



Public – To be published on the Trust external website

Guidance on the Disciplinary Procedure

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Overarching Procedure: [Disciplinary Procedure](#)

Contents

1	Introduction	3
2	Purpose	3
3	Related documents	3
4	Guidance on Disciplinary Concerns	3
5	Support for Staff	5
6	Preliminary Assessment/Analysis:	6
7	Safeguarding Referrals	7
8	Outcome of Preliminary Assessment/Analysis	8
9	Flow Chart to Illustrate the Entire Process.	9
10	How this Procedure Will Be Implemented	9
11	How the Implementation of this Guidance Will Be Monitored	10
12	References	10
13	Document Control (External)	11
	Appendix 1 - Equality Analysis Screening Form	13
	Appendix 2 – Approval Checklist	16
	Appendix 3 – Fact Finding Pro Forma	18
	Appendix 4 – General Manager Decision Pro Forma	20
	Appendix 5 – Disciplinary Flow Chart	22
	Appendix 6 – Managers Guide to Decision Making	23
	Appendix 7 – Examples of Misconduct for Agreed Disciplinary Outcomes	24

1 Introduction

This guidance should be read in conjunction with the Trust [Disciplinary Procedure](#) and aims to guide managers through the initial stages and preliminary assessment/analysis process, when concerns of conduct arise.

This guidance and framework for the management of the initial response, when potential disciplinary concerns are raised is a key part of delivering Our Journey to Change

We aim to ensure that all staff are fully aware of the Trust values and feel comfortable in challenging individuals who are not living them and are aware of mechanisms in place to raise their concerns and receive appropriate support in doing so.

2 Purpose

The purpose of this guidance is to provide a framework for the initial response and full consideration of a situation where disciplinary concerns are made about the conduct of a staff member. Concerns can be raised in a number of ways including from staff members or patients directly involved.

The response to managing the alleged incident or circumstances must be proportionate to the severity of allegations raised; ensuring that the patient and staff member involved are made safe and appropriate action is taken.

3 Related documents

This guidance must be read in conjunction with the Trust's Disciplinary Procedure and includes: -

- Trusts Bullying and Harassment Resolution Procedure
- Trust's Freedom to Speak up Policy
- Trusts Sexual Misconduct Policy
- Human Rights, Equality, Diversity and Inclusion Policy

4 Guidance on Disciplinary Concerns



The Trust expects all of its employee to conduct themselves in a way that is in line with its values, policies and procedures and whilst the Trust promotes the fair treatment of staff and supports a culture of fairness, openness and learning, attempts will be made to understand how failings have occurred. However, individuals will be held to account where there is substantiated evidence of behaviours that would warrant formal disciplinary action and in the cases that amount to gross misconduct, these may lead to dismissal.

Where minor lapses of conduct are either observed by a manager or reported to a manager, these should be dealt with in a timely manner and can usually be dealt with either by conversation, in supervision or by counselling. **Advice can be sought from the People and Culture, Operational Team.**

A manager has the discretion to address these concerns without the need for the information to be considered as a formal investigation. See managers guide to making decisions at [appendix 6](#).

All conversations should be documented and signed by both parties.

Where concerns of conduct are as a result of or outcome of another Trust process, i.e. Freedom to Speak Up review, Sexual Misconduct Policy, Bullying and Harassment Formal Resolution meeting, Safeguarding investigation, Serious Incident investigation, Information Governance investigation or Human Rights, Equality, Diversity and Inclusion Policy, all information gathered as part of the process should be made available to the relevant General Manager/Head of Service for appropriate action to be taken.

When contributing factors are identified that may be as a result of a long- or short-term health condition, stress related reaction, previous trauma, personal experience/circumstances, cultural factors as a result of any other protected characteristic, the impact of these on the conduct must be considered prior to a decision being made about the appropriate course of action.



Please see [appendix 6](#) which outlines some useful tips to support good decision making.

4.1 Stabilise/Calm the Situation

The manager whom the concerns have been raised (normally the line manager), must consider the following to stabilise/calm the situation.

- Consider the immediate safety/wellbeing of anyone involved (e.g. staff members, patients etc.).
- Consider what support is required, including a clear communication plan that is regular and timely. Consider staff support, interventions, etc.
- Does the safety of patients or staff require any temporary support or adjustments to be made i.e. alternative place of work or restricted duties?

Steps 1 – 3 below should be considered. Advice from the People and Culture Operational Team must be sought when considering removing anyone from work, their role/base or restricting duties. Where required, liaison with the relevant professional leads will take place to ensure any adjustments made are appropriate.



If advice is unavailable from the People and Culture Operational Team for example when “out of hours” and where step 3 is necessary the appropriate manager/Nurse in Charge should send the staff member home on a period of paid authorised leave – **this should be for no longer than 72 hours.**

4.2 Temporary Support and Adjustments

Step one

Assess whether the staff member could remain within their current role at their normal place of work subject to appropriate levels of supervision being available. (I.e. continue to work within a clinical environment)

Step two

If step one is thought not to be appropriate the second step would be temporary transfer to another workplace, this may be an alternative clinical area or if it is felt a non-clinical area to be more appropriate then if feasible, this should be facilitated.

Step three

If the initial assessment identifies that the most appropriate course of action is for a period away from the workplace, then the staff member will be placed on a period of authorised absence.



The period of authorised absence **would** ideally last for no longer than 72 hours by when a preliminary analysis/assessment will have been completed.

The actions above do not constitute any formal disciplinary action.

5 Support for Staff

It is recognised that having any concern raised against you can be a traumatic experience for staff. The Trust has in place several support mechanisms including support from:

- Staff Side Representatives,
- Management support,
- Employee Support Services,
- Occupational Health and
- Counselling Services.

Full details on staff support can be found on the Trust Intranet - Staff Support Wellbeing and Support Section [Staff Wellbeing and support information | TEWV Intranet](#)

When an individual(s) is being advised that concerns have been raised they will be provided with information on the support available to them.

If the individual raising the concerns is either an employee or a patient, then appropriate support will also be provided.

If required an extra, nominated, (suitably skilled) person will be identified to provide support to the individual throughout the process, the individual themselves may wish to identify who this may be.

6 Preliminary Assessment/Analysis:

Upon the receipt of concerns of conduct the manager themselves or a nominated person, must carry out a preliminary assessment/analysis **(this should ideally take no longer than 72 hours)**.

When a preliminary assessment/analysis commences, the manager must immediately inform the People and Culture HR Operational Team of the following:

- The name of the staff member.
- The date of the incident/concern.
- The name of the individual gathering the evidence as part of the preliminary assessment/analysis.
- Details of any temporary support or adjustments put in place.

The preliminary assessment/analysis should gather as much information as possible for an informed decision to be made in relation to the appropriate way forward to address the concerns.

6.1 Key Considerations

Examples of key considerations: -

- Is this a criminal offence, should the Police or the Local Counter Fraud Specialist be contacted? People and Culture Operational Team can advise if this is unclear. If the Police are involved, then they may direct the next steps to prevent any impact on their investigation.
- Are there any safeguarding issues to report or address? The Trust's Safeguarding Team can advise if unclear.
- Secure and preserve any relevant CCTV.



CCTV can be very important so ensure any footage of an incident is kept including suitable time either side of the actual incident. It may not be deemed initially important but might be later.

- Make records of anything of relevance verbally disclosed by those involved.
- Gather statements from witnesses, including the person affected if appropriate, or details of all involved if this is not possible. All statements should be signed and dated and all staff must be advised that the statements will be shared including externally where appropriate e.g. with the Nursing & Midwifery Council, Information Commissioners Office, the Local Authority Designated Officer, Disclosure and Barring Service, and Safeguarding etc.
- Consider gathering statements from non-trust staff, patients, or family if appropriate.

- Secure/preserve any written records of the incident(s), or provide copies of digital information, including Cito notes.
- Is this a potential Information Governance breach or misuse of computer issue? If so, contact the IG team for advice. Computers may need to be examined or even seized in certain circumstances.
- Are there any relevant policies/protocols of note especially clinical/technical?

6.2 Communication

In addition, the Manager themselves will need to: -

- Provide the individual whom the concerns have been raised against, the opportunity to respond to the issues, this will include providing them with a copy of the complaint and/or statements or information/CCTV gathered.
- Ensure that in all cases involving bank staff, advice must be taken from the Temporary Staffing Team within the People and Culture Department.

6.3 Accredited Representatives

Be aware that the same standards of conduct apply to Accredited Representatives as to all other employees. Where investigation or suspension of an Accredited Representative is being considered, advice should be sought from the People and Culture Operations Department. The case should be discussed with the Full Time Officer of the relevant Trade Union or Professional Organisation with the employee's permission.

6.4 Fact Finding Pro Forma

Refer to the fact-finding Pro Forma (Appendix 3) for matters to be referred to General Manager for a decision i.e. agreed outcome/formal investigation or Independent Review Group.

7 Safeguarding Referrals

- 7.1** Where the nature of the allegations raised (either internally or externally) results in a referral to the Local Authority (LADO), this may result in a serious case review, commissioned by the appropriate local authority. In some cases this will be in addition to the Trust's [Incident reporting and Serious Incident Review Policy](#).
- All Trust staff must engage fully in such reviews and seek advice from the Trust safeguarding team if involved in a SAR.
 - The Trust will engage in these procedures, and ensure lessons learnt as a result will be disseminated.
 - A senior nurse from the safeguarding team will attend the SAR meetings and coordinate the process. The relevant People and Culture representative may also attend the meetings where appropriate.
 - The Trust will present the findings of the preliminary investigation and what action/decisions have been taken to-date to remove any potential risk to the patient or staff member.

- Where a safeguarding investigation identifies conduct concerns, all details should be provided to the relevant General Manager/Head of Service for appropriate action to be taken in line with this procedure and guidance.



Whilst all decisions taken in relation to the staff member are the responsibility of the Trust, it is acknowledged that there may be on some occasions, the requirement to place internal processes on hold, for example in the event of a criminal police investigation. The Trust will, however, continue to work closely with the external body to avoid any unnecessary delays.

8 Outcome of Preliminary Assessment/Analysis

Organisational Learning	Organisational Learning Explored and addressed systemic causes of harm (this is best enabled through a learning review process). It is an important step for every organisation to be able to identify systemic shortcomings.
No further action required (with or without learning outcomes identified)	The manager will:- <ul style="list-style-type: none"> Meet with the individual and advise – no further action is required – if learning outcomes are identified these will be addressed via the line manager during supervision
Capability	The manager will:- <ul style="list-style-type: none"> Meet with the individual and advise of the decision that the case will be referred to the Trust's Managing Concerns of Potential Poor Performance (Capability) procedure
Informal (counselling/lessons learnt) A formal investigation may not always be required to establish if Informal counselling is the appropriate way forward. A manager may decide this upon receipt of all of the information gathered.	The manager will: <ul style="list-style-type: none"> Meet with the individual and advise that the case will be dealt with informally via counselling/lessons learnt. A meeting will be held to address minor lapses of conduct including any reflective practice, lessons learnt. The record of the discussion will be formally recorded as “counselling in line with Trust’s Disciplinary Procedure. Manager and individual will both sign the record of discussion. A copy of the counselling discussion will be retained on the individual’s personal file.
Agreed Disciplinary Outcome (Agenda for Change staff only) 12 month written warning	Agreed disciplinary outcome can be used at two stages in the process – either before undertaking a formal investigation or before a disciplinary hearing takes place. <ul style="list-style-type: none"> Agreed disciplinary action should only be used when all the following criteria are met: If it felt to be a fair way of dealing with the misconduct. If the alleged misconduct is an isolated incident, and the employee has a previous record of good conduct.

	<ul style="list-style-type: none"> It is not an allegation that could constitute gross misconduct. The employee fully admits to the misconduct and/or after investigation does not dispute the facts of the case. <p>Discussion should take place between the employee, their representative (if they have one), the general manager and a member of the People & Culture team to ensure consistency for a first written warning to be agreed between the employee and the manager concerned. If there is no agreement, then the formal investigation/disciplinary hearing would go ahead.</p> <p>Where a first written warning is agreed and issued, the details will be confirmed in writing (by recorded delivery if posted) to the employee. Employees are encouraged to discuss the proposals with their representative. Employees will be given 14 calendar days to decide if they wish to accept the warning. If the employee has agreed to this option, there will be no right of appeal. If the employee does not accept the warning and confirms this in writing within the 14 calendar days, the matter will progress to a formal investigation and/or disciplinary hearing.</p>
Formal Investigation	Following the flow chart the case will be referred to formal investigation in line with section 4 of the Trust's Disciplinary procedure.



It is the responsibility of the General Manager to ensure that the agreed outcome is appropriately addressed, including sharing of any organisational learning.



If the employee resigns or is dismissed because of ill health, and the process has not been completed, then a decision will be taken based on the individual case as to whether this should be concluded.

9 Flow Chart to Illustrate the Entire Process.

Appendix 5 contains a flow chart to guide staff through the process. If there are any questions, please contact People and Culture for further support.

10 How this Procedure Will Be Implemented

- This guidance will be published on the Trust intranet and on the Trust website.
- Line managers will disseminate this guidance alongside the Disciplinary Procedure to all Trust employees through a line management briefing.

10.1 Implementation action plan

See overarching Disciplinary Procedure.

10.2 Training needs analysis

As per the Disciplinary Procedure.

11 How the Implementation of this Guidance Will Be Monitored

As per the Disciplinary Procedure.

12 References

As per the Disciplinary Procedure.

13 Document Control (External)

To be recorded on the policy register by Policy Coordinator

Required information type	Information
Date of approval	15 July 2025
Next review date	15 July 2028
This document replaces	Guidance on Managing Concerns of Potential Conduct (Disciplinary) Procedure Ref HR-0043-001-v2
This document was approved by	PWG
This document was approved	27 June 2025
This document was ratified by	JCC
This document was ratified	15 July 2025
An equality analysis was completed on this policy on	May 2025
Document type	Public
FOI Clause (Private documents only)	n/a

Change Record

Version	Date	Amendment details	Status
v1	06 July 2021	New Document	Withdrawn
v2	15 March 2022	<p>Change of Panel name to Preliminary Assessment Group (approved by JCC 10.8.2021)*</p> <p>Inclusion of additional information in decision tool (approved by JCC 10.8.2021)*</p> <p>Inclusion of additional information in decision tool bottom pg 7 (approved by JCC 16.11.2021)*</p> <p>Reference to Trauma Section 4 and Section 5 and 8 (approved by JCC Feb 2022)*</p> <p>Bullet point added Section 7 Safeguarding (approved by JCC Feb 2022)*</p> <p>8.1 blue box advising decisions on counselling can be made without the need for a PAG (approved by JCC Feb 2022)*</p> <p>Format Amended in line with latest template</p>	Withdrawn

		<p>New Paragraphs added to S4 – Paragraph's 1 and 3 4 and 5</p> <p>S5 hyperlink to all Staff support on Intranet</p> <p>S8.1 added sentence to read where staffside capacity limits their availability the PAG will go ahead with 2, the Chair and HR Rep.</p> <p>*note changes marked by asterisk were approved but not sent for publication at the time of approval.</p>	
v3	15 July 2025	<p>Full review with minor clarifications and updates throughout, key changes include:</p> <ul style="list-style-type: none"> • removal of the Preliminary Assessment Group (PAG) process and proposals that the General Manager will be responsible for commissioning a formal investigation, facilitating an agreed outcome or requesting an independent review group consider the information. • New appendixes, • fact find template, • process flow chart, • managers guide to decision making and examples of misconduct. • Change of name to Guidance on Disciplinary Procedure. 	Approved

Appendix 1 - Equality Analysis Screening Form

Please note: The Equality Analysis Policy and Equality Analysis Guidance can be found on the policy pages of the intranet.

Section 1	Scope
Name of service area/directorate/department	People and Culture
Title	Disciplinary Procedure and Accompanying Guidance
Type	Procedure and Accompanying Guidance
Geographical area covered	Trust Wide
Aims and objectives	To provide a procedure and guidance which complies with the ACAS Code of Practice for addressing cases of misconduct by staff. To ensure that all staff are aware of what is expected of them. To ensure that when disciplinary concerns are raised, they are addressed appropriately.
Start date of Equality Analysis Screening	March 2025
End date of Equality Analysis Screening	May 2025

Section 2	Impacts
Who does the Policy, Service, Function, Strategy, Code of practice, Guidance, Project or Business plan benefit?	All Trust Staff to comply with the procedure. Those responsible for the implementation of this procedure should ensure it is carried out in a fair and consistent way
Will the Policy, Service, Function, Strategy, Code of practice, Guidance, Project or Business plan impact negatively on any of the protected characteristic groups?	<ul style="list-style-type: none"> • Race (including Gypsy and Traveller) NO • Disability (includes physical, learning, mental health, sensory and medical disabilities) NO • Sex (Men, women, and gender neutral etc.) NO • Gender reassignment (Transgender and gender identity) NO • Sexual Orientation (Lesbian, Gay, Bisexual and Heterosexual etc.) NO • Age (includes, young people, older people – people of all ages) NO • Religion or Belief (includes faith groups, atheism, and philosophical beliefs) NO

	<ul style="list-style-type: none"> • Pregnancy and Maternity (includes pregnancy, women who are breastfeeding and women on maternity leave) NO • Marriage and Civil Partnership (includes opposite and same sex couples who are married or civil partners) NO • Veterans (includes serving armed forces personnel, reservists, veterans, and their families) NO
Describe any negative impacts	The potential for inconsistency in decision making.
Describe any positive impacts	This guidance provides key information and support to those involved in managing disciplinary concerns. Implementation will involve monitoring of outcomes, training and awareness and guidance to support consistency and fairness in decision making.

Section 3	Research and involvement
What sources of information have you considered? (e.g. legislation, codes of practice, best practice, nice guidelines, CQC reports or feedback etc.)	ACAS Code of Practice, Employment Rights Act 1996 Focus groups. The Big Conversation
Have you engaged or consulted with service users, carers, staff, and other stakeholders including people from the protected groups?	Yes, a working group was established including staff side, General Managers and reps from P&C. Several meetings took place, and feedback was a collective agreement in terms of the proposed updates.
If you answered Yes above, describe the engagement and involvement that has taken place	As above, Policy working group and JCC
If you answered No above, describe future plans that you may have to engage and involve people from different groups	NA

Section 4	Training needs
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As part of this equality analysis have any training needs/service needs been identified?	No formal training
Describe any training needs for Trust staff	Awareness information/sessions for existing managers and General managers. In-depth session for new managers (on all the HR procedures) as part of their local induction.
Describe any training needs for patients	NA
Describe any training needs for contractors or other outside agencies	NA

Check the information you have provided and ensure additional evidence can be provided if asked.

Appendix 2 – Approval Checklist

	Title of document being reviewed:	Yes / No / Not applicable	Comments
1.	Title		
	Is the title clear and unambiguous?	Yes	
	Is it clear whether the document is a guideline, policy, protocol or standard?	Yes	
2.	Rationale		
	Are reasons for development of the document stated?	Yes	
3.	Development Process		
	Are people involved in the development identified?	Yes	
	Has relevant expertise has been sought/used?	Yes	
	Is there evidence of consultation with stakeholders and users?	Yes	
	Have any related documents or documents that are impacted by this change been identified and updated?	Yes	
4.	Content		
	Is the objective of the document clear?	Yes	
	Is the target population clear and unambiguous?	Yes	
	Are the intended outcomes described?	Yes	
	Are the statements clear and unambiguous?	Yes	
5.	Evidence Base		
	Is the type of evidence to support the document identified explicitly?	Yes	
	Are key references cited?	Yes	
	Are supporting documents referenced?	Yes	
6.	Training		
	Have training needs been considered?	Yes	

	Title of document being reviewed:	Yes / No / Not applicable	Comments
	Are training needs included in the document?	Yes	
7.	Implementation and monitoring		
	Does the document identify how it will be implemented and monitored?	Yes	
8.	Equality analysis		
	Has an equality analysis been completed for the document?	Yes	
	Have Equality and Diversity reviewed and approved the equality analysis?	Yes	04 May 2025 approved by E&D (AH)
9.	Approval		
	Does the document identify which committee/group will approve it?	Yes	
10.	Publication		
	Has the policy been reviewed for harm?	Yes	
	Does the document identify whether it is private or public?	Yes	public
	If private, does the document identify which clause of the Freedom of Information Act 2000 applies?	n/a	

Appendix 3 – Fact Finding Pro Forma

DISCIPLINARY FACT FINDING PROFORMA

Proforma to be completed by the Service Manager / Matron / Therapy Lead and any other people raising the concern and sent to the allocated General Manager or nominated deputy within 7 days. Please seek guidance/advice from People Partner prior to completion.

Please complete all sections in the orange boxes

Fact-Finding Review									
Name of Staff Member:									
Job Title of Staff Member:							Band:		
Ward / Team:									
Service / Directorate:									
Are they in a union?	Yes No Don't Know	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	If yes, which union are they in? Please provide name and contact details if known						
Date/Time of the Incident / Concern <small>- If multiple concerns, please list each date and time individually.</small>									
Describe Incident / Concern: <small>- Please provide as much detail as possible including the details of the concern, any impacts on the Trust/Service Users/Staff Members</small>									
Mitigation and Explanations Provided <small>- Please provide as much detail as possible about the mitigation, explanations, and any additional information that was provided by the employee regarding the incident.</small>									
Name of Responsible Manager <small>- (Service Manager / Matron / Therapy Lead) Include the name and job title any other individuals gathering the evidence:</small>									
Is the person currently at work? <small>- If not at work, please specify the status and duration (e.g. special leave, annual leave, sickness absence)</small>			Yes No	<input type="checkbox"/> <input type="checkbox"/>					
Have any temporary support or adjustments been made? <small>- Please include the duration and outline any adjustments that have been made, such as temporary change to job, non-patient facing activities etc.</small>			Yes No	<input type="checkbox"/> <input type="checkbox"/>					
Is this a criminal offence? <small>- Consider whether Police / Security Management Specialist or the Local Counter Fraud Specialist needs to be contacted. (If unclear contact the People and Culture Operational Team).</small>			Yes No	<input type="checkbox"/> <input type="checkbox"/>					
<i>Note: If the Police are involved then they may direct the next steps to prevent any impact on their investigation.</i>									
Has there been any harm caused? <small>- Please detail any harm have arisen as a result of the concern, including any physical or emotional harm (if known).</small>			Yes No	<input type="checkbox"/> <input type="checkbox"/>					
Have you reported any safeguarding issues? <small>- If yes, please specify the contact details from Safeguarding Team. If unclear, contact the Trust's Safeguarding Team)</small>			Yes No	<input type="checkbox"/> <input type="checkbox"/>					
Is CCTV in operation where the incident occurred or in the vicinity? <small>- If yes, CCTV must be saved, reviewed, and considered in decision making process.</small>			Yes No	<input type="checkbox"/> <input type="checkbox"/>					
Has CCTV of the incident been reviewed?	Yes No N/A	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Has CCTV of the incident been saved? <small>Including a suitable time either side of the incident.</small>		Yes No N/A	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>			

Where is the CCTV saved and who is the contact for access?					
CCTV Summary: - Provide a brief overview of what the CCTV shows, including key timestamps.					
Embed statements gathered from witnesses, the person affected, or details of all involved if this is not possible: - Consideration should be given to gathering statements from non-trust staff, patients, or family if appropriate. - All statements MUST be signed and dated and use the standard statement proforma where possible.					
Have you advised all parties involved that the statements will be shared? <small>Including externally where appropriate including NMC, ICO, LADO, DBS, Safeguarding etc.</small>	Yes N/A	<input type="checkbox"/> <input type="checkbox"/>			
Have you secured / preserved any written records relevant to the incident?	Yes No	<input type="checkbox"/> <input type="checkbox"/>	Have you provided copies of digital information including Paris notes / DATIX etc?	Yes No	<input type="checkbox"/> <input type="checkbox"/>
If yes, provide details including INPHASE number:					
Is this a potential Information Governance breach, misuse of computer issue? If YES contact the IG team for advice. <small>Note: Computers may need to be examined or even seized in certain circumstances</small>				Yes No	<input type="checkbox"/> <input type="checkbox"/>
List any relevant policies / protocols that may have been breached?					
Is there anything else that the General Manager (or nominated deputy) may need to be aware of? (E.G. previous concerns/live sanctions).				Yes No	<input type="checkbox"/> <input type="checkbox"/>
If YES, provide details:					
DECLARATIONS					
Please be aware information provided in this proforma – including any narrative – may be shared with relevant parties as part of the Managing Concerns of Conduct Procedure including with the subject of the concern.					
Name and Job Title: <small>Of person completing the fact-find</small>					
Signature: <small>Can be electronic</small>					
Date of submission to Service Manager / Matron / Therapy Lead:					
Name and Job Title: <small>Of person completing the fact-find</small>					
Signature: <small>Can be electronic</small>					

A more accessible version of this form is available on request.

Appendix 4 – General Manager Decision Pro Forma

GENERAL MANAGER/IRG DECISION

To be completed by the General Manager, nominated deputy or chair of IRG making the decision for the next steps. To be recorded and stored on involved employee's personnel file. Please note, if additional information is required, please go back to the person reporting the concern to gather this.

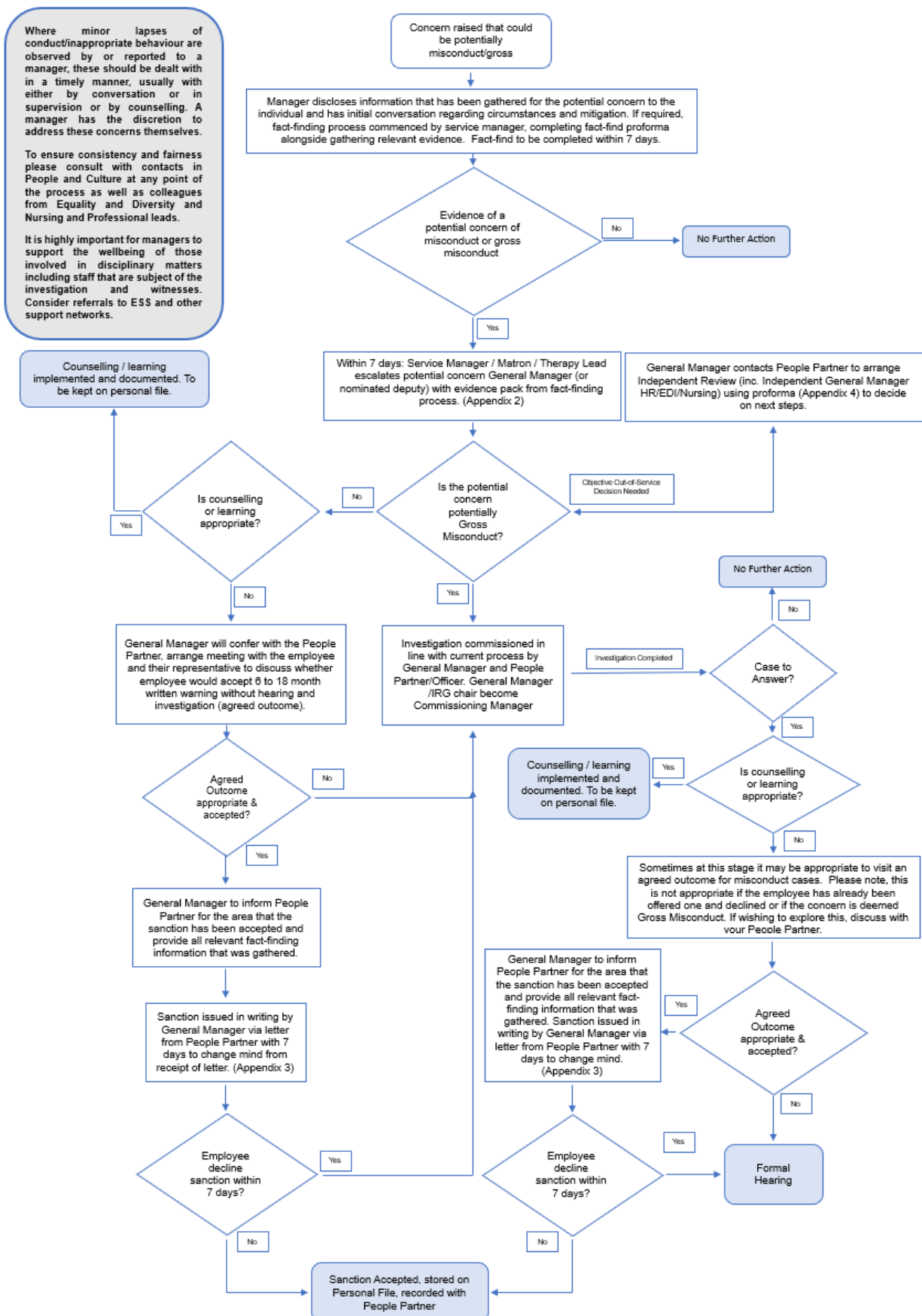
Please complete all sections in the orange boxes

Management Decision				
Decision Maker Name:				
Job Title of Decision Maker:		Band:		
Ward / Team:				
Service / Directorate:				
Is there training available? - Was there training available to the individual that had been completed? Consider how regularly this training is completed. Provide details of the training.	Yes No	<input type="checkbox"/> <input type="checkbox"/>		
Colleague Behaviour: - Is the behaviour very different to what colleagues / peers with comparable experience and skills would do in similar circumstances?	Yes No	<input type="checkbox"/> <input type="checkbox"/>		
Policies: - Is there any guidance, policies or procedures, professional / Trust standards available? Are they clear and accessible?	Yes No	<input type="checkbox"/> <input type="checkbox"/>		
Potential Concern Level Assessment: - According to the policy guidance and support from People Partner, is the concern likely to be considered Misconduct or Gross Misconduct? Provide rationale.	Misconduct <input type="checkbox"/>		Gross Misconduct <input type="checkbox"/>	
Is counselling appropriate? - If decision is something other than counselling, please outline reasons why this isn't the preferred option.	Yes No	<input type="checkbox"/> <input type="checkbox"/>		
Is an agreed outcome appropriate? - If decision is something other than counselling or agreed outcome, please outline reasons why this isn't the preferred option.	Yes No	<input type="checkbox"/> <input type="checkbox"/>	<ul style="list-style-type: none"> If it felt to be a fair way of dealing with the misconduct. If the alleged misconduct is an isolated incident, and the employee has a previous record of good conduct. It is not an allegation that could constitute gross misconduct The employee fully admits to the misconduct and/or after investigation does not dispute the facts of the case. 	
Specialist advice sought? - Have you requested support and advice from any other specialists? Please highlight everyone that advice was sought from. - If other, please provide details.	People Partner EDI ADN/Nursing Safeguarding Patient Safety Temp Staffing Staff Side IG Other	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		
Decision: - Please indicate which option has been agreed on.	NFA <input type="checkbox"/>	Counselling <input type="checkbox"/>	Agreed Outcome <input type="checkbox"/>	Investigation <input type="checkbox"/>

Allegations: - If outcome is 'Agreed Outcome' or 'Investigation', please provided allegation(s) making up the concern:			
Allegations Additional Information: - Please provide any additional information that may be relevant for the allegations.			
Suspension Required? - If considering suspension, please consult with People Partner in the first instance.	Yes No	<input type="checkbox"/> <input type="checkbox"/>	
Alternative to Suspension Required? - Please provide details of what the alternative to suspension will be, and why this is required.	Yes No	<input type="checkbox"/> <input type="checkbox"/>	
Date of Decision: - Date final decision made by General Manager / Matron / Therapy Lead.			
Name and Job Title: Of person completing the fact-find			
Signature: Can be electronic.			

A more accessible version of this form is available on request.

Appendix 5 – Disciplinary Flow Chart



Appendix 6 – Managers Guide to Decision Making

Ensuring Careful, Balanced, and Fair Decisions

It is essential that a thorough process to understand the facts is completed and evidence is used to confirm the facts if possible. As a decision maker you need to have a genuine belief that something happened, therefore decisions should always be based on all the information provided. If you believe information is missing or incomplete it is vital to request this before you continue, if this causes a delay, ensure this is communicated to everyone involved.

When you have all the information you believe is necessary and possible to find, consider the facts and incidents as they stand alone, but also whether there is a pattern of behaviour, this might be established through various pieces of information and evidence. Some information may seem unimportant in isolation but put together could show a different view. The context, culture and environment in which events happened is also important.

Even if someone did not intend to cause harm or impact someone, the impact is important, particularly when concerns could be harassment and discrimination. If only two people were present, and they have different views about what happened, it is unlikely that there will be evidence or witness statements. It is likely that you will need to weigh up different versions of what happened and use what information you do have to carefully find any evidence, to decide one way or the other, based on the balance of probabilities.

Considering Reliability of Information

In every decision, you should remain objective and consider the reliability of the information, this will include thinking about:

- The quality and consistency of witness statements or information.
- If the information be validated with other evidence or information found.
- If any party has a motive to lie about the information they have provided?
- If the behaviour or event seems more likely than not to have happened?

Recording Decisions

Keeping a clear written record to show decision making, is essential and will be used if there is a need to review the decision. Records should demonstrate and articulate how the information was used to reach a reasonable belief and on the balance of probabilities. Records should be gathered and kept with other related documents on one file.

Appendix 7 – Examples of Misconduct for Agreed Disciplinary Outcomes

Agreed outcomes should only be used for cases that would be considered misconduct. If any allegations may constitute gross misconduct as determined by the General Manager / Matron / Service Lead, an agreed outcome would not be considered.

Breaches of the following rules usually warrant the issue of a written warning, final written warning, or dismissal with notice, depending upon the circumstances (Dismissal with notice for misconduct will normally be because of repeated warnings):

If any of the below occur for the first time, consideration should be given to whether it can be dealt with under a 12 month written warning as agreed with the employee and employee support without the need for hearing. If you are unsure, contact HR for advice.

Please note that this list is not exhaustive:

- a) Unacceptable behaviour/conduct towards patients.
- b) Unauthorised absence.
- c) Abuse or misuse of sickness pay/leave provisions.
- d) Abuse or misuse of study leave provisions.
- e) Breach of contract/terms and conditions of employment.
- f) Participating without authority in other employment, trade, business, or profession which is prejudicial to, or which adversely affects, employment with the Trust.
- g) Private trading on Trust premises without permission (by Management) – whether for personal profit or not.
- h) Failure to carry out reasonable instructions given by management effectively and in a timely manner.
- i) Failure to report incidents in line with the policies and procedures of the Trust.
- j) Unacceptable conduct contrary to any NHS policies, guidelines and standards as amended from time to time.
- k) Any conduct or performance bringing the NHS/the Trust into public disrepute (including inappropriate use of social media).
- l) Any breach of the Trust's standing orders and financial standing instructions.
- m) Breach of the Trust's IT security policies.
- n) Any breach of directorate, department or human resource policy rules or procedures
- o) Failure to adequately perform duties of individual job descriptions.
- p) Misuse or abuse of facilities or time off provisions granted to Trade Unions and Professional Organisations.
- q) Breach of the Health and Safety rules and/or statutory regulations regarding Health and Safety.
- r) Failure to ensure the safe keeping of personal identifiable information or commercially sensitive information.
- s) Failure to protect and ensure the safekeeping of Trust property including lease cars.
- t) Carelessness or negligence in the performance of duties.
- u) Breaches of the Trust Values and Behaviours.