

DISCIPLINARY POLICY AND PROCEDURE

September 2015

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HR Policy:	
Date Issued:	25 September 2015
Date to be reviewed:	3 years or if statutory changes are required

Policy Title:	Disciplinary Policy and Procedure	
Supersedes:	All previous Disciplinary Policies and Procedures	
Description of Amendment(s):	New Policy for CCG employees	
This policy will impact on:	All staff	
Financial Implications:	No change	
Policy Area:	HR	
Version No:	1	
Issued By:		
Author:	HR Policy Lead - adapted for local use by Yorkshire and Humber commissioning Support on behalf of Hull CCG	
Document Reference:		
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	SLT Members Consultation:	7 April 2015

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1. POLICY STATEMENT

- 1.1 Hull Clinical Commissioning Group (hereafter the CCG) will make every reasonable effort to ensure that all staff are aware of the standards of conduct and behaviour expected of them, and are supported in achieving those standards. Potential misconduct will be investigated promptly, fairly and consistently. Where misconduct is proven, options available to managers will include informal counselling, training and formal disciplinary sanctions. All cases will be dealt with constructively, in accordance with the following procedure, and any disciplinary sanction will be proportionate to the circumstances of the specific case.
- 1.2 At all times, line managers will take account of the potential effects of disciplinary allegations, investigations and hearings on staff, patients and stakeholders – including those directly involved in the process. Every reasonable step will be taken to maintain a positive working environment and confidence in the organisation whilst dealing fairly and effectively with issues of misconduct.
- 1.3 This policy will apply to all employees with agenda for change terms and conditions of employment. This includes staff on honorary contracts, bank contracts or a secondment with the CCG and another employer. This policy does not apply to independent contractors (including agency staff) working on a contract for services basis.
- 1.4 The time limits set out in this procedure are based on a seven-day week, excluding public holidays. Time limits may only be varied by mutual agreement, the details of which will be confirmed in writing.

2. PRINCIPLES

- 2.1 This policy will be communicated to staff via team meetings/team brief and will be available for staff on the intranet.
- 2.2 Training and support will be available to all Line Managers in the implementation and application of this policy

3.0 IMPACT ANALYSES

3.1 Equality

In applying this policy, the CCG 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 developing this policy, an Equality Impact Analysis has been undertaken and is

attached at Appendix 1. As a result of the initial screening, the policy does not appear to have any adverse effects on people who share protected characteristics and no further actions are required at this stage.

The application of this policy will be monitored alongside recruitment monitoring data to ensure fair application.

3.2 **Bribery Act 2010**

The CCG follows good NHS business practice as outlined in the Business Conduct Policy and has robust controls in place to prevent bribery.

Under the Bribery Act 2010, it is a criminal offence to:

- Bribe another person by offering, promising or giving a financial or other advantage to induce them to perform improperly a relevant function or activity, or as a reward for already having done so; and
- Be bribed by another person by requesting, agreeing to receive or accepting a financial or other advantage with the intention that a relevant function or activity would then be performed improperly, or as a reward for having already done so.

Due consideration has been given to the Bribery Act 2010 in the development of this policy document and consistent application of this policy will mitigate bribery in relation to this policy.

4. **POLICY PURPOSE & AIMS**

- 4.1 This policy is designed to deal with cases of suspected or actual personal misconduct. Separate policies exist to deal with issues relating to professional competence, job performance or attendance, except where poor performance or attendance can be attributed to misconduct.

5. **ROLES / RESPONSIBILITIES / DUTIES**

The CCG Constitution

- 5.1 The CCG Constitution, section 9, refers to the duties and responsibilities of the CCG as an employer that may be summarised as follows:

- the CCG recognises that its most valuable asset is its people and will seek to enhance their skills and experience ;
- the CCG will seek to set an example of best practice as an employer and will ensure that employment practices are designed to promote diversity and to treat all individuals equally;
- the CCG will ensure that it employs suitably qualified and experienced staff who will discharge their responsibilities in accordance with the high standards expected of staff employed by the CCG;

- all staff will be made aware of the constitution and the relevant internal management and control systems which relate to their field of work;
- the CCG will maintain and publish policies and procedures on all aspects of human resources management, including grievance and disciplinary matters;
- the CCG will ensure that its rules for recruitment and management of staff provide for the appointment and advancement on merit on the basis of equal opportunity for all applicants and staff;
- the CCG will ensure that employees' behaviour reflects the values, aims and principles set out in the Constitution;
- the CCG will ensure that it complies with all aspects of employment law;
- the CCG will ensure that its employees have access to such expert advice and training opportunities as the Governing Body consider reasonable in order to exercise their responsibilities effectively and
- the CCG will adopt a Code of Conduct for staff and will maintain and promote effective 'whistleblowing' procedures to ensure that concerned staff have means through which their concerns can be voiced.

Responsibility of Managers

- 5.2 Managers are responsible for managing the work of their staff on a day-to-day basis and to draw employees' attention to any shortcomings and to give counsel where appropriate. However, in some circumstances it may become necessary to take corrective action.
- 5.3 Managers must be clear as to which staff they are accountable for, the extent to which they are able to take disciplinary action, and who has the authority to take disciplinary action in their absence.
- 5.4 Managers have a responsibility to make clear to staff the rules, regulations and standards of conduct and work performance which they are expected to observe/achieve.
- 5.5 Management must ensure that all discussions during the disciplinary process are fair, appropriate and above reproach.
- 5.6 Management must ensure that any action taken is in accordance with the procedure, is reasonable in the circumstances, and is in accordance with guidance issued.
- 5.7 Responsibility for determining action rests with line management,

Role of YHCS Human Resources

- 5.8 The role of the Human Resources representative differs dependent on which part of the process they are involved in.
- 5.9 At the investigation stage the role of the HR department is to advise the investigating officer on employment law and matters relating to the interpretation of the procedure;

ensuring that policy and procedure is fairly applied. HR will also liaise with the member of staff and/ or their representative on procedural matters as required, and in supporting the investigation, which may involve them taking an active part in the investigating interviews by asking questions, seeking clarification etc. Human Resources advice must be sought in cases where formal disciplinary action, suspension from duty or dismissal is considered.

- 5.10 A Human Resources representative will be included as a formal member of the panel at any formal disciplinary meeting/hearing resulting in a written warning, final written warning or dismissal. In these instances their role in part will be to advise the other members of the panel on employment law matters and matters of interpretation of the procedure, but they will also have a role in deciding on the merits of the case and be involved in both the questioning of all witnesses at the hearing and in making the decision on any disciplinary action.
- 5.11 At any appeal, there will be a Human Resources representative as part of the panel and their role will be partly to advise the other members of the panel on employment law matters and matters of interpretation of the procedure, but they will also have a role in deciding on the merits of the case and be involved in both

Responsibility of Employees

- 5.12 Every employee has a responsibility to familiarise themselves with the rules and standards of conduct and performance which relate to their area of work.
- 5.13 The procedure does not prejudice the employee's right of appeal to an Employment Tribunal under the provisions of the Employment Rights Act 1996.
- 5.14 Standards of Performance and Conduct are attached at Appendix 4.

6. DEFINITIONS

- 6.1 For the purpose of this policy, the person or persons facing the allegations will be known as the Respondent(s). Any reference to the respondent should be taken to include his or her representative.
- 6.2 The term "Representative" is used throughout this procedure and shall be taken to include either a Trade Union/Professional Association Representative or another employee.

7. RELEVANT LEGISLATION AND STANDARDS

- 7.1 The relevant employment legislation governing this policy is Employment Rights Act 1996 and any subsequent amends.

8. POLICY IMPLEMENTATION

- 8.1 Following approval by the policy will be sent to:

- The Communications Manager who will disseminate to all staff via the team newsletter process and approve publication on the CCG intranet and website.
- The Chairs of the Governing Body, the Council of Members and all other committees and sub committees for dissemination to members and attendees.

8.2 This policy will be communicated to staff via team meetings/team brief and will be available for staff on the intranet.

9. TRAINING AND AWARENESS

9.1 A copy of the policy will be available on the CCG intranet. Training needs will be identified via the appraisal process and training needs analysis.

10. MONITORING AND AUDIT

10.1 The implementation of this policy will be audited on an annual basis by the CCG and reported to CCG Governing Body.

11. POLICY REVIEW

11.1 The policy and procedure will be reviewed after 3 years for the CCG Governing Body in conjunction with Trade Union representatives. Where review is necessary due to legislative change, this will happen immediately.

12. ASSOCIATED POLICIES

- Whistleblowing
- Standards of Business Conduct
- Professional Registration
- Managing Performance
- Managing Absence
- Policy, Procedures and Guidance for responding to allegations of abuse or neglect of a child against an employee
- Bullying and Harassment
- IM&T Security Policy

Appendix 1

Equality Impact Assessment: Disciplinary Policy and Procedure

Equality Impact Assessment:

Equality Impact Analysis:	
Policy / Project / Function:	Disciplinary Policy and Procedure
Date of Analysis:	March 2015
This Equality Impact Analysis was completed by: (Name and Department)	Yorkshire and Humber Commissioning Support Workforce Service
What are the aims and intended effects of this policy, project or function ?	The aim of this policy is to deal with cases of suspected or actual personal misconduct
Please list any other policies that are related to or referred to as part of this analysis	<ul style="list-style-type: none"> • Whistleblowing Policy • Standards of Business Conduct • Professional Registration Policy • Managing Performance Policy • Managing Absence Policy
Who does the policy, project or function affect ? Please Tick ✓	Employees ✓ Service Users Members of the Public Other (List Below)

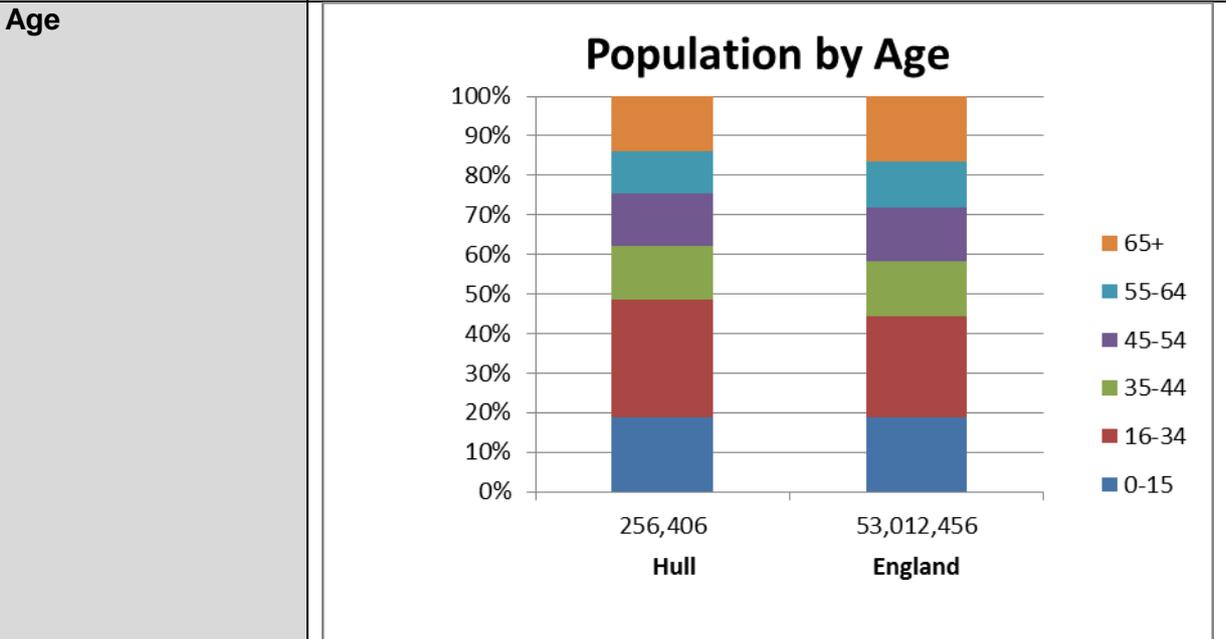
Equality Impact Analysis:

Local Profile/Demography of the Groups affected (population figures) Relevant data can be found in the attached Knowledge Management Toolkit (Employee data as at Oct 14)

General

There are 57 GP practices in the Hull area which spans 7,154 hectares and, as a city, has relatively tight geographical boundaries with most of the 'leafy suburb' areas outside Hull's boundaries in East Riding of Yorkshire. As a result, Hull has a relatively high deprivation score, as measured by the Index of Multiple Deprivation 2010, with Hull ranked as the 10th most deprived local authority out of 326 (bottom 4%).

The resident population of Hull is 256,406 based on the 2011 Census data and 265,369 residents based on estimates from the local GP registration file as at October 2011. This equates to approximately 37 residents per hectare. The Joint Strategic Needs Assessment (JSNA) identifies considerable inequalities in health between Hull and England, and between populations within Hull.



Compared to England, Hull has lower percentages of residents aged 10-19 years and 55+ years, but slightly higher percentages aged under 5, 20-34 years and 45-54 years. There is a relatively large difference between Hull and England for the age group 20-34 years, due to Hull's colleges and Universities.

There were 2,869 live births occurring to Hull residents in 2001, but this has increased steadily to 3,771 for 2010. The number of deaths occurring to Hull residents has decreased from 2,571 to 2,310 between 2001 and 2010. ONS estimated the resident population to be 243,596 in 2001 compared to 260,424 residents based on the GP registration file, with the difference between these estimates narrowing over time. So, whilst it is difficult to quantify the exact

	<p>increase in Hull's population, it has increased over recent years. Between 2010 and 2030, ONS estimate that Hull's population will increase from 266,100 to 311,900 residents, an increase of 17%.</p> <p>The figure above shows the population of Hull (2011 Census Data).</p>																		
Race	<p>The percentage of the population from Black and Minority Ethnic (BME) groups has increased substantially since 2001. For the 2001 Census, it was estimated that 3.3% of Hull's population was not White British or White Irish, whereas Census data shows that this figure increased to 10.2% for 2011. There is no single BME group in Hull with much higher percentages compared to other groups. The 2011 census data shows:</p> <p>White British - 89.7% White Other - 4.4% Mixed - 1.3% Asian - 2.5% Black - 1.2% Other - 0.8%</p>																		
Sex	<p>The gender split in Hull is approximately 50.1% men and 49.9% women. For 2008-2010, life expectancy in Hull was 75.7 years for men and 80.2 years for women compared to 78.6 years and 82.6 years for men and women respectively in England.</p>																		
Gender reassignment	<p>No local information provided.</p>																		
Disability	<p>According to the 2011 Census, it is estimated that approximately 19.7% of the Hull population lives with a long term health problem or disability compared with 17.6% for England. This information can be broken down further (Source: Projecting Older People Population Information System and Projecting Adult Needs and Service Information) to include learning disabilities, physical disabilities, hearing impairments and visual impairments, as follows:</p> <table border="1"> <thead> <tr> <th>2012 Estimates</th> <th>Hull</th> </tr> </thead> <tbody> <tr> <td>Learning Disability (Age 18 – 64)</td> <td>4,078</td> </tr> <tr> <td>Learning Disability (Age 65 and over)</td> <td>762</td> </tr> <tr> <td>Physical Disability – Moderate (Age 18 – 64)</td> <td>12,222</td> </tr> <tr> <td>Physical Disability – Serious (Age 18 – 64)</td> <td>3,491</td> </tr> <tr> <td>Visual Impairment (Age 18 – 64)</td> <td>108</td> </tr> <tr> <td>Visual Impairment (Age 65 and over)</td> <td>3,263</td> </tr> <tr> <td>Hearing Impairment – Moderate or Severe (Age 18 – 64)</td> <td>5,765</td> </tr> <tr> <td>Hearing Impairment – Moderate or Severe (Age 65</td> <td>15,707</td> </tr> </tbody> </table>	2012 Estimates	Hull	Learning Disability (Age 18 – 64)	4,078	Learning Disability (Age 65 and over)	762	Physical Disability – Moderate (Age 18 – 64)	12,222	Physical Disability – Serious (Age 18 – 64)	3,491	Visual Impairment (Age 18 – 64)	108	Visual Impairment (Age 65 and over)	3,263	Hearing Impairment – Moderate or Severe (Age 18 – 64)	5,765	Hearing Impairment – Moderate or Severe (Age 65	15,707
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	Hearing Impairment – Profound (Age 18 – 64)	49																				
	Hearing Impairment – Profound (Age 65 and over)	402																				
Sexual Orientation	There are no local statistics for how many Lesbian, Gay or Bisexual (LGB) people live within Hull however, nationally, the Government estimates that 5% of the population are lesbian, gay, bi and transgender communities.																					
Religion, faith and belief	According to the 2011 Census, 54.9% of the population have identified themselves as Christian and 3.1% of the population is made up of other religions. The remainder of the population did not state anything (7.2%) or stated 'no religion' (34.8%).																					
	<table border="1"> <thead> <tr> <th>Religion</th> <th>2011</th> </tr> </thead> <tbody> <tr> <td>Christian</td> <td>54.9%</td> </tr> <tr> <td>Buddhist</td> <td>0.3%</td> </tr> <tr> <td>Hindu</td> <td>0.2%</td> </tr> <tr> <td>Jewish</td> <td>0.1%</td> </tr> <tr> <td>Muslim</td> <td>2.1%</td> </tr> <tr> <td>Sikh</td> <td>0.1%</td> </tr> <tr> <td>Other Religion</td> <td>0.3%</td> </tr> <tr> <td>No Religion</td> <td>34.8%</td> </tr> <tr> <td>Religion Not Stated</td> <td>7.2%</td> </tr> </tbody> </table>		Religion	2011	Christian	54.9%	Buddhist	0.3%	Hindu	0.2%	Jewish	0.1%	Muslim	2.1%	Sikh	0.1%	Other Religion	0.3%	No Religion	34.8%	Religion Not Stated	7.2%
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Religion Not Stated	7.2%																					
Marriage and civil partnership	This protected characteristic generally only applies in the workplace. Data from the Office of National Statistics covering the period 2008-2010 indicates that there were 18,049 Civil Partnerships in England and Wales during this three-year period – 52% men and 48% women.																					
Pregnancy and maternity	There were 2,869 live births occurring to Hull residents in 2001, but this has increased steadily to 3,771 for 2010.																					

Equality Impact Analysis:

<p>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 <i>Protected Characteristics</i> – referred to hereafter as ‘<i>Equality Groups</i>’.</p> <p>Examples of <i>Equality Data</i> include: (this list is not definitive) 1: Application success rates <i>Equality Groups</i> 2: Complaints by <i>Equality Groups</i> 3: Service usage and withdrawal of services by <i>Equality Groups</i> 4: Grievances or decisions upheld and dismissed by <i>Equality Groups</i></p>	<p>Yes, employee data has been used to support the monitoring of the impact of this policy in the future. The employee data is not included due to the low number of CCG employees and concern around anonymity</p> <p style="text-align: center;">No <input type="checkbox"/></p> <p>Where you have answered yes, please incorporate this data when performing the <i>Equality Impact Assessment Test</i> (the next section of this document).</p>
<p>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</p>	<p>Consultation has taken place both locally and nationally with Trade Unions and staff</p> <ul style="list-style-type: none"> • SLT • CCG Employees • JTUPF Sub group • JTUPF • Governing Body (approval)
<p>Promoting Inclusivity How does the project, service or function contribute towards our aims of eliminating discrimination and promoting equality and diversity within our organisation</p>	<p>This Policy does not directly promote inclusivity, however it applies a framework to follow a clear process for dealing with cases or suspected cases of misconduct for CCG staff/healthcare professionals.</p>

Equality Impact 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)	✓			This has been considered and has a neutral impact.
Race (All Racial Groups)			✓	<p>As the policy is written in English there is a potential impact on employees whose first language is not English and therefore may struggle reading the policy. However this potential impact is minimised due to the development of the 'portal' facilities detailed in the action plan.</p> <p>In addition to this 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). The policy refers to the CCGs 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. As a new policy, there is no evidence that the policy will have an adverse impact on BME staff, but the implementation of the policy should be monitored.</p>
Disability (Mental and Physical)	✓			<p>In Yorkshire and Humber the population statistics are: Day to Day Activities Limited a lot 8.43% Day to Day Activities Limited a Little 9.92% Day to Day Activities Not Limited 81.65%</p> <p>The policy should address the circumstance where someone who may be employed in the CCG with disability in the future. In terms of national data:</p>

				<p>National evidence is that 'Disabled people are significantly more likely to experience unfair treatment at work than non-disabled people. In 2008, 19% of disabled people experienced unfair treatment at work compared to 13% of non-disabled people'. Source: Office for Disability Issues.</p> <p>However, the policy refers to the CCGs obligations under the Equality Act 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	✓			This has been considered and has a neutral impact.
Sexual Orientation (Heterosexual, Homosexual and Bisexual)	✓			This has been considered and has a neutral impact.
Pregnancy and Maternity	✓			This has been considered and has a neutral impact.
Transgender	✓			This has been considered and has a neutral impact.
Marital Status	✓			This has been considered and has a neutral impact.
Age	✓			This has been considered and has a neutral impact.

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:
As the policy is written in English there is a potential impact on employees whose first language is not English and therefore may struggle reading the policy.	The CCGs internal 'portal' and external website signpost individuals to alternative formats such as large print, braille or another language.	CCG Communications	Oct 2014	Next policy review
There is no evidence of adverse impact on any group from the policy, but good practice and national evidence would suggest that monitoring of the policy particularly in disability and race is essential	Annual monitoring if implementation of the Policy	HR Lead	Annually	One year from policy approval.

Equality Impact Findings:

Analysis Rating:	Green
Red – Stop and remove the policy	Red: As a result of performing the analysis, it is evident that a risk of discrimination exists (direct, indirect, unintentional or otherwise) to one or more of the nine groups of people who share <i>Protected Characteristics</i> . It is recommended that the use of the policy be suspended until further work or analysis is performed.
Red Amber – Continue the policy	As a result of performing the analysis, it is evident that a risk of discrimination exists (direct, indirect, unintentional or otherwise) to one or more of the nine groups of people who share <i>Protected Characteristics</i> . However, a genuine determining reason may exist that could legitimise or justify the use of this policy and further professional advice should be taken.
Amber – Adjust the Policy	As a result of performing the analysis, it is evident that a risk of discrimination (as described above) exists and this risk may be removed or reduced by implementing the actions detailed within the <i>Action Planning</i> section of this document.
Green – No major change	As a result of performing the analysis, the policy, project or function does not appear to have any adverse effects on people who share <i>Protected Characteristics</i> and no further actions are recommended at this stage.

Brief Summary/Further comments	As a result of performing the analysis, the policy, project or function does not appear to have any adverse effects on people who share <i>Protected Characteristics</i> and no further actions are recommended at this stage.
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Signatures	
Other Comments	
Confirmed by (manager): (Name and Title)	
Date:	29.05.15

DEALING WITH ISSUES AND INVESTIGATIONS

Part I - INFORMALLY

1. Informal Interviews / Counselling

- 1.1 Where an employee's conduct or performance is not acceptable, the immediate line manager should discuss the matter with the individual. This should take the form of a counselling interview and should attempt to determine if there are any problems facing the employee which can be overcome, or if there are reasons for the employee's conduct or performance.
- 1.2 Counselling represents the first attempt to help an employee and may reveal the need for specific action for this purpose, e.g. training. The aim of counselling should be to prevent the need for the use of the formal disciplinary procedure.
- 1.3 Minor breaches of discipline, unless persistent, are usually best dealt with on an informal basis by an employee's immediate superior. Such informal interviews or informal warnings represent a first attempt to help an employee address the inappropriate behaviour or conduct.

2. Potential Disciplinary Event

- 2.1 If the line manager feels that an incident is more than a minor breach of discipline they must seek specialist advice from the Workforce Department immediately to enable them to make a decision about what initial action is appropriate.

3. Representation

- 3.1 At the commencement of any formal investigation employees must be made aware of their right to representation throughout the procedure, either by a representative of a trade union or professional association or by a CCG colleague not acting in a legal capacity.
- 3.2 This does not apply to suspension as suspension in itself is not disciplinary action.
- 3.3 Where the person accompanying the employee under investigation is an employee of the CCG, that person shall be entitled to paid time off to undertake this role.

4. Local Representatives of Staff Organisations

- 4.1 No disciplinary action can be taken against a recognised representative of a staff organisation until the circumstances have been discussed with a full-time officer of the organisation concerned. The full-time officer must be invited to attend any investigative interview conducted. This does not apply to suspension as suspension is not in itself disciplinary action. However, once a recognised representative of a staff organisation has been suspended, the appropriate full time officer should be informed of the suspension.

5. Criminal Charges

- 5.1 An employee who is charged with, or convicted of, a criminal offence (including receipt of a summons) must inform their line manager as soon as possible. In such circumstances the manager should seek advice from the Workforce Department as to what course of action may be appropriate. Notification about criminal proceedings or a conviction will not necessarily lead to disciplinary action being taken. Following disclosure the CCG will determine what, if any, action will be taken after considering the facts of the case and the relevance of the charge or conviction to the job undertaken.
- 5.2 Staff who are employed for all or part of their duty as a driver or where the requirement to drive is an essential part of their duties must inform their manager if charged with any driving offence, including speeding.

6. Confidentiality

- 6.1 All persons involved in any disciplinary investigation should treat the matter in the strictest confidence.

7. Suspension

- 7.1 Suspension is not a disciplinary sanction but may be appropriate in potentially serious circumstances where it is considered that allowing the employee to continue working could place the safety/well-being of patients, staff or the employee themselves at risk or where it is felt that the continued presence of the employee may impair the investigation. Also in certain cases where police enquiries take place it may be decided that suspension is necessary. As part of the assessment to decide whether suspension is an appropriate course of action it may be necessary, in certain cases, to involve the respondent in a preliminary discussion to establish certain facts before a decision can be made.
- 7.2 Suspension will be on full pay and will be confirmed in writing within 24 hours. Full pay shall equate to the rate applicable as if the employee were working. Exemptions to this may apply. Please see the Professional Registration Policy for further details.
- 7.3 The employee should be seen in person and have the allegations put to them when the decision to suspend is taken. Requests for a representative to be present will not be refused however such action will not be delayed in the event of non-availability.
- 7.4 In normal circumstances an employee will only be suspended by a Manager with the authority to dismiss (see Part II, section 4.1), or a manager with delegated authority.
- 7.5 Suspension will initially be for a maximum of 28 days, after which time the decision will be reviewed by the investigating officer. If investigations are continuing the suspension will be extended and reviewed monthly thereafter. The employee should be written to after each review to confirm the ongoing suspension.
- 7.6 A condition of continued payment during suspension will be that the employee must be available during their normal hours to attend any meeting that may be convened as part of any investigation.
- 7.7 In cases where a member of staff submits a doctors' sick note whilst suspended from duty,

the suspension will over-ride the sick leave.

- 7.8 The employee will not be allowed to enter the CCG's premises other than with the prior permission of their line manager or suspending manager. Other than in exceptional circumstances the employee will be granted permission to enter the premises on request to consult with their representative.
- 7.9 Advice on the potential suspension of a member of staff can be sought from the appropriate workforce representative. If it is necessary to suspend a member of staff outside of normal working hours the on-call manager should be contacted in the first instance, who should in turn contact an Executive Director for guidance and approval.
- 7.10 See Appendix 8 for an example of a letter confirming suspension.

8. Investigation

- 8.1 Investigations into alleged breaches of discipline should be carried out without delay to ensure careful collection and assessment of facts.
- 8.2 All disciplinary investigations should be guided by the 'Investigation Good Practice Guide', as attached in appendix 4.
- 8.3 The following paragraphs outline the main points relating to investigations.
- I. 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.
 - II. 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.
 - III. The role of the investigating officer is to establish the relevant facts of any particular case and to make recommendations to the manager on whether the case should progress to a formal hearing or whether there appears to be no case to answer. In the event of a formal hearing, the investigating officer will present the facts objectively at a hearing using such evidence or witnesses as he or she deems necessary in the interests of natural justice.
 - IV. The investigating officer will, with due notice, interview the complainant(s) and the respondent(s) to determine what further evidence might be required and to estimate the likely timetable for the completion of the investigation.
 - V. The respondent is entitled to be represented by a Trade Union/Professional Organisation representative or work colleague in the course of any investigatory interview or subsequent hearing. There is no right to legal representation under this procedure.
 - VI. Complainants and witnesses will not normally be represented but may, for example in complaints of harassment or bullying, be supported by a trade union representative or CCG colleague. Those undertaking a supporting role will not be entitled to take part in the proceedings.
 - VII. Investigations will be conducted as openly as possible, balancing the dignity and confidentiality of the individuals concerned with the wider interests of the CCG and its staff.

- 8.4 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:
- I. Take no action, in which case any reference to the matter will be removed from the personal file
 - II. Deal with the matter informally, in accordance with Part 1, paragraph 1 above
 - III. Offer the parties counselling 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 counselling or conciliation does not resolve the issue.
 - IV. Proceed to a formal disciplinary hearing in accordance with the procedure outlined in Part II below.
- 8.5 Any alternative options should be discussed with the CSU Workforce Department. 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.

PART II - STAGES OF THE PROCEDURE – FORMAL DISCIPLINARY HEARING

1. Where following an investigation, a decision is made to proceed to a disciplinary hearing, the hearing will be conducted by a panel, consisting of a manager with workforce support, none of whom should have any previous involvement in the investigation.
 - 1.1 Where a hearing is to be conducted, it should always have three main stages: letter, hearing and appeal.
 - 2. Letter**
 - 2.1 The respondent must be notified in writing at least seven working days in advance, unless otherwise mutually agreed, of the purpose of the meeting, of the specific nature of any allegation(s) and the right to representation. Where dismissal is a possible outcome, the letter should inform the respondent that this is a possible disciplinary sanction available to the panel if the case is proven.
 - 2.2 All documentary information, including witness statements that will be presented to the panel will be provided to the respondent at this stage. The respondent(s) will have an opportunity to challenge or question any evidence presented to the disciplinary panel.
 - 2.3 A specimen letter is attached as appendix 9.
 - 3. Hearing**
 - 3.1 Hearings will follow the procedure as detailed in appendix 3.
 - 3.2 At the hearing the respondent should be given the opportunity to state their case fully. If it transpires that more time is needed for further investigation, the hearing should be adjourned and resumed later.

- 3.3 Any concerns or questions concerning the arrangements for the hearing should be notified to the line manager at the earliest opportunity, who will attempt to resolve such issues in a fair and reasonable manner. If a respondent fails to attend a disciplinary hearing without good cause the case may proceed in his or her absence.
- 3.4 The decision of the hearing will, wherever possible, be given to the respondent at the meeting and will, in any event, be confirmed in writing within seven days of the hearing. The letter of confirmation will include, if applicable, details of the right of appeal. A specimen letter is attached as appendix 10.
- 3.5 Where, having agreed the arrangements for hearing, either party fails to appear without good cause the panel may choose to adjourn the hearing or to proceed with the case in their absence.

4. Disciplinary Sanctions

- 4.1 If the allegations are proven decisions relating to the level, if any, of disciplinary action to be taken will be a matter of judgement for the panel. The panel must however consider:
- I. the seriousness of the disciplinary breach in question
 - II. the relevance and context of the facts/information presented
 - III. the employees previous employment record and the existence of any current, relevant disciplinary warnings
 - IV. issues relating to fairness, consistency and the substantial merits of the information presented
 - V. any mitigating factors
- 4.2 A list of examples of issues that the CCG is likely to consider as misconduct and gross misconduct can be found in Appendix 5.
- 4.3 Within the terms of this procedure there are six possible outcomes following a disciplinary hearing: -

Sanction	Length of time on personal file	Authorised Manager	Appeal to
No action	n/a	n/a	n/a
Verbal Warning	6 months	Line Manager	Senior Manager
First Written Warning	12 months	Line Manager	Senior Manager
Final Written Warning**	12 months	SMT Member or manager with delegated authority	Chief Officer or SMT Member not previously involved
Downgrading, Redeployment or transfer*	12 months for final written warning	SMT member or manager with delegated authority	Chief Officer or SMT Member not previously involved
Dismissal	N/A	Chief Officer or SMT Member with delegated authority	CCG Appeals Panel (chaired by a Lay/GP Member of Governing Body)

*As an alternative to dismissal and accompanied by a final written warning

**Can be extended up to 24 months in extenuating circumstances (e.g. this may be an alternative to dismissal).

- 4.5 In the case of a final written warning it must be made clear to the respondent that any further misconduct or inappropriate behaviour of a similar nature could lead to dismissal and must be recorded as part of the written confirmation.
- 4.6 The Chief Officer or SMT Member may, on a case-by-case basis, delegate their authority to other senior managers who will act on their behalf.

5. Appeals

- 5.1 There is a right of appeal against any disciplinary sanction applied under this procedure, as follows:

5.2 Verbal, First and Final Written Warning

Appeals against a Verbal, First or Final Written Warning will be to a higher level of management not previously involved. It must be lodged with the Workforce representative in writing and setting out the reasons for the appeal, within 14 calendar days of receipt of the letter confirming the decision.

5.3 Dismissal

An appeal against dismissal will be to a CCG Appeals Panel. Such an appeal must be lodged with the notified officer within 14 calendar days of receipt of the letter confirming dismissal.

A CCG Appeals Panel will consist of three members including at least one Lay/GP Member of the CCG, who will act as chair to the panel. Other members will be drawn from the Senior Management Team or Governing Body plus a workforce representative. No member of the panel will have had any previous involvement in the case.

A hearing will be held as quickly as possible, and certainly no later than 6 weeks from receipt of the appeal, unless otherwise agreed.

Appeal hearings will be conducted in accordance with the CCG Appeals procedure as outlined in appendix 7.

6. Record-keeping

- 6.1 In the event of disciplinary action being taken, the manager should keep a confidential record of the action taken, together with any evidence/statements etc. A copy of the final outcome correspondence will be retained on the employee's personal file. The Workforce department will retain all other papers relating to the investigation/disciplinary hearings.
- 6.2 The CCG will keep all records relating to any disciplinary action taken until the time period

covered by the warning has expired. At this time, a record shall be kept of the date of the disciplinary hearing, the names of the disciplinary panel members, the decision reached by the panel, details of any appeal and outcome. On expiry of the warning everything else will be disregarded. All records will be kept in a confidential environment and retained in accordance with the Data Protection Act 1998.

APPENDIX 3**PROCEDURE TO BE FOLLOWED AT A DISCIPLINARY HEARING**

The following is a guide as to the recommended procedure to follow at a Disciplinary Hearing however it should be noted that the Chair of a panel may vary this process as appropriate to ensure exploration of all the facts and circumstances.

If the respondent, or their representative, is unable to attend the respondent will need to provide reasonable notice and reasons for being unable to attend and the hearing will be rescheduled within ten working days of the original date, where possible. If the respondent fails to attend the hearing without a reasonable explanation or is persistently unable to do so (for example for health reasons), the panel may have to proceed and make a decision based on the available evidence without the respondent being present at the hearing.

1. The Chair of the panel hearing the case (“The Chair”) will introduce the parties and ensure that any specific arrangements, such as an induction loop facilities, interpreter(s) or signer(s) have been made and are satisfactory.
2. The Chair will ensure that the respondent has been given an opportunity to be represented if they so wish. Representation may be from a trade union or staff organisation, or from a work colleague. There is no right to legal representation in this process. Witnesses are not entitled to representation but may, under certain circumstances, have a trade union or staff organisation representative or work colleague acting in a supportive role who will not be entitled to take any part in the proceedings.
3. Observers may be allowed at the discretion of the Chair and following discussion with the parties. Observers will not be allowed to take any part in the proceedings.
4. The Chair will ensure that all parties understand the purpose of the hearing and the procedure to be followed. The Chair will request that all attendees turn off any electronic devices to avoid unnecessary interruptions during the hearing and advise that the CCG expressly prohibits the recording of meetings.
5. The Chair will ensure that any evidence to be considered at the hearing has been produced and exchanged in advance of the hearing. Any request to submit additional evidence in the course of the hearing will be determined by the Chair after due consideration of the interests of natural justice and the potential disadvantage to any party. Where additional evidence is allowed, the parties should be given a reasonable time to consider it before proceeding.
6. The investigating officer will be asked to present the facts from the investigation process, using written statements and witnesses as appropriate. The key facts

should normally be summarised in writing and circulated to the parties in advance of the hearing.

7. Where witnesses are called to give evidence the investigating officer will question each witness first, followed by the respondent or his/her representative and the Chair or panel members. The investigating officer may re-examine each witness to clarify any point raised in the questioning.
8. The respondent is generally entitled to be present throughout the hearing. However, in exceptional circumstances, e.g. harassment, it may be deemed more appropriate to keep the parties separated and for the right to question to be exercised by the respondents representative. In such cases, all reasonable care must be taken to ensure that the process does not unduly disadvantage the respondent.
9. When the investigating officer has finished presenting the facts, he or she may be questioned by the respondent, or his/her representative, and the Chair or panel members.
10. The Chair will then invite the respondent or his/her representative to respond to the findings of the investigating officer, with particular regard to any findings of fact that might be in dispute. Witnesses may be called in support of the respondent and may be questioned by the investigating officer, Chair or the panel members. The respondent or his/her representative may re-examine witnesses to clarify any issues raised in the course of questioning.
11. When the respondent has completed his or her response, the Chair or panel members may ask any final questions.
12. The investigating officer may finish by summing up their case followed by the respondent having the opportunity to sum up. No further questions will be taken at this stage.
13. No presentation may be interrupted by the other parties except to raise a procedural point or when called upon to question witnesses. The Chair or panel members may, however, question any of the parties at any time if they believe that to be in the interests of natural justice.
14. The parties, including the investigating officer, will then be asked to leave the room whilst the Chair/panel considers the evidence and reaches a decision.
15. The Chair/panel must first determine whether, on the basis of the evidence put to the hearing, the allegations are proven. The Chair/panel may require access to additional information in order to clarify points or need time to reach a decision. In such circumstances a further meeting would be set up as soon as possible when additional information could be presented and/or a decision reached and communicated. If the case is not proven, the matter will be closed and any reference to the allegations will be removed from the personal file.
16. If the case is proven, details of the respondent's employment record should be taken into account, including any current and relevant disciplinary warnings, when deciding

on the sanction to be applied. In circumstances where there is a current disciplinary warning(s) a panel considering further disciplinary action would have the following options:

- take no further action
- extend a previously issued warning if the current breach is shown to be related
- issue a more serious warning/dismissal decision if the current breach is shown to be related
- issue a further disciplinary warning if the current breach is unrelated to previous matters
- consider all previous matters and issue a more serious warning/dismissal decision on the basis of serious misconduct.

17. Once a decision is made, the investigating officer and the respondent should then be recalled to the hearing and informed of the outcome.

18. The Chair/panel must confirm any decision in writing within 7 days to the employee. The letter will cover the following points:

- summarise the allegation(s) made
- identify the panel's conclusion(s) from the information presented
- state any disciplinary action taken along with any relevant timescale
- identify the consequences of any repetition of the disciplinary breach
- where an improvement in conduct is required identify the level of improvement along with any timescales which are to apply. (Any review process should stipulate whether it will be continuous or conducted at the end of a specified period)
- establish the right of appeal and the timescale and process for making this request.

CODE OF GOOD PRACTICE FOR INVESTIGATIONS

Before holding a disciplinary hearing, it is crucial an employer has sound evidence on which to base their decisions. Failing to conduct a full investigation, in all but the most exceptional of circumstances, may render a dismissal unfair and result in costly consequences in terms of tribunal awards, and staff morale.

Investigations will be required within the CCG in response to a wide range of situations, including but not limited to:

- Disciplinary allegations
- Grievances
- Complaints about discrimination, harassment or bullying
- Complaints from patients and relatives
- Personal injury claims
- Issues of capability
- Allegations of fraud

The CCG also has a Whistleblowing Policy and harassing or victimising a whistleblower (including informal pressures) will be considered a serious disciplinary offence and will be dealt with under this procedure.

It is essential to ensure that investigations are conducted promptly, thoroughly and fairly. The following guidelines should therefore be applied in all cases:

- The purpose of any investigation is not to build a case or a defence, but to establish the facts
- The line manager of the person facing an allegation or complaint should take responsibility for the investigation
- In cases of alleged fraud, the CCG's internal audit department should be notified and involved immediately
- The investigating officer should, without delay, obtain statements from any witnesses, together with other relevant documentary information
- Adequate time and notice of meetings should be given to employees who need to be interviewed or produce statements. Where the employee to be interviewed is the subject of a complaint or allegation, he or she must be provided with details of such complaint or allegation in advance of the interview
- All staff being interviewed should be given a reasonable opportunity to obtain support and/or guidance from a trade union or staff organisation, or from a work colleague
- The initial evidence gathered should be used to prepare an estimate of the time and resources needed to complete the investigation
- The evidence collected should be tested for accuracy against other witness accounts and/or documentary evidence
- Witnesses should be aware that statements prepared during the investigations will be used as evidence for any subsequent disciplinary hearing
- Little reliance should be placed on 'hearsay' evidence unless this points to, or can be tested against, more reliable evidence
- Every reasonable effort should be made to respect the confidence of all staff involved

in the investigation. However staff should be advised that unless there are exceptional circumstances, the respondent will be entitled to see all statements and interview records in the event of formal proceedings.

- The investigating officer should determine what evidence is relevant to the issue at hand, i.e. what helps to prove the facts rather than what strengthens or weakens the case
- The evidence collected should be used as the basis for a decision as to any further action that may be required
- Once the investigation has sufficient evidence on which to base a decision, finish the investigation. The standard of proof for most internal investigations and any subsequent disciplinary hearing will need to be “on the balance of probabilities”. The case does not have to be proved “beyond reasonable doubt” for it to stand up in a tribunal.

Further advice and guidance on conducting investigations is available from the YHCS Workforce Department.

EXAMPLES OF ISSUES THAT THE CCG IS LIKELY TO CONSIDER AS MISCONDUCT AND GROSS MISCONDUCT AND WHICH MAY RESULT IN SUMMARY DISMISSAL

Please note that this list is neither exclusive nor exhaustive and each case will be considered on its own merits.

Misconduct

- Failure to adhere to working hours.
- Unauthorised absence from duty.
- Refusal or failure to obey a reasonable instruction.
- Criminal activities other than those classed as gross misconduct.
- Disregard of safety practices, procedures and rules.
- Unauthorised presence on CCG property.
- Unauthorised use of CCG equipment.
- Unauthorised destruction, alteration, addition to or erasure of official documents.
- Being an accessory to a disciplinary offence by another employee.
- Abusive behaviour toward another employee, patient or member of the public.
- Wilful hindering of production or of work schedules.
- Deliberate misuse or abuse of the CCG's information technology equipment, facilities or procedures.
- Failure to follow CCG procedures and policies.

Gross Misconduct

- Dishonesty, including fraud, theft or providing false information e.g. on a timesheet or travel claim form.
- Failure to disclose information e.g. relationship to a Director or holder of senior office under the CCG / Corruption, receipt of money, favours or excessive hospitality in respect of services rendered, or any other act not in accordance with the CCG Standards of Business Conduct.
- Abusive or violent behaviour including threats and verbal or physical assault, at any time whilst on duty or on CCG premises
- Ill-treatment or mishandling of patients
- Negligence in the performance of duty, including dereliction of duty. (This may include an action or omission that compromises the safety of others)
- Wilful damage to CCG property or equipment
- Breach of confidentiality
- Unauthorised or inappropriate use of CCG vehicles, equipment or resources
- Criminal offences that might affect a persons suitability for their job or where there has been a failure to disclose convictions/proceedings
- Loss of, or failure to obtain qualifications required by law, or by the CCG, for performance of duty (e.g. driving licence, professional registration)
- Being unfit for duty through alcohol or substance misuse
- Illegal possession, use and/or distribution of drugs
- Professional misconduct

- All forms of harassment, bullying or intimidation
- Discrimination which contravenes Equal Opportunities legislation or the CCG's Equality and Diversity Policy
- Abuse of position or power
- Perpetration of a hoax practical joke or other malicious act resulting in serious disruption to patients, services or staff
- Sleeping on duty, except when authorised
- Breach of IT policy e.g. email or internet usage.
- Misuse or failure to safeguard confidential information and/or patient data will be regarded as misconduct/gross misconduct.

It should be noted that misconduct of some of the types shown above, if occurring outside the course of work, may still result in disciplinary action if the misconduct results in the impairment of, capability, suitability or acceptability of the employee to perform his job with the CCG effectively.

STANDARDS OF PERFORMANCE AND CONDUCT

This guide aims to give an indication of the standards of performance and conduct expected of all staff employed by the CCG. The CCG recognises that this guide cannot cover every situation that arises and that the guidelines or rules may vary according to type of work, working conditions and size of department.

Department Rules

In addition to these standards and to CCG policies, some Departments will have specific rules which will relate to the activities of the Department (e.g. safe handling of dangerous substances, safe use of machinery and equipment etc)

Standards of Conduct

All staff should be aware that they will be seen as representatives of the CCG and the NHS as a whole. It is therefore important that they present a professional and caring image to patients, visitors and colleagues.

There are several sources of guidance on the expected standards of conduct within the CCG, with which all staff should be familiar, including:

- Staff induction process
- Performance management documents
- Contract of Employment
- Standards of Business Conduct Policy

As a general guide, all employees of the CCG will be expected to:

- respect and protect the dignity of service users, carers and colleagues
- observe the CCG's Equality and Diversity Policy
- observe Health and Safety policies and safe working practices at all times
- comply with requirements for professional registration and regulation
- work effectively and constructively, individually and as part of a team
- respect the confidentiality of patients and colleagues
- demonstrate the highest standards of honesty and integrity
- attend work punctually and regularly
- obtain the appropriate approval for any absence
- carry out reasonable requests or instructions from managers
- be aware of, and adhere to, CCG policies and procedures

APPEALS AGAINST DISMISSAL CCG APPEALS PROCEDURE

Panel Membership

A CCG Appeals Panel will consist of three members including at least one Lay/GP Member of the CCG, who will act as chair to the panel. Other members will be drawn from the Senior Management Team or Governing Body plus a workforce representative. No member of the panel will have had any previous involvement in the case.

In cases of dismissals which concern a professional matter, at least one panel member should have a specialist knowledge of the employee's field of work. Where this is not possible, a professional adviser acceptable to both parties should preferably be employed within the NHS. They should advise the panel only on matters relating to the employee's professional conduct or competence, and does not have the right to vote when the panel makes a decision.

Panel Arrangements

The CSU Workforce Department will undertake the administrative arrangements for appeal panels. A Workforce representative will act as secretary to the appeal panel and will offer advice and guidance as necessary.

The parties to the appeal will be responsible for providing statements of case and other documentary evidence, and for ensuring the availability and attendance of any witnesses. Appropriate facilities, including time off for representatives and witnesses, should be requested from the appropriate line manager in advance and will not be unreasonably withheld.

Statements of Case

Written statements of case, setting out the main points at issue should be prepared by both parties or their representatives.

The Management statement: this should set out the reasons for the disciplinary action taken. It should be sufficiently detailed to enable the employee to understand on what basis the decision was reached, and to prepare their own case of defence.

The Employee's statement: this should set out clearly the grounds on which they are contesting the manager's decision.

Mutual exchange of papers prior to the hearing will take place by agreement on the same date through the CSU Workforce Department. This should be no less than 5 calendar days before the Appeal Hearing unless agreed otherwise between the parties.

As soon as both statements have been received they will be simultaneously circulated to:

- The CCG Appeals Panel members
- The presenting manager and Workforce representative
- The employee and representative

Role and Decision Making Powers of the Panel

The Panel's role is to determine whether the disciplinary action which is subject to the appeal was fair and reasonable, taking into consideration all the relevant facts and circumstances of the case.

Where the events which gave rise to the disciplinary action are also the subject of legal proceedings, the panel may still be constituted and reach a decision, without awaiting the outcome of the court case.

The decision of the CCG Appeals Panel is final and there is no further level of internal appeal.

The appeal panel, by unanimous or majority decision, shall have the power to:

- I. Dismiss the appeal and endorse the disciplinary action taken
- II. Dismiss the appeal but suggest re-engagement in a different post if this is possible
- III. Uphold the appeal but substitute the original decision with one that the panel considers more appropriate
- IV. Uphold the appeal and reinstate the employee

Role of the Secretary to the Appeal

The CSU Workforce Representative appointed to support the Chair and Panel members shall be in attendance throughout the hearing/appeal, recording the proceedings and shall remain with the Chair and Panel members whilst they consider their decision. He/she shall advise the Chair and Panel members on points of procedure and may ask questions for clarification. He/she shall not have been involved in the case previously. The CSU Workforce representative will also ensure that both parties are advised in writing of the Panel's decision.

Notification of Panel Decisions

The decision of the appeal panel will normally be notified to the parties at the end of the hearing and confirmed in writing within seven days. In exceptional circumstances, the decision may be deferred for up to seven days. There will be no further right of appeal.

Representation / Others present at the Appeal

The Employee and Representative

The employee has the right to appear personally before the panel, either alone or accompanied by a representative. If the employee wishes, the representative need not be the same person who acted at the time disciplinary action was taken.

The Manager

The manager who took the disciplinary action will normally present the management case. The Workforce representative who attended the disciplinary hearing may assist the manager

in presenting the case.

Witnesses

Either party may call witnesses. It is the responsibility of the respective parties (assisted by the Workforce Department if necessary) to arrange their attendance. Witnesses will be granted paid time off to appear at the appeal hearing.

Witnesses may only be present in the hearing when they are required to give their evidence. Where appropriate, complainants in harassment cases may not be required to give evidence in the presence of, or be subjected to cross-examination by, the person who is the subject of their complaint. In these circumstances, questioning will be conducted by the representative of the subject of the complaint, to whom he or she will have ready access.

Witnesses do not have a right to representation but may, under certain circumstances (e.g. in a complaint of harassment), be supported by a staff representative or CCG work colleague. The supporter will play no part in the appeal.

Observers

Either party may request the attendance of observers, who will not take part in the proceedings. Observers presence must be permitted by the Chairperson and both parties and such requests will not be unreasonably refused. They must withdraw immediately at the direction of the Chairperson.

Failure to Appear at the Appeal

Where, having agreed the arrangements for appeal, either party fails to appear without good cause the panel may choose to adjourn the hearing or to proceed with the case in their absence.

Procedure to be followed at the Hearing

The Role of the Chair of the Panel

The Chairperson of the panel will introduce those present, will briefly explain the procedure to be followed and will ensure that all parties have a complete set of documents. Any preliminary or procedural points should be raised at this time. The decision of the panel on any point of order, whether raised at the outset or during the course of the hearing, will be final.

Order of presentation of Case

- The following procedure should be adopted:
- The Manager states the case in the presence of the employee and representative
- The Manager may call witnesses
- The employee (or representative) may question the Manager and witnesses
- The person hearing the case or the panel members may question the Manager and witnesses

- The Manager may re-examine witnesses
- The employee (or representative) states the case in the presence of the Manager
- The employee may call witnesses
- The Manager may question the employee and witnesses
- The person hearing the case or the panel members may question the employee and witnesses
- The employee (or representative) may re-examine witnesses
- The Manager may sum up the case
- The employee may sum up the case

It should be noted that the person hearing the case or panel members:

- May ask for clarification of any statements made during the course of the proceedings
- May decide to adjourn at any stage, or at the request of either party. The duration of the adjournment will be made clear and a decision reached on the time the hearing is to be reconvened.

The person hearing the case or the panel members, with the Secretary in attendance, should reach a decision on the case in private, recalling both parties if points of uncertainty need to be clarified.

Witnesses will not normally be required to be in attendance for the whole of the Appeal Hearing. They will normally be called to give evidence and then discharged. However, at the discretion of the Appeal Panel, after consultation with both parties, it may be agreed that witnesses are present for the duration of the Hearing.

APPENDIX 8

<p>Date</p> <p>Address</p>	<p>2nd Floor Wilberforce Court Alfred Gelder Street Hull HU1 1UY</p> <p>Tel: 01482 344700 Email:</p>
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SPECIMEN LETTER: CONFIRMATION OF SUSPENSION

Dear.....

SUSPENSION FROM DUTY

I am writing to confirm the details of your meeting with me on [date]. In the presence of [name & job title], you were suspended from duty with immediate effect and until further notice. Your suspension is NOT a disciplinary sanction and will be reviewed on a monthly basis. Your suspension is pending the outcome of a full and thorough investigation of the alleged incident that:

on [date] you

You will be contacted separately regarding details of an investigation meeting where you will be asked to respond to the allegations being made against you. Once the investigation is complete a decision will then be made as to whether to refer this matter to a formal hearing in accordance with the CCG's Disciplinary Policy and Procedure, a copy of which is enclosed, and you will be advised accordingly.

During your suspension you will receive normal pay. You must not contact any of the parties involved in the allegations, discuss the allegations with CCG staff, other than your representative, or enter CCG premises, other than for medical treatment for yourself or a member of your immediate family, without my prior approval, during the period of your suspension.

[Given that the issues under investigation relate to your clinical practice, you should not undertake clinical work with any other employer during the course of your suspension.]

You must remain contactable during normal working hours and should continue to follow the normal procedures in the event of absence or any application for annual leave.

You may consider it advisable in the meantime to consult a Trade Union Representative for advice. I enclose a second copy of this letter for your representative (if you wish).

If you have any queries with regard to your suspension or the subsequent process, please do

not hesitate to contact [name of personnel rep] on [telephone number]. I appreciate that this may cause you some anxiety and would refer you to the confidential staff counselling service which can be contacted through Occupational Health on * if you feel this would be beneficial.
Yours sincerely

Manager

c.c.

Enc. Copy of letter

Disciplinary Policy and Procedure

APPENDIX 9

<p>Date</p> <p>Address</p>	<p>2nd Floor Wilberforce Court Alfred Gelder Street Hull HU1 1UY</p> <p>Tel: 01482 344700 Email:</p>
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SPECIMEN LETTER: REQUEST ATTENDANCE AT DISCIPLINARY HEARING

(this letter should be sent from the manager who will present the management case at the hearing)

Dear

DISCIPLINARY HEARING

Further to the investigation process, I am writing to request that you attend a disciplinary hearing in [venue] on [date and time].

At this meeting you will be asked to respond to the following allegation[s]:

List incidents, or
Other cause which has given rise to the need for disciplinary hearing.

The meeting will be held in the presence of [name & job title of panel members]. I will present the management case [and will be assisted by (workforce rep if appropriate)].

Copies of all statements/documents that will be considered at the hearing are enclosed for your information. [**** will be available to be called as a witness]. [If you wish to call any witnesses, please confirm their names and details to me by (date)].

The hearing will be held in accordance with the CCG's Disciplinary Policy and Procedure and as such you are entitled to bring with you a representative of your Trade Union or Professional Association, or a work colleague. I enclose a second copy of this letter should you wish to give it to a representative.

At the hearing you will be given every opportunity to state your case but I have to advise you that, following discussions and careful consideration of the evidence presented, disciplinary action may be taken against you [including the possibility of your dismissal (if appropriate)].

Please confirm your attendance and contact me if you have any questions regarding the procedures to be followed.

Yours sincerely

Manager

c.c.

Enc. Copy of letter for representative
Copies of statements/documents

Note:

If the member of staff has previously failed to turn up to a hearing you can add the following:
Should you fail to attend without a good cause, the hearing will be held in your absence and a decision will be made using the evidence provided. You will be notified in writing of the outcome.

APPENDIX 10

<p>Date</p> <p>Address</p>	<p>2nd Floor Wilberforce Court Alfred Gelder Street Hull HU1 1UY</p> <p>Tel: 01482 344700 Email:</p>
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SPECIMEN LETTER – OUTCOME OF DISCIPLINARY HEARING

(this letter should be sent from the chair of the disciplinary panel)

Dear

OUTCOME OF DISCIPLINARY HEARING

I am writing to confirm the outcome of the disciplinary hearing held on XXXXX, which I conducted under the CCG's Disciplinary Policy and Procedure. Also present (names and job titles)

The purpose of the hearing was to consider the following:

List purpose or allegation(s)

[Mitigating circumstances, acknowledgements etc.]

The members of the disciplinary panel considered carefully all of the evidence presented at the hearing together with the written investigatory information before them.

Outcome

The decision of the panel was that you be issued with XXXXXXXXXXXXXXXX, which will remain on file for 12 months, subject to no further breach of discipline.

(If appropriate) If at any time during the period this final written warning is in place any further disciplinary allegations are proven, it is highly likely that your employment will be terminated.

You were advised of your right of appeal against this warning/dismissal and made aware that any such appeal should be made in writing to the Workforce Representative [name/address] within 14 calendar days of the date of this letter.

If no case to answer

The decision of the disciplinary panel was that there is no/insufficient evidence to/of XXX and therefore there is no case to answer.

If you have any queries regarding the content of this letter please contact either myself on XXX or XXX Workforce representative on XXX.

Yours sincerely

Name

Job