

DISCIPLINARY POLICY

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Key points

- Sets out the standards of behaviour and conduct for all employees at the Trust
- Outlines the process of managing misconduct



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1. ASSOCIATED DOCUMENTS

[Positive Working Relationships Policy](#)

[Disability in Employment Policy](#)

[Pay Progression Policy](#)

[Raising Concerns at Work Policy](#)

[Grievance Policy](#)

[Improving Performance policy](#)

[Incident Reporting and Investigation Policy](#)

[Policy for Handling Concerns about the Conduct, Performance and Health of Medical Staff](#)

[Nursing Revalidation and Professional Registration Policy](#)

[Anti-Fraud Bribery and Corruption Policy](#)

[Social Media Policy](#)

[Supporting staff Policy \(involved in an incident, complaint, claim inquest or hearing\)](#)

[Duty of Candour Policy](#)

[Code of Conduct \(Management of Conflicts of Interest\)](#)

[CCTV Procedure](#)

2. INTRODUCTION

2.1 Statement of intent

Here at The Christie, we are proud to promote the principles and behaviours that as employees we are all expected to abide by on a day to day basis.

If these standards are not met, appropriate action will have to be taken. It is preferable wherever possible to resolve problems informally but it is recognised that circumstances may require a formal process.

This policy does not apply to Medical and Dental staff. Please refer to the Policy for handling concerns about the conduct, performance and health of medical staff

2.2 Equality Impact Analysis

As part of its development, this policy was analysed to consider its effect on different groups protected from discrimination by the Equality Act 2010. The requirement is to consider if there any unintended consequences for some groups, and to consider if the policy will be fully effective for all protected groups. This analysis has been undertaken and recorded using the Trust's e-tool, and appropriate measures taken to remove barriers or advance equality in the delivery of this policy.

2.3 Good Corporate Citizen

As part of its development, this policy was reviewed in line with the Trust's Corporate Citizen ideals. As a result, the document is designed to be used electronically in order to reduce any associated printing costs.

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2.4 The Christie Commitment

We aim to reward our staff who are committed and motivated to do their best for patients every day. The Trust's principles and behaviours describe what our patients and their families or carers can expect from us, and what our staff can expect from each other.

The Trust's behaviours are;

We always give the best quality care

We treat everybody with compassion, dignity and respect

We listen to our patients and each other

We work together as one Christie team

We share knowledge and learning

We support staff to develop to their full potential

We look for new ideas and better ways of working

We promote a fair culture

We provide a safe, clean and tidy environment

All staff are expected to behave in a way that reflects the Trust's principles and behaviours.

2.5 Purpose

The purpose of this policy is to outline the procedure for dealing with concerns of an inappropriate or unacceptable behaviour or conduct, ensuring that all employees are treated in a fair and consistent manner.

2.6 Scope

This policy applies to all employees of the Trust with the exception of medical staff. Please refer to the policy for handling concerns about the conduct, performance and health of medical staff which can be located on the intranet.

3. DEFINITIONS

Term	Meaning
Chief Executive	The person who has delegated responsibility from the Board of Directors for the management of governance arrangements within the Trust, and is ultimately responsible for ensuring that the Trust meets its obligations with regards to the safe and effective delivery of services. This is delegated to responsible individuals within the Trust.
Conduct	Is defined as an individual's behaviour.
Misconduct	Constitutes behaviours that transgress acceptable boundaries and can be managed incrementally to address shortfalls, examples are outlined in the Disciplinary Procedure. Examples in See Disciplinary Tool Kit
Gross Misconduct	Constitutes behaviours that cannot be tolerated, potentially leading to an individual's dismissal without notice (summary dismissal), examples of which are provided in See Disciplinary Tool Kit.
Personal Responsibility Framework	A formal process which, if offered and/or accepted, negates the need for investigation and a hearing.
Case Manager	A senior manager appointed to oversee the disciplinary process.
Investigating	An individual appointed to perform an impartial investigation.



Officer	
Just Culture	Supports a conversation between managers about whether a staff member involved in an incident requires specific individual support or intervention to work safely. Action singling out an individual is rarely appropriate - most patient safety issues have deeper causes and require wider action.
Trust	The Christie NHS Foundation Trust

4. DUTIES

4.1 Chief executive

The Chief Executive has overall responsibility for the strategic and operational management of the organisation, including ensuring that the organisations policies and procedures comply with all legal, statutory and good practice guidance requirements.

4.2 Senior managers and staff

4.2.1 Management

Line managers are responsible for ensuring this policy is fairly and consistently applied in their own areas. All line managers are responsible for the following:

- Ensure that employees are aware of and understand the standards and behaviours expected by the Trust.
- Ensure that they consult with the appropriate HR representative before conducting a formal disciplinary process or suspending any employee.
- Assess the appropriateness of undertaking formal action using the Just culture decision tree (See Disciplinary Tool Kit)
- Familiarise themselves with the Disciplinary Policy
- Provide support to any employee subject to disciplinary processes

4.2.2 Case Manager

- To oversee disciplinary cases assigned to them
- To appoint an Investigating Officer to conduct a formal investigation into allegations of any misconduct.
- To provide the member of staff and the Investigating Officer with the terms of reference (See Disciplinary Tool Kit) for the investigation
- To hold regular reviews with the Investigating Officer to provide direction and to monitor timeframes for completion of the investigation
- To regularly update the member of staff with the progress of the investigation.
- To monitor the progress of any recommendations which impact their area of operation made as a result of a disciplinary investigation or hearing
- To ensure support is provided to all staff concerned, particularly to the staff member who has had an allegation of misconduct raised against them.
- To regularly report progress to HR colleagues to allow the Scrutiny Panel to undertake ongoing monitoring as required.

4.2.3 Human Resources

- Provide advice to managers in relation to what action should be taken
- The appropriate HR level of support should be present during any formal meetings
- Support managers to actively manage the disciplinary process to ensure that employees are treated in a consistently fair manner.

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4.2.4 Employees

We ask that you behave appropriately at work, in online platforms (including on Social Media) and at events that are clearly associated to the workplace environment, e.g. Christie Charity events, workplace-associated social gatherings, etc. By this, we mean that you carry out your duties, fulfil the terms and conditions of your work contract, and act in a way which:

- Is acceptable to the Trust, our colleagues and partners
- Allows us to maintain positive working relationships
- Doesn't bring (or potentially bring) the Trust into disrepute
- Adheres to the relevant professional bodies' Code of Conduct
- Observe the guidance set out in the Trust's Principles and Behaviors.
- Comply with the disciplinary process
- Maintain confidentiality throughout the disciplinary process.

This is not an exhaustive list.

4.2.5 Trade Union

- Fully appraise this policy and advise their members in accordance with it at all times
- To provide full support to staff who are trade union members and are subject to disciplinary proceedings, should they seek their trade union's support
- To maintain confidentiality throughout the disciplinary process
- A colleague under investigation for alleged misconduct or facing formal disciplinary proceedings has the right to be accompanied by an accredited trade union representative. Accredited trade union representatives can present evidence on behalf of the colleague at the disciplinary hearing and appeal hearing.

4.2.6 Investigating Officer

- To conduct a thorough and impartial investigation in a timely manner
- To regularly liaise with the Case Manager in order to provide updates on the progress of the investigation
- To ensure they have understood and follow, all appropriate HR advice
- To maintain confidentiality throughout the disciplinary process
- To provide support to any witnesses involved in the investigation
- To compile a report detailing the findings of the investigation and stating whether a referral to a hearing is required
- To participate in the disciplinary hearing proceedings including the presentation of the investigation report

4.2.7 Witnesses

There may be occasions where staff members are asked to provide evidence as part of an investigation or disciplinary hearing process. All employees of the Trust are required to participate in the disciplinary proceedings where requested. It is important that witnesses are supported throughout the process (See Disciplinary Tool Kit).



Witnesses will be entitled to be accompanied at any formal investigatory meeting by a union representative or workplace colleague, however they will not be entitled to be accompanied if requested to attend at a Hearing as a witness.

The role of the witness is as follows:

- To fully participate in the investigation and, if appropriate, disciplinary processes
- To attend an investigation meeting and provide evidence on matters that the staff member has either witnessed or has knowledge/information relevant to the matter under investigation
- To attend a disciplinary hearing to provide evidence (where required)
- To maintain confidentiality throughout the process
- Ensuring that companions to interviewees are not witnesses in their own right.

Witnesses will be called to a Hearing if they have a significant contribution to make to the case.

4.2.8 Disciplinary Hearing Chair

- Independent to the investigation process (i.e. not previously involved with investigating the case).
- Chair the disciplinary proceedings ensuring impartiality, fairness and confidentiality throughout the process following the Standard Operating Procedure (See Disciplinary Tool Kit)
- Carefully consider the evidence presented applying the principal of plurality in decision making by ensuring they consult with their co-panel members. In all decision-making that relates to the application of sanctions, the principle of plurality should be adopted, such that important decisions which have potentially serious consequences are very well informed, reviewed from multiple perspectives, and never taken by one person alone, which is why all panels will include a Hearing Chair and Hearing Manager.
- When considering sanctions, give full consideration to the Trust's Pay Progression Policy and the impact a sanction may have in relation to that policy.
- Write to the employee to set out the outcome of the hearing along with recommendations (including setting appropriate time frames for addressing recommendations).
- Ensure recommendations are reported to the Case Manager and Scrutiny Panel

4.2.9 Disciplinary Hearing Managers

- Independent to the investigation process (i.e. not previously involved with investigating the case).
- Carefully consider the evidence presented applying the principal of plurality in decision making by ensuring they consult with their co-panel members. In all decision-making that relates to the application of sanctions, the principle of plurality should be adopted, such that important decisions which have potentially serious consequences are very well informed, reviewed from multiple perspectives, and never taken by one person alone, which is why all panels will include a Hearing Chair and Hearing Manager.



- When considering sanctions, give full consideration to the Trust's Pay Progression Policy and the impact a sanction may have in relation to that policy.

4.3 Committees in level of hierarchy

4.3.1 Staff Forum

Staff Forum has responsibility for reviewing the policy, monitoring the actions and the implementation of this policy.

4.3.2 Board of Directors

Responsibility for the provision of a policy and procedure on disciplinary and ensuring managers abide by the policy rests initially with the Board of Directors.

4.3.3 Scrutiny panel

Review all Disciplinary cases to ensure consistency in action taken to include:

- Review and approve all decisions in relation to suspension, redeployment or restriction of duties of a staff member relating to concerns of misconduct and gross misconduct to ensure that where possible the least restrictive course of action is taken.
- Monitor the application of the Personal Responsibility Frame Work
- Approve the requirement for a formal investigation
- Monitor the progress and length of formal investigations
- Monitor communication and support for staff involved in formal cases
- Review and monitor progress of all recommendations following a formal investigation or disciplinary hearing

5. DISCIPLINARY PROCESS

5.1 Informal Action

Informal action should always be considered as the first option. This is where we will try to resolve any issues with behaviour at an informal level. However, it will depend on the seriousness of the allegation and/or frequency.

Addressing issues requires the line manager to meet with the staff member on a one-to-one basis at the earliest opportunity to discuss the area of concern. The staff member will then be given the opportunity to respond and put forward their version of events. This meeting must be recorded in a Record of Discussion Form (See Disciplinary Tool Kit) and retained in the staff member's local personal file.

The line manager and their staff member may discuss/agree the following informal mechanisms to help resolve the concern and ensure the behaviour is not repeated:

- Additional 1:1's
- Setting reasonable objectives in relation to the behaviour using an Action Plan Template (See Disciplinary Tool Kit)
- Development and training
- Employee Assistance Program Counselling
- Mediation (particularly when there has been an issue between two individuals)
- Coaching / Mentoring



In line with the contract of employment, it is the member of staff's responsibility to cooperate with their line manager to come up with the best plan of action to eliminate the behaviour that falls below the expectation of the Trust.

If the behaviour is repeated or is deemed too serious to be resolved informally, formal action may be required. Where formal action is deemed appropriate, it must be considered by the Trust Scrutiny Panel. The line manager is responsible for completing the just culture decision tree as part of the Investigation and Suspension Consideration form (See Disciplinary Tool Kit). This form acts as a checklist to support a conversation between managers and the staff member to assess whether a staff member involved in an incident requires specific individual support or wider action is required.

The checklist highlights important principles that need to be considered before formal management action is undertaken.

5.2 Just Culture

It is important that all staff feel supported about being honest when mistakes happen. Evidence suggests that a culture of fairness, openness and learning within the Trust encourages staff to speak up when things go wrong.

Supporting staff to be open about mistakes allows valuable lessons to be learnt so the same errors can be prevented from being repeated.

The Trust is committed to dealing with all incidents fairly and consistently and has developed a 'Just Culture' decision tree for managers to use before taking any action against a staff member.

The just culture decision tree is part of the Investigation and Suspension Consideration form (See Disciplinary Tool Kit). This is an important tool to understand how to approach all investigations including those involving a patient safety incident which requires specific individual support or intervention to work safely. Action singling out an individual may not be appropriate and patient safety issues may have deeper causes and require wider action.

5.3 Formal Action

The Trust will try to resolve concerns on an informal basis. Where this is not possible, formal action may be the appropriate route.

Where formal meetings or hearings take place, the member of staff will be entitled to be supported, and is encouraged to do so, from a Work Place Colleague or Union Representative.

When it is necessary to organise meetings at which people are entitled to representation, if the name of the trade union representative is known, managers should liaise with the representative to try to agree a mutually convenient date.

It is important that the line manager informs the staff member of the incident and whether informal or formal action is being considered. This should be done as close to the incident as possible. The staff member should be asked to write a written statement and signposted to support available (See Disciplinary Tool Kit)

It is important throughout the process for the Case Manager and Investigating Officer to keep talking with both the employee and any other staff affected. Clear, regular



and confidential communication can help make sure employees are kept informed of what is happening, have the opportunity to ask questions and can avoid stress and other mental health issues.

The Case Manager is responsible for maintaining communications and will make every effort to ensure employees receive clear, timely, comprehensive and sensitive information about the allegations and regular progress updates on any investigation until the matter is concluded.

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

If it has been established that formal action is needed, the line manager is required to complete the Investigation and Suspension Consideration form (See Disciplinary Tool Kit), and forward the form to an HR representative for further support and guidance. The incident details will document and consider the following:

- What is the allegation?
- What information has been gathered regarding the allegation?
- What are the relevant policies?
- What action has been taken to date e.g. have the individual and witnesses been spoken to, have they written a statement, have there been any restrictions or a suspension in line with section 5.5 of the Disciplinary Policy?
- What informal resolution has been considered (if appropriate)
- Can this be considered under the Personal Responsibility Framework?

The HR representative will support the submission of the form to the weekly scrutiny panel where the request for a formal investigation will be considered. If approved the scrutiny panel will refer to relevant Case Manager to oversee the investigation and to appoint an investigating officer.

If suspension or restrictions are required, see section 5.5.

5.4 Personal Responsibility Framework

The Personal Responsibility Framework is where the facts of the case are not disputed and the individual, whom the allegation(s) is against, accepts accountability and so the matter can be expedited without the need for formal investigation or disciplinary hearing.

Whilst it is recognised that this approach can be beneficial and result in a speedy resolution, there is no requirement for this route nor may this route be used in all situations.

There are conditions, all of which need to be met in order for this to be an appropriate course of action:

- This can only be used for matters relating to Misconduct, examples of which can be found in See Disciplinary Tool Kit. This cannot be used for concerns of Gross Misconduct (See Disciplinary Tool Kit).
- Management, HR, the member of staff concerned, a Staff Side Representative (where appointed), or Scrutiny Panel (See Section 4.3 and See Disciplinary Tool Kit) can propose the Personal Responsibility Framework be used at any point, however, all parties must be in agreement that this is an appropriate route for this to progress.
- The member of staff must have the terms of the allegation, any preliminary investigation findings and the potential outcome of accepting the Personal



Responsibility Framework in writing prior to making their decision to agree or not (See Disciplinary Tool Kit).

- Within 3 working days, the Staff Member may request a formal meeting to discuss the terms of the allegation (with HR representative and option of workplace colleague or Union Representative) or submit their agreement to the terms in writing.
- There will be no Disciplinary Hearing and the start date of the sanction will therefore be the date of the signed agreement.
- There will be a right to appeal (See Appeal Process 5.11).

As a result of the Personal Responsibility Framework, the member of staff would receive a **First Written Warning**, which will remain on their file for **9 months**. The outcome of the Personal Responsibility Framework should be confirmed in writing to the member of staff. This should include any additional, relevant recommendations to support the member of staff in avoiding further related conduct issues.

The Scrutiny Panel must be updated on the outcome of the Personal Responsibility Framework. If the Personal Responsibility Framework is not progressed, the matter will need to be considered by the Scrutiny Panel for formal investigation under section 5.6 of the Disciplinary Policy.

For further guidance, see Disciplinary Tool Kit for Personal Responsibility Framework Standard Operating Procedure.

5.5 Temporary Restrictions/ Redeployment/ Suspension

A decision to suspend should always be a last resort and every effort should be made to keep the staff member in the workplace during the disciplinary process. An employee will usually be able to continue doing their normal role while the matter is investigated.

Suspension should usually only be considered in the following situations (this is not an exhaustive list):

- There is no other way to mitigate a risk to the safety of the employee, other employees, property, patients or visitors
- There is no other way of mitigating the risk that the employee remaining in work could hamper the investigation
- The employee is the subject of criminal proceedings which may affect whether they can do their job.

Alternatives to suspension should always be considered. Even where there are reasons to consider suspension, in most situations a temporary adjustment to the employee's working arrangements can remove the need to suspend.

Alternatives to suspension must be considered, with HR advice where appropriate and could include the employee temporarily:

- being moved to a different area of the workplace
- changing their working hours
- being placed on restricted duties including having reduced access to Trust systems where appropriate



- working under supervision
- being transferred to a different role within the organisation (the role should be of a similar status to their normal role, and with the same terms and conditions of employment).
- Other meaningful activities that the individual could do should be actively explored. This could include working remotely from home, carrying out activities such as audits, research or teaching.

A decision to suspend will not be made by one individual. Where a decision is required the line manager must seek HR support and complete the suspension risk assessment (See Disciplinary Tool Kit) and escalate to the following:

- **During the hours of 9am to 4pm Monday to Friday**

Scrutiny Panel Members:

- Head of Operational HR
- Trust Partnership Officer

- **Outside of the above hours**

Duty Manager

Only if all other options are not practical, may suspension become necessary.

The manager communicating the decision to suspend will:

- Explain the reasons for suspension and how long it is expected to last.
- Explain the employee's responsibilities during their suspension.
- Provide a point of contact (usually the line manager) that they can contact if they have any concerns.
- Agree how they will keep in regular contact with the employee throughout.
- Give details about support from Employee Assistance Program
- Advise the staff member to contact their union, where they are a member
- If it is necessary to explain the employee's absence, the manager will discuss with the employee how they would like it to be explained to colleagues and/or patients.

The terms of the suspension and the employee's obligations will also be provided in writing, which includes:

- not doing anything that could interfere with the investigation
- treating the matter confidentially
- seeking permission from the manager to contact colleagues
- if they wish to contact witnesses to support their case, they should do this via their manager or, if different, the manager dealing with the matter or their Union Representative or workplace companion
- except for medical appointments, they must not visit Trust premises unless given permission by the line manager or a named deputy to attend for a specific purpose, e.g. meeting a Representative, an investigation meeting, a counselling appointment, a medical consultation
- the requirement to remain available during normal working hours to attend meetings. Permission for any periods of absence, e.g. annual leave, must be requested and any sickness absence reported in the usual manner.
- If the employee wants to go on holiday during their suspension, they must still make a request to take annual leave.

If deemed necessary, the suspending manager with agreement from scrutiny panel members or Duty Manager, may ask the employee to hand in Trust property such as keys, ID card, Trust mobile phone, bleep, laptop or any other mobile device at the Disciplinary Policy

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time of exclusion. The manager may also temporarily revoke remote access if in use or remove / restrict access to Trust systems by referral to the Data Protection Office. In these circumstances, the manager and employee must agree alternative methods of keeping in contact.

The employee will be given the name and contact details of Pastoral Support who will keep in regular contact with them and updated on progress of the investigation. This will normally be their line manager or a second named individual if the line manager is unavailable.

Suspension will be with pay unless the staff member has a lapsed professional registration. In this circumstance the employee will be suspended without pay and managed in accordance with the Professional Registration and Revalidation policy.

If suspension/temporary redeployment is required, the staff member will not receive any detriment as a result of the suspension/temporary redeployment and such action does not imply any guilt on the staff member.

Suspension should be for as short a time as possible with the decision to suspend/temporarily redeploy regularly reviewed at a minimum every 4 weeks by the Case Manager and Trust Scrutiny Panel.

5.6 Investigation process

The trust is committed to ensuring investigations are fair, thorough and completed in a timely manner. All measures should be taken to ensure that complete independence and objectivity is maintained at every stage of an investigation and disciplinary procedure, and that identified or perceived conflicts of interest are acknowledged and appropriately mitigated.

As soon as a misconduct matter has been identified, the line manager of the staff member concerned should contact a HR representative.

Where allegations concern the safeguarding of children or vulnerable adults, the Trust's Safeguarding lead must be notified without delay.

The principles and procedures which must be followed during the investigation are set out in the Investigations SOP (See Disciplinary Tool Kit).

The employee must be advised of their right to be represented by a trade union representative or workplace colleague during any investigation process, disciplinary or appeal hearing and recommended to seek appropriate help and support.

Confidentiality must be maintained throughout the investigation and any disciplinary process thereafter.

If an employee fails avoidably to comply with the formal investigation process, the Trust reserves the right to progress and resolve the investigation in their absence.

The employee concerned will be informed of the outcome of the investigation in writing as soon as possible.

Once an investigation is concluded, the Investigating Officer will discuss with the Case Manager and the Case Manager will make the final decision as to whether the



matter will progress to a disciplinary hearing. The scrutiny panel must be updated about the outcome of the investigation.

5.7 Use of CCTV during investigations

An Investigating Officer or staff side representative may only use CCTV evidence to assist in the resolution of a factual disagreement which emerges during the investigation process of a grievance, complaint or disciplinary allegation. Any use of CCTV must be made through the Trust CCTV Procedure and in accordance to the Data Protection Act 2018.

5.8 Pastoral Support for staff

The Trust recognises that staff involved in formal investigations will require support throughout the process. Details of support available to staff can be found in See Disciplinary Tool Kit. The staff member will be informed of a named person (usually the line manager) who will be responsible for contacting with the staff member on a regular basis (normally every 4 weeks) to provide support to the individual subject to a formal investigation process.

5.9 Formal Disciplinary Hearing

The Standard Operating Procedure for a Disciplinary Hearing is laid out in See Disciplinary Tool Kit.

The hearing should be held as soon as possible after the investigation. Managers, employees and their representatives must make every effort not to unreasonably delay meetings.

The Trust is committed to ensuring Panels are diverse in representation, have appropriate seniority and have knowledge, skills, experience and training that are relevant to the case in question.

Panel members will have no previous involvement in the case or any conflict of interest that could influence decision making.

If employees have any concerns in relation to diversity or possible bias of the Panel, they can raise this with the Deputy Director of Workforce prior to the hearing, and where appropriate additional panel members will be recruited.

In line with the Trust Disability in Employment Policy, if an employee requires any reasonable adjustments these should be notified in advance, and where reasonable, will be made.

A comprehensive and consistent decision-making methodology should be applied that provides for full and careful consideration of context and prevailing factors when determining next steps.

In all decision-making that relates to the application of sanctions, the principle of plurality should be adopted, such that important decisions which have potentially serious consequences are very well informed, reviewed from multiple perspectives, and not taken by one person alone.

In considering the sanction, the hearing Chair/Panel will take account of the Trust's Pay Progression Policy, the employee's previous work record (Including previous warnings for related incidents which may no longer be "live" for the purpose of relevant background) and other mitigating factors. Where there is repeated evidence



or pattern of conduct, of a similar nature, there may also be cause for consideration of impact on the Trust and service.

Hearings may result in no formal sanctions being issued; however standard setting, training and/or departmental/individual recommendations may be put in place, if appropriate.

Where it is established at the disciplinary hearing that an individual has not met required standards, disciplinary action will comprise of one of the potential for the following sanctions:

First written warning

A first written warning may be issued for misconduct and will remain on the employee's personal file for **9 months**, after which time it will be removed.

The letter must include an explanation that it is a formal first warning which will remain on the employee's record and a notification that other subsequent misconduct may lead to further disciplinary action being taken against them.

Final written warning

A final written warning may be given when overall behaviour/conduct which was the subject of the written warning, or related behaviour, is repeated or where an individual's overall attitude to work results in persistent unrelated breaches of unacceptable behaviour which require more serious disciplinary action. It may also be issued in cases of misconduct considered sufficiently serious even though there are no other active warnings on record. Where there is already a final written warning in existence, consideration may be given to extending this.

A final written warning may also be given in the first instance if the offence is sufficiently serious that a repetition is not acceptable.

A final written warning is kept live on file for **12 months** commencing from the date of the disciplinary hearing where the warning is issued.

The warning will also identify dismissal as a possible consequence of further misconduct.

Dismissal

Where there is no alternative, the decision to dismiss will be made by those with have the authority to do so (please see Disciplinary Tool Kit). The employee will be informed in writing as soon as possible of the reasons for the dismissal, the date on which the employment contract will end, the appropriate period of notice and their right of appeal.

With Notice:

Management may dismiss an employee with notice where there has been a further episode of **misconduct** and the individual already has a live final written warning.

Without Notice:

Management will dismiss summarily, that is without notice, for matters of **gross misconduct** (See Disciplinary Tool Kit).

The outcome of a Disciplinary Hearing will be communicated to the member of staff in a letter without delay (See Disciplinary Tool Kit). The letter must contain:

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- a brief summary of the discussion,
- the outcome,
- the rationale for the decision,
- recommendations (including time frames and action owners)
- the right of appeal where applicable.

The letter must be copied to the:

- Investigating Officer,
- Staff Side Representative (where applicable),
- Case Manager,
- Line Manager and
- HR Representative.

In the interests of dignity and respect, witnesses will not be informed of the disciplinary hearing outcome. Where a witness is a complainant, they may be informed that an internal process has concluded.

5.10 Referrals to Professional Bodies and Other Agencies

Depending on the allegations, where an employee is registered with a professional body, such as a registered nurse, midwife or nursing associate, allied health professional, etc., the regulatory body may be notified. This decision will be taken by the most senior professional lead from the directorate, in conjunction with the relevant professional lead for the Trust such as the the Director of Nursing, Chief Pharmacist, Chief of Allied Health Professionals or Head of Pathology Services. All NMC referrals will be logged and overseen by the Director of Nursing and Infection Prevention & Control. For more information, see Nursing Revalidation and Professional Registration Policy.

Where allegations concern the safeguarding of children or vulnerable adults, the Trust's Safeguarding lead must be notified without delay.

Where appropriate, investigations by the counter fraud team, other agencies such as police or social services, may be carried out separately from investigations under this procedure. The Trust will give full cooperation to try to ensure any such external investigations are carried out to a high standard. In these circumstances the Trust will only delay carrying out internal investigations and following the disciplinary procedure where absolutely necessary.

Where cases include serious personal data breaches likely to result in a risk to the rights and freedoms of data subjects, the Trust has a legal duty to report such cases to the Information Commissioner's Office within 72 hours via the Trust's Data Protection Office.

5.11 Appeal Process

All staff issued with a formal disciplinary sanction will have the right to appeal the decision at an Appeal Hearing. The appeal process is outlined in See Disciplinary Tool Kit.

The Trust is committed to ensuring Appeal Panels are diverse in representation, have appropriate seniority and have knowledge, skills, experience and training that are relevant to the case in question. In line with the Trust Disability in Employment Policy, if an employee requires any reasonable adjustments these should be notified in advance, and common, where reasonable, will be made.

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Panel members will have no previous involvement in the case or any conflict of interest that could influence decision making.

If employees have any concerns in relation to diversity or possible bias of the Appeal Panel, they can raise this with the Director of Workforce, and where appropriate additional panel members will be recruited.

5.12 Pay Progression

Formal Disciplinary Sanctions may impact on an individual's Pay Progression. Please refer to the Trust Pay Progression Policy Section 5.4.

Hearing managers should give consideration as to whether a sanction will impact on a staff members pay progression, and any affiliated cases of misconduct when issuing a sanction.

6. CONSULTATION PROCESS

The policy has been written in partnership with the Trust Trade Union Chair and with input from stakeholders across the Trust.

7. DISSEMINATION, IMPLEMENTATION & TRAINING

7.1 Dissemination

The Policy will be available on the Trust intranet site and will be circulated to all senior managers to cascade across divisions.

7.2 Implementation

The Human Resources Department will brief divisional management about the policy at divisional board meetings.

7.3 Training/Awareness

Formal training will be provided to Case Managers, Investigating Officers and Hearing Officers by an external provider.

8. PROCESS FOR MONITORING EFFECTIVE IMPLEMENTATION

Standard to be monitored	Process for monitoring e.g. audit, ongoing evaluation etc	Frequency e.g. annually 3 yearly	Person responsible for: undertaking monitoring & developing action plans	Committee accountable for: review of results, monitoring action plan & implementation	Frequency of monitoring e.g. monthly, quarterly
Records will be kept in the Electronic Staff Records System (ESR) for monitoring purposes of: Adherence to timescales Records of cases and outcomes All data necessary for Equality Impact	Ongoing evaluation	Annually	HR Business Partners	Workforce Committee	Monthly



Standard to be monitored	Process for monitoring	Frequency	Person responsible for:	Committee accountable for:	Frequency of monitoring
	e.g. audit, ongoing evaluation etc	e.g. annually 3 yearly	undertaking monitoring & developing action plans	review of results, monitoring action plan & implementation	e.g. monthly, quarterly
Assessment review.					

9. REFERENCES (IF APPLICABLE)

No References Applicable

10. VERSION CONTROL SHEET

Version	Date	Author	Status	Comment
1	13 th October 2020	Katie Woolley (HR Business Partner)	Final	Supersedes the Trust Disciplinary Policy to now include: <ul style="list-style-type: none"> • Personal Responsibility Framework • Scrutiny Panel • Case Manager Role • Additional Panel members on hearings

11. APPENDIX

See Disciplinary Tool Kit

12. GROSS MISCONDUCT

Gross misconduct is behaviour of such a nature that the Trust is justified in no longer tolerating the continued employment of the individual who commits such an offence.

The following are examples of offences that, having given due consideration to all of the circumstances, may be regarded by the Trust as gross misconduct. It is possible that an employee could be dismissed without previous warnings. This list is to be regarded neither as exclusive nor exhaustive:

1. Ill treatment/wilful neglect of patients or gross negligence.
2. Misuse of drugs, e.g. through misappropriation of drugs, or being under the influence of **illicit** drugs or alcohol.
3. Criminal conduct at work.
4. Sexual offences or sexual misconduct at work.
5. Conduct at work likely to offend decency.



6. Violence or other exceptionally offensive behaviour.
7. Unauthorised removal of the Trust's property.
8. Stealing from the Trust, its members, employees, patients or the public and other offences of dishonesty.
9. Criminal conduct other than at work. An offence unconnected with work will not in itself be reason for disciplinary action, but when deciding the gravity of such an offence, the Trust will have regard to the relevance of the offence to the duties and tasks the employee is required to perform. In such cases, the Trust's decision may be affected by the view taken of the employee by the appropriate statutory body.
10. Failure to declare a criminal conviction/investigation or caution received at any time including whilst employed by the Trust.
11. Discrimination against an employee or public on the grounds of sex, race, colour, nationality, age, marital status, sexual orientation, religion, disability or social background or hours of work.
12. Bullying and harassment at work
13. Falsification of remuneration (*including time sheets, medical certificates, subsistence and expenses claims etc*)
14. Falsification of qualifications which are stated as a requirement of employment; or any information used in support of an application for any post in the employment of the Trust (*subject to the conditions of the Rehabilitation of Offenders Act 1974*); or any other misrepresentation which results, or could result, in financial gain.
15. Falsification or inappropriate alteration of, or omissions from, documents or records relating to patients, staff, or other persons.
16. Whilst reporting to be sick, working or indulging in activities likely to be inconsistent with the reason for absence and/or unlikely to be conducive to recovery.
17. Engaging in outside employment during the hours when contracted to work for the Trust.
18. Corrupt or improper practice, e.g. when an employee improperly uses, or attempts to use his/her position to his/her own private advantage or to the advantage of some other person.
19. Any tampering with, or unauthorised access, or inappropriate use of computer systems.
20. Damage caused maliciously or by gross negligence to the Trust's property/equipment or records written or automatically processed.
21. Breaches of safety regulations endangering oneself or other people including deliberate damage to, neglect of, or misappropriation of safety equipment.



Reckless behaviour which constitutes a danger to health or safety of any person.

22. Breach of confidentiality – unauthorised disclosure of information that is confidential to the Trust. This may include confidential information relating to patients, staff or business plans, financial position, staffing details where the relationship between the employee and the Trust, as the employer, is undermined.
23. Disobeying a given instruction or reasonable order from a relevant manager (*whether in writing or not*) or failing to observe operational regulations and standing orders of the Trust or employing department when the consequences are likely to result in danger to patients or staff.
24. Influencing or attempting to influence any person involved in a Trust investigation process or tampering with evidence or information.
25. Unauthorised absence for a substantial or significant period of time.
26. Breaches of Professional Code of Conduct
27. Failure to maintain professional registration, required for role, for an extended period of time (i.e. more than 4 weeks)
28. Bringing the Trust into disrepute
29. Serious breach of trust and confidence
30. Deliberate access, transmitting, displaying or downloading of offensive/illegal material via any internet, email service or whilst using Trust property i.e., laptop is unacceptable. Offensive material includes hostile media relating to gender, ethnicity, race, sex, sexual orientation, religious or political convictions and disability. This list is not exhaustive. Illegal material is considered to be that which breaches English Law.
31. Presentation of information on social networking sites about the employee or the Trust that may present the Trust in an unfavourable light serving to damage the reputation of the Trust, its services and its wider workforce.

13. MISCONDUCT

Listed below are examples of offences of misconduct, other than gross misconduct, which may result in disciplinary action in the light of the circumstances of each case. This list is to be regarded neither as exclusive nor exhaustive. Other forms of misconduct may give rise to disciplinary action.

1. When an employee, without sufficient cause, disobeys, omits or neglects to carry out a lawful and reasonable order, (*whether in writing or not*) or failing to observe operational regulations and standing orders of the Trust or employing department.
2. When an employee abuses his/her status or position when dealing with fellow employees or members of the public.



3. When an employee, without sufficient cause, is absent from duty, is consistently late for duty or other attendance, or without permission or sufficient cause leaves his/her place of work.
4. Fails to discharge the obligation which statute or his/her contract of employment place upon him/her.
5. Causes any loss damage or injury to occur to any person or property, by carelessness or neglect, e.g. will include statutory obligations.
6. Fails to report any matter which is his/her duty to report.
7. Fails to make any entry, which it is his/her duty to make, in any book or document.
8. Fails properly to account for, or to make a prompt and true return of any money or property that comes into his/her possession in the course of his/her duties.
9. The Trust advises its employees engaging in employment in off duty hours to ensure that such employment does not adversely affect their work in the Trust. The Disciplinary Procedure may be invoked if the Trust feels that the employee's performance is thereby affected. Or if the interests of the Trust are adversely affected by the nature and the length of the time engaged in outside employment, or if the number of hours worked results in the employee being in breach of the Working Time Regulations.
10. When an employee, knowingly or through neglect, makes any false, misleading or inaccurate oral or written statement or entry in any record or document written or automatically processed.
11. When an employee, without sufficient cause, destroys or mutilates any record or document for the purposes of the Trust, or alters, erases or adds to any entry in such a record or document written or automatically processed.
12. When an employee, without proper authority, advertently or negligently communicates to any person information which was given to him/her in confidence as an employee of the Trust. Or communicates to any person information which the employee has access to and which is of a confidential nature, including that held on computers.
13. Where an employee, wilfully or without due care, causes any waste, loss or damage to any property of the Trust or fails to take proper care thereof.
14. Where an employee fails to report any loss or damage to any such property entrusted to his/her care.
15. Where any employee renders himself/herself unfit, through the use of alcohol, drugs or substance misuse, for duties which he/she is, or will be required to perform, or which he/she may reasonably foresee having to perform. e.g. unfit for a duty period due to use of alcohol, drugs or substance misuse, on the previous day/night. Staff are advised to inform their manager if they are taking prescription medication which might affect their performance.



16. Unauthorised sleeping on duty when the employee is supposed to be working.
17. Dangerous horseplay that could result in injury or damage to Trust property.
18. Failure to maintain Professional Registration pertinent to their role in the Trust for up to 4 weeks (for more than 4 weeks, please see Gross Misconduct).
19. Smoking on Trust premises
20. Being an accessory to a disciplinary/criminal offence.
21. Failure to follow the current procedure in respect of the reporting of accidents and other incidents.
22. Failing to follow local reporting procedures regarding absence from work and/ or resulting in Absence Without Leave (AWOL)
23. Unauthorised parking in or impeding access to designated disabled bays
24. Inappropriate behaviour in the workplace.
25. Failure to follow Trust policies and procedures e.g. Uniform policy/ Infection Prevention
26. Use of obscene language or swearing
27. Verbal aggression

