



**Rotherham  
Clinical Commissioning Group**

Title:	<b>Disciplinary Policy</b>
Reference No:	HR/018
Owner:	Chief Officer
Author:	Head of HR
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Consultation Process:	Operational Executive, Staff organisation lead trade unions.
Ratified and Approved by:	Governing Body 3 <sup>rd</sup> January 2018
Distribution:	All staff and GP members of the CCG.
Compliance:	Mandatory for all permanent and temporary employees of Rotherham CCG.
Equality & Diversity Statement:	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.

SUMMARY	
	Disciplinary Policy
AUTHOR	P Smith
VERSION	2017 Review
EFFECTIVE DATE	
APPLIES TO	Employed RCCG Staff
APPROVAL BODY	OE, AQuA, Governing Body
RELATED DOCUMENTS	Managing Absence Management Policy, Grievance Policy, Managing Poor Performance.
REVIEW DATE	30-6-19 or at an earlier date subject to changes in national or local (where relevant) terms and conditions of service or legislative requirements.

**THIS POLICY HAS BEEN SUBJECT TO A FULL EQUALITY IMPACT ASSESSMENT**

**VERSION CONTROL SHEET**

Version	Date	Author	Status	Comment
1	2-12-13	PSmith	Draft	For consultation
2	6-1-14	PSmith	Draft	For AQuA approval and SPF consultation
3	June 201	PSmith	1 <sup>st</sup> Review	For AQuA approval and staff side consultation

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## **SECTION A – POLICY**

### **1. Policy Statement, Aims and Objectives**

- 1.1. This policy aims to help and encourage all employees to achieve and maintain satisfactory standards of conduct (including attendance), capability and competence and to ensure consistent and fair treatment for all.
- 1.2. This policy should be used after consideration of or in conjunction with NHS Rotherham Clinical Commissioning Group's policies and procedures governing sickness absence, bullying and harassment, grievance, performance, complaints and counter fraud.
- 1.3. The advice of the Head of HR must be sought in any case likely to involve an exclusion from work, formal warning or dismissal and is advised in any cases of a disciplinary nature. The level of Human Resources involvement will depend upon the severity of the alleged breach of discipline. In all cases Human Resources will act in an advisory capacity.
- 1.3. The development of this policy:
  - Sets out the responsibilities of Managers, Employees, Staff Side and Human Resources.
  - Ensures a robust, consistent and effective procedure for managing breaches of discipline.
  - Defines the scheme of delegation associated with disciplinary hearings and appeal hearings.
  - Satisfies legislative requirements.

### **2. Legislation and Guidance**

- 2.1. The following legislation and guidance has been taken into consideration in the development of this procedural document.
  - ACAS Code of Conduct

### **3. Scope**

- 3.1 This policy applies to those members of staff that are directly employed by NHS Rotherham CCG and for whom NHS Rotherham CCG has legal responsibility. For those staff covered by a letter of authority / honorary contract or work

experience this policy is also applicable whilst undertaking duties on behalf of NHS Rotherham CCG or working on NHS Rotherham CCG premises and forms part of their arrangements with NHS Rotherham CCG. As part of good employment practice, agency workers are also required to abide by NHS Rotherham CCG policies and procedures, as appropriate, to ensure their health, safety and welfare whilst undertaking work for NHS Rotherham CCG.

#### 4. Accountabilities and Responsibilities

4.1 Overall accountability for ensuring that there are systems and processes to effectively manage breaches of discipline lies with the Chief Officer. Responsibility is delegated to the following:

<p><b>Assistant Chief Officer Corporate Services</b></p>	<p>Has delegated responsibility for:</p> <ul style="list-style-type: none"> <li>• Maintaining an overview of the corporate ratification and governance process associated with the policy.</li> </ul>
<p><b>Head of HR</b></p>	<p>Has delegated responsibility for:</p> <ul style="list-style-type: none"> <li>• Leading the development, implementation and review of the policy.</li> <li>• Advising Managers on all aspects of managing breaches of discipline.</li> <li>• Participating in formal investigatory procedures.</li> <li>• Supporting Management at Disciplinary Hearings.</li> <li>• Attending Employment Tribunals if required.</li> </ul>
<p><b>Line managers</b></p>	<p>Have delegated responsibility for:</p> <ul style="list-style-type: none"> <li>• Ensuring they understand and adhere to their obligations in relation to this policy.</li> </ul>
<p><b>All Staff</b></p>	<p>Have delegated responsibility for:</p> <ul style="list-style-type: none"> <li>• Ensuring they understand their responsibilities in relation to this policy.</li> </ul>
<p><b>Staff Side</b></p>	<p>Have responsibility for:</p>

	<ul style="list-style-type: none"> <li>• Providing advice/representation to employees who are members of a recognised Trade Union.</li> </ul>
<b>Counter Fraud</b>	<p>Has responsibility for:</p> <ul style="list-style-type: none"> <li>• Providing advice and support on issues which may involve fraudulent activities</li> <li>• Investigation of fraud, bribery and corruption offences</li> </ul>

## 5. Dissemination, Training and Review

### 5.1. Dissemination

5.1.1. The effective implementation of this procedural document will support openness and transparency. NHS Rotherham CCG will:

- Ensure all staff and stakeholders have access to a copy of this procedural document via the organisation's website.
- Communicate to staff any relevant action to be taken in respect of disciplinary issues.
- Ensure that relevant training programmes raise and sustain awareness of the importance of effective disciplinary management.

5.1.2. This procedural document is located on the CCG Website. A set of hard copy Procedural Document Manuals are held by the Governance Team for business continuity purposes and all procedural documents are available via the organisation's website. Staff are notified by email of new or updated procedural documents.

### 5.2. Training

5.2.1. All staff will be offered relevant training commensurate with their duties and responsibilities. Staff requiring support should speak to their line manager in the first instance. Support may also be obtained through their Head of HR .

### 5.3. Review

5.3.1. As part of its development, this procedural document and its impact on staff, has been reviewed in line with NHS Rotherham CCG's Equality Duties. The

purpose of the assessment is to identify and if possible remove any disproportionate adverse impact on employees on the grounds of the protected characteristics under the Equality Act 2010.

5.3.2. The procedural document will be reviewed by 31 March 2017, and in accordance with the following on an as and when required basis:

- Legislatives changes
- Good practice guidelines
- Case Law
- Significant incidents reported
- New vulnerabilities identified
- Changes to organisational infrastructure
- Changes in practice

5.3.3. Procedural document management will be performance monitored to ensure that procedural documents are in-date and relevant to the core business of the CCG. The results will be published in the regular Governance Reports.

## **SECTION B – PROCEDURE**

### **1. General Principles**

- 1.1. Before any disciplinary action is taken it is necessary to establish all the facts. Where it is deemed that a potential disciplinary issue has arisen the necessary investigations should be made to gather the facts promptly and these should be recorded in writing.
- 1.2. Following establishment of the facts, it should be decided whether any further action is required and whether this should be informal or formal. Where an investigatory meeting is convened to solely establish the facts of a case, it should be made clear to the employee(s) involved that the meeting is not a disciplinary meeting.
- 1.3. Cases of minor misconduct or unsatisfactory performance should be dealt with informally in the first instance.
- 1.4. Where fraud is suspected advice should be sought from the Chief Finance Officer and the Local Counter Fraud Specialist prior to discussing the matter with the employee involved.
- 1.5. Dismissals from employment on the grounds of ill health should be undertaken in conjunction with the Sickness Absence Policy and must ensure that the principals of this procedure are adhered to.
- 1.6. Where performance is unsatisfactory, the employee should be informed of the improvement required in line with the Managing Performance Policy, the support that will be given and when and how their performance will be reviewed.
- 1.7. When dealing with absences from work, the reasons for the absence should be ascertained prior to deciding what action to take.
- 1.8. The employee must be informed in writing regarding any alleged misconduct or unsatisfactory performance.
- 1.9. If an employee is invited to a meeting as part of the disciplinary procedure they should be advised of their right to be accompanied or representation as detailed in paragraph 2.
- 1.10. If a disciplinary hearing results in action short of dismissal, the employee should be informed why and how they need to improve, the consequences of failing to improve and that they have a right to appeal.
- 1.11. If an employee is dismissed they must be informed why, when their contract of employment will cease and of their right to appeal.

- 1.12. If an employee wishes to appeal they should be invited to a hearing and informed of their right to be accompanied or represented.
- 1.13. An appeal must be dealt with by a more senior manager not previously involved in the earlier decision.
- 1.14. The employee should be informed in writing of the outcome of the appeal and the reasons for the decision made.
- 1.15. Written records should be maintained during all stages of the investigation, disciplinary and appeal.
- 1.16. NHS Rotherham CCG will consider referral to the appropriate professional/registration body where matters raised during a disciplinary investigation/hearing or appeal warrant this action.

## **2. Right to Representation**

- 2.1. At every formal stage of the procedure, the employee will have the right to be accompanied by a work colleague (not involved in the investigation) or to be represented by a trade union representative. Employees may request to be accompanied by a partner or friend for moral support but the role of this individual will be in an attendance role only.

## **3. Alleged breaches of discipline relating to employees who are accredited trade union representatives**

- 3.1. Normal disciplinary standards apply to all accredited trade union representatives however no disciplinary proceedings should commence until the circumstances of the case have been discussed with a full-time official of the union concerned.

## **4. Exclusion from Work (also referred to as suspension from duty)**

- 4.1. Careful consideration should be given to alternatives to exclusion, where circumstances permit. These may include allowing the employee to continue working on limited or alternative duties and/or working in a different location. Where alternative arrangements cannot be made, the decision to exclude from work can be taken as described below.
- 4.2. Exclusion from work should only be considered as an arrangement pending investigation of an allegation of a serious offence, including those where:
  - The alleged offence is considered gross misconduct (see Appendix 3)

- The employee's presence constitutes a serious risk to themselves, patients, staff or NHS property
  - The employee is under charge or suspicion of a criminal offence which significantly affects their status, role or responsibilities within the CCG
  - The employee's presence would hinder a full and proper investigation taking place
- 4.3. The period of exclusion is not a disciplinary sanction nor a presumption of guilt. The period of exclusion will be on full pay and should be kept to a minimum. The employee should be kept informed of the likely timescales of the exclusion and this should be reviewed regularly. All communication should be in writing and sent to the employee's home address.
- 4.4. Authority to exclude will normally rest with the Operational Executive (OE) member responsible for the department in which the employee works. In certain circumstances delegated responsibility can be given to the most senior manager on duty at the time. In these circumstances the senior manager taking the decision to exclude must notify the relevant OE member as soon as possible who will be required to review the decision and, if deemed necessary, revoke the exclusion.
- 4.5. An exclusion interview will be arranged to advise an employee of their exclusion. Where there is no work colleague or trade union representative available, a further meeting should take place with the representative present if the employee requests this. If an employee is off duty and all reasonable attempts to contact them fail they should be informed in writing not to commence duty but to contact a named officer as a matter of urgency.
- Immediately prior to suspension of an employee, all CCG IT systems access should be revoked.
- 4.6. Any decision to exclude an employee will be confirmed in writing within 48 hours of the exclusion interview. The correspondence must include the reasons for the exclusion and advise the employee that they are not authorised to enter CCG premises without prior permission. If the employee feels they have a legitimate reason to enter CCG premises they should contact the Investigating Officers at the earliest opportunity.
- 4.7. An employee must make themselves available during normal working hours throughout the exclusion period, unless this coincides with planned annual leave, in which case the employee should seek permission to take leave and this should not be unreasonable withheld. Should the employee fall ill during a period of exclusion they must report via the normal sickness absence reporting procedures and in addition should inform the Investigating Officers.
- 4.8. The excluded employee must not enter into any discussion with any other CCG employee involved in the investigation other than their Trade Union representative and must not approach any witnesses until the investigation is concluded. It is the manager's responsibility to advise employees that the management side investigation has been concluded and that they are free to

contact witnesses. It is the managers responsibility also to advise work colleagues regarding the exclusion of an employee following consultation with the employee, their tradeunion representative and HR.

- 4.9. The excluded employee must notify their Line Manager of any change in personal circumstances, e.g. change of home address, contact telephone numbers, health status.
- 4.10. Whilst excluded from work an employee will receive the pay they would have received had they been at work. Where an employee does not have a regular working pattern, payment will be based on the average weekly/monthly earnings for the three months period prior to the date of exclusion.
- 4.11. During the exclusion period the employee should not work in any other posts they may hold within the CCG. Where the work they undertake for the CCG may be related to a post they hold with another employer the CCG may take the decision to inform the other employer of the exclusion. Under a duty of care, in certain exceptional circumstances, it could be necessary for the CCG to inform other agencies including professional and regulatory bodies where there may be an impact on patient/client care or health and safety. The employee is obligated to advise the CCG if they are employed in any other posts with other organisations.

## **5. Delegation of Authority to Deal with Disciplinary Procedures**

- 5.1. Authority to deal with disciplinary matters including appeals is delegated in accordance with the schedule attached at Appendix 4 of this document.
- 5.2. Normally no manager may dismiss a member of staff who directly reports to them.
- 5.3. Managers must seek advice from the Head of HR at all stages of the Disciplinary Procedure.
- 5.4. Advice may be sought from NHS England Area Team in relation to disciplinary issues involving the Clinical Chair, Chief Officer or Governing Body Members.

## **6. Investigatory Process**

- 6.1. Where misconduct is alleged to have occurred, Investigating Officers will be appointed to gather all the facts of the case promptly. The Investigating Officers will normally be a nominated manager and the Head of HR.
- 6.2. The employee will be informed in writing that the matter is to be investigated and the names of the Investigating Officers. The letter should confirm the likely timescale for the investigation and of the right for representation. Regular communication should take place with the employee to ensure they are kept up to date. Normally the employee will be advised of the nature of the allegations. Exceptions to this may include issues concerning fraud or patient safety where criminal investigations are to be considered.

6.3. The investigation may include:

- Giving the employee an opportunity to provide evidence to the Investigating Officers or interviewing the employee against whom the allegation has been made accompanied by a work colleague or trade union representative if desired
- Interviewing any witnesses and taking written statements, making it clear that the statements may be used as evidence and they are obliged to attend a disciplinary hearing should this be required
- Gathering documentary evidence, including medical advice, records, electronic files, diaries, worksheets etc.

6.4. Notes of any meeting should be confirmed in writing, in summary, via a letter to the employee and file notes given to any witnesses to confirm accuracy and content.

6.5. Once the investigation is concluded, the Investigating Officers shall recommend via a written report to the next level of management whether or not to take further action. Further action may include formal non disciplinary action such as coaching or counselling or to proceed to a formal disciplinary hearing. The employee will be informed of the action to be taken in writing.

6.6. Should any employee be found to be deliberately attempting to interfere with a CCG investigation, either through intimidation, harassment or bullying of any employee, they may be subject to further disciplinary proceedings, including disciplinary action being taken against them.

## **7. Formal Non Disciplinary Action**

7.1. There will be, in some cases, opportunities to resolve issues of a minor nature without the need to impose formal disciplinary action, for example where an employee did not realise the full importance of complying with particular parts of their terms and conditions of employment. These opportunities can generally be referred to as counselling.

7.2. Counselling should be regarded as corrective guidance rather than part of the disciplinary procedure and should take the form of supportive interviews between the employee and their line manager. The interviews should identify if the employee is facing particular problems either at work or at home which have a bearing on their situation, if there are any training needs or if a review of the working arrangements is required as a means to resolving the problem informally.

- 7.3. The employee does not need to be accompanied at counselling interviews, however if they are dissatisfied with the conduct of the interview they can raise this with their Trade Union Representative or work colleague.
- 7.4. Counselling interviews should be recorded on the employee's personal file to safeguard the employee's rights and to act as a record of the action agreed. This should be followed up with written records of the formal action planning process. Copies should be provided to the employee.

## **8. Formal Disciplinary Action**

- 8.1. Where it is established, following an investigation, that there are reasonable grounds to believe that the employee has committed the alleged act(s) of misconduct which are not suitable for informal non disciplinary action, the matter will proceed to a formal disciplinary hearing.
- 8.2. A hearing panel will be convened which will comprise of the appropriately skilled manager (Hearing Officer) and a HR Manager. An additional person may be present to advise on professional matters or financial procedures where required. In most cases the Hearing Officer will be the next level of management from the Investigating Officer. Appendix 1 sets out the process of the hearing.
- 8.3. The employee must be notified in writing of that the disciplinary hearing has been scheduled, the purpose of the hearing, the date and time of the hearing and of their right to be accompanied/represented. The letter should contain sufficient information for the employee to understand both what the allegations are and the reasons why the actions associated with the allegations are unacceptable. Copies if any documents that will be used during the hearing must be provided to the employee. The employee must be given 10 working days notice of the hearing to enable them to consider their response to the allegations and to arrange for representation from a trade union representative or support from a colleague, if desired.
- 8.5. If the employee cannot attend the hearing they should inform the Hearing Officer in advance wherever possible. If they fail to attend through unforeseen circumstances outside their control another hearing should be arranged. The employee should be advised of the rearranged date and advised if the employee fails to attend the rearranged hearing without good reason, the hearing may be held in their absence.
- 8.6. If the employee's representative cannot attend the hearing the employee can suggest another date providing it is reasonable and not more than 5 working days after the original hearing date.
- 8.7. If an employee informs the Hearing Officer that they are unable to attend the hearing due to sickness, the employee should be referred to Occupational Health to ascertain when they are likely to be fit to attend.

8.8. At the hearing the Investigating Officers will go through the allegation(s) and the evidence gathered. The employee will set out their case and answer any allegations that have been made. Questions may be posed by each party. Witnesses may be called by either party and they will be required to answer questions. The employee's work colleague or representative is permitted to present the employee's case and can be questioned also. Both parties will have an opportunity to summarise. If any employee chooses to submit evidence on the day of the hearing an adjournment should take place in order to allow the Investigating Officers time to consider this evidence. Where additional evidence is presented during the hearing copies should be provided to all parties.

8.9. Detailed notes of the disciplinary hearing should be taken. This duty will normally be fulfilled by the HR Business partner or, for example in a lengthy hearing, administrative support may be sought.

8.10. After hearing all the evidence, any mitigating or extenuating circumstances, the employee should be informed that a decision will be made in private and the hearing will be adjourned. The panel should reconvene to communicate the outcome to the employee on the same day or in exceptional circumstances the next day. If the Hearing Officers consider it appropriate to request any further clarification on evidence heard the panel may reconvene at a later date however this must be within one calendar month. The decision should be communicated to all parties.

8.11. The following disciplinary stages may be adopted within the scope of this procedure:

- Stage 1: Written Warning
- Stage 2: Final Written Warning
- Stage 3: Dismissal

8.12. Once a decision has been made the employee should be notified of it in writing. The letter should detail the evidence taken into account, how the decision was arrived at and of the right to appeal against the decision.

## **9. Written Warning**

9.1. If the misconduct or performance is serious enough that it cannot be resolved by taking informal non disciplinary action a formal written warning may be issued by the Hearing Officer. A written warning may also be issued where steps outlined in the Managing Performance Policy have failed to achieve the required level of performance.

In exceptional circumstances an agreed sanction of a written warning may be issued where the staff member, after taking advice from their trade union representative, recognises their serious misconduct and accepts a written warning without the need to attend a panel. This will be reflected in the written confirmation letter.

9.2. The written warning letter must detail to the employee:

- The misconduct/performance concerned
- The reasons for the action against the employee
- The improvements that are required of the employee including the timescale for the improvement
- How long the warning will remain extant
- What action will follow if there is no improvement (e.g. final written warning)

A named person will be responsible for overseeing the action plan.

9.3. The warning letter should be sent to the employee within 7 working days of the date of the hearing. It is recommended that the letter is sent by recorded delivery or a method that ensures delivery to the employee's home address. If applicable, a copy should be sent to the employee's representative.

9.4. The written warning will remain extant on the employee's personal file for 6 months from the date of the warning letter. This should be confirmed at the Disciplinary Hearing.

## **10. Final Written Warning**

10.1. Where there is failure to improve or change performance/conduct in the timescale set at the written warning or where the misconduct is sufficiently serious, a final written warning may be issued by the Hearing Officer.

10.2. The final warning letter must contain the same level of detail as set out in paragraph 9.2 with the exception of the action to follow if there is no improvement as in this case the further action may be dismissal.

10.3. The final warning letter should be sent in accordance with paragraph 9.3.

10.4. A final written warning will remain extant on the employee's personal file for 12 months from the date of the warning letter.

## **11. Dismissal**

11.1 Where the misconduct is very serious, or where there has been no improvement in performance, dismissal will normally result. Dismissal in these circumstances will be with full pay and notice.

11.2. The dismissal will be confirmed in writing by the Hearing Officer. The letter will state the full reason for the dismissal, a summary of the facts leading to the decision and the date the employment will end.

11.3. The dismissal letter should be sent in accordance with paragraph 9.3.

11.4. No employee will be dismissed without full involvement of Human Resources.

11.5. In the event of gross misconduct the employee will be dismissed with immediate effect and normally without contractual notice. Examples of gross misconduct are contained in Appendix 3.

11.6. The employee should be advised that they must return all property belonging to the CCG i.e. keys, equipment, mobile phone, laptop , ID badge etc. E mail addresses and access to CCG premises will also be prohibited. IT system access should be revoked.

## **12. Appeals**

12.1. An employee has the right to appeal against disciplinary action taken at any formal stage of this procedure. For written and final written warnings the intention to appeal must be made to the next higher level of management not previously involved in the procedure. Appeals against dismissal will be to the Governing Body via a letter to the Clinical Chair.

12.2. The purpose of the Appeal will be to review the decision made by the disciplinary panel based on the evidence presented to it, not to re run the disciplinary hearing unless significant new evidence is presented (see 12.6)

12.3. Any appeal must be made in writing and within 7 calendar days of the date of the warning/dismissal letter.

12.4. The appeal will normally be heard within 21 calendar days of the receipt of the employee's written notice of appeal and any extension to this timescale should be mutually agreed.

12.5. A letter confirming the time and date of the Appeal Hearing should be sent to the employee. The letter should instruct the employee to submit their statement of case 5 days prior to the Appeal Hearing. The Investigating Officers will also be asked to submit a statement of case on behalf of the management side representatives 5 days prior to the Appeal Hearing.

12.6. At the appeal, the manager hearing the appeal will consider representations made by the employee and/or their representative and information from the Investigating Officer/Hearing Officer who imposed the disciplinary sanction. Appendix 1 sets out the process for the appeal hearing.

12.7. The appeal may result in one of four decisions:

- To uphold the decision of the Hearing Officer
- To review the decision of the Hearing Officer
- To uphold the employee's appeal and remove any action imposed
- If new evidence is presented at the Appeal Hearing with potential serious consequences, the Appeal Hearing Officer may make the decision to reconvene the Disciplinary Hearing stage for further investigation.

12.8. The manager hearing the appeal must inform the employee about the appeal decision within 7 working days of the appeal and the correspondence should be

sent via recorded delivery to the employee's home address. A copy should also be sent to the employee's representative if applicable.

- 12.9. Employees must be made aware that the decision of the appeal hearing is final. Appeals against dismissal will be referred to the Governing Body and the Appeal Hearing panel will comprise, a GP Governing Body Member, a Lay Member (who will normally Chair the Appeal) and the Chief Officer, or nominated deputy. Human Resources support should be sought. External expert advice such as Financial or Technical, should be sought where appropriate.
- 12.10. Timescales in the appeals procedure should normally only be extended where agreement has been reached by both parties. However in the cases of fraud, theft, pending criminal convictions or where large numbers of witnesses are involved, timescales may be extended and the employee should be notified accordingly.

## **CONDUCT OF HEARING**

- The Chairperson of the panel will introduce the panel and all parties and the employee will be reminded of the purpose of the hearing.
- The Management case will be presented and any witnesses will be called to provide evidence.
- The employee and/or the representative will be given an opportunity to question or clarify any points in the management case and to question any witnesses.
- The Panel and Chairperson will be given an opportunity to question or clarify any points in the management case and to question any witnesses.
- The employee and/or the representative will be given an opportunity to state their case, which may include bringing witnesses and/or presenting supporting statements.
- The management side will have the opportunity to question the employee, the employee's representative and any witnesses.
- The panel members may question the employee, employee representative and witnesses as appropriate.
- Management side will summarise their case based upon the evidence already presented.
- Staff side will summarise their case based upon the evidence already presented.
- The panel will adjourn to consider their decision and will advise the employee of when and how the decision will be communicated to them.
- The panel will reconvene the hearing or write to the employee to communicate the decision to the employee.

N.B. At any point during the hearing either party can request an adjournment via the Chairperson.

## **NHS ROTHERHAM CLINICAL COMMISSIONING GROUP STANDARDS OF PERFORMANCE AND CONDUCT**

### **1. Introduction**

- 1.1. The spirit and the intention of producing written standards of performance and conduct is to promote fairness and consistency in the treatment of individuals and in the conduct of the CCG's industrial relations, and not merely to fulfil legal obligations. In addition to these standards of performance and conduct, employees may also be governed by a code of professional conduct from their regulatory body.
- 1.2. These standards of performance and conduct apply to those identified in scope of the NHS Rotherham CCG's Disciplinary Policy and will be regarded as part of each employee's contract of employment.
- 1.3. It is impossible to cover all situations that may arise therefore the examples which follow are purely illustrative. These examples are included in order to clarify the forms of disciplinary breaches which are likely to give rise to formal disciplinary action. Appendix 3 gives examples of gross misconduct which will normally lead to summary dismissal unless there are mitigating circumstances accepted by Hearing Officers. In dealing with breaches of rules or gross misconduct there will be consideration of specific circumstances of individual cases.

### **2. General Standards of Conduct**

- 2.1. In fulfilling their contract of employment, all employees are expected to attend for duty regularly and punctually, not to absent themselves from duty without permission and to conduct themselves and perform their duties in a manner which combines prompt and efficient service with a concern for the feelings of others, including colleagues, managers, patients and the public. The following sets out some specific examples of standards expected of staff in their conduct and performance at work but does not aim to be comprehensive:
  - All staff are required to maintain confidentiality of any information they may acquire in the course of, or arising from, their employment/association with the CCG, in accordance with the CCG policy on disclosure of information. Any unauthorised disclosure or misuse of information will be treated as a serious breach of discipline, possibly leading to dismissal. All employees are required to sign a confidentiality code of conduct.
  - Health and Safety policies and procedures must be observed at all times.
  - Security requirements must be observed at all times.

- Conduct must be professional, reflect CCG values and be acceptable to the CCG.
- Reasonable instructions given by line managers should be undertaken promptly and efficiently to the required standard. Duties should be commensurate with the level of knowledge and skills associated with the employees job outline.
- Employees must comply with the Sickness Absence Policy and Procedure, specifically regarding reporting procedures and compliance with Statutory Sick Pay. Where sickness absence is a cause for concern this will be investigated and proven fraudulent abuse of sick pay provisions will lead to disciplinary action and referral to the CCG's Counter Fraud Specialist for further investigation, which may result in criminal proceedings.
- Employees must not engage in other employment that may adversely affect their CCG employment, nor in any way hinder or conflict with the interests of the CCG or the European Working Time Regulations.
- Conducting private business on CCG premises is forbidden unless official permission is obtained from the Chief Officer.
- Standards of business conduct including acceptance of gifts and hospitality must comply with relevant CCG policies.
- Employees must declare any financial interest in contracts which the CCG is or is likely to be involved with.

### **3. Gross Misconduct**

3.1. Offences that constitute gross misconduct will result in dismissal unless mitigating circumstances are accepted. Appendix 3 illustrates examples of offences which in managements view constitute gross misconduct. The examples given are not an exhaustive list.

### **4. Duty to inform Employer**

4.1. An employee who is charged or cautioned with a criminal (or other) offence which may affect their suitability to discharge the duties of their job must inform his/her departmental head or relevant OE member as soon as possible. Any action taken at this stage will be dependent upon the relationship of the alleged offence, to the type of work undertaken by the worker. The departmental head or relevant OE member will advise the employee to seek guidance from their representative irrespective of whether action is to be taken.

4.2. Employees for whom driving is an essential part of their duties must inform their head of department if formally charged with any driving offence or if they become ineligible to drive due to a new or pre existing medical condition.

## **5. Codes of Conduct**

5.1. All employees of the CCG are expected to comply with their relevant professional codes of conduct and notify the CCG if their regulatory body is considering taking/has taken any action against them. The above also includes managerial codes of conduct.

## **OFFENCES THAT MAY CONSTITUTE GROSS MISCONDUCT**

In accordance with ACAS guidance, examples of gross misconduct may include:

- Theft or fraud
- Physical violence, aggressive behaviour or bullying
- Deliberate and serious damage to property
- Serious misuse of an organisation's property or name
- Deliberately accessing internet sites containing pornographic, offensive or obscene material
- Serious insubordination
- Unlawful discrimination or harassment
- Bringing the organisation into serious disrepute
- Serious incapability at work brought on by alcohol or illegal drugs
- Causing loss, damage or injury through serious negligence
- A serious breach of health and safety rules
- A serious breach of confidence

### **Criminal convictions or charges outside of employment:**

The main consideration should be whether the offence is one that makes the worker unsuitable for the type of work contracted to undertake. In all cases, the CCG, having considered the effects, will need to consider whether the conduct is serious enough to warrant instigating disciplinary procedures. For example, employees should not be dismissed solely because a charge against them has been made, or because they are absent as a result of being remanded in custody.

**N.B. The list above provides examples of those offences which in managements view may constitute gross misconduct and is not intended as an exhaustive list.**

## NHS ROTHERHAM CLINICAL COMMISSIONING GROUP SCHEME OF DELEGATION AND AUTHORITY

The following scheme of delegation has been developed pertaining to the management of disciplinary issues and settling grievances.

The following table details the lowest grade of officer who will normally have delegated authority to take the specified action/disciplinary action. This will be subject to change in the event of revised managerial arrangements.

Exceptionally there may be circumstances where a deputy is given delegated authority to act in place of the designated officer. The designated officer shall consult with Human Resources and may arrange to be accompanied by another senior manager or representative.

<b>CATEGORY OF STAFF</b>	<b>WRITTEN WARNING</b>	<b>FINAL WRITTEN WARNING</b>	<b>DISMISSAL</b>	<b>EXCLUSION FROM DUTY</b>
Chair	Chief Officer in consultation with Lay Member for Governance and NHS England	Chief Officer in consultation with Lay Member for Governance and NHS England	Chief Officer in consultation with Lay Member for Governance and NHS England	Chief Officer in consultation with Lay Member for Governance and NHS England
Chief Officer	Clinical Chair in consultation with Lay Member for Governance and NHS England	Clinical Chair in consultation with Lay Member for Governance and with NHS England	Chair and 2 lay members in consultation with Lay Member for Governance and NHS England	Clinical Chair in consultation with Lay Member for Governance and NHS England and Human Resources
Governing Body & SCE members	Chief Officer in consultation with CCG Chair	Chief Officer in consultation with CCG Chair	Chief Officer or Chair as appropriate and two lay members	Chief Officer in consultation with NHS England and Human Resources
Employees directly reporting to Chief Officer CFO, Assistant/Deputy Chief Officers and Chief Nurse	Chief Officer, CFO, Assistant/Deputy Chief Officers and Chief Nurse	Chief Officer, CFO, Assistant/Deputy Chief Officers and Chief Nurse	Chief Officer or Clinical Chair as appropriate	Chief Officer CFO, Assistant/Deputy Chief Officers and Chief Nurse in consultation with Human Resources

All other staff	Line Manager (band 4 and above)	Line Manager (band 4 and above)	Chief Officer or designate d deputy.	Chief Officer in consultation with Human Resources
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# Equality Impact Assessment

<b>Title of policy or service:</b>	Disciplinary Policy	
<b>Name and role of officer/s completing the assessment:</b>	Head of HR	
<b>Date of assessment:</b>	8-6-17	
<b>Type of EIA completed:</b>	<b>Initial EIA 'Screening'</b> <input checked="" type="checkbox"/> <b>or 'Full' EIA process</b>  <input type="checkbox"/>	<i>(select one option - see page 4 for guidance)</i>

<b>1. Outline</b>	
<b>Give a brief summary of your policy or service</b> <ul style="list-style-type: none"> <li>Aims</li> <li>Objectives</li> <li>Links to other policies, including partners, national or regional</li> </ul>	<p>This policy aims to help and encourage all employees to achieve and maintain satisfactory standards of conduct (including attendance), capability and competence and to ensure consistent and fair treatment for all.</p> <p>1This policy should be used after consideration of or in conjunction with NHS Rotherham Clinical Commissioning Group's policies and procedures governing sickness absence, bullying and harassment, grievance, performance, complaints and counter fraud</p>

**Identifying impact:**

- Positive Impact:** will actively promote or improve equality of opportunity;
- Neutral Impact:** where there are no notable consequences for any group;

- **Negative Impact:** negative or adverse impact causes disadvantage or exclusion. If such an impact is identified, the EIA should ensure, that as far as possible, it is either justified, eliminated, minimised or counter balanced by other measures. This may result in a 'full' EIA process.

<b>2. Gathering of Information</b>					
This is the core of the analysis; what information do you have that might <i>impact on protected groups, with consideration of the General Equality Duty.</i>					
(Please complete each area)	What key impact have you identified?			For impact identified (either positive and or negative) give details below:	
	Positive Impact	Neutral impact	Negative impact	How does this impact and what action, if any, do you need to take to address these issues?	What difference will this make?
Human rights	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Age	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Carers	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Disability	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Sex	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Race	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Religion or belief	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Sexual orientation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Gender reassignment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Pregnancy and maternity	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Marriage and civil partnership	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		

(only eliminating discrimination)					
<b>Other relevant groups</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
<b>HR Policies only: Part or Fixed term staff</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		

**IMPORTANT NOTE:** If any of the above results in 'negative' impact, a 'full' EIA which covers a more in depth analysis on areas/groups impacted must be considered and may need to be carried out.

Having detailed the actions you need to take please transfer them to onto the action plan below.

<b>3. Action plan</b>				
<b>Issues/impact identified</b>	<b>Actions required</b>	<b>How will you measure impact/progress</b>	<b>Timescale</b>	<b>Officer responsible</b>
n/a				

<b>4. Monitoring, Review and Publication</b>				
<b>When will the proposal be reviewed and by whom?</b>	<b>Lead / Reviewing Officer:</b>	<b>Head of HR</b>	<b>Date of next Review:</b>	<b>30-6-19</b>

Once completed, this form **must** be emailed to Alison Hague, Equality & Diversity Manager for sign off:

Alison.hague@rotherhamccg.nhs.uk

<b>Alison Hague signature:</b>	
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