


MEETING DATE:	10 April 2014	 North Lincolnshire Clinical Commissioning Group REPORT TO THE CLINICAL COMMISSIONING GROUP GOVERNING BODY
AGENDA ITEM NUMBER:	Item 7.8	
AUTHOR: JOB TITLE: DEPARTMENT:	Kerry Ryan Human Resources Business Partner North Yorkshire and Humber Commissioning Support Unit	

DISCIPLINARY POLICY

PURPOSE/ACTION REQUIRED:	Decisions for Approval
CONSULTATION AND/OR INVOLVEMENT PROCESS:	<i>This should identify each key Committee/Group which has led prior involvement/consultation in developing the recommendations in the paper</i>
FREEDOM OF INFORMATION:	Public

1. PURPOSE OF THE REPORT:

To present the following new and/or revised Workforce policy for the approval of the Governing Body;

- Disciplinary Policy

It should be noted that the Disciplinary Policy still requires approval from the Joint Trade Union Partnership Forum, which may request minor amendments to the policy wording.

2. STRATEGIC OBJECTIVES SUPPORTED BY THIS REPORT:

Continue to improve the quality of services	<input type="checkbox"/>
Reduce unwarranted variations in services	<input type="checkbox"/>
Deliver the best outcomes for every patient	<input type="checkbox"/>
Improve patient experience	<input type="checkbox"/>
Reduce the inequalities gap in North Lincolnshire	<input type="checkbox"/>

3. IMPACT ON RISK ASSURANCE FRAMEWORK:

Yes	<input type="checkbox"/>	No	x
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4. IMPACT ON THE ENVIRONMENT – SUSTAINABILITY:			
Yes	x	No	
<p><i>A sustainability Impact Assessment has been conducted for each policy.</i></p> <p>There were no identified impacts of this policy in relation to sustainability.</p>			
5. LEGAL IMPLICATIONS:			
Yes	x	No	
<p>The fair and consistent application of this policy should ensure the CCG complies with ACAS guidance with managing conduct issues concerning CCG staff, whilst not legislation, the ACAS Code is the standard expected by the Employment Tribunal Service and therefore this policy should reduce the risk of associated legal proceedings.</p>			
6. RESOURCE IMPLICATIONS:			
Yes	x	No	
<p>The policy provides the CCG with a tool to aid the effective management of resources.</p>			
7. EQUALITY IMPACT ASSESSMENT:			
Yes	x	No	
<p><i>An Equality Impact Assessment has been undertaken on the policy. The data used for these incorporates the full profile of the organisation, including Statutory Office Holders.</i></p> <p>There were no negative or positive impacts identified in relation to protected characteristics.</p>			
8. PROPOSED PUBLIC & PATIENT INVOLVEMENT AND COMMUNICATIONS:			
Yes		No	x
<p>Patient and/or public involvement would not be required for the development of Workforce policies. It should be noted that all CCG staff have had the opportunity to be involved in and contribute to the development of the policies.</p>			
9. RECOMMENDATIONS:			
<p>The CCG is asked to review and approve the following policy which accompanies this report:</p> <p>North Lincolnshire CCG Disciplinary Policy</p>			

Disciplinary Policy

Authorship:	CSU Transition HR Policy Lead- adapted for local use by North Yorkshire and Humber Commissioning Support Unit.
Committee Approved:	
Approved date:	
Review Date:	<i>2 YEARS AFTER FIRST APPROVED or if statutory changes are required</i>
Equality Impact Assessment:	
Sustainability Impact Assessment:	
Target Audience:	All Staff
Policy Reference No:	HR07
Version Number:	1

The on-line version is the only version that is maintained. Any printed copies should, therefore, be viewed as 'uncontrolled' and as such may not necessarily contain the latest updates and amendments.

POLICY AMENDMENTS

Amendments to the Policy will be issued from time to time. A new amendment history will be issued with each change.

New Version Number	Issued by	Nature of Amendment	Approved by & Date	Date on Intranet

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HR POLICIES DISCIPLINE

1 POLICY STATEMENT

- 1.1 The purpose of this policy is to set out the CCG's position and procedures on workplace discipline.
- 1.2 The Disciplinary Policy and Procedure has been written in accordance with the ACAS (Advisory, Conciliation and Arbitration Service) Code of Practice.

2.0 SCOPE

- 2.1 The Disciplinary Policy applies to all staff employed by the CCG and is in accordance with all legal requirements and ACAS guidance. Other individuals working with the CCG are expected to follow the spirit of this policy. The policy aims to encourage employees to achieve and maintain the required standards of conduct, performance and attendance. It ensures fairness and consistency in the treatment of individuals. In cases where an employee fails to attain the required standard of conduct the disciplinary policy will be instigated and this may result in disciplinary action.
- 2.2 Disciplinary issues concerning the Chief Officer or Directors will be referred to the Governing Body. Cases will be progressed by the Governing Body officers who are not connected with the allegations, in accordance with the principles and procedures set out in this policy.
- 2.3 Where there is a performance issue the matter should be dealt with using the Managing Work Performance policy unless the inadequate performance is due to misconduct in which case this policy should be used.
- 2.4 If the matter is related to an employee's ill health the Absence Management policy should be referred to unless the employee has frequent short-term absence and does not have an underlying medical condition or there is a pattern of absence in which case this policy should be referred to.
- 2.5 If concerns refer to professional conduct of medical staff the disciplinary policy will be applied in line with the National Maintaining High Professional Standards Guidance.
- 2.6 This policy is supported by the Disciplinary Procedure Management Guidance.

3. PRINCIPLES

- 3.1 Alleged breaches of conduct, performance or attendance will be fully investigated before any disciplinary action is taken. Wherever possible, the manager will attempt to resolve the matter through informal discussion with the employee.
- 3.2 At all stages the employee will be told of the reason for using the procedure. Further misconduct may lead to progressive disciplinary action, which may ultimately result in dismissal. This procedure may also apply where cases of unacceptable conduct take place outside the working environment, for example bringing the organisation into disrepute due to conduct outside of work.
- 3.3 Managers considering whether or not an issue should be progressed to formal disciplinary processes should discuss the matter with a Workforce Representative before making a decision.

- 3.4 Once a decision is taken to progress to the formal stage of the procedure an investigating officer will be appointed in line with the scheme of delegation (as stated see Part 1, Section 5).
- 3.5 No formal disciplinary process will be taken against a CCG employed trade union representative without firstly discussing with the relevant full time officer, after obtaining the employee's agreement.
- 3.6 Employees will be informed in writing of the allegation(s) raised and will be given the opportunity to respond to the allegation(s), throughout the process, before any decision is made at a disciplinary hearing.
- 3.7 Employees are entitled to be accompanied at all formal meetings by a Trade Union Representative or CCG work colleague (not acting in a legal capacity). It is the employee's responsibility to arrange Trade Union attendance at all meetings.
- 3.8 There is no right to legal representation under this procedure.
- 3.9 If the employee has been requested to attend a disciplinary hearing they must inform the Chair of the Disciplinary Panel of their chosen companion, at least 2 working days in advance of the meeting.
- 3.10 The employee may not insist on being accompanied by a colleague whose presence would prejudice the meeting or who might have a conflict of interest. It would also be unreasonable for an employee to ask to be accompanied by a colleague from a remote location when someone suitably qualified was available on site. Should there be any dispute regarding the chosen companion that cannot be resolved, the matter will be escalated to a workforce manager not previously involved. Managers should not unreasonably refuse to release staff acting as a companion and those acting as a companion will not be treated less favourably for doing so.
- 3.11 Employees are required to attend all meetings relating to the disciplinary process. Employees will be given at least 5 working days notice of any formal meetings to take place under the policy although meetings can be held sooner by mutual agreement. If they, or their companion, are unable to attend the arranged meeting, they must give notice and reasons why they are unable to attend. The meeting will then be rescheduled to a mutually convenient time, within 10 working days of the original date wherever possible. However, where an employee fails to attend such meetings without reasonable grounds, then the meeting may be held in their absence. The employee will be informed of this in writing.
- 3.12 If an employee has a valid objection to the person appointed to undertake the investigation or to hear the case, they must raise this objection in writing, clearly stating their reasons, to the Chief Officer or CSU Workforce Team at their earliest opportunity.
- 3.13 The level of disciplinary action to be taken will be determined according to the seriousness and nature of the alleged misconduct. Once a formal warning has been issued subsequent misconduct within the warning period may lead to further, and perhaps more serious, disciplinary action, which may ultimately lead to dismissal.
- 3.14 If further allegations arise during the investigation, the Investigating Officer will decide whether to include the information in the original investigation or advise that a separate investigation should commence. The Workforce Team will advise on this.
- 3.15 Warnings are active from the date and time of issue for the periods detailed in part 2,

section 7, except in exceptional circumstances.

- 3.16 No employee will be dismissed for a first instance of misconduct unless the issue is sufficiently serious enough to be considered to be gross misconduct in which case the matter may result in summary dismissal.
- 3.17 The employee will have the right of appeal against any disciplinary warning or sanction issued in the formal stages of the procedure. Please refer to Part 2, Section 6 of the procedure – Appeals.
- 3.18 Support is available from the CSU Workforce Team. The Organisation will ensure that all managers who are managing disciplinary issues are suitably trained and have the necessary knowledge and skills.
- 3.19 Should an employee raise a complaint either under the CCG's Grievance Policy or the CCG's Harassment and Bullying at Work Policy whilst subject to action under this policy, the disciplinary process may be temporarily suspended in order to deal with the complaint. Where an initial investigation into the complaint, conducted by another manager, finds that the grievance and disciplinary cases are related, it may be appropriate to deal with both issues concurrently. If the grievance complaint is found to have no bearing on the matters being investigated under this policy then the disciplinary proceedings will continue from the point at which they were suspended. In some cases the complaint may need to be addressed before the disciplinary procedure continues. In any event, advice should be sought from a Workforce Representative.
- 3.20 Data is held and destroyed in accordance with the provisions of the Data Protection Act 1998 and any Authority policy, which derives from that Act.
- 3.21 All matters relating to any part of this procedure will be treated in strict confidence. Whilst the need for employee's to be supported is recognised, it is expected that matter will not be discussed unnecessarily and a common sense approach should be taken. Any breach of this confidentiality may render those responsible liable to disciplinary action. However, it must be remembered that legislation requires the employee to be made aware of the allegations against them and the name(s) of those making the allegations, along with witnesses.

4. FRAUD

- 4.1 All cases of suspected fraud within the CCG must initially be referred to the Chief Finance Officer and Local Counter Fraud Specialist prior to a full investigation being initiated as required under the Standing Financial Instructions and NHS Protect Standards. This is to assess the case and exercise discretion as to the need to involve others or whether to allow the matter to be dealt with internally. If the latter is preferred, the following procedure will apply (Please refer to the Bribery, Fraud and Corruption Policy and Whistleblowing Policy).

5. PROCEDURE

The full procedure is detailed in PART 2 of this policy.

6. SCHEME OF DELEGATION

Informal procedure	Line Manager or equivalent level manager from elsewhere within the organisation.
Formal procedure	Line manager or equivalent level manager from elsewhere within the organisation or the line manager's direct manager if the line manager has been previously involved or implicated. A Workforce Representative will attend formal meetings.
Appeal following formal procedure	Line Manager's manager or equivalent who has not previously been involved or implicated. . A Workforce Representative will attend formal meetings.
Dismissal Hearings	Chaired by a Director, or manager with delegated authority, or equivalent plus one other manager and Workforce representative. If the respondent is a Director a GP or Lay member of the Governing body will be on the panel with another Director, Lay Member or GP.
Appeal against dismissal	Chaired by a Director plus one other manager and Workforce representative.
Appeal against dismissal for a Director	Two Governing Body members and a workforce representative.

7. EQUALITY STATEMENT

- 7.1 In applying this policy, the Organisation will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.
- 7.2 As part of the Organisations equal opportunities monitoring, all disciplinary hearings are monitored on a rolling annual basis. Subsequently information may be held on the disciplinary monitoring register, for monitoring purposes longer than the duration of the warning itself. This information will be monitored by the Workforce Department and used to identify patterns and information to ensure that this policy is being implemented in a consistent manner and does not discriminate against people with protected characteristics, A full Equality Impact Assessment has been completed and can be found at Appendix D.

8 BRIBERY ACT

- 8.1 The CCG follows good NHS business practice as outlined in the Business Conduct Policy and has robust controls in place to prevent bribery. Due consideration has been given to the Bribery Act 2010 in the development (or review, as appropriate) of

this policy document and no specific risks were identified.

9 SUSTAINABILITY

- 9.1 Sustainability is one of the CCG's key Strategies and the CCG has made a corporate commitment to address the environmental effects of activities across services. The purpose of the Sustainability Impact Assessment (as detailed in Appendix E page 31) is to record any positive or negative impacts that this Policy is likely to have on each of the Sustainability Themes. A sustainability form has been completed in respect of this policy and no impact has been identified.

10. MONITORING AND REVIEW

- 10.1 The policy and procedure will be reviewed periodically by Workforce in conjunction with operational managers and Trade Union representatives. Where review is necessary due to legislative change, this will happen as soon as practically possible
- 10.2 The implementation of this policy will be audited on a regular basis as necessary for the CCG Senior Leadership Team and report to the CCG Governing Body.

PART 2 – DISCIPLINARY PROCEDURE

1. PROCEDURES

2. INFORMAL STAGES

- 2.1 In cases of suspected minor misconduct in relation to conduct or behaviour, the following process will be followed.
- 2.1.1 The employee's line manager will speak to the individual informally, in private, as soon as possible after an issue comes to light. This will be a two-way discussion aimed at establishing the circumstances and the seriousness of the allegation. The manager will then determine the best course of action to take and may need to adjourn the meeting to seek advice. The Meeting will then resume, at a later time or date, and the individual advised of the action to be taken. The options available are;
- No further action (i.e. because things are not how the manager thought them to be).
 - Informal action (when it is felt that objective setting/ training will resolve things)
 - Formal investigation- which may lead to formal hearing (when informal action is not considered to be sufficient and/or further information is required).
- 2.1.2 If, during the discussion, it becomes evident that there is no action to take or informal action will suffice the manager will confirm to the employee that no formal disciplinary action will be taken.
- 2.1.3 Where the allegation(s) are minor and can be dealt with informally via an improvement plan, the manager will make sure the employee understands what needs to be done, and over what period of time along with the required improvement, and the length of the review period. This should not normally exceed 6 months. The meeting will also include the consequences of a failure to improve. The meeting and subsequent agreed actions will be confirmed in writing.
- 2.1.4 Further meetings will be held to review progress during, and at the end of, the review period. Notes of all meetings will be taken and agreed.
- 2.1.5 If, during or following on from, the initial discussion, it becomes obvious that a formal investigation is required, the individual will be informed of this and it will be confirmed in writing.

3. FORMAL STAGES

- 3.1 Before any disciplinary hearing is held, an investigation will take place to establish the facts of the case. This will normally be in the form of an investigation [meeting](#) where notes will be taken. However in exceptional circumstances and with advice from a workforce representative, other forms of evidence may be sufficient.
- 3.2 The investigation process should be completed as soon as possible.
- An employee is entitled to be accompanied at the investigation meeting by a Trade Union Representative or a workplace colleague, not acting in a legal capacity.
- 3.3 Investigation
- 3.3.1 Investigations into alleged breaches of discipline should be carried out without delay to ensure a thorough fact-finding process take places and careful collection and

assessment of facts.

All disciplinary investigations should be guided by the 'Code of Good Practice for Investigations', as attached in the management guidance.

The following paragraphs outline the main points relating to investigations.

- Where allegations of misconduct arise, the line manager of the respondent will normally act as the investigating officer, with support from a Workforce representative. In certain circumstances e.g. bullying and harassment cases, it may be appropriate to appoint an independent investigating officer from another department. It is imperative that the investigating officer is clear about the allegation(s) they are investigating.
- It is the responsibility of the investigating officer to ensure that the investigation does not become unnecessarily protracted, and therefore is conducted in a timely manner.
- The role of the investigating officer is to establish the relevant facts of any particular case and to decide upon appropriate action. In the event of a formal hearing, the investigating officer will present the facts objectively at a hearing using such evidence or witnesses, as deemed necessary in the interests of natural justice.
- The investigating officer will, with due notice of at least 5 working days; interview the complainant(s) and the respondent(s) and appropriate witnesses, to determine what further evidence might be required and to estimate the likely timetable for the completion of the investigation.
- The respondent is entitled to be represented by an accredited representative of a recognised Trade Union or work colleague, not acting in a legal capacity, in the course of any investigatory interview or subsequent hearing.
- There is no right to legal representation under this procedure.
- Complainants and witnesses will not normally be represented but may, for example in complaints of harassment or bullying, be supported by an accredited representative of a recognised Trade Union or work colleague, not acting in a legal capacity.
- Investigations will be conducted as objectively. The Investigating Officer will act impartially and objectively balancing the dignity and confidentiality of the individuals concerned with the wider interests of the CCG and its staff. Any witness involved in the investigation will be informed that the matter is confidential and must not be discussed with anyone.
- Employees who are called as a witness are expected to act co-operatively and respect the confidentiality of the process. Where the individual is concerned about being a witness they should raise these concerns with the investigating officer if possible or alternatively with a member of the workforce team.
- At the conclusion of the investigation, the investigating officer will decide the appropriate course of action and report this to the relevant senior manager. Options will normally be limited to:

- No action required.
- Take no further action, in the case of an allegation being unsubstantiated.
- Deal with the matter informally, in accordance with paragraph 2 above.
- Offer the parties welfare counselling and/or conciliation, which would need to be agreed with the parties involved, with a clear understanding of the timescales for, and objectives of, such action. The other options will remain available to the line manager in the event that welfare counselling or conciliation does not resolve the issue.
- Proceed to a formal disciplinary hearing in accordance with the procedure.

Any alternative options should be discussed with a workforce representative. The outcome will be confirmed to the relevant parties in writing. It should be stressed that a decision to pursue a specific course of action does not indicate guilt or innocence, which can only be determined by a properly constituted disciplinary or appeal hearing. If the respondent refuses to accept or cooperate with informal actions, the matter should be escalated to a formal disciplinary hearing.

4. THE DISCIPLINARY HEARING

- 4.1 To ensure fairness and impartiality, where reasonably practicable, a disciplinary hearing (see Appendix B) will normally be held by a panel consisting of not less than two members including a manager, who has not been previously involved in the matter, who will act as the Panel Chair. They will either be accompanied by another impartial manager or a workforce representative, or in some cases both. Should the attendance of a workforce representative or Expert Member be required, their role will be to provide advice on Workforce policies and employment legislation and to ask questions to obtain clarification on any issues that are discussed or new relevant information disclosed. Where dismissal is a possibility, the disciplinary hearing will be conducted by a manager authorised to dismiss and a workforce representative. (Please refer to Part 1, Section 6 of the Policy - Scheme of Delegation).
- 4.2 Before the disciplinary hearing the employee will be advised in writing of the purpose of the hearing and details of the allegation(s). The individual will be given a minimum of 5 working days notice of the disciplinary hearing. If the individual, or their chosen companion, is not available to attend on the date proposed, the CCG will endeavour to offer an alternative reasonable date within 10 working days of the original date wherever possible. Where an employee is persistently unable or unwilling to attend a disciplinary meeting without good cause, a decision based on the evidence available will be made in their absence. The employee will be notified of this in writing.
- 4.3 Should either party wish to call any witnesses to the disciplinary hearing they must give at least 2 working days notice to the Disciplinary Panel, and have full responsibility for arranging the attendance of these witnesses.
- 4.4 All relevant facts and evidence will be made available to the employee at least 5 working days prior to the disciplinary hearing. Additional information gathered by the employee, that they wish to present at the meeting, must also be made available to the disciplinary panel at least 2 working days prior to the meeting. If the employee fails to submit this in the allocated time then the chair have the option to:
 - Refuse to accept the information.
 - Adjourn to consider the information.

- Postpone the hearing.

This will depend on the employee's reasons for the delayed submission of documentation of the additional information.

- 4.5 Either party may present evidence including details of previous relevant warnings and witness statements, may call witnesses and will have the opportunity to ask questions.
- 4.6 Adjournments may be called by the panel at any time during the hearing should new facts emerge which require investigation or clarification. If the employee becomes distressed an adjournment may be called in order for them to regain their composure. Should the employee be unable to continue, the meeting will be adjourned to a later date.
- 4.7 An adjournment must be held for the disciplinary panel to consider what action, if any, is to be taken. Where possible, both parties will be verbally informed of the outcome after the adjournment.
- 4.8 The employee will be advised in writing of the outcome of the disciplinary hearing within 7 working days unless a longer period is specified and can be justified.
- 4.9 The outcome of a disciplinary hearing will generally fall into one of the following categories:-
 - Case dismissed.
 - No further action required.
 - The employee is required to attend counselling or retraining or other informal action.
 - First written warning.
 - Final written warning (demotion/redeployment).
 - Dismissal (including summary dismissal).

Also see 4.18 of the procedure for further sanctions.

First Written Warning

- 4.10 If the allegation is proven, a First Written Warning will normally be issued and will be kept on the employee's personal file for 12 months. A copy of the written warning will be kept on file but should be disregarded for disciplinary purposes after 12 months from the date and time of issue. The employee has the right to appeal

Final Written Warning

- 4.11 If the issue is sufficiently serious or if there is still an active First Written Warning in place and insufficient improvement has been made or further misconduct occurs, a Final Written Warning will normally be issued and will be kept on the employee's personal file for 24 months. A copy of the written warning will be kept on file but should be disregarded for disciplinary purposes after 24 months from the date of issue. The employee has the right to appeal.

Dismissal with Notice

- 4.12 If, within 24 months of the issue of a Final Written Warning, further misconduct occurs or insufficient improvement has been made, the employee will normally be dismissed with notice, in line with their contract of employment.

- 4.13 The employee will be provided with written reasons for dismissal, the date on which the employment will terminate, their entitlement to pay, and the right of appeal. (Please refer to Part 2, Section 6 of the procedure – Appeals).
- 4.14 The CCG reserves the right to make a payment in lieu of notice.

Summary Dismissal

- 4.15 Where behaviour or misconduct is sufficiently serious to constitute gross misconduct (see examples in Appendix A) the employee will normally be summarily dismissed - i.e. without notice. In exceptional cases an alternative sanction may be applied. Please refer to section 4.18 of the procedure.
- 4.16 The employee will be provided with written reasons for dismissal, the date on which the employment will terminate and the right of appeal. (Please refer to Part 2, Section 6 of the procedure – Appeals).
- 4.17 Applications following Dismissal on the grounds of Gross Misconduct
Where an individual has been dismissed on the grounds of Gross misconduct by the CCG they will not be eligible to apply for an alternative role with the CCG for a period of 12 months.

Potential Additional Sanctions

- 4.18 Additional sanctions may be included after full discussion with a Workforce Representative who will be able to advise on the appropriateness, equity and viability of any further sanction. These can include, but are not limited to: -
- Demotion or transfer to another job or location.
 - Deferred increment for specific time.
 - Loss of privileges e.g. right to work remotely.
 - Options for redress e.g.- making up lost hours

Disciplinary Hearings involving Fraud

- 4.19 Where a disciplinary hearing involves Fraud the panel will consider recouping the value of the fraud from the employee's salary when the allegations are proven. This is in line with NHS Protect requirements.

5 PRECAUTIONARY SUSPENSION AND ALTERNATIVES TO SUSPENSION

- 5.1 A suspension is a precautionary measure and is only to be invoked when an individual's continued presence at work places themselves/other person(s) at risk, or hampers any investigation. A change in workplace or duties may be imposed as an alternative to suspension.

If appropriate, suspension should be effected as soon as possible after the matter to be investigated comes to light or a need for suspension is identified. This does not constitute disciplinary action or sanction. Suspension will always be on full pay and should be for as brief a period as possible. It is expected that suspension will be reviewed every 4 weeks. Employees who are suspended will be informed in writing of the reasons for the suspension and of any procedures that should be followed whilst suspended e.g. sickness reporting, annual leave and availability for meetings. The necessity or otherwise for suspension, will be agreed between the manager and a Workforce Representative. Where an employee is suspended anyone enquiring

about their whereabouts should be informed they are not at work and it should not be revealed to other parties not connected to the investigation that they have been suspended.

- 5.2 Should it be concluded that no further action is necessary following investigation, a briefing session should be held between the individual, their trade union representative or work colleague if required, and their manager prior to a return to work.

6. APPEALS

- 6.1 An employee in receipt of a disciplinary warning or notice of dismissal has the right of appeal. An employee may decide to appeal if:

- They think a finding or penalty is unfair.
- New evidence comes to light.
- They think the Disciplinary Procedure was not correctly followed.

- 6.2 Appeals should be made in writing in response to the formal outcome letter within 5 working days of the receipt of the written notice of disciplinary action or dismissal. The letter must outline the grounds on which the appeal is being made. In exceptional circumstances this period may be extended.

- 6.3 Appeals will be heard within 5 weeks of receipt of the letter requesting the appeal but either party may, with the consent of the other and in exceptional circumstances, be entitled to extend this period.

The employee must be given at least 5 working day's notice of the date of the appeal hearing.

- 6.4 The employee must submit details of their grounds for appeal, plus any new evidence they wish to present, to the Appeal Hearing Panel at least 2 working days prior to the appeal meeting.

- 6.5 The Appeals Hearing Procedure (Appendix C) must be followed.

- 6.6 Appeals will normally be heard by a more senior manager to the person taking the first instance disciplinary action unless directed otherwise by the Chief Officer. All appeals will include a representative of the Workforce Department wherever possible.

- 6.7 The employee will have the right to be accompanied at the Appeal Hearing by an accredited representative of a recognised Trade Union or work colleague, not acting in a legal capacity.

- 6.8 Both parties must provide to the Appeal Hearing Panel, a full written statement of case including the grounds upon which the appeal is presented/resisted, with copies of any documents the party concerned intends to use in evidence, and, the identities of any witnesses the party concerned intends to call, at least 2 working days prior to the Appeal Hearing.

- 6.9 The decision of the panel will be communicated to both parties verbally, following the adjournment wherever possible, and will be confirmed in writing, no later than 7 working days after the Appeal Hearing.

- 6.10 The decision of the appeal panel is final.

7. DURATION OF WARNING / RECORDS

7.1 The duration of warnings will normally be as follows:-

First written warning	12 months
Final written warning	24 months

In exceptional circumstances and in conjunction with advice from a Workforce Representative, a longer timescale may be specified at the outcome of the disciplinary meeting.

7.2 A copy of the warnings will be kept on file but should be disregarded for disciplinary purposes after 12/24 months from the date of issue.

EXAMPLES OF GROSS MISCONDUCT

Please note: this list is not exhaustive and simply gives examples. There may be other examples of gross misconduct.

- Behaviour bringing the organisation into disrepute.
- Physical violence.
- Contravention of the organisations Equality and Diversity policy, including all forms of bullying and harassment.
- Fraud or falsification of records (e.g. application forms, CVs, sickness forms, overtime and expenses claims).
- Theft or fraudulent misuse of the organisations property or name (e.g. phones, cars or computers).
- Deliberate damage to the organisation's property.
- Incapability to work through substance misuse.
- Negligence which causes loss or damage to the organisation's property or injury to other personnel.
- Illegal activity on the organisations premises or with the organisations property
- Infringement of health and safety rules.
- Breaches of confidence.
- Soliciting or accepting a bribe or secret commission.
- Improper use of email or internet facilities or other methods of communication
- Sharing commercially sensitive business data/intellectual property rights outside of the organisation
- Anything which calls into question an employee's honesty or integrity.

CONDUCTING A DISCIPLINARY HEARING

A disciplinary hearing will normally be held by a panel consisting of a manager, who has not been previously involved in the matter, who will act as the Panel Chair. They will either be accompanied by another appropriate manager or a Workforce Representative, or in some cases both. Should the attendance of a Workforce Representative be required, their role will be to provide advice on Human Resources policies and employment legislation and to ask questions to obtain clarification on any issues that are discussed or new relevant information disclosed.

The Disciplinary hearing follow the following stages:

1. Opening the meeting by Panel Chair.
2. Management side present their case (summary of allegation by the investigating officer), including calling of any witnesses.
3. Employee side, then the Disciplinary Panel, will have the opportunity to ask questions.
4. Employee side to present their case, including calling of any witnesses.
5. Management side, then the Disciplinary Panel, will have the opportunity to ask questions.
6. Summing up by management side, then by employee side.
7. Adjournment.
8. Action to be taken (if any).
9. Establishment of a review date (if appropriate).

Opening the Disciplinary Hearing

All respondents are entitled to be accompanied by either an accredited representative of a recognised Trade Union or work colleague, not acting in a legal capacity. Where an employee is not accompanied, the employee must be reminded of this right, and if declined, this must be recorded.

Those 'hearing' the disciplinary must introduce those present and outline the reasons for the disciplinary meeting taking place (the reason/s outlined in the invite to disciplinary letter) and the format the meeting will take.

Summary of Allegation

At this stage the investigating officer(s) must summarise the case on behalf of management. The investigating officer(s) presenting the case must adhere to the facts and not introduce opinions, hearsay or issues that have not previously been mentioned. All documentation that will be used as evidence (including previous relevant warnings and witness statements where applicable) will already have been made available to the individual prior to the disciplinary hearing taking place (copies will have been sent with the invite to disciplinary meeting letter).

Should a new matter arise during the course of the disciplinary meeting then the Disciplinary Panel should adjourn in order that consideration may be given to the appropriateness of the introduction of this new matter. To avoid unnecessary duplication of the process as well as ensuring fairness, it may be more beneficial to adjourn the disciplinary meeting in order that further investigations may be carried out in relation to the new matter.

The aim of the disciplinary meeting is to seek verification and clarification about the issues of concern, through questions. Where it is appropriate to call witnesses, either party may call and question them.

After the investigating officer has stated their case the employee will be given the opportunity to ask questions and state their case. The employee's representative will be able to ask questions for clarification purposes.

If the disciplinary hearing is dealing with multiple issues, each issue should be addressed in turn and the employee and/or their representative be allowed to state their case in relation to each issue as it is addressed.

Exploration of any differences in facts, as they appear to the manager and employee should be carried out in a constructive manner in order to gain an understanding of the facts.

The investigating officer should remain present during the disciplinary hearing to allow for any questions.

Both parties will be given the opportunity to sum up their case if they so wish. The summing up shall not introduce any new matter. If at any stage new facts are alleged or new evidence produced, the Disciplinary Panel may adjourn the meeting (of its own volition or at the request of one of the parties) for so long as it thinks fit.

Adjournment

Before any decision is taken, it is necessary to adjourn the disciplinary hearing to give adequate consideration to the facts as they have been presented and the responses that have been given to the allegations, including any mitigating circumstances. At this stage both parties will be asked to leave the room and the panel must decide the facts of the case, with advice from a Workforce Representative, where appropriate, and whether the behaviour requires disciplinary action to be taken and if so, at what level.

Where possible, an indication of the length of time of the adjournment should be given, including the reasons for the adjournment, i.e. to consider what action to take, if any.

The disciplinary hearing may also be adjourned to consider other issues, e.g. to direct further investigations to take place or to investigate new information/facts that have been brought to light.

There is no set time for an adjournment and adjournments can be called at any time during the disciplinary meeting, by either party.

Taking disciplinary action is not a matter to be taken lightly. Managers will also need to consider, if disciplinary action is to be taken, whether any other sanctions will be attached to the warning (see Section 4.18).

Action

When the disciplinary hearing is reconvened the Panel Chair should explain that consideration has been given to all of the issues raised at the beginning of the hearing, and all of the facts and issues raised during the course of the hearing. The Panel Chair must then outline what action, if any, will be taken including any sanctions.

It is important that where a warning/sanction is given, the employee is informed of the length of time it will remain on their record, their right of appeal, the procedure that will be followed in relation to confirming the action in writing and any arrangements for the review of sanctions imposed.

APPEALS HEARING PROCEDURE

Appeals will normally be heard by a more senior manager to the person taking the first instance disciplinary action. In cases of dismissal of a Director, the appeal will be heard by a panel of Governing Body members. All appeals will include a representative of the Workforce Team, in an advisory capacity, wherever possible.

An employee may choose to appeal if, for example:

- They think a finding or penalty is unfair.
- New evidence comes to light.
- They think the Disciplinary procedure was not correctly followed.

Should either party require an adjournment then this request should be made to the Hearing Panel, with an indication of the length of time required.

The procedure for an appeal hearing is as follows:

1. The appellant will present their case first, detailing the grounds for their appeal including the calling of any witnesses.
2. The management side will then be able to ask any questions about the case the appellant has presented.
3. The appeal panel members will also have an opportunity to ask any questions.
4. The management side will then be asked to present their case, explaining the reasons for the action taken, including the calling of any witnesses.
5. The appellant may then wish to ask management side any questions about the case.
6. The appeal panel members will also have the opportunity to ask any questions.
7. Both parties will have the chance to sum up their case.
8. There will then be an adjournment when both sides will be asked to leave the room while the appeal panel consider the information they have heard and reach their decision.
9. The decision of the panel will be communicated to both parties verbally, following the adjournment wherever possible, and in any case will be confirmed later in writing (again to either party), no later than 5 working days after the Appeal Hearing.

1.Equality Impact Analysis	
Policy / Project / Function:	Disciplinary Policy
Date of Analysis:	12/3/14
This Equality Impact Analysis was completed by: (Name and Department)	Workforce Service
What are the aims and intended effects of this policy, project or function ?	The policy aims to encourage employees to achieve and maintain the required standards of conduct, performance and attendance. It ensures fairness and consistency in the treatment of individuals. In cases where an employee fails to attain the required standard of conduct the disciplinary policy will be instigated and this may result in disciplinary action
Please list any other policies that are related to or referred to as part of this analysis	<ul style="list-style-type: none"> • Managing Performance Policy • Managing Absence Policy • National Maintaining High Professional Standards Guidance • Bullying and Harassment at Work • Grievance Policy
Who does the policy, project or function affect ? Please Tick ✓	Employees <input checked="" type="checkbox"/> Service Users <input type="checkbox"/> Members of the Public <input type="checkbox"/> Other (List Below) <input type="checkbox"/>

2.Equality Impact Analysis: Screening

	Could this policy have a positive impact on...		Could this policy have a negative impact on...		Is there any evidence which already exists from previous (e.g. from previous engagement) to evidence this impact
	Yes	No	Yes	No	
Race	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	General information: 8% of staff in the CCG are non-white. The policy refers to the obligations under the Equality Act and reference is made to other policies where work performance or attendance is a concern. Training is also clearly available. This should all support fair application of the policy. However national research evidence shows that employees in the NHS from a BME background are almost twice as likely to be disciplined as white employees (Bradford University report, The Involvement of Black and Minority Ethnic Staff in NHS Disciplinary Proceedings). As a new policy, there is no evidence that the policy will have an adverse policy staff on BME staff, but the implementation of the policy should be monitored.
Age	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies to all staff regardless of age
Sexual Orientation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies to all staff regardless of sexual orientation
Disabled People	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No disabled staff are currently recorded as employed in the CCG, though the policy should address circumstances where someone may be employed with a disability in the future National evidence is that 'Disabled people are significantly more likely to experience unfair treatment at work than non-disabled people. In 2008, 19 per cent of disabled people experienced unfair treatment at work compared to 13 per cent of non-disabled people' (source: Office for Disability issues). However, the policy refers to the CCGs obligations under the

					Equality Act (which, for example, should provide for reasonable adjustments for disabled employees during the process) and reference is made to other policies where work performance or attendance is a concern. The policy should not have an adverse impact on staff with disabilities, but the management and implementation of the policy should be monitored
Gender	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies to all staff regardless of gender
Transgender People	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies to all staff regardless of being transgender
Pregnancy and Maternity	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies to all staff regardless of being pregnant or on maternity leave
Marital Status	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies to all staff regardless marital status
Religion and Belief	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The policy applies to all staff regardless of religion or belief
Reasoning	The policy addresses all the requirements to follow a fair and non-discriminatory procedure. However careful monitoring of the policy is essential. Given the small numbers potentially involved in these processes, since the number of staff employed in the CCG is small, the outcomes may be statistically insignificant in short period of time and should be considered over a longer period				

If there is no positive or negative impact on any of the Nine Protected Characteristics go to Section 7

3.Equality Impact Analysis: Local Profile Data

Local Profile/Demography of the Groups affected (population figures)
This is an employment policy and therefore workforce data is more relevant to this Impact Assessment. Employment data as at Jan 2014

General	Total number of employees in the North Lincs CCG 25
Age	No staff employed are under 30 20% of staff are over 55 80% of staff are aged 30-55
Race	88% of staff employed in the CCG are White 8% of staff are Non-white 4% staff have not stated or defined their ethnicity
Sex	52% staff employed are female 48% staff employed are male
Gender reassignment	No information at this stage
Disability	8% of staff employed declared themselves as having no disability No staff declared a disability 92% did not declare /undefined
Sexual Orientation	All staff are recorded as did not wish to respond /undefined
Religion, faith and belief	All staff are recorded as did not wish to respond /undefined
Marriage and civil partnership	84% of employees are married. No employees are in a civil partnership
Pregnancy and maternity	No information yet as the CCG has not been established long enough to build meaningful data

4. Equality Impact Analysis: Equality Data Available

Is any Equality Data available relating to the use or implementation of this policy, project or function?

Equality data is internal or external information that may indicate how the activity being analysed can affect different groups of people who share the nine *Protected Characteristics* – referred to hereafter as '*Equality Groups*'.

Examples of *Equality Data* include: (this list is not definitive)

1. Application success rates *Equality Groups*
2. Complaints by *Equality Groups*
3. Service usage and withdrawal of services by *Equality Groups*
4. Grievances or decisions upheld and dismissed by *Equality Groups*
5. *Previous EIAs*

Yes employment data

No

Where you have answered yes, please incorporate this data when performing the *Equality Impact Assessment Test* (the next section of this document).

List any Consultation e.g. with employees, service users, Unions or members of the public that has taken place in the development or implementation of this policy, project or function

Consultation has taken place nationally and locally with Trade Union representatives

**Promoting Inclusivity
How does the project, service or function contribute towards our aims of eliminating discrimination and promoting equality and diversity within our organisation**

The policy does not directly promote inclusivity, however it provides a framework to encourage employees to achieve and maintain the required standards of conduct, performance and attendance.

5.Equality Impact Analysis: Assessment Test

What impact will the implementation of this policy, project or function have on employees, service users or other people who share characteristics protected by *The Equality Act 2010* ?

Protected Characteristic:	No Impact:	Positive Impact:	Negative Impact:	Evidence of impact and if applicable, justification where a <i>Genuine Determining Reason</i> exists
Gender (Men and Women)	✓			
Race (All Racial Groups)	✓			General information: 8% of staff in the CCG are non-white. The policy refers to the obligations under the Equality Act and reference is made to other policies where work performance or attendance is a concern. Training is also clearly available. This should all support fair application of the policy. However national research evidence shows that employees in the NHS from a BME background are almost twice as likely to be disciplined as white employees (Bradford University report, The Involvement of Black and Minority Ethnic Staff in NHS Disciplinary Proceedings). As a new policy, there is no evidence that the policy will have an adverse policy staff on BME staff, but the implementation of the policy should be monitored.
Disability (Mental and Physical)	✓			No disabled staff are currently recorded as employed in the CCG, though the policy should address circumstances where someone may be employed with a disability in the future National evidence is that 'Disabled people are significantly more

				<p>likely to experience unfair treatment at work than non-disabled people. In 2008, 19 per cent of disabled people experienced unfair treatment at work compared to 13 per cent of non-disabled people' (source: Office for Disability issues).</p> <p>However, the policy refers to the CCGs obligations under the Equality Act (which, for example, should provide for reasonable adjustments for disabled employees during the process) and reference is made to other policies where work performance or attendance is a concern. The policy should not have an adverse impact on staff with disabilities, but the management and implementation of the policy should be monitored</p>
Religion or Belief	✓			
Sexual Orientation (Heterosexual, Homosexual and Bisexual)	✓			
	✓			

Equality Impact Analysis: Assessment Test (continued)

What impact will the implementation of this policy, project or function have on employees, service users or other people who share characteristics protected by *The Equality Act 2010* ?

Protected Characteristic:	No Impact:	Positive Impact:	Negative Impact:	Evidence of impact and if applicable, justification where a <i>Genuine Determining Reason</i> exists
Pregnancy and Maternity	✓			
Transgender	✓			
Marital Status	✓			
Age	✓			

6.Action Planning

As a result of performing this analysis, what actions are proposed to remove or reduce any risks of adverse outcomes identified on employees, service users or other people who share characteristics protected by *The Equality Act 2010* ?

Identified Risk:	Recommended Actions:	Responsible Lead:	Completion Date:	Review Date:
There is no evidence of adverse impact on any group from the policy, but good practice, national evidence and equality legislation would require monitoring of the policy.	Annual monitoring of implementation of the policy	HR Lead	annually	One year from policy approval

7.Equality Impact Analysis Findings

Analysis Rating:	Red	Red/Amber	Amber	✓ Green
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SUSTAINABILITY IMPACT ASSESSMENT

Staff preparing a Policy / Board Report / Committee Report / Service Plan / Project are required to complete a Sustainability Impact Assessment. Sustainability is one of the Trust's key Strategies and the Trust has made a corporate commitment to address the environmental effects of activities across Trust services. The purpose of this Sustainability Impact Assessment is to record any positive or negative impacts that this activity is likely to have on each of the Trust's Sustainability Themes. For assistance with completing the Sustainability Impact Assessment, please refer to the instructions below.

Policy / Report / Service Plan / Project Title:				
Theme (Potential impacts of the activity)	Positive Impact	Negative Impact	No specific impact	What will the impact be? If the impact is negative, how can it be mitigated? (action)
Reduce Carbon Emission from buildings by 12.5% by 2010-11 then 30% by 2020			x	
New builds and refurbishments over £2million (capital costs) comply with BREEAM Healthcare requirements.			x	
Reduce the risk of pollution and avoid any breaches in environmental legislation.			x	
Goods and services are procured more sustainability.			x	
Reduce carbon emissions from road vehicles.			x	
Reduce water consumption by 25% by 2020.			x	
Ensure legal compliance with waste legislation.			x	
Reduce the amount of waste produced by 5% by 2010 and by 25% by 2020			x	
Increase the amount of waste being recycled to 40%.			x	
Sustainability training and communications for employees.			x	
Partnership working with local groups and organisations to support sustainable development.			x	
Financial aspects of sustainable development are considered in line with policy requirements and commitments.			x	