

Disciplinary Policy

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HISTORY OF CHANGES			
Old version number	Date	Significant changes	New version number
V.1	04.06.13	<ul style="list-style-type: none"> • Clarification of roles and responsibilities of the CCG, managers, HR, employees and Trade Union Representatives • More in depth guidance for managing minor misconduct informally • Clarification of guidance and procedures if suspension of an employee is necessary • Modification of timeframes around investigations and notice given for investigation meetings 	
V.2.	17.01.19	<ul style="list-style-type: none"> • Policy to include the six pan- Staffordshire CCGs • Added definitions of key terms • Added General Pharmaceutical Council to list of Professional Bodies 	

CONSULTATION SCHEDULE

Name and Title of Individual	Groups consulted	Date Consulted
Staff Engagement Group	Internal	December 2018
Associate Director of HR	Internal	January 2019
Local Staff Side Reps incl Unison, MiP, RCN	External	February 2019

RATIFICATION SCHEDULE

Name of Committee approving Policy	Date
Communications, Engagement, Equality and Employment Committee	26 th February 2019
Governing Bodies	See front sheet

Impact Assessments – available on request

	Stage	Complete	Comments
Equality Impact Assessment	1	22/11/18	Strengthened Equality statement
Quality Impact Assessment	N/A		
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1.0 INTRODUCTION

The overall aim of this policy is to help correct inappropriate behaviour or conduct in a fair and consistent manner.

The six Staffordshire Clinical Commissioning Groups (the CCGs); expect all employees to meet high standards of behaviour. It is important, therefore, that employees understand their obligations and rights regarding this aspect of their employment.

This document sets out the general standards of conduct expected of all employees (see Section 5), identifies the circumstances in which disciplinary action may be taken and explains the sanctions available to Managers.

This policy will apply where an employee's conduct is considered to be unsatisfactory. Where health and performance capability issues are identified, please refer to the CCG Capability and Attendance Management Policies.

Breaches of discipline should be handled constructively and disciplinary decisions should be taken in a consistent, fair and reasonable manner. The aim should always be to encourage improvements in conduct and performance.

This policy will be applied equally to all staff covered by the policy and in accordance with the CCG Equal Opportunities Policy. The fair and equitable implementation of this policy will be monitored by Human Resources.

2.0 SCOPE

This policy will apply to all employees of the CCG, including Medical and Dental staff where a matter of personal conduct is concerned. Medical & Dental professional misconduct/competency issues will be investigated separately in line with Maintaining High Professional Standards in the Modern NHS (Dept of Health).

3.0 POLICY STATEMENT

The employee will have the right of representation by a recognised Trade Union Representative or workplace colleague through all formal stages of the disciplinary procedure.

Employees will not normally be dismissed for a first offence except in cases of gross misconduct/negligence.

Employees will have the right of appeal against any disciplinary sanction applied.

The procedure may be implemented at any stage dependent upon the individual circumstances of each case. Sanctions need not be applied sequentially.

4.0 DEFINITIONS

Term	Definition
Investigation	The process of gathering information, checking documentation and drawing up a sequence of events, to establish if an allegation or complaint has any substance
Investigating Manager	The person nominated to investigate the allegations made as a result of information, evidence or a complaint being received: they also has responsibility for presenting evidence at a disciplinary hearing

Representative	This would either be a representative of the employee's Trade Union or a work colleague; this includes employees of the CCG or local authority who are part of a joint service
Accredited Representative	An accredited Staff Representative(s) or full-time official(s) of a recognised staff organisation
Accredited Staff Representative	An accredited Staff Representative is an employee of the CCG who represents their union. Their role is recognised and supported by the CCG.
Disciplinary Hearing	A meeting arranged where both parties (manager and employee) have the opportunity to present their case calling relevant witnesses and detailing evidence – during a hearing the employee is entitled to be represented by a union representative or work colleague
Disciplinary Hearing Manager	The Senior Manager or Director who has not been involved in the investigation and who is authorised to hear the evidence put forward for consideration – they also have the authority to issue disciplinary sanctions / other recommendations up to a stated level (see Appendix 2)
Disciplinary Panel	This consists of the Disciplinary Hearing Manager, who may be supported by specialist advisors (who are present at the hearing),
Appeal Hearing	HR or other supporting managers A meeting where the employee and the manager (disciplinary panel) issuing the original disciplinary sanction have the opportunity to present their case.
Appeal Hearing Manager	The Senior Manager or Director who has not been involved in the investigation or disciplinary and who is authorised to hear the appeal and decide the outcome
Appeal Hearing Panel	This consists of an Appeal Hearing Manager, who may be supported by specialist advisors, HR or other supporting managers who were not involved in the investigation or disciplinary hearing

5.0 RESPONSIBILITIES

This policy and related procedures have been written and agreed through a partnership of managers, Trade Union representatives and Human Resources.

5.1 *Responsibility of the CCG*

The responsibility for the provision of an agreed Disciplinary Policy lies with the CCG Senior Leadership Team / CEEE Committee.

The CCGs accept that they will have responsibility for the smooth running of the organisation and to ensure that any such disputes are settled in a fair and consistent manner.

5.2 *Responsibility of Human Resources*

To provide advice and support to managers in relation to the application of this policy.

To ensure that the Disciplinary procedure is applied fairly, equitably and consistently throughout the CCG.

Human Resources will monitor all formal disciplinary activity across the CCG and organise relevant training sessions.

To provide advice and support at all stages of the formal disciplinary process.

5.3 *Responsibility of Managers*

It is the responsibility of all managers employed within the CCG to make sure they are aware of the Disciplinary Policy and how to handle disciplinary issues, both informally and through a formal procedure.

Managers should ensure that they follow the guidelines of this policy, paying specific attention to the timescales set out under each stage.

5.4 *Responsibility of Employees*

Employees should ensure that they are aware of the general standards of conduct as outlined in this policy.

5.5 *Responsibilities of Accredited Trade Union Representatives*

Trade Union representatives have a duty to advise and represent their members, when they are subject to disciplinary proceeding or required to provide information as part of a formal disciplinary investigation.

6.0 **GENERAL STANDARDS OF CONDUCT**

It is important that all employees are clear about the standards of conduct expected by the CCG. The following list, which is not intended to be exhaustive, outlines some specific examples of the standards required:

- Employees are representatives of the CCG and, as such, it is important to present patients, their relatives, friends and other visitors with a professional and caring image that is reinforced with attitudes and behaviours demonstrating courtesy, responsiveness, friendliness and appropriate work attire.
- Employees should attend work punctually and regularly.
- Reasonable requests/instructions from the employee's Manager should be carried out promptly and efficiently to the required standard.
- Employees must not absent themselves from duty without first gaining appropriate authorisation from their Manager.
- All types of leave must be approved in advance by the appropriate authority, usually the employee's Manager.
- Regarding the notification of sickness absence, employees must comply with the Attendance Management Policy and should follow the local arrangements. Breaches in sickness reporting may result in payments being stopped and could lead to disciplinary action being taken.

Employees must comply with all CCG policies and procedures, the principles of the NHS Constitution and adhere to professional body guidelines and codes of conduct, as appropriate. Senior managers should abide by the Code of Conduct for NHS Managers (October 2002).

- Health and Safety policies and guidelines must be observed at all times.

- Use of telephones, mobile phones, email and internet must comply with the CCG policies regarding the use of such equipment.
- Employees must comply with the CCG Equal Opportunities Policy and must treat other workers, patients, their relatives, friends and other visitors with dignity and respect, free from intimidation and harassment.
- Employees must treat confidential information responsibly in line with the principles of the Data Protection Act 1998. This includes no misuse or inappropriate access of patient/confidential information systems (such as records held on Contact Point and other patient record keeping systems).
- Any work undertaken outside of the CCG employment must not adversely affect, hinder or conflict with the interests of the CCG.

7.0 RIGHT TO BE ACCOMPANIED

Employees have the right to be accompanied at any stage of the Formal Procedure by either an accredited Staff Representative(s) or full-time official(s) of a recognised staff organisation, or by a fellow worker who must be an employee of the CCG. Where reference is made in the procedure to an “accredited Staff Representative” this should also be taken to mean full-time official as appropriate.

However it would not normally be reasonable for employees to insist on being accompanied by a companion whose presence would prejudice the hearing nor would it be reasonable for an employee to ask to be accompanied by a companion from a remote geographical location if someone suitable and willing was available on site.

The companion should be allowed to address the hearing to present the employee’s case, respond on their behalf to any views expressed at the hearing and confer with them during the hearing. The companion does not, however, have the right to answer questions on the employee’s behalf, address the hearing if the employee does not wish it, or prevent the employee from explaining their case.

If an employee’s companion is unavailable, it is the responsibility of the employee, so long as it is deemed reasonable to suggest another date which is not more than five working days after the original date of the Hearing or Appeal Hearing.

Employees have no right under this procedure to be accompanied by anyone else (e.g. a spouse, partner, other family member, or legal representative) other than those persons previously referred to.

8.0 ACCREDITED STAFF REPRESENTATIVES

Disciplinary action against an accredited Staff Representative can lead to a serious dispute if it is seen as an attack on their functions. Whilst normal disciplinary standards apply to their conduct as employees, the relevant full-time official must be notified of any action (including suspension) which it is proposed to take. In any event, disciplinary action must not be taken against an accredited Staff Representative until the relevant full-time official can be present at any formal Disciplinary Hearing.

9.0 TIME LIMITS

It is acknowledged that all action outlined in this procedure should take place in a prompt and timely manner without unreasonable delay. The time limits set out in this procedure are based on working days and may only be varied by mutual agreement. Any investigation and subsequent hearing or appeal should be actioned as soon as is reasonably practicable to ensure the accurate recording of events. Managers and

employees should ensure that they take all reasonable steps to ensure that time delays do not occur.

10.0 CRIMINAL OFFENCES

All employees are required to inform their line manager immediately of any police investigations or criminal proceedings of any kind with which they are subject to. This will include being questioned by police and released on bail even if they have not been charged. An employee who is charged with a criminal offence (including a receipt of a summons) must also inform their Manager immediately. Notification about criminal proceedings, or a conviction (including bound over and cautions), will not be treated as automatic reasons for dismissal, or for any other form of disciplinary action being taken. Following disclosure the CCG will determine what action, if any, should be taken after the incident has been thoroughly investigated and facts of the case established.

The main consideration should be whether the charge/conviction is one that makes the employee unsuitable for their job and reference will be made to any reputational issues that may affect the CCG. Similarly, an employee should not be dismissed solely because they are absent from work as a result of being remanded in custody.

If during an investigation, it becomes apparent that an incident needs reporting to the police it is important to maintain confidentiality and ensure that any evidence is made available to the relevant authority.

In situations where the police or any other regulatory body e.g. Health and Safety Executive, Nursing and Midwifery Council, General Medical Council or General Dental Council is investigating an event, it is important that any internal investigation or disciplinary hearing should continue concurrently.

11.0 FRAUD

If a Manager suspects that fraudulent activity has taken place they should contact Human Resources in the first instance, who will be able to advise on the process for making contact with the Local Counter Fraud Team prior to any informal or formal disciplinary process taking place.

12.0 POLICY IN PRACTICE: PROCEDURE

12.1 *Informal Approach (Outside of Formal Procedure)*

Whenever possible, an informal approach should be the first step taken to help, guide or advise employees in improving their conduct or performance. Dealing with minor disciplinary breaches through the formal stages of the procedure should only be considered if misconduct continues.

When dealing with unauthorised absence from work, it is important to determine the reasons why the employee has not been at work. If there is no acceptable reason, the matter should be treated as a conduct issue and dealt with as a disciplinary matter.

If the absence is due to genuine (including medically certified) illness, the issue becomes one of incapacity and the Attendance Management Policy should be followed.

Where levels of performance are unsatisfactory for example poor quality of work, missed deadlines or low volume of work, this needs to be managed in a constructive and supportive framework and the Capability Policy should be followed.

Where managers are addressing minor conduct issues with employees, an informal meeting should take place between an employee and Manager to identify and examine

the area(s) of concern, ensure future expectations are clearly understood and, where appropriate, develop an action plan leading to improvements.

Where conduct does not meet acceptable standards, the employee should be advised in writing that the matter will be referred to the formal stages of the disciplinary procedure.

12.2 *Formal Stages of the Disciplinary Procedure*

Investigation Process

The purpose of the investigation is to:

- Ascertain the facts as far as is reasonably practicable
- Give the employee an opportunity to offer an explanation
- Enquire into the circumstances surrounding the alleged misconduct
- Take a balanced view of the information that emerges
- To prepare an investigation report detailing the main findings

It is important and in the interests of both employer and employee to keep written records during the disciplinary process. These should include:

- The complaint against the employee
- The employee's defence
- Findings made and actions taken
- The reason for actions taken
- Whether an appeal was lodged

The manager leading an investigation will be referred to as the Investigating Manager for the purposes of this procedure. The CCG will appoint an appropriate Investigating Manager with suitable authority who may be from within or external to the CCG. The Investigating Manager should not be directly or personally connected with the issues involved. The Investigating Manager will not sit on the Disciplinary panel, but will be present at the Disciplinary Hearing to present the management case.

A record should be kept of either the date of receipt of a complaint/allegation, or the date when a complaint/allegation is identified as a potential breach of conduct, capability issue or poor performance in line with the Capability Policy.

An employee who has had a complaint/allegation made against them will, as part of the investigation, be invited to attend a fact-finding interview in order to clarify the circumstances and facts relating to the complaint/allegation. A letter detailing the complaint/allegation and the right to be accompanied should be sent to the employee giving her/him a minimum of five days' notice of the meeting. Where known, this letter will be copied to the employee's representative. It is important to ensure that the employee understands the allegations made against them particularly if there is a difficulty with reading or English is not their first language.

Confidentiality for all those involved must be respected at all times. However, when conducting an investigation resulting in possible disciplinary action, information must be provided to those involved (which might include non - employees) and employees are obliged to co-operate with these procedures. The investigation should only involve those people necessary in gathering sufficient information to make a decision on the correct course of action, whilst making it clear to those interviewed that a breach of the CCG principles on confidentiality could be a disciplinary offence.

Copies of meeting records should be given to the employee including copies of any formal minutes that may have been taken. In certain circumstances, it may be permissible for the employer to withhold some information e.g. to protect a witness.

The identity of the individual who has raised a concern will be protected upon request and will not be disclosed without consent. However, the employee must be made aware that they may be asked to present evidence to substantiate any allegations made and/or to provide a written statement, without which investigations may not be able to proceed.

Victimisation of staff who raises concerns reasonably and responsibly is prohibited under the Public Interest Disclosure Act and the CCG will ensure that staff are protected from victimisation in these circumstances. The CCG may be held vicariously liable for a co-workers act of bullying/harassment. Please refer to the Whistleblowing policy for further guidance.

Records should be kept no longer than is necessary in accordance with the Data Protection Act 1998 and General Data Protection Regulations 2018bm.

Wherever possible, investigations should be completed, including the fact-finding interview with the employee, within a span of twenty working days unless otherwise mutually agreed.

Statements from any witnesses and any other relevant documentary information should be obtained by the Investigating Manager without delay. Adequate time and notice, however, should be given to employees producing statements, which may include gaining any support/guidance from their accredited Staff Representative, as appropriate.

It is the Investigating Manager's responsibility to investigate and obtain all relevant information and take all reasonable steps to determine the validity and accuracy of the complaint/allegation made against the employee.

It is the Investigating Managers responsibility to advise if there is any case to answer and recommend if the employee should be invited to a disciplinary hearing. The Investigating Manager will clarify the allegations and present the case against the employee at any disciplinary hearing.

12.3 *Suspension*

The decision to suspend an employee from duty should not be taken lightly or without careful consideration of all the circumstances and the nature of the complaint / allegation made. Suspension is not a disciplinary measure; it is a means of carrying out further enquiries.

During suspension the employee will receive their normal pay in accordance with her/his planned working arrangement, providing they are otherwise available for work.

The following list, whilst not exhaustive, provides an indication of the types of situation when suspension may be appropriate:
where Gross Misconduct is suspected or alleged;

- where it would not be possible to carry out a thorough investigation with the employee still present; or
- where there is a concern that further offences may occur;
- where there is a risk to life or limb;
- where a work permit has been suspended or expired.

However, such actions should not be taken without advice from Human Resources or consideration of alternative actions which may include:

- assignment in a similar role in another service or location;
- restricted duties in existing role or location;

- assignment to a different role which is within the knowledge and skills of the employee;
- supervision.

The authority to suspend staff sits with any manager with line management responsibility. Whenever possible, a meeting should be held with the employee and her/his accredited Staff Representative to advise her/him of the decision to suspend her/him from duty.

The Manager making the decision to suspend an employee must ensure the following steps are taken:

- the employee must be informed of the reason(s) why they are being suspended from duty;
- the employee must be advised that her/his suspension from duty is not a form of disciplinary action;
- that s/he will receive a letter confirming and summarising the reason(s) for the decision to suspend.

The employee should also be advised that:

- they must remain contactable and available during normal daytime hours (i.e. 9.00 a.m. to 5.00 p.m.) in order that they can attend meetings as required and not work for any another employer during the working hours that they would normally work for the CCG;
- they must notify the CCG of any changes of address/telephone number;
- they must not under any circumstances have contact with, or seek to influence, anyone associated with the complaint/allegation, or enter any of the CCG premises without having gained authorisation from the Investigating Manager;
- the suspension will be reviewed every ten working days by the Investigating Manager in conjunction with Human Resources and that the outcome of the review will be confirmed in writing;
- they can contact a nominated HR representative for support and status updates as appropriate;
- Counselling services via Occupational Health are available.

Suspension will cease in the following circumstances:

- where the Investigating Manager has decided that there is no case to answer and no requirement for the employee to attend a Disciplinary Hearing;
- where the investigation has been concluded and dismissal is not a possible outcome;
- where the Disciplinary procedure has been completed.

12.4 *Arranging Disciplinary Hearings*

In order to ensure that meetings do not have to be delayed or postponed at the last minute, the Manager hearing the case should agree a mutually convenient time and date for the Hearing with the employee(s) and their accredited Staff Representative or workplace colleague in accordance with the time limits set out in this procedure.

Where the accredited Staff Representative or workplace colleague cannot attend on the date proposed, the employee(s) can offer an alternative time and date so long as it is reasonable and falls before the end of a period of five days. In proposing an alternative

date the employee(s) should have regard to the availability of the Manager. For instance it would not normally be reasonable to ask for a new date for the meeting where it was known the Manager was going to be absent on business or on leave.

A letter containing details of the complaint/allegation, enclosing copies of all statements and/or written material gathered during the investigation, should be sent to the employee at least five working days in advance of the date set for the Disciplinary Hearing, unless otherwise mutually agreed. The letter should also disclose the name of the Manager(s) who will be hearing the case and details of any witnesses who will be present to give evidence at the Hearing. It should also inform the employee that they have the right to be accompanied at the meeting by an accredited Staff Representative or Workplace Colleague and that a possible outcome of the meeting, after due consideration of all the facts and circumstances, may be disciplinary action. The employee should also make available copies of any statements and/or written material which s/he intends to refer to, along with details of any witnesses who will be present to give evidence, no later than three working days prior to the Hearing.

Failure by either party to disclose written material in accordance with the above guidelines may result in this information being inadmissible at the Disciplinary Hearing. The Manager hearing the presentations will decide whether to admit information following discussion with the individuals present and having assessed the reason(s) for the late disclosure, including the possible significance of the information.

If the employee continually fails to attend a disciplinary hearing, the case will be heard in the employee's absence and the outcome of the hearing will be confirmed in writing to the employee.

12.5 *Departure from CCG employment Mid-Proceedings*

Should the employee being investigated leave the CCG's employment midway through the process (either during or pending a full investigation or hearing), depending on the nature of the allegations, the investigation or hearing may be conducted in their absence and the outcome confirmed to the individual in writing.

12.6 *Grievances raised during the Disciplinary Process*

Where an employee raises a Grievance during any stage of the formal Disciplinary Process, the disciplinary process may be temporarily suspended and the Grievance should be investigated in line with the CCG Grievance and Disputes Policy and Procedure. Where there is clear evidence to suggest that the Disciplinary and Grievance cases are related, it may be appropriate to deal with both issues concurrently.

13.0 DISCIPLINARY ACTION

Decisions relating to the level of disciplinary action to be taken, if any, will be a matter of judgement for the Manager(s) who has listened to the information presented during the Disciplinary Hearing. Managers will, however, need to consider:

- the seriousness of the disciplinary breach in question;
- the relevance and context of facts/information presented;
- the employee's previous employment record;
- issues relating to fairness, consistency and the substantial merits of the information presented; and
- whether any relevant disciplinary warnings are currently in existence.

13.1 Scheme of Delegation

DISCIPLINARY SANCTION:	TYPE OF MEETING:	SANCTION ISSUED BY:	WHO TO APPEAL TO:
WRITTEN WARNING	Disciplinary hearing followed by warning	CCG Manager with appropriate authority to issue sanction	CCG Manager with appropriate authority to issue sanction who has not previously been involved in the case
FINAL WARNING	Disciplinary hearing followed by written warning	CCG Manager with appropriate authority to issue sanction	CCG Manager with appropriate authority to issue sanction who has not previously been involved in the case
DISMISSAL	Disciplinary hearing followed by written statement of dismissal	CCG Director with delegated authority to dismiss	Accountable Officer

It may be necessary for other managers to be present at disciplinary interviews in addition to the above. Individual members of staff and their representatives will be informed of this in the "Notification of Disciplinary Hearing" letter as appropriate.

13.2 Written Warning

Where an informal approach has failed to have the desired effect, or if the infringement is of a more serious nature, the employee should be given a Written Warning. The employee should be advised in writing within five working days of the hearing, of the reason for the warning, the improvement or change in behaviour required, the consequences of any repetition or failure to improve and of their right of appeal. A copy of the Written Warning should be kept on file but should be disregarded for disciplinary purposes after 12 months from the date of issue.

13.3 Final Written Warning

Where a Written Warning has failed to have the desired effect, or where the infringement is sufficiently serious, the employee should be given a Final Written Warning. The employee should be advised, in writing within five working days of the date of the hearing, of the reason for the warning, the improvement or change in behaviour required, that any repetition or failure to improve or modify their behaviour may lead to dismissal and of their right of appeal. A copy of the Final Written Warning should be kept on file but should be disregarded for disciplinary purposes after two years from the date of issue.

13.4 Dismissal

The decision to dismiss will only be taken by a Manager with delegated authority to dismiss. Notification of dismissal will be confirmed within five working days of the Disciplinary Hearing. Dismissal on the grounds of lack of capability through ill health will be conducted as per the Attendance Management Policy.

Dismissal is the ultimate sanction against employees and will only be invoked where an employee's record does not improve after reasonable warnings, in accordance with the Disciplinary Policy. Where a single offence warrants dismissal (gross misconduct), this may be immediate with no entitlement to notice. Incorporated in this procedure at Appendix 1 is a list of offences which could, in certain circumstances, lead to dismissal. It is not a fully comprehensive or exhaustive list but is provided as a guide for staff and managers.

Following a Final Written Warning, no employee will be dismissed for disciplinary reasons unless:

- a full investigation into the latest alleged incident(s) has been carried out;

- the employee has been given the opportunity of stating their case at a disciplinary hearing.

Where the Final Written Warning has failed to have the desired effect, or where the infringement constitutes a breach of the CCG Disciplinary Rules (see Appendix 1), then the employee should be dismissed with appropriate notice and advised whether or not they are required to work their notice.

Where an employee is accused of an act of Gross Misconduct s/he may be suspended while the alleged offence is investigated. If, on completion of the investigation and the full disciplinary procedure, Management is satisfied that Gross Misconduct has occurred, the result will normally be summary dismissal without notice or payment in lieu of notice. Previous stages need not necessarily have been followed.

13.5 *Referral to Professional Bodies*

Where appropriate the CCG may consider referring a registered practitioner to a relevant professional body, for example, the General Medical Council, General Dental Council, General Pharmaceutical Council, Nursing and Midwifery Council or other professional body. The employee will be notified in writing of the referral reason.

13.6 *Alternative Sanctions to Dismissal*

In exceptional circumstances and as an alternative to dismissal under this procedure, Managers may (depending on the offence) consider the following options: transfer to another available post within the CCG; demotion to another available post within the CCG; and/or downgrading.

These sanctions would not attract any form of pay protection and each of these measures would be accompanied with a Final Written Warning. The demotion/downgrading will last for a period of two years, during which time the employee will not be eligible to apply for any post at the CCG above the pay banding of the post they are in. After this period the employee will be eligible to apply for any post they choose to.

The Final Written Warning should advise the employee of the reason for the warning, the improvement or change in behaviour required, that any repetition or failure to improve or modify their behaviour may lead to dismissal and of their right of appeal. A copy of the Final Written Warning should be kept on file but should be disregarded for disciplinary purposes after two years from the date of issue.

The proposal to transfer the employee to another available post within the CCG when demotion or downgrading is involved must be with the full agreement of the employee. Employees should be placed on the redeployment register by Human Resources for a period of 12 weeks and if no suitable alternative employment is found during this time period, the Employee will be dismissed from the CCG. The Manager cannot impose this decision on the employee. Where the employee does not wish to consider an alternative sanction to dismissal then the Manager hearing the case should confirm the dismissal decision.

14.0 **RIGHT OF APPEAL**

An employee may choose to appeal because:

- they think a finding is unfair;
- new evidence comes to light;
- they believe the process was not followed correctly.

Appeals should be made to the relevant person as outlined in the scheme of delegation within ten working days of the date on the letter confirming the disciplinary action clearly stating the grounds for appeal.

14.1 *Appeal Process*

As far as is reasonably practicable, the appeal will be heard within 20 working days of receipt of the request for an appeal.

The employee will be given ten working days' notice of the date of the hearing.

Details of any witnesses the employee may wish to call and any documentation relating to the allegations that they would like the panel to consider should be forwarded at least five working days before the date of the Appeal Hearing.

The CCG Appeal Hearing will follow the procedure set out in Appendix 2.

The decision of the CCG Appeal Hearing will be final. Any sanction or penalty applied as a result of the outcome of the disciplinary hearing can be reviewed by the Appeal Panel but the sanctions cannot be increased by the Appeal Panel.

15.0 MONITORING

The CCG will have responsibility to monitor the effectiveness of this policy and review it every 3 years in conjunction with Human Resources and Trade Union representatives. Where a review is necessary due to legislative change, this will happen immediately. Minor changes may be approved by the Accountable Officer

APPENDIX 1 - DISCIPLINARY RULES

The purpose of this appendix is to give an indication of the standards of behaviour expected of all staff by the CCG. It is not possible to specify all standards and those listed here are intended as a guide and should not be seen as an exhaustive list.

1.0 Gross Misconduct

It is important that all staff understand that there are certain behaviours that are deemed so serious by the CCG that, if proven, the outcome may be dismissal from CCG. This dismissal may be summarily, that is without notice.

1.1 *Theft or attempted theft*

Unauthorised removal with the intent to steal of property or money belonging to the CCG or belonging to other employees, patients or members of the public.

1.2 *Fraud / Deception*

Any deliberate attempt to obtain money or goods belonging to the CCG, other employees, patients or members of the public, through the falsification of any records or documents.

1.3 *Violence or assault*

Physical, verbal, sexual abuse or harm.

1.4 *Serious bullying or harassment of others.*

1.5 *Indecency or sexual offences.*

1.6 *Malicious damage*

Deliberate destruction or damage to CCG property.

1.7 *Corruption*

Including receipt of favours for contracts or information.

1.8 *Failure to disclose a criminal conviction*

Either at appointment or during employment.

1.9 *Giving false information and deliberate concealment at selection.*

1.10 *Inappropriate use of computers*

The use of computers to access inappropriate websites or the excessive use of computers inappropriately during working hours including accessing pornographic materials.

1.11 *Contravention of a statutory requirement*

working while contravening an enactment, or breach of rules laid down by statutory bodies such as erasure from the General Medical Council register, or the United Kingdom Central Council register, or loss of driving licence where driving is an essential component of the duties of the post.

1.12 *Unauthorised employment with another organisation whilst on sick leave*

1.13 *Wilful negligence*

Any action or failure to act that threatens the health and safety of any patient, member of staff or member of the public.

- 1.14 *Being unfit for duty*
Either due to alcohol or substance abuse.
- 1.15 *Deliberate disclosure of confidential information*
This includes abuse/misuse of patient information systems.
- 1.16 *Health and Safety*
Disregarding safety rules and regulations or serious negligence that endangers self or others.
- 1.17 *Discrimination/harassment*
Actions or language of a discriminatory nature that infringes the CCG Equal Opportunities policy.
- 1.18 *Abusive and insulting behaviour*
The use of threatening and abusive language to other employees, patients and members of the public.
- 1.19 *Criminal convictions outside work*
Convictions relating to activities outside work that have a direct bearing on an employee's employment with the CCG.
- 1.20 *Bringing the CCG into disrepute.*
- 1.21 *Unauthorised use of CCG Property / Equipment*
- 1.22 *Any other act of gross negligence*
A failure to exercise a duty of care which adversely affects the welfare of others.

2.0 Examples of Other Standards of Conduct

- Poor timekeeping
- Being rude to colleagues, patients or members of the public
- Failure to follow reasonable management instruction.
- Errors
- Unauthorised absence
- Minor breaches of health and safety
- Refusal to work with a colleague for an unacceptable or discriminatory reason
- Smoking in contravention of the CCG No Smoking Policy
- Engaging in employment outside the normal working hours of the CCG that adversely affects, hinders or conflicts with their work with the CCG and/or the interests of the CCG
- Failure to follow CCG policies and procedures

APPENDIX 2 - Conduct of Disciplinary Hearings

The Manager(s) hearing the presentations at the Disciplinary Hearing should not have had any prior involvement in the investigation.

The Hearing should be conducted in accordance with the following procedure:

1.0 Introductions

The Manager hearing the case should introduce all present, explain the purpose of the meeting (i.e. to consider whether disciplinary action is necessary) and explain how the hearing will be conducted. If the employee is accompanied by a staff side representatives or workplace colleague it should be noted that they will be able to present and sum up the employees case but cannot answer direct questions made to the employee.

2.0 Statement of Complaint/Allegation

The Manager hearing the case should establish precisely what the complaint/allegation is and invite the Investigating Manager to present her/his findings, including the tabling of all previously circulated statements and/or written material gathered during the investigation and the calling of any witnesses.

3.0 Employee's Reply

The employee should be given the opportunity to state their case and present evidence, including the tabling of all previously circulated statements and/or written material and the calling of any witnesses.

4.0 Civility

The Hearing should be conducted courteously and fairly, with the emphasis being to establish the facts. To this end, all parties should be free to ask questions politely and comment appropriately.

5.0 Summing Up

After general questioning and discussion, both parties should be given the opportunity to summarise their main points, with the employee having the right to go last.

6.0 Adjournment

The Manager(s) hearing the case should consider their decision in private. If it is necessary to recall one of the parties to clear any points of uncertainty on evidence already given, then both parties should be invited to return notwithstanding only one is concerned with the point giving rise to doubt.

7.0 The Decision

All appropriate parties should be recalled and the Manager(s) hearing the case inform them of their decision. This will be confirmed in writing within five working days of the hearing.

Should a decision not be made on the day, the panel will recall and inform all appropriate parties that a decision has not been made, but will confirm the outcome in writing within five working days of the hearing.

The employee should be given a written copy of the notes of the hearing for information purposes only.

8.0 CCG APPEAL HEARING

At the hearing of an appeal against dismissal the following procedure shall be observed:

All appeal hearings will be heard by a CCG Appeal Panel as detailed below.

8.1 *Appellant's Case*

The Appellant or the Appellant's Representative will put their case in the presence of the Management Representative and may call witnesses. The Management Representative will have the opportunity to ask questions of the Appellant and the Appellant's Representative and witnesses. The members of the Appeal Panel will have the opportunity to ask questions of the Appellant and the Appellant's Representative and witnesses. The Appellant or the Appellant's Representative will have the opportunity to re-examine witnesses on any matter referred to in their examination by members of the Appeal Panel or the Management Representative.

8.2 *Management's Case*

The Management Representative will state Management's case in the presence of the Appellant and the Appellant's Representative and may call witnesses. The Appellant or Appellant's Representative will have the opportunity to ask questions of the Management Representative and witnesses. The members of the Appeal Panel will have the opportunity to ask questions of the Management Representative and witnesses. The Management Representative will have the opportunity to re-examine witnesses on any matter referred to in their examination by members of the Appeal Panel, the Appellant or the Appellant's Representative.

8.3 *Summing-Up*

Both parties will have the opportunity to sum up their respective cases, with the Appellant having the right to go last. No new information may be introduced or referred to at this point in the appeal procedure.

8.4 *General*

Notwithstanding the above procedure, members of the Appeal Panel may at any time invite either party or a representative to elucidate or amplify any statement they may have made, or may ask questions to ascertain whether or not they propose to call any evidence in respect of any part of their statement. Alternatively, if the parties concerned are in fact claiming that the matters are within their own knowledge, they will be subject to examination as witnesses as described above.

The Panel may, at its discretion, adjourn the appeal in order that further evidence may be produced by either party to the grievance/dispute or for any other reason.

8.5 *Adjournment*

The Management Representative, the Appellant, the Appellant's Representative and witnesses will withdraw. The Appeal Panel will consider their decision in private only recalling both parties to clear points of uncertainty on evidence already given. If recall is necessary both parties shall return even if only one party is concerned with the point giving rise to doubt.

8.6 *The Decision*

When the Appeal Panel has reached its decision both parties will be recalled and the Chair of the Panel will inform them of their decision. The Chair to the Appeal Panel will write to both parties to confirm the Panel's decision within five working days of the Appeal Hearing including a copy of the notes of the meeting for information purposes.