

## TRUST POLICY

### DISCIPLINARY POLICY

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All document profile details are recorded on the last page.

All documents must be reviewed by the last day of the month shown under “review date”, or before this if changes occur in the meantime.

#### FAST FIND:

To deal with a minor issue informally, see action card [DCP4](#)

To deal with any issue that might lead to formal disciplinary action, consult Human Resources (HR) advisor FIRST before starting any formal processes.

To carry out a disciplinary investigation, refer to the [Investigation Guidance Notes](#)

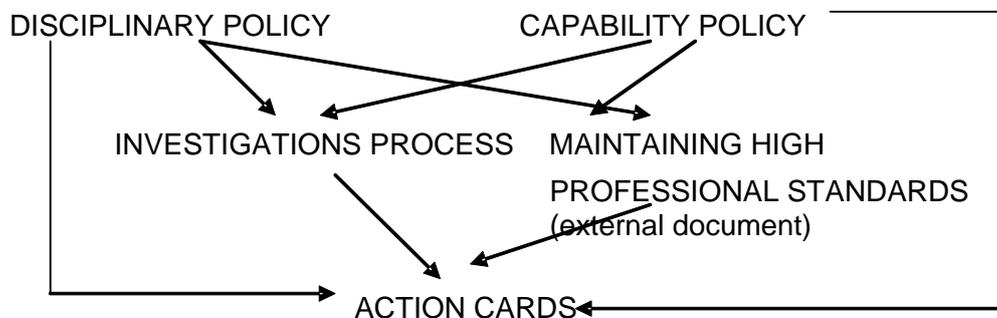
To look up disciplinary processes, see section 6 of this document.

To look up disciplinary sanctions, see section 7 of this document.

#### DOCUMENT OVERVIEW:

- This document describes the Trust’s Disciplinary Policy, and how informal and formal actions are taken. It does not deal with capability issues, see the [Capability Policy](#) instead
- It sets out the standards required, how systems will operate, and how the Trust will achieve fairness and consistency across the range of its employees
- It also cross-refers to a number of specific action cards and guidance notes which deal with the investigation process. These are detailed in the document index.
- For information relating to disciplinary issues involving medical, dental and pharmacist staff. Refer also to “[Maintaining High Professional Standards](#)”, which is available via the Department of Health website ([www.dh.gov.uk](http://www.dh.gov.uk)).

#### POLICY MAP



This document may be made available to the public and persons outside of the Trust as part of the Trust's compliance with the Freedom of Information Act 2000

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**N.B.** The action cards are interchangeable between the Capability and Disciplinary Policies; the processes are identical irrespective of whether the issue relates to capability or conduct.

## DISCIPLINARY POLICY

### 1. INTRODUCTION

The Trust aims to provide a framework where all employees are supported and encouraged to achieve and maintain standards of conduct, attendance and job performance which are acceptable to the Trust, and through this achieve an orderly working environment for all, as well as fairness and consistency in the treatment of individuals.

The Disciplinary Policy sets out standards of behaviour that are required and the potential consequences of failing to observe those standards.

This document has been produced in line with ACAS Code of Practice 1 – Disciplinary and Grievance Procedures.

### 2. DEFINITIONS

Word/Term	Descriptor
<b>Suspension</b>	Temporary removal of an employee from the workplace pending investigations, <b>OR</b> action taken by a regulatory body to remove them from the working environment (and to temporarily suspend them from their practice register) pending a disciplinary hearing or outcome of a fitness to practice hearing
<b>Misconduct</b>	Conduct not conforming to expected standards, which may be intentional
<b>Gross Misconduct</b>	Wrongful, improper or unlawful conduct motivated by premeditated or intentional purpose, or purposeful disregard of the consequence of one's action
<b>Summary Dismissal</b>	Dismissal without any pay in lieu of notice, i.e. instant dismissal
<b>Sanction</b>	Penalty imposed as an outcome of a formal hearing under the Disciplinary Policy
<b>Fair blame</b>	Ensuring that human error is taken account of in a fair manner, but with the expectation that employees will take responsibility for their actions and learn from their mistakes
<b>Balance of Probabilities</b>	The panel's decision will be made on the basis of which circumstances they agree is more likely to be true.
<b>Staff Side Representative</b>	Officer/steward of trade union or professional organisation, who may be a lay representative (employed by the Trust) or a full-time officer (employed by the union/organisation)

### 3. PURPOSE

The Disciplinary Policy and its accompanying guidelines and action cards are for use in issues of employee conduct, and outlines the processes to be followed. It is essential that all managers consult their Human Resources manager for advice before proceeding.

It does not apply in cases where capability is an issue; refer to the [Trust's Capability Policy](#). In cases where the issue is both a capability and disciplinary matter, the issue will normally proceed under the Trust Capability Policy.

This policy applies to all employees of the Trust, whether on permanent, temporary or bank contracts. Professional staff are also answerable to their own governing bodies and action card [DCP10](#) details at what point a professional body will be involved as a consequence of a disciplinary process within the Trust.

For disciplinary issues relating to medical, dental or pharmacist staff which clearly do not relate to clinical practice, use this policy. In issues which have (or may have) a professional basis, refer in the first instance to [Maintaining High Professional Standards](#) alongside this policy. This document is available via the Department of Health website ([www.dh.gov.uk](http://www.dh.gov.uk)), and the Trust subscribes in full to the framework contained within it. Separate processes for the suspension of clinical practitioner and disciplinary hearing are contained within action cards [DCP3](#) and [DCP5](#).

### 3. ROLES AND RESPONSIBILITIES

Post/Group	Details	Implementation	Review/ Monitoring	Records	Reporting	Training	HR
<b>Chief Executive</b>	<ul style="list-style-type: none"> <li>Ultimate responsibility</li> <li>Implementation of policy</li> </ul>	X	X				
<b>Trust Board</b>		X	X				
<b>Director of HR</b>	<ul style="list-style-type: none"> <li>Lead responsibility for implementation</li> <li>monitoring disciplinary and appeal outcomes</li> </ul>	X	X				X
<b>Executive Directors/Chiefs of Service, Divisional/Specialty Managers</b>	<ul style="list-style-type: none"> <li>Ensuring policy requirements observed within area of responsibility</li> <li>monitoring disciplinary outcomes</li> <li>ensuring line managers are appropriately trained</li> </ul>	X	X			X	X
<b>Responsible Officer</b> (for professionally registered staff) – see <a href="#">Appendix 1</a> and action card <a href="#">DCP 10</a>	<ul style="list-style-type: none"> <li>ensures regulatory action is taken where necessary</li> <li>first point of contact with professional bodies</li> <li>monitors compliance with professional body conditions, where appropriate</li> <li>makes recommendations to/receives advice from professional body about fitness to practice issues</li> </ul>	X	X		X	X	X
<b>HR Operational Team</b>	<ul style="list-style-type: none"> <li>providing support and advice to managers and employees</li> <li>providing logistical support to disciplinary processes</li> <li>providing input into hearing decisions and sanctions</li> <li>maintaining HR data</li> </ul>	X	X	X		X	X
<b>Investigating Officer</b> (see action card <a href="#">DCP11</a> )	<ul style="list-style-type: none"> <li>Carrying out investigations under this policy and the <a href="#">Investigation Guidance Notes</a></li> <li>Preparing investigation reports</li> </ul>	X		X	X		
<b>Chair of Panel</b> (see action card <a href="#">DCP12</a> )	<ul style="list-style-type: none"> <li>Leading hearings under this policy</li> <li>Issuing hearing outcomes</li> <li>Hearing appeals</li> </ul>	X		X	X		
<b>Line Managers</b>	<ul style="list-style-type: none"> <li>Participating in training</li> <li>ensuring staff are aware of policy requirements</li> <li>ensuring effective management systems are in place to minimise need/use for this policy</li> <li>maintaining records</li> </ul>	X		X	X	X	
<b>Staff side representatives</b>	<ul style="list-style-type: none"> <li>supporting staff involved in investigation, disciplinary and appeal processes</li> </ul>			X		X	

<b>Employees</b>	<ul style="list-style-type: none"> <li>following this and associated policies/procedures</li> </ul>						
<b>HR Executive</b>	<ul style="list-style-type: none"> <li>Monitoring effectiveness of policy</li> <li>Receiving information on disciplinary and appeal outcomes</li> </ul>		X				

## 5. PRINCIPLES

### 5.1 Investigation

Formal disciplinary action will not be taken against an employee until the issue(s) of concern has been investigated under the Trust's [Investigation Guidance Notes](#).

### 5.2 Representation

At all formal stages of the disciplinary and appeals process, the employee will have the right to be represented by an accredited staff side representative or workplace colleague. Representatives are entitled to a reasonable amount of time off to fulfil this duty, which where practicable must be agreed in advance with that individual's line manager. It is the responsibility of the employee to find their own representation and to keep their representative informed of any meeting arrangements.

In the case of an accredited staff side representative being directly involved in disciplinary action, these individuals are entitled to representation from a full-time officer.

### 5.3 Communication

The employee will always be advised in writing of any allegations against them to ensure they are given the opportunity to state their case.

Employees will be given fair notice of meetings/hearings etc. (at least 7 days) and will be provided with all relevant documentation to assist them in preparing their case.

No information should be presented in a management case that has not already been seen by both sides in advance, unless mutually agreed.

### 5.4 Consistency

Disciplinary action will be fairly and consistently applied throughout the Trust, and principles of equal opportunities will be adhered to.

No employee will be dismissed for a first breach of discipline, except in the case of gross misconduct or an irretrievable breakdown of trust and confidence in the employee.

All disciplinary sanctions are outlined in section 7.

## 5.5 Record Keeping

Written records must be maintained of all stages of investigatory, disciplinary or appeals processes, including any informal action stages. Records must include:

- the complaint against the employee
- the employee's defence
- findings made and actions taken, including copies of all letters and reports
- reasons for actions taken
- whether an appeal was launched
- outcome of any appeal
- any grievances raised during the disciplinary process
- any subsequent developments

Outcomes of disciplinary sanctions will be issued to the employee in writing and will be retained on the employee's personal file for the duration of the warning issued. At the end of this period, records should be removed and destroyed or marked clearly as "expired", except in cases where the employee has been advised at the time that their misconduct has been severe enough to warrant the record of it being retained permanently.

All records are confidential and must be retained in accordance with Data Protection legislation.

## 5.6 Authorised Officers

[Appendix 1](#) details the levels of management authorised to dismiss or issue warnings.

## 5.7 Human Resources Involvement

Managers must contact their Human Resources Advisor as soon as they become aware of an incident that could lead to disciplinary action. The Human Resources advisor will provide appropriate support to the investigating officer and any subsequent disciplinary hearing/appeal.

Dismissal of staff will always be the subject of consultation with HR at an appropriate level, e.g. Director of HR, Deputy Director of HR, or Divisional HR manager.

## 5.8 Delays to Disciplinary Proceedings

Delays to disciplinary proceedings may be accepted under the following circumstances:

- sickness of employee, staff side representative or panel member
- unavoidable absence of employee, staff side representative or panel member

It is in the interests of the employee that disciplinary hearings are held as quickly as possible, but it is accepted that in exceptional circumstances, there may be a reasonable delay.

All processes related to delays in disciplinary hearings are laid out in action card [DCP1](#).

## 5.9 Action against Staff Side Representatives

No disciplinary action or decision to exclude against a staff side representative will be taken until the matter has been discussed with a full-time official to establish how they will be represented.

## 5.10 Professional Advice and Involvement

HR managers and advisors are responsible for providing advice on the application of this policy, to ensure fairness and consistency. When managing issues that may lead to disciplinary action, line managers must seek HR advice at the earliest opportunity.

Professional advisers/managers must be consulted on incidents or standards of performance involving the professional conduct or competence of professional staff; see also action card [DCP10](#).

Cases involving doctors, dentists or pharmacists must involve appropriate members of the Trust's Performance Panel, and may involve the use of the [Maintaining High Professional Standards](#) framework document.

## 5.11 Witnesses

Witness evidence may be used to support either a management or employee case. Witness statements should be dated and signed, and witnesses may be called by either side to attend a disciplinary hearing, and should attend in most circumstances unless:

- there is an agreement by both parties that attendance is not required
- the witness is too unwell to attend
- the statement is provided by a patient or member of the public who cannot be compelled to attend

The witness's manager should ensure that they are able to attend on the date and time stated.

Witnesses must be allowed to claim time off in lieu or be paid for attending a disciplinary hearing or appeal. Any appropriate travel expenses will be paid in line with Trust policy.

## 5.12 Grievances

If a grievance is lodged related to an ongoing disciplinary matter, advice should be sought from HR.

The raising of a grievance should not normally delay ongoing proceedings and the expectation is that this would be dealt with after the conclusion of a disciplinary hearing, or at least to run concurrently with it. Human Resources advice must be sought in all cases, who will refer the issue to a staff side representative for further discussion, if appropriate. However, it is accepted that if a grievance is upheld, any disciplinary action taken may need to be reviewed in the light of this decision.

If the grievance relates to a matter of potential discrimination, it may be appropriate for the panel to consider the issue at a separate hearing prior to the disciplinary/appeal hearing.

If a grievance is raised during a disciplinary hearing related to the process itself, the chair of the panel may take the following actions:

- consider suspending the process for a short period whilst the issue is dealt with according to the Trust Grievance Procedure
- hear the grievance after the disciplinary or appeal hearing has taken place

Vexatious grievances, if proven (see [Trust Grievance Procedure](#)) may lead to separate disciplinary action.

## 5.13 Resignation

Where an employee chooses to resign during the disciplinary process, it will normally still proceed, with the ex-employee given the option of attending any hearing with their staff side representative or ex-work colleague. Exceptions to this process must be agreed with a Divisional HR Manager.

## 5.14 Special Circumstances

Special arrangements might be required for handling disciplinary matters among staff on night or weekend shifts, employees in isolated areas of the Trust, or staff with special needs. The Trust will provide time in lieu for attending meetings outside normal working hours. This policy and associated procedures must be followed at all times.

## 5.15 Fraudulent Practices

Where there is a reasonable belief that fraud has been committed, or when fraud is proven or admitted during the course of a disciplinary case, the Director of HR reserves the right to refer the case to the Local Counter Fraud Service (LCFS) and NHS Protect, who will make their own investigations alongside or following any disciplinary process. The Local Counter Fraud Service make independent decisions on whether or not to pursue a case.

Where there is reasonable belief that bribery has occurred, the case will be referred to the Police and LCFS for investigation in accordance with Trust's response to the Bribery Act 2010.

## 5.16 Health Issues Raised During Disciplinary Processes

If an employee puts forward a case that disciplinary proceedings should be delayed or terminated on the grounds of his/her health, the Trust will ensure that they are referred to Occupational Health as soon as possible. However, if an employee refuses to co-operate with this process, this may give separate grounds for pursuing disciplinary action.

## 5.17 Expenses incurred during disciplinary processes

The Trust does not pay an employee's out-of-pocket expenses incurred during investigatory or disciplinary processes.

## 5.18 Fair Blame Culture

The Trust is committed to a culture of "Fair Blame" in that its pledge to all employees of GHNHSFT, following a critical incident or event, including, but not limited to:

- reported incidents
- formal complaints
- negligence claims

is that in the first instance, (prior to any informal or formal disciplinary or capability process) management/HR will liaise with the Trust's Safety Department, so that guidance on applying a fair blame approach can be obtained. See also the NPSA Incident Decision Tree and Incidents, Accidents and Fair Blame.

The above does not in any way preclude the Trust's right to by-pass this process step where it is in the interests of patients, staff, public, visitors, or any other person or party, where there is potentially or actually an issue of detriment.

The fair blame culture makes the assumption that employees will use their own judgement in the workplace, but are required to take responsibility for their own actions and learn from mistakes made.

The Trust aims to not blame employees unfairly for human error in the spirit of encouraging the reporting of errors and system failures. [Implementing Human Factors in Healthcare](#) is a helpful reference document on this topic.

Action Card [DCP9](#) gives specific guidance on the issue of drug errors.

## 6. DISCIPLINARY PROCESSES

**Note: All written communications with the employee must be made using the appropriate standard letters from templates which are available on the [HR website](#). Always consult HR before issuing any written communications.**

### 6.1 Investigation

All details of the investigation process are contained in the [Trust Investigation Guidance Notes](#). The role of the Investigating Officer is outlined in action card [DCP11](#).

### 6.2 Suspension

Suspension must not be used as a disciplinary measure in its own right, but as a means for allowing sufficient time and a safe environment for the investigation process to be completed. Advice from HR must always be sought before action is taken to suspend an employee.

Details of the suspension process are available on action card [DCP2](#)

If suspension is being considered for a member of medical or dental staff, refer to action card [DCP3](#).

Employees will receive average weekly gross earning calculated over thirteen weeks prior to the date of suspension.

### 6.3 Informal Action

The Trust will aim to deal with cases of minor misconduct informally whenever possible. Action card [DCP4](#) details the process to be followed.

Representation is not necessary in cases of informal action, although employees may request it, and managers/HR may encourage it if they feel it would be helpful to the process.

### 6.4 Formal Action – Disciplinary Hearing

In cases where the investigation process has indicated that it would be appropriate to move to a disciplinary hearing, follow action card [DCP5](#) for the process.

In exceptional cases when an employee has absconded and there is no realistic prospect of them attending a disciplinary hearing, it may be appropriate to use the statutory modified procedure (see [Appendix 3](#)), but HR advice must be obtained first.

## 7. SANCTIONS

The panel must consider appropriate sanctions (if any) after being presented with all the evidence available from both the management case and the employee's. Their decision must be based on the following:

- whether the allegations are proven by direct evidence or are deemed to be proven on the balance of probability
- in the case of multiple allegations, which are to be upheld and which disregarded
- the employee's relevant disciplinary and general record
- explanations and mitigation provided by the employee
- any professional advice presented from either side, e.g. from Occupational Health
- actions taken in previous similar cases within the Trust
- whether the intended disciplinary action is reasonable in the circumstances
- whether it is appropriate to notify a professional body (e.g. NMC, GMC etc.) of any action taken; seek advice where appropriate
- whether it is appropriate for a member of the medical staff to undergo the revalidation process

A range of sanctions are available to panels hearing disciplinary cases, and in normal circumstances, they should be applied progressively. However, in serious cases, it may be necessary to move directly beyond the first written warning stage. In these cases, the panel must be able to justify their actions.

See [Appendix 2](#) for guidance on disciplinary offences.

If the panel determines that there is no case to answer, this should be communicated clearly to the employee (and staff side representative) and confirmed in writing. No sanction will be applicable in these cases.

### **7.1 First Written Warning**

The panel may apply a first written warning in cases of misconduct, which would normally remain on record for 6 months.

### **7.2 Final Written Warning**

The panel may apply a final written warning in the following circumstances:

- where there has been a failure to improve or change behaviour following a first written warning
- where the offence is sufficiently serious

A final written warning will normally remain on record for 12 months.

### **7.3 Dismissal**

A panel may take the decision to dismiss an employee in the following circumstances:

- if a manager with authority (or delegated authority) to dismiss is a member of the panel
- if all options including measures short of dismissal have been considered but are deemed inappropriate
- if an act of gross misconduct has been committed
- where there has been repetition of offences/behaviour which are already the subject of current warnings (a final written warning will already have been issued)
- following advice from HR/professional advisors

The employee will normally be dismissed with pay in lieu of notice, except in cases of summary dismissal. Pay for any outstanding annual leave up to the date of dismissal will also be paid.

However, if a panel feels that dismissal is too harsh a penalty, yet a final warning is not appropriate, then they may consider a final warning with measures short of dismissal (see section 7.5)

### **7.4 Summary Dismissal**

Summary dismissal will be considered when an act of gross misconduct causes an irretrievable breakdown of trust and confidence in the employee, and will necessarily only happen in exceptional circumstances. No pay in lieu of notice will be made.

Summary dismissal may only be enacted by a manager with authority to dismiss, and following discussion with HR.

The employee may opt not to be present at the disciplinary hearing, which will be convened in the usual way. In these cases, the modified two-step process may be used (see [Appendix 3](#)).

In cases where there is a risk of violence/aggression or damage to Trust property or premises following a summary dismissal, the panel may opt to ensure that the employee is escorted off the premises.

## 7.5 Measures Short of Dismissal

The panel may apply measures short of dismissal in the following circumstances:

- where dismissal could be justified, but may be inappropriate in the circumstances
- where the employee and staff side representative agree with management that this is an appropriate action to save the employee from dismissal

Measures short of dismissal may include demotion, disciplinary transfer or loss of seniority. The terms and conditions relevant to the alternative post will apply and the employee will not be entitled to any protection of pay or conditions. The alternative post must be voluntarily accepted by the employee within 7 days of the written offer.

A final written warning will accompany the measures short of dismissal, which will remain on record for 12 months.

If measures short of dismissal are rejected by the employee, the employee will be dismissed.

## 7.6 Notification to professional bodies

Notification to professional registration bodies (e.g. GMC, NMC) will be applicable in the following circumstances:

- Doctors, dentists and pharmacists – NCAS will be consulted with at an early stage of any disciplinary process in accordance with the Maintaining High Professional Standards framework document. NCAS will advise on the appropriateness of onward referral to the GMC or whether it is appropriate to deal with the disciplinary issue through the Trust's own procedures
- Nurses, AHPs – professional bodies will be notified in cases of dismissal, summary dismissal or demotion as a measure short of dismissal. Professional bodies may also be notified if there is a serious disciplinary issue which could affect fitness to practice or professional registration; this will be determined on a case-by-case basis
- The Trust reserves the right to notify professional bodies in cases of fraud and/or bribery

It may also be appropriate to contact the SHA to issue an alert in the case of a clinical/medical employee who may attempt to work in breach of a professional restriction. See action card [DCP10](#).

## 7.7 Sanction Timescales

Warnings will normally apply for the periods stated in sections 7.1 and 7.2. However, in exceptional cases, or where there is evidence that an employee has previously abused the disciplinary process, these periods may be extended at the panel's discretion.

## 7.8 Written Confirmation of Sanctions

All formal disciplinary sanctions will be confirmed in writing to the employee within 7 days of the hearing. The letter will be dated and state:

- the type of sanction issued
- the reason for the warning/dismissal
- consequences of a repeat offence (not applicable for dismissal)
- notification of any intent to refer to an external/professional body (professionally registered staff)
- for dismissals, the amount of notice to be paid (not applicable for summary dismissal)
- right of appeal including the time limit
- who an appeal should be addressed to

A signature should be obtained if possible for receipt of the letter, and an additional copy sent to the staff side representative.

## 8. APPEAL

Employees who have had disciplinary action taken against them have a right of appeal. All details of the appeals process are contained in action card [DCP6](#).

## 9. ACTION IN THE EVENT OF POLICE ENQUIRIES OR LEGAL PROCEEDINGS

All details of this process are contained in action card [DCP7](#).

## 10. TRAINING

See separate training needs analysis and the Trust Mandatory Training Policy.

## 11. MONITORING OF COMPLIANCE

Objective	Frequency/timescale	Methodology
Consistency review of disciplinary cases	Annual	Review of information and report
Review of disciplinary appeals	Annual	Review of information by HR managers
Review of casework and outcomes against HR metrics	Annual	Review of case information against process

## 12. REFERENCES

Ministry of Justice (2010). The Bribery Act 2010. London: Her Majesty's Stationery Office.

## Appendix 1

### Authorised Officers – Disciplinary Action

#### Non-medical/dental staff

Disciplinary Action	Level of Staff being Disciplined	Authorised Officer
First written warning	Any	Immediate manager of section, ward, unit or department; Clinical manager
Final written warning	Any	Head of Department/Directorate/ Division/Manager
Dismissal	Executive Director Members of the Operational Board	Chairman, Non-Executive Directors, Chief Executive
	Managers at level below Executive Director/Member of the Operational Board	Executive Director
	All other staff	Deputy or Assistant Director/Member of Operational Board

An employee may not be dismissed by a manager to whom they are directly responsible.

HR advisors will advise on suitable authorised officers for disciplinary panels. It may be necessary to obtain delegated authority on a decision

#### Medical and Dental Staff

Disciplinary Action	Level of Staff subject to Disciplinary process	Authorised Officer
Warning	Consultant	Specialty Director/Chief of Service†
	Junior Staff	
	Trainee staff	Responsible Officer (Deanery)
Dismissal	Consultant	Chief Executive and Medical Director†
	Junior Staff	Medical Director, Chief of Service and Specialty Director†
	Trainee staff	Responsible Officer (Deanery), Medical Director/Specialty Director

† No action will be taken without the advance notification of the Medical Director.

## Appendix 2

### GUIDANCE ON DISCIPLINARY OFFENCES

The following is intended to be a guide to assist in determining appropriate courses of action. HR advisors will give more detailed advice. These lists are not exhaustive.

#### Minor Misconduct

Examples of minor misconduct include:

- lateness without reasonable explanation
- minor variation from accepted standards
- minor instances of insubordination
- verbal abuse to other members of staff
- absenteeism
- failure to adhere to counselling action plans for performance improvements

Repetition of this type of offence could lead to further disciplinary action.

#### Serious Misconduct

Examples of serious misconduct include:

- failure to respond to previous warnings
- refusal to carry out reasonable instructions
- failure to wear protective clothing as prescribed and issued
- failure to carry out safe working practices and procedures
- failure or refusal to comply with established operational procedures which could result in serious error
- unauthorised disclosure of matters of a confidential nature
- breaches of conduct according to the Professional Codes of Practice

#### Gross Misconduct

Examples of gross misconduct could include:-

- **Theft:** Unauthorised possession of property belonging to the Trust, patients or staff
- **Bribery:** Offering, promising, soliciting, demanding, giving, receiving or the expectation of a bribe, advantage, any gift or loan, fee or reward for doing or not doing anything, or showing favour or disfavour to any person or company in their official capacity
- **Fraud:** Any deliberate attempt to defraud the Trust, a patient or members of staff. This would include the falsifying of time records, study leave or other expense claims, claiming sick pay whilst working and obtaining employment by deception
- **Assault:** Violence or malicious ill-treatment of patients or other members of staff
- **Incapacity through drink or drugs:** Incapacity to perform normal duties through the consumption of alcohol or the misuse of drugs. Due recognition will be taken of the Alcohol, Drugs and Substance Misuse Policy.
- **Damage:** Intentionally causing damage to the property of the Trust, patients or other members of staff
- **Health and Safety:** Any action which seriously endangers the health or safety of oneself or others. Knowingly allowing a serious breach of the Trust and/or Statutory Health & Safety regulations
- **Confidentiality:** Very serious breaches of confidentiality
- **Professional Misconduct:** Major breaches of conduct according to the Professional Codes of Practice (external bodies may need to be involved with such cases; refer to Council/Association guidelines and Maintaining High Professional Standards framework document)

## Appendix 3

### Statutory Modified Procedure

(for use in accordance with section 7.4 of the Disciplinary Policy when the employee opts not to be present, or cannot be present)

#### Step 1 - Hearing

Disciplinary hearing will be convened in the usual way (see action card [DCP5](#))

The manager must set out the grounds for action in writing, which must contain:

- i) the employee's alleged gross misconduct which warrants summary dismissal
- ii) the reasons for assuming the employee is guilty of gross misconduct

A copy of this statement must be sent to the employee, together with a notice of statutory dismissal and the employee's appeal rights.

#### Step 2 - Appeal Process

- if the employee wishes to appeal, they must inform the identified manager/director
- if the employee informs the Trust of their wish to appeal, the identified manager/director must invite them to attend an Appeal Hearing (see action card [DCP6](#))
- the employee must take all reasonable steps to attend the meeting
- after the appeal hearing, the identified manager/director must inform the employee of their final decision
- where reasonably practicable, the appeal should be dealt with by a senior manager not involved in the earlier decision to dismiss
- employees have the right to be accompanied at the appeal hearing

## DISCIPLINARY POLICY – DOCUMENT PROFILE

<b>DOCUMENT PROFILE</b>	
REFERENCE NUMBER	B0291
CATEGORY	Non-Clinical/Clinical
VERSION	2
SPONSOR	Dave Smith, Director of Human Resources
AUTHOR	Mike Seeley, Deputy Director of Human Resources Kym Ypres-Smith (technical authoring support)
ISSUE DATE	October 2011
REVIEW DETAILS	October 2014 – review by Director of Human Resources
ASSURING GROUP	Non-Clinical Policy Group
APPROVING GROUP	HR Executive, Joint Negotiating Committee
APPROVAL DETAILS	Trust Policy Approval Group – 14/10/2011
COMPLIANCE INFORMATION	
CONSULTEES	Non-Clinical Policy Group, Clinical Policy Group, Divisional Leads, Staff Side Committee
DISSEMINATION DETAILS	Upload to Policy Site; global email; cascaded via divisions
KEYWORDS	Discipline, conduct, sanction, exclusion, appeal, investigation
RELATED TRUST DOCUMENTS	<a href="#">Investigation Guidance Notes</a> <a href="#">Capability Policy</a> <a href="#">Grievance and Disputes</a> Accidents, Incidents and Fair Blame Incident Decision Tree Disciplinary Policy Action Cards
OTHER RELEVANT DOCUMENTS	Occupational Health Service Assessment Form
ASSOCIATED LEGISLATION AND CODES OF PRACTICE	<a href="#">ACAS Code of Practice 1 - Disciplinary and Grievance Procedures</a> <a href="#">Code of Conduct for NHS Managers</a> <a href="#">Maintaining High Professional Standards</a>

## EQUALITY IMPACT ASSESSMENT

### INITIAL SCREENING

1. Lead Name : Dr Mike Seeley Job Title : Associate HR Director			
2. Is this a new or existing policy, service strategy, procedure or function? New Existing <input checked="" type="checkbox"/>			
3. Who is the policy/service strategy, procedure or function aimed at? Patients Carers Staff <input checked="" type="checkbox"/> Visitors Any other Please specify:			
4. Are any of the following groups adversely affected by this policy: If yes is this high, medium or low impact (see attached notes):			
Disabled people:	No	<input checked="" type="checkbox"/>	Yes <input type="checkbox"/>
Race, ethnicity & nationality:	No	<input checked="" type="checkbox"/>	Yes <input type="checkbox"/>
Male/Female/transgender:	No	<input checked="" type="checkbox"/>	Yes <input type="checkbox"/>
Age, young or older people:	No	<input checked="" type="checkbox"/>	Yes <input type="checkbox"/>
Sexual orientation:	No	<input checked="" type="checkbox"/>	Yes <input type="checkbox"/>
Religion, belief & faith:	No	<input checked="" type="checkbox"/>	Yes <input type="checkbox"/>
If the answer is yes to any of these proceed to full assessment. If the answer is no to all categories, the assessment is now complete.			
Date of assessment:	October 2011	Completed by:	Dr Mike Seeley
Signature:		Job title:	Associate HR Director

This EIA will be published on the Trust website. A completed EIA must accompany a new policy or a reviewed policy when it is confirmed by the relevant Trust Committee, Divisional Board, Trust Director or Trust Board. Executive Directors are responsible for ensuring that EIAs are completed in accordance with this procedure.