

Disciplinary Policy & Procedure

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Links to Organisational/Service Objectives, business plans or strategies	Terms and conditions of service
Executive Summary This policy describes the Trust's approach to the application of the disciplinary procedure which must be adhered to across the organisation.	

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 Version 4 Approved December 2014

Version History Log

This area should detail the version history for this document. It should detail the key elements of the changes to the versions.

Version	Date Approved	Version Author	Status & location	Details of significant changes
1	December 1996		Superseded	
1.3	June 2005	Sally Black	Superseded	May 07 Disciplinary Sanctions added – p11, agreed by LNC
1.4	July 2007	Sally Black	Superseded	Appendix L added – Extract from ACAS – agreed by LNC
2	October 2010	Vicki Mallows	Superseded	See version history on previous documents
3	October, 2012	Vicki Mallows	Current	See version history on previous documents
3.1	Amended Dec 2012	Vicki Mallows	Corrected formatting in Appendix B. Corrected wording in Rule 17 of Appendix B.	See version history on previous documents
4.0	December 2014	HR Manager (LB)	Staff Room	Policy format updated. If the respondent admits to the allegations a decision can be made to proceed to a sanction only hearing. Any level of sanction can be issued at a sanction only hearing except for dismissal. The employee will still have the right of appeal. Change to sanctions – written warnings now to be issued for 6 months (longer only in exceptional circumstances, up to 12 months). And final written

				warnings for 12 months (18 months but only in exceptional cases) The Appeals process can no longer increase either the level of length or level of sanction given at the original hearing.
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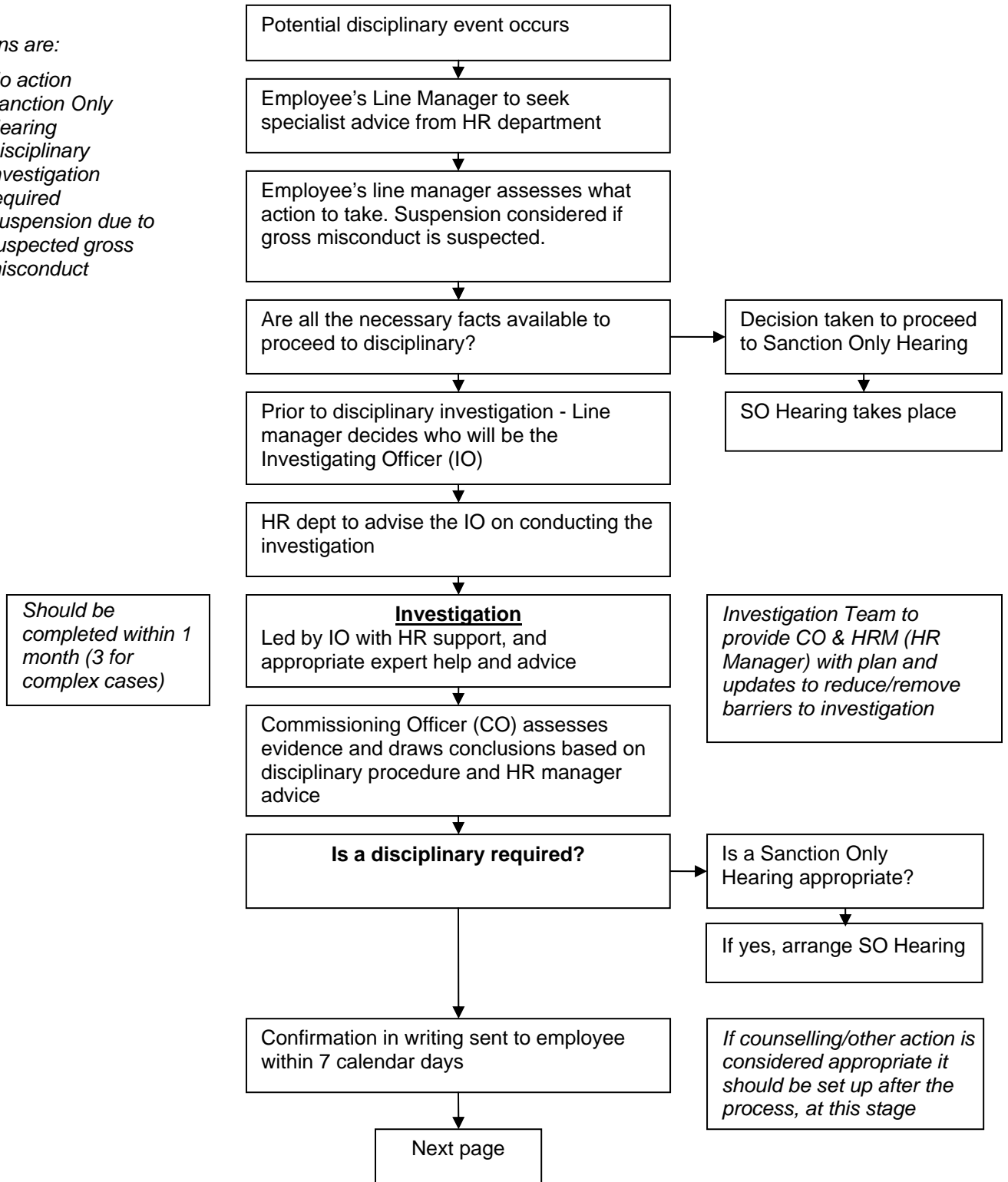
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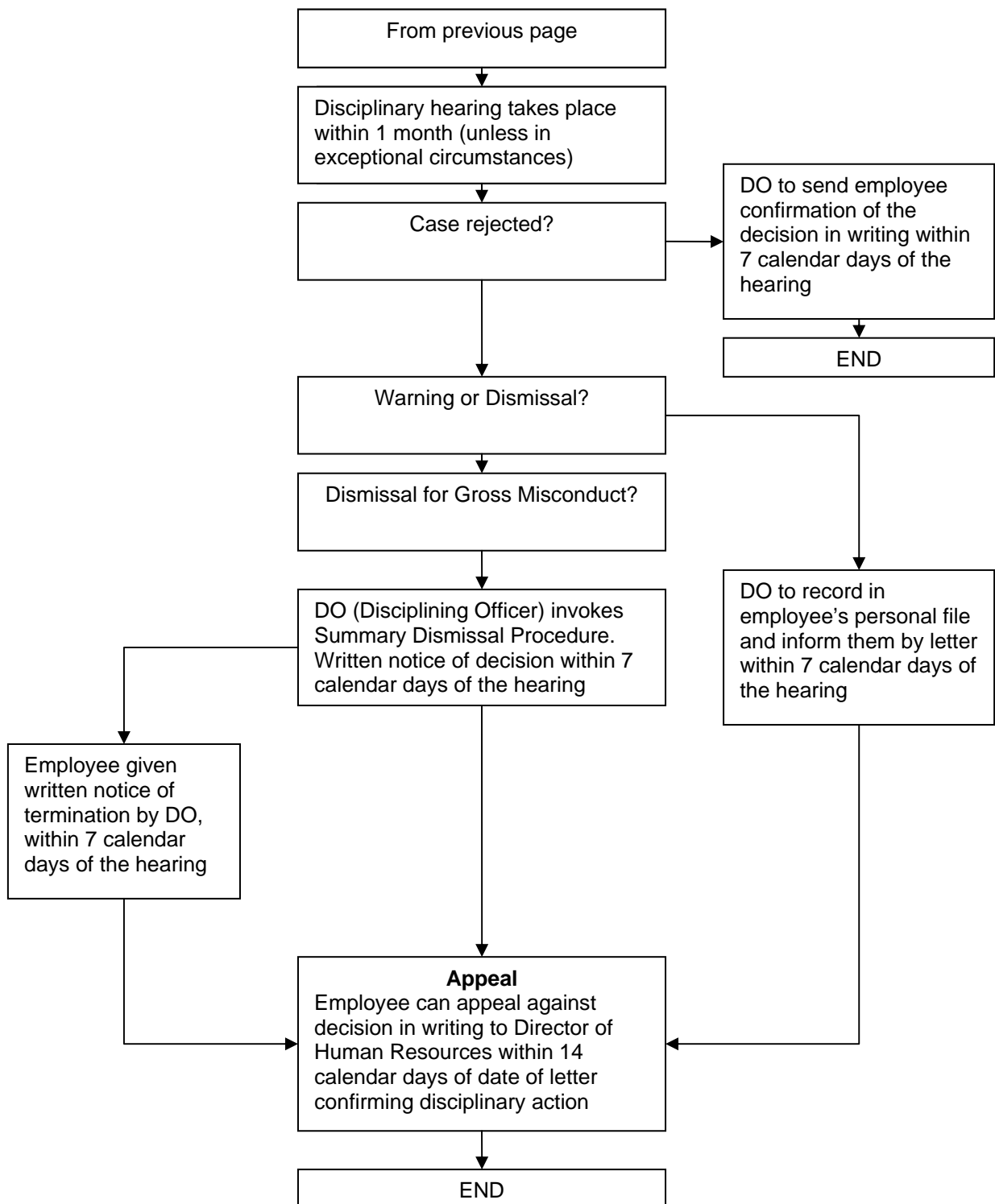
PROCESS FLOWCHART

Options are:

1. No action
2. Sanction Only Hearing
3. Disciplinary Investigation required
4. Suspension due to suspected gross misconduct



PROCESS FLOWCHART continued



1 Introduction & Scope

York Teaching Hospital NHS Foundation Trust (The Trust) expects all employees to demonstrate high standards of work and behaviour. All staff should be aware that they are seen as representatives of the Trust and the NHS as a whole. It is therefore important that they present a professional and caring image to patients, visitors and colleagues; and that they act in line with the Trust's values and the Personal Responsibility Framework. This document sets out the Trust's Policy and Procedure to be followed on the occasion that an employee's conduct is considered to be unsatisfactory.

Scope

The policy applies to all employees of York Teaching Hospital NHS Foundation Trust (the Trust). For staff on honorary contracts, please contact the Directorate of Human Resources for advice.

The policy is designed to deal with cases of suspected or actual personal or professional misconduct. Associated policies exist to deal with issues relating to professional competence, harassment and bullying, job performance or attendance (including sickness absence), except where poor performance or attendance can be attributed to misconduct.

The investigation of personal and professional conduct, capability and ill health concerns involving medical and dental staff will be undertaken in accordance with the national framework set out in "Maintaining High Professional Standards in the Modern NHS" (2005). Where purely personal conduct issues are identified, they will then be managed under this policy and procedure.¹

The time limits set out in this procedure are based on a seven-day week, excluding public holidays. Time limits may

¹ If a doctor feels it is inappropriate for the Trust's Disciplinary Policy & Procedure to be applied in an individual case, s/he should access the Trust's Grievance Policy.

only be varied by mutual agreement, the details of which will be confirmed in writing.

Where matters relate to a Trade Union / Staff Organisation representative the normal disciplinary standards apply to their conduct as employees, but the appropriate branch or regional official should be notified of any proposed action (including suspension) being taken against a representative, whether their alleged misconduct relates to their union role or not.

2 Definitions / Terms used in policy

- The employee – anyone employed by York Teaching Hospital NHS Foundation Trust (includes temporary staff & bank staff);
- Trade union/Staff Association - nationally recognised NHS negotiating body which is also recognised by the Trust;
- Full pay - the pay the employee would have received had he/she been at work, other than for casual overtime i.e. only contractual pay;
- Summary dismissal - dismissal without notice or pay in lieu of notice;
- Working day - Monday to Friday excluding Bank Holidays;
- Complainant - person or persons making the complaint;
- Respondent - those facing the allegation;
- Wilful – something done intentionally, even if you know it is wrong;
- The balance of probabilities – the likelihood that something happened or is true;
- Downgrading – moving the employee to a post on a pay grade / band lower than their existing job.

3 Policy Statement

The Trust will make every reasonable effort to ensure that all staff are aware of the standards of conduct and behaviour expected of them, and are supported in achieving those standards. (See Appendix 1 Code of Conduct; Appendix 2

Disciplinary Rules for Misconduct and Gross Misconduct)

Whenever possible, an informal counselling and/or coaching approach should be used in an attempt to manage minor misconduct.

Potential misconduct will be investigated promptly, fairly and consistently. Where misconduct is established on the balance of probabilities, to have taken place, options available to managers will include informal counselling and/or coaching regarding future conduct, training, and formal disciplinary sanctions.

At all formal stages of the process, the employee has the right to be accompanied by a Trade Union Representative, friend or colleague; however, at no stage of the process is legal representation permitted.

Note - the right of representation/accompaniment does not apply to suspension as suspension in itself is not disciplinary action however the opportunity to be accompanied at a suspension meeting will be offered wherever possible as long as this does not create a delay.

All cases will be dealt with constructively, in accordance with the following procedure, and any disciplinary sanction will be proportionate to the circumstances of the specific case.

Reasonable adjustments will be made, where requested, to accommodate employees with a disability, such as appropriate venues and provision of a support worker or advocate with knowledge of the disability when applying this procedure under the Equality Act 2010.

At all times, line managers will take account of the potential effects of disciplinary allegations, investigations and hearings on staff, patients and visitors – including those directly involved in the process.

Every reasonable step will be taken to maintain a positive working environment and confidence in the organisation whilst dealing fairly and effectively with issues of misconduct.

3.1 Criminal Charges/Proceedings

An employee who is charged with, or convicted of, a criminal offence (including receipt of a summons) must inform the Director of Human Resources, in writing, as soon as possible as well as their line manager. Notification about criminal proceedings or a conviction (including bind-over orders and cautions) will not necessarily lead to disciplinary action being taken. Following disclosure the Trust will determine what, if any, action will be taken after considering the facts of the case and the relevance of the charge or conviction to the job undertaken.

Staff employed for all or part of their duty as a driver or where the requirement to drive is an essential part of their duties must inform their manager immediately in addition to the Director of Human Resources if charged with any driving offence including points on their licence.

3.2 Responding to Allegations of Misconduct

It is the intention of all parties to ensure that allegations of misconduct are dealt with promptly, fairly and as close to source as possible. Where misconduct is alleged or suspected, the line manager will notify the individual against whom the allegations have been made and make an initial assessment of the potential seriousness of the allegation to determine the most appropriate course of action.

In all instances where an allegation of fraud has been made, advice must be sought from the Trust's Local Counter Fraud Specialist, who will determine, in conjunction with the Directorate of Human Resources how the allegation should be investigated.

3.3 Informal interviews

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Where an allegation of a comparatively minor breach of discipline is made (e.g. a single instance of failing to follow local procedures for ringing in sick or maintaining contact when unable to attend work), the line manager should attempt to deal with the matter informally. Similarly if, at any stage, the allegation is admitted and the employee takes personal responsibility for their actions, it may be more appropriate to consider informal counselling, coaching, or training and development may be considered. This will depend on the seriousness of the breach; advice from the Directorate of Human Resources should be sought.

The purpose of any informal meeting between an employee and manager is to identify and examine the area(s) of concern, ensure future expectations are clearly understood and, if necessary, develop an action plan for improvement.

The outcome of the informal meeting must be summarised by means of a file note and letter, copies of which will be kept on the employee's personal file. Employees should be asked to sign the file note to confirm their agreement of the informal meeting. Under no circumstances will this be viewed as any form of formal action or sanction. Where there is a difference of opinion or a difference in the recollection of events, this should be reflected in the notes of the discussion. This does not however prevent the manager from detailing the discussion and confirming the agreed follow up actions in writing.

3.4 Potential Disciplinary Event

Where an allegation is potentially of a more serious nature (e.g. fraud via inaccurate timesheets, or use of the internet for personal reasons outside of break times), or is part of a series of minor complaints, the matter should be formally investigated. Advice must be sought from the Directorate of Human Resources before deciding whether to suspend any member of staff.

3.4.1 Medical and Dental Staff

Separate procedures contained in the “Maintaining High Professional Standards in the Modern NHS (2005)” govern the preliminary stages for determining whether disciplinary action against medical and dental staff should be taken. The Trust’s disciplinary policy would only be used after MHPS has been launched and Part I (the investigation) of the process undertaken. On completion of this stage, we would then determine whether Part III (conduct related), Part IV (capability related) or Part V (health related) is the most appropriate next stage of the process.

3.5 Suspension

3.5.1 Reasons for Suspension

Decisions to suspend* an employee from duty will not be taken lightly or without careful consideration of all of the circumstances and the nature of the complaints/allegations made. In order to document the decision making process around suspension, Appendix 3 needs to be completed. Sections A-C should be completed for all cases, as well as section D when an actual suspension has taken place.

* suspension does not apply to Medical & Dental staff, exclusion will be considered where appropriate.

Wherever possible a meeting will be held to advise an employee of the decision to suspend them from duty. If an employee is not available and all reasonable enquiries fail to contact them then they will be informed in writing not to commence duty but to contact a named manager. The reasons for, and the conditions of the suspension will in all cases be confirmed in writing.

3.5.2 Alternatives to Suspension

As an alternative to suspension (or exclusion for Medical & Dental staff) a manager may reasonably consider restricting an employee’s duties, placing an employee under additional supervision or temporarily

transferring an employee to another area of work. The manager will, following HR advice, have the discretion to consider an alternative to suspension and this will reflect the nature of any allegation(s) being investigated. However the alternatives to suspension are discretionary (following advice) and are not automatically granted e.g. it may not be deemed appropriate for a registered professional to work in a non registered role for the period of the suspension, that is a Nurse to work as a HCA.

3.5.3 Suspension without Pay

When it is established that an employee has breached the requirement to maintain their professional registration and it is not considered appropriate for them to remain at work in an unregistered role, they will immediately be suspended without pay². They will only be allowed to return to work once evidence of their registration is provided to the Trust, and subject to there being no further concerns warranting on-going suspension from work. In some circumstances it may be appropriate to facilitate continued work in a non-registered role. This option must be agreed with Human Resources and the relevant professional lead. Employees working in an unregistered role will be paid at the rate appropriate to that role, not their rate as a professional employee. The professional lead will determine what uniform should be worn in such circumstances.

When an employee fails to provide documentary evidence of the legal right to work / remain in the UK they will immediately be suspended without pay. They will only be allowed to return to work once evidence is provided to the Trust.

3.5.4 Suspension with Pay

² See Maintaining Professional Registration Policy

Suspension is not a disciplinary sanction and will normally be without detriment to normal pay as defined by relevant local and national agreements or legislation³. It is, nevertheless, a serious step and advice should be sought from the Directorate of Human Resources as soon as possible. If a decision to suspend an employee is made out of normal office hours, then the Directorate Manager on-call should be contacted in the first instance and the Directorate of Human Resources should be informed of the decision as soon as possible.

3.5.5 Checklist in the Event of Suspending a Member of Staff when suspension is appropriate

Before suspending an employee, consideration should be given to alternatives such as:

- Removing the individual from the on call duty/lone working rota.
- Ensuring the individual works under supervision, particularly if working on nights.
- Consider the nature, strength and credibility of the allegations and interview the individual the allegation has been made against, before considering suspension.
- Restriction of some duties.
- Transfer to other duties.

Before suspending an employee, the line manager **MUST** discuss the case with the Directorate of Human Resources.

Consideration should be given to the alternatives as detailed above. The usual reasons for deciding on suspension are:

³ Payment will be made on the basis of the shift that the employee was rostered to work, where suspension lasts longer than the rostered period and the individual is therefore no longer being included in rosters, an average payment will be made. Bank workers will only receive payment for shifts already booked.

- To clear the ground for investigation as not doing so would seriously hinder the investigation.
- To protect witnesses, complainants or the employee under investigation.
- Where working relationships have broken down or may suffer further damage.
- Moving to another area will not remove the employee from patients/staff who have made the allegations.
- Allegations of criminal activity, which is linked to the job e.g. fraud by someone dealing with money.
- Where the allegation(s), if substantiated, could constitute gross misconduct.
- When patient safety is considered to be threatened.
- If Trust property is considered to be at risk.

Once approved, please ensure that the checklist form in Appendix 3 is completed and kept with the disciplinary file.

3.5.6 Suspension Procedure

(For the exclusion of Medical & Dental staff the Maintaining High Professional Standards in the NHS framework should be applied).

It should be made clear to the employee and to everybody else that suspension is not in itself a disciplinary sanction. It does not imply guilt. It is merely a means to ensure that an investigation can take place and to preserve the position for both employer and employee. However, the reality is that the employee and others will perceive suspension in a negative way however it is presented.

Where an employee is suspended he or she will be advised to contact their Trade Union or Staff Organisation representative, if appropriate.

Except for approved leave or sickness absence (subject to Occupational Health advice), the employee must remain contactable and available during normal working hours, in order that he or she can report for duty or attend meetings as required.

Any changes of address or telephone number during this period should be notified immediately.

The employee must not under any circumstances contact or seek to influence anyone associated with the allegation or, except where emergency treatment is required for themselves or a member of their family, enter any Trust premises without the authority of the manager carrying out the investigation.

The suspension should be for a maximum of 21 calendar days in the first instance, at which point it will be reviewed. Any continuing suspension will be reviewed thereafter at 21 day intervals and, if it is necessary for the suspension to continue, a further letter will be sent to the employee confirming the reasons and the conditions.

During the period of suspension management will ensure, where necessary, that timesheets are completed on behalf of the employee. A condition of continued payment during suspension will be that the employee must be available during their normal hours to attend any meeting that may be convened as part of any investigation. Where an employee submits a medical certificate whilst suspended from duty, the suspension will override the sick leave unless the employee is deemed by Occupational Health to be unfit to participate in the disciplinary process – at which point sick pay will be paid. Sickness will still be recorded for the whole period that medical certificates are submitted.

Suspended employees can request and take annual leave as per the normal procedures and therefore no requests for carry over of annual leave, from one leave year to another, will be permitted for reasons due to the suspension.

In the event of suspending a professional member of staff, the professional lead must be informed and in some cases (depending on the requirements laid down by the professional body), the professional body will also be contacted at this stage.

Where an employee holds more than one contract with the Trust, or performs bank or agency work, the HRM should consider whether the other manager must be informed of the allegation so that consideration can be given as to whether they should be suspended from the other post or not. An employee is not allowed

to undertake work in the Trust via other routes e.g. agencies whilst suspended unless specifically given permission to do so by the Directorate Manager/Head of Service.

The same process must be applied for staff who are subject to restricted duties or have been placed into an alternative role.

3.6 Investigating Allegations of Misconduct

All disciplinary investigations should be conducted in accordance with good practice as follows:

- 3.6.1** Where allegations* of misconduct arise, an appropriate manager will be appointed to act as the Investigating Officer with support from the Directorate of Human Resources. In certain circumstances and depending upon the nature of the allegations, it may be deemed appropriate to appoint an Investigating Officer from another department or Directorate to undertake the investigation. The Investigation Team will be required to meet with the relevant Senior Manager (usually the Commissioning Manager but not always) and HR Manager to discuss their plan for the investigation. The aim of this meeting is to reduce the length of time that investigations take and remove any barriers that may be contributing to a delay. Regular updates must be provided to ensure that all reasonable steps are being taken to minimise delays and in order to keep a suspended employee informed. The Investigation Team will be provided with Terms of Reference for each case.

* The allegations stated need to be clear and unambiguous. They need to provide sufficient detail (e.g. date and nature of incident) for the employee to respond appropriately to the allegations made.

- 3.6.2** The Investigating Officer will gather information from relevant sources. Where appropriate and with due notice; interview the complainant(s) and the respondent(s) to determine what further evidence might

be required and to estimate the likely timetable for the completion of the investigation.

- 3.6.3** The respondent is entitled to be represented by a staff organisation representative or work colleague in the course of any investigatory interview or subsequent hearing. There is no right to legal representation under this procedure (see Section 3.0). Representatives (and the respondent) must be available in a timely manner to ensure delays are minimised. Where delays have an impact of more than 14 calendar days, and more than one date has been offered, the respondent will be notified in writing of the date the meeting will go ahead. It will be the respondent's responsibility to ensure they obtain representation.
- 3.6.4** Complainants and witnesses may be supported by a staff organisation representative, friend or work colleague if they wish. Those undertaking a supporting role will not be entitled to answer questions on behalf of the employee.
- 3.6.5** It is not automatic that investigatory interviews will be necessary – dependent on the nature of the allegations it may be appropriate to pull together a report based on facts and submit that to the senior manager who commissioned the investigation. However this would need to be in agreement with Human Resources. In such cases the employee would be provided with all the relevant information prior to being required to attend a Disciplinary Hearing to discuss the matters under consideration.
- 3.6.6** Investigations will be conducted as openly as possible, balancing the dignity and confidentiality of the individuals concerned with the wider interests of the Trust and its staff.
- 3.6.7** Respondents must submit all known information they wish to be considered at the investigation stage. Only

information not known at the investigation stage will be allowed as an addition at the Hearing stage.

3.6.8 Guidance on how to conduct an investigation, together with template letters and checklists, can be found in the separate document 'Disciplinary Procedure - Managers' Guidance'.

3.6.9 Most disciplinary investigations will be concluded within a period of one month. However in the case of highly complex investigations this may be extended (highly complex being those investigations that involve statements from more than 4 people and/or obtaining third party advice). In all cases this should still be within three months. Every effort will be made to adhere to these timescales but where the investigation is hindered by participants' availability and this cannot be resolved, it will be concluded at the earliest opportunity.

3.6.10 If the respondent admits to the allegations at the investigatory stage (or earlier) and demonstrates insight and/or personal responsibility for their actions, then the relevant Senior Manager and HR Representative can make the decision to either:

- i) Proceed with a standard disciplinary investigation and disciplinary hearing (if appropriate)
- ii) Proceed to a sanction only hearing. This option would require the member of staff to complete and sign the proforma in Appendix 4 confirming that they are in full agreement with this approach. It will remind staff to discuss the option of a sanction only hearing with a staff side representative in advance of making a decision (if applicable).

A sanction only hearing would result in a condensed version of the full disciplinary hearing, for example management would only be required to present a summary of the case (if required). Any level of sanction can be issued at a sanction only hearing except for dismissal. Employees cannot be dismissed at a

sanction only hearing and following the issuing of a sanction, an employee will have the right of appeal.

3.7 Determining Disciplinary Action

At the conclusion of the investigation, the Investigating Officer in conjunction with the HR Advisor, will prepare a report of their findings. This report will clearly outline the conclusions from the investigation and make a recommendation on the action/s to be taken. The Investigation Team have a range of options available to them. These options will normally (but not exclusively) be limited to:

- Take no action.
- Deal with the matter informally
- Manage under a different procedure e.g. Performance Management.
- Proceed to a formal disciplinary hearing.

Any alternative options should be discussed with the Directorate of Human Resources (and a Professional Adviser where the respondent is a registered professional). The final decision in terms of any particular course of action will rest with the Investigating Officer and will be confirmed to the relevant parties in writing. It should be stressed that a decision to pursue a specific course of action rests on the balance of probabilities.

The report will be forwarded to the manager who commissioned the investigation who will, along with a representative of the Directorate of Human Resources (who has not been involved in the investigation), review the information and implement the recommendation e.g. arrange for a disciplinary hearing to take place.

Note, the Respondent only has the right to see the full investigation report (including appendices) if the case progresses to a Disciplinary Hearing.

3.8 Formal Disciplinary Hearing

- 3.8.1** A senior manager (or equivalent) – often the Commissioning Manager but not always - and a representative of the Directorate of Human Resources, neither of who should have any previous involvement in the investigation, will conduct the Disciplinary Hearing. A Professional Adviser may be utilised if relevant. In cases of Gross Misconduct, the manager must have the authority to dismiss. This will normally be a manager who reports directly to a Director (either Corporate or Clinical), otherwise it can be a manager who has had the authority to dismiss appropriately delegated to them on a case-by-case basis.
- 3.8.2** The respondent will be informed in writing at least seven calendar days in advance, unless otherwise mutually agreed, of the purpose of the meeting and of the specific nature of any allegation(s).
- 3.8.3** The respondent will be notified of their right to be represented by a trade union or staff organisation of which he/she is a member, or by a friend / work colleague. All documentary information, including witness statements that will be presented to the panel will be provided to the respondent at this stage. The respondent is expected to submit their statement of case 3 days before the hearing. The complainant(s) and the respondent(s) will have an opportunity to challenge or question any evidence presented to any Disciplinary Panel. Where witness statements contradict each other, the relevant witnesses would be called to a hearing to allow all parties to question them. Where witness statements are not contradictory they would normally be accepted and the individuals not called to a hearing.

The hearing panel may request witnesses to attend even if the Presenting Manager or Respondent have not chosen to use them.

- 3.8.4** Any concerns or questions concerning the arrangements for the hearing should be notified to the Panel Chair at the earliest opportunity, who will attempt to resolve such issues in a fair and reasonable manner. If a respondent fails to attend a disciplinary hearing without good cause the case may proceed in his/her absence.
- 3.8.5** If a person leaves the Trust before the hearing is completed, the case may be concluded in their absence if necessary and the results kept on their personal file and forwarded to the professional body if appropriate.
- 3.8.6** The Deputy Director of Healthcare Governance should be informed by the HR Advisor/Manager whenever a disciplinary relates to a breach of confidentiality, computer misuse or other information Governance related allegation/offence.

3.9 Rules of Procedure for Disciplinary Hearings

The proceedings will be conducted with respect for every individual and anyone losing their temper and/or using bad language (other than in relating such use as evidence) will be requested to leave the room and may only be re-admitted with the permission of the Chair and after assurances they will not repeat their behaviour. The Chair is responsible for ensuring the hearing is conducted in the following way:

The Chair of the hearing will introduce everyone present. Observers may be allowed at the discretion of the Chair and following discussion with the parties. Observers will not be allowed to take any part in the proceedings.

The Chair will ensure that the employee is aware of their right to be accompanied by a companion who should be a full-time or lay Staff Organisation Representative, a fellow worker, or a friend, not acting in a legal capacity (See Section 3). The companion may address the hearing, but has no right to answer questions on the respondent's behalf, or address the hearing if the respondent does not wish it. If the employee does not wish to be accompanied, this

will be recorded in the notes. The Chair will also spell out the possible outcomes; no action to be taken, written warnings or dismissal in cases of gross misconduct or repeated misconduct.

Any request to submit additional evidence not already distributed to the Panel, Presenting Manager/HR or the Respondent will be considered by the Chair. Where additional information has been found following completion of the investigation, due consideration of relevance to the case, the interests of natural justice and the potential disadvantage to any party will be made. Where additional evidence is allowed, the parties should be given a reasonable time to consider it before proceeding.

The Presenting Manager, who will usually be the Investigating Officer, will outline the findings of the investigation, supported by a member of the Directorate of Human Resources if requested.

Witness(es) may be called, asked to give evidence and any additional question may be asked of them by the Presenting Manager (proceedings may be adjourned if witnesses are vital and cannot attend).

The respondent will then be able to ask these witnesses any questions relevant to the alleged offence. The Panel may also ask questions.

The respondent will then outline their case.

Witness(es) may be called, their evidence taken and any additional question asked of them by the respondent (proceedings may be adjourned if witnesses are vital and cannot attend).

Witnesses may be asked questions by the Presenting Manager and the Panel.

Additional witness(es) requested by the panel may be called, their evidence taken and any additional questions asked of them by the Presenting Manager and respondent (proceedings may be adjourned if witnesses are vital and cannot attend).

At all times, where a witness refers to documentary evidence, the appropriate number of copies will be provided and distributed to the Chair, the note-taker, the witness, each party and the respondent's

<p>companion. The panel Chair will investigate the status of the documentary evidence.</p>
<p>The Presenting Manager and then the respondent will be asked to sum up their cases during which no interruptions will be allowed.</p>
<p>The respondent will be invited to make pleas of mitigation or extenuating circumstances, or of factors that they would like taken into account (previous good employment record etc).</p>
<p>The hearing will be adjourned to a stated time/date whilst the panel considers the decision or carries out further investigation.</p>
<p>The panel will consider the evidence presented and decide whether the arguments put are sufficient to substantiate the allegations based on the balance of probabilities.</p>
<p>During the course of their deliberations the panel may wish to recall one or more of the parties to clarify a particular point. Should this be the case all parties must be recalled to observe this extension to the proceedings.</p>
<p>If a joint decision cannot be reached, then it will be necessary for the Chair to make the final decision.</p>
<p>Having reached a decision the panel will be required to formulate a set of words in statement form to be read out to the respondent supporting the decision taken and the sanction, if any, imposed.</p>
<p>At the resumption of the adjourned hearing, the Chair will either declare a decision, or announce a further adjournment for a stated reason. It may be necessary in some cases to postpone making a final decision until further information is considered. The Chair will explain the significance of the sanction. If a warning has been issued, it will include: the improvement required, the time limit during which the warning will remain 'live' and, should the improvement not materialise, the consequence of further disciplinary action.</p>
<p>If a decision is stated which entails a sanction against the respondent, the right of appeal will be outlined.</p>

The decision will be confirmed in writing within seven calendar days of the hearing. The letter of confirmation will include, if applicable, details of the right of appeal and the process for removing time-expired disciplinary warnings from a respondent's personal file.

The Chair has the right to adjourn and/ or suspend the proceedings for not more than seven calendar days, unless longer is required to collect further evidence.

Individuals may be referred to their own professional bodies in the cases where Gross Misconduct has been shown. This will be done by the Professional Lead for the relevant staff group.

A referral must be made to the Independent Safeguarding Authority (ISA) where an employee has either been removed from a post deemed to be a regulated or controlled activity; or has received a sanction that is connected to behaviour that has a controlled/regulated activity content but remained in such a post.

If a grievance is raised, either the proceedings will be suspended until the grievance is resolved if it relates to process, or dealt with concurrently if related to the allegations, and where it is material to the disciplinary.

3.10 Disciplinary Sanctions

3.10.1 If the allegations are on the balance of probabilities more likely to be true than not and are proven, decisions relating to the level, if any, of disciplinary action to be taken will be a matter of judgement for the Disciplinary Panel, who must consider:

- The seriousness of the disciplinary breach in question.
- The relevance and context of the facts/information presented.
- The respondent's previous employment record and the existence of any current, relevant disciplinary warnings.

- Issues relating to fairness, consistency and the substantial merits of the information presented.
- Any mitigating factors.

The possible sanctions and the managerial level authorised to apply them are described in the table below.

Sanction	Length of time on personal file	Authorised Manager (or equivalent)	Appeal to (Or equivalent)
Written Warning	Minimum 6 months (longer in exceptional circumstances, up to 12 months)	Directorate Manager/Head of Service or Delegated Deputy/Senior Nursing Team	Directorate Manager /Director
Final Written Warning	12 months (18 months but only in exceptional cases)	Directorate Manager/Head of Service or delegated deputy/Senior Nursing Team	Directorate Manager/ Director
Dismissal **	N/A	Anyone reporting directly to a Director e.g. Directorate Manager/Head of service (or delegated deputy), Senior Nursing Team	Directorate Manager/ Director
Downgrading, Redeployment or Transfer	1 year (with option to increase to 4 years) ⁴	Directorate Manager/Head of Service or Delegated Deputy/Senior Nursing Team	Directorate Manager/ Director

** In some instances, the allegations and findings may result in a dismissal on the grounds of SOSR (some other substantial reason) for example where there has been a breakdown in trust and confidence between an employee and the Trust.

⁴ As an alternative to dismissal and accompanied by a final written warning. This indicates the length of time that the record of the reason for the downgrading, redeployment or transfer will remain on the individual's personal file. It does not mean that the downgrading, redeployment or transfer to another post will cease after this period.

Where a written (or final written) warning has been issued the employee's pay progression will be halted for the same length of time i.e. if a six month written warning is imposed then the employee's next pay increment will be withheld for six months. The incremental date itself will not change.

Note – withholding pay progression does not apply to Medical & Dental staff, only those covered by Agenda for Change terms and conditions of service.

Where there is a summary dismissal for gross misconduct, it will be without payment in lieu of notice. Dismissal without pay in lieu of notice can only occur in cases of gross misconduct and summary dismissal.

Note – where an employee has been dismissed as a result of misconduct (or gross misconduct) they can only re-apply to work in the organisation (either directly or via an agency) after a 2 year period. At that point consideration will be given as to whether the breakdown in trust and confidence between the individual and the organisation can be repaired.

3.10.2 Where downgrading, redeployment or transfer is considered, this will be on the basis that a suitable post exists. Pay and conditions protection arrangements will not apply in such instances and any proposal of this nature should be fully discussed in advance of an individual being advised of any such decision with the Directorate of Human Resources. The new manager of the respondent should be made aware of the reason for transfer.

3.11 Appeals

3.11.1 There is a right of appeal against any disciplinary sanction applied under this procedure. Within fourteen calendar days of the date of the letter advising of the decision, written notification should be sent to the Directorate of Human Resources, setting out the grounds for appeal. It is the responsibility of the

respondent to ensure that the appeal is lodged within 14 calendar days.

- 3.11.2** When the Directorate of Human Resources receives a request for appeal, they will request the appellant's statement of case. The appropriate Presenting Manager will be notified of the reasons for appeal and asked to prepare their statement of case and be given a timeframe within which to work.
- 3.11.3** The respondent will be required to submit a written statement to the Appeal Panel outlining the grounds for their appeal. Failure to submit the statement at least 7 calendar days in advance of the notified date of the Appeal Hearing without objective justification will result in the cancellation of the appeal process and the right of appeal.
- 3.11.4** Appeals will be a review based on specific points of appeal, and are not a full rehearing.
- 3.11.5** Appeals should not be heard by members of the Disciplinary Panel.
- 3.11.6** The panel will consist of one HR Representative, one Director and one Non-Executive Director who should assume responsibilities as Chair. A Professional Adviser may be utilised where appropriate.

3.12 Appeals Procedure

References to the Trust and the appellant within this procedure shall be taken to include their representatives. The Chair of the Panel is responsible for ensuring that the order of proceedings shall be as follows:

The Chair should introduce all present and explain procedure. The Chair should also ensure the appellant is aware that they may be accompanied by a companion who should be a full-time or lay Staff Organisation Representative, a fellow worker or a friend, who is not

acting in a legal capacity (See Section 3), and should make a note if accompaniment is declined. Observers may be allowed at the discretion of the Chair and following discussion with the parties. Observers will not be allowed to take any part in the proceedings.

Any request to submit additional evidence not already distributed to the Panel, Presenting Manager/HR or the Respondent will be considered by the Chair. Due consideration of relevance to the case, the interests of natural justice and the potential disadvantage to any party will be made. Where additional evidence is allowed, the parties should be given a reasonable time to consider it before proceeding.

The appellant will state his/her case in the presence of the manager and may call witnesses.

The manager shall have the opportunity to question the appellant and each witness as they are called.

The members of the panel shall have the opportunity to question the appellant and each witness as they are called.

The appellant shall have the opportunity to re-examine each witness on any matter raised in questioning by the panel or the manager, except in harassment and bullying cases where the chair will make the decision if this is appropriate. In these cases it may be more appropriate for the representative to question the witness.

The manager will state the Trust case in the presence of the appellant and may call witnesses.

The appellant shall have the opportunity to question the manager and each witness as they are called.

The members of the panel shall have the opportunity to question the manager and each witness as they are called.

The manager shall have the opportunity to re-examine each witness on any matter raised in questioning by the panel or the appellant.

The manager and the appellant shall have the opportunity to sum up their case if they so wish. The appellant will always speak last.

In their summing up, neither party may introduce any new matter.

Notwithstanding the above, the panel may seek further information or clarification from any party at any stage prior to making its decision. The panel may also, in the interests of natural justice, adjourn the hearing to allow further evidence, advice or confirmation to be produced.

The parties to the appeal will withdraw while the panel and its advisers consider the evidence. If further clarification is required at this stage, both parties will be recalled.

The panel will communicate their decision, where possible, to the parties at the end of the hearing and will confirm the decision in writing within 7 calendar days. The decision may be deferred for up to 7 calendar days (unless further time is required to enable further evidence, advice or confirmation to be produced).

The panel, by unanimous or majority decision, shall have the power to:

- Dismiss the appeal and endorse the original decision in full
- Ask for a more detailed investigation to take place (making any reference to specific shortfalls in the original investigation)
- Request a re-hearing of the disciplinary case
- Uphold the appeal and amend the original sanction applied e.g. give a lower sanction, or offer an alternative post where dismissal has occurred. The sanction at Appeal cannot be increased.

4 Equality Analysis

In the development of this policy the Trust has considered evidence to ensure understanding of the actual / potential effects of our decisions on people covered by the equality duty. A copy of the analysis is attached at Appendix 6.

5 Accountability

Operational implementation, delivery and monitoring of the policy reside with:-

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Line Managers

- Ensure staff are aware of the standards of behaviour expected of them;
- Ensure all employees have an awareness and understanding of the Disciplinary Policy & Procedure;
- Ensure the proper use of the disciplinary procedure;
- Document all meetings and conversations that are disciplinary in nature;
- Where acting as an Investigating Officer, complete the task in a timely and effective manner and ensure the respondent is updated where delays to the process are encountered;
- Maintain contact with staff who are suspended, this should be at least every 21 days following the initial 21 days of suspension;
- Where acting as a Commissioning Manager, complete the task in a timely and effective manner;
- Utilise advice and support from the Human Resources team as per this Policy and Procedure.

Employees

- Staff are responsible for their own behaviour;
- Staff must adhere to the Code of Conduct in Appendix A and not behave in such a way that breaches the disciplinary rules in Appendix B of this policy;
- Staff must constructively participate in the disciplinary process, whether as a respondent facing allegations, or as a witness.

Human Resources

- The provision of appropriate training in the effective management of disciplinary issues;
- The provision of initial advice on particular cases;
- Advise on the content of any correspondence;
- The presence at, and the provision of appropriate advice to a Manager during investigations, hearings and appeals;
- The convening of Appeals against sanctions;

- The presence at an Appeal for the purpose of supporting a Presenting Manager through the process;
- The provision of appropriate technical advice when sitting on an Appeal Panel (separate to above role);
- Ensuring that all legislative requirements are adhered to, including compliance with all aspects of the Disciplinary Policy and Procedure;
- Ensuring that cases are dealt with in a fair and consistent manner.
- The co-ordination of a Case Management process to ensure that cases that do not require investigation are managed in a more appropriate manner e.g. training or systems issues; and also to minimise the timescales involved. Senior Managers will also be involved in such case management to ensure that any barriers e.g. availability of witnesses, are minimised as much as possible.
- HR representatives will share outcomes and learning from individual cases with the rest of the HR team to ensure consistency.

Staff Side Representatives

- Staff representatives (trade union officials) have the role of ensuring that these procedures are applied fairly and appropriately in all circumstances;
- Staff representatives will ensure they support their members in a timely manner e.g. when asked to attend meetings.

Professional Adviser

- When a Senior Manager and Human Resources representative are taking the decision whether a case should go to a Disciplinary Hearing, a Professional Adviser may be appointed if the respondent works in a clinical role. In such cases the Adviser will be provided with a copy of the overview report prior to the Hearing.
- Provide advice to the panel members of either a Disciplinary Hearing or an Appeal regarding the code of conduct of the profession in question.

- The Adviser can question witnesses, the Respondent and the Investigating Officer about points relevant to the code of conduct.
- The Adviser does not participate in the decision making process of a panel but provides advice on what can reasonably be expected of a professional in terms of the training they have received and experience gained.

However there are a number of key responsibilities placed on individuals within the organisation to ensure the effective implementation of this policy:-

6 Consultation, Assurance and Approval Process

6.1 Consultation Process

The Trust will involve stakeholders and service users in the development of its policies.

Consultation has taken place with the following stakeholders:

Senior Managers, Executive Board members, Joint Negotiation & Consultation Committee members and Joint Local Negotiating Committee members have all been formally consulted about the review of this Policy and Procedure.

Following consultation with stakeholders and relevant consultative committees, this policy has been reviewed by the Trust's Quality Assurance group to ensure it meets the NHSLA standards for the production of procedural documents.

Following completion of the Quality Assurance Process, this policy, and any subsequent policy revisions will require the approval of the Employment Policy Group, the Local Negotiating Committee, Joint Negotiation & Consultation Committee and the Executive Board.

6.2 Quality Assurance Process

Following consultation with stakeholders and relevant consultative committees, this policy has been through quality assurance checks prior to being reviewed by the authorising committee to ensure it

meets the standards for the production of policy and equalities legislation and is compliant with the Development and Management of Policies policy.

6.3 Approval Process

The approval process for this policy complies with that detailed in section 6.3 of the Development and Management of Policies Policy. The approving body for this policy is Joint Staff Management Committee, Local Negotiating Committee and Executive Board.

The Checklist for Review and Approval has been completed and is included as Appendix 7 and the completed Virtual Policy Review Group Checklist is included as Appendix 9.

7 Review and Revision Arrangements

This Policy and Procedure will be reviewed in accordance with the date stated on the front page of the document, following consultation with Managers and Staff Side Representatives.

This will include assessment of the policy's effectiveness and its compliance with current legislation.

Subsequent changes to the policy will continue to require the approval of the appropriate committees and changes will be detailed on the version control sheet at the front of the policy.

8 Dissemination and Implementation

8.1 Dissemination

Once approved, this policy will be brought to the attention of all relevant staff working at and for York Hospital NHS Foundation Trust following the completed Plan for dissemination of the policy (See Appendix 8)

This policy is available in alternative formats, such as Braille or large font, on request to the author of the policy.

8.2 Implementation of Policies

Most managers and some staff are already familiar with the Trust's disciplinary procedure even if they are not aware of detailed processes involved and detailed in the policy. Therefore the main object for implementation is raising awareness of changes to the policy (as stated in the Version History Log). This will be an integral part of the dissemination as outlined above, as well as on a case by case basis. Additional support and advice are always available from the Human Resources department and are embedded in many parts of this procedure.

9 Document Control including Archiving Arrangements

9.1 Register/Library of Policies

This policy will be stored on Staffroom, in the policies and procedures section and will be stored both in an alphabetical list as well as being accessible through the portal's search facility and by group. The register of policies will be maintained by the Healthcare Governance Directorate.

If members of staff want to print off a copy of a policy they should always do this using the version obtainable from Staffroom but must be aware that these are only valid on the day of printing and they must refer to the intranet for the latest version. Hard copies must not be stored for local use as this undermines the effectiveness of an intranet based system.

9.2 Archiving Arrangements

On review of this policy, archived copies of previous versions will be automatically held on the version history section of each policy document on Q-Pulse. The Healthcare Governance Directorate will retain archived copies of previous versions made available to them. Policy Authors are requested to ensure that the Policy Manager has copies of all previous versions of the document.

It is the responsibility of the Healthcare Governance Directorate to ensure that version history is maintained on Staffroom and Q-Pulse.

9.3 Process for Retrieving Archived Policies

To retrieve a former version of this policy from Q-Pulse, the Healthcare Governance Directorate should be contacted.

10 Monitoring Compliance and Effectiveness

This policy will be monitored for compliance with the minimum requirements outlined below.

10.1 Process for Monitoring Compliance and Effectiveness

In order to fully monitor compliance with this policy and ensure effective review, the policy will be monitored as follows:-

Minimum requirement to be monitored	Process for monitoring	Responsible Individual/ committee/ group	Frequency of monitoring	Responsible individual/ committee/ group for review of results	Responsible individual/ committee/ group for developing an action plan	Responsible individual/ committee/ group for monitoring of action plan
a. Monitor by protected characteristics to identify any inequalities	Recording of formal disciplinary cases through the Employee Relations section of ESR	Line Manager & Human Resources	Ongoing	Human Resources Directorate	Human Resources Directorate	Human Resources Directorate

10.2 Standards/Key Performance Indicators

A record of disciplinary cases and outcomes made under the policy will be maintained by the Human Resources Department and periodically reviewed to ensure consistency.

11 Training

The main requirement for implementation will be to raise awareness of any changes to the policy. Support and advice is available from the Human Resources department on the application of this policy. Managers can also attend a HR training session which incorporates the disciplinary policy.

12 Trust Associated Documentation

- Disciplinary Procedure : Managers' Guidance.
- "Maintaining High Professional Standards in the Modern NHS (2005)".
- Maintaining Professional Registration Policy and Procedure.
- Criminal Records Bureau Disclosures Policy and Procedure.
- Recruitment, Selection and Appointment Policy and Procedure.
- Sickness Absence Policy and Procedure.
- Personal Responsibility Framework.
- Trust Values.
- Guidance on the Use of Social Media.
- Leaflet for Respondents.
- Leaflet for Witnesses.
- Guidelines re Responsibilities of Managers and HR in Disciplinary Cases.
- Fraud and Corruption Policy

13 External References

- ACAS
- Anti Fraud, Bribery and Corruption Policy

14 Appendices

- Appendix 1: Code of Conduct
- Appendix 2: Disciplinary Rules
- Appendix 3: Suspension Checklist
- Appendix 4: Sanctions Only Proforma
- Appendix 5: Disciplinary Hearings & Appeals – Panel Chair’s Guidance Checklist
- Appendix 6: Equality Analysis
- Appendix 7: Checklist for Review and Approval
- Appendix 8: Plan for the dissemination of a policy
- Appendix 9: Virtual Policy Review Group Checklist

APPENDIX 1 - CODE OF CONDUCT

The Code of Conduct gives examples of the standard of conduct at work that the Trust expects of its employees. This list is intended to be indicative and is not exhaustive. Any breach of the general rules may be regarded as misconduct or gross misconduct, depending on the circumstances of each case, and disciplinary action may result.

- 1 Employees must seek appropriate approval from their manager if they require being absent from their place of work during normal working hours.
- 2 Employees must notify their manager promptly if they are absent from duty due to illness and must also provide the correct sickness certification in a timely manner.
- 3 Employees must arrive punctually and ready for duty, at the start of the normal working day or shift start time and after breaks. Employees must notify their manager promptly if they are going to be late.
- 4 Employees must demonstrate the highest standards of honesty and integrity at all times and respect the confidentiality of patients and colleagues.
- 5 Employees must not use the Trust's resources for their own personal use. Use of personal devices such as mobile telephones for non-work purposes must be restricted to official breaks.
- 6 All staff must observe Health and Safety policies and safe working practices at all times and use protective equipment where this is provided e.g. steel toe-capped shoes.
- 7 Employees must comply with the Trust's policy on smoking and any specific requirements e.g. using designated areas where they exist, times (breaks as agreed with line manager), covering/changing out of uniforms.
- 8 Employees must comply with the principles of the Substance Misuse Policy & Procedure.

- 9 Employees in regulated professions are responsible for ensuring that their professional registration remains current at all times and that they comply with the professional standards set by their regulatory body.
- 10 Employees must treat the Trust's resources and equipment with respect and avoid any damage, loss or misuse of such resources or equipment.
- 11 Employees must treat patients, visitors, other service users and colleagues with dignity, respect and courtesy and in a non-discriminatory manner at all times. For example this includes not talking over patients when making beds or transporting people around the site. Conversations should include patients.
- 12 Where there are safety risks employees may not bring unauthorised visitors onto Trust premises.
- 13 Employees must carry out any legitimate and reasonable requests or instructions from a manager or supervisor in the furtherance of their duties and must work effectively and constructively, whether individually or part of a team.
- 14 Employees must inform their line manager if they have been or may have been in contact with any contagious or notifiable disease as per the Sickness Absence Policy and Procedure.
- 15 All employees must carry out the duties and responsibilities of their post to the best of their abilities, with due regard to appropriate Trust policies and procedures. Employees must act in accordance with, and promote the Trust values.
- 16 Employees must inform the Director of Human Resources and their line manager in writing if they are being investigated in relation to a criminal offence or have been; convicted of a criminal offence, have received a caution for a criminal offence, have been or are currently subject to, or charged with a criminal offence.
- 17 Employees must inform their line manager of any situation / instance they are aware of that may bring the Trust into disrepute. This includes postings on social media networks.

- 18 Employees must provide documentary evidence of a legal right to remain/work in the UK when requested, including compliance with the Trust's annual checks.

APPENDIX 2 – DISCIPLINARY RULES

Disciplinary Rules are necessary for the safe and efficient performance of work and for the maintenance of good relations between employees and management. The list of disciplinary rules set out below is intended to be indicative, not exhaustive; other misconduct may also give rise to disciplinary action.

- 1 Conduct that is likely to bring discredit to the organisation.
- 2 Improper, disorderly or unacceptable conduct at, during or when arriving for work.
- 3 Late attendance and/or inadequate timekeeping.
- 4 Absence from work without proper cause.
- 5 Deliberately withholding or providing false or inaccurate information orally or by the falsification of records or documents.
- 6 Failure to comply with a reasonable order, instruction, Trust Policy/Procedure, or contractual requirement.
- 7 Misuse of the sickness benefit scheme.
- 8 Unauthorised presence on Trust property.
- 9 Being an accessory to a disciplinary offence by another employee.

Some breaches of disciplinary rules are regarded as gross misconduct, which may result in summary dismissal without notice or payment in lieu of notice. Examples are:

- 10 Theft, including NHS property, assets or funds.
- 11 Losses, damage to or misuse of NHS equipment or property through wilfulness, negligence or carelessness.

- 12 Any fraudulent activity in the course of employment.
- 13 Corruption, including accepting gifts or hospitality, or demanding monies as a bribe or for favour (as per the Standards of Business Conduct Policy), or to have offered, promised or given of a bribe or to have requested, agreed to receive or accepted a bribe.
- 14 Committing an act outside work, or being convicted of a criminal offence that is liable to adversely affect the contract of employment and/or the relationship between the employee and the Trust.
- 15 Gross insubordination for example determined or continued action(s) in defiance of a specific order to the contrary, particularly where this puts patients, colleagues or members of the public at risk.
- 16 Gross negligence.
- 17 Failure to observe Health and Safety policies and safe working practices at all times and failure to use protective equipment where this is provided e.g. steel toe-capped shoes.
- 18 Being unfit to perform the duties or responsibilities of a post through the consumption of alcohol or whilst under the influence of drugs or other substances.
- 19 Acts of violence or threatening violence.
- 20 Conduct which is incompatible with an individual's professional role or status.
- 21 Perpetration of a hoax, practical joke or other malicious act which results in disruption of the service or harm to others.
- 22 Unwelcome or intimidating behaviour, however conveyed, of a physical, verbal or non-verbal nature that may be

construed as harassment or direct or indirect discrimination towards others.

- 23 Any use of social networking sites whether during work hours or not, that brings the Trust into disrepute or perpetrates other offences set out in these disciplinary rules.
- 24 Being party to unauthorised disclosure of any personal information relating to patients or staff including that obtained from the Trust's records or computer systems. Any breach of confidentiality.
- 25 Misuse of IT systems, including unauthorised entry into the Trust's computer systems, playing computer games etc.
- 26 Introducing software on to the Trust's computer systems or communications network without adequately testing beforehand for software viruses.
- 27 Abusing access to the Trust's Internet, email or other computer facilities for reasons other than connected with the execution of duty during working time; personal use of such facilities must be limited to official breaks and not incur a cost to the Trust.
- 28 At any time using the Trust's computer facilities to access, display, store, distribute, record or edit sexually explicit material.
- 29 Repeated episodes of misconduct or failure to address/improve on issues previously formally identified as misconduct.
- 30 Failure to maintain professional registration.
- 31 Failure to maintain the legal right to work and/or right to remain in the UK as per the Immigration, Asylum and Nationality Act 2006. Or failure to comply with Trust procedures for evidencing the legal right to work and/or remain in the UK, e.g. the annual documentation check.

- 32 Victimising or treating anyone differently as a result of their involvement in a complaint or investigation.
- 33 Sleeping on duty, except when authorised.

APPENDIX 3 SUSPENSION CHECKLIST

YORK TEACHING HOSPITAL NHS FOUNDATION TRUST

To be completed by the HRM at the start of a new disciplinary investigation – in all cases sections A-C are to be completed, as well as section D for all suspensions.

This form is an essential part of the Trust’s disciplinary policy and auditing arrangements. Please ensure that the form is completed fully.

Section A – Case Details

EMPLOYEE NAME:	
JOB TITLE:	
MANAGER:	
DIRECTORATE/DEPARTMENT:	
ALLEGATION(S):	
POTENTIAL GROSS MISCONDUCT:	<i>(Yes / No – if Yes, state which elements of Code of Conduct or Disciplinary Rules)</i>
DATE(S) OF ALLEGATION:	

Section B – Employee Status

INDICATE EMPLOYEE STATUS <i>(e.g. suspended, amended duties, transferred to another area, normal duties)</i> :	
SUMMARISE RATIONALE FOR STATUS <i>(e.g. seriousness of allegations; risk to patients or other staff; risk to integrity of the investigation)</i> :	
HOW WAS EMPLOYEE INFORMED?	
WHO INFORMED THE EMPLOYEE	
DATE EMPLOYEE INFORMED	

Signed: *(HR Manager)*

Date:

Section C – Communications Log

The HRM should maintain the following log of communications and decisions related to the employee’s status throughout the disciplinary process (e.g. with the Directorate, Corporate Nursing, Senior HR Team). This should include each review of status (e.g. periodic review of the need to maintain suspension in light of new information from the investigation).

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The log should include communications on this subject to the respondent (e.g. record the dates of any letters sent).

Date:	Summary of communication and / or decision:
e.g. 01-01-2001	Conversation between PHS and MW. Decision taken to suspend employee.
e.g. 02-01-2001	Matron X and HRM met employee to suspend him. Letter posted from the DM confirming decision and allegations.
e.g. 22-01-2001	Suspension decision reviewed by DM and HRM – renewal of suspension letter sent to employee.

Section D – Detailed Rationale for Suspension

To be completed in the case of a suspension and signed by Senior HR Team and the Professional Lead (or a Senior Manager if Professional Lead not applicable)

Consideration to be given to:	Suitable?		Reason <i>(Please state your reason for selection/ non selection of each)</i>
	Yes	No	
1. Removal from the on call duty/lone working rota			
2. Ensuring supervision, particularly if working nights			
3. Consideration made to the strength and credibility of the allegations and subsequent interview			

4. Transfer to other duties			
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Signed..... (Senior HR Team)
Date.....

Signed..... (Professional Lead / Senior
Manager) Date.....

APPENDIX 4 SANCTIONS ONLY PROFORMA

York Teaching Hospital **NHS**
Foundation Trust

Sanction Only Hearing

A Sanction Only Hearing may occur in circumstances where a member of staff admits to the allegations made against them and confirms (either prior to or during the course of the investigation) that they do not wish the matter to undergo a full disciplinary investigation and/or a full disciplinary hearing.

A Sanction Only Hearing requires you to complete the form below and sign/date to confirm that you are in full agreement with this approach. If appropriate, please discuss this option with your staff side representative before signing to confirm your agreement. You will have the right to be accompanied by one of the following: a Union Representative, a colleague or a friend, not acting in a legal capacity at the Sanction Only Hearing.

Please note any level of sanction can be issued at a Sanction Only Hearing except for dismissal. Employees cannot be dismissed at a Sanction Only Hearing.

I confirm that I acknowledge and admit to the allegation below:

Allegation:

I sign to confirm that I agree to a Sanction Only Hearing.

I confirm that I have sought advice from my staff side representative - Yes/No

If no, I am happy to proceed with this option - Yes/No

Name:	Date:
Signature.....	

APPENDIX 5 DISCIPLINARY HEARINGS AND APPEALS – PANEL CHAIR’S GUIDANCE CHECKLIST

Has every aspect of the Trust’s Disciplinary Procedure been complied with?	
Was there an investigation prior to the disciplinary hearing?	
Was this exhaustive, objective and reliable?	
Was all the evidence put before the hearing?	
Assuming the answers to all the above questions are “yes” are the investigation’s findings set out in the evidence and were all these facts put to the employee?	
Was the employee given every opportunity to answer charges/ provide explanations, and are these explanations recorded?	
Do any material questions occur which were not put to either side? (If so, these should be listed so that they can be asked during the hearing/appeal)	
Given the investigation, the evidence and the employee’s answers, and observations on the evidence, is it reasonable to conclude that the employee was culpable of the behaviour stated in the charge?	
Was the hearing conducted properly, with the employee given every opportunity to make their case and to make pleas in mitigation?	
Were such contentions and pleas taken into account?	
What is the employee’s record?	
Have there been other cases of this nature and, if so, what were the circumstances and decision in those cases?	
What do our rules say, do we always abide by the rules – is there any discretion or are there any “rule relaxation” precedents?	
Did the Chair of the disciplinary hearing make an appropriate decision in the circumstances? In other words, “does the punishment fit the crime”, bearing in mind the previous record of the employee, any precedents that may be operative, and	

the reasonableness of the sanction?	
Are there any concerns?	
If the appeal is against the severity of the sanction, does the sanction fit the offence and is it in accordance with precedents?	
The panel should identify any recommended actions and agree who will be responsible for implementing them, and how they will be evaluated.	

Appendix 6 Equality Analysis

To be completed when submitted to the appropriate committee for consideration and approval.

Name of Policy	
1.	What are the intended outcomes of this work? To outline the standards of conduct and behaviour expected within the Trust and to detail the consequences of poor behaviour e.g. disciplinary action.
2	Who will be affected? Staff
3	What evidence have you considered? ACAS Guidance, relevant employment legislation & national guidance. Also relevant Trust Policies (see section 12).
a	Disability No discriminatory impact identified
b	Sex No discriminatory impact identified
c	Race No discriminatory impact identified
d	Age No discriminatory impact identified
e	Gender Reassignment No discriminatory impact identified
f	Sexual Orientation No discriminatory impact identified
g	Religion or Belief No discriminatory impact identified
h	Pregnancy and Maternity No discriminatory impact identified
i	Carers No discriminatory impact identified
j	Other Identified Groups No discriminatory impact identified
4.	Engagement and Involvement

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a.	Was this work subject to consultation?	Yes
b.	How have you engaged stakeholders in constructing the policy	Consultation with Staff Side Representatives & Line Managers (see below)
c.	If so, how have you engaged stakeholders in constructing the policy	See above
d.	For each engagement activity, please state who was involved, how they were engaged and key outputs The draft policy was shared with the EPG, JNCC and JLNC committee members for further comment, queries and approval.	
5.	Consultation Outcome	
a	Eliminate discrimination, harassment and victimisation	No impact i.e. neutral, doesn't promote or impact adversely
b	Advance Equality of Opportunity	No impact i.e. neutral, doesn't promote or impact adversely
c	Promote Good Relations Between Groups	No impact i.e. neutral, doesn't promote or impact adversely
d	What is the overall impact?	No impact i.e. neutral, doesn't promote or impact adversely
Name of the Person who carried out this assessment: Louise Bone, HR Manager		
Date Assessment Completed 31 July 2014		
Name of responsible Director Sue Holden, Director HR & Corporate Development		

If you have identified a potential discriminatory impact of this procedural document, please refer it to the Equality and Diversity Committee, together with any suggestions as to the action required to avoid/reduce this impact.

Appendix 7 Checklist for Review and Approval

Authors need to be confident that their policy meets all of the criteria identified below before submitting this to the appropriate committee(s) for consideration and approval.

	Title of document being reviewed:	Yes/No	Comments
1.	Development and Management of Policies		
	Is the title clear and unambiguous and meets the requirements of page 3 of the Development and Management of Policies Policy?	YES	
	Is it clear whether the document is a policy, procedure or protocol?	YES	
	Does the style and format of the policy meet the requirements of section 3.2 of the Development and Management of Policies Policy?	YES	
	Does the policy contain a list of definitions of terms used?	YES	
2.	Rationale		
	Are reasons for development of the document stated?	YES	
3.	Development Process		
	Is the method described in brief?	YES	
	Are individuals involved in the development identified?	YES	
	Do you feel a reasonable attempt has been made to ensure relevant expertise has been used?	YES	
	Is there evidence of consultation with all relevant stakeholders and users?	YES	
4.	Content		
	Is the document linked to a strategy?	YES	
	Is the objective of the document clear?	YES	
	Is the target population clear and unambiguous?	YES	
	Are the intended outcomes described?	YES	
	Are the statements clear and unambiguous?	YES	
	Does it meet all of the requirements of external agencies/bodies where applicable?	YES	

	Title of document being reviewed:	Yes/No	Comments
5.	Evidence Base		
	Is the type of evidence to support the document identified explicitly?	N/A	
	Are supporting references cited in full?	N/A	
	Are local/organisational supporting documents referenced?	N/A	
	Are all associated documents listed and updated?	N/A	
6.	Approval		
	Does the document identify which committee/group will approve it?	YES	
	If appropriate, have the staff side committee (or equivalent) approved the document?	YES	
7.	Dissemination and Implementation		
	Does the dissemination plan identify how this will be done and is it clear?	YES	
	Does the plan include the necessary training/support to ensure compliance?	N/A	
	Does the policy detail what evidence will be collated to demonstrate compliance with it?	YES	
8.	Document Control		
	Does the document identify where it will be held?	YES	
	Have archiving arrangements for superseded documents been addressed?	YES	
9.	Process for Monitoring Compliance		
	Are there measurable standards or KPIs to support monitoring compliance of the document?	NO	
	Is there a plan to review or audit compliance with the document?	YES	
10.	Review Date		
	Is the review date identified?	YES	
	Is the frequency of review identified? If so, is it acceptable?	YES	
11.	Overall Responsibility for the Document		
	Is it clear who will be responsible for coordinating the dissemination,	YES	

	Title of document being reviewed:	Yes/No	Comments
	implementation, evidencing, monitoring and review of the documentation?		

Policy Owner's Approval

If you are happy to approve this document, please sign and date it and forward to the chair of the committee/group where it will receive final approval. (This can be completed electronically with an electronic signature)

Name	Sue Holden	Date	20/11/14
Signature	<i>Sue Holden</i>		

Committee Approval

If the Chair or Vice Chair of the committee is happy to approve this document, please sign and date here and enter the name of the committee/group. The Policy Author will contact the secretary/administrator of the committee/group to obtain a signed copy of this checklist. The Policy Author will then submit this together with the approved policy (ensuring the "draft" watermark is removed) to the Policy Manager for logging and publication.

Name	Patrick Crowley	Date	29.12.14
Signature	<i>Patrick Crowley</i>		
Committee/ Group title	Executive Board		

For Policy Manager's use only

Is there a signed and completed Checklist for Review and Approval accompanying the policy?	Y
Is the policy logged on Qpulse?	Y
Has the old version of the policy been archived? (if applicable)	Y
Has the policy been published on Staffroom?	Y
Author notified that policy has been published?	Y

Appendix 8 Plan for the dissemination of a policy

To be completed and attached to any document which guides practice when submitted to the appropriate committee for consideration and approval.

Title of document:	Disciplinary Policy & Procedure
Date finalised:	December 2014
Previous document in use?	Yes
Dissemination lead	Human Resources
Which Strategy does it relate to?	
If yes, in what format and where?	
Proposed action to retrieve out of date copies of the document:	Healthcare Governance Directorate will hold archive

To be disseminated to:	1) All staff & managers	2)
Method of dissemination	Staff Room	
who will do it?	Policy Manager	
and when?	When approved by Executive Board	
Format (i.e. paper or electronic)	Electronic	

Dissemination Record

Date put on register / library	
Review date	
Disseminated to	
Format (i.e. paper or electronic)	
Date Disseminated	
No. of Copies Sent	
Contact Details / Comments	

Appendix 9

Virtual Policy Review Group Checklist

All policy/procedure authors are required to complete the table below, entering ticks or text in the relevant box and to be open and honest about any implications. Failure to identify implications may lead to the document approval process being delayed.

Policy Title: Disciplinary Policy & Procedure

Policy Author: Louise Bone, HR Manager **Policy Owner:** Sue Holden, Interim Director of HR

Date of submission to VPRG: August 2014

	Yes	No	Not Sure	N/A	Comments
CLaD Does the policy/procedural document require staff to be formally trained?	x				<ul style="list-style-type: none"> Line Managers via the HR Issues Training Course – general awareness Investigating Officers – specific training on how to undertake a disciplinary investigation
Would the training be classified as Statutory/Mandatory and is this already included in the Statutory/Mandatory Training Brochure?		x			
Does training require the learner to access statutory or mandatory learning material/content on line?		x			

	Yes	No	Not Sure	N/A	Comments
Procurement Will the introduction of the document incur additional costs associated with equipment, disposables, maintenance agreements etc?		x			
What is the likely additional cost associated with the above?				x	
Information Technology Will the introduction of the document require an increase in computer hardware?		x			
Are there any software, IT training or software license requirements associated with the document's introduction? If so, what are the estimated costs associated with this?		x			
Information Governance Are there any information governance issues associated with the introduction of the document?		x			
HR Will there be any impact on staffing levels or any other HR related issues? (If so give details)		x			

	Yes	No	Not Sure	N/A	Comments
Estates and Facilities Will there be any significant impact on Estates and Facilities associated with the introduction of the document? (If so, give details)		x			
Communications Will the introduction of the document require significant communications team input?		x			
Risk and Legal Are there risks associated with the introduction of this document?		x			
Are there any legal implications associated with the introduction of this document?		x			
Will the introduction of the document require the production of significant additional or new patient information?		X			
Occupational Health Will the introduction of the document have any potential implications on the OH department?		X			
Health and Safety/Security Will the introduction of the document have any significant health and safety or security implications for the Trust?		x			

	Yes	No	Not Sure	N/A	Comments
<p>Corporate Will the introduction of the document have any corporate governance implications for the Trust not covered above?</p>		x			
<p>Finance Are there any changes from the proposed document which have a financial impact?</p> <p>If you answered yes to the above question, please provide detail.</p>		x			
<p>Does the document require any change in financial processes or arrangements? (e.g. Payroll, Invoicing, Payments etc)</p> <p>If you answered yes to the above question, please provide detail.</p>		x			

If you answered yes to the first question, has a business case been submitted? Enter details alongside relevant entry

Submitted and Approved
(Include Business case No.)

Being written (Please provide planned timeframes for submission)

Saving being Declared

None of the above (Please give a brief explanation of the reasons why a business case has not been submitted or savings declared)