


The Robert Jones and Agnes Hunt Orthopaedic Hospital

NHS Foundation Trust

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 <p>Trust Values</p>			

1. Introduction

- The Robert Jones & Agnes Hunt Orthopaedic Hospital NHS Foundation Trust (the Trust) is committed to supporting staff in carrying out their roles to the best of their ability and supports and encourages all employees to achieve and maintain appropriate standards of conduct and behaviour in order to deliver outstanding patient care.
- Equally, staff are expected to achieve and maintain the necessary standards of conduct and behaviour in order to deliver outstanding patient care, therefore when standards of conduct are not maintained this will be addressed in a reasonable, timely and constructive manner.
- The Trust will do this through
 - Clearly setting out the standards of conduct expected of all employees.
 - Clearly setting out Trust Values to be demonstrated by all staff.
 - Deferring incremental progression due to a failure to satisfactorily meet standards of conduct.
 - Provision of training for managers involved in disciplinary issues.
- The purpose of the Disciplinary Policy and Procedure is:
 - to help and encourage employees to achieve and maintain acceptable standards of conduct,
 - to ensure that fair, equitable and reasonable action is taken where acceptable standards of conduct are not maintained,
 - to ensure that unacceptable conduct is addressed promptly and appropriately.
- The Disciplinary Policy and Procedure may be used where:
 - previous support, advice and informal warnings have been ineffective or all other avenues have been exhausted,
 - a number of minor complaints are made which, taken together, constitute a breach of discipline,
 - there is a more serious breach of discipline.
- For the purpose of this document, conduct issues (some of which would be classed as gross misconduct and as such would be a fundamental breach of contract as per appendix 1) include but are not limited to
 - persistent poor time keeping,
 - unauthorised absence/s
 - failure to observe the the Trust's policies and procedures,
 - bullying, victimisation or harassment,
 - ill treatment, neglect or abusive behaviour toward colleagues or service-users
 - unreasonable refusal to follow an instruction issued by a manager or supervisor.
 - where individuals are found to be wilful or reckless in their behaviour.
- This list is meant to guide application of the policy and is not meant to be exhaustive. Repeated certified sickness and long term sickness will not be the subject to the Disciplinary Policy, but will be dealt with under the appropriate Management of Sickness Absence Policy. However, dismissal may be the final outcome.
- Employees will not normally be dismissed for a first breach of discipline except in the case of gross misconduct.
- A separate policy covering capability and performance issues will be utilised where issues relate to employee competence, or where standards of work have fallen below expected standards. Examples of capability issues include:-
 - Inadequacy of skills.

- Inadequacy of professional insight.
 - Inability to cope with reasonable workload taking into account the individual circumstances
 - Lack of ability to distinguish appropriate work priorities.
 - Poor performance
- This policy and procedure recognises the importance of taking action at an early stage to avoid dismissal from employment. Wherever possible, problems should be resolved informally. When such informal discussions do not succeed or where cases are determined by the relevant manager to be serious then the disciplinary policy and procedure will apply.
 - The aim is to deal quickly but fairly with disciplinary issues, taking into account current employment law and wider legislation. It also recognises the central importance of a reasonable investigation, which allows for a reasonable belief of culpability to be established. This ultimately results in an outcome that can be justified as being reasonable.
 - When a potential disciplinary issue arises, all managers and employees must treat information with the strictest confidence. It is not appropriate for there to be speculative gossip, or for the outcome of interviews and meetings to be freely discussed with colleagues, or senior managers. Failure to maintain confidentiality may in itself may be a disciplinary issue.
 - The Trust will consider disciplinary action against an employee for actions inside or outside of work which may have a bearing on an employee's continued employment or on the reputation of the Trust. Employees must notify their manager immediately of any criminal charge or conviction or any restrictions imposed by a professional body relevant to their employment.
 - Where an individual has engaged in harm to a child or in the case of an adult a person in a position of Trust (PIPOT), which results in the withdrawal by the Trust of permission to engage in regulated activity, then the Trust is required to refer the matter to the Independent Safeguarding Authority in addition to any disciplinary action which is taken. Safeguarding issues will be referred to the Trust's relevant Safeguarding Lead as soon as it is apparent that these may be a cause for concern, and it will be their decision concerning the appropriate timing of a referral to the Independent Safeguarding Authority and/or the Local Authority Designated Officer (LADO). HR advice should be sought in such cases, and the decision to refer will be made by the Safeguarding Lead.

2. Roles and Responsibilities

- All employees have a responsibility to:
 - take full accountability for their actions and admissions,
 - maintain expected and reasonable levels of attendance and performance at work,
 - attend and participate in relevant meetings,
 - be aware of and comply with all the Trust's policies and procedures,
 - be aware of and conform with any relevant statutory rules or local agreements and practises applicable to their role,
 - maintain a reasonable standard of behaviour acceptable to management and other employees,
 - be aware of and maintain behaviours and standards in line with their respective professional code of practice.
- All managers have a responsibility to ensure that each employee is familiar with the standards of conduct expected of them by:
 - explaining fully the requirements of the job in line with the employee's job description and making employees aware of relevant policies and procedures
 - providing training as necessary to develop skills and knowledge required for the job
 - providing regular appraisal and feedback on each individual's progress

- Employees will be given the opportunity to improve conduct through encouragement, supervision and relevant training.
- HR will provide advice and assistance to relevant managers on using the Policy and general guidance on the Policy to all employees.

3. Procedure

3.1 INFORMAL DISCIPLINARY PROCEDURE

- Every effort should be made to avoid issues of unsatisfactory conduct through timely and appropriate discussion with an employee about an incident of unsatisfactory conduct that has caused concern.
- If conduct fails to improve following such discussion the line manager should invite the employee to an informal meeting to discuss why there have been further incidents of this conduct. The aim of the meeting should be to agree the standard of conduct expected.
- Due to their purpose, informal meetings are between the manager and the employee and therefore Human Resources and Side / Trade Union representatives are not expected to be present.
- A note or copy of the agreement that had been reached should be made and shared (usually via email).
- There is no right of appeal at this stage of the procedure.

3.2 FORMAL DISCIPLINARY PROCEDURE

- Although the informal and formal procedures are normally sequential, it may be appropriate to invoke the formal procedure without following the informal procedure first, if the nature or seriousness of the alleged conduct warrants this.
- There are a number of elements to the formal disciplinary process which need to be followed as appropriate to each case. These are:
 - Case Conference/triage arrangements
 - Fast – track to decision (if appropriate)
 - Suspension (only if appropriate)
 - Investigation
 - Following Levels of Authority
 - The Disciplinary Hearing (if appropriate)
 - Issuing a Warning
 - The Right of Appeal and the Appeals Procedure
 - Referral to a third party

Further detail on each of these elements is given below.

3.2.1 Case Conference / Triage

A Case Conference is a meeting which takes place when there is a concern/issue/allegation which is raised in relation to a member(s) of staff.

For the context of this policy the Case Conference applies to concerns/issues/allegations in which consideration is being given to application of the formal stages of employee relations policies (including this Disciplinary Policy).

The case conference's purpose is to evaluate the information available, consider what is known and to discuss how the concern/issue/allegation should be taken forward, ascertaining the views/opinions of its Members in order to reach a mutually agreeable outcome.

Reference should be made to the separate policy on Case Conference/Triage.

3.2.1 The Disciplinary Investigation

- Where the case conference has agreed that the matter should be investigated this section will be invoked.
- It is important to carry out an appropriate investigation of potential disciplinary matters, without unreasonable delay, to establish the facts of the case before any further action is taken. This will usually involve investigatory meetings with the employee(s) involved and a collation of evidence that will form an investigation report.
- The report should contain sufficient detail to enable the manager who requested the investigation to consider the conduct issue(s) and the recommendation(s) of the Investigating Officer. The Investigating Officer may be commissioned from outside of the Trust if a level of independence is felt necessary.
- The aim should be to complete the investigation within 4 weeks, but it is recognised that in more complex cases, this timescale may not be achievable.
- The Manager (requesting the investigation) will:
 - Consult with HR to appoint an Investigating Officer, who should not have previously been involved in the case;
 - Define the allegation/matter of concern to be investigated.
 - Notify the employee(s) involved of the details of the allegation(s) of misconduct in as much detail as possible and that a Disciplinary Investigation will take place; this should be confirmed to the employee(s) in writing (Royal Mail UK Standard delivery) before any investigation interviews take place; it would be recommended to check the correspondence address for the employee at this point
 - Once the investigation is complete, with the support of HR, consider the findings and recommendations of the Investigating Officer's report and decide on whether there is a requirement for a Disciplinary Hearing, whether the investigation report does not provide sufficient detail and further investigation is required, or whether alternative actions are required, for example, a process review or coaching is required as a result of the findings from the investigation.
 - Keep the employee(s), against whom the allegation is made, advised of the progress of the investigation against the proposed timescale and inform them in good time if this timescale is not achievable; .
- The Investigating Officer should:
 - Be supported during the investigation by another appropriate manager or a HR representative who has not previously been involved in the case;
 - Invite the employee(s), against whom the allegation is made, to investigatory interviews and advise them of their right to be represented at the investigation interview by a Staff Side / Trade Union representative or colleague not acting in a legal capacity;
 - Remain objective and non-judgemental throughout the investigation, exploring all aspects of the situation, not focusing on one particular viewpoint and, wherever possible, checking

the information given by each interviewee against other information collected so that evidence can be cross-checked and corroborated;

- During the investigatory interview, give the employee(s) every opportunity to refute the allegations, to give their own account of events and to explain any mitigating circumstances;
- If appropriate, interview other employees as part of the investigation, who should be told in advance of the nature and reason for the investigation, the need for absolute confidentiality, advising them of their right to be represented at by a Staff Side / Trade Union representative or colleague not acting in a legal capacity;
- Make all employee(s) who are interviewed aware that the information that they give may be used at a disciplinary hearing and that they may be asked to attend the hearing to give their evidence; they should also be reminded of the requirement for confidentiality;
- Arrange for notes (to be taken by an appropriate note taker) of all investigatory meetings during the investigation to be taken and opportunity to review before sharing. Prior consent will be sought where it is intended to use a digital recording during the investigatory meeting (or any subsequent hearing or appeal).
- Advise witnesses to any investigation that they will be protected as far as is possible, but advise them that it may be difficult to maintain anonymity as witnesses have an obligation to take part in the investigation and potentially a disciplinary hearing.
- When the investigation is complete, carefully consider all the information collected and produce a report, with a recommendation as to whether:
 - a) There is no case to answer without recommendations;
 - b) There is a case to answer, with appropriate recommendations that would mitigate the need for a formal disciplinary hearing.
 - c) There is a case to answer and a formal disciplinary hearing should be convened to consider the matters further.
- Finally, at the earliest opportunity, advise the employee(s) who has been the subject of the investigation of the outcome of the investigation and what action is likely to follow and when

Employees should:

- Attend investigation interviews and answer all questions honestly and openly, as well as providing the Investigating Officer with further information should they deem it relevant;
- Advise the Investigating Officer if they are unable to attend investigation interviews at the earliest possible opportunity and make every effort to attend the rearranged date; failure to attend an investigation interview on numerous occasions may be treated as a disciplinary offence;
- Review the interview notes. Notes of meetings cannot be altered unless they are demonstrated to be an incorrect record of the meeting that took place. Any additional comments, statements or clarification should be provided (within a prescribed timeframe) as a **separate** document to the meeting notes.

3.2.2 Suspension

- The decision to suspend should normally be undertaken by a senior manager and advice should be sought from the HR Department. It is important to note that suspension is not an assumption

of wrong-doing or a disciplinary penalty; it is a (new phrase) and should be taken only as a last resort.

- Line managers must have approval from the appropriate Executive Director and Director of People prior to suspending a member of staff. In the absence of the Executive Director or outside of normal working hours suspension must be approved by the on-call Executive Director. Regular review of suspension will be undertaken by the Director of People and the appropriate Executive Director.
- Suspension should only be used where it is absolutely necessary and alternatives to suspension, such as restricting duties or placing the employee under supervision, should be considered before a final decision is made.
- The circumstances where suspension from duty on full pay, including any regular allowances/enhancements that they would normally receive whilst at work, apply (but are not limited) to situations where:
 - The alleged conduct may constitute gross misconduct, thus it would not be appropriate for the employee(s) to continue to carry out their duties;
 - It is necessary to protect the employee(s), other staff, patients, NHS Property or the general public;
 - It is necessary to allow an appropriate investigation to take place and the employee's presence within the workplace may unduly influence or impede the investigation;
 - There is sufficient cause to believe that the employee may influence or impeded the investigation;
 - In cases of an alleged criminal offence, where a police investigation or other criminal proceedings are taking place (see below).
- The suspending manager must meet formally with the employee(s) to advise them that they are to be suspended and every effort should be made to allow the employee(s) to accompany/advise or represent them at the meeting by a Staff Side / Trade Union representative. Where this is not possible, an appropriate third party, for example a HR representative or a manager not involved in the matter (ie from another department), should be present as an independent person (predominantly to provide support to the individual in what is recognised as a difficult situation). In any case the employee (s) will be able to decline the offer of accompaniment.
- At the suspension meeting it is very important that the suspending manager advises the employee(s) of the following:
 - the allegation(s) made against them;
 - the reason for the suspension;
 - that suspension is not an assumption of wrong-doing or a disciplinary penalty;
 - that suspension will be on full pay, including any regular allowances/enhancements that they would normally receive whilst at work;
 - the expected duration of the suspension and the arrangements for notifying them of any extension;
 - that any conditions attached to the suspension e.g. the need to obtain permission to enter the Trust's premises;
 - that they should remain contactable during normal working hours;
 - the name and contact number of an appropriate manager who they can contact regarding any concerns or the disciplinary/suspension process;
 - that an investigation will be conducted that they will be required to take part in;
 - that all parties, including him/herself and their representative, will be expected to regard the allegations and the suspension as confidential;
 - that the suspension and any related information will be confirmed to them in writing (Royal Mail UK Standard Delivery) within 5 working days of the suspension meeting.

3.2.3 Levels of Authority

- Wherever possible, disciplinary action, other than dismissal, should be dealt with by a senior manager within the organisation.
- Where the matter is so serious that the outcome of a disciplinary hearing may be dismissal, then the manager hearing the case must be someone who has authority to dismiss or to recommend dismissal. In most circumstances a senior manager below that of Deputy Director, Associate or Executive Director will hear the case.
- The table below provides information relevant to this process.

	Manager Authorised to Issue Sanction	Appeal to
Informal action	Line Managers	None
First Written Warning	Line Managers	More Senior Manager to the a Line Manager
Final Written Warning	Line managers	More Senior Manager to a Line Manager
Dismissal	More Senior Manager to a Line Manager (eg Matron)	Deputy Director , Associate or Executive Director or Managing Director

3.2.4 The Disciplinary Hearing

- Where the (investigation requesting/commissioning) manager concerned decides a disciplinary hearing should be convened, they should also chair the disciplinary hearing.
- The Chair of the disciplinary hearing will need to ask one or more appropriate managers, which may include a HR representative, to form a Panel. The exact composition of the Panel will depend on the nature and seriousness of the case, but should not include anyone who has previously been involved in the case or investigation.
- The hearing should be arranged without undue delay but due regard must be given to allow both the Investigating Officer and the employee(s) concerned sufficient time to prepare their cases and to secure the availability of witnesses if necessary.
- The arrangements for the hearing should be arranged by the Chair, who should confirm this in writing (Royal Mail UK Standard delivery) to the employee(s) at least 5 calendar days in advance. Where possible, the hearing date should be arranged in conjunction with the employee's representative / companion.
- The letter sent by the Chair should include details of:
 - the date, the time and venue for the hearing;
 - the precise details of the allegation(s) made against the employee(s);
 - the right to representation;
 - the Panel's composition and who will be presenting the management case;
 - names of witnesses who will be called by management (or indication of no witness are being called by management side)
 - copies of any relevant documentation, including the management statement of case, signed witnesses statements and other pieces of written evidence;
 - assurance that the employee will be given every opportunity to put forward their own version of events and to explain any mitigating circumstances;
 - the employee's right to be accompanied at all stages of the formal procedure by a Staff Side / Trade Union representative or a work colleague uninvolved in the case.

- an invitation for the employee to submit a written statement of case to the hearing, but it should be made clear that this is not obligatory;
- the requirement for the employee/trade union to notify the manager in advance of any witnesses that they may wish to call and for the employee/trade union representative to request their involvement on behalf of the employee and secure their availability for the date and time of the hearing;
- an indication of the potential level of seriousness of the allegations, particularly where dismissal may be a potential outcome.

4. Disciplinary Penalties / Sanctions (Formal Warnings)

- If, following the disciplinary hearing, it is decided that circumstances / evidence warrant the imposition of a disciplinary warning, a number of such levels of warning are available as detailed below. Each of these are separate warning, but can also be seen as a sequence of warnings, each becoming more serious than the last.
- Although they are sequential, any one of these warnings can be chosen in their own right outside of this sequence, if the nature or seriousness of the offence warrants this. Where this is to be considered, advice should firstly be sought from HR (without undue delay to the process or hearing) to ensure consistency and appropriateness of approach.

4.1 First Written Warning

- In the case of minor conduct issue/misconduct, the employee may be given a First Written Warning setting out the nature of the conduct of concern, the likely consequences of further occurrence /misconduct and specifying, if appropriate, what improvement in conduct is required and within what timescale.
- This warning should remain on the employee's personal file for a period of 12 months, after which time it will be considered "spent" providing that no further conduct matters have occurred.

4.2 Final Written Warning

- In situations where a further conduct matters /misconduct has occurred during the period of a previous written warning, or if a first issue is of a serious nature, the employee may be given a Final Written Warning. This should set out the nature of the conduct of concern and clearly advise the employee that any further offence of the same or similar misconduct may lead to dismissal.
- This warning should remain on the employee's personal file for a period of 24 months. The warning will be considered "spent" from the employee's file after the specified period, providing no other offences have occurred. It is expected that confirmation that a warning is now "spent" will be issued to confirm this and reflecting that the conduct in the period has met the required standard.
- It may be necessary to invoke the following disciplinary penalties in addition to a final written warning as an alternative against dismissal:
 - downgrading without pay protection (permanent or temporary), or;
 - transfer to another department without pay protection (permanent or temporary).
- The period of any temporary downgrading or transfer will be kept under review for a length of time as agreed at the disciplinary hearing.
- A permanent transfer or downgrading does not prevent an employee from applying for other (higher) posts in the future, providing the period of written warning has elapsed.

4.3 Dismissal and Summary Dismissal

- In situations where a further conduct matter /misconduct has occurred during the period of a previous written warning, or if a first conduct matter is of a serious nature, the employee may be dismissed with the appropriate period of notice.
- In cases where gross misconduct is found, summary dismissal is likely to apply in which case the dismissal will take place straight away without any payment of notice pay.
- Gross misconduct may include (non-exhaustive list):
 - Theft from the Trust, clients, patients or colleagues;
 - Fraud or deception in the course of employment including making a fraudulent expenses claim;
 - Assault, fighting or any other violence;
 - Serious misconduct or criminal acts whether during or outside the course of employment bringing the Trust into disrepute;
 - Vandalism, damage or sabotage to any property of the Trust;
 - Harassment of colleagues, clients, patients or suppliers whether or not in the course of normal employment including harassment of a sexual or racial nature, or on the grounds of sexual orientation, religion or belief, age or disability;
 - Bullying or intimidation without reasonable explanation such as to cause significant distress to a colleague, patient, customer or supplier whether or not in the course of normal employment.

5. The Right of Appeal (Appeals Procedure)

- Employees have the right of appeal against any formal disciplinary sanction (there is no right of appeal against an informal warning). An employee may choose to appeal, for example, because they think a finding or level of warning is overly harsh or unfair; new evidence comes to light; or they think the procedure was not used correctly.
- If an employee believes that they have been treated unfairly as part of this procedure, then they will need to raise this through the Trust's Grievance Policy. Where both an appeal and a grievance are lodged together, it may be appropriate to deal with these in a combined appeal/grievance hearing. In such circumstances, advice must be sought from HR.
- If an employee wishes to lodge an appeal they should follow the guidance that will have been given in the letter confirming the decision taken at the disciplinary hearing and the imposition of the formal disciplinary warning. The appeal should be submitted in writing to the person named in that letter within 10 calendar days of receipt of the letter and should state the grounds on which the appeal is being made.
- When an appeal has been lodged, the employee will receive written confirmation of receipt of the appeal and will be advised of what the next steps will be in terms of the arrangements for the appeal hearing. They will also be asked to confirm whether or not they wish to be represented at the appeal by a Staff Side / Trade Union representative or colleague and, if so, who that person will be.
- Wherever possible, the appeal hearing should be held within 4 weeks of receipt of the appeal, taking account of the need to set a date convenient to all parties concerned and the requirement for the employee and the person presenting the management case to prepare written statements. Where it is not possible to meet the 4 week timescale, the employee should be continually advised of the progress being made for the arrangements and be advised of the date for the hearing as soon as is possible.

- Appeals should be heard by a panel of managers more senior than those who made the decision to impose the disciplinary penalty; the composition of this panel will vary depending on the nature of the particular case. It would be expected that the same number of people heard the appeal as the original hearing. It is advisable to have a HR representative present to advise the appeal panel, particularly where the appeal is against a Final Written Warning or Dismissal and this would be an appropriate reason to have more members of the panel that originally.
- If professional issues are involved, then a senior manager of the appropriate profession may be asked to sit on the panel.
- A note-taker should also be present to ensure that an accurate record of the appeal hearing is kept.
- The decision made by the appeal panel is final.

5.1 Arrangements for the Appeal Hearing

- Prior to the hearing, both the employee and the person presenting the management case will be asked to submit a written statement of case which should fully address the grounds of the appeal and for this purpose the grounds of appeal will be shared with the person presenting the management case to enable them to submit a case which responds to the grounds of the appeal.
- These statements should be provided within an agreed timescale sufficient to ensure that the panel and all other relevant parties receive copies of both statements at least 5 working days before the date of the hearing.
- An independent person (normally an administrator) will be nominated to receive these statements so that they can ensure that both statements are exchanged at the same time.
- The conduct of the appeal hearing is detailed in Appendix B.

6. Action in Particular Cases

6.1 Professional Misconduct

- Within certain occupations, contravention of professional codes, standards, practice, laws or rules may lead to disciplinary action, including dismissal. Professional bodies may also take action in addition to action taken by the Trust which therefore has a duty to report incidents of professional misconduct to certain statutory bodies (e.g. General Medical Council (GMC), Nursing and Midwifery Council (NMC)).
- A nominated Manager, in conjunction with the Director of People or their designated representative, is responsible for notifying the relevant professional body.
- Wherever possible, the disciplinary panel should have a manager from the same profession as the employee, if appropriate to the case.

6.2 Staff Side / Trade Union Representatives

- Employees of the Trust who are also Staff Side / Trade Union representatives will be subject to the same standards of conduct as other staff and where such standards are not being met, appropriate action should be taken under this disciplinary policy. However, it is important in these cases that the advice of HR is sought and that the relevant Full Time Officer of the particular union is informed.
- Where concern is raised within the Trust about the conduct of a Trade Union representative who is not an employee of the organisation, these concerns should be raised with the appropriate employer or the Full Time Officer of the relevant union.

6.3 Criminal Offences

- If an employee is arrested on any charge or served with a summons on criminal charges, whether or not these arise out of their employment, the manager will need to consider whether or not the alleged offence has any implications for the duties of the employee or for the Trust as a whole.
- Depending on the circumstances, a decision may be made to suspend the employee pending the outcome of any police investigation or criminal proceedings. This suspension will be on full pay and the suspending manager will need to follow the guidance given in section 3.2.2 above.
- In the event that a member of staff is under police or legal proceedings, the Trust reserves the right to take appropriate action in accordance with its own procedures, prior to the outcome of any external proceedings. This means that internal investigations may continue. If there is a case to answer, disciplinary proceedings may be instigated and the appropriate disciplinary penalty imposed.
- Where the police investigations are the result of the Trust asking the police to become involved in an issue of gross misconduct, the internal investigation into the issue may proceed providing that this does not interfere with the police investigation. It may not be necessary for the internal investigation to wait for the result of any police investigation as the two investigations will relate to different aspects of the matter. Similarly it is not necessary to wait for a court to find an employee guilty or not guilty before making an internal decision based on the internal investigation.

6.4 Safeguarding

- Where an employee is alleged to have abused an adult or child, it is important that any disciplinary investigation is conducted alongside the Trust's Safeguarding Policies and Procedures.
- A disciplinary investigation is a separate investigation but co-ordination and information sharing is essential.
- Managers must ensure they are familiar with the relevant Safeguarding policies. This includes referral to the appointed Local Authority Designated Officer (LADO) and/or other relevant body and adherence to the correct internal reporting and investigation procedures.
- The Safeguarding Vulnerable Groups Act (SVGA) 2006 sets out the terms under which an employer or regulated service provider must refer an individual to the Disclosure and Barring Service (DBS). In general terms, if the allegation is substantiated and the person is dismissed or the Trust ceases to use the person's services, or the person resigns or otherwise ceases to provide his/her services, the Trust must refer that person to the DBS.
- Employers and service providers must refer information to the DBS when they have dismissed an individual, or an individual resigns, because they harmed, or may harm, a child or adult. The fact that a member of staff tenders their resignation or ceases to provide their services must not prevent an allegation from being followed up in accordance with procedures and a conclusion reached.

6.5 Counter Fraud

- All issues which at first appear to be fraudulent, will automatically be referred to the NHS Counter Fraud Service in accordance with the relevant Counter Fraud Policy/Procedure.

- The Local Counter Fraud Specialist (LCFS) is responsible for ensuring that all reported suspicions or actual incidents of fraud are investigated.
- Following the investigation, the policy of the Trust is to ensure that appropriate sanctions, whether disciplinary, criminal or civil are applied to those who have committed fraud. In each case, consideration will also be given to what can be done to recover any loss.
- Where it appears a criminal act has not taken place, it may still be deemed appropriate to continue an internal investigation to determine the facts and decide if disciplinary action is appropriate. Such action could include dismissal for gross misconduct in a case involving dishonesty but not with criminal intent.

6.6 Admission of guilt/fast track process

- Where an employee accepts their conduct is in breach of this policy and demonstrates an understanding of why it was unacceptable, managers may agree a disciplinary sanction without undertaking a full investigation and disciplinary process.
- In these circumstances, the employee may directly approach the manager or be advised by their Staff Side / Trade Union representative or HR in order to agree the disciplinary sanction.
- The manager will then write to the employee setting out the sanction they intend to apply and giving the employee an opportunity to refuse the sanction and undertake a full disciplinary hearing instead. Once agreed however, there is no right of appeal.
- The fast track process **cannot** be used in cases of potential dismissal, including gross misconduct.

7. Representation

An employee has the right to be represented, if they wish, at any formal stage of the proceedings by either a Staff Side / Trade Union representative or Trust employed colleague not acting in a legal capacity and not involved in their own right in the matter of concern.

8. Training and Dissemination

- This policy can be accessed via the Trust's Document Centre.
- Training for line managers in supporting the improvement of performance and capability and application of the policy will be provided by the Trust's Training and Development Team.

9. Implementation Plan

- Management training will be revised to ensure it is aligned to this policy.

10. Monitoring / Audit

- The Trust will maintain sufficient records of formal case management in order to support high level reporting and trend analysis

11. Review Date

- Please refer to the cover page for details of the review date.

Template for Recording Minor Amendments

Record of Amendments to: <i>Disciplinary Policy and Procedure</i>					
Amendments approved by:					
Section number	Amendment	Deletion	Addition	Reason	Date