

## DISCIPLINARY POLICY

The purpose of this policy is to set out Kingston Hospital NHS Foundation Trust's position and procedures on workplace discipline. The Disciplinary Policy and Procedure provides a mechanism for disciplinary matters to be dealt with promptly, fairly and consistently.

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## CONTENTS

1.	Introduction .....	3
2.	Objectives .....	3
3.	Equality Statement .....	3
4.	Scope .....	3
5.	Definitions .....	4
6.	Roles & Responsibilities .....	4
7.	Right to Representation .....	5
8.	Trust Referral Obligations .....	6
9.	Safeguarding .....	6
10.	Criminal Offence .....	6
11.	Fraud .....	6
12.	Allegations against a Trade Union .....	7
13.	Gross Misconduct .....	7
14.	Disciplinary Procedure .....	7
15.	Outcome of Investigation .....	9
16.	Disciplinary Panel .....	9
17.	Attendance at a Disciplinary Hearing .....	10
18.	Formal Disciplinary Sanctions .....	11
19.	Pay Increment .....	11
20.	Right of Appeal .....	11
21.	Deciding whether Exclusion is Necessary .....	11
22.	Pay During Exclusion .....	12
23.	Implementation .....	12
24.	Associated Documentation .....	12
25.	Reference Documents .....	12
	Appendix 1 - Trust Values.....	13
	Appendix 2 - Guidelines on Standards of Conduct and Behaviour.....	15
	Appendix 3 - Improvement Note.....	20
	Appendix 4 – Gross Misconduct.....	21
	Appendix 5 - Incident Decision Tree.....	22
	Appendix 6 - Guidance for Investigating Officers.....	24
	Appendix 7 - Disciplinary Flow Chart.....	26
	Appendix 8 – Procedure for Exclusion.....	27
	Appendix 9 - Exclusion Checklist.....	29
	Appendix 10 – Managerial Authorisation.....	30
	Appendix 11 - Procedure during a Disciplinary Hearing.....	31
	Appendix 12 - Template Management Statement of Case.....	33
	Appendix 13 - Chairing a Formal Disciplinary Hearing.....	35
	Appendix 14 – Equality Impact Assessment.....	36
	Version Control Sheet.....	39
	Monitoring Sheet.....	41

## **1. INTRODUCTION**

- 1.1 This Trust Disciplinary Policy and Procedure has been produced in accordance with the ACAS Code of Practice on Disciplinary and Grievance Procedures (April 2015). It meets with the legislative requirements set out within the Employment Rights Act 1996, the Employment Relations Act 1999, Employment Act 2008 and the Equality Act 2010.
- 1.2 The purpose of the Disciplinary Policy and Procedure is to encourage employees to achieve and maintain high standards of conduct and behaviour in accordance with the requirements of Kingston Hospital NHS Foundation Trust's and relevant professional codes of conduct that apply to specific professions within the organisation. (Where provisions apply, the professional conduct and competence of medical staff may also be considered separately by the relevant body).
- 1.3 The Trust's core behavioural values re-inforce our commitment to promote and maintain excellent standards of behaviour and consistent treatment of employees:
  - Caring
  - Safe
  - Responsible
  - Value Each Other

## **2. OBJECTIVES**

- 2.2 To support managers to maintain a workforce that adopts the values, behaviours and standards of conduct expected of them and if they fall short of these standards, to help and encourage improvement where this is possible.
- 2.3 To ensure that there is consistent and fair treatment of staff in relation to disciplinary action taken in response to allegations of unacceptable conduct under this policy.
- 2.4 To ensure that relevant legislation, ACAS and the Equality and Human Rights Commission codes and good management practice are followed during the implementation of this policy.

## **3. EQUALITY STATEMENT**

The Trust is committed to promoting equality, valuing diversity and protecting Human Rights and is committed to eliminating discrimination against any individual on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation, as well as to promote positive practice and value the diversity of all individuals and communities.

## **4. SCOPE**

- 4.1 This procedure applies to all staff directly employed by the Trust.
- 4.2 For medical staff and dental staff, please refer to the Trust's Policy and Procedure for Maintaining High Professional Standards for Medical and Dental Practitioners.

## 5. DEFINITIONS

For the purpose of this document, the following definitions apply:

**Improvement Note** – informal plan agreed by the manager and employee to improve standards of conduct.

**Misconduct** – is an unacceptable/inappropriate offence/action.

**Gross Misconduct** – is a serious act of misconduct that is serious enough on its own to justify the employee's (possible) immediate summary dismissal.

**Agreed Outcome** – is when an employee agrees with the allegations and following the investigation agrees with the manager a sanction (first written or final written warning only prior to hearing). See section 14.6 for more details.

**Working Day** - for the purposes of this policy and procedure working days are Monday to Friday with the exception of bank holidays.

**Summary Dismissal** - is dismissal without notice or payment in lieu of notice, even in the absence of any prior disciplinary warnings.

**Commissioning Manager** – the individual who will review the completed report following a formal investigation and who will decide what the next steps in the process should be.

**Investigating Officer** - the individual who will lead an investigation into misconduct under the formal stages of the procedure.

## 6. ROLES & RESPONSIBILITIES

### Manager Responsibilities

- To behave in accordance with the Trust Values.
- To ensure that the Trust's policies and procedures are conveyed and fully explained to their employees.
- To take appropriate action at the earliest stage by bringing the matter to the attention of the employee at the earliest opportunity.

### Employee Responsibilities

- To behave appropriately in accordance with the Trust's Guidelines on Standards of Conduct and Behaviour and the Trust's Values (Appendix 1 and Appendix 2).
- To be aware of and adhere to any particular rules or codes of practice that applies to their work area.
- To carry out their work to a reasonable standard and to achieve agreed objectives within set timescales.

### Commissioning Manager Responsibilities

- To establish based on evidence whether there is a case to answer or not.
- To notify the staff member of a written confirmation of the investigation outcome.
- To chair the disciplinary hearing or where appropriate delegate authority to another manager to chair the disciplinary hearing.

- To carry out exclusion(s) during the application of this policy.

### **Investigating Officer Responsibilities**

- To act as the authorised officer to undertake a formal investigation in accordance with this policy. This will usually be the employee's Line Manager, however in cases where this not appropriate, a suitable manager will be appointed to this role by the commissioning manager.
- To carry out a thorough, fair investigation to appropriately establish the facts of the matter.
- To establish the facts and provide them to the commissioning manager for review and a decision.
- To collect witness statements and conduct any formal investigation meetings in accordance with this procedure.
- To keep update the staff member being investigated updated on the investigation proceedings.

### **HR Responsibilities**

- To provide support and guidance to all employees and management with regards to the implementation of and adherence to this policy.
- To encourage and support resolutions of matters without requiring a formal investigation.
- To ensure that the appropriate records of the proceedings are maintained where appropriate.
- To ensure that all relevant documentation are copied and distributed to all relevant parties.
- To provide training to managers on how to undertake investigations and how to complete investigation reports.

### **Trade Union Representative Responsibilities**

- To behave in accordance with the Trust Values.
- To ensure that the Trust's policies and procedures are conveyed and fully explained to their members.
- To work in partnership with managers to encourage informal resolutions of issues where possible.
- To advise the member of staff on the application of this policy and to assist the member of staff in making their case to management.

## **7. RIGHT TO REPRESENTATION**

- 7.1 Employees have the right to request to be accompanied at formal stages of the disciplinary procedure by a workplace colleague or an official of a trade union (within that meaning) whom the union has reasonably certified in writing as having experience of, or as having received training in, acting as a worker's companion at disciplinary or grievance hearing. It is the employee's responsibility to arrange this.
- 7.2 All correspondence will be sent to the employee who may then discuss the content with their representative.
- 7.3 The right to be accompanied does not normally extend to legal representatives or friends and relations not working for the Trust.

## **8. TRUST REFERRAL OBLIGATIONS**

- 8.1 The Trust employs a number of professional staff groups that are required, under statute, to maintain their professional status by maintaining professional standards, which are clearly laid out in their codes of conduct.
- 8.2 The Trust has a statutory and ethical obligation, if a member of staff from a professional body breaches their code of conduct to refer the matter to their professional body and, in some cases, associated safeguarding organisations.
- 8.3 The professional lead should make the referral to the relevant body if a member of staff from a professional body breaches their code of conduct.

## **9. SAFEGUARDING CHILDREN AND VULNERABLE ADULTS**

- 9.1 The Trust has a statutory duty under the Safeguarding Vulnerable Groups Act 2006 (SVGA), to refer individuals to the Disclosure and Barring Service (DBS) for consideration for inclusion on the children's or adult's barred list where:
  - An individual is dismissed for misconduct and issues concerning the safety or welfare of children or vulnerable adults are raised.
  - An individual resigns or retires in circumstances where such a dismissal may otherwise have been considered (or an individual may be made redundant, due to organisational change, and dismissal may have otherwise have been considered), and/or
  - An individual is transferred to a position which removes the individual from caring for children or vulnerable adults.
- 9.2 The Trusts' safeguarding lead is responsible for making the referral to the relevant safeguarding body.

## **10. CRIMINAL OFFENCE**

- 10.1 If there is a possibility of criminal proceedings being taken against the employee, the employee must inform his/her manager as soon as possible. The following points should be noted:
  - The Trust will not automatically take disciplinary action because of criminal offences outside work. The Trust will decide whether the offence makes the employee unsuitable for his/her job.
  - The Trust will not dismiss an employee solely because he/she is absent from work whilst in custody or because a charge is pending against the employee.
  - Continuing police enquiries or legal proceedings will not stop the Trust from carrying out disciplinary action where we feel it is appropriate.

## **11. FRAUD**

In cases of fraud, the Counter Fraud and Security Management Service (CFSMS) will be contacted and likewise, the Trust will consult with CFSMS to establish whether an investigation into any other matters would impede their investigation.

## **12. ALLEGATIONS AGAINST AN ACCREDITED TRADE UNION REPRESENTATIVE**

Normal disciplinary standards apply to trade union representatives who are employees of the Trust. However, if an employee who is an accredited trade union representative is subject to disciplinary investigation, the HR representative should inform the full time officer of the union prior to any disciplinary action being taken, and give reasonable opportunity for the employee to be represented at any disciplinary meeting. If it is necessary to exclude an accredited representative of a trade union then, if possible, the appropriate union official or Full Time Officer should be informed prior to the exclusion taking place or as soon as possible afterwards.

## **13. GROSS MISCONDUCT**

- 13.1. Gross misconduct is described as misconduct serious enough to destroy the employment contract between the employer and the employee, and which makes any further working relationship and trust impossible.
- 13.2. Gross misconduct may be sufficiently serious to warrant summary dismissal. See Appendix 4 for examples of offences which the Trust will normally regard as gross misconduct.
- 13.3. Where gross misconduct is alleged, exclusion from duty should be considered where appropriate pending a full investigation.

## **14. DISCIPLINARY PROCEDURE**

- 14.1 When a manager is made aware of a potential misconduct, prior to deciding the appropriate resolution or next steps, it may be necessary to conduct a preliminary investigation to ascertain details of the allegations.
- 14.2 Managers should try to resolve minor matters of concern informally. If informal approaches do not bring about improvement or if the misconduct is sufficiently serious, the formal stages of the disciplinary procedure will apply.
- 14.3 Prior to commencing formal action the manager should liaise with the Ask<sup>HR</sup> team on the matter. No disciplinary action will be taken against an employee until the Trust has fully investigated the allegation(s).
- 14.4 **Informal Resolution**
  - 14.4.1 Informal discussions can often be used to improve the conduct of employees and only when this has failed, or a serious breach of conduct has occurred, should the formal procedure be used.
  - 14.4.2 Where a line manager needs to address minor breaches of conduct he/she should meet with the employee in a private environment outlining the issues of concern giving them an opportunity to respond and to disclose any underlying problems.
  - 14.4.3 The required improvement and a review date will be agreed, taking into account any mitigating circumstances, and arrangements for other steps such as additional training and other support as appropriate. A written improvement plan and note may be appropriate to structure clearly the improvements and outcomes expected and the timescales (appendix 3 improvement note). A further meeting should be set up to review the improvement plan.

- 14.4.4 If informal action does not bring about the required improvement or the misconduct is too serious the formal disciplinary process may be initiated. Managers should seek advised from the Ask<sup>HR</sup> team before initiating the formal procedure.

## 14.5 Formal Procedure

- 14.5.1 A matter should proceed to the formal procedure where the informal procedure has failed to achieve the required improvement standards or where following preliminary investigation a matter warrants moving straight to the formal procedure.
- 14.5.2 The matter should be escalated to a senior manager responsible for the department, who will then act as the Commissioning Manager.
- 14.5.3 The Commissioning Manager under this policy should be Head of Department for the area where there is an alleged disciplinary matter. Where is not possible, a senior manager at Band 8B and above, with dismissal and exclusion authorities with act as the Commissioning Manager.
- 14.5.3 Commissioning Manager can delegate these responsibilities to another suitable manager where deemed appropriate, based on the nature of the allegations.
- 14.5.4 Upon becoming aware of allegations against an employee which warrant a formal investigation, the Commissioning Manager should, without undue delay:
- Contact the Ask<sup>HR</sup> team, outlining the allegations, requesting suitable HR representatives and to record details of the allegations accordingly.
  - Appoint a suitable Investigating Officer, giving consideration to their suitability and neutrality.
  - Advise the individual that they may wish to take steps to contact their trade union representative for the purposes of obtaining advice and/or representation.
  - Consider whether exclusion from duty is necessary – see Appendix 8.
- 14.5.5 An investigation to establish the facts of a case will be carried out by the Investigating Officer with support from a HR representative before formal disciplinary action is taken.
- 14.5.6 The Commissioning Manager will write to the employee to notify them of the investigation, informing them of the allegations and details of the Investigating Officer.
- 14.5.7 Following the completion of the investigation/management report the Commissioning Manager will make the decision with regards to if the matter is to proceed to a formal disciplinary hearing.

## 14.6. Agreed Outcome (taking personal responsibility)

- 14.6.1 Following completion of the investigation, an alternative formal procedure can apply when the potential conduct issues do not constitute serious or gross misconduct. These can be resolved within a procedure which seeks to identify both the cause and responsibilities in an open and constructive way and agree remedial action which ensures both the Trust and the individual learns, avoiding similar breaches in the future.

- 14.6.2 In some cases it may be possible to agree an outcome earlier in the process. The Commissioning Manager should only consider this where the facts of the cases are very straightforward and there is confidence that further investigation or write up of the investigation will not alter the material facts of the matter.
- 14.6.3 The request for an Agreed Outcome request can be made either by the employee or their union representative on their behalf. The request should be made no later than 5 working days after receiving the Investigation outcome letter; clearly outlining the sanction requested, any mitigating factors, the length of time the sanction will remain valid for the agreed period, in line with appropriate formal sanction (see section 18).
- 14.6.4 Following a discussion with a workforce representative / employee, the Commissioning Manager can either agree to the proposed sanction or if he/she does not feel they have sufficient information to make a decision or disagree with the suggested level of sanction/length of sanction, then the normal formal disciplinary process should follow. The Commissioning Manager will confirm their decision on the proposal in writing within 5 working days. There is no right of appeal against this.
- 14.6.5 Where appropriate, the employee can request to meet with the commissioning manager to discuss the agreed outcome. The employee will have the right to representation during this meeting.
- 14.6.6 There is no right of appeal against the agreed outcome.

## **15. OUTCOME OF INVESTIGATION**

- 15.1 Upon completion of the investigation, the Commissioning Manager will inform the employee of the outcome of the investigation.
- 15.2 The Commissioning Manager will decide whether the case should proceed to formal procedures or not.
- 15.3 Following completion of an investigation, a decision may be made to proceed to a formal disciplinary hearing, where:
- The employee does not exercise their right to request an Agreed Outcome.
  - The decision was made by the Commissioning Manager to not agree to the requested agreed outcome, or
  - Dismissal is a potential outcome (for example gross misconduct or misconduct related to previous active sanctions on file).
- 15.4 The employee will be advised in writing of the decision to proceed to a hearing, and if dismissal is a potential outcome of the hearing. This will include details of the including a copy of the investigation/management report and relevant documents.

## **16. DISCIPLINARY PANEL**

- 16.1. The disciplinary panel should be composed of a chair supported by a HR representative. The Commissioning Manager will act as the chair. The Commissioning Manager can delegate this responsibility to another senior manager where appropriate (see Appendix 10).
- 16.2 The senior manager who chairs the disciplinary hearing should have the authority to issue the appropriate sanction. Those with the authority to dismiss are set out in Appendix 9.

- 16.3 In more complex cases, or where specialist information will be discussed, a professional advisor may be co-opted on to a disciplinary panel to provide advice on professional or technical issues at the discretion of the chair. This role will be solely advisory and they will not be present during deliberation/decision making.
- 16.4 The investigation/management case will be presented by the Investigating Officer.
- 16.5 The workforce representative to the investigation may support the investigating Officer at the hearing in complex cases or where there are technical human resources aspects.

## **17. ATTENDANCE AT A DISCIPLINARY HEARING**

- 17.2 Requests for attendance at a disciplinary hearing will be made 5 working days in advance of the scheduled date. All papers to be relied upon by management for the disciplinary hearing will be enclosed with the disciplinary hearing invite letter to all parties.
- 17.3 The employee is encouraged to provide a written response/statement ahead of the hearing which should be submitted for circulation 2 working days prior to the hearing. Any documentation the employee wishes to the disciplinary panel to consider needs to also be submitted 2 working days prior to the hearing.
- 17.4 All parties are responsible for notifying the disciplinary panel chair of any witnesses and to make arrangements for their own witnesses and representative to attend the disciplinary hearing.
- 17.5 Where the employee is not able to attend a disciplinary hearing, this should be confirmed in writing to the chair of the disciplinary hearing as soon as possible and no later than 2 working days before the date of the hearing.
- 17.6 Where an employee or their representative is unable to attend the hearing and has notified the Trust accordingly, a rescheduled hearing date should be rearranged as soon as possible. This new date will not normally be re-arranged except in exceptional circumstance.
- 17.7 Should an employee report sick before the disciplinary hearing, whether or not with a medical certificate, they may be referred to Occupational Health for an assessment to determine whether they are fit to attend the hearing. If Occupational Health finds them fit the hearing will proceed as planned.
- 17.8 If the employee fails, without good reason, to attend a disciplinary hearing which the Trust has instructed him or her to attend, the hearing will take place and a decision will be made, in his or her absence. Hearings will not normally be postponed more than once.
- 17.9 The procedure to be followed at a disciplinary hearing is set out in Appendix 11.

## 18. FORMAL DISCIPLINARY SANCTIONS

The seriousness of the misconduct will determine the level of disciplinary action to be taken at a hearing. The procedure may be entered at any stage.

First Formal Warning	6 - 12 months	If the employee fails to meet required standards following informal action or the offence is sufficiently serious to warrant moving to the formal stages, a First Written Warning may be given.
Final Written Warning	12 - 18 months	If the failure to meet required standards continues or if the offence is sufficiently serious (but not gross) misconduct, a final written warning may be given.
Dismissal		If conduct remains unsatisfactory or if the offence constitutes gross misconduct, dismissal may result. In cases of gross misconduct where there is no mitigation, the Trust reserves the right to summarily dismiss staff.

## 19. PAY INCREMENT

When a formal disciplinary warning has been issued, the individual's next pay increment will be suspended for 12 months in accordance with the locally agreed AfC Changes to Pay Progression, as from 1 April 2014.

## 20. RIGHT OF APPEAL

20.1 Any employee of the Trust who is aggrieved by an action which results in the issue of a formal sanction shall have the right of appeal against such action.

20.2 Employees who wish to appeal against a formal disciplinary sanction should state their grounds for appeal, in writing, to the Director of Workforce within 10 working days of the date on the formal written notification of the sanction.

20.2 Reasons for appeal would normally be based on the following areas:

- Unfairness by comparison to how the policy has been applied to others or bias of the panel;
- Incorrect decision or too severe penalty based on the evidence provided to the panel;
- Did not follow the procedure detailed in the policy;
- New evidence has come to light since the sanction was issued that would have affected the decision.

20.3 The Appeal Panel will look at all aspects of the case and will determine whether the correct level of sanction was issued. The possible outcomes of an Appeal Hearing are that the original sanction is upheld or the level of sanction is either increased or decreased.

20.4 The decision of the Appeal Panel will be final; if an employee does not accept their outcome s/he cannot seek further recourse, e.g. through other policies.

## 21. DECIDING WHETHER EXCLUSION IS NECESSARY

21.1. An employee may be excluded from duty whilst an investigation is carried out and/or pending any hearing. Exclusion from duty is a neutral act and not in itself disciplinary action.

21.2 The procedure to be followed when considering exclusion is set out in Appendix 8.

## **22. PAY DURING EXCLUSION**

- 22.1. The employee will normally be on full pay during the exclusion period, based on an average earning over the previous three month period, including enhancements. To qualify for full pay the employee must be available to the Trust during their normal working hours, and at the Trust's request. Pay is likely to be withheld where the employee:
- Is not available for work, e.g. out of the country or working for another organisation during their normal contracted working hours without prior agreement.
  - Is not maintaining appropriate communication and/or making themselves available for appropriate meetings.
- 22.2. In cases where staff has been excluded due to an inability to attend work arising from their own conduct, pay may be stopped. Examples include:
- Visa / Work Permit concerns.
  - A lapse in or suspension of professional registration.
  - Where an employee has been remanded in custody on suspicion of a criminal offence.
- 22.3. Exclusion from duty on medical grounds is covered within the Trust's Sickness Absence Policy and Procedure.

## **23. IMPLEMENTATION**

This policy will be published on the Trust's Policies Information Management System (PIMS) and staff notified via global e-mail. The policy will also be circulated to line managers and staff side representatives. It is the responsibility of those managers to ensure that any of their own staff who has responsibility for managing or supervising staff are made aware of the policy and any amendments.

## **24. ASSOCIATED DOCUMENTATION**

- Criminal Record and Barring Checks Policy & Procedure
- Safeguarding Adults (EqIA)
- Managing Performance and Capability Policy
- Standards of Conduct and Behaviour
- Trust Values
- Sickness Absence Policy & Procedure
- Appeals Policy & Procedure

## **25. REFERENCE DOCUMENTS**

- [ACAS Code of Practice on Discipline and Grievance Procedures](#) (April 2015)
- Employment Rights Act 1996
- Employment Relations Act 1999
- Employment Act 2008
- Equality Act 2010
- Maintaining High Professional Standards Framework
- Policy and Procedure for Handling Concerns about the Conduct, Performance and Health of Medical and Dental Staff
- Public Interest Disclosure Act 2013

## APPENDIX 1 – Trust’s Values



The Trust has a set of shared values and behaviours – to be **caring**, **safe** and **responsible**, and to **value each other**. We aim to make these values ‘what we do’ - to inspire, develop and support every one of us to live our values; every patient, every colleague, every day.

### Caring

Value statement – "Design and deliver care around each individual patient’s needs and wants." This means:

- Putting patients at the heart of everything we do
- Nurturing the wellbeing of the whole person, respecting patients' physical, emotional and spiritual needs
- Listening to patients and their families and responding to their needs
- Showing compassion and empathy
- Treating patients, their families and friends with dignity and respect
- Being welcoming, polite and friendly to all
- Involving patients and carers
- Going the extra mile
- Working to the highest standards of professionalism and ethics

### Safe

Value statement – "Make the safety of patients and staff our prime concern (safety comes first)." This means:

- Listening to and acting on concerns
- Being open and transparent
- Striving to achieve the best possible clinical outcomes/results for our patients
- Using data and evidence to continuously improve
- Ensuring time for training and development

### Responsible

Value statement – "All staff take responsibility for the hospital, its services and reputation". This means:

- Having a positive and 'can- do' attitude
- Seeing and acting on things that need improving
- Finding new and creative solutions to problems, such as ‘new ways of working’
- Having the confidence to challenge and responding positively when challenged
- Taking personal responsibility for doing the very best you can in your role and for your own development
- Managers and clinicians working closely together
- Speaking well of the Trust and its services within our community

- Following through on promises to deliver – "we are reliable and dependable"
- Wisely managing resources to reduce waste and maximise quality

### **Value Each Other**

Value statement – "We all value each other's contribution". This means:

- Giving praise, feedback and saying thank you
- Supporting and motivating each other
- Speaking well of each other
- Working collaboratively in teams, valuing everyone as individuals and appreciating differences
- Communicating effectively
- Strong team and inter-disciplinary working

## **APPENDIX 2 - Guidelines on Standards of Conduct and Behaviour**

### **1. Attendance**

- 1.1 Regular attendance and punctuality are essential for the smooth operation of services. Employees are expected to be ready and able to carry out their duties at agreed times, within reason, and to work their contracted hours.
- 1.2 Staff should not be absent from work, nor leave their place of work or duties, without specific permission from their supervisor or manager. This includes the taking of holidays, study leave or special leave.
- 1.3 Sickness or exceptional circumstances which result in absence must be notified in accordance with relevant Trust policies and departmental procedures. Failure to do so places an unnecessary burden on colleagues and disrupts departmental services. Unauthorised absence will be investigated and could lead to disciplinary action. More detail can be found in the Trust's Managing Sickness and Absence Policy and Work Life Balance Policy (Section 2).

### **2. Work Standards**

- 2.1 Supporting employees to work to high standards of conduct, and adopting a fair, consistent and prompt approach where concerns exist that such standards have not been met, are key to creating a workforce who are able to deliver results in a supportive environment and meet the Trust's Values of being Caring, Responsible and Safe.
- 2.2 Managers will specify and monitor the work standards required, and support staff so they are able to do what is expected of them. Support includes a clear job description, objectives, regular appraisals, mandatory training and other development activity as appropriate. Expectations include efficiency, promptness, accuracy, quality and courtesy to patients, visitors, contractors and colleagues.
- 2.3 It is acknowledged that views held and decisions made by managers and supervisors may not always coincide with the individual's view. It should be recognised that those in positions of management have both a contractual right and responsibility to discharge managerial duties. Legitimate, constructive, fair and evidenced criticism of an individual's performance or behaviour at work is not bullying or harassment.

### **3. Instructions**

- 3.1 The Trust expects individuals to follow all reasonable rules and instructions given by those supervising or managing their activities and/or work areas.
- 3.2 If an individual feels that a request is not appropriate they can raise this, informally in the first instance. If there remains a difference of opinion both parties have recourse to formal routes to get resolution through the Grievance, Disciplinary, Managing Bullying, Harassment and Conflict or Raising Concerns at Work (Whistleblowing) Policies, as applicable.

### **4. Honesty**

- 4.1 The Trust expects its employees to be scrupulously honest, not only in their dealings with the Trust, but also with patients, colleagues, visitors and the public.

- 4.2 Staff should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour. Examples may include seeking or accepting loans, gifts or employment from patients, relatives or service users, either for themselves or for others.
- 4.3 Any incidents of threats or fraud will be dealt with very seriously. Fraud will include working whilst on sickness absence, deliberate falsification of records or the misuse of timesheets, travel claims etc. If an investigation establishes that an individual has been dishonest or involved in fraud the matter will be dealt with under the disciplinary procedure and dismissal is a possible outcome.

## **5. Behaviour**

- 5.1 The Trust seeks to deliver safe and personalised healthcare so everybody working for the Trust needs to deal with Trust colleagues, patients and the public courteously and politely. Everyone should be treated with respect, and tolerance. Any actions of violence, actual or threatened, or provocative or abusive behaviour are not acceptable at any time. Staffs are required at all times to behave in a manner which is unlikely to cause offence. The Trust also supports the zero tolerance policy against violence towards staff in the workplace and the Managing Harassment, Bullying and Conflict Policy clearly lays down the process to address concerns.
- 5.2 Managers are expected to be aware of the impact of their own behaviour on others, to be responsible for implementing the Trust Values and appropriate behaviour in their teams and to take appropriate action to address any shortfalls in an employee's behaviour.
- 5.3 All staffs are expected to present a good impression to the general public, to patients and their relatives, and to avoid any actions that might jeopardise the reputation of the Trust. This includes recognising and accepting difference and being open to the differing needs of others.
- 5.4 Whilst at work, staffs are expected to be capable of fully performing their job and incidents of intoxication as a result of drink or unprescribed drugs will not be tolerated. See Alcohol and Substance Misuse Policy for Staff.

## **6. Communication and Attitude**

- 6.1 The Trust expects all staff to contribute to the creation of an environment that encourages effective communication, co-operation and support for colleagues and to treat each other with dignity, courtesy, and with sensitivity whilst valuing the skills, contribution and expertise of staff and colleagues at all levels.
- 6.2 All staffs have a responsibility to communicate in a polite and helpful manner towards colleagues and service users, and to make every effort to maintain good working relationships within their own and other teams.

## **7. Harassment / Bullying**

- 7.1 To secure an environment in which staffs are able to flourish and to achieve their full potential, the Trust is committed to ensuring that everyone is able to work without fear of harassment, bullying or intimidation. Everyone has a part to play by ensuring that their own behaviour, whether intentional or unintentional, does not constitute harassment. Equally, employees must not act in an oppressive or discriminatory manner.

7.2 The Trust will take action against inappropriate behaviour which shows lack of respect for others or which leads people to feel threatened. See Managing Bullying, Harassment and Conflict Policy and Equality & Diversity Policy.

## **8. Duty of Candour**

8.1 In accordance with the Public Interest Disclosure Act and the Trust Values of being Safe and Responsible, all employees have a responsibility to speak up and report any concerns they may have about a risk, malpractice, or wrongdoing that affects others. This could be something which adversely affects patients, the public, other staff or the organisation itself.

8.2 The Trust wants staff to feel reassured that it is safe and acceptable to speak up and raise any concern at an early stage. Anyone who acts honestly and reasonably in raising a genuine concern will not suffer detriment for raising concerns or if they are mistaken.

8.3 Concerns should be raised in accordance with the procedure set out in the Raising Concerns and Work (Whistleblowing) Policy, i.e. with the line manager or, if this is not felt to be possible, with a more senior member of staff or a member of the Human Resources Department. Alternatively staff can e-mail their concerns to: [raisingconcerns@kingstonhospital.nhs.uk](mailto:raisingconcerns@kingstonhospital.nhs.uk)

8.4 It should be noted that a personal complaint about an individual's own employment situation is not whistleblowing, and should be raised through the Trust's grievance procedure.

## **9. Telephones and Mobile Devices**

9.1 Trust telephones and mobile devices are provided to enable individuals to undertake work-related activities. Only in exceptional circumstances are personal calls permitted, for example to deal with an urgent domestic crisis. Work time should not be spent on personal mobile devices.

9.2 Call logging and bill analysis is used on a regular basis to identify suspected abuse of Trust mobile and desk telephones. Misuse will be regarded as serious or gross misconduct, which is likely to result in disciplinary action being taken.

9.3 Mobile phones can include camera, video and sound recording facilities. For reasons of confidentiality and respect for individual human rights it is not permissible to record and/or store such recordings in the workplace.

## **10. Internet Use**

Reasonable personal use of the Trust's email system and the internet is acceptable providing that it complies fully with all IT policies, is conducted during personal time, and does not unreasonably impact on work as judged by line management. See IT Systems Acceptable Use Policy.

## **11. Standards of Dress**

11.1 Staffs are expected to present a positive personal and professional image in order to enhance public and service user confidence. Accordingly, staffs are expected to dress appropriately for their area of work, be mindful of their appearance and attend to their personal hygiene each day.

11.2 Where a uniform is provided, it must be kept clean and smart. Limited jewellery may be worn. Where applicable, staff should comply with the Bare Below the Elbow Policy to reduce the risk of infection.

11.3 Identity badges should be visible and carried at all times.

## **12. Eating and Drinking in Clinical Areas**

12.1 Eating in areas where patients and members of the public are present should be avoided wherever possible as it is important to maintain a professional image at all times. Eating, drinking or chewing gum when attending to patients is not acceptable.

12.2 The Trust is committed to the health and safety of its employees and staffs are encouraged to take their lunch breaks away from their workstation whenever possible. Food should be consumed in staff rooms, the staff restaurant and rest areas. Any member of staff who feels that they have to eat in a clinical area because they are unable to take their break should discuss the situation with their line manager.

## **13. Infection Control**

Hand washing is the most important method of preventing cross infection. The Trust considers compliance with the Infection Control Policies and Procedures, including hand hygiene, to be the responsibility of all staff. Failure to do so may result in disciplinary action being taken.

## **14. Data Protection**

The Trust holds and processes information about patients and staff. When handling such information, all individuals who process or use any personal information must comply with the principles which are set out in the Data Protection Act 1998 and Caldicott Principles. Any doubts or queries about data protection issues should be referred for guidance to the Information Governance Manager.

## **15. Contractual Obligations**

There are certain statutory obligations which are placed on some employees (valid right to work in the UK, professional registration, membership of defence organisation, requirement to hold a driving licence, and failure to comply with these may render continuation of the contract of employment impossible.

## **16. Confidentiality**

All employees are required to adhere to the Trust's Confidentiality Code of Practice and the Duty of Confidentiality and Disclosure of Information clause outlined in the main statement of terms and conditions of employment.

## **17. Duty of Care**

The Trust has a duty of care to its employees just as employees have a duty of care to each other and to patients and members of the public. Some rules are contained in statutory regulations, such as the Health and Safety at Work Act 1974. Managers will advise, or draw attention to, particular regulations that apply in different roles and every individual is expected to avoid doing anything that will jeopardise the safety of others.

## **18. Care of Property**

- 18.1 Every employee has a duty to take good care of Trust property, not to cause waste or damage to any property and to report any loss or damage immediately.
- 18.2 Materials, facilities and equipment belonging to the Trust may not be used for private purposes and may not be removed from the premises except with the permission of a senior manager.

## **19. Implementation and Dissemination**

This document will be communicated to staff via the Intranet and will be accessed via the Trust's Policy Database. Managers will be made aware of the policy and their responsibilities by via the Intranet and the Human Resources newsletter.

## APPENDIX 3 – Improvement Note

**Strictly Private and Confidential**  
**To be opened by the addressee only**

**DATE**

**NAME**  
**ADDRESS**

Dear <Name>

### **Re: Notice of Improvement**

I am writing further to our discussion on **[DATE of meeting]**, when we discussed the decision to issue you with a Notice of Improvement in line with the Trust's Disciplinary Policy and Procedure.

Specifically we discussed that your conduct was inappropriate in that you **[Enter full details of conduct, including dates times etc.]**. This conduct falls below the standard expected of you.

We discussed the standards expected of you in future, which are as follows:

- **[Insert specific standards]**
- **[Insert specific standards]**
- **[Insert specific standards]**

The expected standards above are in line with the Trust's values; caring, safe, responsible and value each other.

This Notice of Improvement and our discussion does not constitute formal disciplinary action, however it will remain on your file for a period of six months until **[insert date 6 months from letter]** and I will be monitoring your adherence to the standards set out above during that period initially for 3 months. Should your behaviour continued to be unacceptable, the period of monitoring may be extended or a formal disciplinary process may be initiated. There is no right of appeal against an improvement notice.

If you have any further questions about this letter, please do not hesitate to contact me.

Yours sincerely

**NAME**  
**POST & DIRECTORATE**

Cc: HR Representative

## **APPENDIX 4 – Gross Misconduct**

The following list provides examples of offences which the Trust will normally regard as gross misconduct. The list is not set out in any order of seriousness nor is it intended to be exhaustive.

- Theft, corruption, fraud and deliberate falsification of records;
- Physical violence;
- Bullying or harassment;
- Deliberate damage to property;
- Serious insubordination;
- Misuse of the Trusts property or name;
- Bringing the employer into serious disrepute;
- Serious incapacity whilst on duty brought on by alcohol or illegal drugs;
- Serious negligence which causes or might cause unacceptable loss, damage or injury;
- Serious infringement of health and safety rules;
- Serious breach of confidence (subject to Public Interest Disclosure Act 2013);
- Unauthorised disclosure of confidential information;
- Offences resulting in a sentence of imprisonment;
- Unauthorised possession or administration of drugs;
- Deliberate or wilful ill treatment of patients;
- Serious breach of terms & conditions of contract.
- Failure to comply with requirements to declare interests and any gifts or hospitality received.
- Failure to inform the Trust of any criminal convictions, cautions, warnings or bindings over received during employment with the Trust

## **APPENDIX 5 – Incident Decision Tree**

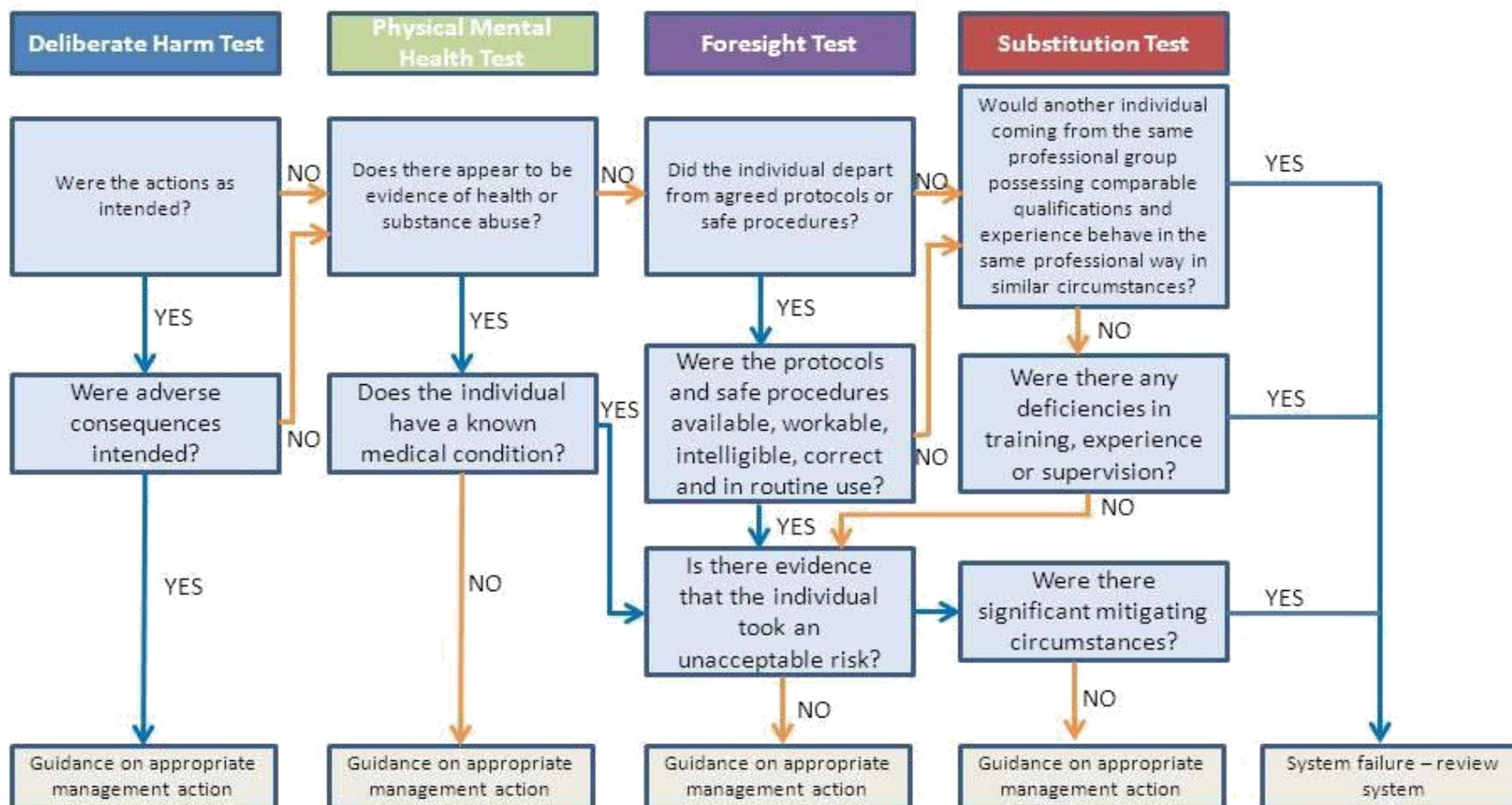
The Incident Decision Tree helps NHS managers decide initial action to take with staff involved in a patient safety incident and should be the first process undertaken as part of the preliminary investigation. It is intended to promote a consistent and fair approach, avoiding unnecessary and costly exclusion from duty of employees.

The Incident Decision Tree aims to help the NHS move away from attributing blame and instead find the cause when things go wrong. The goal is to promote fair and consistent treatment of staff.

Research carried out in the NHS has shown that systems failures are often the root cause of safety incidents. However, the most common response to a serious patient safety incident is to exclude and then discipline the staff involved. This can be unfair to employees and divert management from identifying contributory systems failures. Excluding key employees can also diminish the quality of patient care provided.

The Incident Decision Tree can help managers to:

- Decide whether it is necessary to exclude staff from duty following a patient safety incident;
- Explore alternatives to exclusion, such as temporary relocation or modification of duties; and
- Consider other possible measures to be taken as the investigation progresses.



Based on James Reason's Culpability Model © National Patient Safety Agency 2005

## **APPENDIX 6 – Guidance for Investigating Officer**

### **1. Preparation**

- Define what is the issue
- Inform your HR representative
- Identify individuals from whom you need to obtain information
- Consider what information you will need from those individuals and draft questions
- Check availability of individuals (e.g. rotas, annual leave) and plan any meetings or timescales for obtaining information accordingly
- Identify documentation that may be relevant to your case – e.g., policies/procedures, job descriptions, work rotas, patient documents

### **2. The Investigation**

- Meet with the individual being investigated as soon as possible and inform them of the allegation(s) that you will be investigating under the Trust's disciplinary procedure.
- Ask the individual to provide a statement giving their version of events
- Inform them that they may be required to attend an investigatory meeting, at which they will have the right to representation from a union/professional organisation representative or a workplace colleague
- Confirm the allegation(s) and process in writing to the individual (use Template Letter)
- Request statements from any witnesses or other relevant individuals and/or arrange meetings with witnesses
- Take notes at all meetings; forward a typed record to the interviewee for signing
- Obtain any other relevant information (e.g. any previous history, staff training records, copies of incident forms, patient documentation, notes of meetings, OH reports etc.)
- Look at statements provided and consider whether you need further information or clarification  
  
if so, arrange meeting(s) with individual or witnesses.

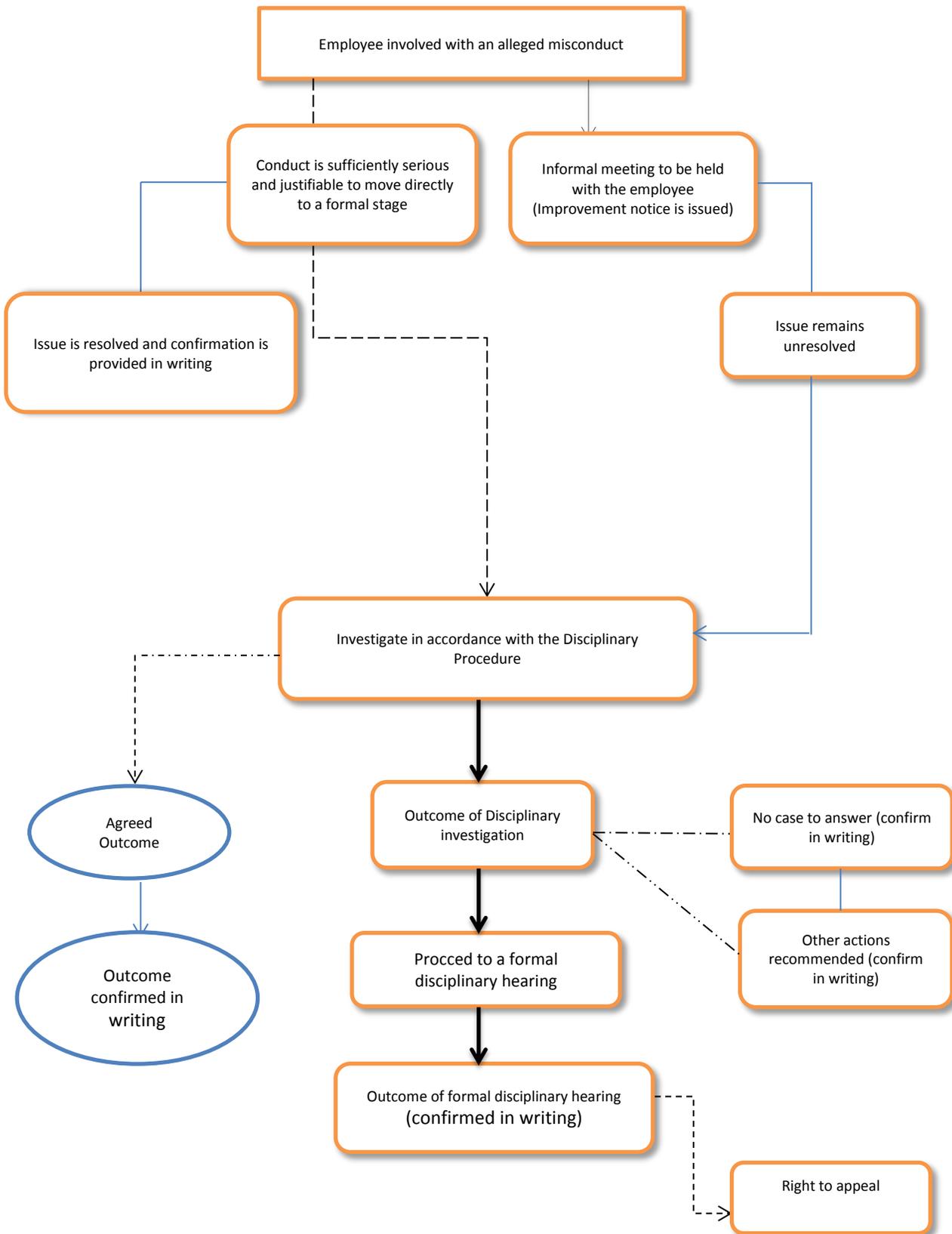
### **3. Writing the management case**

- Identify what procedures / standards / policies may have been breached, referencing relevant section(s). This will be the basis of your case
- Write your account of the facts in chronological order and/or a logical sequence. Use the Template Management Case document to help you to formulate your case
- Your case should be based on fact or an objective assessment of the evidence. Where it has not been possible to establish a fact but you believe something to be the case based on your assessment of the evidence, state the reasons for these findings or this belief
- Keep it simple and straightforward. Briefly summarise in your case what the individual and witnesses have said in their statements and refer to the appendices – the panel will read these to get the full detail
- Be aware of Data Protection – check thoroughly, anonymise any patient identifiable details
- Consider whether there was any mitigation – if so, include it in your case
- Liaise with your HR representative in deciding whether or not to proceed to formal disciplinary action

#### **4. Preparing for the Hearing**

- In liaison with your HR representative, identify panel members and arrange a date for the hearing
- The management case needs to be sent out in advance of the hearing, giving sufficient time to allow all parties an opportunity to go through them fully
- Arrange for witnesses to be present if appropriate
- Consider in advance of the hearing what questions you might want to ask of the individual and/or witnesses (what information do you want to draw to the panel's attention)

## APPENDIX 7 – Disciplinary Flow Chart



## **APPENDIX 8 – Procedure for Exclusion**

Exclusion should be applied where these risks can only be mitigated by removing the employee from the Trust premises and where there are no alternative measures available. The objective and justification must be to protect the interests of the employee(s) involved, the Trust and patients, other employees and the public.

Examples of circumstances where exclusion from duty should be considered:

- Where the investigation may be hindered by the presence of the employee under investigation.
- Where a cooling off period is required while an incident is investigated.
- Where the continued presence in the workplace of the employee presents a concern for patient safety, and/or a hazard for other employees, or the employee him/herself in terms of health and safety.
- Where redeployment is not a practical option.
- Where the allegation is of gross misconduct.
- Where there are reasonable grounds for concern that evidence may be tampered with, destroyed or witnesses pressurised during an investigation or before any disciplinary hearing.
- Where there is a potential risk to the organisation, patients, other employees, the public or third parties in allowing the employee to remain at work.
- Pending a police investigation into an alleged criminal offence or any other serious incident.
- While an employee is held in custody or pending a trial on a criminal offence.

Before making a decision to exclude, temporary alternatives, such as changes to the employee's working pattern, modification of duties, working under supervision and change of location/department or redeployment must be considered where practicable and appropriate.

Any decision about temporary redeployment to another role or reallocation of duties must be taken following consultation with the employee and, in the case of employees who are trade union members, with either their trade union representative, or an officer of the Staff Side of the Trust Partnership Forum. (Letter 1 – Temporary Redeployment Letter).

When an incident occurs or an allegation is made that could warrant excluding an employee from duty, the manager or appropriate person on duty should refer the case to a senior manager with the authority to exclude for consideration and to decide whether exclusion would be appropriate.

The exclusion should be carried out by the commissioning manager. Advice from the Ask<sup>HR</sup> team should be sought prior to any exclusion from duty wherever possible. If out of hours, the Senior on Call Manager will be responsible for carrying the exclusion. The exclusion checklist (appendix 8) should be completed prior to any exclusion from duty.

Where an employee is registered with statutory regulatory body and is excluded for allegations constituting professional or gross misconduct or professional or gross negligence, the relevant Trust professional lead/deputy should consider whether it is appropriate to refer the case to the relevant professional body.

For the exclusion of Medical & Dental Staff please refer to the Trust's Policy and Procedure for Handling Concerns about the Conduct, Performance and Health of Medical and Dental Staff.

If possible, employees should be given the opportunity to contact a Staff side/Trade Union Representative or colleague before being excluded to provide support at the meeting. However, this is not mandatory and should not delay the exclusion.

The commissioning manager will inform the employee that:

- Exclusion from duty is not a disciplinary penalty, and it will not be held against the employee when it is decided whether disciplinary action is needed.
- S/he will be excluded from duty for the shortest possible time.
- S/he may not enter any Trust premises without first getting permission from her/his manager or the HR Representative, unless to attend the hospital either as a patient or to visit a relative.
- S/he may not work in any capacity for the Trust whilst excluded from duty.
- S/he must be available to come into work if required.
- Any investigatory or other meetings will normally take place during office hours.
- During the period of exclusion the HR representative will keep in touch with the employee and will be the main point of contact.
- The employee must keep all matters connected with the exclusion from duty confidential.
- Exclusion from duty will be confirmed in writing.

The employee should be informed in writing by the commissioning manager within 5 working days of the reason for the exclusion. (Letter 2 - Exclusion from Duty Letter).

Investigation following exclusion from duty should commence at the earliest opportunity.

Continuation of the exclusion is not automatic; it should be reviewed by the commissioning manager on a fortnightly basis and confirmation sent to the employee.

Should the investigation take over 15 working days, the commissioning manager will contact the excluded employee to inform him/her of progress and continue to keep them informed every 15 working days until either a disciplinary hearing has been set up or until the exclusion from duty has been lifted.

## APPENDIX 9 – Exclusion Checklist

**Name of employee:**  
**Division/Department:**  
**Reason for Exclusion:**

**Date:**

1	Exclusion Risk Assessment	Comments
2	Why are you considering exclusion? I.e. Has there been a critical incident and/or serious allegation(s) made?	
3	<b>* Is the presence of the employee likely to hinder an initial investigation?</b>	
4	<b>* Have you ascertained details of the incident that leads you to think that exclusion is the only reasonable course of action?</b>	
5	<b>* Is there a workable alternative to exclusion (deployment to another work area, restriction of work duties)?</b>	
6	Is there a risk of harm to self/others if the employee remains at work?	
7	Has there been a breakdown in relationships between the employee and other work colleague(s)?	
8	Are you able to explain to the employee the reason(s) for exclusion?	
9	Do you think the employee will honour the alternative to exclusion?	
10	If restriction of duties is to be considered, have you considered what duties you are intending to restrict?	
11	Is your course of action realistic and reasonable in the circumstances?	
12	How will the employee's absence/change in work duties be explained to work colleagues?	
13	Have you identified a date when you can meet with the employee as part of the initial investigation - and notified the employee?	
14	Who else needs to be made aware of your course of action (exclusion, deployment, restriction of duties)?	
15	Is the employee an accredited Staff Side organisation representative (so that, if action is taken, the relevant Full Time Officer can be notified)?	
16	<b>Are you able to give the subsequent initial investigation your priority?</b>	

**Decision:**

**Rationale for Decision:**

**Line Manager:**

**Sign:**

**Date:**

**HRBP:**

**Sign:**

**Date:**

## **APPENDIX 10 – Managerial Authorisation**

The following personnel will have the authority to dismiss under this policy:

- Chief Executive and Directors.
- Deputy/Assistant Directors / Divisional Directors of Operations / Divisional Clinical Leads and equivalent level managers.
- Managers who are at Operations Manager/ Senior Matron / Head of Service/Department/Function level.

For misconduct cases without potential to lead to dismissal the Commissioning Manager may choose to delegate authority to the appropriate personnel who will have the authority to issue sanctions where appropriate:

## **APPENDIX 11 – Procedure during a Disciplinary Hearing**

The purpose of the disciplinary hearing is to provide an opportunity for the Investigating Officer and the member of staff/representative to present their respective cases in the presence of the manager hearing the case (Commissioning Manager).

The Investigating Officer will present the management case and may call witnesses, after which the employee or his/her representative will be given the opportunity to state their case and call any witnesses.

At appropriate points in the process, the employee, management, representatives and the panel will have the opportunity to seek clarification or challenge the evidence provided and question any witnesses.

The Investigating Officer and the employee will each be given the opportunity to sum up in a closing statement.

Written confirmation to the employee of the formal disciplinary sanction should include:

- An explanation of the reasons for the sanction.
- The level of sanction and the period during which it will remain in force.
- The improvements required and the timescale within which they are to be made.
- The process for monitoring progress.
- Notification that failure to improve could result in further disciplinary action up to and including dismissal.
- The right of appeal against the sanction.
- The warning will be spent and the record removed after the appropriate time, subject to satisfactory conduct and performance.

In cases where an employee is dismissed, downgraded or moved into a different role the Line Manager is responsible for completing the relevant paperwork to authorise this.

If an employee living in Trust accommodation is dismissed, the Housing Provider should immediately be informed of the dismissal. They will make arrangements for the employee to vacate the property as the accommodation is granted because of the individual's employment with the Trust and not their need for housing. However, the employee will not be asked to move until any appeal against dismissal has been heard.

Before deciding on the appropriate action, the panel will adjourn and the Commissioning Manager will consider:

- Which rules have been breached and whether the misconduct has contravened the Trust's Values.
- The seriousness of the misconduct.
- Information provided by the HR representative concerning action taken in similar cases in the past. Advice from professional lead (where relevant).
- The employee's disciplinary and general service record.
- Any mitigating circumstances.
- Whether the proposed action is reasonable in all the circumstances.

The formal sanctions available to a disciplinary panel are set out in Section 24 – levels of procedure.

Other than in cases of gross misconduct, when the penalty may be dismissal without notice or payment in lieu of notice, an employee will not be dismissed for a first offence unless there are exceptional circumstances. Examples of gross misconduct are listed in Section 12).

The Commissioning Manager may impose other sanctions for misconduct, e.g. demotion without protection of pay. A combination of penalties may also be used e.g. final written warning plus demotion. Advice should be sought from the HR representative before notifying the employee of an alternative sanction.

The Commissioning Manager will reconvene the meeting and inform the employee of the outcome. If it is not possible to make a decision on the day, the outcome may be communicated to the employee in writing, usually within 5 working days.

If the outcome is disciplinary action, the Commissioning Manager will inform the employee of the level of disciplinary action, their right of appeal, and the likely consequences of further misconduct or failure to improve (Letter 6 - Disciplinary Warning Letter; Letter 7 – Dismissal Letter).

In cases where allegations of patient abuse are upheld a referral to the Independent Safeguarding Authority for inclusion on the barred list for Children or Adults should be made. Where appropriate, referral to the appropriate professional body should also be made. Refer to the Director/Deputy Director of Nursing for advice.

## **APPENDIX 12 – Template Management Statement of Case**

### **Management Statement of Case**

**Name:**

**Job Title:**

**Band / Grade:**

**Date Commenced in Trust:**

**Allegation(s)**

### **Background**

Previous history relevant to the case (e.g. informal or formal action)  
Brief outline of the case being considered including;

- Number of people identified and interviewed
- Overview of the details pertaining to any exclusion
- Reasons for any delays
- Any other relevant information that needs to be considered

#### **1. Summary of Events**

Summary of the incident in relation to the allegations  
Summary of employee's statement / account

Summary of witness accounts  
Must reference appendices where appropriate for more detail.

Outline specific policy breaches and/or breaches of professional codes of conduct (GMC, NMC, HPC etc.)

#### **2. Mitigating Factors**

State mitigating factors – refer to decision tree if appropriate  
Procedural errors

Systematic failures  
Reasons given for conduct in relation to allegation etc.  
Personal circumstances that affected allegation  
Any other relevant information that needs to be considered

### **3. Conclusion**

Clarify areas of agreement and/or areas of conflict

State whether there is a case to answer and the reason(s) which have led to this conclusion.

### **4. Recommendation**

Investigating Officer advises whether they feel it is appropriate to proceed to disciplinary hearing or any other action.

### **5. Appendices**

Appendix 1

Appendix 2

Appendix 3, etc.

Attach relevant appendices – ensure that these are referenced within your management case.

## **APPENDIX 13 – Chairing a Formal Disciplinary Hearing**

### **Guidance for Commissioning Manager**

#### **1. Introductions**

- Welcome attendees, introductions around the table.
- Explain that it is a formal disciplinary hearing which will be conducted in line with the Trust's disciplinary procedure – emphasise the need for confidentiality.
- If employee is represented, confirm the representative's role, i.e. that they will be able to put the employee's case forward; sum up the case; respond on the employee's behalf to any view expressed at the hearing; and confer with the employee. However, in normal circumstances the representative will not be able to answer questions on behalf of the employee.
- If employee is not accompanied, note that the employee has been advised of their right to be accompanied but has chosen to attend unaccompanied.
- Confirm with the employee that they have received all the documentation relating to the hearing and the management case.

#### **2. Outline Procedure**

- Explain the running order (as per Hearing the Case – section 3).
- Adjournments - advise that should any party consider an adjournment necessary requests should be made via the chair.
- Note taking – advise that the note-taker will take summary notes to support the panel's consideration. Should the employee want a summary of these notes these can be provided on request. Advise that both the employee and their representative would be welcome to make their own notes.
- Respond to any procedural concerns/queries that may arise.

#### **3. Hearing the Case**

- Management states case, including calling any witnesses.
- Employee, their representative and the panel may ask questions of management and any witnesses, and query the evidence provided.
- Employee and their representative present their case, including calling any witnesses.
- Management and the panel may ask questions of the employee and any witnesses.
- Management and then employee are asked to sum up (brief concluding statement).
- Panel adjourns to consider the decision.

#### **4. Adjournment and Decision**

- Panel adjourns to consider the case and make a decision.
- Hearing reconvenes.
- Advise employee of the outcome and informs them of their right to appeal. The appeal is to be made in writing to the Director of Workforce within 14 days of the date of the outcome letter, stating clear reasons for the appeal.
- Advise that the outcome of the hearing should be confirmed to the employee in writing, usually within 5 working days of the hearing.
- If the panel is unable to make a decision on the day (e.g. if further time or information is required) inform the employee as to when they can expect written notification of the decision.

## APPENDIX 14 Equality Impact Assessment

### Kingston Hospital NHS Foundation Trust

#### Equality Impact Assessment (EqIA)

##### Initial Screening Tool

This is designed to help you to assess the impact of your procedural document, proposal or service on all equalities target groups, and support you to gather data or identify the need to gather data/information at this stage of the process.

Questions	Answers
1. Who is the procedural document aimed at?	All employees of KHFT
2. What are the main aims and objectives?	To ensure that the Trust proactively <ul style="list-style-type: none"><li>• Develops a culture which is diverse</li><li>• Where individual differences are valued and respected</li><li>• Develops our services and workforce to reflect the communities that we serve</li></ul>
3. Identify the data/information you have regarding the use of the service/process by diverse groups group? <b>Use qualitative, quantative and anecdotal information.</b>	<ul style="list-style-type: none"><li>• ESR Workforce Information</li><li>• NHS Jobs/TRAC Recruitment reports on Equality and Diversity</li><li>• Staff Survey Results</li></ul>

<b>4. Equality/Diverse Groups</b> Does it affect any one group less favourably than another?	<b>Who?</b> <ul style="list-style-type: none"> <li>• Patients, their Carer or family</li> <li>• Employees</li> </ul>
<b>Age</b>	No
<b>Disability</b>	No
<b>Gender</b>	No
<b>Gender reassignment</b>	No
<b>Marriage and Civil Partnership</b>	No
<b>Pregnancy and Maternity</b>	No
<b>Race</b>	No
<b>Religion or Belief</b>	No
<b>Sexual Orientation</b>	No

Please state your findings. Who will be affected positively or negatively in relation to this procedural document and how?

<p>Additional comments</p> <p>The very nature of this policy sets out the principles to follow to ensure that we remove disadvantages suffered by staff and all users of Kingston Hospital's services due to their protected group characteristics (i.e. age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation).</p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Is the impact in your opinion:-

Low  Medium  High  Neutral

Please indicate whether a full screening is necessary?

Yes  No



## VERSION CONTROL SHEET

Version	Date	Author	Status	Comment
4.0	05.05.10	Director of Human Resources	Final	
4.1	07.12.12	Mercy Ihekoronye	New Draft	Review Policy Section 2 – updated in light of new employment, equality legislation and statutory codes of practice Section 5 – updated to reflect maintenance of written notes to comply with the Data Protection Act 1998 Section 9 - Added new gross misconduct offence in light of implementation of the Bribery Act 2010 Section 9 - Added new gross misconduct offence to reflect requirement in the CRB policy to inform of criminal charges
4.2	24.12.12	Mercy Ihekoronye	New Draft	Section 3 – updated Trust Equality Statement Section 13 – new paragraph added advising what can happen at an appeal hearing Appendix 2 – Acknowledgement of Witness Statement letter – new appendix added. Renumbering of appendices in light of new appendix added Appendix 6 - Specimen Notification of Formal Hearing Letter – amended to update management calling of witnesses
4.4	21.01.13	Mercy Ihekoronye	New Draft	Section 6 - point 6 updated to reflect the Disciplinary Officers responsibility to make the decision as to whether or not the matter will be pursued formally Section 10 – updated to reflect the requirement to consider other options i.e. temporary redeployment where practicable before considering excluding an employee. Also updated to reflect circumstances where exclusion with pay would be used Appendix 3 – exclusion letter changed to appendix 3b. New appendix 3c added – redeployment letter Appendix 8 – warning letter changed to appendix 8a. New appendix 8b added – no formal action letter. Section 6 – point 5 - updated to reflect the requirement to use the Incident Decision Tree Toolkit as part of the investigation process Appendix 3a – new appendix added to incorporate Incident Decision Tree Toolkit as part of investigation process
4.4	22.01.13	Mercy Ihekoronye	New draft	Incorporation of changes following receipt of comments from management
4.5	28.01.13	Mercy Ihekoronye	New Draft	Incorporation of section 17 – Monitoring table
4.6	11/02/13	Mercy Ihekoronye	New Draft	Incorporation of changes following receipt of comments from staff side
5.0	11/02/13	Mercy Ihekoronye	Final	Formatted as per the Trusts Policy on Trust Wide Procedural Documents - added Section 1 - Introduction, Section 2 – Policy Statement/Objectives, Section 14 - Implementation (previous sections renumbered as a result of these additions)
6.0	06.04.14	Adrienne Raine	Final	Kingston Hospital logo updated on policy/letters/toolkit documents Job titles amended – reflects SLM restructure Trust Values incorporated to emphasise expected behaviours Separated out policy from procedure – easier to follow 5 (Scope) Updated reference documents for medical and dental staff 6 (Principles) Added section on confidentiality

				<p>7 (Employee Rights) new section Removed provision of interpreter</p> <p>8 Rights and responsibilities retitled "Duties"</p> <p>8.2 Added in that managers are expected to take appropriate action as soon as aware of potential allegation Managers should notify bank if employee excluded from duty</p> <p>9 Officers Authorised to Act – dismissing managers amended in line with SLM structure</p> <p>13 Exclusion from Duty updated to clarify process and that band 7 and above can suspend</p> <p>15 Disciplinary Procedure — process rewritten and set out under sequential headings</p> <p>18.6 Removed requirement for</p>
6.1	04.01.18	Dayo Ajibola	Final Draft	<p>Formatted as per the Trusts Policy on Trust Wide Procedural Documents - added Section 1 - Introduction, Section 2 – Policy Statement/Objectives, Section 14 - Implementation (previous sections renumbered as a result of these additions)</p> <p>Review Policy</p> <p>Definitions - has been included to outline some of terminologies that will be used when carrying out a disciplinary investigation.</p> <p>The Trust referral obligations section has been added to the policy</p> <p>The Fraud section has been added</p> <p>Point 13.7 has been amended to state that exclusion will now be carried out by a manager at Band 8a and above. Point 13.8 has been included to highlight the exclusion arrangements for medical &amp; Dental staff.</p> <p>The informal action has been amended to include the issuance of an improvement note.</p> <p>The Introduction of the agreed outcome procedure.</p> <p>Authority to dismiss has been added to the policy.</p> <p>The appeal period has been changed from 14 days to 10 working days in line with the sickness absence policy (this will be the same policies moving forward)</p> <p>The monitoring section has been amended to show the position responsible for monitoring the formal sanction on the employee's file and implementing the procedure across the Trust consistent will fall within the remit of the Line Manager and the ASKHR team respectively.</p> <p>The Standards of Conduct and Behaviour has been included as an appendix in this policy.</p> <p>Flow chart has been moved to the appendix.</p>

## MONITORING SHEET

Element to be monitored i.e. measurable policy objective	Position responsible for monitoring	Method	Frequency	Reporting arrangements – Committee/Group that monitoring is reported to, including responsibility for action plans
Formal disciplinary sanction removed from file on expiry	Line Manager	Audit of personal files	Six monthly	Non-compliance should be escalated to AskHR for auctioning.
Monitoring to ensure that policy and procedure are followed fairly and consistently across the Trust	AskHR	Statutory Equality & Diversity report produced from ESR includes reporting on all use of formal sanctions against staff against all six equality strands	Monitoring to ensure that policy and procedure are followed fairly and consistently across the Trust	AskHR