinary cases from their HR Advisor.
- 5.2 **Employees** are required to maintain good standards of behaviour and comply with the policy and procedure. Employees are expected to raise concerns about colleagues' behaviour to an appropriate manager, especially where there could be consequences for patient safety. The Unacceptable Behaviours Policy or relevant reporting policies may apply.
- 5.3 **HR Advisors and HRBP (Human Resource Business Partner)** will advise and coach managers, commissioning managers and panel chairs to develop the skills necessary to deal with cases confidently and effectively. The People Department will, with trade union representatives, ensure that the policy is regularly reviewed and monitored.
- 5.4 **Trade Union representatives** will work in partnership with managers to ensure that the policy and procedure is applied in a fair and consistent manner. Where an allegation arises, trade union representatives will work with other stakeholders to ensure that decisions can be taken promptly, thereby minimising staff anxiety.

6 Procedure

6.1 Formal Disciplinary Sanctions: Formal stage 1 – Recorded warning

If conduct does not meet acceptable standards and is considered by the line manager to be minor, it should be dealt with at the lowest formal level with the employee being issued with a Recorded Warning. Wherever possible, this approach should be considered in order to resolve concerns speedily and reduce escalation of minor incidents.

The outcome of the formal disciplinary action will be notified to the employee in writing stating the reason for the action being taken. The level of action and any recommendations will also be communicated to the employee. At this stage the warning will remain live for 6 months.

If a hearing at the level is necessary, the investigation and any subsequent disciplinary hearing would be conducted by the Investigating Manager after agreement with the Commissioning Manager.

The Investigating Manager will share with the employee 20 working days in advance of the hearing, a brief written statement focusing on the main points of his/her case along with any documentary evidence to be presented in the hearing.

6.2 Formal stage 2 – First written, formal stage 3 – Final written warning and formal stage 4 – Dismissal hearings

If the first disciplinary offence is of a more serious nature, or if a further offence occurs, consideration shall be given to issuing a First Written Warning (formal stage 2) to the employee. The outcome of the formal disciplinary action will be notified to the employee in writing stating the reason for the action being taken. The level of action and any recommendations will also be communicated to the employee. At this stage the warning will remain live for 12 months.

While any warning remains live, any future misconduct during this time, will be considered when reviewing necessary action and where appropriate, the level of hearing convened.

The outcome of the formal disciplinary action will be notified to the employee in writing stating the reason for the action being taken. The level of action and any recommendations will also be communicated to the employee. At this third stage the warning will remain live for 18 months.

The outcome of any formal disciplinary action will be notified to the employee in writing, stating the reason for the action being taken. The level of action, the length any documentation will remain live on file and any recommendations required.

The employee will be provided with a written reason for dismissal, the appropriate period of notice (or pay in lieu of notice), and the date on which employment was terminated.

For further information on the rights to appeal, see section 17.

6.3 Requesting warnings without a formal hearing

Warnings up to and including Stage 3, Final Written Warning – without a Disciplinary Hearing;

Many employees find attending a Disciplinary Hearing a distressing experience. Often it is unavoidable and support is available, however, employees are entitled to accept formal warning(s) for actions which are considered short of dismissal without proceeding with a full Disciplinary Hearing where:

- Responsibility for the misconduct is accepted
- That the level of warning issued is accepted by the employee as fair and consistent

Employees have an option to request that the Commissioning Manager conclude the disciplinary process by issuing a warning outside of a formal hearing (see Appendix C for Authority to Deal with Disciplinary Matters). This request may be made at any stage during the investigation. Where possible the request should be before a Disciplinary Hearing is arranged and the information packs have been sent out. A colleague or Trade Union Representative may make the request on the employee's behalf.

In these circumstances, the Commissioning Manager may issue the warning without holding a full hearing and confirm the warning in writing. The warning will remain live on record as if it had been issued at a Disciplinary Hearing.

The Commissioning Manager will inform the employee of the level of the warning to be applied and give the employee five working days to confirm they agree to this course of action.

Should the employee reject the level of warning the matter will revert to a formal Disciplinary Hearing.

6.4 Employee Support

Being subject to allegations of misconduct can be very upsetting and stressful for the employee and other colleagues affected.

It is important throughout the procedure for the manager to keep talking with both the employee and any other staff affected. Clear, regular and confidential communication can help make sure employees are kept informed of what is happening, have the opportunity to ask questions and can avoid stress and other mental health issues.

Where there are concerns about an employee's health or wellbeing, Occupational Health advice will be obtained.

Employees are entitled to access Workplace Wellbeing for confidential counselling support. In addition, the Trust will consider where practicable identifying a suitable employee to give confidential support outside of the investigative process to someone who is subject to disciplinary action. The employee identified must be willing to undertake this role.

All employees involved with an investigation may need additional support. Employees are actively encouraged to seek support and guidance from:

- **Trade Union Representative** – As above
- **Managers** – Available to give advice and offer guidance on possible resolutions. Where an approach is made to a manager involved in the disciplinary process, consideration should be given to directing the employee to an independent manager to prevent any conflict of interest in completing the investigation
- **Human Resources** – Available to give advice on the procedure and offer guidance on possible resolutions. Human Resources may also be asked to support management representatives in the formal stages of the policy
- **Occupational Health Services** – Can be accessed as a self-referral, or via a management referral
- **Workplace Wellbeing** – Is a self-referral counselling service for all employees of the Trust. Details of how to contact Workplace Wellbeing can be found on the Trust's intranet page
- **Health and Wellbeing Intranet Pages** – These can be found on the Trust's Intranet

6.5 Disciplinary hearing

The employee will be informed by the Commissioning Manager of a decision to hold a formal disciplinary hearing in writing, which will detail the allegations, the maximum sanction available, date and place of the hearing and when the management report will be received.

An employee will be advised of their right to be accompanied by a representative of their choice at all stages of the process. This will be a Trade Union Representative or work colleague. If in particular circumstances these arrangements are not appropriate, the employee may request that alternative representation be allowed. Disciplinary processes will not, however, be unreasonably delayed to accommodate representation.

A full management report giving details of the investigation, statements and copies of appropriate documentation to be submitted by the Investigating Manager to the Disciplinary Panel Chair and the employee (and their representative if appropriate) at least 20 working days prior to the hearing at stages 1 and 2, and 30 working days prior to the hearing at stages 3 and 4.

The employee and their representative, if appropriate have the opportunity to submit a full report outlining their case to the Disciplinary Panel Chair and the Investigating Manager at least 5 working days prior to the hearing.

The Disciplinary Panel Chair will have the opportunity to review both reports prior to the hearing and request additional information if this is felt appropriate, advising both parties that this has been done.

The hearing should comprise of a Panel of at least two, one of whom should be a member of the People Department to support the Disciplinary Panel Chair. The role of the People Department of the Panel will be advisory and other advisory panel members may also be appointed. The Disciplinary Panel Chair will determine the extent of such additional support depending on factors such as the complexity and/or seriousness of the issues. ACAS Guidance states that the disciplinary hearing panel should **not** include either the Commissioning Manager or the Investigating Manager

At the hearing, the Investigating Manager will put forward the details from the investigation. The employee or their representative will have the opportunity to put forward the employee's case including mitigating circumstances.

Either party can ask questions during the hearing to clarify any points raised and witnesses should be called where their evidence is material to the case.

Both sides will then have an opportunity to summarise their case before the hearing panel adjourns. The panel chair will adjourn the hearing to consider the details of the case. Following an adjournment to give full consideration to the evidence presented, the Manager will reconvene the meeting to give his / her decision. The outcome could be a disciplinary recorded warning, dismissal or no formal action to be taken. There is one decision-maker (the Disciplinary Panel Chair although two additional members of the panel may assist with deliberations. For example, the People Department and another advisor as appropriate.

6.6 Outcome of Disciplinary Hearing

Where possible the Disciplinary Panel Chair will give a decision on the same day as the hearing which will normally be confirmed in writing within 5 working days. However, it is important that matters are considered fully and the Disciplinary Panel Chair may require further time to deliberate. In such cases the Panel Chair will indicate

to the employee/representative the timeframe which will apply and seek to agree the arrangements which will apply e.g. when the decision will be communicated in writing.

In some cases, the Panel Chair may decide that a decision cannot be made until further information is obtained. If this is the case the Panel Chair can adjourn the hearing and specify the arrangements which will be made to obtain such further information including ensuring that all parties have an ability to receive and comment/challenge any such additional information. This will normally be accomplished by the information being made available prior to resumption and then considered in line with normal procedure on resumption (e.g. if there is a need to recall a witness).

6.7 Failure to attend hearings

The employee should inform the Disciplinary Panel Chair if they are unable to attend their disciplinary hearing on the arranged date and give reasons for this. The employee may request an alternative date, which is set within 10 working days, to take place within a reasonable timescale. This needs to be done as soon as possible and the employee needs to seek availability of their representative at the earliest opportunity. If this date is not appropriate then a mutually agreed date should be sought which is consistent with ensuring the matter can be dealt with as promptly as possible.

If the employee is unable to attend the disciplinary hearing as arranged it may, depending on the circumstances, be postponed at the discretion of the Disciplinary Panel Chair. And if agreement cannot be reached then the Panel Chair may specify a further date for the hearing that is set within 10 working days and to take place as soon as practicably possible after the date which was originally specified.

6.8 Deferment of incremental progression

Salary increments will be withheld during any period of a live formal warning in accordance with Agenda for Change and Trust Policy. Where an employee is awaiting a decision regarding a disciplinary issue, either on suspension, or in work during the investigation, no action will be taken to withhold the increment.

Where an employee has a live, unspent warning, their pay increment will be withheld until either the following year or when the formal warnings are spent, whichever is the latest. The employee's line manager must contact payroll to stop the incremental payment.

6.9 Authority to deal with disciplinary hearing matters

Authority to deal with disciplinary matters is outlined in Appendix C.

Hearings will be conducted by appropriately skilled managers, who may be supported by the People Department or specialist advisor and will be kept at the lowest level possible to allow for appeals (refer to appendix C).

In certain circumstances, it may be necessary for a manager / director from another service area to carry out disciplinary investigations and duties. The People Department should be consulted at this point to give advice and agree who is the most suitable person to conduct the investigation. If employees or representatives have any other concerns, they should raise this immediately.

6.10 Rights to Representation

The Trust recognises the right of all employees to be accompanied by a representative. A Trade Union representative who is not an employed official must have been certified by their union as being competent to accompany a worker. It is the responsibility of the employee to organise their own representation.

To exercise this right to be accompanied, employees must make a reasonable request. What is reasonable will depend on the circumstances of each individual case. However, it would not be reasonable for employees to insist on being accompanied by a representative whose presence would prejudice the hearing. The disciplinary process will not be delayed unreasonably to accommodate the availability of the representative.

It is the responsibility of the employee to make arrangements for any such representation in good time. Where the employee notifies the manager, who had convened the meeting that there is no representative available then consideration will be given to the provision of an alternative date which is mutually acceptable to all parties consistent with the legislative guidance and ensuring that the matter is dealt with promptly. In such cases the manager should contact the People Department for further advice.

The representative should be allowed to address the hearing to put forward and sum up the employee's case and confer with the employee during the hearing. They do not, however, have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the employee from explaining their case. taking into account any reasonable adjustments that may be needed.

In circumstances where disciplinary action is being considered against a Trade Union representative, and although normal disciplinary standards apply to their conduct as employees, the full time official will be notified of any circumstances which may result in disciplinary action being taken against them. Discussions will then take place with the full time official as per ACAS code of conduct. However, the disciplinary process will not be unreasonably delayed to accommodate discussion of the circumstances.

Employees have the right to be accompanied by a Union Officer / Certified Union Representative or work colleague. The right to question anyone at the hearing is reserved for a Union Officer / Certified Union Representative and other panel chairs.

Ex-employees are still 'workers', who are entitled to be accompanied in disciplinary hearings. They have the same right to be accompanied as any current employee of the Trust, and they can choose a current or former employee of the Trust or a union employee or official to accompany them.

6.11 Adult and children's safeguarding team

Where it is alleged that an employee has behaved in a way that has harmed or may have harmed a child or vulnerable adult or may have behaved in a way that indicates he/she may be unsuitable to work with children or vulnerable adults, then the Trust's Safeguarding Team must be informed. The Safeguarding Team may wish to undertake their own procedures in this regard and it may be appropriate for a member of the safeguarding team to be involved in the investigation or be on any subsequent disciplinary panel. This should be taken into consideration when undertaking disciplinary action to ensure that both processes work harmoniously.

Concerns must be reported in accordance with 15.3 below to the **Disclosure and Barring Service (DBS)** formally the Independent Safeguarding Authority (ISA). The Investigating Manager (with support from the relevant HR Adviser) and the Assistant Director of Nursing are responsible for making the referral to DBS and for informing the Executive Director of People and Chief Nurse.

6.12 Referral to Disclosure and Barring Services (DBS) (formerly Independent Safeguarding Authority (ISA))

The Trust has a duty to refer matters to the DBS in certain circumstances for consideration for the inclusion of an individual on the Barred List. The Line manager in consultation with a Senior Operational Manager should ensure the below conditions are reviewed before proceeding.

There are two conditions; both of which must be met to trigger a referral to the DBS. A referral must be made to the DBS when the Trust:

1. Withdraws permission for an individual to engage in regulated or controlled activity* or would have done so had that individual not resigned, retired, been made redundant or been transferred to a position which is not regulated or controlled activity, because
2. They think that the individual has:
 - Engaged in relevant conduct;
 - Satisfied the harm test; or
 - Received a caution or conviction for a relevant offence

(*Regulated Activity as defined by the Safeguarding Vulnerable Groups Act 2006). The referral to the DBS, if needed, should under normal circumstances be made following the outcome of the disciplinary hearing. The disciplinary outcome will dictate whether a referral is needed, i.e. did the Trust dismiss or remove the person from working in a regulated activity.

The Safeguarding Vulnerable Groups Act 2006 has extended the definition of vulnerable adults to include all patients' receiving treatment within a health setting.

'Relevant Conduct' is any conduct:

- That endangers a child or vulnerable adult or is likely to endanger a child or vulnerable adult;
- If repeated against or in relation to a child or vulnerable adult, would endanger them or would be likely to endanger them

- That involves sexual material relating to children (including possession such material)
- That involves sexually explicit images depicting violence against human beings (including possession of such images) if it appears to DBS that the conduct is inappropriate; or
- Of a sexual nature involving a child or vulnerable adult, if it appears to the DBS that the conduct is inappropriate.

The **'harm test'** is satisfied if the relevant person believes that an individual may;

- Harm a child or vulnerable adult;
 - Cause a child or vulnerable adult to be harmed;
 - Put a child or vulnerable adult at risk of harm
 - Attempt to harm a child of vulnerable adult; or
 - Incite another to harm a child or vulnerable adult.
- What about other professional bodies?

6.13 Criminal Offences and Offences Committed Outside Work

If an employee is charged or convicted for an offence, whether committed on or off duty, the Trust will consider whether the offence renders the employee unsuitable for continued employment and may take formal action up to and including dismissal. The Trust reserves the right to take action independently of any legal proceedings.

Where the offence or police investigation relate to mistreatment of a child or an "at risk" adult, the manager should inform the trust safeguarding team who will consider whether it is necessary to make a report to the Local Authority Designated Officer (LADO).

If an employee is subject of a police investigation, they are obliged to inform their manager so that the manager can consider whether any steps are required, e.g. to protect the safety of others.

Where allegations that occur outside of the Trust are brought to the attention of the Trust by other agencies or professional bodies, and those allegations have the potential to bring the reputation of the Trust into disrepute or may affect the suitability of the employee to continue in Trust employment, the Trust will investigate as reasonably as is practical. If after investigation it is considered that the actions of the employee damage the relationship of trust and confidence with the Trust, action up to and including dismissal may be taken.

6.14 Right to appeal

Employees have the right to appeal action taken at any level. An appeal should be addressed to the appropriate individual and in line with the levels of responsibility outlined in Appendix C.

In the event of a hearing, appeals should be submitted in writing, clearly setting out the grounds of appeal and who it was received by within how many days. This is in cases of appeals against dismissal, the notification should be sent to the Executive Director of People in the first instance. The timescales for appealing are set out below.

The Investigating Manager cannot appeal against the outcome. The appeals panel is empowered to make one of two decisions:

- To uphold the decision made by the Disciplinary Panel,
- To review the level of warning action taken at the hearing

Appeals cannot be heard by Managers / Directors who have had previous involvement in the case or if there is a conflict of interest perceived or otherwise.

The original Disciplinary Panel Chair will have the opportunity to put forward the rationale for why a particular disciplinary sanction was issued and submit further information to support the original disciplinary decision. This should be submitted to the Appeal Panel Chair and the employee and their representative at least 5 working days prior to the appeal hearing.

6.15 Appeal hearing

Appeals should be heard by the lowest appropriate level manager. However, appeals against dismissal must be heard at Director level or above. The hearing should comprise of a Panel of at least two, one of whom should be a member of the People Department to support the Panel Chair, taking into account fair representation and proportionality. If deemed appropriate by the panel chair it is possible to have more than one decision maker on the panel. The basis for decision-making in such cases must be identified and shared with all relevant parties in advance of the hearing and it is important that providing for such arrangements should not unduly delay the appeal date.

The Appeal Panel Chair will review both summaries prior to the hearing and each party will have the opportunity to put forward any additional comments at the appeal hearing. Both the employee and the original Disciplinary Panel Chair will have the opportunity to ask questions about the details submitted.

The need for witnesses at an appeal should be kept to an absolute minimum and only used in exceptional circumstances where their evidence is essential to the case. Where new information comes to light, the Appeal Panel Chair has the right to adjourn the appeal hearing and request this is verified / investigated before making a decision on the outcome of the appeal.

The Appeal Panel Chair will adjourn the hearing to consider the details of the case and will also outline when a decision will be announced.

The Appeal Hearing will not involve a re-hearing of the disciplinary hearing unless the Appeal Panel Chair identifies issues which they believe would require a re-hearing in order to ensure a fair process. Where this is the case all parties will be notified in advance that there will be a re-hearing of the case either in full or part depending on the circumstances e.g. it may be that a key witness is required to be recalled rather than all the witness who attended the disciplinary hearing.

Any appeal must be submitted within 10 working days after receiving the decision in writing. The appeal must outline the basis on which the appeal is being sought i.e.

- The evidence is contested
- The sanction is not appropriate
- There is a procedural issue which makes the outcome unfair

- Insufficient account has been taken of mitigating factors
- New substantial evidence has become available

The employee or their representative must submit a full case within a further 10 working days to the Appeal Panel Chair (if identified) and the Disciplinary Panel Chair. This case must relate to the points identified. It will not be appropriate for this case to specify reasons which have not been set out in the original appeal notification. If this is the situation then the reason why this has changed should be set out. It will also not be appropriate for the appeal notification to set out any reason which is then not supported by the full case. If this occurs then the reason must be specified.

Where the basis of the appeal relates to new evidence becoming available, the statement of case must specify why the evidence was not made available prior to the decision. Depending on the reason, why it was not provided earlier and the nature of the evidence (i.e. whether its omission would prevent a fair outcome being reached) the Appeal Panel Chair may determine whether to hear the new evidence or not. The Disciplinary Panel Chair will have the opportunity to put forward the rationale for why a particular sanction was issued and submit further information to support the decision in response to any points put forward in the appeal case. This should be submitted to the Appeal Panel Chair and the employee and their representative at least 5 working days prior to the hearing.

An appeal hearing will normally be held within 25 working days of the full case. In cases of unavailability of the relevant parties a mutually convenient date will be set. The appeal decision will be given within 2 working days of the appeal hearing, but in exceptional circumstances, no later than 1 week after the case has been heard.

6.16 Disregarded warnings

A warning will remain live on an employee's personal file for the following periods from the date of confirmation of the warning and may be taken into account in any disciplinary proceedings which relate to further conduct occurring during the warning period. For these purposes it is the date of the further conduct that is relevant, not the date of the disciplinary hearing at which it is considered. Following these periods, warnings will still remain on an employee's file but will be considered spent. These periods are for guidance only and may be varied:

- Formal Stage 1 - Recorded Warning – 6 months
- Formal Stage 2 - First Written Warning - 12 months
- Formal Stage 3 - Final Written Warning - 18 months

Where the issue involved concerns safeguarding, the Trust reserves the right to consider such prior warnings whether or not they would have normally expired. This specifically refers to determining the level of any disciplinary sanction should there be further proven misconduct concerned with safeguarding issues.

6.17 Right to curtail procedure

In exceptional circumstances, there may be cases in which it will be fair and reasonable to decide to curtail the procedure in full. Examples of circumstances in which the procedure may be curtailed are:

- When an employee is remanded in custody or in prison,

- When an employee refuses or fails to attend a disciplinary hearing without good reason.
- When an employee is unable to attend for health reasons over a prolonged period.
- When live warnings should be considered after a decision is made regarding the evidence of another allegation.

In such circumstances all reasonable attempts to ensure the involvement of the individual will be made in conjunction with any appropriate union representatives.

6.18 Timescales

It is important that, as far as possible, the disciplinary process is concluded in a timely manner and within the timescales set out below.

An investigation will be conducted without undue delay of the allegation coming to light.

The Trust will seek to normally complete investigations within 3 months. If the investigation is not completed within the time-frame then the Commissioning Manager will write to the employee and their representatives setting out the reasons for the delay and the time-scale by which the investigation will be completed. The Commissioning Manager will then provide monthly progress updates to the employee and appropriate representative.

Involvement in an investigation at the request of the police, adult / child protection agency or Counter Fraud Services will inevitably cause a delay in the process. Such delays will be communicated to the employee and their relevant representative as soon as is practicably possible. The Trust reserves the right to proceed with a disciplinary investigation and any subsequent hearing even if another body is involved. This decision will depend on the particular circumstances of the case and the potential length of time involved in awaiting the outcome of the deliberations of any other body.

The employee and their representative shall be informed by letter giving at least 30 working days' notice that a hearing is to be held in cases where it has been identified by the case investigator that the allegations, if upheld, could potentially result in a final written warning or dismissal. This notification should include details of the allegations, included within a management report. In cases of lesser potential sanctions, the time period for notification shall be at least 20 working days. Where a case is able to be sent earlier then this should occur.

The employee or their representative will need to submit their statement of case at least 5 working days before the date of the hearing in cases of potential final written warning or dismissal.

Where an appropriate manager to chair the panel is not available within the directorate, a manager from another directorate, with appropriate authority (as per Appendix C) will be sought to try and minimise any delay in the process.

7 Development, Consultation and Approval

This section includes details of:

- The review of the policy has taken place by the HR Advisors in conjunction the with Staff Side, the People Department's Senior Management Team and other stakeholders to ensure the Disciplinary Policy is reviewed and amended, thereby ensuring it is fit for purpose.
- Additional rationale includes; As part of our work to improve ongoing processes when dealing with a disciplinary matter, we will be implementing a Fact-Finding and Investigation Toolkit. We feel managers will be provided with more support by the guidance we are producing and it will allow the organisation to avoid a blame culture and, in any incident, review the 'bigger picture' in the hopes that we can reduce escalation where it's not necessary and learn. The work we are doing on the Fact-Finding and Investigation Toolkit means we will have to review the Disciplinary Policy therefore we have amended the policy to ensure it correlates with our overall aim and the new manager toolkit.
- Consultation will take place with management teams and employees within the Trust to ensure we have satisfied our Equality Impact Assessment and gain feedback from the individuals using and subject to the process.
- Any changes made as a result of the consultation including key changes e.g.
 - legislative changes – TBC (Update once consultation is completed)
- Document to be reviewed by all relevant governance group.
- Dates for consultation and review tbc in the new year (Jan/Feb 2021)

8 Audit, Monitoring and Review

Monitoring Compliance Template						
Minimum Requirement	Process for Monitoring	Responsible Individual/group/committee	Frequency of Monitoring	Review of Results process (e.g. who does this?)	Responsible Individual/group/committee for action plan development	Responsible Individual/group/committee for action plan monitoring and implementation
Human Resources will monitor all reported disciplinary cases for timescales, consistency and equal opportunities information	Review of cases processed under the new policy	Human Resources	Annual or following the introduction of new or amended legislation and any changes will be made with the agreement of recognised trade unions under the Trust Recognition Agreement	Human Resources	Human Resources	Human Resources

- The policy will need reviewing after a year of being in place (2022) to ensure the amendments to the policy have improved process and culture.

9 Implementation Plan

- Version 5 of this policy is stored and available through the SHSC intranet/internet. This version of the policy supersedes the previous version (V4 October 2017). Any copies of the previous policy held separately should be destroyed and replaced with this version.
Training and development requirements and who will provide the training
- Network meetings to be booked in for Jan/Feb 2021 to start consultation and gain feedback
- Extension requested to ensure there is adequate time for consultation within managers and employees within the Trust
- Once approved through all relevant governance groups, policy to be published on the Trust's intranet and internet along with the managers toolkit

- Once implemented, will need to review the policy after 6 months and 1 year of being in place to ensure the amendments to the policy have improved process and culture.

Action / Task	Responsible Person	Deadline	Progress update
Make all relevant teams aware of new policy and supporting documents; <ul style="list-style-type: none"> • Briefing sessions to take place • Training to be updated and sessions readily available for booking after briefing sessions 	Rachael Watson Sharon Booth	JULY 2021	N/A
Once briefing sessions have taken place and training sessions available, upload new policy onto intranet and remove old version	Communications Team	JULY/AUG 2021	N/A

10 Dissemination, Storage and Archiving (Control)

Version	Date added to intranet	Date added to internet	Date of inclusion in Connect	Any other promotion/ dissemination (include dates)
5.0	JULY/AUG 2021	JULY/AUG 2021	JULY/AUG 2021	Once approved version 5 will not be published until; <ul style="list-style-type: none"> • Training is up to date • Briefing sessions complete • Training readily available for managers to book

11 Training and Other Resource Implications

The Human Resources Department offers training and support to managers in the implementation of Human Resources Policies.

12 Links to Other Policies, Standards (Associated Documents)

Fact-finding & Investigation Guidelines for Managers
Safeguarding Adults Policy
Safeguarding Children Policy
Equal Opportunities and Dignity at Work Policy
Unacceptable Behaviours Policy
Grievance Policy
Managing Sickness Absence Policy
Disciplinary, Capability, Ill Health and Appeals Policies and Procedures for Medical Practitioners
Relationships between Service Users and Staff Policy
Fraud, Bribery and Corruption Policy
ACAS Code of Practice on Disciplinary and Grievance Procedures (www.acas.org.uk)
DBS Referral Process

13 Contact Details

<i>Title</i>	<i>Name</i>	<i>Phone</i>	<i>Email</i>
Executive Director of People	Caroline Parry		Caroline.Parry@nhs.uk
Deputy Director of People	Sarah Bawden		Sarah.Bawden@nhs.uk
HR Advisory Team			HRAdvisors@shsc.nhs.uk
HR Admin Team			HRAdmin@shsc.local.nhs.uk

Appendix A - Roles and Responsibilities Involved in Managing Cases of Misconduct

Line manager is responsible for ensuring this policy is followed and for:

- Gathering initial facts in relation to misconduct, speaking to the employee and put the allegations to them and get their account of what has taken place. Take notes
- Speaking to other witnesses or colleagues who are relevant and may be able to give an account of what took place. Take notes
- Using this checklist to think through their approach
- Seeking Advice from the People Department.
- Seeking approval from a senior manager or above before carrying out a formal investigation or proceeding to formal action. Make sure they are fully briefed
- Where necessary and where approval has been given, commissioning an investigation, setting out what needs to be investigated and agreeing a deadline for completion with the investigator
- Letting the employee know what is going to happen next for example that the matter will be investigated, ideally face to face and make sure they are properly supported. Confirm in writing
- Letting the employee know the name of the investigator and that they will be in touch
- Informing witnesses if they need to be interviewed as part of the investigation and confirm the name of the investigator who will contact them. Make sure they are properly supported throughout
- Regularly checking in with employees who are subject to investigation and/or formal action and ensure they are kept informed about what is happening and have the opportunity to ask questions and are advised about timescales and what will happen next
- Providing support to ensure the investigation runs smoothly and the Investigator is provided with access to materials, documentation, systems and relevant employees and witnesses
- Having regular check ins with the investigator to get a progress update and ensure the investigation is running promptly
- Managing the health and wellbeing of staff involved seeking advice from Occupational Health where appropriate
- Ensuring details of the investigation are only shared on a strictly need to know basis and that any staff involved in the investigation are aware of the duty of confidentiality
- At the conclusion of the investigation, considering the findings and with advice from a HR Advisor decide appropriate actions you wish to take
- The HR Advisor will assist and advise managers on preparing for formal hearings, ensuring all documentation is distributed, and any witnesses are invited and briefed
- Presenting case at a hearing and where applicable invite the Investigator to present their findings

HR Advisor:

- Provides timely advice to managers on managing misconduct, advising on the range of options and whether informal or formal action is appropriate in the circumstances
- Ensures misconduct is handled consistently and proportionately across the Trust and in accordance with its policies and procedures and legal responsibilities
- Provides challenge and examine cases to ensure no biases or conflicts of interest exist
- Ensures all parties are treated fairly and impartially and the Trust's Disciplinary procedures are followed
- Advises on options available to the manager and identify any risks
- Provides the manager and investigator with timely advice throughout the handling of misconduct
- Actively ensures matters are progressing in a timely way
- Ensures the right support is in place for any employees and referrals are made to the Staff Liaison Officer, Contact and Occupational Health where appropriate
- Ensures regular contact is in place with employees
- Fully considers the findings of the investigation and advise the manager on options of future actions including whether formal or informal action is appropriate
- Ensures relevant approval is obtained
- Advises on the selection of Panels and support the preparation of hearings ensuring everyone involved is properly briefed and trained
- Attends hearing and advise the Panel on proceedings

Investigator:

Carries out a thorough and impartial investigation. For fact-finding and investigation guidance, see the manager's toolkit in the Document library of the Trust's intranet Their role is to:

- Meet with the commissioning manager at the outset of the investigation to agree the terms of reference
- Develop the terms of reference and an investigation plan and get it signed off by the commissioning manager
- Conduct investigation interviews, write up interviews and get the interviewee to check and sign off
- Provide regular updates on the progress of investigations to the commissioning manager and the HR Advisor
- Escalate any additional allegations or concerns that emerge during the investigation to the commissioning manager and the HR Advisor including any issues that are delaying the investigation
- Produce a reporting presenting the investigation findings for the commissioning manager
- Attend hearings, if required, to answer questions arising from the Investigation Report

Commissioning Manager:

Provides impartiality and oversight to decision making in cases of misconduct. The role of the senior manager is to provide constructive challenge and seek assurance on behalf of the Trust that cases are being handled fairly and proportionately, that decisions are well informed and the welfare of employees is given priority.

- The Commissioning Manager will decide who is best to undertake the Investigating Manager role. Ideally the Investigation Manager should be objective and neutral to the employee who the allegation is against and who has capacity to complete the investigation within the stipulated timescales
- For each investigation, the Commissioning Manager should agree with the Investigating Manager a terms of reference which should identify the focus for the subsequent investigation. Once finalised, this terms of reference should then be communicated in writing to the employee, prior to the start of the investigation
- Where an employee is suspended, the Commissioning Manager will nominate a representative of the Trust to provide support to the employee during the period of suspension. This will be reviewed on a regular basis to assess whether suspension can be lifted and alternative work found
- It is the responsibility of the Commissioning Manager to ensure that the terms of reference are adhered to and any investigation is undertaken in a timely manner. This may be best achieved with regular contact with the Investigating Manager to review progress and ensuring that the investigation is completed within the required timescales
- Once the investigation is completed, the Commissioning Manager, in conjunction with the Investigating Manager, ultimately has to make a decision as to whether the evidence gathered and conclusions drawn warrants a disciplinary hearing or whether there is no case to answer. He/she will review the Investigation Report prepared by the Investigating Manager
- If it is felt there is no case to answer, this should be communicated in writing to the employee who the allegations were against, along with any recommendations for retraining etc.
- If the decision is to progress to a disciplinary hearing, the Commissioning Manager will decide at what level the hearing needs to be set in order to ensure the Disciplinary Hearing Panel is resourced properly and at the correct seniority level taking into account fair representation and proportionality. He/she will communicate the decision to progress to a disciplinary hearing in writing to the employee, including that the employee in certain cases has the option of requesting a sanction outside of a hearing
- If a sanction outside of a hearing is requested, the Commissioning Manager will consider the request in conjunction with the Investigating Manager and will confirm whether or not they agree to the request. Their decision will be communicated in writing to the employee. Please refer to the appropriate Trust Policy for further information

Chair of hearing

- Ensures the fair conduct of the hearing in accordance with the Trust's Disciplinary Policy.
- Makes sure that the employee is aware of their right to be accompanied by an accredited trade union representative or work colleague
- Explores if any adjustments should be made to proceedings to support employees and particularly for disabled employees or those with health conditions prior to the hearing
- Explains the procedure to be followed, introduce the parties taking part
- Checks that each side has all relevant documents
- Ensures each side has the opportunity to state their case
- Makes sure all relevant evidence is considered
- Considers whether further investigation is required if new matters arise
- Adjourns to consider the decision and weigh up all the evidence presented
- Decides whether allegations are substantiated on balance of probabilities
- Takes account of mitigating factors
- Considers any 'live' warnings
- Decides on sanction with advice from other panel members and support from the People Department
- Acts consistently with previous decisions
- Informs the employee of the decision and the reasons for it
- Informs the employee of their right of appeal
- Ensures adaptations and adjustments are made to proceedings to support disabled employees and those with particular needs prior to the hearing

Other panel members

- Support the Chair of the hearing in ensuring the fair conduct of the hearing and compliance with the Trust Disciplinary Policy
- Ask questions or clarify any issues raised during the hearing
- Consider on the balance of probability whether allegations are proven
- Help the Chair determine the appropriate sanction taking account of mitigation offered, the seriousness of the case, the sanctions applied in similar cases in the past, any previous warnings which are still in effect, the nature of the employee's job, the work record of the employee

Trade Union Representatives

- Support the staff member in relevant meetings throughout the process
- Has the right to represent the staff member in the disciplinary hearing
- Has the right to present the staff member's case on their behalf
- Has the right to ask relevant questions on behalf of the staff member
- Has the right to sum up the staff members case on their behalf if required

Appendix B - Guidance to Classification of Disciplinary Offences

Examples of Misconduct

The following list gives examples of the circumstances that could lead to disciplinary action however this list is meant to guide application of the policy and is not meant to be exhaustive:

- Persistent poor time keeping
- Unauthorised absences
- Failure to observe the Trust's policies and procedures
- Bullying, victimisation or harassment
- Ill treatment, neglect or abusive behaviour toward colleagues or service users
- Unreasonable refusal to follow an instruction issued by a manager or supervisor
- Refusing to work
- Breach of Trust Values
- Breach of terms and conditions as agreed with their managers
- Being absent without permission. In cases of sickness or sudden domestic emergency, employees must inform their manager in accordance with departmental notification rules
- During sickness absence, employees are expected to keep their manager informed of their progress and submit sickness certificates promptly
- Misuse of social media affecting the reputation of the Trust or causing colleagues distress/offence
- Anyone undertaking other employment outside their contractual hours that conflicts with the interests of their employment with the Trust or has any adverse effect upon their work performance and managers unaware of employment outside working hours
- Breach of confidentiality
- Misuse of authorised access to information and systems, unauthorized access to information and systems, and any activity that could breach the security of the Trust ICT Infrastructure and any other breach of the Trust Information Security Policy
- Sleeping on duty (this does not include sleeping during agreed breaks or out of hours arrangements)
- Breach of health and safety requirements
- Vandalism to Trust facilities and equipment
- Failure to disclose any charge, caution, conviction, relating to acts committed on or off duty which have an impact on your role
- Obtaining a charge, caution and conviction which impacts on your role
- Failure to maintain professional registration where it is a requirement of the job (see requirements as per Trust Professional Registration policy)
- Breaches of professional codes of conduct and Trust policies
- Behaviour outside of work that could affect the professional reputation of the individual or the reputation or operations of the Trust

Examples of Gross Misconduct

Gross misconduct is essentially a fundamental breach of contract. Within this appendix there is guidance on what classifies as an offence which may constitute gross misconduct. However, if a disciplinary allegation does not fall into one of the below categories, a decision as to whether it should be classified as gross misconduct would be made based on whether a fundamental breach of contract has occurred or whether it involves one of the below underlying principles:

- Fraud or dishonesty
- Service user safety
- Employee safety
- Illegal acts
- Breaching Trust values
- Contravening professional standards

It is not possible to prescribe, classify and list every possible circumstance, which would require disciplinary action. However, the following list gives a sample of the most obvious serious offences which may be classified as gross misconduct, and in which will justify summary dismissal (dismissal without notice). The list is not exhaustive or exclusive, and is intended as guidance only.

- Unauthorised removal uses or theft of property belonging to the Trust, another employee, a patient or visitor
- Failure to disclose any charge, caution, conviction, relating to acts committed on or off duty which have an impact on your role
- Obtaining a charge, caution and conviction which impacts on your role
- Fraud or dishonesty, e.g. signing in for another employee or allowing such an arrangement to occur. Defrauding the Trust of resources by wilfully falsifying records or booking of work or defrauding patients or employees (NB further guidance on this issue is contained in the Trust's Fraud, Bribery and Corruption Policy)
- Markedly irresponsible and inappropriate behaviour including sleeping on duty and/or being under the influence of alcohol, or non-prescribed drugs whilst at work or on-call
- Negligent and/or reckless acts, or omissions which endanger the safety of employees, patients or members of the public
- Gross insubordination, for example wilful failure to carry out reasonable instructions, or wilful disobedience of the written or oral instructions of a manager or supervisor
- A criminal offence either at work or outside of work where the latter is liable to bring the Trust into disrepute or which necessitates the removal of the employee from the post to which they had been appointed
- Wilful damage to Trust premises or property
- Disclosure of confidential information to unauthorised persons, particularly in relation to a patient or employee
- The illegal possession of drugs and/or the administration of such drugs to oneself or others on Trust premises or allowing such a practice to take place
- Non-compliance with safety, health or fire rules where such non-compliance could pose a serious risk to themselves or others, and where the rules are reasonably believed to have been known

- Unauthorised acceptance of payment from patients, visitors, contractors or other parties having dealings with the Trust, which might be interpreted as seeking to exert influence to obtain preferential consideration
- Physical, verbal or other bullying, or harassment or discrimination including harassment on the grounds of race, religion, sexual orientation, sex, disability or age, religious belief
- Physical or verbal abuse, including abuse of position of power, towards a patient, employee or visitor
- Falsification of a qualification which is a stated requirement of the Trust, or which might result in additional remuneration
- Non-declaration of a criminal offence
- Unauthorised absence from work
- An act sufficiently serious to cause substantial damage to the Trust's reputation

Appendix C - Authority to Deal with Disciplinary Matters

CATEGORY	SHIFT MANAGER	FIRST LINE MANAGER e.g. Ward Manager, Admin Manager etc	SECOND LINE MANAGER e.g. Assistant Service or Clinical Director	SERVICE / CLINICAL DIRECTOR OR HEAD OF SERVICE WHO MAY DELEGATE TO SENIOR MANAGER 8A OR ABOVE e.g. Assistant Service or Clinical Director	EXECUTIVE DIRECTOR WHO MAY DELEGATE TO MANAGER ABLE TO ISSUE A FINAL WRITTEN WARNING	CHIEF EXECUTIVE OR DESIGNATED DEPUTY	CHAIR OF TRUST BOARD
SUSPENSION	√	√	√	√	√	√	√
STAGE 1 - RECORDED WARNING		√	√	√	√	√	√
STAGE 2 - FIRST WRITTEN WARNING		√	√	√	√	√	√
STAGE 3 - FINAL WRITTEN WARNING			√	√	√	√	√
STAGE 4 - DISMISSAL				√	√	√	√
APPEAL PROCESS			√ (RECORDED WARNING, 1 ST WRITTEN WARNING ISSUED BY FIRST LINE MANAGER)	√ (UP TO FINAL WARNING ISSUED BY FIRST OR SECOND LINE MANAGER)	√ (ALL DISMISSALS)	√	√

Appendix D - Suspension from duty

It is important to note that suspension is not a disciplinary sanction and shall be used only in appropriate circumstances e.g. where:

- Alleged behaviour is so serious and is of such a nature that an individual could face the possibility of dismissal for gross misconduct and / or,
- It could endanger patient or employee safety / it would be impractical to continue to allow the individual to remain at work, and / or,
- There is a danger that the individual's continuing presence at work may jeopardise investigations into the alleged misconduct(s).

Before suspending, managers should consider alternatives, such as transferring employees to another workplace, restricting duties or closer supervision. Any suspension should be lifted as soon as is practicably possible and should be reviewed on a regular basis.

There will be no time limit on the duration of the suspension; however, it will be for as short a time period as possible and any suspension will be reviewed by the Investigating Manager in conjunction with the Commissioning Manager.

It should be made clear to the employee that suspension is not a form of disciplinary action nor does it automatically follow that a disciplinary hearing will be called as a consequence of a suspension.

Where an employee has more than one job with the Trust, it may be possible to exclude them from one role for reasons mentioned above whilst allowing the employee to continue working in another part of the Trust. However, the manager of this additional role must be informed and provided with sufficient information to determine whether or not suspension is required. This includes bank work for the Trust.

An appropriate manager will have the authority to suspend (see Appendix C). Generally, a meeting should be held with the employee to inform them of the suspension, this can be face to face, virtually or via the telephone. There may be some circumstances where the availability of the employee may make this impractical. Where reasonably practicable, the employee should be offered the opportunity to have a representative present at the meeting and reasonable efforts to obtain support should be made, but this action should not be delayed unreasonably to accommodate the representative. If the employee is unwilling or unable to attend for whatever reason, they will be informed by letter of the decision to suspend and the reasons for this decision.

During suspension, an employee will normally receive full pay (this will be calculated as the average earnings over the previous 12 weeks including prebooked bank shifts. In exceptional cases, the Trust may withhold the pay of an employee who is on unauthorised absence, e.g. an employee is held on remand for a lengthy period or who is not contactable during their suspension. Each case will be considered on its merits by the appropriate manager who should consult the People Department before such a decision is taken. Where employees only have a bank contract with the Trust, the above suspension pay has been agreed to reflect their contract. For further details, contact the Bank Office Manager.

In cases of suspension of an employee from a professional body the employee will continue to receive full pay at the appropriate banding

The Executive Director of People and the Staff Side Chair will review each situation on a case by case basis.

The suspended employee(s) will be sent a letter from the manager confirming their suspension and a summary of why they have been suspended, which will be copied to their representative if represented, and in agreement with the employee. They should also be informed that the suspension will be for as short a period as possible and that it will be reviewed regularly. The relevant representative will receive a copy of this notification. This will include which of the reasons specified in 6.3.1 are relevant to the suspension or temporary change in duties/location.

A suspension may as a result of the outcome of the investigation recommending no further action, or as an outcome of a formal disciplinary hearing. However, management has the right to end the suspension and return the individual to work, at any time prior to a formal hearing as part of the regular review process.

Employees are required to be available during their normal working hours throughout the suspension period. Employees on suspension must continue to request annual leave via their line manager and await approval as normal, as if the employee was still at work, in such cases, an annual leave payment would be made instead of paid suspension. Suspension criteria while on leave will continue to be assessed. All annual leave rules will continue to apply to employees on suspension including departmental rules on carry over of leave.

For employees who are subject to suspension but are absent due to sickness, they will be classed as sick for pay purposes and sick pay will override the pay received under the terms of suspension.

Employees on suspension will not be entitled to access any of the Trust's premises or documents, including remotely, without the prior consent of their line manager. However, the Trust will take account of the need for an employee to prepare for a meeting or hearing relating to the investigation and with the contacting of any witnesses.

Appendix E - Equality Impact Assessment Process and Record for Written Policies

Stage 1 – Relevance - Is the policy potentially relevant to equality i.e. will this policy potentially impact on staff, patients or the public? This should be considered as part of the Case of Need for new policies.

NO – No further action is required – please sign and date the following statement.
I confirm that this policy does not impact on staff, patients or the public.

I confirm that this policy does not impact on staff, patients or the public.

Name/Date: R.Watson 13/05/2021

YES, Go to Stage 2

Stage 2 Policy Screening and Drafting Policy - Public authorities are legally required to have 'due regard' to eliminating discrimination, advancing equal opportunity and fostering good relations in relation to people who share certain 'protected characteristics' and those that do not. The following table should be used to consider this and inform changes to the policy (indicate yes/no/ don't know and note reasons). Please see the SHSC Guidance and Flow Chart.

Stage 3 – Policy Revision - Make amendments to the policy or identify any remedial action required and record any action planned in the policy implementation plan section

SCREENING RECORD	Does any aspect of this policy or potentially discriminate against this group?	Can equality of opportunity for this group be improved through this policy or changes to this policy?	Can this policy be amended so that it works to enhance relations between people in this group and people not in this group?
Age	No	No	No
Disability	No	Yes, we take account of disability in making our disciplinary process accessible to people and make reasonable adjustments, implemented check points.	No
Gender Reassignment	No	No	No
Pregnancy and Maternity	No	Policy does not mention maternity as wouldn't treat an employee pregnant or on mat leave any different	Policy does not mention maternity as wouldn't treat an employee pregnant or on mat leave any different

Race	No	Yes, national and local evidence BAME employees are overrepresented in formal disciplinary processes, implemented check point to respond to the data	Yes, national and local evidence overrepresented in formal disciplinary processes, implemented check point to respond to the data
Religion or Belief	No	No	No
Sex	No	No	No
Sexual Orientation	No	No	No
Marriage or Civil Partnership	No		

Policy Amended / Action Identified (see Implementation Plan)

Impact Assessment Completed by:
 Rachael Watson & Liz Johnson
 13/05/2021

Appendix F - Review/New Policy Checklist

This checklist to be used as part of the development or review of a policy and presented to the Policy Governance Group (PGG) with the revised policy.

		Tick to confirm
Engagement		
1.	Is the Executive Lead sighted on the development/review of the policy?	√
2.	Is the local Policy Champion member sighted on the development/review of the policy?	√
Development and Consultation		
3.	If the policy is a new policy, has the development of the policy been approved through the Case for Need approval process?	N/A
4.	Is there evidence of consultation with all relevant services, partners and other relevant bodies?	√
5.	Has the policy been discussed and agreed by the local governance groups?	√
6.	Have any relevant recommendations from Internal Audit or other relevant bodies been taken into account in preparing the policy?	√
Template Compliance		
7.	Has the version control/storage section been updated?	√
8.	Is the policy title clear and unambiguous?	√
9.	Is the policy in Arial font 12?	√
10.	Have page numbers been inserted?	√
11.	Has the policy been quality checked for spelling errors, links, accuracy?	√
Policy Content		
12.	Is the purpose of the policy clear?	√
13.	Does the policy comply with requirements of the CQC or other relevant bodies? (where appropriate)	√
14.	Does the policy reflect changes as a result of lessons identified from incidents, complaints, near misses, etc.?	√
15.	Where appropriate, does the policy contain a list of definitions of terms used?	N/A
16.	Does the policy include any references to other associated policies and key documents?	√
17.	Has the EIA Form been completed (Appendix E)?	√
Dissemination, Implementation, Review and Audit Compliance		
18.	Does the dissemination plan identify how the policy will be implemented?	√

19.	Does the dissemination plan include the necessary training/support to ensure compliance?	√
20.	Is there a plan to: i. review ii. audit compliance with the document?	√
21.	Is the review date identified, and is it appropriate and justifiable?	√