

GUIDANCE FOR EMPLOYEES INVOLVED IN THE DISCIPLINARY PROCESS

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1. Employees Responsibilities

1.1 Every employee has a responsibility to familiarise themselves with the rules and standards of conduct which relate to their area of work and the organisation's Standards of Performance and Conduct.

2. Introduction to the Disciplinary Procedure

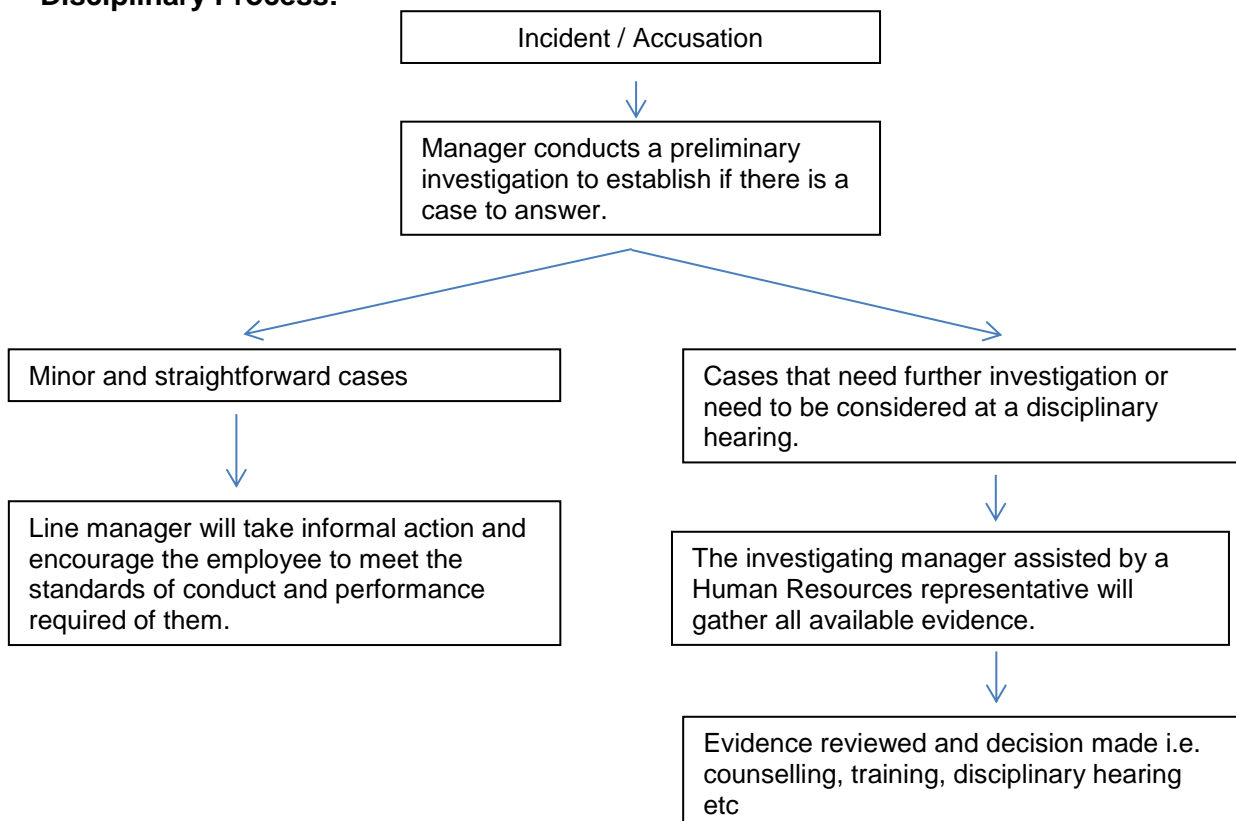
2.1 There are many reasons why the disciplinary procedure may be invoked. Once someone has made an accusation about a member of staff or an incident has occurred, it must be investigated. The stage in the disciplinary procedure that will take affect will depend on the seriousness of the incident/accusation; the stages range from informal action through to dismissal.

2.2 Involvement in the disciplinary procedure, in whatever capacity, may be stressful. It is therefore important that all involved are kept fully informed throughout the process and all involved are treated respectfully and courteously.

2.3 When an incident/accusation of a breach of the organisations rules, procedures or policies has been made, there is a defined course of action which is laid out in the Disciplinary Policy. A brief outline is depicted below.

2.4 For further detail on the disciplinary procedure please refer to the Trust's Disciplinary Policy (H1).

Disciplinary Process:



3. Suspension

- 3.1 Suspension is not a disciplinary sanction but may be appropriate in potentially serious circumstances where it is considered that allowing the employee to continue working could place the safety and/or well-being of patients, employees or the employee at risk, or where it is felt that the continued presence of the employee may impair the investigation, or in the interests of protecting the organization and/or in certain cases where police inquiries take place consideration must be given to suspending the employee.

Possible alternatives to suspension should be considered, such as:

- Restrict the employee's duties
- Transfer the employee to other work
- Place the employee under extra supervision for a temporary period (normally whilst the investigation is carried out.)

The decision to suspend can be implemented at any point in the investigation process.

- 3.2 Where possible the employee will be seen in person and have the allegations put to them before a decision to suspend them is considered. Requests for representatives will not be refused; however, such action will not be delayed in the event of non-availability.
- 3.3 The employee must be available during their normal hours to attend any meeting that may be convened as part of any investigation.
- 3.4 During suspension the employee must not access Trust Information Systems and may not enter premises belonging to the organisation without prior permission other than as a patient or visitor. However, a resident employee will not be required to move out of the organisation's accommodation.
- 3.5 The employee will remain on full pay equating to the rate applicable as if the employee were working. This will also be applicable if the employee is transferred to work in another area during the course of the investigation.
- 3.6 Suspension will initially be for a maximum of seven days, at which time the decision will be reviewed. If investigations are continuing suspension will be extended and reviewed thereafter.

4. Right of Accompaniment

- 4.1 Employees who have an allegation made against them have the right to be accompanied and/or represented by a Trade Union Representative to which they belong at the time of the allegation or workplace colleague not acting in a legal capacity. Management will give maximum assistance in securing representation promptly so that the matter can be resolved without unnecessary delay.

Witnesses to an allegation/incident do not have the right to be accompanied by a Trade Union representative or workplace colleague.

- 4.2 If the employee's companion is unable to attend the date originally proposed, the employee must contact the Investigating manager and agree another date for the meeting to convene provided that it is reasonable and is not more than five working days after the originally proposed date. This five day limit will only be extended in exceptional circumstances. There may mean you need to consider being accompanied by an alternative companion.
- 4.3 The representative may address the investigation and hearing, ask questions and confer privately with the employee, but has no legal right to answer questions on behalf of the employee.

5. Investigation Process

- 5.1 If an allegation has been made against you or you are a witness, the investing manager and a Human Resources representative will meet with you.
- 5.2 The aim of the investigatory process is to address the issues raised and to support all involved in overcoming these. The organisation will seek, wherever possible, to adopt supportive measures to help all individuals resolve the problem.
- 5.3 It may be necessary to change working days of the employee or witnesses to attend an interview or hearing.
- 5.4 Following your meeting the notes will be typed up for you to sign and you will have the opportunity to amend the statement to clarify points and correct any inaccurate notes. You will be asked to sign and return a copy within five working days of receipt of the notes. If this signed record is not received within this timescale it will be assumed that the statement is agreed. All interviews will be objective and questions based on the information received.

6. Employees Wishing to Change the Notes from the Investigation Meeting

- 6.1 If it is agreed by the investigating manager and HR representative that the notes are a true representation of the actual conversation that took place in the meeting, the notes cannot be changed. A separate note can be added to the information which indicates the areas the employee wished to change and the reason.
- 6.2 At no time can the notes be materially changed, whether the notes have been signed or not. However, it may be necessary to re-interview employees to clarify information, or if new information/evidence has subsequently come to light to ensure a full and robust investigation is conducted.
- 6.3 If the employee is unable to attend the investigatory meeting, they should notify the Investigating Manager and give the reason for non-attendance in advance of the meeting.
- 6.4 Where an employee fails to attend because of circumstances outside their control, the Investigating Manager should invite them to another investigatory meeting, preferably within five days of the original meeting. Where there is no valid reason for non-attendance, a decision will be made based on the information available.

7. Non Attendance

- 7.1 Employees whether the subject of an investigation/meeting or as a witness, are obliged to attend investigative meetings and disciplinary meetings as a requirement of their

contract of employment and must take all reasonable steps to do so. Failure to do so may result in disciplinary action, including dismissal, being taken in their absence.

- 7.2 Every effort will be made to convene a meeting date that is suitable for all parties; however, it is the employee's responsibility to ensure that they have Trade Union representative or workplace colleague available. A meeting date will not be delayed unnecessarily due to the availability of representation. This may mean you need to make arrangements to be accompanied by an alternative representative.

8. Witnesses

- 8.1 Those participating in the investigation as a witness may also experience stress. However, taking part in addressing issues is likely to lead to positive outcomes for the staff member(s) concerned and their staff teams in the long run.
- 8.2 It is not possible to guarantee anonymity under the laws of 'natural justice' the employee has the right to know who has made (or is a witness to) an allegation made against them.
- 8.3 If you are a witness, you will be informed that the details of your statement will be discussed with the individual during their investigatory interview. If the case proceeds to a disciplinary meeting, a copy of your statement will be given to the employee, to which the allegation(s) relate at least five working days before their disciplinary meeting. In addition, you may well be required to attend a disciplinary meeting as a witness.

9. Confidentiality

- 9.1 Disciplinary procedures can in some cases take considerable time; especially when there are a lot of employees to be interviewed. This can sometimes arouse suspicion. The investigation is confidential and if you are a witness you may not be aware of the full extent of the allegations, however, it is essential when providing information for the investigation that you concentrate only on what you know.
- 9.2 It is imperative for all involved in the investigation to avoid talking to each other about the incident/accusation being investigated or anything relating to the matter. 'All involved' would be expected to include those directly concerned with the matter, possible witnesses, direct workplace colleagues and individuals outside the department/ward. Investigatory interviews are confidential, if these interviews are discussed it can jeopardise the process and often lead to inaccurate information being circulated. This may also lead to disciplinary action being taken for breach of confidentiality.
- 9.3 Not being able to talk to colleagues and the limited information available will present a challenging situation, however, we are not asking you to remain in silence, we all need to talk to someone when under considerable stress; there are two factors to consider:
- Avoiding the expression of identifiable facts or details to those who may be able to identify individuals involved.
 - It is important that you have the opportunity to discuss the situation with someone, you can and should trust your closest friend or relative, who are not involved, with the investigation, or you may wish to talk to your Union Representative and/or the Staff Counsellor. It would be wrong if the stress of the disciplinary procedure were to be detrimental to your health, well-being and relationships etc.
- 9.4 Also, you will have the opportunity to talk about your views and ask questions during your investigatory meeting. An investigatory meeting is a time when you will have the opportunity to explain, in detail, your knowledge of the incident/accusation with the manager investigating the case and a Human Resources representative. They will ask you some questions regarding the incident/accusation and all that is expected is that you answer truthfully.

10. Investigation Report

- 10.1 When the investigation is complete the investigating manager, supported by the HR representative, will need to complete a report which draws together the information collected.
- 10.2 This report will form the basis of the management case should the matter be referred to a disciplinary meeting and at this stage will be available to the employee and their representative

11. Decision Making Process

- 11.1 The senior manager, together with advice from Human Resources will have the responsibility for making a decision as to whether the matter is referred to a disciplinary meeting or an informal one-to-one meeting or no case to answer.

- 11.2 The senior manager will advise the investigating manager, the employee and their nominated representative of their decision. This decision should ultimately be communicated in writing.
- 11.3 If the decision is an informal one-to-one meeting the investigating manager should make arrangements to meet with the employee as per section 10.3 of the Disciplinary Policy (H1).
- 11.4 If the decision is to refer the matter to a disciplinary meeting the employee together with their trade union representative/work colleague will need to prepare their papers/information for submission to the disciplinary panel and investigating manager. They will also need to give consideration to any witnesses they may wish to call as part of the proceedings.

12. Informal Action

- 12.1 This process should always take place in a private and confidential setting and should be undertaken on a one-to-one basis between the manager and employee concerned. There is no requirement to give the employee notice either verbal or written. There is also no right for the employee to be accompanied to an informal meeting and as such there is no requirement for trade union or HR presence.
- 12.2 The aims of the meeting should be to assist and encourage the employee in meeting the standards of conduct required of them. The manager and employee should agree suitable goals and timescales for improvement if necessary.
- 12.3 Notes of the key points referred to in the informal meeting must be made and issued to the employee. Content of record of the meeting should include:
 - Date and location of the meeting
 - Points discussed and the employee's responses to concerns raised.
 - Agreed actions including any necessary improvement and/or support that will be given. This could be in the form of an action plan.
 - Date, time and location of the review meeting if required.
 - The fact there was no formal outcome.
- 12.4 Both the manager and employee should retain a copy of the record of the meeting and this should be referred to at any review meeting. A copy of the record should be placed on the employee's personal file.
- 12.5 The employee will be informed that if there is no improvement or if an offence is committed again, the next stage may be to invoke the formal disciplinary procedure.

13. The Impacts of the Disciplinary Procedure

- 13.1 Individuals react differently when under the stress of a disciplinary procedure. Some of the most common responses are listed below.

Psychological Impacts

This may involve loss of motivation, forgetfulness or increased anxiety.

Physiological Impacts

This may involve insomnia, tiredness or exhaustion.

Behavioral Changes

This may involve acting out of character in some way, withdrawing from others or not being able to concentrate.

- 13.2 If you feel you need some support dealing with the stress of the disciplinary procedure, you can access the Employee Assistance Programme. This gives you access to a team of trained wellbeing and counselling practitioners to support all employees, offering confidential, independent and unbiased information and guidance by telephone, in writing, online and through face-to-face appointments for a wide variety of issues.

Contact them on 0800 031 4674 or for further information go to:

<https://tsdft.optimise.health/>

14. Some Do's and Don'ts

Do	Don't
Find someone to confide in (e.g. friend, Trade Union Representative or Staff Counsellor)	Bottle things up
Take extra care, accidents are more common when under stress	Let your health suffer
Seek extra help when needed (counselling, medical etc)	Let shame or embarrassment prevent you from talking to those able to provide support
Try to keep things in perspective	
Try to avoid alcohol, sedatives, sleeping pills and other things that may become addictive, they will not help you deal with the situation and may become a problem long after the disciplinary	

15. Seeking Help

- 15.1 If you feel you are not coping (i.e. the psychological impact is affecting your ability in general and/or your physical reactions are particularly acute and distressing) or if you feel yourself changing for the worse in some way, we advise that you should seek help as soon as possible.
- 15.2 Seeking the help and support of an appropriately qualified professional is important, prompt action will lessen your suffering and enable you to regain a sense of wellbeing as soon as possible.

16. Sources of Support

- Your Family and friends
- Your GP

- Your Trade Union Representative: The Trusts recognise the following Trade Unions, including Professional staff organisations:
 - UNITE
 - British Association of Occupational Therapists – BAOT
 - British Dietetic Association - BDA
 - British Medical Association – BMA
 - British Dental Association - BDA
 - British Orthoptic Society – BOS
 - Chartered Society of Physiotherapy – CSP
 - Community & District Nursing Association - CDNA
 - General Municipal Boilermakers / Apex – GMB/Apex
 - Community Practitioners & Health Visitors Association – CPHVA
 - Royal College of Midwives – RCM
 - Royal College of Nursing – RCN
 - Society of Chiropody & Podiatry– SOCP
 - Society of Radiographers – SOR
 - Union of Construction Allied Trades & Technicians – UCATT
 - UNISON

For information on your local representative please call Human Resources on 01803 654506 or 658475

- Staff Payments Department Tel. 01803 653307

(For advice on your salary or pension etc if, for example, you are placed on special paid leave pending an investigation)

17. Frequently Asked Questions

Q. How long will the disciplinary process take?

A. *It is very difficult to predict how long each case will take. The more witnesses there are to interview, the longer it is likely to take. The disciplinary procedure is very time consuming, all involved are required to give the process priority and we aim to complete it as soon as possible.*

If you have any concerns about the length of time that it is taking please do not hesitate to contact the relevant Human Resources representative or your Union Representative and we will endeavour to provide a realistic time frame.

Q. What contact will I receive throughout the procedure?

A. *You will receive the standard correspondence as laid out in the Disciplinary Policy and the manager investigating the case and a Human Resources representative will endeavour to keep you as up-to-date as possible.*

Q. When will I be able to see all the allegations that have been made against me?

A. *You will be advised of the nature of the allegations in writing, before attending the investigatory interview. If the investigation becomes formal and you are asked to attend a disciplinary meeting all relevant information, including any statements, will be exchanged by both sides at least five working days prior to the Hearing.*

Q. When should I go to counselling?

A. *The Disciplinary Procedure can be a stressful experience and counselling services are there to provide additional support to help you through a particularly difficult time. A counsellor is there to assist you to cope better and rationalise your thoughts, it is not an admission of guilt.*

Q. Am I going to get dismissed at the end of this?

A. *The disciplinary procedure endeavours to provide a fair method of dealing with alleged failures to observe standards of conduct at work. Where appropriate, the organisation will support its employees through areas that*

need development. Where allegations are proven a hearing outcome is likely to involve a disciplinary sanction but only in cases of gross misconduct will that sanction potentially be dismissal.

Q. Who can I talk to?

A. *Please follow the guidance notes above under the heading 'Confidentiality'. If you are unsure then please contact the Human Resources department.*

If you are a member of a Trade Union or Professional organisation, you can also get support and help from your Trade Union Representative.

If you have any questions please do not hesitate to contact the Human Resources department, Tel. 01803 655754

Toolkit 1 - DISCIPLINARY MEETING FLOWCHART

At least 14 days before the meeting is due to take place, the Chair of the panel will advise the employee and investigating manager, in writing:

- The meeting is being held in accordance with the organisations disciplinary procedure and who will be present
- The nature of the allegation, the classification of the misconduct, pending the outcome of the meeting, disciplinary action up to and including what form of action.
- Refer to any previous disciplinary action, if appropriate
- The time and place of the meeting
- The names and roles of the disciplinary panel, the name of the manager presenting the management case and the name of any witnesses
- The right to be accompanied

Check:

- Carry out a thorough investigation
- Give the employee copies of any information to be used
- Arrange another meeting within five days if the employee or accompanying person cannot attend
- Consider fresh evidence, if necessary

At the hearing:

- Investigating manager will state their case, calling any witnesses to the events
- Employee (or representative) will state their case and call any witnesses
- Opportunity for both parties to cross examine each other's witnesses and to re-examine their own witnesses.
- Panel may ask questions of either party and/or the witnesses
- Investigating manager will sum up their case
- Employee (or representative) will sum up their case

Adjournment for the panel to consider any action.

- See Factors to consider when making a decision

Employee, representative and line manager recalled and informed of the decision

- Decision and right to appeal confirmed in writing within five working days