



Management of Staff Conduct: Disciplinary Policy and Procedure

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1. INTRODUCTION

- 1.1 NHS 24 seeks to provide high standards in all its activities. The disciplinary procedure is designed to maintain standards and the efficient and effective operation of the business and to ensure that all staff are treated with dignity, equality, fairly and respectfully during disciplinary procedures.
- 1.2 The disciplinary policy and procedure is intended to be corrective, rather than punitive by emphasising and encouraging improvements in staff conduct, standards of performance and safe practices. This policy is in line with professional codes of conduct such as the National Midwifery Council Code of Professional Conduct (NMC) and takes account of the Discipline and Grievance at Work: The ACAS guide.
- 1.3 It is recommended that, prior to commencing the formal procedure, managers need to reflect on whether there are ways of dealing with alleged misconduct in a more supportive way. Cases of very minor misconduct are usually best dealt with informally. The informal discussion about the misconduct should be documented on a One-to-One form and signed and dated by both parties. This discussion should outline to the staff member what the concerns are and clearly explain the expected changes. This should also highlight the implications should the changes in behaviour not occur or indeed if there is a repeat or further instance of the behaviour, what will happen and how this will be managed.
- 1.4 NHS 24 aim to ensure that all staff members are treated in a fair and equitable manner and with dignity and respect in accordance with the organisational values set out in the NHS Scotland Workforce 2020 Vision Plan.

2. SCOPE

- 2.1 The policy applies to all NHS 24 staff for issues of conduct. Any issues relating to capability should be managed under the Supporting Employee Capability Policy, with this distinction made clear to the staff member in advance. It is recognised that it may not be clear at the outset whether a matter is one of conduct or capability, and therefore it may be that the approach to be followed requires to be changed in the course of managing the matter.
- 2.2 The policy does not apply to independent contractors working on a contract for services, who will be the subject of an alternative procedure.
- 2.3 It does not affect: The arrangements set out in NHS Circulars No. 1990 (PCS) 8, Circular 1974 (PCS) 54, and Circular PCS (DD) 2001/9, concerning the professional competence of hospital medical and dental staff.

Or

Any statutory rights to appeal.

- 2.4 Where a disciplinary situation involves professional issues, the line manager should consult the Director with professional responsibility for the function concerned. The Director will have responsibility for notifying the appropriate professional regulatory body.
- 2.5 Where it is suspected that there is an issue of fraud, the lead HR Representative will contact the Counter Fraud Service for advice, in accordance with the Memo of Understanding. Staff members can also inform the Fraud Liaison Officer (FLO) or Counter Fraud Services (CFS) directly with any suspected fraud issues.
- 2.6 Where a member of staff raises a grievance during a disciplinary process both the grievance and disciplinary cases will be heard concurrently. In exceptional circumstances, it may be appropriate for the disciplinary process to be temporarily suspended in order to address the grievance.

3. PRINCIPLES

- 3.1 All managers considering possible formal disciplinary action should seek advice and guidance from Human Resources before proceeding.
- 3.2 The Management of Staff Conduct: Disciplinary Policy and Procedure has been developed with the following guiding principles in mind and has been designed to:
 - 3.2.1 Provide guidance to staff and managers to ensure that acceptable standards of conduct are maintained.
 - 3.2.2 Provide a structured framework and procedure to ensure that all staff are treated with dignity, equality, fairly and respectfully during disciplinary procedures.
 - 3.2.3 Ensure that each step and action is taken timeously and that the timing and location of meetings is reasonable.
 - 3.2.4 Establish who has the authority to take the various forms of disciplinary action.
 - 3.2.5 Explain rights, roles and responsibilities of managers and staff under the procedure.
 - 3.2.6 Ensure that all disciplinary matters are thoroughly investigated and dealt with efficiently within clear timeframes.

- 3.2.7 Ensure that where an underlying problem is identified, e.g. ill health, capability, alcohol/drug abuse, consideration is given to the relevance and appropriateness of support from other NHS 24 policies and procedures.
- 3.2.8 Ensure that all disciplinary matters are treated confidentially and that the circumstances of disciplinary cases are discussed only with relevant parties.
- 3.2.9 Ensure that no disciplinary action is taken against a trade union or professional organisation representatives until management discuss the circumstances of the case with the full time official of the appropriate staff organisation as soon as possible.
- 3.2.10 Ensure that all staff are advised in writing of, and understand the nature of, the case against them, their right to be accompanied at a hearing, the outcome of any decision made and their right to appeal the decision.
- 3.2.11 Ensure that, other than in the cases of gross misconduct, staff are not dismissed for a first breach of discipline.
- 3.2.12 Provide staff with the opportunity to improve, as appropriate.
- 3.2.13 Ensure that staff are not discriminated against on the grounds of race, disability, gender which includes transgender, sexual orientation including relationship status, religion or belief or age.
- 3.2.14 Ensure that records are confidential and will be kept no longer than necessary in accordance with the Data Protection Act 1998.
- 3.2.15 The use of any form of electronic recording or listening device, including mobile phones at meetings, without prior agreement is strictly prohibited and may be subject to disciplinary action. Failure to adhere to this may constitute a breach of NHS 24 Values and Code of Conduct.

4. SUSPENSION

- 4.1 There may be occasions when it is appropriate, with immediate effect, to suspend a member of staff on full pay. This will usually take place pending an investigation where there are sufficient grounds to believe that:
 - It would significantly affect the ability to investigate the alleged misconduct if the staff member was to remain at work.
 - In cases where it would adversely affect the contractual relationship.
 - The staff member may be a threat to themselves, others or the organisation.
- 4.2 Before a decision is made to suspend a staff member, the manager should assess the degree of risk involved (i.e. whether the staff member poses a risk to clinical, financial or staff governance). Therefore, a risk assessment (see Toolkit) must be completed in all suspension cases.

- 4.3 In all cases, consideration should be given to alternatives to suspension, including temporarily moving the staff member to another work area, or considering other duties, where such an alternative removes the identified risk.
- 4.4 Suspension is not a penalty and does not form part of the disciplinary procedure. Care must be taken to ensure that the member of staff is aware of this and that they are also aware of additional support available to them during the period of suspension (e.g. Employee Assistance Programme and Occupational Health).

Suspension is without prejudice and the staff member should remain on full pay (including enhancements, if applicable) and Managers should, where possible, seek advice from Human Resources when suspending a member of staff, with the suspension lasting as short a time as possible.

- 4.5 When a decision to suspend is made, it must be actioned immediately. If the member of staff is not on duty at the time the decision is made to suspend, they should be requested to attend a meeting at an appropriate time and place prior to their return. Where it has not been possible to contact the staff member, suspension should take place when they are next on duty.

Should a member of staff become sick during a suspension, then the records should be reverted to sick leave and normal sick pay provisions will apply.

- 4.6 Although suspension is not disciplinary action it is recommended that if a member of staff is an accredited representative of a trade union or professional organisation, the full time official of the appropriate staff organisation should be advised of the situation as soon as possible. However, if the disciplinary allegation is of a serious nature and the appropriate full time official is not available, the manager will have the authority to suspend on full pay until the matter can be dealt with in accordance with the procedure.
- 4.7 The staff member should be advised, prior to the suspension meeting, of their right to be accompanied by a staff side representative or work colleague, not acting in a legal capacity. The staff member must be given reasonable notice of the venue and time of the meeting to allow them to make any necessary arrangements to be accompanied. In certain situations the use of suspension will be immediate, where the allegation poses an identified risk to clinical, financial or staff governance.
- 4.8 At the meeting, the manager should provide an explanation of the circumstances, which have necessitated the consideration of suspension and the staff member should be allowed to respond. A decision should be made immediately about whether to suspend and the staff member should be advised verbally of the decision.
- 4.9 If the staff member is suspended, they should be advised formally in writing, wherever possible, within 2 calendar days of the suspension. The letter should be sent by recorded delivery and should include:

- The reason for the suspension
- The date and time from which it took effect
- Rights and requirements of the staff member while suspended from work (e.g. entitlement to pay, not returning to the work place without prior permission, attendance at further meetings, providing contact details, support available).
- Duration of the suspension
- A clause regarding confidentiality to protect the investigation and all parties
- Next steps

In certain situations the details of the meeting will be confirmed directly to the staff member and the staff member will receive their formal letter at the start of the meeting.

The staff member may wish to elect a staff side representative or work colleague, not acting in a legal capacity, to liaise with NHS 24 during the period of suspension.

- 4.10 The staff member must be advised as soon as possible and no later than 2 calendar weeks of the date of the suspension occurring, whether a decision has been made to proceed to a disciplinary hearing or, in exceptional circumstances, to extend the suspension period.

Suspension should be continually reviewed by the Investigation Sponsor in liaison with the Investigating Officer and the HR Representative assigned to the case to ensure relevance and if timescales can be kept to a minimum. If the period of the suspension is extended, the staff member must be advised of the reason for the extension in writing.

- 4.11 During the period of suspension, the staff member must be provided with a designated point of contact.. The point of contact should be a neutral party and in normal circumstances will be the Investigating Officer responsible for keeping the suspended member of staff up to date on the progress of any investigation and will act as point of contact for any issues, which the staff member may wish to raise.

5. AUTHORITY TO SUSPEND

Managers authorised to suspend are the same as those authorised to issue a first written warning, or the next most senior manager.. Where, in the case of emergencies, this may not be possible an immediate manager will have the authority to suspend. In these circumstances, the manager must advise the relevant manager as soon as possible after the event.

6. INVESTIGATION

6.1 If the alleged misconduct is of a serious nature or a serious allegation is made, a thorough investigation into all the facts must be carried out. The purpose of the investigation is to establish all the relevant facts, to allow the staff member to provide an explanation and to determine whether formal disciplinary action is required. If it does not constitute formal disciplinary action this should be made clear to the member of staff. All matters concerning clinical competence should also be notified to the Associate Director of Operations, the Director of Nursing and Care or the Medical Director as soon as possible. If a Significant Adverse Incident (SAE) process has already commenced, the information obtained from this process may be referred to at a later time if disciplinary proceedings require to commence. The staff member however will again have the opportunity to give evidence during disciplinary proceedings.

6.2 Guidance should be sought from Human Resources regarding who is most appropriate to conduct the investigation. Normally cases of misconduct will be investigated by the line manager, unless they are involved in the case or it would not be appropriate for them to do so. In cases of serious or complex allegations of misconduct, another designated manager may conduct the investigation. If following investigation, formal disciplinary action is recommended, the person conducting the hearing must have no prior involvement with the investigation.

Additionally, when selecting an Investigating Officer, consideration should be given to their capacity to complete this. It is not acceptable that their business as usual activity causes delays to the investigation for the staff member, the Investigating Officer should be given adequate time and support to complete the investigation.

6.3 In all cases, it should be clearly explained to the staff member why the investigation is being carried out and the potential consequences

6.4 Notes and records should be made and retained of all meetings and any interviews held in relation to the investigation. All those interviewed should be advised that meeting notes and any written statements may require to be shared with the staff member under investigation and their representative, and other witnesses, as appropriate. Where disciplinary action is deemed as a possible consequence of the investigation findings, a copy of the investigation report will be provided to the staff member and representative, if applicable.

6.5 Time scales are one of the most fundamental parts of any investigation; any unnecessary delays should be avoided and the details of any delays documented for future reference. The staff member should be advised of the likely time scales for concluding the investigation and of the investigation outcome. If there appears to be no case to answer, the staff member should be advised of this in writing and should be given reasons for this decision. As the point of contact it is the Investigating Officer's responsibility to keep the staff member up to date

throughout the investigation, either in writing or by telephone, and give an explanation as to any delays. Any telephone conversations should be file noted.

7. CRIMINAL INVESTIGATIONS

- 7.1 Where a member of staff is under investigation for or charged with a criminal offence, this would not automatically lead to disciplinary action.
- 7.2 In such circumstances, where the nature of the alleged offence is such that it may have relevance to the type of work that the staff member undertakes or affect the employment relationship, an investigation into the facts should be undertaken, including meeting with the staff member and their representative, where possible.
- 7.3 Where the conduct requires prompt attention, it is not necessary to await the outcome of the legal process before taking appropriate action.
- 7.4 Each case will be considered on its own merits by managers, taking advice from the Human Resource Directorate.
- 7.5 Where a member of staff refuses or is unable to co-operate with disciplinary proceedings, they may be advised in writing that unless further information is provided; a disciplinary decision will be taken on the basis of the information available and could result in dismissal.
- 7.6 Staff have a duty to notify their line manager if they are charged with a criminal offence, in line with their contract of employment.

8. FORMAL DISCIPLINARY PROCEEDINGS

- 8.1 When a manager decides to take formal action under the disciplinary procedure, advice from the Human Resource Department should be sought. Authority to discipline can be found in Appendix A.
- 8.2 The manager who will conduct the disciplinary hearing must invite the staff member in writing to attend a disciplinary hearing, giving at least 5 calendar days notice of the meeting. The letter will be issued by the staff member's line manager and should contain sufficient information for the staff member to be able to understand the case against them, this will normally include any written evidence and witness statements and whether witnesses will be called. The staff member should also be advised in the letter of their rights to be accompanied and the possible consequences including dismissal. A copy of the Disciplinary Policy and Procedure will also be provided.
- 8.3 The chosen companion may be a fellow worker or trade union official. They should be allowed to address the hearing to put and sum up the member of staff's case, respond on their behalf on any views expressed and confer with the staff member during the hearing. The companion should not be permitted to answer any specific

questions that the staff member has been asked directly, as a personal response is required. The companion does not have the right to address the hearing if the staff member does not wish it.

- 8.4 A representative from the Human Resources Directorate should accompany the manager holding the hearing at all stages of the process.
- 8.5 At the hearing, the chair of the hearing should explain the allegations against the member of staff and go through the evidence that has been gathered. The staff member should be allowed to state their case and ask questions and raise points about any information provided by the organisation and to call witnesses.

If the staff member wishes to call witnesses it is their responsibility to arrange this, however, they must seek permission from HR before contacting any staff members. Once permission is gained the staff member must make arrangements for the witnesses to attend on relevant date and time and also to prepare what information it is that their witnesses will present.

- 8.5 If more time is required to consider the matter or further investigations are necessary, the hearing should be adjourned.
- 8.6 The manager conducting the hearing should advise the staff member of the outcome of the hearing as soon as possible having given proper consideration to all the matters raised.
- 8.7 Formal warnings can be issued verbally if a decision is reached at the hearing and will then be confirmed in writing within 14 calendar days to the member of staff. The verbally conveyed terms of the warning will be the same as those given in writing and will include:
- Details of who was present at the hearing.
 - Reasons for the decision.
 - Reference to any previous warnings that are still valid and which have been taken into account.
 - The level of warning issued and the length of time it will remain on the member of staff's record.
 - Details of any other actions or decisions relating to the disciplinary decision, including any agreed action to be taken.
 - Any improvements or changes to behaviour required and the period of time given for this to be achieved.
 - A statement that any further occurrence could lead to further disciplinary action being taken and the potential level of further action.
 - The right to, and how to, appeal.
- 8.8 Where the decision is to dismiss, the member of staff should be advised in writing of the reasons for dismissal, the effective date of termination and arrangements made in relation to any contractual notice to be given.

- 8.9 In the case of disciplinary action taken against a trade union representative, Human Resources will advise an appropriate full time official of the union.
- 8.10 Staff absent on sick leave when it is necessary to convene a disciplinary hearing or absent on the date of the hearing itself should not normally be contacted where the period of absence is short. Where sickness absence is prolonged or uncertain, it may be appropriate to consider whether the member of staff is willing to attend a hearing or allow occupational health to contact their doctor to obtain a view as to when they might be fit enough to attend a hearing. Where staff are not able to attend a hearing within a reasonable period, they will be provided with a detailed explanation of the alleged misconduct and given the opportunity to provide written comments and/or to nominate representation on their behalf at the hearings. If they fail to do so, they should be advised in advance that a decision may be taken in the absence of comment.
- 8.11 Staff who cannot attend a meeting should inform Human Resources in advance whenever possible. If the member of staff fails to attend through circumstances outside their control and unforeseeable at the time the meeting was arranged (e.g. illness) another meeting should be arranged. A decision may be taken in the staff member's absence if they fail to attend the rearranged meeting without good reason. If a staff representative cannot attend on a proposed date, the member of staff can suggest another date so long as it is reasonable and is not more than 5 calendar days after the date originally proposed. The 5-day limit may be extended by mutual agreement.
- 8.12 Where a member of staff has failed to attend a hearing as arranged on 2 occasions and continues to be unavailable to attend a hearing, they may be informed that a decision will be made in their absence based on all the evidence available. In these circumstances staff will be invited to provide a written submission for consideration or a companion may attend and act on their behalf.
- 8.13 Where appropriate an interpreter or facilitator may be allowed to attend if there are language or understanding difficulties. This may be in addition to the companion. Other reasonable adjustments will be considered to accommodate the needs of a person with disabilities.
- 8.14 Copies of any relevant correspondence relating to the disciplinary hearing, including any relevant evidence or statements which have not previously been shared must be provided and made available by and to both parties.
- 8.15 A copy of the disciplinary warning will be retained in the member of staff's personal file in line with legislative requirements. Previously issued warnings must be disregarded for disciplinary purposes after the expiry. However, consideration may be given to the circumstances which resulted in such warnings being issued where subsequent allegations of misconduct arise, where this can be shown to demonstrate a repeated pattern (although any such reference must be reasonable and appropriate, considering the severity of the earlier matter and the period of time which has lapsed since).
In addition, there may be occasions where a member of staff's conduct is satisfactory throughout the period of the warning, only to lapse very soon

thereafter. Where a pattern emerges and/or there is evidence of recurrence, the staff member's disciplinary record should be borne in mind in deciding how long any warning should last. In most situations, the law states that expired warnings should not be taken account of and that managers should only do so in exceptional cases.

9. STAGES OF FORMAL PROCEDURE

- 9.1 There are 3 stages of warning under the formal procedure. The stages will normally be applied progressively but the initial appropriate action will be related to the nature of the offence and its seriousness. For example, if a form of misconduct is deemed sufficiently serious and a First Written Warning is deemed insufficient, it may be appropriate to issue a Final Written Warning. Other examples of misconduct include poor time keeping, misuse of health service property, refusal to work satisfactorily, failure to use safety equipment, neglect of equipment or unauthorised absence. Staff should also familiarise themselves with the NHS 24 Code of Conduct which outlines required standards of behaviour. These examples are intended only to outline the types of misconduct which NHS 24 would find unacceptable and is therefore not an exhaustive list. Disciplinary hearings must be conducted and warnings issued by managers with the appropriate level of authority.

9.2 FIRST WRITTEN WARNING

- 9.2.1 A first written warning can be issued by the immediate manager when a minor breach of discipline has occurred and when it is reasonable to conclude that the staff member should have known that this would be treated as a disciplinary matter.
- 9.2.2 The warning will remain on file for 6 months. After the time limit has expired and providing there have been no further occurrences of the offence, the warning letter and associated documentation will be removed and held in a secure location. Any further access to the removed information, (for the purposes set out in section 8.15) will only be granted following discussion with the Director of HR and the Employee Director.

9.3 FINAL WRITTEN WARNING

- 9.3.1 A line manager can issue a final written warning when a further minor offence has occurred before the expiry of a first written warning.
- 9.3.2 The warning will remain on file for 12 months. After the time limit has expired the warning letter and associated documentation will be removed and held in a secure location. Any further access to the removed information, (for the purposes set out in section 8.15) will only be granted following discussion with the Director of Human Resources and the Employee Director.

9.4 FIRST AND FINAL WRITTEN WARNING

A first and final written warning can be issued by a line manager and will usually be issued in the following circumstances:

- 9.4.1 In the absence of previous warnings an offence is committed which is regarded as more serious than a minor breach of discipline but which falls short of gross misconduct, i.e. an offence which if repeated would warrant dismissal.
- 9.4.2 Where a number of minor offences are committed simultaneously or within a very short period of time.
- 9.4.3 When, exceptionally, an offence constituting gross misconduct has been committed but the disciplining manager is of the opinion that there are strong mitigating circumstances.
- 9.4.4. For certain offences, the period of warning may be longer than 12 months.

9.5 DISMISSAL FOR CONDUCT

- 9.5.1 Only a Senior Manager at grade 8b or above and who reports into a Director has the authority to dismiss on the grounds of misconduct. The Senior Manager will, wherever possible, be from within the same Directorate as the affected member of staff. A Director will continue to hear Disciplinary Hearings in the case of a Senior Manager who is going through the process. Please refer to Appendix A for further details.
- 9.5.2 Dismissal will usually take place when there is persistent misconduct and the issue of previous written warnings has not resulted in improvement or where gross misconduct has been committed.
- 9.5.3 Gross misconduct is defined as conduct on the part of the staff member, which results in the irretrievable breakdown of the relationship of trust, which must exist between NHS 24 and its staff, to the extent that the member of staff can no longer be retained in employment.
- 9.5.4 In the case of gross misconduct, a member of staff can be summarily dismissed (i.e. without entitlement to notice). Conduct amounting to gross misconduct may warrant dismissal for a first offence.
- 9.5.5 As an alternative to dismissal, the disciplinary officer concerned can consider a transfer to another area or post, including downgrading to a smaller post. Whether these options would be appropriate will depend on individual circumstances.

10. GROSS MISCONDUCT

The following list is not exhaustive and is for illustrative purposes only. Examples of gross misconduct include:

- 10.1 Dishonesty whether for personal gain or for the benefit of any other person; in particular stealing or misappropriating information, goods or documents belonging to NHS 24, staff or patients.
- 10.2 Fraud or attempted fraud, including the falsification of documents such as expenses and payroll forms, or signing in for other staff.
- 10.3 Abuse of the occupational sick pay scheme.
- 10.4 Physical violence, verbal abuse or indecent behaviour.
- 10.5 Gross insubordination of management instructions. Persistent failure to follow reasonable instruction.
- 10.6 Being incapable of satisfactorily performing duties due to alcohol or other substance misuse (any such decision should be made in conjunction with reference to the Substance Misuse at Work Policy).
- 10.7 Failure to comply with legal or other statutory requirements including professional codes of conduct and breach of NHS 24's policies including Social Media Policy
- 10.8 Conviction of a criminal offence inside or outside work which makes the member of staff unsuitable for their type of work or unacceptable to other staff.
- 10.9 Breaches of confidentiality.
- 10.10 Misrepresenting reasons for absence from work whilst undertaking work paid or unpaid for another employer or person.
- 10.11 Loss of professional registration, where required by law for employment.
- 10.12 Gross negligence (acts or omissions), including clinical negligence or lack of clinical competence.
- 10.13 Professional misconduct.
- 10.14 Bullying and/or Harassment.
- 10.15 Inappropriate use of NHS 24's IT Systems, including internet abuse.
- 10.16 Breach of Health and Safety Policies or putting oneself, colleagues and/or the organisation at risk.

11. OTHER FORMS OF TERMINATION OF EMPLOYMENT OTHER THAN FOR CONDUCT

A Director/senior manager must make any decisions to dismiss on grounds other than for conduct.

- 11.1 Long term ill health issues should be dealt with under the Attendance Management Policy.
- 11.2 Fixed Term Contracts of Employment Termination occurs where staff's fixed term contract of employment is not renewed on the date of expiry. Even where a member of staff is offered suitable alternative employment to a different post, this is also viewed as a dismissal. A staff member whose fixed term contract is not renewed may be dismissed by a Director or delegated authority. The member of staff, however, will still be entitled to a meeting detailing contemplation of dismissal, the right to representation and a letter advising the outcome of the meeting and the right of appeal. Staff should be given contractual notice that their contract will end. Managers should seek the advice of the Human Resources Department, who will advise on management obligations.
- 11.3 Redundancy/ Organisational Change Redundancy or organisational change situations should be dealt with in accordance with the NHS 24's Organisational Change Policy.

12. RIGHT TO BE ACCOMPANIED

- 12.1 Staff have a right to be accompanied by a trade union/professional organisation representative or a work colleague at any investigatory meeting or disciplinary (or appeal) hearing being held under the local policy.
- 12.2 While there is no right to be accompanied at a meeting to confirm suspension, staff members should (where practicable) be given reasonable notice to organise representation.
- 12.3 Specific to any resulting disciplinary (or appeal) hearing, the role of such a representative will be as follows:
 - To prepare, present and sum up the staff member's case on their behalf; and
 - To provide further information after the staff member's response or to respond on behalf of the staff member to any views expressed, with a view to providing additional clarity to the case.
 - The representative is not permitted to answer questions on the staff member's behalf, with the staff member being required to personally respond to any specific questions directly.

13. APPEALS

13.1 First Written Warning

Staff who are aggrieved at receiving a first written warning have the right to appeal to the manager to whom the decision-maker is responsible. If that manager were in any way involved in the matter, then an equivalent manager who has had no previous involvement in the case would hear the appeal. Any appeal should be made in writing to the manager to whom the decision-maker is responsible and should be received within 14 calendar days of the disciplinary hearing.

13.2 Final or First and Final Written Warning

Staff who are aggrieved at receiving a final or first and final written warning have the right to appeal to the manager to whom the decision-maker is responsible. Again, if that manager were in any way involved in the matter, then an equivalent manager who has had no previous involvement in the case would hear the appeal. Any appeal should be made in writing to the manager to whom the decision-maker is responsible and should be received within 14 calendar days of the disciplinary hearing.

13.3 Dismissal

Staff who are aggrieved at being dismissed have the right of appeal to the Chief Executive. A panel will be arranged and will include one non-executive and one director and a senior member of the Human Resources Department. Any appeal should be made in writing to the manager to whom the decision-maker is responsible and should be received within 14 calendar days of the disciplinary hearing.

The member of staff, and the manager who took the decision to dismiss, would be asked to submit a written case at least 7 calendar days prior to the hearing. If the written case is not received in time, this will delay proceedings. Both parties would also be required to submit the names of any witnesses to be called at the time of submission of their case. It would be their responsibility to inform any witnesses of the arrangements of the appeal hearing. At least 5 calendar days before the appeal hearing, copies of the written appeal case along with the names of any witnesses to be called should be circulated to all the attendees of the appeal hearing.

13.4 The letter of appeal must clearly state the grounds for the appeal.

Grounds for appeal might include:

- Denial of the allegation and reasons.
- Dispute of the extent of the misconduct.
- Penalty was too severe.
- Ill health or medical evidence.

- New evidence to be considered.
- Procedure incorrectly followed.
- Reasons relating to non-renewal of a fixed term contract.

- 13.5 The manager hearing the appeal should not have been involved in the decision to invoke the disciplinary procedure. A more senior manager must conduct the appeal hearing. Authority to hear appeals can be found in Appendix A.
- 13.6 The appeal should normally be heard within one calendar month of the appeal being lodged and the member of staff concerned must be advised in writing of their right to be accompanied at the hearing by a trade union/professional organisation or work colleague not acting in a legal capacity.
- 13.7 Human Resources will advise the staff member in writing of the arrangements for the appeal hearing, including the name of the manager who will conduct the appeal hearing, as soon as possible, giving at least 5 calendar days notice of the appeal hearing.
- 13.8 There is only one level of appeal at each formal stage of the procedure.
- 13.9 The outcome of the appeal is final and binding and there will be no further consideration of the case within NHS 24.
- 13.10 At appeal, the disciplinary action may be decreased, remain the same or rescinded. An appeal cannot result in any increase in penalty.
- 13.11 Written advice of the outcome will be provided. The outcome of the appeal hearing will be issued within 14 calendar days of the date of the hearing.
- 13.12 NHS 24 have a duty of care to their employees. If at any stage during the procedure it is suspected an individual's Health and Safety may be at risk, contact with Occupational Health will be made as a matter of priority.

14. TRAINING AND DEVELOPMENT

Appropriate training and development will be developed jointly in partnership and provided to all managers who have authority to operate within this policy and scheme of delegation.

15. REVIEW

This policy will be reviewed in Partnership on a 2-yearly basis.

Appendix A

Authority to take disciplinary action under the procedure						
Category/Grade of Staff	First Written Warning	Appeal	First and Final Written Warning and Final Written Warning	Appeal	Dismissal	Appeal
Director	Chief Executive	Panel incl. 2 Non- Executive and Senior HR	Chief Executive	Panel incl. 2 Non- Executive and Senior HR	Panel Including, Chairman, Chief Executive & Non-Executive Board Member	Panel incl. 2 Non- Executive and Senior HR
Senior Manager (Reporting To Director)	Director	Chief Executive* and one other Director and Senior HR	Director	Chief Executive* and one other Director and Senior HR	Director	Panel incl. 1 Non- Executive, 1 Director and Senior HR
All Other Staff	Immediate Line Manager	Immediate Line Manager's Manager and HR	Immediate Line Manager	Immediate Line Manager's Manager and HR	Senior Manager at grade 8b or above who reports directly to a Director	Panel incl. 1 Non- Executive, 1 Director and Senior HR

Note: The manager hearing the Appeal should not have been the decision maker at the original hearing;
 Senior Manager is defined as Band 8b and above and must report directly to a Director.
 Senior HR will be Business Partner or above.
 Managers taking decisions should, where possible, be from within the Employees chain of command.

* Or delegated authority