Management Guidelines
Investigations
Conduct & Disciplinary Cases

The purpose of these guidelines is to assist managers required to carry out the role of investigating officer in cases of alleged misconduct.

Separate guidelines apply to other internal investigations, such as grievances, bullying and harassment or poor performance.
Pennine Acute Hospital NHS Trust

Management Guidelines
Investigations - Conduct & Disciplinary Cases

Main Revisions from previous issue

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1. **Introduction**

1.1 The Pennine Acute Hospitals NHS Trust operates a number of policies and procedures which have been developed and agreed in partnership with staff side and which require management to carry out thorough and impartial investigations e.g. Conduct and Disciplinary policy (EDH002), Bullying & Harassment Policy (EDH005), Grievance Policy (EDH003).

1.2 These guidelines apply to investigations in relation to conduct and disciplinary cases only. Separate guidelines are available for any complaints/concerns raised in relation to grievances, poor performance and bullying & harassment. These guidelines should therefore be read in conjunction with the Trust's Conduct & Disciplinary policy.

1.3 An appropriate manager for the Divisional area will be appointed to investigate any alleged misconduct in line with the Trust's Conduct & Disciplinary policy. This may be the Line Manager.

1.4 The purpose of these guidelines is to assist managers required to carry out the role of investigating officer in cases of alleged misconduct. Further advice on how an investigation should be conducted will be provided by the HR Manager or HR Advisor assigned to the case.

1.5 An investigation is used to determine the facts of what has happened in order to determine if a wrongful act has occurred. It should be conducted in an impartial manner and is not intended to establish the guilt or innocence of the subject of the allegation.

2. **The Investigation – General Principles**

2.1 **The need to investigate**

2.1.1 An adequate investigation is a crucial initial stage in the fair handling of disciplinary matters. This means:

- Enquiring impartially into the circumstances surrounding the suspected or alleged misconduct in sufficient scope and detail to establish all relevant facts, as far as practicably possible
- Giving the employee a chance to offer an explanation
- Taking a balanced view of the information that emerges
- Reaching a judgement on whether or not there is a prima facie case for an allegation of misconduct and, if so, recommending whether it should proceed to a formal hearing

2.1.2 In every case where a suspicion or allegation of misconduct by an employee comes to management’s attention, the first step is to consider whether it is appropriate and potentially serious enough, if grounds to support it emerge, to warrant action under the Trust’s conduct & disciplinary policy. If not, it may best be dealt with by the employee’s manager informally such as through counselling with cautionary advice that, if further misconduct occurs, action under the formal disciplinary procedure should then be expected.
2.1.3 In all cases where it is decided to deal with the matter under the disciplinary procedure, the matter must be properly investigated in line with the guidance in this document.

2.2 The investigation process

2.2.1 The investigating officer’s task is to collect all the relevant evidence from an impartial perspective, evaluate the evidence against the allegation(s) and make a recommendation as to whether there appears to be a prima facie case to answer.

2.2.2 After completing a thorough investigation, the investigating officer must make a judgement of whether the evidence indicates that there is a prima facie case to answer or not and this is made as a recommendation in the investigation report for consideration by the manager with authority to take disciplinary action. The latter then makes the formal decision on whether or not a disciplinary hearing should be held.

2.2.3 What amounts to an adequate investigation will depend very much on the circumstances of the particular allegation of misconduct. If it is something that the employee readily admits to having done, the extent of the investigation may well be confined to that admission or to obtaining a measure of confirmation of it. If the employee refutes the allegation the investigation is likely to be more extensive, depending on the nature of the allegations and the circumstances.

2.2.4 Where witness statements are not in dispute there may be no requirement to have the witnesses present at the subsequent disciplinary hearing and their signed statements may suffice. However, the subject of the allegation has a right to question the witnesses at a hearing if s/he so chooses. In a disputed case, the investigation will need to be as extensive and detailed as is reasonable in the circumstances to enable the manager hearing the case to come to a fair decision, made on the balance of probabilities. A simple question to ask is ‘Is it more likely than not that the incident occurred (the ‘balance of probabilities’) and is there evidence to support your belief’?

2.2.5 The test of fairness and reasonableness often cited in Employment Tribunal cases of unfair dismissal is:

“have we a reasonable suspicion, amounting to a belief, in the guilt of the employee of the alleged misconduct; and have we reasonable grounds for that belief?” (British Home Stores Limited v Burchell (1978) IRLR 379).

3. Equal Opportunities

3.1 It is vital that all managers across the Trust approach matters of conduct & discipline in a consistent, fair, reasonable and non-discriminatory way.

3.2 There is no limit to the financial awards that a tribunal can make in discrimination cases and the discrimination can be very damaging to the reputation of an employer. It is therefore important that the Trust is consistent and fair in the way it takes disciplinary decisions. The overview taken by HR and the advice provided aim to ensure fairness and consistency.
4. **Timescales**

4.1 Any alleged misconduct must be dealt with as a matter of urgency as no action, formal or informal, can take place until the case has been thoroughly investigated. Moreover, undue delays have been known to compromise an otherwise sound management case. The Investigating Officer will need to bear this in mind when planning the stages of the process. There should be careful planning in order to ensure that the right people are seen and the necessary questions asked. A sense of urgency should be balanced with sensitivity towards those involved, and as far as reasonably possible investigations must take place within the laid down timescales as detailed in the Conduct & Disciplinary policy.

5. **The Role of the Investigating Officer**

5.1 The Investigating Officer may be either the immediate line manager or another manager from within/outside the Divisional area of responsibility. The appointed person will be responsible for investigating the allegation(s), and presenting the management case at any subsequent formal hearing if the allegation is substantiated. The Investigating Officer will be responsible for:

- familiarising himself/herself with the disciplinary policy and guidance on investigation
- clarifying the allegations and terms of reference
- examining any background information
- obtaining all relevant evidence
- arranging for staff to be interviewed (including witnesses)
- ensuring timescales are met and;
- preparing a clear report which will recommend whether or not the matter should proceed to a formal hearing.

Each of these areas is explored in further detail below.

The investigating officer will usually be supported by a Divisional HR Manager or HR Advisor.

5.2 The role of the investigating officer is primarily to gather relevant information and present the facts of the case in an impartial and none prejudicial way. S/he will also evaluate the findings objectively in order to make a recommendation of whether there appears to be a prima facie disciplinary case to answer.

6. **Planning and Preparation**

6.1 Once it has been decided to investigate an allegation under the conduct & disciplinary policy the Investigating Officer must plan the investigation carefully and ensure that s/he is fully familiar with the relevant procedures before proceeding.

6.2 The next step is to decide what evidence to collect including documents such as letters, emails, forms etc and any witness to be interviewed and in which order this should take place. The list of witnesses may change as the investigation proceeds but must be confined to those identified as having first-hand, relevant information about the allegations.
7. Interviews

7.1 Investigation meetings should take place in a quiet room where the meeting can be conducted in privacy and not be interrupted or overheard. All investigation interviews must remain confidential and only those in attendance may discuss the case outside of the interview (the only exception would be where an interviewee is not represented at the interview and subsequently identifies a trade union representative). The person to whom the allegations are against and any witnesses should be written to, providing adequate notice to attend, explaining the reason for the meeting and where and when it will take place. In the case of the employee who is the subject of the allegation, details of the allegation should be provided. (See relevant appendices for sample letters).

7.2 Note Taking at Interviews

7.2.1 Notes should be taken during the interview. The notes do not need to be verbatim but should capture the basic details when the interview took place i.e. date/time, the location and who was present. They should also provide details of any information provided to the employee (and their representative, if applicable), what questions were asked and the responses given and by whom.

7.2.2 Notes should be recorded in the 3rd person i.e. AB stated that/asked if, JR responded that. When quoting the exact wording/response quotation marks should be used " ".

7.2.3 All hand written notes taken at interviews should be retained in the investigation file for future reference if required e.g. When typed notes are in dispute or when required for submission as evidence at any subsequent tribunal cases.

7.3 The notes of the interview should be typed and a copy sent to the interviewee who should be asked to make any necessary amendments, sign and return them as an accurate record of the meeting. (Appendix 5 – Letter confirming accuracy of minutes)

- If any significant amendments are made and accepted the notes should be retyped with the amendments and resent to the employee to sign and return as an accurate record of the meeting. Where minor amendment are made and accepted discretion may be used as to whether the notes are retyped and returned for further agreement/signature.

- If any changes are not accepted both versions should be included in the report with a copy of the hand written notes taken on the day of the interview, highlighting any points in dispute.

- In some circumstances it may be appropriate to hold a supplementary interview where significant changes or additions to the notes are made.

An interview checklist is attached at Appendix 8
Also see Section 13, Supporting Staff and Section 11 Record Keeping
8. Interviewing the Employee Accused of Misconduct

8.1 The initial interview in the investigation process is often best conducted with the employee who is the subject of the allegation as it gives a chance for them to admit or deny the allegations and takes place before the investigating officer embarks on an extensive investigation that may not be required. If the employee admits to the allegation, an opportunity is provided to put forward an explanation. If that happens, the subsequent investigation may be aimed at testing whether the explanation is true. It may also avoid the need for other extensive evidence gathering which is not only time-consuming for the investigating officer but also means that fewer people need be exposed to the allegations against the employee.

8.2 The employee accused of misconduct should be advised of the requirement to attend an investigatory interview and advised of their right to representation. Also see section 12 – Right to representation. (Appendix 1 - Letter to Accused requesting attendance at an investigatory interview).

Note: The employee should be made aware of the allegations/misconduct and be provided with the facts i.e. date/time/brief details of incident. At no time during the investigation stage should copies of any written complaints/statements, witness interview notes be provided to the ‘person accused’ or their representative. It is only when incidents/allegations have been thoroughly investigated and a disciplinary hearing has been arranged that full details and copies of statements etc., are normally provided. All documents will be within the investigating officer’s ‘Investigation Report’ (See Section 14) and will be presented in the investigation report and/or statement of case which will be provided to the employee if the case proceeds and a hearing.

In certain circumstances, provision of documents may be appropriate and necessary e.g. where the employee is asked to comment on a particular document.

8.3 At the meeting the Investigating Officer should:

- Introduce those present
- State the reason for the meeting and nature of the allegation made
- Explain that the meeting must remain confidential and discussions outside of the meeting should be restricted to the employee’s representative
- Explain the investigation process and any timescales involved (including attendance at any subsequent formal hearing if allegations substantiated and possible outcomes)
- Highlight an expectation for honesty from the employee
- Confirm the role of investigating office is impartial and to gather the facts only
- Confirm notes of the meeting will be taken and a copy will be provided to the employee (and staff side representative if consent is provided). Advise that the employee will be required to check the notes for accuracy, make any amendments if necessary, and sign to confirm that they are a true reflection of the meeting.

8.4 Questions should be:

- Planned
- Concise; the Investigating Officer should address one point at a time.
- Neutral; the investigation process is designed to gather information not to decide whether or not the allegation is substantiated.
8.5 In addition the Investigating Officer should ensure that the employee is given an opportunity to ask questions if they wish.

9. **Interviewing Witnesses**

9.1 The interview process for witnesses should follow a similar process to those detailed above. *(See Appendix 2 - Letter to Witness(es) inviting them to an investigatory interview).* This meeting will be to advise the employee that their name has been put forward as a potential witness to an allegation of misconduct and provide an opportunity for them to respond.

9.2 Any witnesses should be interviewed separately and informed of their right to be accompanied by a Trade Union representative or work place colleague for support if they wish.

9.3 In exceptional cases i.e. clinical incidents witnesses may also be requested to provide a written statement about the incident(s) in question in advance of the interview or following it. Alternatively, the notes of the meeting may be used and as such a copy should be provided to the witness who will be asked to check the contents for accuracy, make any amendments and sign to confirm that they are a true reflection of what was discussed. *(See section 7)*

9.4 The investigating officer must also ensure that any witnesses are advised that any written statements and/or notes of the investigatory meeting will be incorporated into the investigation report and may be used as evidence if the matter proceeds to a hearing. If the allegations are substantiated and the matter is referred to a formal disciplinary hearing the employee subject to the allegations will be provided with a copy of the report and associated documents/evidence. The witness may also be required to attend any disciplinary hearing to provide evidence.

9.5 Exceptionally, a witness may request to provide evidence only if they are allowed to remain anonymous. In general, natural justice dictates that an employee accused of misconduct should know the full extent of the evidence against them and this includes the identity of witnesses. However, this right may be limited if there are grounds for believing that there are real risks. In such cases, an anonymous statement may be advisable. In extreme cases, of a very serious nature, if the evidence itself would identify the witness, the evidence may be presented directly and confidentially to the manager hearing the case without making it available to the subject of the allegation(s) or his/her representative. In such rare cases, Senior HR advice must be taken.

If anonymity is agreed internally, the interviewee must be advised that confidentiality and anonymity will be protected as far as is reasonably possible but that this may subsequently be overruled exceptionally, such as if disclosure is required by statute or ordered by a court on the basis of a later countervailing public interest.
9.6 The Investigating Officer must plan each interview carefully and draw up a list of questions for each witness in good time before the meeting. The questions should be:

- Concise; the Investigating Officer should address one point at a time.
- Neutral; the investigation process is designed to gather information not to decide whether or not the allegation is substantiated.
- Tailored to any background information available.
- Open; in order to avoid leading the witness to give specific answers i.e. what, when, why, who, where
- Fact-finding; the Investigating Officer should avoid asking for opinion although this may sometimes be suitable/necessary.

Supplementary questions should be asked if the information supplied is not sufficient.

9.7 During interviews the Investigating Officer should:

- Inform the witness of the allegation that is being investigated and explain the investigation process and any timescales involved. This should only be in relation to the particular incident it is alleged they witnessed, if more than one incident is alleged
- Make witnesses aware that the information they supply could be used at any subsequent formal hearing and the possibility that they may be required to attend to give evidence
- Point out that any information discussed at the meeting should remain confidential and not be discussed with other members of staff, including other witnesses. This is to maintain the reliability of the evidence supplied.
- Highlight an expectation for honesty
- Advise role of investigating office is impartial and to gather the facts only
- Ensure witnesses are made aware that the investigation will be based on facts relating to specific incidents which it has been alleged they witnessed and will not take account of assumptions and/or hear say
- Confirm that a copy of the notes will be provided to them and they will be required to check the accuracy, make any amendments and sign to confirm that they are a true reflection of what was discussed

10. Other Forms of Evidence

10.1 Documentary Evidence

10.1.1 The investigation will need to assess and take account of the reliability of any evidence collected. In the case of documentary evidence, original documentation is the most reliable and should be obtained wherever possible. Where only copies are available, evidence should be obtained if possible to confirm the authenticity of the copy. Computer data should be marked with the date and time at which they were produced.

10.2 Computer/digital evidence

10.2.1 It is essential to secure or preview potential evidence in a procedurally sound manner. Even turning on a computer or navigating around a few files and folders can alter system information as a trail may be left which can taint the evidence. It is
usually best to avoid having a ‘quick look’ without expert IT advice.

10.3 Photographic evidence

10.3.1 Photographs provided as evidence during the investigation must be signed on the reverse side by the photographer recording:
- His or her identity
- The date and time taken
- The location

Where photographs are required purely for internal purposes, digital cameras may be sufficient although if criminal conduct is suspected, these may be admissible in court.

11. Record Keeping

11.1 All working papers must be retained and kept securely throughout the investigation as they may need to be disclosed during later proceedings. This includes hand written notes taken during interviews. (see section 7.2 Note taking at interviews)

12. Right to Representation

12.1 Staff who are the subject of the investigation have the right to be represented at any investigatory meetings by their trade union representative. Alternatively they may wish to be accompanied by a work place colleague for support. Witnesses to alleged incidents of misconduct may be accompanied to any investigatory meetings for support.

12.2 Any investigation meeting should not be unreasonably delayed due to the non-availability of a representative. If an employee indicates that their representative is not available for the first date, it is reasonable to agree to one postponement providing that the meeting can take place within a reasonable time (e.g. one week).

12.3 Generally it is the responsibility of the employee to communicate the arrangements for meetings with their representative. It is advisable to be sure that this is clear to the employee, who may otherwise assume incorrectly that the investigator officer, or HR Advisor, will do this on their behalf.

12.4 There is no right to be represented by a legal advisor, as the Trust’s Conduct & Disciplinary procedures are not a legal procedure but an internal one. An exception to an employee being represented by a legal advisor would be for example in cases of suspected fraud or theft where the employee is required to be interviewed under caution. In these circumstances a suspected employee would be entitled to legal representation under the Trust’s Anti Fraud and Corruption Policy and Response Plan, EDF004). (See Section 7.5 of the Trust’s Anti Fraud and Corruption Policy and Response Plan)

13. Supporting Staff

13.1 The Investigating Officer needs to recognise that the investigation process can be difficult for all parties involved i.e. witnesses and the employee accused of misconduct and support is available via a number of channels i.e. Occupational Health Services, Trade Unions, Line Managers support.
13.2 Support should be offered to the employee accused of misconduct regardless of whether the allegation is/is not substantiated.

13.3 If necessary investigation meetings may need to be adjourned for a brief period in order to give the employee/witness time to collect themselves.

13.4 Where the interviewee has difficulty in understanding English, the services of an interpreter should be offered.

13.5 Where the interviewee is covered by the Disability Discrimination Act all reasonable steps should be taken to support the employee to attend i.e. large print, loop system, wheelchair access etc.

13.6 The Investigating Officer may be asked to debrief staff involved after an investigation has been concluded. The information that can be disclosed may be limited but some explanation of processes should be given. This should not be undertaken without discussion with the manager commissioning the investigation and HR advice.

14. Preparing an Investigation Report

14.1 Once all the interviews have been concluded the Investigating Officer is required to produce a report, usually commissioned by the manager who would hear any disciplinary case which might follow. The report will conclude with the investigation officer’s recommendation as to whether the evidence indicates that there is a prima facie case to answer or not.

14.2 The following provides a general framework for writing a disciplinary investigation report. The aim of the report is to present the findings of a full and impartial investigation so that the manager responsible can decide whether the matter will be progressed to a formal disciplinary hearing; whether no further action is required or if other (non disciplinary action) is appropriate. The report may also be called as evidence if there is a subsequent appeal and Employment Tribunal hearing:

- Front Sheet
- Index of contents.
- An introduction summarising why the investigation was carried out, the nature of the allegation and date/place etc should be specified.
- Employee Details i.e. name, post held, ward/department/professional group, length of service in post/Trust
- Background - only information relevant to the case should be included and this will differ from case to case. i.e. responsibilities of post holder, procedures, policies, codes of practice, diagrams, floor plans, rotas/timesheets to demonstrate who was on duty. Note: confidential patient notes/documentation must not be included that can identify a patient. If required, this evidence can be made available for reference on the day of the hearing. If it is essential to include notes in the report any identifiable information must be deleted i.e. name, address. Reference should not be made to previous incidents of misconduct which have not been investigated in the past or which have been expunged from the employee’s record.
- Investigation process/methodology i.e. schedule of who was interviewed, and their position, timeline of events and which policy used for investigation
- A presentation of evidence. If this section refers to other documents these should be included as appendices. (E.g. breach of confidentiality – refer to
section and provide copy as appendix)

- Evaluation of evidence – This is a brief statement outlining the conclusion the investigating officer has drawn from the finding with regard to whether evidence indicates a prima facie case to answer.
- Recommendation of how the investigation should proceed i.e. whether there appears to be a prima facie case to answer at a disciplinary hearing. This should not include any supposition or opinion as this is not evidence.
- Appendices - Copies of signed interview notes/statements for all those interviewed; other documentary evidence; relevant policy documents, etc.

14.3 The final report should be sent to the appropriate next level manager and Divisional HR manager only for consideration and decision as to how to proceed i.e. no further action; disciplinary case to answer at a formal hearing; other (informal) action.

14.4 An Investigation log sheet is attached at Appendix 6. This should be completed and attached to the front of the investigation file for easy/quick reference.

14.5 A standard Investigation Report Template is attached at Appendix 8

15. **Confidentiality**

15.1 The report must remain confidential and is to be disclosed by the investigating officer to the manager who is effectively the commissioner of the report and to the HR Advisor involved in the investigation. The investigating officer must not share the report with the subject of the investigation, witnesses or other third parties. Prior to finalisation of the investigation report the subject of the investigation and witnesses have access only to their own notes and statements, at which point they may propose amendments for accuracy. Any request for disclosure of the report itself must be made through the manager for whom the investigation was undertaken.

15.2 The investigation report will form the basis of the management statement of case and it is at this point that the subject of the investigation will be provided with a copy as detailed in the Trust’s Conduct & Disciplinary policy and detailed below at section 16, Next Steps.

16. **Next Steps**

16.1 Following consideration of the report by the manager who commissioned it:

**16.1.1 Case to answer**

If a decision is made to proceed to a disciplinary hearing, the manager hearing the case must arrange a formal hearing. The employee (but not witness) will be advised of the outcome of the investigation in writing *(See appendix 3).* For further information please refer to the Trust’s Conduct & Disciplinary Procedure. *(A disciplinary hearing checklist is attached at Appendix 9)*

At this point the investigation report will form the basis of management’s statement of case and a copy will be provided to the subject of the allegations prior to the formal disciplinary hearing.

**16.1.2 No case to answer**

If a decision is made that there is no case to answer, a meeting should be convened
with the employee to advise him/her of the outcome of the investigation. This should be carried out on an individual basis by the investigating officer, and followed up in writing. *(See appendix 3).* The detailed investigation report is not normally provided to the employee if no case to answer is found.

**17. Suspension**

17.1 At any stage prior to, during or following the investigation the commissioning manager or the Investigating Officer may consider it necessary to suspend the employee involved. For further information regarding suspension please refer to the Trust’s Conduct & Disciplinary Procedure. *(See Appendix 5 – Sample letter Suspension)*

17.2 Any decision to suspend should be made at the appropriate senior level i.e. Chief Executive and Executive Directors or Divisional Director. It may also be carried out by Heads of Department/Senior Managers authorised to do so by a Divisional Director.

**18. Further Action and Information**

18.1 For advice on further action once the investigation has been concluded please contact the relevant Divisional HR Manager/Advisor.

**19. Implementation**

19.0 The Trust will demonstrate that these guidelines have been issued, read and implemented as follows:

**19.1 Dissemination**

A variety of dissemination methods are in place to ensure all managers will be made aware of, have access to and comply with these guidelines, these include:

- Publication in the monthly core brief, including a brief description of the document and its intended core audience when implemented
- Publication in the Weekly Bulletin on implementation
- Inclusion on the Document Management System on the Trust’s intranet site, which all staff are encouraged to use
- Briefing at monthly Divisional Management Meeting when implemented

**19.2 Report Back Process**

- Minutes from Divisional Management Meetings

**19.3 Training Arrangements**

- Briefing at monthly Divisional Management Meeting when implemented
- Cascade to all staff through Directorate/CAT/Department Meetings as required following implementation
20. Monitoring Arrangements

20.1 Compliance will be monitored by means of analysis of grievances submitted where there has been a failure to follow procedure.

20.2 Regular reports will be submitted to the Executive Team, and subsequently Trust Board, on the number of conduct and disciplinary, grievance and bullying & Harassment cases in progress, together with outcomes and appropriate action where necessary.

21. Review

21.1 These guidelines will be reviewed as and when necessary in line with relevant policy reviews.

22. References

- British Employment Law. ‘British Home Stores Limited v Burchell’ (1978) IRLR 379. [http://www.emplaw.co.uk](http://www.emplaw.co.uk)

- Pennine Acute Hospitals NHS Trust Policies, Procedures & Guidelines:
  - Conduct & Disciplinary Policy, (EDH002)
  - Bullying & Harassment Policy, (EDH005)
  - Grievance Policy, (EDH003)
  - Anti-Fraud & Corruption Policy & Response Plan, (EDF004)
Appendix 1

Sample letter inviting to initial investigatory interview (Accused)

DATE

Private & Confidential
Name
Address
Postcode

Dear

Investigatory Interview
Allegations of XXXXXXX

I am writing to inform you that I have been appointed to investigate an allegation that BRIEF DETAILS. You are required to attend an investigatory meeting on DATE, TIME. Please report to LOCATION. The purpose of this meeting is to enable me to obtain as much relevant information from you as possible and will provide you with a full opportunity to respond to this allegation prior to a decision being taken on any further action. This will include whether a formal disciplinary hearing will be arranged or whether it is decided that there is no case to answer or the matter can be dealt with informally.

If you are unable to attend this meeting for any reason please contact me on the above telephone number to make alternative arrangements.

You have the right to be accompanied to this meeting by a workplace colleague or trade union representative. Should you wish to be accompanied please make any necessary arrangements and confirm your attendance, together with your representative’s name (if applicable) with XXXXXXX on TEL NO.

I must also remind you that this matter is strictly confidential and you must not discuss matters directly pertaining to this investigation with anyone other than your designated representative.

I also understand that this may be a difficult time and would like to draw your attention to the Trust’s free and confidential counselling service which can be accessed through Occupational Health on 0161 720 2727.

Please do not hesitate to contact either XXXXX or myself if you wish to discuss this matter further.

Yours sincerely,

Name
Title
Appendix 2

Sample letter inviting to investigatory interview (Witness)

DATE
Private & Confidential

Name
ADDRESS
ADDRESS
POSTCODE

Dear

Investigatory Interview
Allegations of XXXXXXXX

I am currently investigating an incident and I have been advised that you may be able to provide relevant information. You are requested to attend an investigatory interview to discuss [brief detail].

The meeting with myself and NAME, HR Advisor will be held on DATE at TIME. Please report to LOCATION. If you are unable to attend this meeting for any reason please contact me on the above telephone number to make alternative arrangements.

You have the right to be accompanied to this meeting by a workplace colleague or trade union representative. I would be grateful if you could make any necessary arrangements and confirm your attendance, together with your representative’s name (if applicable) with XXXXX on Tel No.

I also understand that this may be a difficult time and would like to draw your attention to the Trust’s free and confidential counselling service which can be accessed through Occupational Health on 0161 720 2727.

I must also remind you that this matter is strictly confidential and you must not discuss matters directly pertaining to this investigation with anyone other than your designated representative.

Please do not hesitate to contact either XXXXXXX or myself if you wish to discuss this matter further.

Yours sincerely,

Name
Title
Appendix 3

Sample letter confirming outcome of investigation (Accused) from the Commissioning Manager (not investigator)

Date

Private & Confidential

Name Employee
Address

Dear

Outcome of Investigation
Allegations of XXXXXXX

I refer to our meeting on DATE, concerning the allegation of (brief details) made against you and the subsequent investigation undertaken by XXX.

I confirm that the findings of the recently concluded investigation indicate that there is a case, to be answered at a formal disciplinary hearing.

Please note that a hearing will be arranged at the earliest opportunity under the Trust’s Conduct & Disciplinary policy. A copy of management’s statement of case and details of the hearing will be sent to you in due course. You have the right to be accompanied to this hearing by a trade union representative or work colleague.

Or

I confirm that the investigation of the allegation(s) against you has concluded and there is no disciplinary case to answer.

Or

I confirm that the investigation of the allegation(s) against you has concluded and there is insufficient evidence to warrant a hearing under Trust’s Conduct & Disciplinary policy. However, I have some concerns which I raised informally with you at our meeting and the following actions will now be taken. Enter details e.g. further training etc.

Yours sincerely

Name
Title
Appendix 4

Sample letter confirming accuracy of notes

DATE

Private & Confidential

Name
Address
Postcode

Dear

Investigation

Thank you for attending the investigation meeting held on DATE. Please find enclosed two copies of the notes taken during that meeting.

I would be grateful if you could check the notes for accuracy and make any amendments you feel are necessary to ensure they reflect what was discussed in the meeting.

Please return one copy, signed, to me at the following address:

Room XXX
Building
Hospital Site

If you do not return your amended/signed notes by DATE it will be deemed that you fully agree with the contents. [As such they may be used as evidence where it has been determined that there is a case to answer and the decision is made to proceed to a formal disciplinary hearing under the Trust’s Conduct & Disciplinary policy.] – This sentence only to the subject of allegations, not other witnesses.

If you have any questions/concerns regarding the enclosed please do not hesitate to contact me.

Yours sincerely

Name
Investigating Officer
Sample letter – Suspension

DATE
Private & Confidential
Name
Address
Postcode

Dear

Suspension from Duty

I refer to our meeting on DATE at which NAME, HR Advisor and NAME, trade union representative were also present and confirm your suspension from duty, until further notice, pending the outcome of a full and impartial investigation. This is as a result of an allegation(s) of BRIEF DETAILS.

Suspension is on full pay, without prejudice, and is not in itself disciplinary action but a neutral holding action which will allow for the investigation to take place. During the period of your suspension you must not enter Trust premises except to consult with your representative with my prior permission, or for medical treatment for yourself or a relative. It is also expected that throughout the period of your suspension you will be required to be available for work as and when necessary in order to ensure a timely resolution to the investigation. Exceptions will be during times of prearranged annual leave or certified sickness.

The investigation will be concluded within as short a time as possible and it is anticipated that this will be no longer than four weeks. In the event that the investigation extends beyond four weeks I will arrange for written confirmation to be provided to you which will detail the reasons for the delay and the likely length of time before any conclusions can be made.

As part of the process you will be requested to attend an investigatory interview. This will provide an opportunity for you to respond to the allegations made against you. You will be offered the right to be accompanied to any meetings by your trade union representative or work place colleague for support. Should you be unable to attend these meetings for any reason you must inform the investigating officer at the earliest opportunity to allow an alternative date to be arranged.

On conclusion of the investigation you will be informed of the outcome and whether the finding is of no disciplinary case to answer or whether the matter will proceed to a formal hearing.

I must also remind you that this matter is strictly confidential and you must not discuss matters directly pertaining to this investigation with anyone other than your designated representative.

I understand that this may be a difficult time and would like to draw your attentions to the Trust’s free and confidential counselling service which can be accessed through Occupational Health on 0161 7620 2727.

Yours sincerely

Name  Title
## Log Sheet Investigations

**Investigating Officer:** ______________  **HR Advisor:** ______________

**Reason for Investigation:** __________________________________________________________

______________________________

**Date of allegation/incident:** ___________  **Date raised/identified:** ___________

### Subject of Allegation

**Name of Employee:** ______________  **Job Title:** ______________

**Department:** ______________________  **Location:** ______________________

**Date Initial investigation letter sent:** ___________  **Date of Meeting:** ___________

**Date notes sent for agreement/signature:** ___________  **Date Returned:** ___________

**Date Suspended (if applicable):** ___________  **Date Suspension lifted:** ___________

### Investigation:

**Employees interviewed during process:**

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<thead>
<tr>
<th>Name</th>
<th>Job Title</th>
<th>Date</th>
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**Date notes sent for agreement/signature:** ________________________________

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**Date Investigation Completed:** ______________

**Date employee advised of full investigation outcome:** ______________

**Outcome**: No Case to Answer / Dealt with informally / Progressed to formal hearing (*Delete as appropriate*)

**Investigation Report forwarded to Commissioning Manager:** ______________

**Date:** ___________

**Reason for Delay (if applicable):** ____________________________________________

______________________________
Appendix 7

The Investigative Interview Checklist

Before the interview – Plan the questions

Step 1

- Introduce those present

Explained:

- purpose/explain not a disciplinary hearing
- representation rights/formally note if individual opts not to exercise this right
- notes to be taken
- right to confirm/otherwise accuracy of notes
- notes/statement will form part of management’s statement of case if a case to answer is identified
- where appropriate advice that witness statements will not normally be shared if no case to answer unless expressly requested by the subject of the allegation(s)

Step 2

- in interviews with the subject of the allegations go through each of the allegations in detail and ask for comments
- allow appropriate opportunity to respond in interview with witness, restrict questions to specific incidents/ issues about which they are believed to have relevant information
- seek to Identify - specific times, dates, witnesses, Identiﬁed – any additional, relevant information

Step 3

Explain:

- what happens next
- conﬁrmed conﬁdentiality issues (excluding reps)
- availability of support
- offer opportunity for questions
Appendix 8

Investigation Report (Template)
Private & Confidential

Report of the Investigation into allegations of
..............................................................................................................................
..............................................................................................................................
against.......................................................................................................................

Investigating Officer..............................................................................................
TU/Workplace Representative...............................................................................
Date of Report........................................................................................................

1. Allegations/Introduction
   1.1 Summarise the nature of the allegation(s) specifying details such as
date/place etc.

2. Employee details
   2.1 Name, band, post held, ward/department/professional group, length of service
in post/Trust

3. Background
   Only information relevant to the case should be included and this will differ from case
to case e.g.
   3.1 Responsibilities of post holder
   3.2 Procedures/policies/codes of practice etc.
   3.3 Diagrams/floor plans to show where incident happened
   3.4 Rota/timesheet to show who was on duty

   Note: Confidential patient notes/documentation must not be included that can identify
a patient. If required, this evidence can be made available for reference on the day
of the hearing. If it is essential to include notes in the report any identifiable
information must be deleted i.e. name/address

   Reference should not be made to previous incidents of misconduct which have not
been investigated in the past or which have been expunged from the employees
record.

4. Investigation Process/Methodology
   4.1 State whether informal stages utilised e.g. mediation
   4.2 Confirm policy used for investigation
   4.3 Schedule of who was interviewed, when and their position
4.4 Documents (letters, emails etc) obtained
4.5 Diagrams/floor plans relevant to the allegation(s) investigated

5 Presentation of Findings

If this section refers to other documents these should be included as appendices such as letters, emails, policies e.g. Breach of confidentiality – refer to section within policy/document and provide copy as appendix

5.1 Chronological order of events
5.2 Take each allegation in turn and present all relevant evidence that supports or contradicts the allegation

6 Evaluation of Evidence

Identify if there is more than one allegation, list and whether each is supported by evidence, contradicted by evidence, no evidence either way is found, conflicting evidence found etc.

7 Conclusions/Observations

This is a brief section outlining the conclusions the investigating officer has drawn from the findings.

8 Recommendation

Recommendation of how the investigation should proceed i.e. whether a disciplinary hearing should be arranged. If the investigator believes there is a case to answer the report needs to advise if the allegation relates to (i) gross misconduct or (ii) repeated misconduct with a live warning on file which if substantiated could potentially result in dismissal.

8 Appendices

Copies of agreed interview notes/statements for all those interviewed and any other relevant documents.
Appendix 9

Disciplinary Hearing - Panel Checklist

Pre Meeting Checks for the Manager/ Panel hearing the case.

1. Are you satisfied that a fair and thorough investigation into allegations has been undertaken?
2. Has the employee been advised of the allegations against them, in writing?
   and:
   ● Has the employee been afforded the right to representation at each stage?
   ● Has the employee been afforded the right to call witnesses?
   ● Have you seen a copy of the letter?
3. Has the management statement of case been provided to the employee in line with the disciplinary procedure?
4. The employee may have provided a written response but is not obliged to do so.

Meeting Issues

1. Has the employee been given the opportunity to state their case / question witnesses?
2. Are you satisfied that the case against the employee has been substantiated “on the balance of probabilities”?
3. Are you satisfied that Trust procedures have been followed?

The Outcome

1. Does the manager hearing the case have the authority to take the proposed action (delegated where necessary)?
2. In the case of delegated authority, is this in writing?
3. What is the proposed sanction and is this proportionate to the misconduct and reasonable given the circumstances (reasonable belief / balance of probabilities)?
4. For action short of dismissal:-
   ● What is the nature of the misconduct?
   ● Has the case established sufficiently to substantiate the allegation(s) on the balance of probabilities?
   ● Have mitigating factors been put forward / considered?
   ● Are there any other ‘live’ sanctions to consider?
   ● Are those sanctions relevant to this case?
   ● In light of the above considerations, is the action proposed reasonable?
5. In cases of dismissal:
   ● is this a first offence?
   ● has consideration been given to other alternative sanctions short of dismissal?
   ● has length of service / record been considered?
   ● have matters of mitigation been identified / considered?
   ● Are there any other ‘live’ sanctions to consider?
   ● Are those sanctions relevant to this case?
   ● in consideration of all of the above, is dismissal a reasonable action?