

Disciplinary Policy

July 2022

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1. INTRODUCTION

- 1.1 The ICB will make every reasonable effort to ensure that all staff are aware of the standards of conduct and behaviour expected of them and are supported in achieving those standards. Potential misconduct will be investigated promptly, fairly and consistently. Where misconduct is proven, options available to managers will include informal counselling, training and formal disciplinary sanctions. All cases will be dealt with constructively and will balance a just and learning culture with taking responsibility for actions, in accordance with the following procedure, and any disciplinary sanction will be proportionate to the circumstances of the specific case.
- 1.2 At all times, line managers will take account of the potential effects of disciplinary allegations, investigations and hearings on staff, patients and stakeholders – including those directly involved in the process. Every reasonable step will be taken to maintain a positive working environment and confidence in the organisation whilst dealing fairly and effectively with issues of misconduct.

2. SCOPE

- 2.1 This policy will apply to all employees with agenda for change terms and conditions of employment. This includes staff on honorary contracts, bank contracts or a secondment with the ICB and another employer. This policy does not apply to independent contractors (including agency staff) working on a contract for services basis.
- 2.2 The time limits set out in this procedure are based on a seven-day week, excluding public holidays. Time limits may only be varied by mutual agreement, the details of which will be confirmed in writing.
- 2.3 Disciplinary issues concerning the Chief Officer or Directors will be referred to the Board. Cases will be progressed by the Governing Body officers who are not connected with the allegations, in accordance with the principles and procedures set out in this policy

3. ENGAGEMENT

- 3.1 This policy has been developed by HR Team in partnership with employees, managers and trade unions and approved at the Social Partnership Forum.

4. POLICY PURPOSE & AIMS

- 4.1 This policy is designed to deal with cases of suspected or actual personal misconduct. Separate policies exist to deal with issues relating to professional competence, job performance or attendance, except where poor performance or attendance can be attributed to misconduct.

5. IMPACT ANALYSES

5.1 Equality

The ICB is committed to designing and implementing services, policies and measures that meet the diverse needs of its population and workforce, ensuring that no individual or group is disadvantaged.

In developing and applying this policy, the ICB will have due regard to the need to eliminate unlawful discrimination, promote equality of opportunity, and foster good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.

Please see Appendix 9 for the full equality impact assessment and findings.

5.2 Bribery Act 2010

The ICB has a responsibility to ensure that all staff are made aware of their duties and responsibilities arising from The Bribery Act 2010. It is therefore, extremely important that staff adhere to this and other related policies and documentation (as detailed on the ICB's website) when considering whether to offer or accept gifts and hospitality and/or other incentives.

If fraud, bribery and corruption are particularly relevant to a policy, e.g. where the policy covers payments, claims, contracts or financial transactions where an individual or company could make a gain and/or cause a loss to the ICB the section should be headed Counter Fraud, Bribery and Corruption and should include a cross reference to the Counter Fraud, Bribery and Corruption Policy.

Please see Appendix 10 for full details.

5.3 General Data Protection Regulation (GDPR)

The ICB is committed to ensuring that all personal information is managed in accordance with current data protection legislation, professional codes of practice and records management and confidentiality guidance. More detailed information can be found in the ICBs Data Protection and Confidentiality and related policies and procedures.

6. DEFINITIONS

- 6.1 For the purpose of this policy, the person or persons facing the allegations will be known as the Respondent(s). Any reference to the respondent should be taken to include his or her representative.
- 6.2 The term "Representative" is used throughout this procedure and shall be taken to include either a Trade Union/Professional Association Representative or another employee.

7. ROLES / RESPONSIBILITIES / DUTIES

Good working relations are vital for the organisation to operate successfully and provide services. There is a joint responsibility for management, trade unions and employees to accept the responsibility of working together on issues in good faith and with the shared intention of facilitating good working relations.

7.1 **Lead**

The Senior Leadership Team is responsible for:

- Ensuring the fair and equitable application of this policy
- Providing advice in relation to the application of this policy

7.2 **Employees**

It is the responsibility of employees to ensure that they:

- Read, understand and comply with the policy.
- Attend investigation meetings as required.
- Submit statements when requested in a timely way.

7.3 **Line Managers**

It is the responsibility of line managers to ensure that they:

- Make employees aware of the Disciplinary Policy and Procedure and inform employees of the disciplinary rules and issues relating to misconduct and gross misconduct which will result in disciplinary action.
 - Make clear the rules, regulations and standards of conduct which employees are expected to observe / achieve.
 - Use the informal stage wherever possible prior to any formal action being taken.
 - Deal appropriately with employees whose conduct falls short of that required by the organisation.
 - Involve the appropriate HR representative where potential misconduct has been identified.
 - Consult a senior HR representative prior to taking a decision to suspend an employee.
 - Keep appropriate written documentation relating to incidents of alleged misconduct.
 - Treat all employees fairly by applying the policy consistently and ensuring that any personal information is kept in confidence.
- Signpost employees who need it to the relevant support.

7.4 **Human Resources**

The Human Resource representative will provide advice and support on all aspects of this policy to ensure application and support.

8. **IMPLEMENTATION**

- 8.1 This policy will be published on the ICB website and all staff will be made aware of its publication through communications and team meetings.
- 8.2 Any deliberate breaches of this policy may be investigated and may result in the matter being treated as a disciplinary offence under the ICBs disciplinary procedure.

9. **TRAINING AND AWARENESS**

- 9.1 A copy of the policy will be available on the ICB website. Guidance and support will be provided to all Line Managers, by the HR Team, in the implementation and

10. MONITORING AND EFFECTIVENESS

- 10.1 The implementation of this policy will be audited on an annual basis by the ICB and reported to ICB Governing Body.
- 10.2 Comprehensive data should be collated and recorded including equality monitoring and will be reported at board level. This should include the number of procedures, reasons for the procedures, details of any suspensions and lessons learnt.

11. POLICY REVIEW

- 11.1 The policy and procedure will be reviewed after 3 years for the ICB Governing Body in conjunction with Trade Union representatives. Where review is necessary due to legislative change, this will happen immediately.

12. REFERENCES

- Employment Rights Act 1996
- Employment Act 2008
- Discipline and grievance - ACAS Code of Practice.
- Discipline and grievances at work: The ACAS guide
- GMC – Principles of a Good Investigation
- NMC – Conducting a local investigation

13. ASSOCIATED POLICIES

- Whistleblowing
- Standards of Business Conduct
- Professional Registration
- Managing Performance
- Managing Absence
- Policy, Procedures and Guidance for responding to allegations of abuse or neglect of a child against an employee
- Bullying and Harassment
- IM&T Security Policy
- Pay Progression

14. PROCEDURE

PART I: DEALING WITH ISSUES INFORMALLY AND INVESTIGATIONS

1. Informal Interviews / Counselling

- 1.1 Every consideration should be given to achieving an informal resolution. Informal methods are often the quickest and most effective in dealing with unacceptable behaviour.
- 1.2 Where an employee's conduct or performance is not acceptable, the immediate line manager should discuss the matter with the individual. This should take the form of a counselling interview and should attempt to determine if there are any problems facing the employee which can be overcome, or if there are reasons for the employee's conduct or performance.
- 1.2 The line manager should be confident that the employee understands the allegations and concerns being raised and that these are being termed in an appropriate way.

- 1.2 Counselling represents the first attempt to help an employee and may reveal the need for specific action for this purpose, e.g. training. The aim of counselling should be to prevent the need for the use of the formal disciplinary procedure.
- 1.3 Minor breaches of discipline, unless persistent, are usually best dealt with on an informal basis by an employee's immediate superior. Such informal interviews or informal warnings represent a first attempt to help an employee address the inappropriate behaviour or conduct.

2. Potential Disciplinary Event

- 2.1 If the line manager feels that an incident is more than minor breach of discipline or that the informal resolution is not appropriate, they must seek specialist advice from the Human Resources Department immediately to enable them to make a decision about what initial action is appropriate.
- 2.1 In reaching a decision on the appropriate action, line managers and HR should have due regard for the following questions:
 - Is this a conduct or capability issue?
 - Following a two-way discussion with the employee, is there sufficient understanding of the issues or concerns, and the circumstances relating to them, to provide reasonable grounds for the initiation of formal action or does further information or advice need to be sought?
 - Considering the circumstances, in the eyes of the organisation and others external to it, would the application of a formal procedure represent a proportionate and justifiable response?
 - What will be the potential impact on the health and wellbeing of the individual(s) concerned and on their teams and services, and what immediate and ongoing direct support will be provided to mitigate this whilst allowing for the appropriate process to be followed?
 - If formal action is being or has been taken, how will appropriate resources be allocated and maintained to ensure it is conducted fairly and efficiently; how are you ensuring that independence and objectivity is maintained at every stage of the process?

3. Representation

- 3.1 At the commencement of any formal investigation employees must be made aware of their right to representation throughout the procedure, either by a representative of a trade union or professional association or by a ICB colleague not acting in a legal capacity.
- 3.2 This does not apply to suspension as suspension in itself is not disciplinary action.
- 3.3 If an employee's chosen companion will not be available at the time proposed for a hearing by the employer, the ICB must postpone the hearing to a time proposed by the employee provided that the alternative time is both reasonable and not more than five working days after the date originally proposed.

3.4 Where the person accompanying the employee under investigation is an employee of the ICB, that person shall be entitled to paid time off to undertake this role.

Local Representatives of Staff Organisations

- 4.1 No disciplinary action can be taken against a recognised representative of a staff organisation until the circumstances have been discussed with a full-time officer of the organisation concerned. The full-time officer must be invited to attend any investigative interview conducted. This does not apply to suspension as suspension is not in itself disciplinary action. However, once a recognised representative of a staff organisation has been suspended; the appropriate full time officer should be informed of the suspension.

5. Criminal Charges

- 5.1 An employee who is charged with, or convicted of, a criminal offence (including receipt of a summons) must inform their line manager as soon as possible. In such circumstances the manager should seek advice from the Human Resources Department as to what course of action may be appropriate. Notification about criminal proceedings or a conviction will not necessarily lead to disciplinary action being taken. Following disclosure the ICB will determine what, if any, action will be taken after considering the facts of the case and the relevance of the charge or conviction to the job undertaken.
- 5.2 Staff who are employed for all or part of their duty as a driver or where the requirement to drive is an essential part of their duties must inform their manager if charged with any driving offence, including speeding.

6. Confidentiality

- 6.1 All persons involved in any disciplinary investigation should treat the matter in the strictest confidence.

7. Suspension

- 7.1 Suspension is not a disciplinary sanction but may be appropriate in potentially serious circumstances where it is considered that allowing the employee to continue working could place the safety/well-being of patients, staff or the employee themselves at risk or where it is felt that the continued presence of the employee may impair the investigation.
- 7.2 Also in certain cases where police enquiries take place it may be decided that suspension is necessary. As part of the assessment to decide whether suspension is an appropriate course of action it may be necessary, in certain cases, to involve the respondent in a preliminary discussion to establish certain facts before a decision can be made.

Except where the above immediate safety or security issues prevail, any decision to suspend should be a measure of last resort that is proportionate, timebound and only applied when there is full justification for doing so and only once alternative options such as; working from another location; alternative duties etc have been explored. The continued suspension/exclusion of any individual should be subject to appropriate senior-level oversight and sanction.

- 7.2 Suspension will be on full pay and will be confirmed in writing within 24 hours. Full pay shall

equate to the rate applicable as if the employee were working. Exemptions to this may apply. Please see the Professional Registration Policy for further details.

- 7.3 The employee should be seen in person and have the allegations put to them when the decision to suspend is taken. Requests for a representative to be present will not be refused however such action will not be delayed in the event of non-availability.
- 7.4 In normal circumstances an employee will only be suspended by a Manager with the authority to dismiss (see Part II, section 4.1), or a manager with delegated authority.
- 7.5 Suspension will initially be for a maximum of 28 days, after which time the decision will be reviewed by the investigating officer. If investigations are continuing the suspension will be extended and reviewed monthly thereafter. The employee should be written to after each review to confirm the ongoing suspension. The continued suspension/exclusion of any individual should be subject to appropriate senior-level oversight and sanction.
- 7.6 A condition of continued payment during suspension will be that the employee must be available during their normal hours to attend any meeting that may be convened as part of any investigation.
- 7.7 In cases where a member of staff submits a doctors' sick note whilst suspended from duty, the suspension will over-ride the sick leave.
- 7.8 The employee will not be allowed to enter the ICB's premises other than with the prior permission of their line manager or suspending manager. Other than in exceptional circumstances the employee will be granted permission to enter the premises on request to consult with their representative.
- 7.9 Advice on the potential suspension of a member of staff can be sought from the appropriate Human Resources representative. If it is necessary to suspend a member of staff outside of normal working hours the on-call manager should be contacted in the first instance, who should in turn contact an Executive Director for guidance and approval.
- 7.10 See [Appendix 6](#) for an example of a letter confirming suspension.

8. Investigation

- 8.1 Investigations into alleged breaches of discipline should be carried out without delay to ensure careful collection and assessment of facts.
- 8.2 Allegations should be clearly communicated to the respondent, poor framing of these can impact on the investigation process and the health and wellbeing of the individuals involved.8.2 All disciplinary investigations should be guided by the 'Code of Good Practice for Investigations', as attached in [Appendix 3](#).
- 8.4 A communication plan should be established by the investigating officer with people who are the subject of an investigation or disciplinary procedure. The underlying principle should be that all communication, in whatever form it takes, is timely; comprehensive; unambiguous; sensitive; and compassionate. The communication plan ensures that staff are contacted on a regular basis to keep them updated on the progress of any investigation and to check on their health and wellbeing. This plan should form part of the terms of reference for the investigation.

8.3 The following paragraphs outline the main points relating to investigations.

Where allegations of misconduct arise, the line manager of the respondent will normally act as the investigating officer, with support from a Human Resources representative. In certain circumstances e.g. bullying and harassment cases and in line with the below paragraph it may be appropriate to appoint an independent investigating officer from another department or in exceptional cases a neighbouring NHS Organisation. It is imperative that the investigating officer is clear about the allegation(s) they are investigating.

All measures should be taken to ensure that complete independence and objectivity is maintained at every stage of an investigation and disciplinary procedure, and that identified or perceived conflicts of interest are acknowledged and appropriately mitigated.

It is the responsibility of the Investigating Officer to ensure that the investigation does not become unnecessarily protracted, and therefore is conducted in a timely manner.

The role of the investigating officer is to establish the relevant facts of any particular case and to make recommendations to the manager on whether the case should progress to a formal hearing or whether there appears to be no case to answer. In the event of a formal hearing, the investigating officer will present the facts objectively at a hearing using such evidence or witnesses as they deem necessary in the interests of natural justice.

The investigating officer will, with due notice; interview the complainant(s) and the respondent(s) to determine what further evidence might be required and to estimate the likely timetable for the completion of the investigation.

The respondent is entitled to be represented by a Trade Union/Professional Organisation representative or work colleague in the course of any investigatory interview or subsequent hearing. There is no right to legal representation under this procedure.

Complainants and witnesses will not normally be represented but may, for example in complaints of harassment or bullying, be supported by a trade union representative or ICB colleague. Those undertaking a supporting role will not be entitled to take part in the proceedings.

Investigations will be conducted as openly as possible, balancing the dignity and confidentiality of the individuals concerned with the wider interests of the ICB and its staff.

8.4 At the conclusion of the investigation, the investigating officer will decide the appropriate course of action and report this to the relevant senior manager. Options will normally be limited to:

- i. Take no action, in which case any reference to the matter will be removed from the personal file
- ii. Deal with the matter informally, in accordance with Part 1, paragraph 1 above.

- iii. Offer the parties counselling or conciliation, which would need to be agreed with the parties involved, with a clear understanding of the timescales for, and objectives of, such action. The other options will remain available to the line manager in the event that counselling or conciliation does not resolve the issue.
- iv. Proceed to a formal disciplinary hearing in accordance with the procedure outlined in Part II below.

Any alternative options should be discussed with the Human Resources Department. The outcome will be confirmed to the relevant parties in writing. It should be stressed that a decision to pursue a specific course of action does not indicate guilt or innocence, which can only be determined by a properly constituted disciplinary or appeal hearing.

9. SUPPORT DURING A DISCIPLINARY PROCESS

Being notified of a disciplinary matter and subject to allegations of misconduct can be an upsetting and stressful time for the employee and other colleagues involved. Concern for the health and wellbeing of people involved in investigations and disciplinary procedures should be paramount and continually assessed.

A series of options have been put into place to enable staff to be supported. This support should also be extended to any witnesses involved in the process.

Occupational health service

Any member of staff who is involved in a disciplinary process may find it helpful to talk to the occupational health service. All employees have a right to self-refer to occupational health.

Counselling

Counselling services are confidential and can be accessed through the Occupational Health Service. All employees can access the counselling service.

If employees aren't familiar with the details of their occupational health department the HR team can advise.

Trade unions

The ICB recognises the important role of trade unions and staff organisations and will work in conjunction with them throughout investigation and disciplinary procedures.

Mental Health First Aiders (MHFA)

The ICB has mental health first aiders in place who are trained to listen non-judgementally and hold supportive conversations using the MHFA action plan. MHFA's signpost people to professional help, recognising that their role as MHFA does not replace the need for ongoing support.

Employees may be able to use an employee assistance programme if this is available to their ICB and should speak to their HR departments to understand if their ICB has access to this.

PART II: FORMAL DISCIPLINARY PROCEEDINGS

1. Overview

- 1.1 Where following an investigation, a decision is made to proceed to a disciplinary hearing; the hearing will be conducted by a panel, consisting of a manager with HR support, none of whom should have any previous involvement in the investigation. Where a hearing is to be conducted, it should always have three main stages: letter, hearing and appeal.

2. Letter

- 2.1 The respondent must be notified in writing at least seven working days in advance, unless otherwise mutually agreed, of the purpose of the meeting, of the specific nature of any allegation(s) and the right to representation. Where dismissal is a possible outcome, the letter should inform the respondent that this is a possible disciplinary sanction available to the panel if the case is proven.
- 2.2 All documentary information, including witness statements that will be presented to the panel will be provided to the respondent at this stage. The respondent(s) will have an opportunity to challenge or question any evidence presented to the disciplinary panel.
- 2.3 A specimen letter is attached as Appendix 7.

3. Hearing

- 3.1 Hearings will follow the procedure as detailed in Appendix 4.
- 3.2 At the hearing the respondent should be given the opportunity to state their case fully. If it transpires that more time is needed for further investigation, the hearing should be adjourned and resumed later.
- 3.3 Any concerns or questions concerning the arrangements for the hearing should be notified to the line manager at the earliest opportunity, who will attempt to resolve such issues in a fair and reasonable manner. If a respondent fails to attend a disciplinary hearing without good cause the case may proceed in their absence.
- 3.4 The decision of the hearing will, wherever possible, be given to the respondent at the meeting and will, in any event, be confirmed in writing within seven days of the hearing. The letter of confirmation will include, if applicable, details of the right of appeal. A specimen letter is attached as Appendix 8.
- 3.5 Where, having agreed the arrangements for hearing, either party fails to appear without good cause the panel may choose to adjourn the hearing or to proceed with the case in their absence.

4. Disciplinary Sanctions

- 4.1 If the allegations are proven decisions relating to the level, if any, of disciplinary action to be taken will be a matter of judgement for the panel. The panel must however consider:
 - i. the seriousness of the disciplinary breach in question
 - ii. the relevance and context of the facts/information presented
 - iii. the employees previous employment record and the existence of any current, relevant

disciplinary warnings

- iv. issues relating to fairness, consistency and the substantial merits of the information presented
- v. any mitigating factors

A list of examples of issues that the ICB is likely to consider as misconduct and gross misconduct can be found in [Appendix 2](#).

Within the terms of this procedure there are six possible outcomes following a disciplinary hearing:-

Sanction	Length of time on personal file	Authorised Manager	Appeal to
No action	n/a	n/a	n/a
Verbal Warning	6 months	Line Manager	Senior Manager
First Written Warning	12 months	Line Manager	Senior Manager
Final Written Warning**	12 months	SLT Member or manager with delegated authority	Chief Officer or SMT Member not previously involved
Downgrading, Redeployment or transfer*	12 months for final written warning	SLT member or manager with delegated authority	Chief Officer or SMT Member not previously involved
Dismissal	N/A	Chief Officer or SLT Member with delegated authority	ICB Appeals Panel (chaired by a Lay/GP Member of Governing Body)

**As an alternative to dismissal and accompanied by a final written warning*

***Can be extended up to 24 months in extenuating circumstances (e.g. this may be an alternative to dismissal).*

- 4.2 If the allegation is proven, a First Written Warning will normally be issued and will remain live on the employee's personal file for 12 months. A copy of the written warning will be kept on file but should normally be disregarded for future disciplinary sanctions after 12 months from the date and time of issue. The employee has the right to appeal.
- 4.3 If the issue is sufficiently serious or if there is still an active First Written Warning in place and insufficient improvement has been made or further misconduct occurs, a Final Written Warning will normally be issued and will remain live on the employee's personal file for 12 months. A copy of the written warning will be kept on file but should normally be disregarded for future disciplinary sanctions after 12 months from the date of issue. The employee has the right to appeal.
- 4.4 In the case of a final written warning it must be made clear to the respondent that any further misconduct or inappropriate behaviour of a similar nature could lead to dismissal and must be recorded as part of the written confirmation.

- 4.5 The Chief Officer or SLT Member may, on a case-by-case basis, delegate their authority to other senior managers who will act on their behalf.
- 4.6 The Disciplinary policy should be read in conjunction with the Pay Progression policy. An employees pay progression will be conditional on their being no live disciplinary sanctions on the their personal file.

5. Appeals

There is a right of appeal against any disciplinary sanction applied under this procedure, as follows:

5.1 Verbal, First and Final Written Warning

Appeals against a Verbal, First or Final Written Warning will be to a higher level of management not previously involved. It must be lodged with the Human Resources representative in writing and setting out the reasons for the appeal, within 14 calendar days of receipt of the letter confirming the decision.

5.2 Dismissal

An appeal against Dismissal will be to a ICB Appeals Panel. Such an appeal must be lodged with the notified officer within 14 calendar days of receipt of the letter confirming dismissal.

A ICB Appeals Panel will consist of three members including at least one Lay/GP Member of the ICB, who will act as chair to the panel. Other members will be drawn from the Senior Management Team or Governing Body plus a Human Resources representative. No member of the panel will have had any previous involvement in the case.

A hearing will be held as quickly as possible, as and certainly no later than 6 weeks from receipt of the appeal, unless otherwise agreed.

Appeal hearings will be conducted in accordance with the ICB Appeals procedure as outlined in [Appendix 5](#).

6. Record-keeping

- 6.1 In the event of disciplinary action being taken, the manager should keep a confidential record of the action taken, together with any evidence/statements etc. A copy of the final outcome correspondence will be retained on the employee's personal file. The Human Resources department will retain all other papers relating to the investigation/disciplinary hearings.
- 6.2 Warnings are active from the date and time of issue for the periods detailed in section 4, except in exceptional circumstances. In accordance with the principles outlined in Section 98 of the Employment Rights Act 1996 a record of all inactive warnings will be retained on the employee's file (for the duration of the whole employment period) and will normally be disregarded in determining a disciplinary penalty.
- 6.3 The ICB is committed to ensuring that all personal information is managed in accordance with current data protection legislation, professional codes of practice and records

management and confidentiality guidance. More detailed information can be found in the ICB Data Protection and Confidentiality and related policies and procedures.

6.4 Data is held and destroyed in accordance with the provisions of the Data Protection legislation and any ICB policy, which derives from that legislation.

15. APPENDICES

Appendix 1 - Standards of Performance and Conduct

Appendix 2 - Examples of Misconduct / Gross Misconduct.

Appendix 3 - Code of Good Practice for Investigations

Appendix 4 - Procedure to be followed at a Disciplinary Hearing

Appendix 5 - Appeals against Dismissal – ICB Appeals Procedure

Appendix 6 - Specimen Letter: Confirmation of Suspension Template letter

Appendix 7 - Specimen Letter: Requesting Attendance at a Disciplinary Hearing

Appendix 8 - Specimen Letter: Outcome of Disciplinary Hearing

Appendix 9 - Equality Impact Assessment

Appendix 1: Standards of Performance and Conduct

This guide aims to give an indication of the standards of performance and conduct expected of all staff employed by the ICB. The ICB recognises that this guide cannot cover every situation that arises and that the guidelines or rules may vary according to type of work, working conditions and size of department.

Department Rules

In addition to these standards and to ICB policies, some Departments will have specific rules which will relate to the activities of the Department (e.g. safe handling of dangerous substances, safe use of machinery and equipment etc.)

Standards of Conduct

All staff should be aware that they will be seen as representatives of the ICB and the NHS as a whole. It is therefore important that they present a professional and caring image to patients, visitors and colleagues.

There are several sources of guidance on the expected standards of conduct within the ICB, with which all staff should be familiar, including:

- Staff induction process.
- Performance management documents.
- Contract of Employment.
- Standards of Business Conduct Policy.

As a general guide, all employees of the ICB will be expected to:

- Respect and protect the dignity of service users, carers and colleagues.
- Observe the ICB's equality and diversity policy.
- Observe health and safety policies and safe working practices at all times.
- Comply with requirements for professional registration and regulation.
- Work effectively and constructively, individually and as part of a team.
- Respect the confidentiality of patients and colleagues.
- Demonstrate the highest standards of honesty and integrity.
- Attend work punctually and regularly.
- Obtain the appropriate approval for any absence.
- Carry out reasonable requests or instructions from managers.
- Be aware of, and adhere to, ICB policies and procedures.

Appendix 2: Examples of Misconduct / Gross Misconduct.

Please note that this list is neither exclusive nor exhaustive and each case will be considered on its own merits.

Misconduct

- Failure to adhere to working hours.
- Unauthorised absence from duty.
- Refusal or failure to obey a reasonable instruction.
- Criminal activities other than those classed as gross misconduct.
- Disregard of safety practices, procedures and rules.
- Unauthorised presence on ICB property.
- Unauthorised use of ICB equipment.
- Unauthorised destruction, alteration, addition to or erasure of official documents.
- Being an accessory to a disciplinary offence by another employee.
- Abusive behaviour toward another employee, patient or member of the public.
- Wilful hindering of production or of work schedules.
- Deliberate misuse or abuse of the ICB's information technology equipment, facilities or procedures.
- Failure to follow ICB procedures and policies.

Gross Misconduct

- Dishonesty, including fraud, theft or providing false information e.g. on a timesheet or travel claim form.
- Failure to disclose information e.g. relationship to a Director or holder of senior office under the ICB / Corruption, receipt of money, favours or excessive hospitality in respect of services rendered, or any other act not in accordance with the ICB Standards of Business Conduct.
- Abusive or violent behaviour including threats and verbal or physical assault, at any time whilst on duty or on ICB premises
- Ill-treatment or mishandling of patients
- Negligence in the performance of duty, including dereliction of duty. (This may include an action or omission that compromises the safety of others)
- Wilful damage to ICB property or equipment
- Breach of confidentiality
- Unauthorised or inappropriate use of ICB vehicles, equipment or resources
- Criminal offences that might affect a person's suitability for their job or where there has been a failure to disclose convictions/proceedings
- Loss of, or failure to obtain qualifications required by law, or by the ICB, for performance of duty (e.g. driving licence, professional registration)
- Being unfit for duty through alcohol or substance misuse
- Illegal possession, use and/or distribution of drugs
- Professional misconduct
- All forms of harassment, bullying or intimidation
- Discrimination which contravenes Equal Opportunities legislation or the ICB's Equality and Diversity Policy
- Abuse of position or power
- Perpetration of a hoax practical joke or other malicious act resulting in serious disruption to patients, services or staff

- Sleeping on duty, except when authorised
- Breach of IT policy e.g. email or internet usage.
- Misuse or failure to safeguard confidential information and/or patient data will be regarded as misconduct/gross misconduct.

It should be noted that misconduct of some of the types shown above, if occurring outside the course of work, may still result in disciplinary action if the misconduct results in the impairment of, capability, suitability or acceptability of the employee to perform his job with the ICB effectively.

Appendix 3: Code of Good Practice for Investigations

Before holding a disciplinary hearing, it is crucial an employer has sound evidence on which to base their decisions. Failing to conduct a full investigation, in all but the most exceptional of circumstances, may render a dismissal unfair and result in costly consequences in terms of tribunal awards, and staff morale.

Investigations will be required within the ICB in response to a wide range of situations, including but not limited to:

- Disciplinary allegations
- Grievances
- Complaints about discrimination, harassment or bullying
- Complaints from patients and relatives
- Personal injury claims
- Issues of capability
- Allegations of fraud

The ICB also has a Whistleblowing Policy and harassing or victimising a whistle-blower (including informal pressures) will be considered a serious disciplinary offence and will be dealt with under this procedure.

It is essential to ensure that investigations are conducted promptly, thoroughly and fairly. The following guidelines should therefore be applied in all cases:

1. The purpose of any investigation is not to build a case or a defence, but to establish the facts
2. The line manager of the person facing an allegation or complaint should take responsibility for the investigation
3. In cases of alleged fraud, the ICB's internal audit department should be notified and involved immediately
4. The investigating officer should, without delay, obtain statements from any witnesses, together with other relevant documentary information
5. Adequate time and notice of meetings should be given to employees who need to be interviewed or produce statements. Where the employee to be interviewed is the subject of a complaint or allegation, they must be provided with details of such complaint or allegation in advance of the interview
6. All staff being interviewed should be given a reasonable opportunity to obtain support and/or guidance from a trade union or staff organisation, or from a work colleague
7. The initial evidence gathered should be used to prepare an estimate of the time and resources needed to complete the investigation
8. The evidence collected should be tested for accuracy against other witness accounts and/or documentary evidence

9. Witnesses should be aware that statements prepared during the investigations will be used as evidence for any subsequent disciplinary hearing
10. Little reliance should be placed on 'hearsay' evidence unless this points to, or can be tested against, more reliable evidence
11. Every reasonable effort should be made to respect the confidence of all staff involved in the investigation. However staff should be advised that unless there are exceptional circumstances, the respondent will be entitled to see all statements and interview records in the event of formal proceedings.
12. The investigating officer should determine what evidence is relevant to the issue at hand, i.e. what helps to prove the facts rather than what strengthens or weakens the case
13. The evidence collected should be used as the basis for a decision as to any further action that may be required
14. Once the investigation has sufficient evidence on which to base a decision, finish the investigation. The standard of proof for most internal investigations and any subsequent disciplinary hearing will need to be "on the balance of probabilities". The case does not have to be proved "beyond reasonable doubt" for it to stand up in a tribunal.

Investigating officers should have due regard for the below principles and guidance when conducting investigations:

- Acas Code of [Practice on disciplinary and grievance procedures](#)
- GMC – Principles of a Good Investigation
- [NMC Conducting a local investigation](#)

Further advice and guidance on conducting investigations is available from the Human Resources Department.

Appendix 4: Procedure to be followed at a Disciplinary Hearing.

The following is a guide as to the recommended procedure to follow at a Disciplinary Hearing however it should be noted that the Chair of a panel may vary this process as appropriate to ensure exploration of all the facts and circumstances.

If the respondent, or their representative, is unable to attend the respondent will need to provide reasonable notice and reasons for being unable to attend and the hearing will be rescheduled within ten working days of the original date, where possible. If the respondent fails to attend the hearing without a reasonable explanation or is persistently unable to do so (for example for health reasons), the panel may have to proceed and make a decision based on the available evidence without the respondent being present at the hearing.

1. The Chair of the panel hearing the case ("The Chair") will introduce the parties and ensure that any specific arrangements, such as an induction loop facilities, interpreter(s) or signer(s) have been made and are satisfactory.

2. The Chair will ensure that the respondent has been given an opportunity to be represented if they so wish. Representation may be from a trade union or staff organisation, or from a work colleague. There is no right to legal representation in this process. Witnesses are not entitled to representation but may, under certain circumstances, have a trade union or staff organisation representative or work colleague acting in a supportive role who will not be entitled to take any part in the proceedings.
3. Observers may be allowed at the discretion of the Chair and following discussion with the parties. Observers will not be allowed to take any part in the proceedings.
4. The Chair will ensure that all parties understand the purpose of the hearing and the procedure to be followed. The Chair will request that all attendees turn off any electronic devices to avoid unnecessary interruptions during the hearing and advise that the ICB expressly prohibits the recording of meetings.
5. The Chair will ensure that any evidence to be considered at the hearing has been produced and exchanged in advance of the hearing. Any request to submit additional evidence in the course of the hearing will be determined by the Chair after due consideration of the interests of natural justice and the potential disadvantage to any party. Where additional evidence is allowed, the parties should be given a reasonable time to consider it before proceeding.
6. The investigating officer will be asked to present the facts from the investigation process, using written statements and witnesses as appropriate. The key facts should normally be summarised in writing and circulated to the parties in advance of the hearing.
7. Where witnesses are called to give evidence the investigating officer will question each witness first, followed by the respondent or his/her representative and the Chair or panel members. The investigating officer may re-examine each witness to clarify any point raised in the questioning.
8. The respondent is generally entitled to be present throughout the hearing. However, in exceptional circumstances, e.g. harassment, it may be deemed more appropriate to keep the parties separated and for the right to question to be exercised by the respondents representative. In such cases, all reasonable care must be taken to ensure that the process does not unduly disadvantage the respondent.
9. When the investigating officer has finished presenting the facts, they may be questioned by the respondent, or his/her representative, and the Chair or panel members.
10. The Chair will then invite the respondent or his/her representative to respond to the findings of the investigating officer, with particular regard to any findings of fact that might be in dispute. Witnesses may be called in support of the respondent and may be questioned by the investigating officer, Chair or the panel members. The respondent or his/her representative may re-examine witnesses to clarify any issues raised in the course of questioning.
11. When the respondent has completed his or her response, the Chair or panel members may ask any final questions.
12. The investigating officer may finish by summing up their case followed by the respondent having the opportunity to sum up. No further questions will be taken at this stage.

13. No presentation may be interrupted by the other parties except to raise a procedural point or when called upon to question witnesses. The Chair or panel members may, however, question any of the parties at any time if they believe that to be in the interests of natural justice.
14. The parties, including the investigating officer, will then be asked to leave the room whilst the Chair/panel considers the evidence and reaches a decision.
15. The Chair/panel must first determine whether, on the basis of the evidence put to the hearing, the allegations are proven. The Chair/panel may require access to additional information in order to clarify points or need time to reach a decision. In such circumstances a further meeting would be set up as soon as possible when additional information could be presented and/or a decision reached and communicated. If the case is not proven, the matter will be closed and any reference to the allegations will be removed from the personal file.
16. If the case is proven, details of the respondent's employment record should be taken into account, including any current and relevant disciplinary warnings, when deciding on the sanction to be applied. In circumstances where there is a current disciplinary warning(s) a panel considering further disciplinary action would have the following options:
 - a. take no further action
 - b. extend a previously issued warning if the current breach is shown to be related
 - c. issue a more serious warning/dismissal decision if the current breach is shown to be related
 - d. issue a further disciplinary warning if the current breach is unrelated to previous matters
 - e. consider all previous matters and issue a more serious warning/dismissal decision on the basis of serious misconduct.
16. Once a decision is made, the investigating officer and the respondent should then be recalled to the hearing and informed of the outcome.
17. The Chair/panel must confirm any decision in writing within 7 days to the employee. The letter will cover the following points:
 - a. summarise the allegation(s) made
 - b. identify the panel's conclusion(s) from the information presented
 - c. state any disciplinary action taken along with any relevant timescale
 - d. identify the consequences of any repetition of the disciplinary breach
 - e. where an improvement in conduct is required identify the level of improvement along with any timescales which are to apply. (Any review process should stipulate whether it will be continuous or conducted at the end of a specified period)
 - f. establish the right of appeal and the timescale and process for making this request.

Appendix 5: Appeals against Dismissal - ICB Appeals Procedure

Panel Membership

A ICB Appeals Panel will consist of three members including at least one Lay/GP Member of the ICB, who will act as chair to the panel. Other members will be drawn from the Senior Management Team or Governing Body plus a Human Resources representative. No member of the panel will have had any previous involvement in the case.

In cases of dismissals which concern a professional matter, at least one panel member should have specialist knowledge of the employee's field of work. Where this is not possible, a professional adviser acceptable to both parties should preferably be employed within the NHS. They should advise the panel only on matters relating to the employee's professional conduct or competence, and does not have the right to vote when the panel makes a decision.

Panel Arrangements

The Human Resources Department will undertake the administrative arrangements for appeal panels. A Human Resources representative will act as secretary to the appeal panel and will offer advice and guidance as necessary.

The parties to the appeal will be responsible for providing statements of case and other documentary evidence, and for ensuring the availability and attendance of any witnesses. Appropriate facilities, including time off for representatives and witnesses, should be requested from the appropriate line manager in advance and will not be unreasonably withheld.

Statements of Case

Written statements of case, setting out the main points at issue should be prepared by both parties and their representatives.

The Management statement: this should set out the reasons for the disciplinary action taken. It should be sufficiently detailed to enable the employee to understand on what basis the decision was reached, and to prepare their own case of defence.

The Employee's statement: this should set out clearly the grounds on which they are contesting the manager's decision.

Mutual exchange of papers prior to the hearing will take place by agreement on the same date through the Human Resources Department. This should be no less than 5 calendar days before the Appeal Hearing unless agreed otherwise between the parties.

As soon as both statements have been received they will be simultaneously circulated to:

- The ICB Appeals Panel members
- The presenting manager and Human Resources representative
- The employee and representative

Role and Decision Making Powers of the Panel

The Panel's role is to determine whether the disciplinary action which is subject to the appeal was fair and reasonable, taking into consideration all the relevant facts and circumstances of the case.

Where the events which gave rise to the disciplinary action are also the subject of legal proceedings, the panel may still be constituted and reach a decision, without awaiting the outcome of the court case.

The decision of the ICB Appeals Panel is final and there is no further level of internal appeal.

The appeal panel, by unanimous or majority decision, shall have the power to:

- i. Dismiss the appeal and endorse the disciplinary action taken
- ii. Dismiss the appeal but suggest re-engagement in a different post if this is possible
- iii. Uphold the appeal but substitute the original decision with one that the panel considers more appropriate
- iv. Uphold the appeal and reinstate the employee

Role of the Secretary to the Appeal

The Human Resources Representative appointed to support the Chair and Panel members shall be in attendance throughout the hearing/appeal, recording the proceedings and shall remain with the Chair and Panel members whilst they consider their decision. They shall advise the Chair and Panel members on points of procedure and may ask questions for clarification. They shall not have been involved in the case previously. The Human Resources representative will also ensure that both parties are advised in writing of the Panel's decision.

Notification of Panel Decisions

The decision of the appeal panel will normally be notified to the parties at the end of the hearing and confirmed in writing within seven days. In exceptional circumstances, the decision may be deferred for up to seven days. There will be no further right of appeal.

Representation / Others present at the Appeal

The Employee and Representative

The employee has the right to appear personally before the panel, either alone or accompanied by a representative. If the employee wishes, the representative need not be the same person who acted at the time disciplinary action was taken.

The Manager

The manager who took the disciplinary action will normally present the management case. The Human Resources representative who attended the disciplinary hearing may assist the manager in presenting the case.

Witnesses

Either party may call witnesses. It is the responsibility of the respective parties (assisted by the Human Resources Department if necessary) to arrange their attendance. Witnesses will be granted paid time off to appear at the appeal hearing.

Witnesses may only be present in the hearing when they are required to give their evidence. Where appropriate, complainants in harassment cases may not be required to give evidence in the presence of, or be subjected to cross-examination by, the person who is the subject of their complaint. In these circumstances, questioning will be conducted by the representative of the subject of the complaint, to whom they will have ready access.

Witnesses do not have a right to representation but may, under certain circumstances (e.g. in a complaint of harassment), be supported by a staff representative or ICB work colleague. The supporter will play no part in the appeal.

Observers

Either party may request the attendance of observers, who will not take part in the proceedings. Observers' presence must be permitted by the Chairperson and both parties and such requests will not be unreasonably refused. They must withdraw immediately at the direction of the Chairperson.

Failure to Appear at the Appeal

Where, having agreed the arrangements for appeal, either party fails to appear without good cause the panel may choose to adjourn the hearing or to proceed with the case in their absence.

Procedure to be followed at the Hearing.

The Role of the Chair of the Panel

The Chairperson of the panel will introduce those present, will briefly explain the procedure to be followed and will ensure that all parties have a complete set of documents. Any preliminary or procedural points should be raised at this time. The decision of the panel on any point of order, whether raised at the outset or during the course of the hearing, will be final.

Order of presentation of Case

The following procedure should be adopted:

1. The Manager states the case in the presence of the employee and representative.
2. The Manager may call witnesses.
3. The employee (or representative) may question the Manager and witnesses.
4. The person hearing the case or the panel members may question the Manager and witnesses.
5. The Manager may re-examine witnesses.
6. The employee (or representative) states the case in the presence of the Manager.
7. The employee may call witnesses.
8. The Manager may question the employee and witnesses.
9. The person hearing the case or the panel members may question the employee and witnesses.
10. The employee (or representative) may re-examine witnesses.

11. The Manager may sum up the case.
12. The employee may sum up the case.

It should be noted that the person hearing the case or panel members:

- May ask for clarification of any statements made during the course of the proceedings
- May decide to adjourn at any stage, or at the request of either party. The duration of the adjournment will be made clear and a decision reached on the time the hearing is to be reconvened.

The person hearing the case or the panel members, with the Secretary in attendance, should reach a decision on the case in private, recalling both parties if points of uncertainty need to be clarified.

Witnesses will not normally be required to be in attendance for the whole of the Appeal Hearing. They will normally be called to give evidence and then discharged. However, at the discretion of the Appeal Panel, after consultation with both parties, it may be agreed that witnesses are present for the duration of the Hearing.

Appendix 6: Specimen Letter - Confirmation of Suspension

Date

Name
Address

Dear.....

SUSPENSION FROM DUTY

I am writing to confirm the details of your meeting with me on *[date]*. In the presence of *[name & job title]*, you were suspended from duty with immediate effect and until further notice. Your suspension is NOT a disciplinary sanction and will be reviewed on a monthly basis. Your suspension is pending the outcome of a full and thorough investigation of the alleged incident that:

on *[date]* you

I recognise this may be an upsetting and stressful time for you. Concern for your health and wellbeing is paramount throughout this process and I would like to remind you of the support available. Section XX of the Disciplinary policy details the support which is available to you via the ICB. You may also want to seek support from the HCV Resilience Hub. The Resilience Hub can offer advice and support to both you and your family to help with a range of issues from emotional wellbeing, stress and burnout, debt or relationship issues. This service is independent of the organisational health and wellbeing offerings.

You will be contacted separately regarding details of an investigation meeting where you will be asked to respond to the allegations being made against you. Once the investigation is complete a decision will then be made as to whether to refer this matter to a formal hearing in accordance with the ICB's Disciplinary Policy and Procedure, a copy of which is enclosed, and you will be advised accordingly.

During your suspension you will receive normal pay. You must not contact any of the parties involved in the allegations, discuss the allegations with ICB staff, other than your representative, or enter ICB premises, other than for medical treatment for yourself or a member of your immediate family, without my prior approval, during the period of your suspension.

[Given that the issues under investigation relate to your clinical practice, you should not undertake clinical work with any other employer during the course of your suspension.]

You must remain contactable during normal working hours and should continue to follow the normal procedures in the event of absence or any application for annual leave.

You may consider it advisable in the meantime to consult a Trade Union Representative for advice. I enclose a second copy of this letter for your representative (*if you wish*).

If you have any queries with regard to your suspension or the subsequent process, please do not hesitate to contact *[name of personnel rep]* on *[telephone number]*.

I appreciate that this may cause you some anxiety and stress and would like to remind you again of the support available via the Resilience Hub and the support available through the ICB such as

confidential staff counselling via occupational health, if you feel this would be beneficial please do let me know and I can refer you otherwise occupational health can be contacted on XXX.

Yours sincerely,

Manager

c.c.

Encs. Copy of letter
Disciplinary Policy and Procedure

Appendix 7: Specimen Letter - Request Attendance at Disciplinary Hearing
(This letter should be sent from the manager who will present the management case at the hearing)

Date

Name
Address

2nd Floor
Wilberforce Court
Alfred Gelder Street
Hull
HU1 1UY

Tel: 01482 344700
Email:

Dear

DISCIPLINARY HEARING

Further to the investigation process, I am writing to request that you attend a disciplinary hearing in [venue] on [date and time].

At this meeting you will be asked to respond to the following allegation[s]:

*List incidents, or
Other cause which has given rise to the need for disciplinary hearing.*

The meeting will be held in the presence of [name & job title of panel members]. I will present the management case [and will be assisted by (Human Resources rep if appropriate)].

Copies of all statements/documents that will be considered at the hearing are enclosed for your information. [**** will be available to be called as a witness]. [If you wish to call any witnesses, please confirm their names and details to me by (date)].

The hearing will be held in accordance with the ICB's Disciplinary Policy and Procedure and as such you are entitled to bring with you a representative of your Trade Union or Professional Association, or a work colleague. I enclose a second copy of this letter should you wish to give it to a representative.

At the hearing you will be given every opportunity to state your case but I have to advise you that, following discussions and careful consideration of the evidence presented, disciplinary action may be taken against you [including the possibility of your dismissal (if appropriate)].

Please confirm your attendance and contact me if you have any questions regarding the procedures to be followed.

Yours sincerely

Manager

c.c.
Encs. Copy of letter for representative
Copies of statements/documents

Appendix 8

Note:

If the member of staff has previously failed to turn up to a hearing you can add the following:
Should you fail to attend without a good cause, the hearing will be held in your absence and a decision will be made using the evidence provided. You will be notified in writing of the outcome.

Appendix 8: Specimen Letter – Outcome of Disciplinary Hearing

(This letter should be sent from the chair of the disciplinary panel)

Date

Name

Address

2nd Floor
Wilberforce Court
Alfred Gelder Street
Hull
HU1 1UY

Tel: 01482 344700

Email:

Dear

OUTCOME OF DISCIPLINARY HEARING

I am writing to confirm the outcome of the disciplinary hearing held on *[date, venue]*, which I conducted in accordance with the ICB's Disciplinary Policy and Procedure. Also present were *[names and job titles]* and *[you chose to be accompanied by [name, role of representative]]* or *[you chose not to be accompanied by a representative at this hearing]*.

The purpose of the hearing was to consider the following allegation(s):

[List purpose or allegation(s)]

The members of the disciplinary panel considered carefully all of the evidence presented at the hearing together with the written investigatory information before them.

[Outcome, summarising main considerations, mitigating circumstances, acknowledgements etc.]

The decision of the panel was that you be issued with *[sanction]*, which will remain on file for 12 months, subject to no further breach of discipline.

[Detail any recommended corrective or remedial action and/or objectives for improvement]

(If appropriate) If at any time during the period this final written warning is in place any further disciplinary allegations are proven, it is highly likely that your employment will be terminated.

You were advised of your right of appeal against this warning/dismissal and made aware that any such appeal should be made in writing to the Human Resources Representative *[name/address]* within 14 calendar days of the date of this letter.

If no case to answer

The decision of the disciplinary panel was that there is no/insufficient evidence to/of XXX and therefore there is no case to answer.

If you have any queries regarding the content of this letter please contact either myself on *telephone no.* or XXX Human Resources representative on *telephone no.*

Yours sincerely

Name

Job Title

c.c. Trade Union representative

Please refer to the EIA Guidelines located in Y:\HULLCCG\Corporate Templates and Forms\Equality and Diversity Information before completing your EQIA)

HR / Corporate Policy Equality Impact Assessment:	
Policy / Project / Function:	Disciplinary Policy
Date of Analysis:	14 th June 2022
Completed by: (Name and Department)	Sophie Lucas, HR
What are the aims and intended effects of this policy, project or function?	<ul style="list-style-type: none"> • To provide a process and framework to manage employee issues of misconduct at the workplace in a fair and consistent manner in line with employment law and good HR practice. • Set standards of conduct. <p style="text-align: center;">To manage issues in a timely equitable manner</p>
Are there any significant changes to previous policy likely to have an impact on staff / other stakeholder groups?	No
Please list any other policies that are related to or referred to as part of this analysis	<ul style="list-style-type: none"> • Whistleblowing • Standards of Business Conduct • Professional Registration • Managing Performance • Managing Absence • Policy, Procedures and Guidance for responding to allegations of abuse or neglect of a child against an employee • Bullying and Harassment • IM&T Security Policy • Pay Progression • Equality, Diversity and Inclusion Policy
Who will the policy, project or function affect?	All CCG Employees
What engagement / consultation has been done, or is planned for this policy and the equality impact assessment?	Consultation will take place with SLT, Staff side colleagues via sub group ad SPF, employees via staff engagement groups.

<p>Promoting Inclusivity and ICB's Equality Objectives.</p> <p>How does the project, service or function contribute towards our aims of eliminating discrimination and promoting equality and diversity within our organisation?</p> <p>How does the policy promote our equality objectives:</p> <ol style="list-style-type: none"> 1. To be an employer with a well-supported workforce and Board that represents our population 2. To work, alongside partners, to tackle health inequalities with the aim of better health outcomes for all 3. To demonstrate leadership on equality and inclusion through collaboration 4. To ensure that our governance and decision making pays due regard to equalities 5. To ensure that all our diverse communities are able to have their voices heard and their views are taken into account in our decision making 	<p>This policy aims to provide a fair and effective mechanism for dealing with disciplinary issues and to protect staff from discrimination in implementing this policy.</p> <p>This supports objectives 1 and 4.</p>
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Equality Data	
<p>Is any Equality Data available relating to the use or implementation of this policy, project or function?</p> <p>Equality data is internal or external information that may indicate how the activity being analysed can affect different groups of people who share the nine <i>Protected Characteristics</i> – referred to hereafter as 'Equality Groups'.</p> <p>Examples of <i>Equality Data</i> include: (this list is not definitive)</p> <ol style="list-style-type: none"> 1: Recruitment data, e.g. applications compared to the population profile, application success rates 2: Complaints by groups who share / represent protected characteristics 	<p>Yes <input checked="" type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p>Where you have answered yes, please incorporate this data when performing the <i>Equality Impact Assessment Test</i> (the next section of this document). If you answered No, what information will you use to assess impact?</p> <p>Please note that due to the small number of staff employed by the CCG, data with returns small enough to identify individuals cannot be published. However, the data should still be analysed as part of the EIA process, and where it is possible to identify trends or issues, these should be recorded in the EIA.</p> <p>Insights from data provided below.</p>

4: Grievances or decisions upheld and dismissed by protected characteristic group 5: Insight gained through engagement	
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Assessing Impact				
Is this policy (or the implementation of this policy) likely to have a particular impact on any of the protected characteristic groups? (Based on analysis of the data / insights gathered through engagement, or your knowledge of the substance of this policy)				
Protected Characteristic:	Neutral Impact:	Positive Impact:	Negative Impact:	Evidence of impact and, if applicable, justification where a <i>Genuine Determining Reason</i> ¹ exists (see footnote below – seek further advice in this case)
Gender			✓	Whilst the policy will be applied consistently to employees regardless of gender, the CCG employs a significant majority of women there may be expected to be more women subject to actions. Data should therefore be monitored for proportionality.
Age	✓			Considered and no evidence of impact.
Race / ethnicity / nationality			✓	National research and WRES data shows that employees in the NHS from a black and minority ethnic background are almost twice as likely to be disciplined as white employees. This policy refers to the CCG's obligations under the Equality Act and reference is made to other policies where work performance or attendance is a

1. ¹ The action is proportionate to the legitimate aims of the organisation (please seek further advice)

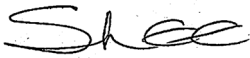
				concern. Training is also available. The policy will be applied consistently to employees regardless of race, nationality or ethnicity and there is currently no evidence to indicate this will have an adverse effect on black and minority ethnic staff but the policy should be monitored.
Disability			✓	The policy refers to the CCG's obligations under the Equality Act and reference is made to other policies where work performance or attendance is a concern. Training is also available. There is currently no evidence to indicate this will have an adverse effect staff with disabilities, but the policy should be monitored.
Religion or Belief	✓			Considered and no evidence of impact.
Sexual Orientation	✓			Considered and no evidence of impact.
Pregnancy and Maternity	✓			Considered and no evidence of impact.
Transgender / Gender reassignment	✓			Considered and no evidence of impact.
Marriage or civil partnership	✓			Considered and no evidence of impact.

Action Planning:

As a result of performing this analysis, what actions are proposed to remove or reduce any risks of adverse impact or strengthen the promotion of equality?

Identified Risk:	Recommended Actions:	Responsible Lead:	Completion Date:	Review Date:
Some equality groups have been found to be more likely to be subject to disciplinary actions by employers,	Ensure CCG managers are trained in equality and diversity awareness and seek appropriate HR advice before undertaking	HR	ongoing	Annually

including those from ethnic minorities.	investigations or disciplinary proceedings. Monitor disciplinary cases by protected characteristics to identify any trends or significant variance in proportionality of action.			

Sign-off
<p>EQiAs to be sent to the Equality and Diversity (E&D) Inbox at hullccg.equalityanddiversity@nhs.net at least 10 days before the document deadline date (Please do this as early as possible).</p> <p>Following review your EQIA will be returned with any comments included, please action these and return the updated fully formatted document to the E&D Inbox for sign off.</p>
<p>I agree with this assessment / action plan</p>
<p>If <i>disagree</i>, state action/s required, reasons and details of who is to carry them out with timescales:</p>
<div style="text-align: center;">  </div> <p>Signed:</p>
<p>Date: 27.07.22</p>

Bribery Act 2010:

Under the Bribery Act 2010, it is a criminal offence to:

- Bribe another person by offering, promising or giving a financial or other advantage to induce them to perform improperly a relevant function or activity, or as a reward for already having done so; and
- Be bribed by another person by requesting, agreeing to receive or accepting a financial or other advantage with the intention that a relevant function or activity would then be performed improperly, or as a reward for having already done so.
- Failure to prevent bribery; The Bribery Act also introduced a corporate offence for a relevant commercial organisation (the ICB) to bribe another person intending (1) to obtain or retain business, or (2) to obtain or retain an advantage in the conduct of business. The only defence available to the ICB against Bribery Act offences would be to prove that it had adequate procedures in place designed to prevent persons associated with it from undertaking any of the conduct outlined above.

These offences can be committed directly or by and through a third person and, in many cases, it does not matter whether the person knows or believes that the performance of the function or activity is improper.

It is therefore, extremely important that staff adhere to this and other related policies and documentation (as detailed on the ICB's website) when considering whether to offer or accept gifts and hospitality and/or other incentives.

If fraud, bribery and corruption are particularly relevant to a policy, the section should be headed Anti-fraud, Bribery and Corruption and should include a cross reference to the Local Anti-fraud, Bribery and Corruption Policy. The following wording should also be included:

'If an employee suspects that fraud, bribery or corruption has taken place, they should ensure it is reported to the Local Counter Fraud Specialist (LCFS) and/or to NHS Counter Fraud Authority (NHSCFA) as follows:

- Local Counter Fraud Specialist on 07872 988939 / email nikki.cooper1@nhs.net or Head of Anti-Crime Services on 07717 356707 / email steven.moss@nhs.net.
- The ICB's Chief Finance Officer,
- NHSCFA, 0800 028 40 60 (powered by Crimestoppers)
- Online: <https://cfa.nhs.uk/reportfraud>.'

For further information see <http://www.justice.gov.uk/guidance/docs/bribery-act-2010-quick-start-guide.pdf>. If you require assistance in determining the implications of the Bribery Act please contact the LCFS

Bribery Act 2010:

Under the Bribery Act 2010, it is a criminal offence to:

- Bribe another person by offering, promising or giving a financial or other advantage to induce them to perform improperly a relevant function or activity, or as a reward for already having done so; and
- Be bribed by another person by requesting, agreeing to receive or accepting a financial or other advantage with the intention that a relevant function or activity would then be performed improperly, or as a reward for having already done so.
- Failure to prevent bribery; The Bribery Act also introduced a corporate offence for a relevant commercial organisation (the ICB) to bribe another person intending (1) to obtain or retain business, or (2) to obtain or retain an advantage in the conduct of business. The only defence available to the ICB against Bribery Act offences would be to prove that it had adequate procedures in place designed to prevent persons associated with it from undertaking any of the conduct outlined above.

These offences can be committed directly or by and through a third person and, in many cases, it does not matter whether the person knows or believes that the performance of the function or activity is improper.

It is therefore, extremely important that staff adhere to this and other related policies and documentation (as detailed on the ICB's website) when considering whether to offer or accept gifts and hospitality and/or other incentives.

If fraud, bribery and corruption are particularly relevant to a policy, the section should be headed Anti-fraud, Bribery and Corruption and should include a cross reference to the Local Anti-fraud, Bribery and Corruption Policy. The following wording should also be included:

'If an employee suspects that fraud, bribery or corruption has taken place, they should ensure it is reported to the Local Counter Fraud Specialist (LCFS) and/or to NHS Counter Fraud Authority (NHSCFA) as follows:

- Local Counter Fraud Specialist on 07872 988939 / email nikki.cooper1@nhs.net or Head of Anti-Crime Services on 07717 356707 / email steven.moss@nhs.net.

For further information see <http://www.justice.gov.uk/guidance/docs/bribery-act-2010-quick-start-guide.pdf>. If you require assistance in determining the implications of the Bribery Act please contact the LCFS on the details above.