

MANAGING WORK PERFORMANCE POLICY

June 2022

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Name of Policy:	HR16 Managing Work Performance Policy
Date Issued:	01/07/2022
Date to be reviewed:	01/07/2026

Policy Title:	Managing Work Performance Policy	
Supersedes: (Please List)	All previous Managing Work Performance Policies including NHS Commissioning Support Unit, Managing Work Performance policy, V1, dated 1.4.13 2.00	
Description of Amedment(s)	Updated to reflect ICB Removal of warning and 'improvement notifications' Included section on support	
This policy will impact on:	All staff	
Policy Area:	HR	
Version No:	2.1	
Author:	HR	
Effective Date:	01/07/2022	
Review Date:	01/07/2026	
Equality Impact Assessment Date:	27/06/2022	
APPROVAL RECORD	SPF Sub Group	10/05/2022:
	SPF	30/06/2022
	Remuneration Committee	01/07/2022
	Staff Consultation	10/06/2022

CONTENTS

		Page
1.	INTRODUCTION	4
2.	SCOPE	4
3.	POLICY PURPOSE AND AIMS	4
4.	IMPACT ANALYSIS / REGULATIONS	4
4.1	Equality	
4.2	Bribery Act 2010	
4.3	General Data Protection Regulation (GDPR)	
5.	NHS CONSTITUTION	5
5.1	This Policy supports the NHS Constitution	
6	ROLES / RESPONSIBILITIES / DUTIES	5
7.	SUPPORT DURING A PERFORMANCE MANAGEMENT PROCESS	
815.	IMPLEMENTATION	15-11
9.	TRAINING AND AWARENESS	11
10.	MONITORING AND EFFECTIVENESS	11
11.	POLICY REVIEW	12
12.	REFERENCES	
13.	ASSOCIATED DOCUMENTATION	12
14	SCHEME OF DELEGATION	
15.	PROCEDURE	
16.	DEFERRAL OF PAY PROGRESSION	
APPENDICES		
APPENDICES 1 - 12	INFORMAL AND FORMAL LETTERS	13-25
APPENDIX 13	IMPROVEMENT ACTION PLAN	26-215
APPENDIX 14	HEARING PANEL PROCEDURE	28

APPENDIX 15	APPEAL HEARING PROCEDURE	29
APPENDIX 16	EQUALITY IMPACT ASSESSMENT AND ACTION PLAN	
APPENDIX 17	BRIBERY ACT 2010 INFORMATION	

1. INTRODUCTION

- 1.1 The ICB is committed to valuing all of its' employees and will encourage them, through guidance and training and development to perform in their role on a consistent basis. Where there it identified that the individual has not achieved required performance standards , the ICB will, as part of the routine process of one to one meetings between them and their line manager , discuss with the employee the reasons giving rise to that situation and offer encouragement and support. Formal action in line with the principles and procedure outlined below may follow if, the employee does not achieve the ICB's defined performance levels.
- 1.2 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.

2. SCOPE

- 2.1 This policy will apply to all employees , with the exception of employees during their probationary period, where the Induction and Probationary policy should be applied. Managers should ensure that employees have clear objectives set and that their performance is reviewed regularly.

3. POLICY PURPOSE AND AIMS

The ICB has the right and responsibility to establish its' requirements in standards of work to be achieved by its employees, so long as these are realistic and clearly defined. In order to fulfil this responsibility the ICB will ensure that individual employees' work is monitored fairly.

4. IMPACT ANALYSIS

4.1 Equality

The ICB is committed to:

- Having due regard for the need to eliminate unlawful discrimination;
- Promoting equality of opportunity, and providing for 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.

4.2 Bribery Act 2010

- 4.2.1 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 2 for full details.

4.3 **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.

5. **NHS CONSTITUTION**

5.1 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.

5.2 **This Policy supports the NHS Constitution as follows:**

The NHS aspires to the highest standards of excellence and professionalism in the provision of high-quality care that is safe, effective and focused on patient experience; in the planning and delivery of the clinical and other services it provides; in the people it employs and the education, training and development they receive; in the leadership and management of its organisations; and through its commitment to innovation and to the promotion and conduct of research to improve the current and future health and care of the population.

6.0 **ROLES / RESPONSIBILITIES / DUTIES**

6.1.1 During employment adequate training, support and encouragement are essential to help achieve satisfactory performance. This will mean that regular discussions about performance will take place between employees and their managers. During these discussions managers will ensure that employees are clear on the performance expected of them and will coach and develop employees to achieve their objectives. This could involve setting performance or clear expectations regarding behavioural standards or employees in an attempt to encourage improvements, without the recourse to formal procedures.

6.1.2 Equally, employees themselves have a responsibility for their individual performance

and to recognising their role in the overall performance of their team and the wider organisation. Employees must demonstrate that they are committed to achieving and maintaining the required performance standards.

6.1.3 Where the performance of an employee is affected by a disability, as defined in accordance with the Equality Act 2010, reasonable adjustments will be considered in any aspect of work arrangements to support the employee in their performance at work. Advice should be sought from occupational health and a HR representative in relation to reasonable adjustments that may be required.

6.1.4 Where appropriate, reference should also be made to the Absence Management policy.

6.2 **Employees**

6.2.1 Employees are required to attend all meetings relating to this process. If they, or their companion, are unable to attend the arranged meeting, they must give notice and reasons why they are unable to attend. The meeting will then be rescheduled to a mutually convenient time, within 10 working days of the original date wherever possible. However, where an employee fails to attend such meetings without reasonable grounds, or where meetings are repeatedly rescheduled due to issues with an employee or companion availability, then the meeting may be held in their absence. The employee will be informed of this in writing.

6.2.2 If at any stage in the procedure after a performance review meeting an employee fails to maintain the required standard of work performance within 12 months of that meeting the manager withholds the right to return to the relevant stage of the procedure. The employee will have the right of appeal against any warning or sanction issued in the formal stages of the procedure. Please refer to 15.4 - Appeals.

6.2.3 At all stages of the procedure employees is to be reminded of the availability of counselling support. Any complaints arising from the application of this procedure should be addressed in line with the ICBs Grievance procedure. Employees are entitled to be accompanied at all formal meetings by a trade union representative or ICB work colleague.

6.2.4 If the employee is a trade union representative, notification should be made to a senior trade union representative or full time official as early as possible once it is acknowledged that the formal stages of the procedure are to be implemented. This notification should only occur however with the agreement of the trade union representative whose performance is in question.

6.2.5 If the employee has been requested to attend a hearing they must inform the chair of the panel of their chosen companion, at least 2 working days in advance of the hearing. The employee may not insist on being accompanied by a colleague whose presence would prejudice the meeting or who might have a conflict of interest. Employees do not have the right to be accompanied by an individual acting in a legal capacity. Should there be any dispute regarding the chosen companion that cannot be resolved, the matter will be escalated to the Head of HR.

6.3 **Line Manager**

- 6.3.1 Managers with responsibilities for performance management will receive the appropriate training to help them understand their role and manage performance effectively. This will include information on the objectives of performance management and how this process will operate, as part of the Hull ICB appraisal process.
- 6.3.2 If an employee's performance causes concern this should be discussed with the employee at the earliest opportunity to identify possible causes for the underperformance. If these issues are persistent, line managers should refer to the informal stage of this procedure.
- 6.3.3 This procedure will be implemented where the manager considers that an employee is underperforming and not maintaining defined standards of work. Issues regarding misconduct and ill-health will be addressed under the appropriate policy (please refer to the Disciplinary Policy and Absence Management Policy and seek HR advice where necessary).
- 6.3.4 Every attempt will be made to ensure that any employee targets and timescales set are a reasonable expectation and are agreed between the line manager and employee. Where this agreement cannot be reached, it may be necessary for management to set the target that the employee is reasonably required to achieve within the timescale.
- 6.3.5 In exceptional circumstances, where there are concerns that an employee's performance represents a significant danger to themselves, colleagues, service users or the financial/physical resources of the ICB, temporary redeployment (where available) or suspension on full pay may be considered, pending a referral to occupational health and/or a managing work performance meeting.
- 6.3.6 Advice must be sought from an HR representative prior to contacting the employee where temporary redeployment or suspension is a possibility. The reason for temporary redeployment or suspension will be confirmed in writing to the employee. Such a transfer/suspension is precautionary, does not constitute a sanction and will not prejudice the outcome of any potential meeting or hearing held in line with this policy.

6.4 Human Resources

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

7. SUPPORT DURING A PERFORMANCE MANAGEMENT PROGRESS

-

Being subject to a performance management process can be an upsetting and stressful time for the employee and line manager. Concern for the health and wellbeing of individuals involved in the process should be paramount and continually assessed.

A series of options have been put into place to enable staff to be supported.

Occupational health service

Any member of staff who is involved in a performance management 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 are not 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 and should speak to their HR departments to understand if their ICB has access to this.

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 ICB's disciplinary procedure.

9. TRAINING AND AWARENESS

- 9.1 This policy will be communicated to staff via team meetings/team brief and will be available for staff on the website.
- 9.2 Training and support will be available to all Line Managers in the implementation and application of this policy

10. MONITORING AND EFFECTIVENESS

The effectiveness of this Policy will be monitored by the HR Team in conjunction with the senior leadership team and Trade Union representative. Where review is necessary due to legislative change, this will happen immediately.

11. POLICY REVIEW

This Policy will be reviewed within 3 years from the date of implementation.

12. REFERENCES

- Agenda for Change Terms and Conditions handbook
- Employment Rights Act 1996
- Employment Act 2008

13. ASSOCIATED DOCUMENTATION

- Disciplinary Policy and Procedure
- Attendance Management Policy
- Redeployment Policy
- Induction and Probationary policy
- Pay Progression Policy

14. SCHEME OF DELEGATION

Informal procedure	Line manager or equivalent level manager from elsewhere within the organisation.
Formal procedure	Line manager or equivalent level manager from elsewhere within the organisation.
Hearing panel	Line manager's manager or equivalent who has not previously implicated plus another appropriate manager and/or a HR representative.
Appeal following formal procedure	Manager who has not previously been involved or implicated plus a HR representative.
Dismissal Hearings	Chaired by an Individual reporting to a Director or equivalent plus one other manager who has not previously implicated and a HR representative.
Appeal against dismissal	Chaired by a Director plus one other manager and a HR representative.
Appeal against dismissal from a Director	Two Governing Body members and an HR representative.

15.0 PROCEDURE

15.1 INFORMAL PROCEDURE

15.1.1 In cases where the individual is not achieving required performance standards, first line managers are to invite the employee to an informal meeting (see appendix 1) to ensure that it is made clear to the employee the detail of the shortfall in performance and should restate the standard that is required. The employee should be given an opportunity to discuss any training or support that is required to improve performance to reach the required standards. The employee must also be given an opportunity to express their opinion and for the line manager to consider external factors, which may be contributing to the poor performance.

Support mechanisms may be appropriate at this stage and could include:

- Training
- Coaching/mentoring
- Work observation
- Work shadowing
- Internal visits

(This list is not exhaustive)

15.1.2 The outcome of any informal discussions should be confirmed in writing (see appendix 2) to the employee together with a record of any action and/or agreed training requirements including timescales for the expected improvement to be achieved. This timescale will be reasonable and fair and agreed e.g. between one to three months. In considering what is a reasonable timescale for improvement to occur managers should consider the nature of the post, the extent to which the employee is functioning below standard and the type and extent of training and support required. The template performance improvement action plan (appendix 13) may be used for this purpose.

15.1.3 The subsequent performance of the employee is to be monitored and assessed objectively and frequently, giving the employee any feedback, both positive and negative e.g. review meetings weekly or fortnightly. See appendix 3 and 4 for template letters.

15.1.4 During the informal stage of the Managing Work Performance policy employees do not have the statutory right to be accompanied by a Trade Union representative or workplace colleague. However the employee may wish to contact a workplace colleague or trade union representative for advice and support.

15.1.5 If the informal stage does not improve the performance of the employee within the agreed timescale the line manager can progress to the formal stage of the procedure.

15.1.6 If the employee meets the required objectives / standards of work performance within the timescale no further action will be taken.

15.1.7 If the performance not be maintained by the employee over the 12 months following the most recent review meeting, the line manager may also progress to the formal stage of the procedure.

15.2 FORMAL PROCEDURE

- 15.2.1 Where the employee has not achieved the required performance standards, or maintain the agreed performance level, the line manager will invite the employee in writing to attend a formal meeting (see appendix 5) and advise them that they have the right to be accompanied by a recognised trade union representative or ICB work colleague. The line manager must also inform an HR representative at this stage.
- 15.2.2 At the meeting the discussion will focus on the issues regarding the unsatisfactory work performance, as well as having the opportunity to discuss any further problems. The line manager will clearly explain the shortfall between the employee's performance and the required standard, establish the possible causes, discuss the previous improvement action plan and identify other potential actions and interventions. The line manager and employee will agree a system to regularly monitor the employee's progress and evaluate the success of support mechanisms. Suggestions from the employee will be considered and the possibilities of alternative duties may be discussed, in accordance with the provisions of the Redeployment policy and business need.
- 15.2.3 The employee may wish to take advantage of being placed on the redeployment register, which will offer employees a higher level of priority status over new vacancies within the organisation. If an employee wishes to be placed on the redeployment register it should be made clear that this is a supportive measure as part of the Managing Work Performance process for the individual to consider other employment opportunities and that should there be no suitable redeployment opportunities, this will not affect the employee's employment status and the Managing Work Performance process will still continue.
- 15.2.4 The outcome of any formal discussions should be confirmed in writing to the employee (see appendix 6) together with a record of any action and/or agreed training requirements including timescales for the expected improvement to be achieved. This timescale will be reasonable and fair and agreed e.g. between one and three months. This allows managers and employees to have an understanding of minimum and maximum reasonable timeframes. The template performance improvement action plan (appendix 13) may be used for this purpose.
- 15.2.5 At the end of the monitoring period the employee will be invited to a performance review meeting (see appendix 15 and 8 for template letters). If the required improvement has been made there will be no further action under the formal stage of the procedure. However, should the employee not maintain the required standard of work performance over the 12 months following the performance review meeting, the line manager may return to the formal stage of the procedure.
- 15.2.6 If the employee has made partial but significant improvement and there is a prospect of the required improvement being made within 1 to 3 months, the monitoring period will be extended whilst still continuing the supportive measures outlined in this policy.
- 15.2.15 However, if unsatisfactory progress or no improvement has been made towards the agreed performance level and there is no prospect of improvement within a reasonable timeframe, and having exhausted all other avenues as detailed in section 1 of the procedure, the line manager may refer the employee to a hearing where their performance issues and progress will be assessed by an independent panel (see section 3 for more detail). Advice can be sought from the appropriate HR representative.

15.3 MANAGING WORK PERFORMANCE HEARING

15.3.1 A hearing panel will be held following the scheme of delegation set out in part 1, section 4 of the policy.

The panel chair will be a manager not previously involved in the case who will be accompanied by another appropriate manager or a HR representative, or in some cases both where deemed necessary to ensure fairness and consistency. The HR representative's role will be to provide advice on HR policies, employment legislation and consistent application of the Managing Work Performance policy. The panel will have opportunity to ask questions to obtain clarification on any issues that are discussed or new relevant information disclosed.

The hearing panel procedure (appendix 14) must be followed.

15.3.2 The employee will be given at least 5 working days notice in writing of the meeting (see appendix 9) and will be advised of the purpose of the meeting and details of action taken to date.

15.3.3 If the employee, or their chosen companion (see paragraph 2.8 of policy principles for definition of accepted companions), is not available to attend on the date proposed, the ICB will endeavour to offer an alternative reasonable date within 10 working days of the original date wherever possible. Note: This meeting will normally only be re-arranged once, except in exceptional circumstances.

15.3.4 All relevant facts and evidence will be made available to the employee at least 5 working days prior to the hearing. Additional information gathered by the employee, that they wish to present at the hearing, must also be made available to the panel at least 2 working days prior to the hearing.

15.3.5 Either party may present evidence including details of previous relevant warnings and will have the opportunity to ask questions.

15.3.6 Adjournments may be called by the panel at any time during the hearing should new facts emerge which require investigation or clarification. If the employee requires an adjournment this will be honoured, for example if the employee wishes to have a private conversation with their representative, or if they become distressed an adjournment may be called in order for them to regain their composure. Should the employee be unable to continue, the hearing will be adjourned to a later date.

An adjournment must be held in order that there can be a period of dispassionate reflection by the hearing panel to consider what action, if any, is to be taken. Where possible, both parties will return to the hearing to be verbally informed of the outcome after the adjournment.

15.3.7 The possible outcomes of the panel are:

- No case to answer
- First Improvement Notification
- Final Improvement Notification
- Dismissal (*not normally applied at the first hearing unless the impact of the underperformance is so severe and detrimental to the ICB that the employee can*

no longer continue in their role)

15.3.8 The panel may also consider additional sanctions to be issued alongside improvement Notification, these include:

- Further training
- Alternative employment
- Removal of flexible or agile working arrangements
- Deferred increment (see also section 16)

If the panel wishes to consider an additional sanction, advice should be sought from a HR representative.

15.3.9 The outcome of the hearing will be confirmed to the employee in writing (see appendix 10) within 15 working days setting out the reason for any warning/sanctions given including the duration of the warning, details of any required improvements which are necessary and if applicable details of timescales for achievement and giving the employee a right of appeal against any warnings/sanction issued. It should be made clear to the employee that failure to maintain the required work performance within a 12 month period of a formal warning being issued may result in an immediate return to a formal hearing, where this hearing process should be repeated alongside the supportive interventions.

15.4 APPEALS

15.4.1 An employee in receipt of an improvement Notification or notice of dismissal has the right of appeal. An employee may choose to appeal if:

- they think a finding or sanction is unfair;
- they think the Managing Work Performance procedure was not used correctly (including a dispute against the evidence relied upon in the hearing).

15.4.2 Appeals must be made in writing within 5 working days of the receipt of the written notice of warning/sanction or dismissal to the Chief Officer. The letter must include details of their grounds for appeal. In exceptional circumstances this period may be extended.

15.4.3 Appeals will be heard within 5 weeks of receipt of the letter requesting the appeal but either party may, with the consent of the other and in exceptional circumstances, be entitled to extend this period. Note: This meeting will normally only be re-arranged or extended once, except in exceptional circumstances

15.4.4 The employee will be invited to an appeal hearing in writing (see appendix 11) and must be given at least 5 working days' notice of the date of the appeal hearing.

15.4.5 The appeal hearing procedure (appendix 15) must be followed.

15.4.6 Appeals will normally be heard by a more senior manager to the person chairing the first hearing panel. In cases of dismissal of a Director, the appeal will be heard by a panel of two ICB Governing Body members. All appeals will include a representative of the HR team, in an advisory capacity, wherever possible.

15.4.15 The employee will have the right to be accompanied at the appeal hearing by either a trade union representative or workplace colleague not acting in a legal

capacity.

15.4.8 Both parties must provide to the appeal hearing panel, a full written statement of case including the grounds upon which the appeal is presented/resisted, with copies of any documents the party concerned intends to use in evidence at least 2 working days prior to the appeal hearing.

15.4.9 The decision of the panel will be communicated to both parties verbally, following the adjournment wherever possible, and in any case will be confirmed later in writing (again to either party), no later than 5 working days after the appeal hearing (see appendix 12). The decision of the appeal panel is final.

15.5 DURATION OF IMPROVEMENT NOTIFICATIONS

15.5.1 The duration of improvement notifications will normally be as follows:

First Improvement Notification 12 months
Final Improvement Notification** 12 months

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

15.5.2 A copy of the Improvement Notification will be kept on file but should be disregarded for the purposes of deciding on the appropriate action or outcome of any future performance management proceedings after 12/24 months from the date of issue.

16.00 DEFERRAL OF PAY PROGRESSION

16.1 Where an employee is engaging in the managing work performance procedure, pay progression may be deferred in line with the ICB's Pay Progression policy.

APPENDICES

Ref: MWP1/IM

Date:

Dear

Address

Managing work performance - invitation to informal meeting

Further to our recent discussions, I write to invite you to an informal one to one meeting in line with the Managing Work Performance policy (copy enclosed).

The meeting will be held at (TIME) on (DATE) at (LOCATION).

The purpose of the meeting is to informally discuss your performance in the role of (JOB TITLE). I have enclosed a copy of your job description and recent one to one notes. This is an opportunity for us to discuss the performance issues and identify reasons for these, whilst also giving you an opportunity to express your opinion. It is a supportive measure to ensure that you have a secure understanding of the expectations of your role and how your role impacts on the performance of the team and the wider organisation.

An outcome of the meeting may be the formulation of a performance improvement action plan including specific timescales which will be agreed by both of us. This may include further training, mentoring and/or support.

If there are specific examples then it may be useful to provide brief detail of these so that the employee is prepared for the meeting.

In particular we will discuss:

- A
- B
- C

As this is a one to one meeting it is not usual to be accompanied, however in the meantime you may wish to seek advice and support from a workplace colleague or trade union representative.

If you have any queries prior to the meeting or you are unable to attend, please do not hesitate to contact me on the above telephone number or e-mail address.

Yours sincerely

Line manager
Job title

Managing Work Performance - Appendix 2

Ref: MWP2/IM

Address

Date:

Telephone
Email address

Dear

Managing work performance - confirmation of informal meeting

Thank you for attending an informal one to one meeting in line with the Managing Work Performance policy on (DATE). The purpose of the meeting was to informally discuss your performance as (JOB TITLE) and support you in performing in your role.

At the meeting we discussed that you were not meeting the required standard of performance in the following areas: (DETAIL HERE). I asked whether there was any underlying reason for the shortfall in performance and you explained that (DETAIL) / *that there was not. As a result we agreed to put the following measures in place to support you (Delete as appropriate).*

I clearly restated the expectations for your post and clarified your objectives. After detailed discussion about these objectives we agreed an informal action plan to support you in delivering these objectives. *(If no action plan at this stage, name key objectives in this letter with agreed timescales)* I also clarified how your role fits into the wider objectives of the team and organisation as a whole.

I asked whether you felt any support, training or development would assist you in this post and you stated that (DETAIL). I *agreed/ suggested* that it would be beneficial for you to (DETAIL ABOUT SUPPORT).

We agreed that we would review your progress against *(the action plan/ your objectives)* in *(one/two/three months)*. In the meantime, we will hold *(weekly/fortnightly)* one to one supervision meetings to support you in achieving your objectives in line with the agreed timescales.

In the meantime, should you have any queries or concerns that you wish to raise please do not hesitate to contact me on (TELEPHONE NO).

Yours sincerely

Line manager
Job title

Managing Work Performance - Appendix 3

Ref: MWP3/IPR

Address

Date:

Telephone
Email address

Dear

Managing work performance informal procedure - invitation to performance review

Further to our meeting on (DATE) at which we discussed your performance in the role of *****, I write to invite you to a performance review under the informal procedure of the Managing Work Performance policy.

The meeting will be held at (TIME) on (DATE) at (LOCATION).

The purpose of the meeting is to review your progress against the performance improvement action plan which was agreed following our meeting. I have enclosed a copy of the action plan for your information.

Please be aware that a decision will be made at the meeting regarding how to proceed. The possible outcomes are no further action, an extension to the monitoring period or escalation to the formal stage of the Managing Work Performance procedure.

I would like to remind you that as this is a one to one meeting it is not usual to be accompanied; however in the meantime you may wish to seek advice and support from a workplace colleague or trade union representative.

If you have any queries prior to the meeting or you are unable to attend, please do not hesitate to contact me on the above telephone number or e-mail address.

Yours sincerely

Line manager
Job title

Ref: MWP4/IPR

Address

Date:

Telephone
Email address

Dear

Managing work performance informal procedure - confirmation of performance review meeting

Thank you for attending an informal review meeting in line with the Managing Work Performance policy on (DATE). The purpose of the meeting was to review your performance against the (*informal action plan/ objectives*) set at our meeting on (DATE) and to consider appropriate next steps.

At the meeting we discussed, (*list key points of the feedback; where any improvements are made these should also be included*) and in summary

- I am pleased that you have fully met the objectives set out and that your work performance has improved to the required standard. As such no further action will be taken under the Managing Work Performance policy at this stage. However, you are expected to maintain this standard of performance and I must advise you that if work performance issues are identified in the next 12 months, I may decide to escalate to the formal procedure under the Managing Work Performance policy. I attach a copy of this policy to this letter.
- I identified some improvements against the objectives set out but recognise that there is still improvement to be made namely (DETAIL). As such I have decided to extend the monitoring period by (*one/two/three*) months, by which time it is expected that you will have met the objectives set out in the (*reviewed*) action plan agreed on DATE. I must advise you that failure to meet the required performance standards by this review date may result in escalation to the formal procedure under the Managing Work Performance policy. I attach a copy of this policy to this letter.
- I identified that you have not made sufficient improvement against the objectives set out and will now escalate this process to the formal stages of the Managing Work Performance policy. I attach a copy of this policy to this letter. I will write to you again in due course to invite you to a formal meeting in line with the policy.

As we are now in a formal procedure I would like to remind you of your right to arrange trade union or (*ICB work colleague*) representation for any subsequent formal meetings held in line with this procedure. In the meantime you may wish to consult your union for support and advice.

I asked you again whether you felt any support, training or development would assist you in this post and you stated that (DETAIL). I *agreed/ suggested* that it would be beneficial for you to (DETAIL ABOUT SUPPORT).

In the meantime, should you have any queries or concerns that you wish to raise please do not hesitate to contact me on (TELEPHONE NO).

Yours sincerely
Line manager
Job title

Ref: MWP5/FM

Address

Date:

Dear

Telephone
Email address

Managing work performance - invitation to formal meeting

Further to our performance review meeting on (DATE) and subsequent confirmation letter dated *****, I write to invite you to a formal meeting in line with the Managing Work Performance policy (copy enclosed).

The meeting will be held at (TIME) on (DATE) at (LOCATION). I will chair the meeting and ***** from the HR team will also be in attendance (in an advisory capacity). You are entitled if you wish to be accompanied by a workplace colleague or a trade union representative. If you intend to be accompanied, please provide me with details of your work colleague or trade union representative at least two days in advance of the meeting date.

The purpose of the meeting is to initiate the formal stages of the Managing Work Performance procedure due to your failure to improve/ maintain the performance standards agreed with you during the informal stage of the procedure. I have enclosed the most recent copy of the performance improvement action plan which we will review at our meeting. The meeting will focus on the issues surrounding your unsatisfactory work performance and there will be an opportunity for you to raise any further issues and make suggestions. At the meeting we will agree a formal performance improvement action plan which will include specific action points and a timescale for improvement. At this stage in the procedure an outcome may be that you wish to explore the possibility of alternative duties in line with the redeployment policy (copy enclosed). We will discuss this in more detail at the meeting. Please note that should you wish to be placed on the redeployment register the managing work performance process will still continue.

I understand that this can be a difficult time and I would like to draw your attention to the various sources of support available to you. Details can be found at point 7 of the Managing Work Performance policy.

If you have any queries prior to the meeting or you are unable to attend, please do not hesitate to contact me on the above telephone number or e-mail address.

Yours sincerely

Line manager
Job title

Ref: MWP6/FM

Address

Date:

Dear

Telephone
Email address

Managing work performance formal procedure - confirmation of formal meeting

Thank you for attending a formal meeting in line with the Managing Work Performance policy on (DATE), at which **** ***, your workplace colleague/ trade union representative was also present. The purpose of the meeting was to discuss your performance following our informal performance review meeting on (DATE) during which I informed you that your performance had not improved sufficiently and I would be progressing the matter to the formal stage of the procedure.

At the meeting we discussed your recent performance against the previous performance improvement action plan which was agreed during the informal stage of the procedure OR we discussed the key areas where your performance was still not at the level required of the post and we discussed the reasons why your performance was still not at the required level. I reiterated the expectations for your post and clarified your objectives.

I again asked you if there was any underlying reason for the shortfall in performance and you explained that (DETAIL) / that there was not. As a result we agreed to put the following measures in place to support you (delete as appropriate).

After detailed discussion about these objectives we agreed a formal action plan OR we amended the previous performance improvement action plan to reflect our discussions in order to support you in delivering these objectives.

I asked whether you felt you needed any additional support, training or development to assist you in this post and you stated that (DETAIL). I agreed/ suggested that it would be beneficial for you to (DETAIL ABOUT SUPPORT).

We agreed that we would review your progress against (the action plan/ your objectives) in (one/two/three months). In the meantime, we will hold (weekly/fortnightly) one to one supervision meetings to support you in achieving your objectives in line with the agreed timescales.

If applicable:

At the meeting you requested to be placed on the redeployment register. I have enclosed copy of the redeployment policy for your information. As discussed at the meeting the HR team will endeavour to send you vacancies/ opportunities, however it remains your responsibility to also check NHS jobs for suitable alternative positions. In addition, I reminded you that the option for you to be placed on the redeployment register is a supportive measure as part of the managing work performance process and should there be no suitable redeployment opportunities, this will not affect your employment status and the managing work performance process will still continue.

Should you have any queries or concerns that you wish to raise please do not hesitate to contact me on (TELEPHONE NO).

Yours sincerely

Line manager

Job title

Ref: MWP15/FPR

Date:

Address

Dear

Telephone
Email address

Managing work performance formal procedure - invitation to performance review

Further to our meeting on (DATE) at which we discussed your performance in the role of *****, I write to invite you to a performance review under the formal procedure of the Managing Work Performance policy.

The meeting will be held at (TIME) on (DATE) at (LOCATION). You are entitled if you wish to be accompanied by a workplace colleague or a trade union representative. If you intend to be accompanied, please provide me with details of your work colleague or trade union representative at least two days in advance of the meeting date.

The purpose of the meeting is to review your progress against the performance improvement action plan agreed at our last meeting on (DATE). I have enclosed a copy for your information.

Please be aware that a decision will be made at the meeting regarding how to proceed. The possible outcomes are no further action, an extension to the monitoring period or a hearing in line with the Managing Work Performance policy.

If you have any queries prior to the meeting or you are unable to attend, please do not hesitate to contact me on the above telephone number or e-mail address.

Yours sincerely

Line manager
Job title

Ref: MWP8/FPR

Date:

Address

Dear

Telephone
Email address

Managing work performance formal procedure - confirmation of performance review meeting

Thank you for attending a formal review meeting in line with the Managing Work Performance policy on (DATE). The purpose of the meeting was to review your performance against the (*formal action plan/ objectives*) set at our meeting on (DATE) and to consider appropriate next steps.

At the meeting we discussed (*list key points of the feedback; where any improvements are made these should also be included*) in summary

- I am pleased that you have fully met the objectives set out and that your work performance has improved to the required standard. As such no further action will be taken under the Managing Work Performance policy at this stage. However, you are expected to maintain this standard of performance and I must advise you that if work performance issues are identified in the next 12 months, I may decide to return to the formal stage of the procedure under the Managing Work Performance policy. I attach a copy of this policy to this letter.
- I identified some improvements against the objectives set out but recognise that there is still improvement to be made namely (DETAIL). As such I have decided to extend the monitoring period by (*one/two/three*) months, by which time it is expected that you will have met the objectives set out in the (*reviewed*) action plan agreed on DATE. *DETAIL ANY ADDITIONAL SUPPORT REQUIRED DURING THE EXTENDED MONITORING PERIOD*. I must advise you that failure to meet the required performance standards by this review date may result in referral to a hearing in line with the Managing Work Performance policy. I attach a copy of this policy to this letter.
- I identified that you have not made sufficient improvement against the objectives set out and I am now referring you to a formal hearing in line with the Managing Work Performance policy where your performance issues and progress will be assessed by an independent panel. I attach a copy of this policy to this letter. I will write to you again in due course to invite you to the hearing.

I would like to remind you of your right to arrange trade union or (*ICB work colleague*) representation.

In the meantime, should you have any queries or concerns that you wish to raise please do not hesitate to contact me on (TELEPHONE NO).

Yours sincerely

Line manager

Job title

Ref: MWP9/FH

Address

Date:

Dear

Telephone
Email address

Managing work performance formal procedure - invitation to hearing

Further to our performance review meeting on (DATE) at which I informed you that your performance had not improved sufficiently and that the matter would be referred to a hearing, I write to inform you of the details.

The hearing will be held at (TIME) on (DATE) at (LOCATION) and will proceed in accordance with the hearing panel procedure as set out in appendix 14 of this policy (copy enclosed).

The panel will consist of ***** , Deputy Director who will chair the hearing, accompanied by ***** with HR support from *****. I will present the case summarising the key facts. You are entitled if you wish to be accompanied by a workplace colleague or a trade union representative. If you intend to be accompanied, please provide me with details of your work colleague or trade union representative at least two days in advance of the hearing date.

The hearing panel will consider the performance issues and your progress towards the agreed performance level having exhausted all avenues including being given an opportunity to improve within reasonable timescales and receiving additional training, mentoring and support. I have enclosed a copy of documents that will be referred to during the hearing which includes the hearing procedure. If you wish to submit any additional information to the panel for consideration at the hearing this must be received no later than two working days prior to the hearing.

If you or your representative is unable to attend you will need to provide reasonable notice and your reasons for being unable to attend and the hearing will be rescheduled within ten working days of the original date where possible. Failure to attend the hearing without a reasonable explanation may mean that it proceeds in your absence.

You should be aware that dismissal is a potential outcome of this hearing.

It is acknowledged that this can be a difficult time and I would like to remind you of various sources of support available to you. Details can be found at point 7 of the Managing Work Performance policy

If you have any queries prior to the meeting or you are unable to attend, please do not hesitate to contact me on the above telephone number or e-mail address.

Yours sincerely

Panel chair
Job title

cc.

Ref: MWP10/FH

Address

Date:

Dear

Telephone
Email address

Managing work performance formal procedure - outcome of hearing

I write to confirm the outcome of the hearing held on (DATE) in accordance with the Managing Work Performance policy at which I was advised by ***** (HR Representative) and you were represented/ accompanied by *****, your trade union representative/ workplace colleague.

I listened carefully to the presentation given by ***** (*line manager*) and also to the opposing case you put forward *alongside the evidence that you submitted*.

***** (line manager) explained that the informal performance management process did not improve your performance to the required standard and that (DETAIL).

You did/ did not put forward any mitigating circumstances for your underperformance. (DETAIL)

As this is the case I decided to issue a sanction of:

- No case to answer
- First Improvement Notice
- Final Improvement Notice
- Dismissal

In addition to the improvement notice issued also:

- instructed you to undertake further training in relation to(DETAIL)
- placed you on the redeployment register for alternative employment to be sought
- explained that based on your performance your next increment would be deferred In line with the ICB's Pay Progression policy

The improvement notice issued will remain on your personal record for *12 months/ 24 months** from the date of the hearing.

**12 months for a first written warning / 24 months for a final written warning*

You have the right of appeal against this decision and should you wish to appeal please submit this in writing within 5 working days of receipt of this letter to

Yours sincerely
Panel chair
Job title

Managing Work Performance - Appendix 11

Ref: MWP11/AHP

Date:

Address

Telephone
Email address

Dear

Managing work performance formal procedure - invitation to appeal hearing panel

Following your recent appeal against the decision made at your hearing held on (DATE) in line with the Managing Work Performance policy, I write to inform you of the date and time of the appeal hearing panel.

The panel will be held at (TIME) on (DATE) at (LOCATION) and will proceed in accordance with the appeal hearing procedure as set out in appendix 15 of this policy (copy enclosed).

The panel will consist of *****, *senior manager* who will chair the appeal hearing with HR support from *****. The case will be presented by ****, ****. You are entitled if you wish to be accompanied by a workplace colleague or a staff side representative. If you intend to be accompanied, please provide me with details of your work colleague or trade union representative at least two days in advance of the hearing date.

You must provide the appeal hearing panel with a full written statement of the case, including the grounds upon which the appeal is presented and any documents you intend to use at least two working days prior to the appeal hearing. The case will be based on the original documents used at the hearing held on (DATE).

It is acknowledged that this can be a difficult time and I would like to remind you of the various sources of support available to you. Details can be found at point 7 of the Managing Work Performance policy.

If you have any queries prior to the meeting or you are unable to attend, please do not hesitate to contact me on the above telephone number or e-mail address.

Yours sincerely

Panel chair
Job title

cc. Members of the panel

Ref: MWP12/AH

Address

Date:

Telephone
Email address

Dear

Managing work performance formal procedure - outcome of appeal hearing

I write to confirm the outcome of the appeal hearing held on (DATE) in accordance with the Managing Work Performance policy at which I was advised by ***** (HR Representative) and you were represented/ accompanied by ***** , your trade union representative/ workplace colleague.

I listened carefully to the presentation by ***** (*appeals manager*) and also to the opposing case you put forward *alongside the evidence that you submitted*.

You did/ did not put forward any mitigating circumstances for your underperformance. (DETAIL)

I upheld the sanction issued by/ I did not uphold the sanction issued by and *removed the sanction/ dismissed the case/issued a new sanction*.

This is the final stage of the process and the decision of the panel is binding and therefore there is no further right of appeal.

Yours sincerely

Panel chair
Job title

PERFORMANCE IMPROVEMENT ACTION PLAN

Name _____ Job Title _____
Line Manager _____ Date _____

Stage in procedure: Informal Formal

Area requiring improvement	Action required	Timescale	Progress

Detail here any additional training and support required with relevant timescales:

Review Date _____
Employee Signature _____ Print Name _____

Line Manager Signature _____

Print Name _____

Performance review meeting comments:

Date:

Outcome of procedure:

- Performance achieved
- Extension to monitoring period
- Progress to formal procedure
- Formal hearing to be arranged

Additional comments:

Final review date to ensure performance standard is maintained.....

Standard maintained: Yes No

Action required:

Additional comments:

HEARING PANEL PROCEDURE

All employees are entitled to be accompanied by their Trade Union representative or a work colleague. Where an employee is not accompanied, the employee must be reminded of this right, and if declined, this must be recorded.

During the course of the hearing exploration of any differences in facts, as they appear to the manager and employee should be carried out in a constructive manner in order to gain an understanding of the facts which are, as far as possible, acceptable to both manager and employee.

Should a new matter arise during the course of the hearing then the panel should adjourn in order that consideration may be given to the appropriateness of the introduction of this new matter. To avoid unnecessary duplication of the process as well as ensuring fairness, it may be more beneficial to adjourn the hearing in order that further investigations may be carried out in relation to the new matter.

1. The Panel Chair will open the hearing by introducing those present and outlining the reasons for the hearing taking place and the format of the hearing.
2. The line manager will present their case including the key facts to the panel using the documentation already provided to all those present at the panel
3. Employee and/or representative, then the panel, will have the opportunity to ask questions
4. Employee side to present their case
5. Management side, then the panel, will have the opportunity to ask questions
6. Summing up by management side, then by employee and/or their representative.
7. The panel chair will ask employee side and the management side to leave the room whilst consideration is given to the presentations and responses given by both sides, including any mitigating circumstances. The panel will consider if a warning or sanction is appropriate.
8. Upon making a decision the panel chair will ask all parties to return to the room so that the outcome of the hearing panel can be communicated. The panel chair should explain that consideration has been given to all of the issues raised at the beginning of the hearing, and all of the facts and issues raised during the course of the hearing. The panel chair must then outline what action, if any, will be taken including any sanctions.
9. It is important that where a warning/sanction is given, the employee is informed of the length of time it will remain on their record, their right of appeal, the procedure that will be followed in relation to confirming the action in writing and any arrangements for the review of sanctions imposed.

APPEAL HEARING PROCEDURE

Should either party require an adjournment then this request should be made to the hearing panel, with an indication of the length of time required.

The procedure for an appeal hearing is as follows:

1. The appellant will present their case first, detailing the grounds for their appeal including the calling of any witnesses.
2. The management side will then be able to ask any questions about the case the appellant has presented
3. The appeal panel members will also have an opportunity to ask any questions.
4. The management side will then be asked to present their case, explaining the reasons for the action taken, including the calling of any witnesses.
5. The appellant may then wish to ask management side any questions about the case.
6. The appeal panel members will also have the opportunity to ask any questions.
7. Both parties will have the chance to sum up their case.
8. There will then be an adjournment when both sides will be asked to leave the room while the appeal panel consider the information they have heard and reach their decision.
9. The decision of the panel will be communicated to both parties verbally, following the adjournment wherever possible, and in any case will be confirmed later in writing (again to either party), no later than 5 working days after the appeal hearing.

HR / Corporate Policy Equality Impact Analysis:

Policy / Project / Function:	Managing Work Performance
Date of Analysis:	14/11/17 - reviewed 2022 pending new process
Completed by: (Name and Department)	HR – eMBED Health Consortium
What are the aims and intended effects of this policy, project or function?	<p>The Organisation has the right and responsibility to establish its requirements in standards of work to be achieved by its staff, so long as these are realistic and clearly defined. In order to fulfil this responsibility the Organisation will ensure that individual employees' work is monitored fairly.</p> <p>The Organisation is committed to valuing all of its employees and will encourage them, through guidance, training and development, to achieve their full potential on a consistent basis.</p>
Are there any significant changes to previous policy likely to have an impact on staff / other stakeholder groups?	
Please list any other policies that are related to or referred to as part of this analysis	<ul style="list-style-type: none"> Disciplinary Policy and Procedure Attendance Management Policy Redeployment Policy
Who will the policy, project or function affect?	<p>Employees <input checked="" type="checkbox"/></p> <p>Service Users <input type="checkbox"/></p> <p>Members of the Public <input type="checkbox"/></p> <p>Other (List Below) <input type="checkbox"/></p>
What engagement / consultation has been done, or is planned for this policy and the equality impact assessment?	<p>Internal consultation Partnership working with Trade Union Representatives</p>

Promoting Inclusivity and Hull CCG's Equality Objectives.

How does the project, service or function contribute towards our aims of eliminating discrimination and promoting equality and diversity within our organisation?

How does the policy promote our equality objectives:

1. Ensure patients and public have improved access to information and minimise communications barriers
2. To ensure and provide evidence that equality is consciously considered in all commissioning activities and ownership of this is part of everyone's day-to-day job
3. Recruit and maintain a well-supported, skilled workforce, which is representative of the population we serve
4. Ensure the that NHS Hull Clinical Commissioning Group is welcoming and inclusive to people from all backgrounds and with a range of access needs

The policy does not directly promote inclusivity but provides a framework for the management of Performance within the organisation to ensure that staff are appropriately supported and treated equitably. Individual performance contributes to team and organisational performance, which can include working towards a wider equality and inclusion agenda.

Equality Data

Is any Equality Data available relating to the use or implementation of this policy, project or function?

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 *Protected Characteristics* – referred to hereafter as '*Equality Groups*'.

Examples of *Equality Data* include: (this list is not definitive)

- 1: Recruitment data, e.g. applications compared to the population profile, application success rates

Yes

No

Where you have answered yes, please incorporate this data when performing the *Equality Impact Assessment Test* (the next section of this document). If you answered No, what information will you use to assess impact?

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. The data has still been reviewed as part of the EIA process.

<p>2: Complaints by groups who share / represent protected characteristics 4: Grievances or decisions upheld and dismissed by protected characteristic group 5: Insight gained through engagement</p>	
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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:	No 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	✓			Review undertaken no impact
Age	✓			Review undertaken no impact
Race / ethnicity / nationality	✓			Review undertaken no impact
Disability		✓		Paragraph 6.1.3 - Where the performance of an employee is affected by a disability, as defined in accordance with the Equality Act 2010, reasonable adjustments will be considered
Religion or Belief	✓			Review undertaken no impact
Sexual Orientation	✓			Review undertaken no impact
Pregnancy and Maternity	✓			Review undertaken no impact
Transgender / Gender reassignment	✓			Review undertaken no impact
Marriage or civil partnership	✓			Review undertaken no impact

Action Planning:

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

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?

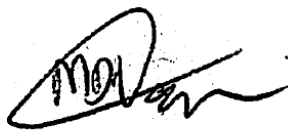
Identified Risk:	Recommended Actions:	Responsible Lead:	Completion Date:	Review Date:
The Equality data October 2017 has identified the following information - 46.05% of staff have no recorded disability; 3.95% - a recorded disability; 6.58% - not declared and 43.42% undefined	The CCG could seek to explore further where disability information is missing from staff records and to gain assurance that appropriate supportive mechanisms are in place including reasonable adjustments for staff with disabilities.	HR Lead	To form part of the quarterly Workforce monitoring reports to SLT	1 year from implementation

Sign-off

All policy EIAs must be signed off by Mike Napier, Associate Director of Corporate Affairs

I agree with this assessment / action plan

If disagree, state action/s required, reasons and details of who is to carry them out with timescales:



Signed:

Date: 01.03.18

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 on the details above.