

Disciplinary Procedure

Disciplinary Procedure

1. Introduction

1.1 Salisbury NHS Foundation Trust (the 'Trust') believes that disciplinary rules and procedures are essential in the workplace if acceptable levels of conduct are to be achieved. This procedure has therefore been developed to define such standards and to emphasise the Trusts desire to support employees' at all times. This includes the development of a culture where employees' are encouraged to learn from mistakes as they occur.

1.2 The procedure also confirms the processes that should be followed when an employee's conduct is perceived to fall below these acceptable levels.

1.3 This approach supports the NHS's desire to embed a culture of fairness, openness and learning and helps promote the notion that employees should feel confident to speak up when things go wrong, rather than fear blame. Therefore in all cases of concern linked to misconduct, an objective and prompt examination of the issues should be carried out to establish whether a formal investigation is warranted. Instead could training and development of the employee, coupled with further support, guidance or informal management be more suited to the situation.

1.4 Our Medical and Dental workforce are subject to a separate set of guidelines when considering matters of misconduct - please refer to the Trust's 'Handling Concerns about the Conduct and Performance of Doctors and Dentists Policy' for such matters.

2. Informal Management of Allegations

2.1. In most circumstances concerns about misconduct should be discussed informally between the line manager and the employee before any formal action is considered.

There are however certain circumstances where this may not be possible and where an act of misconduct would progress immediately to the formal stages of the disciplinary policy.

Appendix 1 provides examples of activities that the Trust interprets as misconduct and gross misconduct.

2.2. When a matter arises and the line manager chooses to initiate an informal discussion with the employee, they must still make it clear that the meeting forms part of the disciplinary process. As such and in advance of the meeting the staff member should be provided with a copy of the Disciplinary policy and this procedure, and a description of the matters that are to be discussed. This is to ensure that all parties are aware of the context of the meeting.

2.3. The purpose of the informal meeting between the line manager and the employee should be to:

- Define the concerns that have been raised.
- Establish the basic facts of the matter by providing the employee with the opportunity to verbalise their account and ask any questions.
- Through discussion, consider whether any underlying or contributing factors may have led to, or influenced, the sequence of events.
- Establish the behaviour/conduct that is required of the employee going forward, using examples taken from the Trust's values and beliefs. It is the line manager responsibility to ensure that the employee fully understands this requirement.
- Agree on potential consequences if this requirement is not achieved within a set timeframe i.e. progression to the formal stages of this policy.
- Establish next steps having considered the employees response to the raised concerns. These may include but are not restricted to:

- Agreeing that the misconduct will not happen again and confirming the consequences should similar behaviours be seen i.e. move to the formal stages of this policy.
- Identifying opportunities for development and / or learning and agree a mechanism to review that such learning has been achieved i.e. development of an action plan.
- Where capability issues are identified, initiate a Performance Management Action Plan under the Performance Management Policy.
- Confirming the case will progress to an investigation using the Trust's Disciplinary Policy and Procedure.
- Where necessary, initiate a temporary restriction of practice while an investigation into the case is undertaken.
- Where necessary, exclude the employee from the Trust while an investigation into the case is undertaken.

For each of the above options, support from a member of the People Operations Team should be sought.

2.4. It is advisable for all parties to record notes of the meeting for their own records. Any outcomes and/or plans must be followed up in writing by the Line Manager to ensure that communications are clear and that actions are fully understood. An example conduct action plan can be seen in appendix 2.

2.5. Where the need for formal action is identified (see section 3) and agreed by a member of the People Operations team, the line manager must confirm this in writing to the employee. This letter should detail how such a decision has been reached, the allegations that have been raised and the processes that will now be followed.

2.6 The Line Manager must review the Workforce Investigation policy and its associated procedure in advance of moving to the formal stages of this policy

3. Advancement to the Formal Stages of the Disciplinary Policy

3.1 When Should Moving to this Stage be Considered?

3.1.1. Advancement to the formal stages of the policy should be considered where the line manager has reasonable grounds to think:

- There has been no improvement in the individual's conduct despite agreements that were reached during the informal phase of the process.
- Where agreement about the required change in behaviour cannot be achieved informally.
- The individual's alleged misconduct is such that formal action is considered unavoidable (please refer to appendix 1).

Decisions linked to the above must be made in conjunction with a member of the People Operations team.

3.1.2. Once a decision to move to the formal stages of the policy has been agreed, the line manager, or another senior manager in the same department would normally be allocated the role of case manager and in accordance with the Trust's Workforce Investigation Policy commission an investigation to ascertain the facts of the matter.

If it is felt that the line manager is not the most appropriate person to fulfil the case manager role, for example they are named in, or are witness to, the matter under investigated, or they do not

have the required level or seniority to undertake the role, an alternative should be sought from the line managers peer group or from the next upwards tier of management. The People Operations Team must be involved in such a decision.

3.1.3 As per the Workforce Investigation Policy, the case manager will need to appoint an investigating officer to determine the facts of the matter.

3.1.4 Following completion of the investigation and review of the investigation report, the case manager with support from the People Operations team must decide upon the next course of action and whether a disciplinary hearing is necessary.

3.1.5 As such the case manager should write to the employee informing them of the investigation outcome. This would normally indicate either:

There is no case to answer – the case manager should share any learning from the investigation with the employee and discuss next steps i.e. any informal learning or any rebuilding of working relationships that may be required. Any exclusions or restrictions should be removed and if necessary a return to work programme introduced.

There is a case to be heard – the case manager should advise the employee in writing that a disciplinary panel is to be convened to consider the findings of the investigation. If the employee is excluded the case manager should review whether it is possible for them to return to the workplace to attend the hearing or whether an external venue needs to be sourced.

If the case manager believes an act of gross misconduct has been committed, the potential consequences of this should be clearly detailed in the letter so as to ensure that the employee is fully aware of the seriousness of the hearing.

3.2. Convening a Disciplinary Hearing

3.2.1 A disciplinary hearing should be held as soon as reasonably practicable following the conclusion of the investigation.

3.2.2 The case manager, with People Operations team support, should convene a disciplinary hearing panel which consists of:

A manager of appropriate seniority and authority to chair the hearing. This manager, who must not have had any previous connection to the case, must have the necessary decision making authority to align with the potential outcomes of the hearing i.e. authority to dismiss if necessary. This is discussed further in Appendix 3

An OD and People representative of appropriate seniority and/or experience.

For all registrant disciplinary hearings (e.g NMC/HCP) the chair should invite an appropriate professional advisor to support the panel. This could be for example, the Deputy Director of Nursing. The Chair, even if a registrant themselves should not take on this role and an additional panel member should be invited.

In disciplinary cases where specialist/ technical expertise is a factor, consideration should be made as to whether a relevant expert should be invited to join the panel in an advisory capacity.

3.2.3. The case manager should identify an appropriate person to act as notetaker during the hearing. For matters of efficiency the Trust may choose to record the hearing, however this measure would need to be agreed by all parties.

3.2.4. It is expected that the employee will attend the disciplinary hearing. They also have the right to be accompanied by their Trade Union representative, a work colleague who has no direct connection to the case or in exceptional circumstances and where agreed by the case manager, a family member.

3.2.5 The Trust reserves the right to refuse the employee from being accompanied by a work colleague whose presence it is perceived might undermine the disciplinary process.

3.2.6. Where an employee or their representative are unable to attend the first set date for the disciplinary hearing, the Trust must postpone to a time proposed by the employee, providing that the alternative time is both reasonable and not more than 5 working days after the date originally proposed.

If that date proves problematic the Trust would offer one further date that is both reasonable and not more than 5 working days after the date proposed by the employee.

If necessary the hearing would take place in the employee's absence on the second alternative date.

3.2.7 For all potential disciplinary hearing dates the employee will receive written confirmation at least five (5) working days in advance of the hearing. Please note. Every effort should be made to provide the employee with as much notice as possible and 5 working days should be seen as the absolute minimum.

This notification letter should detail:

- That the employee is being called to a disciplinary hearing.
- The date, time and venue of the hearing.
- The names and titles of the disciplinary panel members.
- The allegations or matters of concern subject to investigation, which will be explored during the hearing.
- The potential consequences if the allegations are substantiated.
- The right to be accompanied by either a Trade Union representative or a work colleague (who is not a relative and has no direct connection to the case).
- That any papers they wish to submit to the panel in response to the case manager's findings must be provided at least five (5) working days before the hearing date. It is appreciated that this timescale may need amendment if disciplinary hearings are arranged at very short notice by the Trust.
- That they have the right to invite witnesses, but that the Chair must be advised of the names and roles of the witnesses at least five (5) working days before the hearing date. It is appreciated that this timescale may need amendment if disciplinary hearings are arranged at very short notice by the Trust.
- Where the case involves alleged gross misconduct or instances of repeated misconduct, the employee should be advised that sanctions up to and including summary dismissal may be a possible outcome.

Alongside this letter the employee should also be sent the case manager's report, a copy of the Disciplinary Policy and Procedure and any other evidence that is to be presented by the case manager during the hearing.

Important

The staff member has the right to access all evidence that may be used in the case against them.

3.2.8 The employee and/or their representative are responsible for informing the case manager of any reasonable adjustments that may be necessary to ensure the employee's full participation in the process. Again any such request should be submitted at least five (5) working days before the hearing date. It is appreciated that this timescale may need amendment if disciplinary hearings are arranged at very short notice by the Trust.

3.2.9. The case manager is also responsible for requesting the attendance of any management witnesses.

3.3 Structure of the Disciplinary Hearing

3.3.1. As already discussed the disciplinary panel should consist of:

- The Chair.
- An OD and People Representative.
- For registrant hearings (e.g. NMC / HCPC), a professional advisor.
- For certain cases, a specialist/technical expert.

3.3.2. The Chair must ensure that a structured approach is followed throughout the hearing.

3.3.3. The Chair must ensure that both parties have an opportunity to present their case and ask relevant questions.

3.3.4. Either party can request an adjournment at any time during proceedings. The Chair has discretion to refuse such a request if they feel the facility is being abused.

3.3.5. Should either party wish to 'table' previously unseen evidence on the day, this must be agreed by all parties. In such instances, time must be made available for the information to be reviewed

If either party objects to the inclusion of the new evidence the Chair has discretion to allow its inclusion but must note the objection.

3.3.6. Following the presentation of both cases and associated questions, the Chair will adjourn to consider an outcome.

3.4 Disciplinary Sanctions

3.4.1. During the adjournment the panel should consider all presented evidence and any mitigating circumstances that have been provided by the employee and/or their representative.

3.4.2. In cases where there are conflicting accounts, the Chair may be required to reach a decision based on the balance of probability, taking into account all of the provided evidence.

3.4.3. The possible outcomes/sanctions available to the Chair are:

No Case to Answer

In such situations the case manager should share any learning from the investigation process with the employee and discuss next steps i.e. changes to working practices. Any exclusions or restrictions should be removed and if necessary a return to work programme introduced.

No paperwork related to the matter should be retained on the individual's personal file.

Informal Action

Any outcomes and/or plans should be presented in writing to the employee and followed up / reviewed where appropriate by the case manager.

First Written Warning

Such a warning, which would not normally exceed 12 months, should be detailed in writing to the employee explaining the corrections that are to be achieved, the training and support which will be available to help facilitate this and the potential consequences that the employee may face should the actions not be achieved.

Importantly the warning should be supported by a conduct action plan that is reviewed periodically throughout the period by the line manager (e.g. through 1:1's, supervisory meetings etc.).

The warning should remain live on the employee's record for the entire 12 months.

Final Written Warning

Such a warning, which would not normally exceed 18 months, should be detailed in writing to the employee explaining the corrections that are to be achieved, the training and support which will be available to help facilitate this and the potential consequences that the employee may face should the actions not be achieved.

Importantly the warning should be supported by a conduct action plan that is reviewed periodically throughout the period by the line manager (e.g. through 1:1's, supervisory meetings etc.).

The warning should remain live on the employee's record for the entire 18 months.

In cases relating to:

- abuse or negligence towards patients, fellow employees or the general public,
- or in cases of serious misconduct such as harassment, where dismissal was not warranted,

the record of the warning can be retained in the employee's personal file for a longer period even if the warning itself has expired. This longer period must be specified at the time of issue.

3.4.4 Consequences of Failing to Improve as per a Written Warning

Where formal warnings are given as a disciplinary sanction, correspondence to the employee must clearly define:

- The required standards of conduct that are to be achieved and maintained across the review period.
- The potential consequences the employee may face if they fail to achieve/maintain the required standards i.e. sanctions up to and including summary dismissal.
- The support mechanisms available to the employee to help them achieve the required standards.

3.4.5 Alternatives to Dismissal

Other disciplinary sanctions may be considered before a final decision to dismiss is taken.

These include:

- Demotion
- Transfer to an alternative post, band or working pattern

In such circumstances the employee would be appointed to the terms and conditions of the new role and would not be entitled to pay or allowance protection

As this process would be seen as an alternative to summary dismissal, the employee would not be given a notice period and would be issued with a new contract of employment immediately.

A final written warning would also be issued.

3.4.6 Dismissal

The Trust has clearly identified those staff who have the authority to dismiss. This is detailed in appendix 3.

Should the case manager believe an act of gross misconduct has been committed, they should request that the Chair of the panel has the necessary authority to dismiss. In such a scenario the Chair would then be classed as the Dismissing Officer.

A dismissal checklist is included in appendix 4

Should the panel reach the decision to dismiss, two options are available:

Dismissal with Contractual Notice.

Such a decision is generally associated with misconduct dismissals where a prior warning has been given.

Where dismissal with contractual notice is the sanction, the employee will be required to leave the work premises immediately and advised that payment in lieu of notice will be included with any other monies to which they are entitled e.g. accrual of annual leave entitlement in a final payment.

They will also be required to make arrangements to return Trust property including ID badges/keys/ IT equipment etc.

Summary Dismissal without Notice.

Such a decision is only applicable in relation to dismissals associated with acts of gross misconduct.

Examples of gross misconduct are included in Appendix 1

Where summary dismissal without notice is the sanction, payment will cease immediately and no payment in lieu of notice will be made. The individual will be required to leave the work premises immediately. They will also be required to make arrangements to return Trust property including ID badges/keys/ IT equipment etc.

3.4.7. Informing the Employee of the Hearing Decision

Once a decision has been reached the hearing will reconvene to inform the employee and their representative of the outcome. The Chair will outline if the allegations against the employee have been upheld and whether a sanction is to be applied. If a sanction is to be applied this will be explained.

The Chair should advise the employee and their representative of their right of appeal against the sanction highlighting the Notification of Appeal Form (Appendix 5). Details of who an appeal should be submitted to must be included in the hearing outcome letter.

The outcome of the hearing should be confirmed in writing to the employee and their representative within five (5) working days of the hearing.

If the Chair is unable to reach a conclusion on the day of the hearing, they must inform the employee and their representative of this and agree a timescale of no more than five (5) working days to reach a decision. This decision would then be communicated to the employee in writing as per the above.

Where requested, a copy of the hearing notes will be provided either as a photocopy of the handwritten notes, a typed transcript or a copy of the audio recording.

4. Appealing against a Sanction

When considering an appeal the employee should be aware that the Appeals Panel will not be required to re-hear the case already considered by the Disciplinary Panel.

Therefore every effort should be made to ensure that all relevant evidence is heard during the original hearing so as to enable that panel to reach an informed decision.

4.1 The Appeal Process

4.1.1 The employee has the right of appeal against sanctions imposed at each formal stage of the disciplinary procedure.

4.1.2 As part of the outcome letter from the disciplinary hearing, the Chair of the disciplinary panel will detail who any appeal should be submitted to and provide clear guidance as to timelines that need to be adhered to i.e. the Notification of Appeal Form to be received by the nominated manager within ten (10) working days of the employee receiving written notification of the decision made by the disciplinary panel.

4.1.3 An appeal can only be submitted in relation to the following circumstances.

- New information that was not available at the time the decision was made and sanction applied is now available.
- Undue severity or inconsistency of the penalty and/or:
- Failure to correctly follow Trust processes and/or procedures.

4.1.4 The appeal will be heard as soon as possible and normally within thirty (30) working days from receipt of the employee's Notification of Appeal Form.

4.1.5 The Appeals Panel should consist of a senior manager with the necessary seniority, experience and authority to act as Chair. In cases of appeal against dismissal, the Chair must have the authority to either uphold or overturn the original decision of the disciplinary panel. Ideally the Chair of the appeals panel should not have been involved in any of the earlier stages of the disciplinary process.

The panel should also consist of a senior OD and People representative and where a requirement of the original disciplinary hearing a specialist/professional expert of appropriate seniority to advise the panel. This may be an external professional.

Please note - Appeals against disciplinary action in regard to training doctor grades will always involve the Postgraduate Dean or their nominee.

4.1.6 The Appeals Chair will identify an appropriate person to act as note-taker. For matters of efficiency the Trust may choose to record the hearing, however this measure would need to be agreed by all parties.

4.1.7 The employee should be given at least five (5) working days' notice of the appeal hearing date. Please note. Every effort should be made to provide the employee with as much notice as possible and 5 working days should be seen as the absolute minimum.

4.1.8 The employee has the right to be accompanied at the hearing by a Trade Union representative, a work colleague who has no direct connection to the case or where agreed by the case manager, a family member.

4.1.9 The Trust reserves the right to refuse the employee from being accompanied by a work colleague whose presence it is perceived might undermine the appeal process.

4.1.10 Should an employee or their representative be unable to attend the first hearing date, and reasonable mitigating circumstances are provided, the Trust will look to rearrange.

In such a situation the Trust will look to provide a maximum of two alternative dates/times for the appeal hearing following cancellation of the initial event. If necessary the hearing will take place in the employee's absence on the second alternative date

4.1.11 The management representative will be requested by the Chair of the Appeals Panel to prepare a management response to the appeal. This response should be submitted to the Chair of the Appeal Panel no later than five (5) working days before the appeal hearing. The Chair of the Appeal Panel will forward this to the appellant to enable them to provide a full response at the hearing. It is appreciated that this timescale may need amendment if appeal hearings are arranged at very short notice by the Trust.

4.1.12 The role of the Appeals Panel is to consider the evidence presented from both sides and either uphold or reject the appeal.

4.1.13 Following the presentation of both cases and associated questions, the Chair will adjourn the hearing to reach a decision and, should a decision be possible on the day, inform the appellant and their representative of the outcome verbally.

The outcome of the appeal hearing should also be confirmed in writing to the employee and their representative within five (5) working days of the hearing

4.1.13 If the Chair is unable to reach a conclusion on the day of the hearing, they must inform the employee and their representative of this and agree a timescale of no more than five (5) days to reach a decision. This decision would then be communicated to the employee in writing as per the above.

4.1.14 The outcome of the appeal is final.

4.1.15 Where requested, a copy of the meeting notes will be provided either as a photocopy of the handwritten notes, a typed transcript or a copy of the audio recording.

5. Trust Referral Obligations

5.1. Referral to Professional Bodies

The Trust employs a number of professional staff groups, who are required, under statute, to abide by the professional standards laid out in their specific codes of conduct.

Where such a standard is breached, the Trust has a statutory and ethical obligation to report an incident or event to the relevant professional body for consideration.

This decision will be taken by the most senior professional lead from the division, in conjunction with the relevant professional lead for the Trust such as the Director of Deputy Director of Nursing.

Please refer to the Trusts 'Handling Concerns about the Conduct and Performance of Doctors and Dentists Policy' in relation to referral of a medical colleague to the GMC. Any referrals of this nature must be made by the Medical Director.

5.2. Safeguarding Children and Vulnerable Adults

The Trust has a statutory duty under the Safeguarding Vulnerable Groups Act 2006, to refer individuals to the Disclosure and Barring Service (DBS) where:

An individual is dismissed for misconduct associated with concerns pertaining to the safety or welfare of children or vulnerable adults.

An individual resigns or retires in circumstances where such a dismissal may otherwise have been considered (or an individual is made redundant, due to organisational change, and dismissal may otherwise have been considered).

An individual is transferred to a position which removes the need to care for children or vulnerable adults.

The Chair of the Disciplinary Panel will ask the case manager to work with the Trust's safeguarding team to make such a referral.

6. Criminal Charges and Convictions

6.1. Where an investigation establishes a suspected criminal action in the UK or abroad, this will be reported to the police.

In such circumstances the Trust's investigation will only proceed with aspects of the case that are not directly related to the police investigation. The Trust will consult with the police to establish whether an ongoing Trust investigation is likely to impede the police investigation.

7. Fraud

In cases of suspected fraud, the Trust's Counter Fraud Team should be contacted. Again this team should be consulted to ascertain whether ongoing Trust investigations may impede fraud considerations.

July 2021

1 - Examples of misconduct

APPENDIX 1

EXAMPLES OF MISCONDUCT

This list outlines activities that the Trust may define as **MISCONDUCT** if they occur regularly or continue following reasonable guidance and advice

Continued breaches may lead to disciplinary action

Cumulative breaches may lead to dismissal

This list is not exhaustive

- Attendance & hours - failure to fulfil contractual hours; deliberate misuse of timesheets, abuse of breaks, absent without leave.
- Timekeeping - failure to attend punctually and regularly. The distance of an individual's home from his place of work or any difficulty of access cannot be accepted as a reason for irregularity or warranting preferential hours.
- Notification of sickness and other absences - failure to follow appropriate reporting instructions for sickness, emergency leave, contact with infectious illnesses etc.
- Breaches of standing financial instructions and standing orders.
- Failure to maintain professional registration, failure to conform to professional codes of conduct and other legal requirements.
- Failure to disclose a criminal conviction or charge; failure to disclose significant health issues which may have an impact on working duties.
- Refusal/failure to obey reasonable management requests and instructions quickly and efficiently, omitting or neglecting to carry out reasonable orders or failing to observe operational requirements, policies or procedures.
- Confidential and commercial information - breach of confidence relating to staff and/or patients.
- Abuse of status or position when dealing with other staff or members of the public.
- Wilful, careless, inappropriate or unethical behaviour likely to compromise patient safety, or create serious dysfunction to the effective running of a service.
- Disrespectful behaviour such as sarcasm, mockery or mimicry, which cause personal offence.
- Conflict of interest including failure to disclose relationships to candidates for appointment.

- Breach of IG security and governance standards and Data Protection Guidelines, including misuse, inappropriate use or abuse of access to information systems including smartcards or access cards and passwords.
- Inappropriate use of social media, e.g. incidents of bullying of colleagues or bringing the Trust reputation in to disrepute.
- Health and safety breaches including failing to maintain a roadworthy motor vehicle if used for Trust business.
- Failure to hold a valid driving licence or adequate insurance if vehicle used for Trust business.
- Failure to adhere to the Trust's smoking policy.

EXAMPLES OF GROSS MISCONDUCT

This list outlines activities that the Trust may define as **GROSS MISCONDUCT** and which may lead to summary dismissal without the requirement of previous warnings.

This list is not exhaustive and other offences may constitute gross misconduct

- Theft, unauthorised removal of possessions or property.
- Fraud – e.g. any fraud or attempt to defraud the Trust or a member of the public in the course of official duties including falsification of timesheets and financial claims, not notifying the Trust of known overpayment, working elsewhere whilst reporting sick or undertaking private work when scheduled to be on duty/on call.
- Failure to comply with Standing Financial Instructions and Standing Orders.
- Deliberate falsification, unauthorised alteration or destruction of records.
- Corruption, improper practice and conflict of interest including; receipt of money, goods, favours or excessive hospitality in respect of services rendered and improper use of position in the Trust.
- Confidentiality Breaches – wilful breaches of confidentiality in connection with employment relating to patients, clients, staff and business.
- Assault and Fighting – e.g. assault upon an employee which takes place on Trust premises or upon a patient in the care of the Trust.
- Malicious Damage – to the Organisation's staff or patients property.
- Court, Criminal or Police Proceedings – of a type where the nature of the conviction and the individual's conduct warrants dismissal because of its employment implications.
- Negligence/Professional Misconduct.
- Misuse or misappropriation of drugs including failure to report incorrect administration of treatment or medication.
- Ill-treatment, neglect or abuse (verbal or physical) of staff, patients or clients.
- Inappropriate conduct and behaviour which may bring the Trust into serious disrepute including inappropriate use of social networking.
- Drink and Drug Abuse – e.g. a serious case of an employee being unfit for duty through alcohol or being under the influence of illegal drugs.
- Discrimination or Harassment – in breach of the Trust's Equality, Diversity and Inclusion Policy or Dignity at Work (Bullying and Harassment Policy).

This includes discrimination or harassment to members of staff, patients or clients on the grounds of race, sex, nationality, ethnic origin, disability, trade union activity, sexual orientation or chosen gender expression or identity.

- Serious acts of insubordination.
- Breach of Copyright and Patent Rules – It is illegal to use unlicensed software, breach copyright or abuse intellectual property rights.
- Abuse of the Trust's policies on computer use.
- Any action/omission, which can reasonably be judged to have resulted in a complete lack of confidence/trust in the individual by the Trust.
- Serious negligence or wilfully disobeying a reasonable instruction or Health & Safety rule where the result may result in injury/danger to patients, staff or the public.
- Misuse of Trust property.

The Trust may pursue internal disciplinary action if any of the above offences are alleged to have taken place, regardless of parallel Court Prosecution. The Trust has a right to dismiss an employee without awaiting the outcome of legal proceedings at the point they are satisfied that the allegation was committed.

Appendix 2 – Conduct Action Plan

Name:

Manager:

Date of meeting to discuss/agree the Conduct Action Plan:

Review meeting date(s):

Objective	Expected level of behaviours /Success criteria	Support to achieve objectives	Required evidence of achievement	Timescale for improvement	Review dates and comments

Failure to improve your conduct in accordance with this Conduct Action Plan will result in further action in accordance with the Trust’s Disciplinary Policy and Procedure

Signature: **Date:**
(Member of staff)

Signature: **Date:**
(Manager)

Manager to provide a copy of the meeting record to the member of staff and to securely retain the original.

3 - Authority to Dismiss

APPENDIX C

Authority to Dismiss

Salisbury NHS Foundation Trust has an obligation to provide clear guidance as to Trust roles which have been assigned authority to sanction employee dismissals.

This document provides such guidance and should be used by Commissioning Managers and the People Operations team when establishing disciplinary hearing panels.

AUTHORITY TO DISMISS

The Chair of a formal hearing that may culminate in a dismissal must have authority to dismiss awarded by the Trust; their role then potentially becomes the 'Dismissing Officer'.

The following role categories have been designated as having authority to dismiss:

Band 8a role with leadership and managerial responsibility and accountability e.g. Area Manager; Area Matron

Band 8b role with leadership and managerial responsibility and accountability

Band 8c and 8d with leadership and managerial responsibility and accountability

Band 9 and Executive Officers

The selection of the appropriate role of the Dismissing Officer will be considered on a case-by-case basis. Consideration will be given to the following:

- The role of the person subject to the process
- Impartiality
- The nature of the case e.g. highly clinical, of a sensitive nature
- The complexity of the case
- The experience and training to the Dismissing Officer

When a potential dismissal is identified following investigation a band 8a or above senior OD & People professional must be involved in the Disciplinary hearing.

Training will be made available for those staff undertaking the role of Dismissing Officer to ensure a consistent and fair process is maintained.

In the case of dismissal of the Chief Executive, the panel would comprise half of the Non-Executive Directors of the Trust Board plus the Chairman. There is no right of internal appeal against the decision of the panel.

APPEALS AGAINST DISMISSAL

The Chair of a formal appeal hearing against dismissal must already be designated as having the authority to dismiss by the Trust.

The following role categories have been designated as having authority to consider appeals against dismissal:

Band 8b role with leadership and managerial responsibility and accountability

Band 8c and 8d with leadership and managerial responsibility and accountability

Band 9 and Executive Officers

AUTHORITY TO DISMISS MEDICAL STAFF

Dismissal of medical staff may only be effected with the involvement of the Chief Medical Officer (CMO) and must adhere to the Maintaining High Professional Standards in the Modern NHS.

For doctors in Training Grades, this must involve the Chief Medical Officer (CMO) with the knowledge of the Post Graduate Dean or their nominee.

4 - Dismissal checklist

APPENDIX 4

Dismissal Checklist

This checklist highlights the key points which should be considered before sanctioning an employee dismissal

- Has the Trust's Disciplinary policy and procedure been applied and followed fairly and consistently?
- Have **all** the facts been recorded and documented **accurately**? Was the investigation process fair and reasonable?
- Based on the evidence is there a genuine belief that misconduct has occurred?
- What performance record does the employee have?
- Did the employee fully understand the job requirements and behaviour standards?
- Has the employee received a warning of possible dismissal if conduct standards are not improved?
- Has the employee been allowed a reasonable period of time to correct their performance/behaviour to meet set standards?
- Has the employee had an opportunity to present their point of view?
- Are there any mitigating factors that may excuse or explain the employees misconduct
- Has consideration been given to redeploying or downgrading the employee?
- Is the dismissal decision based on fact? Not emotion or inference.
- Would dismissal be consistent with past practice? Is it a reasonable response in the circumstances?
- Would the Trust be able to justify dismissal if the employee claimed discrimination and/or unfair dismissal?
- Consider whether dismissal is appropriate under all of the circumstances.

APPENDIX 5

NOTIFICATION OF APPEAL FORM

You are required to complete this form and submit it within ten (10) working days of receiving written notification of the decision of your Hearing/Meeting. Your written notification will state who the completed appeal form should be sent to. Once you have formally submitted your Appeal, it will be acknowledged in writing.

Late appeals or appeals on any other grounds will only be considered in exceptional circumstances.

You are advised to consult your representative before submitting this completed form.

Full Name:	Job Title:
Contact Number:	Department / Division:
Immediate Line Manager's Name:	
Name of TU Rep/Workplace Colleague:	
Contact Number of Representative:	

Date original Hearing/Meeting held:
Chair of the Hearing/Meeting:
Reason for Hearing/Meeting: Disciplinary / Grievance or Dispute / / Bullying and Harassment / Redundancy*
Sanction imposed/decisions made/outcome:
* delete as appropriate

Your reason for appealing

I wish to formally appeal on the grounds of:
(please tick relevant box)

- Information arising that was not available at the time the decision was made
- Undue severity or inconsistency of the sanction
- The Trust's policy and procedure have not been followed properly

NB If you are claiming information not available at the time you MUST explain why the previously undisclosed information was not presented at the Hearing before the decision you are appealing against was made.

Provide details of the grounds of your appeal:

My representative is available on the following dates:

The following documentation is attached with my appeal form:

Medical evidence enclosed YES / NO

Supporting evidence enclosed YES / NO

Other relevant documents enclosed YES / NO

List the documentation:

I confirm that the above statements are true to the best of my knowledge, information and belief. I understand that making any false, malicious or untrue allegations may result in disciplinary action being taken against me by the Trust. (In the most serious cases, making false, malicious or untrue allegations can be treated as gross misconduct).

I give my consent for this information to be circulated to relevant members of staff on a need-to-know basis for the purpose of investigating my appeal.

Signature: **Date of Submission:**
(Person raising appeal)

**PLEASE RETAIN A COPY OF THIS FORM AND ALL ITS ATTACHMENTS
FOR YOUR RECORDS**

Manager's Signature: **Date of Receipt:**

Appeal Meeting Date: (Manager to attach outcome/decision letter and notes of meeting)