

## **Suspension and Disciplinary Process Guidance**

In order to ensure that The Robert Jones and Agnes Hunt Orthopaedic Hospital NHSFT acts in a fair and appropriate manner when considering suspending an employee from duty, or proceeding to deal with an incident or concern formally under the Disciplinary Policy, the following guidance must be followed.

This guidance follows the principles adopted and recommended by NHS England and NHS Principles.

### **Applying a rigorous decision-making methodology**

Consistent with the application of 'just culture' principles, we recognise that it is not always appropriate or necessary to invoke formal management action in response to a concern or incident.

A comprehensive and consistent decision-making methodology should be applied from the very beginning and through that provides for full and careful consideration of context and prevailing factors when determining next steps.

Those important decisions that have to be taken when there is a concern or incident and which may have potentially serious consequences for those involved (including the decision about whether to suspend a member of staff from duty) must adhere to the following principles:

1. Be very well informed
2. Reviewed from multiple perspectives
3. Never taken by one person alone or by anyone who has an identified or perceived conflict of interest.

With regard to the first of these principles, it is vital that the following questions are asked:

- Is there sufficient understanding of the issues or concerns, and the circumstances relating to them to justify formal action?
- Considering the circumstances, in the eyes of the Trust and others external to it, would the application of a formal procedure represent a proportionate and justifiable response? - ie have other potential responses, and remedies short of formal intervention been fully assessed before discounting?
- What will the likely impact on the health and wellbeing of the individual(s) concerned and on their respective teams and services, and what immediate and ongoing direct support will be provided to them? Further, how will we ensure the dignity of the individual(s) is respected at all times and in all communications, and that our duty of care towards those individuals concerned is not compromised in any way at any stage

- If formal action is to be taken, how will appropriate resources be allocated and maintained to ensure it is conducted fairly and efficiently (see separate header key roles, competency and resources)
- How will we ensure that independence and objectivity is maintained at every stage of the process?

### **Decision relating to suspensions**

If suspension is being considered it will normally be because the member of staffs continued presence at work place themselves or others at risk, or would significantly hinder the process of investigation?

Any decision to suspend/exclude should be a measure of last resort; that is proportionate, time bound and only applied where there is full justification for doing so.

Any decision to suspend/exclude an individual should not be taken by one person alone, or by anyone who has an identified or perceived conflict of interest (except where immediate safety or security issues prevail).

If, after a rigorous decision-making methodology has been completed suspension is considered to be the appropriate action, because an individual's continued presence at work places themselves, patients or other members of staff at risk or would substantially hinder any investigation, then prior to the suspension being enacted, full approval must be sought from the Director of People.

### **Safeguarding people's health and wellbeing**

Concern for the health and welfare of people involved in investigation and disciplinary procedures should be paramount, and kept under continual review.

It is essential that the following is put in place:

- Appropriate occupational health assessment and intervention should be made available to any person who either requests or is identified as requiring such support. Liaison with the Trust's Occupational Health department should be appropriately and sensitively handled, with advice taken from the relevant HR practitioner to ensure that there is no additional or unnecessary distress caused. Particular diligence should be paid to the consent process for the referral.
- A communication plan should be established with people who are the subject of an investigation or disciplinary procedure, with the plan forming part of the associated terms of reference. The underlying principle should be that all communication, in whatever form it takes, is timely; comprehensive, unambiguous and above all sensitive and compassionate.
- Where a person who is the subject of an investigation or disciplinary procedure suffers from any form of serious harm, whether physical or mental, this should be treated as a 'never event' which therefore is the subject of an immediate independent investigation commissioned and received by the board. Further, prompt action should be taken in response to the identified harm and its causes.

## **Suspension review**

Suspension should be for as brief a period as possible. It is expected that suspension will be no longer than 4 weeks.

The continued suspension/exclusion of any individual will be reviewed by the Director of People at two- weekly intervals. The investing manager will be required to provide an update to the Director of People on the investigation findings to date, and if any extension of the period of suspension is to be requested this must be justified along with consideration of the impact upon the wellbeing of the individual suspended.

## **Board-level oversight**

All suspensions and continuation of suspension arrangements will be reported and monitored by the Board.

## **Key roles, competency and resources**

Set out below is a glossary of the key roles that are involved in the disciplinary process. Individuals should not be appointed to undertake any of these roles unless they have received up to date training and are able to demonstrate aptitude and competence.

Case investigators should be provided with resources that will support the timely and thorough completion of these procedures. Resources will include time release of the individual, along with support to securing appropriate confidential meeting room provisions (either on or off-site).

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| <b>Commissioning Officer</b> | The Director or Manager requesting the investigation.  |
| <b>Suspending Manager</b>    | This will normally be the individual's line manager, except where immediate safety or security issues arise in which case it will be the most senior manager available.  |
| <b>Case Investigator</b>     | The person, deemed to have no conflict of interest in with the matter to be investigated, appointed by the Commissioning Manager to determine the facts regarding the incident or concern, and recommend to the Commissioning Officer whether there is a case to answer, |
| <b>Hearing Chair</b>         | A more senior manager, with no previous involvement in the matter who is responsible for hearing the findings of the investigation and deciding whether a disciplinary sanction should be given.   |