



## Managing Conduct Policy

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## Document Control

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## 1. Aims and Objectives

- 1.1 The Trust is committed to achieving excellent standards of conduct within its workforce. It is recognised, however, that there will be occasions when the conduct of employees falls below the expected standards.
- 1.2 This policy sets out the framework for managing misconduct in a fair, timely and proportionate manner. It aims to promote early resolution, support and learning, recognising that there are times when formal procedures and action will need to be followed.
- 1.3 Regardless of the circumstances it is essential that people are treated with empathy, compassion and aligned with our Trust values.

## 2. Scope

- 2.1 This policy applies to all employees of the Trust.
- 2.2 Bank workers, agency workers, self-employed and contracted staff are required to adhere to the principles, provisions and standards of this policy and failure to do so may result in a referral being made to their substantive employer and/or their Trust contract/ agreement being terminated.
- 2.3 A separate Sexual Safety Policy applies to concerns of sexual safety. Where it is established that there is a case for a conduct panel to consider, the provisions of this policy will apply.
- 2.4 For medical staff this policy will be applied in conjunction with the Managing Concerns About Medical Staff Policy.
- 2.5 Alleged misconduct during a probationary period will be managed in line with the Probation Policy. The Capability Policy covers issues related to skill or ability.
- 2.6 This policy applies equally to Trade Union representatives. However, if concerns arise involving a representative, they must first be discussed with the relevant senior steward(s)/ full-time or regional officer before any investigation begins. If disciplinary action is taken against a Trade Union representative, they have the right to be represented by their union's full-time officer.

## 3. Definitions

- 3.1 **Misconduct** is a less serious breach of the Trust's rules. The severity and frequency of the breach will be taken into account when determining the level of warning. For examples, please see Appendix A.

3.2 **Gross Misconduct** is a breach sufficiently serious that it amounts to a fundamental breach of trust and confidence between the Trust and employees. For examples, please see Appendix A.

## 4. Principles

4.1 The policy is underpinned by the following principles:

- All matters will be handled in a fair, impartial, respectful and supportive way
- Early and informal resolution is adopted where appropriate
- Support for all parties involved
- Compliance with employment law and ACAS Code of Practice
- Employees have the right to be accompanied at formal meetings.
- The employee should know the full details of the allegation(s) against them.
- Misconduct Hearing decisions will be based on a thorough investigation and evidence, ensuring that any action taken is proportionate and reasonable in the individual circumstances.
- Not dismissing an employee for a first breach of disciplinary rules other than for gross misconduct.

## 5. Responsibilities

### 5.1 Everyone is expected to:

- Follow the principles and practice of this policy.
- Be kind, compassionate, respectful and inclusive, and demonstrate behaviours that support the Trust values.
- Be open to hearing and learning from feedback shared with you.
- Immediately inform your manager of any arrest, police caution, conditional discharge, criminal charge or conviction as soon as you are aware of such.
- Co-operate and engage with investigations and proceedings taking place within the scope of this policy. This includes attending as a witness when requested to do so (concerns about attending as a witness should be discussed with a People Professional).

### 5.2 Managers are expected to:

- Act in line with the policy to reach compassionate and fair outcomes using advice and guidance from People Professionals
- Treat everyone involved fairly, remain objective and make sure everyone feels valued, heard and listened to.
- Have conversations with teams about attitudes, behaviours and culture and what is acceptable or not acceptable.
- Ensure those involved have access to or are signposted to appropriate support and take actions to reduce risk of harm.
- Use learning from concerns to bring change, prevent future concerns, and maintain a positive culture.
- Proactively follow up on agreed actions and provide those involved with the opportunity to demonstrate change.

- Develop skills and competencies in relation to using this policy.

### **5.3 Individuals Responsible for Investigations will:**

- Respect confidentiality
- Signpost people to appropriate support.
- Carry out thorough investigations, prepare fully, and complete any training required to ensure they can be compassionate, consistent and unbiased in their role.
- Write a report which provides the facts and includes considered and evidenced conclusions.
- Attend meetings to explain their findings.

### **5.4 People Professionals will:**

- Provide support and guidance about using this policy.
- Ensure conversations are carried out compassionately, and that suitable support is provided to everyone involved.
- Provide advice to managers to support their decision-making.
- Support and proactively encourage manager training in using this policy.

### **5.5 Resolution Panel (appropriate manager, support by a People Professional) will:**

- Decide if informal resolution is appropriate or if formal investigation/ agreed resolution is required.
- Consider suspension/ restriction in practice risk assessment
- Set investigation terms of reference and timescales and monitor progress
- Appoint an independent investigating manager
- Review Investigation Report, assess findings and determine next steps
- Conduct misconduct hearing

## **6. Support**

6.1 We recognise these situations can be an upsetting and stressful for everyone involved. For support you can speak to:

- Your manager (if appropriate)
- Another manager
- Your People Professionals
- Your trade union representative
- Our [Staff Networks](#)
- Our [Wellbeing Team](#)

## **7. Understanding the Situation**

7.1 When a concern about conduct arises, the relevant manager, supported by a People Professional, will assess the situation by establishing key facts (what, when, where, how, and who was involved). If informal

resolution is unsuitable or unsuccessful, a preliminary enquiry may be undertaken to understand:

- Intentions behind actions
- Team or organisational culture
- Harm caused and to whom
- Witness accounts
- Patterns of behaviour
- Relevant context (e.g. wellbeing, service pressures)

7.2 In gathering this information, it may be necessary to informally meet with you and anyone else that was involved, in order to establish the facts as far as possible. This is not a full investigation but aims to gather enough information to decide next steps. Everyone involved in fact finding should be made aware that the information they provide will be used to make decisions about how to resolve a concern

7.3 Findings are recorded in a Fact-Finding Tool or Risk Assessment and submitted to a Resolution Panel. Possible outcomes:

- No action
- Alternative resolution under another policy
- Informal resolution
- Suspension/ Restriction Risk Assessment
- Referral for Formal Resolution

## 8. Informal Resolution

8.1 Where conduct falls below expected standards, your manager will meet confidentially with the you to:

- Explore reasons for the behaviour
- Clarify expected standards
- Agree achievable improvement objectives
- Identify any support or training needs

8.2 This will be a a two-way conversation with the opportunity to respond to the concerns raised. The emphasis should be on ensuring there is a clear awareness of the issue and the improvements that are required. Where further support, guidance or training is indicated this should be organised without undue delay.

8.3 If it becomes apparent that the matter is more serious, then the discussion should be adjourned and you will be advised that it may be taken forward under the formal managed resolution procedure.

8.4 The manager will document the required actions and will use them to support those involved to ensure resolution is successful. Normally a follow up plan will be put in place check progress. The notes of the meeting should be mutually

agreed and shared with the you. A copy of the notes will be placed on your staff file.

## 9. Resolution Panel Assessment

- 9.1 The resolution panel will use the information found during the fact finding to answer a series of questions about the concern and the person involved. They will get advice from experts about how to manage the concern, e.g. safeguarding or legal advice, as appropriate.
- 9.2 The assessment will consider:
  - How severe and / or complex is the situation (e.g. serious misconduct, fraud, sexual safety or violence)
  - Previous attempts to resolve it.
  - Mitigating factors.
  - The risk of harm to others or to the organisation
  - Whether people have accepted full responsibility and taken all reasonable steps to rectify the situation.
  - If this is a one-off instance or circumstance or a pattern.
  - Whether the concern can be addressed through conversation, support and agreed behaviour standards.
- 9.3 When the Resolution Panel agree that they understand the core facts they will use the information to make an assessment about how to reach a resolution. A decision will be made by the Resolution panel and the recommendations will be recorded in Resolution Gateway Tool. Everyone involved will receive confirmation and information about the recommendations.
  - No action necessary
  - Alternative Resolution under a different Trust Policy
  - Informal Resolution
  - Formal Resolution

## 10. Suspension, Restriction or Re-location

- 10.1 Sometimes, to ensure safety, the Resolution Panel might agree that the person the concern is about, should move to do a different role, have a change of work pattern or work in a different location for a temporary period.
- 10.2 Where genuine risks are identified and all alternative options have been ruled out, a decision might be made to suspend the person a concern is about. This period will be kept as short as possible.
- 10.3 A member of the Resolution Panel and a People Professional will meet with the person involved to explain the reasons for the decision,

provide information and agree support and contact during the period of time. Should the incident occur overnight or at the weekend, the Strategic on call will have the delegated authority to suspend.

- 10.4 Decisions will be based on a structured Risk Assessment and approved by the relevant Director or their delegated deputy and a Senior People Professional or their delegated deputy. For potential gross misconduct cases, the Chief People Officer and the Chief Operating Officer should be made aware. If the allegation relates to a clinical incident, then confirmation of any suspension/ restriction in practice will be notified to the Chief Paramedic Officer.
- 10.5 Suspension is considered a precautionary measure rather than a disciplinary sanction and is used to protect the integrity of an investigation, prevent further issues in the workplaces, or safeguard individuals involved.
- 10.6 You will be asked to:
  - Remain contactable during working hours
  - Attend meetings (e.g. investigation or managed resolution meeting or hearing)
  - Not visit the Trust premises or contact any suppliers, contractors, or staff, unless they have been authorised to do so
  - Not work elsewhere (during your normal working hours) during the suspension period.
  - Self-refer to your professional regulator, where applicable.
- 10.7 Where assessed as appropriate the Trust may:
  - Restrict access to work systems
  - Under the Trusts duty of care, notify relevant external organisations, secondary employers or professional regulatory bodies
- 10.8 Suspensions and restrictions will be monitored every 14 days by the relevant Directors, (or their delegated deputy) and a senior People Professional (or their delegated deputy). With formal reviews every 3 months.
- 10.9 Pay during suspension will be calculated on a 13-week reference period, (excluding bank shifts).
- 10.10 You remain entitled to annual leave during periods of suspension. Any requests for annual leave should be made in accordance with the Trusts Annual Leave Policy.
- 10.11 Normal absence notification and sick pay procedures will apply during the suspension period, in accordance with the Wellbeing and Attendance at Work Policy. The terms of the suspension will remain during absence.

## 11. Formal Resolution

- 11.1 Where the Panel recommend a Formal Resolution process they will:

- Confirm the details of the allegations
- Set the terms of reference for the investigation, including timescales
- Assign a suitable Investigating Manager (internal or external)
- Assign a wellbeing officer

These will be confirmed in writing to you.

11.2 We understand that delays can increase stress, frustration and isolation for those involved. The Resolution Manager is responsible for:

- discussing any support you need
- agreeing a schedule of contact and how this will be maintained
- overseeing the investigation to ensure it remains on track. If delays can't be avoided, they will explain why and when you can expect actions to happen.
- Considering further next steps if the investigation raises a new concern. You will be advised in writing should this occur.

## 12. Agreed (Accelerated) Resolution

12.1 In some exceptional circumstances you, or your representative might request that the Resolution Panel consider an agreed outcome as an alternative to a formal hearing. This can be a helpful solution to prevent the impact of a full investigation on your health and wellbeing.

12.2 The Resolution Panel will review the concern and consider whether the likely outcome falls within a range of first written warning up to a final written.

12.3 The accelerated resolution process cannot be used in cases of Gross Misconduct or where not all allegations are accepted (see 12.5)

12.4 If the Resolution panel agree, they will convene an Agreed Resolution meeting as soon as possible. No witnesses will be called to attend the meeting.

12.5 During the meeting, the Resolution panel will discuss the concern, the reasons for requesting an agreed outcome, and ensure they have evidence that you:

- Acknowledge your behaviour fell below the standards expected
- Take accountability and can outline how you have learnt from the experience
- Demonstrate a commitment to compliance with expected standards in the future
- The nature of the conduct does not warrant dismissal.
- The agreed resolution outcome will be confirmed in writing and will include the details of the formal warning and actions for change and learning. It will also outline the right to appeal if you do not accept the proposed resolution.

- 12.6 An appeal to an agreed outcome will result in the formal warning being immediately removed from the employee record and the Managed Resolution process will begin.
- 12.7 If the Resolution Panel decide that the Agreed Outcome is not appropriate, this will be confirmed in writing and the Managed Resolution process will be used to reach an outcome.

### **13. Formal Investigations**

- 13.1 You will be invited to meet with the investigating manager to tell them about what happened. If you can, write notes about what happened to help you during the meeting and take evidence that you might have with you.
- 13.2 Investigations will be completed by a person who is trained, independent with the ability to complete a full and effective investigation within the timescales expected, supported by a People Professional. They will be compassionate, impartial and non-judgemental.
- 13.3 The investigation will be completed as soon as possible, and everyone involved will be told how long it is likely to take. Sometimes investigations can take longer than planned. The Resolution Manager will ensure everyone involved is kept up to date with progress on a regular basis and will confirm any changes to timescales.
- 13.4 The investigating manager is responsible for conducting a fair, objective and timely investigation. This includes speaking to all relevant parties to understand what happened, gathering facts, and collecting any available evidence. The investigating manager will speak to those involved to understand what happened, collect facts and evidence where it exists.
- 13.5 Witness statements and records of conversations will be used as a part of the investigation. If at any time patient information is required, this information will be anonymised/redacted to ensure no patient's information can be identified.
- 13.6 They will use the information found to write a report about:
  - The process, including witnesses who provided information and evidence gathered.
  - The information and evidence found during the investigation, including any conflicting accounts and consideration of mitigating factors.
  - Reasonable conclusions made based on the weight of evidence.
  - Opportunities and actions that should be taken to prevent it from happening again
- 13.7 If the investigation identifies a new concern, the investigating manager will discuss this with the Resolution Panel. The Resolution Panel will consider the information and actions that should be taken to ensure safety. The investigation parameters (terms of reference) will be updated

by the Resolution Panel, if required, including timescales if applicable, and you will be told of any changes.

- 13.8 After the investigation is completed, the Resolution Panel will review the investigation report and agree how to progress the concern to a resolution. Once a decision is made this will be confirmed in writing to everyone involved.

## **14. Misconduct Hearing**

- 14.1 A misconduct hearing will take place as soon as possible. Information will be confirmed in a letter at least 10 calendar days before the meeting. The letter will summarise the concern and the reason for the meeting. If the concern is considered as gross misconduct the letter will confirm this and what this might mean in terms of the outcomes from the hearing.
- 14.2 The letter will include the investigation report and evidence to ensure a full understanding of the concern and the evidence that will be considered.
- 14.3 You should ensure you confirm your attendance and who you will bring to the hearing.
- 14.4 If you have questions, you can speak to the person that has been assigned to support you, your manager, a People Professional or your Trade Union Representative.
- 14.5 You can choose to provide a written response, including any mitigating factors to be considered, which should be submitted at least 5 calendar days before the hearing. However, this is not compulsory, and the outcome will not be affected if you do not provide this in advance.
- 14.6 The Resolution Panel Chair will have the authority to make decisions at a hearing (see section 18). They will be advised by a People Professional.
- 14.7 At the hearing the concern will be outlined, by the investigating manager, including information about the evidence using the investigation report.
- 14.8 You will be given the opportunity to respond, ask relevant questions, present evidence and any other mitigating factors, and call relevant witnesses.
- 14.9 If new evidence comes to light during the hearing, the panel will decide if it should be considered, or if more time is needed to review it.
- 14.10 The panel will take time to consider the information presented at the meeting and might request advice from specialist advisors to ensure a considered outcome.
- 14.11 If information is not available, or it is conflicting, the panel may consider patterns of behaviour and will take reasonable insights from the information that is available.
- 14.12 Usually, the outcome will be given verbally after an adjournment to make a decision and will be confirmed in writing normally within 7 calendar days,

including the right to request an appeal of the decision. Sometimes, if more time is needed the hearing might be adjourned to consider the decision and a new meeting arranged to confirm the outcome. However, the option to receive the outcome in writing will be given.

## 15. Hearing Outcomes

- 15.1 The hearing outcomes could include, but are not limited to:
  - **Formal First written warning: Live for up to 12 months.** This may be given when conduct has fallen below acceptable standards and supported resolution has not resulted in sufficient improvement or when the concern is sufficiently serious to justify an immediate formal sanction
  - **Formal Final written warning: Live for up to 24 months.** This may be given when conduct continues to fall significantly below acceptable standards and previous warning(s) have not resulted in sufficient improvement. Or, when concerns are so serious that a final written warning is appropriate. Ending employment is a clear possibility, but significant mitigating circumstances are accepted
  - **Reassignment to another role** which may include down- band/grading, if this is practical to do
- 15.2 When a first or final warning is given, review meetings and action plans will also be set.
- 15.3 **Dismissal:** A decision to terminate employment will only be made after a thorough discussion and consideration of all alternatives. Dismissal may occur if the hearing chair determines that gross misconduct has taken place, or if an existing final written warning is in effect and further unsatisfactory behaviour is identified.
- 15.4 If it is decided that employment should end, we understand that this will be a distressing time. The panel will have a compassionate discussion with you about the practicalities of leaving the organisation and will signpost to external support that might be needed.
- 15.5 Contractual notice will be given when the employment is ending because of a series of warnings. Contractual notice will not be given (summary dismissal) when hearing chair decides that gross misconduct has taken place.
- 15.6 The hearing chair may agree other outcomes to support and manage risks, for example to report the concern to a professional regulator or the Disclosure and Barring Service (DBS), in addition to one of the above outcomes.
- 15.7 The outcome letter will include:
  - A summary of the meeting discussions and the rationale for the decision.
  - Confirmation of any disciplinary sanction (e.g. warning), its duration, and impact on pay progression.

- Notification if the outcome will be reported to a professional regulator, (following discussion with Professional Standards), Disclosure and Barring Service (DBS), or other relevant authority.
- Required changes in behaviour or conduct, with a clear timescale for improvement.
- Consequences if improvement is not achieved within the specified timeframe.
- Contact details for support, queries, or to request a copy of the meeting record.
- Information on the right to appeal, including how and when to submit an appeal.
- If employment is to be terminated, confirmation of the end date and notice period.
- Any additional actions, responsibilities, or support agreed during the meeting.
- Where appropriate, the Trust may be obliged to disclose any unexpired disciplinary sanction and relevant circumstances to a prospective new employer.

## 16. Appeal

16.1 An appeal should be made using the instructions set out in the outcome letter which will request the grounds for the appeal and the reason(s) in writing. Typical grounds for appeal are:

- This policy was not followed
- The outcome was based on a factual error
- New evidence is available, which was not previously considered
- The outcome was unreasonable, based on the information available at the time

16.2 Failure to notify your reason and grounds for appeal will mean that your request will be declined.

16.3 Once your appeal has been received, an appeal meeting will be arranged with an independent manager and a People Professional.

16.4 Details about the meeting will be confirmed in a letter at least 7 calendar days before the appeal meeting takes place. The letter will summarise the reason for the meeting and what to expect. It will also ask who will accompany you and if you need any reasonable adjustments.

16.5 At the meeting the panel will ask you to give as much detail as you can about the grounds for your appeal. Please note that the appeal meeting is not a re-hearing, it is to investigate why you are not satisfied with the outcome or decision made.

16.6 If new evidence has arisen, the panel will decide how to take this forward. Sometimes there might be a reason to do a further investigation. This will normally be completed by the investigating manager, however sometimes a new investigating manager might be appointed.

16.7 If more time is needed to review the evidence, the panel may agree another suitable date to meet.

## 17. Appeal Outcome

17.1 After the meeting, the panel will consider the information and ensure you receive a written outcome to confirm the decision and the reasons for this.

The appeal outcomes might be to:

- Uphold the decision
- Partially uphold the decision and amend the sanction
- Overturn the decision and remove the sanction

17.2 The decision from the appeal will be final and will be communicated in writing normally within 7 days of the decision.

## 18. Who should be present

Informal Resolution	Line Manager
Formal Managed Resolution	Senior Trained Manager, not previously involved, supported by a People Professional
Appeal	A more Senior Trained Manager, than the formal resolution manager, supported by a People Professional

## 19. Records and Notes

19.1 All formal meetings will be recorded by a notetaker. The records of the meeting will be held in a central confidential employee record and will be provided, if requested. Recording devices will not be used unless explicitly agreed in advance by all parties involved.

19.2 A copy of the outcome letter, plus the investigation report and evidence, will be retained on the employee's file.

19.3 File notes from informal resolution may be kept on the employee's file for up to 6 months. These notes are not formal warnings and will be removed after the retention period if no further issues arise.

## 20. Being Accompanied

20.1 You have a right to be accompanied at Formal meetings/ hearings, including formal investigations and appeals by a trade union / staff representative or appropriate work colleague. You are responsible for arranging your own representative but must confirm who this will be within a reasonable

timeframe before the meeting and to provide them with a copy of the invite letter and its enclosures.

20.2 Representatives can address the meeting, sum up the employees' case, respond on your behalf to any views expressed (not answer questions) and confer with the you during the meeting.

## **21. If You Can't Attend**

21.1 Everyone involved in a Misconduct Hearing or appeal should make efforts to attend on the date provide. It is your responsibility to ensure your union representative is available on the date. If this is not possible, you should inform the panel without delay and include the reasons.

21.2 Normally a new date will be arranged as soon as possible. Please note that we will only make one attempt to reschedule the meeting.

21.3 If you fail to attend the meeting without a reasonable explanation, the meeting/ hearing may proceed in your absence, and a decision may be made without your input.

## **22. Reasonable Adjustments**

22.1 If reasonable adjustments are needed to ensure a fair and successful contribution these should be requested with as much notice as possible. Reasonable adjustments will be supported where possible.

## **23. If you believe you have been wrongly accused**

23.1 It is important to tell your side of the story and provide information about what happened, your intentions and any context around the events.

23.2 If you believe the concerns raised about you are untrue or vexatious you should talk to a People Professional and Trades Union Representative about what you can do.

23.3 You should not make any direct contact with the person who has raised concerns about you.

## **24. Disclosure of Records**

24.1 If you are registered with a professional body or are required to be certified as "fit and proper", a referral to the relevant professional regulator may be required, who may take actions in line with their own policies. A People Professional will immediately inform Professional Standards of any outcome where a registered professional is involved. Professional Standards will inform the regulator, should that be necessary.

24.2 Where conduct matters involve safeguarding concerns, criminal conduct, or regulated activity, the Trust may be required to disclose details of any

unexpired sanctions and the circumstances surrounding them to a prospective employer. Any disclosure will be accurate, factual and limited to what is necessary for the role being applied for.

24.3 In accordance with safeguarding and legal obligations the Trust may be obliged to disclose relevant information to external bodies, including:

- **Police**- in cases of suspected criminal activity
- **Safeguarding Authorities** – where there is a risk of harm to vulnerable individuals. A People Professional will be advised and guided by the Trusts Safeguarding lead.
- **Disclosure and Barring Service (DBS)** – where an individual is removed from regulated activity due to safeguarding concerns; has received a caution or conviction for a relevant offence; or is considered a someone who has harmed or poses a risk of harm to a child or adult and satisfies the harm test. A People Professional will be advised and guided by the Trusts Safeguarding lead.
- **Local Counter Fraud Specialists** – where fraud or financial misconduct is suspected

24.4 Informal file notes and records will normally remain confidential within the Trust and will not be disclosed to external parties, including prospective employers, except where disclosure is legally required or necessary to protect safety. Disclosure will be limited to essential details and clearly marked as informal. Examples include:

- **Regulatory bodies** where fitness-to-practise information is requested.
- **Police or safeguarding authorities** in cases involving criminal conduct or risk of harm.
- **Disclosure and Barring Service (DBS)** where statutory obligations apply.
- **Courts or legal proceedings** where disclosure is mandated.

24.5 You will be informed of any disclosure unless doing so would compromise an investigation or safeguarding process.

## 25. Criminal Offences

25.1 Sometimes a concern about your behaviour or conduct could potentially be a criminal act. If a report has been made to the police, our organisation's internal investigation must not interfere with or influence the police investigation in any way. Any internal action prior to the conclusion of the police investigation will be carefully assessed to ensure it does not prejudice or compromise the criminal process.

25.2 Once the police investigation has concluded, and if the matter proceeds to court, our organisation will take all necessary steps to ensure that any internal

processes, decisions, or communications do not prejudice the legal proceedings.

- 25.3. You will be informed promptly if the internal process is to be paused or delayed. We will explain the reasons for this, provide an estimated timeframe, and discuss the support available to you and others affected during this period.

## **26. Debrief**

- 26.1 Every time this policy is used there is as an opportunity to consider what learning can be taken to improve our culture, and processes, and take actions to promote change.
- 26.2 The purpose of the debrief will be to reflect and discuss what went well and what learning can be taken for those involved, and to suggest actions to improve the process.
- 26.3 This might also include actions that the organisation should take to change, or to improve learning and awareness. It should always include a review of how risks can be removed or reduced to improve safety and reduce harm.

## **27. Grievances raised during the course of a Misconduct Process**

- 27.1 If you wish to raise a related concern, whilst under this policy, your request will be progressed in line with the Resolution Policy.

## **28. Leaving Employment During Active Misconduct Process**

- 28.1 Where an individual leaves employment during the application of this policy where a resolution or outcome has not been determined, the Resolution Panel will consider the most appropriate, fair and consistent method of concluding the case. This will include continuing with any investigation and/or managed outcome as appropriate.

## **29. Training**

- 29.1 People Professionals and managers should be skilled and experienced in:
  - How to compassionately and objectively manage and investigate concerns using this policy.
  - How to establish facts whilst maintaining impartiality.
  - How to have conversations about behaviours and work practices with individuals and teams.
  - How to make decisions about next steps that are appropriate to the situation.
- 29.2 Ongoing training and development may be required to improve skills and confidence in dealing with concerns raised about behaviours and work practices. People Professionals and managers should take a

proactive approach in developing and maintaining these skills in case of any future concerns raised.

29.3 Thought and consideration will be given to the knowledge, skills and expertise of those involved in using this policy, and actions will be taken to ensure they are supported as needed.

## 30. Monitoring Compliance

- 30.1 All policies and procedures have their effectiveness audited by the responsible Management Group at regular intervals, and initially six months after a new policy and procedure is approved and disseminated.
- 30.2 Effectiveness will be reviewed using the tools set out in the Trust's Policy and Procedure for the Development and Management of Trust Policies and Procedures (also known as the Policy on Policies).
- 30.3 This document will be reviewed in its entirety every three years or sooner if new legislation, codes of practice or national standards are introduced, or if feedback from colleagues indicates that the policy is not working effectively.
- 30.4 All changes made to this policy and procedure will go through the governance route for development and approval as set out in the Policy on Policies.

## 31. Associated Trust Documentation

- [Disclosure and Barring Service \(DBS\) Checks and Criminal Convictions Policy](#) .
- Resolution Policy
- [Sexual Safety Policy](#)
- [Managing Safeguarding Allegations Policy & Procedure](#)
- [Managing Concerns About Medical Staff Policy & Procedure](#)
- [Probation Policy](#)
- [Restriction in Clinical Practice Procedure](#)
- [Capability Policy](#)
- Wellbeing and Attendance at Work Policy

## Support & Resources

- Toolkits
- Templates
- Flowcharts
- Management Guidance
- Fact Finding Tool
- Suspension & Restriction Risk Assessment
- Resolution Gateway Tool
- Investigation Toolkit
- Agreed Outcome Guidance

- Witness Guidance

## **32. References**

- [Advisory, Conciliation and Arbitration Service \(ACAS\)](#)

## **33. Financial Checkpoint**

33.1 This document has been confirmed by Finance to have financial implications and the relevant Trust processes have been followed to ensure adequate funds are available.

## **34. Equality Analysis**

34.1 The Trust believes in fairness and equality, and values diversity in its role as both a provider of services and as an employer. The Trust aims to provide accessible services that respect the needs of each individual and exclude no-one. It is committed to complying with the Human Rights Act and to meeting the Equality Act 2010, which identifies the following nine protected characteristics: Age, Disability, Race, Religion and Belief, Gender Reassignment, Sexual Orientation, Sex, Marriage and Civil Partnership and Pregnancy and Maternity.

34.2 Compliance with the Public Sector Equality Duty: If a contractor conducts functions of a public nature, then for the duration of the contract, the contractor or supplier would itself be considered a public authority and have the duty to comply with the equalities duties when carrying out those functions.

## Appendix A

### Gross Misconduct

The following are examples of conduct and behaviours that are likely to be considered as gross misconduct.

It is not a comprehensive list and other behaviours not listed could also be considered gross misconduct.

Examples include:

- Fraud, theft, misappropriation of resources
- Serious breaches of financial standards.
- Physical violence, assault or threats against colleagues, patients or service users.
- Negligence at work that does not comply with safety standards or breaches the professional code of conduct.
- Bullying, discrimination, harassment or victimisation of others.
- Possession, intending to supply or being under the influence of alcohol or other substances that impair ability to carry out duties.
- Serious damage to property.
- Hiding or destroying evidence.
- Misrepresentation or deception about qualifications and experience.
- Inappropriate or unprofessional relationships with service users or patients.
- Breaching confidentiality.
- Deliberately accessing, downloading or sharing any material that is pornographic, discriminatory or offensive.
- Malicious or vexatious allegations against the organisation, managers or colleagues.
- A serious act deemed harmful to the organisation or its employees.
- Abuse of a position of authority.

### Examples of Misconduct (Non-Gross)

These behaviours may breach expected standards but are not usually considered serious enough to justify summary dismissal.

It is not a comprehensive list and other behaviours not listed could also be considered misconduct.

Examples include:

- Persistent lateness or poor timekeeping
- Failure to follow reasonable management instructions
- Inappropriate use of work resources (e.g. excessive personal use of email or internet)
- Minor breaches of confidentiality (e.g. careless handling of sensitive information)
- Unprofessional behaviour Failure to comply with dress code or uniform standards
- Unauthorised absence or failure to report absence appropriately
- Minor breach of the Social and Digital Media Policy
- Disruptive behaviour in meetings or team settings
- Low-level conflict with colleagues/ incivility (not amounting to bullying or harassment)