

Disciplinary Procedure

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Disciplinary Procedure

1 Introduction

In order to provide the best possible health services to its service users and to the local communities it serves the Tavistock and Portman NHS Foundation Trust (the Trust) is committed to achieving excellent standards of conduct within its workforce.

It is recognised, however, that there will be occasions when the conduct of staff falls below the expected standards. The aim of this procedure is to assist managers to deal with those cases efficiently and appropriately, giving individual staff members the opportunity to improve wherever possible.

This procedure will be applied consistently and fairly to all employees, based on the circumstances of their case. No-one will be treated less favourably on the grounds of their race, gender, disability, age, ethnic or national origin, religion or belief, trade union membership or activity, sexual orientation, gender reassignment, medical condition, political affiliation or marital status. The Trust recognises its responsibility to ensure the implementation of the rules of natural justice as part of this procedure i.e.–

- the employee should know the nature of the accusation against them
- the employee should have an opportunity to state their case
- Managers should act in good faith.

The disciplinary procedure is primarily a mechanism for improving the conduct of staff where this is necessary. Except in cases of gross misconduct (see “Disciplinary Rules”) staff will not be dismissed for an initial breach of disciplinary rules, but given ample opportunity and support to improve their conduct as required.

2 Purpose

The purpose of this procedure is to set out clear principles and practice in respect of the investigation and resolution of matters of staff conduct. These principles are to be applied consistently across the Trust. The document sets

out clear roles and responsibilities for those involved in these processes and allows staff members who may come under this policy and procedure to be fully informed of the way in which matters will be handled at both the informal and formal stages of the procedure.

3 Scope

This procedure applies to all staff employed by the Trust. Medical staff are covered by the procedures set out in the maintaining high professional standards in the modern NHS (MHPS), which includes taking advice from the National Clinical Assessment Service (NCAS) for misconduct cases. Where matters concerning medical staff proceed to a disciplinary hearing, this will be managed in accordance with the Trust's Disciplinary Procedure contained in this document.

This procedure does not apply in cases where individuals lack the capacity to carry out the full duties of the post in which they are employed, because of factors such as skill, ability, or health. Such matters are dealt with through the Trust's Employee Capability Policy and Procedure and the Sickness Absence Procedure.

4 Definitions

Misconduct

Misconduct is a breach of the Trust's policies or rules, and / or a failure to observe standards of expected conduct at work, and / or a breach of professional codes of conduct (See Appendix B).

Gross Misconduct

Gross Misconduct is misconduct of such a nature that the Trust is justified in dismissing the member of staff who commits the offence. Such offences may warrant summary dismissal without any prior warnings (See Appendix B).

Full Pay

Is the pay which the employee would have earned had they continued at work.

Suspension

Suspension is an exclusion from work normally pending a full investigation. This does not constitute disciplinary action or sanction. Suspension is normally invoked when an individual's continued presence at work places themselves/other person(s) at risk or may interfere with an investigation.

Right of Representation

Any member of staff who is subject to formal disciplinary action has the right to be accompanied by a work colleague, a trade union representative or an official employed by a trade union at meetings and hearings. Staff do not normally have the right to be accompanied at meetings held at the informal stage of the disciplinary procedure. However, where an employee may feel more comfortable with a colleague or trade union representative present at an informal meeting such a request should not be unreasonably refused.

5 Duties and responsibilities

Chief Executive

The Chief Executive is ultimately responsible for ensuring that the Trust maintains excellent standards of conduct within the workforce and will ensure that the Trust maintains a legally compliant, fair and equitable disciplinary policy and procedure, which is followed accurately in cases when the conduct of staff comes under investigation.

Director of Human Resources

The Director of Human Resources will ensure that this procedure is followed by members of the Human Resources team when it is implemented, and will ensure that accurate, full and objective records are maintained by HR staff during any occasion when a member of staff is investigated under the procedure. In addition the Director of HR will provide a source of expert advice to the Trust in respect of disciplinary matters. The Director of Human Resources may also seek legal advice for the Trust on disciplinary matters as required.

Human Resources Advisers

Human Resources Advisers will be fully familiar with this procedure and ensure that it is adhered to throughout any investigation. They will escalate any problems

and concerns to the Director of Human Resources at any time when any stage of the procedure is breached or is at risk of breach.

Human Resources Department

The role of the Human Resources Department is to advise managers on the consistent and fair application of this procedure and to support managers to develop their competence and confidence in managing staff and applying this policy and procedure when necessary.

Managers should contact the Human Resources team for advice before implementing this procedure. Members of the Human Resources Department will also attend meetings held under the formal disciplinary procedure as set out in Section 6.6

Line Managers

All line managers should familiarise themselves with this policy and procedure and seek early advice from an Human Resources adviser should it become necessary to investigate the conduct of any member of staff under this procedure. In the case of minor offences it is recognised that this contact may be for information only, prior to informal action. Heads of Discipline do not have responsibility for investigating the conduct of staff (unless for staff whom they manage directly), but may be called upon by the line manager to provide advice.

All Staff

All members of staff have a duty to co-operate with investigations and proceedings taking place within the scope of this policy and procedure. This includes attending Disciplinary Hearings as witnesses when requested to do so. Failure to follow a reasonable management request to co-operate with disciplinary proceedings may itself be considered to be a disciplinary offence.

6 Procedures

Disciplinary Rules

The aim of this procedure is to ensure that proper standards of conduct are observed and that cases where the conduct of staff falls below acceptable levels are dealt with efficiently and appropriately. To assist with this, a list of disciplinary rules is attached to this procedure at Appendix B, but is not exhaustive.

Disciplinary rules and procedures will be explained to staff, and will be readily available via the staff Intranet and other means of communication as appropriate.

In circumstances where serious breaches are deemed to have occurred, it may be appropriate to refer a disciplinary concern to an employee's professional body e.g. NMC. The decision to refer may take place at the onset, that is, when an allegation is received, during the disciplinary process or at the conclusion of the process. In circumstances where employees are accountable to a statutory professional or regulatory body, advice should be sought from their Head of Discipline or most senior person within the Trust, before the professional body is informed of any disciplinary proceedings or disciplinary action.

Criminal Offences

Staff have a duty to disclose previous convictions during the recruitment process including those that are 'spent' under the terms of the Rehabilitation of Offenders Act 1974 (Exceptions Order). The Trust will also undertake Criminal Records checks (Disclosure and Barring Service) on staff in designated positions. Reference should be made to the Trust's recruitment and selection procedure.

Staff also have a duty to disclose convictions or criminal proceedings occurring during their employment with the Trust. This would include being arrested or cautioned.

If a criminal offence occurs within Trust premises the normal disciplinary procedures will be followed, although it will also rest with the relevant manager to contact the police with a view to a criminal charge being made.

Criminal offences outside employment, including associated police enquiries and legal proceedings, will not be treated as automatic reasons for dismissal. The main consideration will be whether the offence is one that makes the member of staff unsuitable for his or her post. If the offence or conviction has clear implications for the staff member's employment or could potentially damage the reputation of the Trust, disciplinary procedures will need to be followed.

Disciplinary Procedures – Informal Stage

Minor forms of misconduct, may, by repetition or degree become serious but initially should be dealt with informally. Examples may include lateness, absenteeism, mild insubordination, failure to work to the required standard etc. In such cases the manager may, in the first instance, counsel the member of

staff involved. The aim is to obtain a mutually acceptable remedy by advice or by training. Counselling is not a sanction under the procedure but intended to avoid recourse to disciplinary measures. However, where such counselling or informal warnings reveal issues or attitudes which the manager considers to be unacceptable then formal disciplinary action will be instituted.

There is no right of representation during the informal stage, and Human Resources staff do not need to be present at informal meetings. However, where an employee may feel more comfortable with a colleague or trade union representative present at an informal meeting, such a request should not be unreasonably refused.

Disciplinary Procedure – Formal Stage

Investigation

When a manager becomes aware that a member of staff's conduct may have fallen below the required standard, they should undertake an investigation, proportionate to the allegations, as soon as possible. The aim of the investigation is to establish the following:

- what happened, where and when;
- who else was involved, if anyone;
- what, if any, disciplinary rules or standards of conduct may have been breached;
- what explanation was given by the member of staff;
- were there any mitigating circumstances?

In gathering this information it will be necessary to meet with the member of staff and anyone else involved, in order to establish the facts as far as possible. In reaching conclusions about the matter(s) investigating managers should be aware of the Trust's equality, diversity and inclusion policy and consider factors such as:

- whether any communication difficulties, including those arising from cross-cultural communication, have contributed to the problem;
- whether there has been any provocation based on factors such as the

member of staff's gender, ethnic origin, religion or belief, disability, age, or sexual orientation;

- whether any action being considered as a result of the informal investigation is consistent with action taken elsewhere in the organisation in similar circumstances.

Managers should seek advice from an HR adviser before commencing an investigation.

Where concerns and allegations are serious an HR adviser may be present at investigation meetings to take notes and advise on procedural and process matters.

Action Following an Investigation

A range of possible outcomes could follow on from an investigation that is carried out, and these are:

- No action necessary
- The manager makes clear to the member of staff their concerns about their conduct, and is also clear about the standard expected in the future and the consequence of not complying. This is not a verbal warning, but should be recorded in the supervision notes and manager's file.
- Training, coaching, counselling or other forms of support are considered and arranged to help the member of staff to improve their conduct in future. Such measures must not be considered disciplinary penalties in themselves, although staff will be expected to co-operate with any measures suggested.
- Decide that the issue is a serious enough breach of the disciplinary rules and standards of conduct to warrant formal disciplinary action.

Advice should always be sought from the Human Resources Department before action is taken after an investigation.

The investigating manager should write a management case detailing the information they gathered during the investigation, and their conclusions

about the alleged breach of disciplinary rules. Where the manager concludes that there is a case to answer, they will invite formal proceedings through a hearing.

In all circumstances, upon concluding an investigation the manager will write to the employee confirming the next steps. Where there is no case to answer and other employee have been made aware of an investigatory process then the manager will discuss with the member of staff about appropriate and sensitive messages to be shared.

Suspension

There may be occasions when facts concerning particular disciplinary matters are not clear or where the situation suggests that it would be in the employer's or the employee's interest for that member of staff to no longer be at work while the matter is fully investigated. This is usually if the allegation relates to gross or serious misconduct. In these circumstances the employee should be suspended from duty on full pay. The manager responsible will, in conjunction with the Human Resources Department, confirm in writing their action within three days and the suspension decision together with details of the allegation leading to that action. They would subsequently be advised when to return to work for any hearing or any other matter.

It must be stressed that suspension is not a form of disciplinary action, merely an administrative device aimed at being in the interests of all parties. Suspension should be for as short a time as possible and will be reviewed on a weekly basis by the responsible manager.

Suspension is a neutral, non-punitive act and not in itself disciplinary action, however it is important to understand that it is likely to be perceived that way by the person affected and they may find it a distressing experience.

Suspension should only be used as a last resort where other temporary alternatives, such as change of the employee's working patterns, revision of duties, or reduction in hours, or change of location/department have been considered and have been deemed unsuitable.

It may be necessary to suspend an employee from duty if the allegation(s) or action(s) could constitute gross misconduct, or pose a substantial risk to patients, the individual, other employees, the Trust (including Trust reputation) or impede an investigation. Suspension should be applied where these risks can only be mitigated by removing the employee from the Trust premises and there are no alternative measures available, it should be a last resort.

Examples of alternatives measures to suspension include; amended duties, supervision or temporary suitable alternative redeployment. The short-term and long-term implications of such action should be considered. Suspension is usually on full pay except for visa/work permit concerns, a lapse in professional registration or for some criminal proceedings. For the latter it is advisable to take legal advice. To qualify for full pay during suspension, the employee must be available to the Trust during their normal working hours, and at the Trust's request. It therefore follows that pay is likely to be withheld where:

- The employee is no longer available for work, e.g. he or she is abroad or working for another organisation or themselves during their normal contracted working without prior agreement, or
- The suspension relates to a lapse in professional registration or a visa/work permit concern, or
- Not maintaining appropriate communication and/or making themselves available for appropriate meetings.

Formal Disciplinary Hearing

Disciplinary hearings should be conducted in an atmosphere of mutual co-operation to enable the manager hearing the case to be clear about the facts and circumstances of the case and make an appropriate decision.

The member of staff should be informed that they are required to attend a disciplinary hearing no less than two weeks before the date of the hearing. The letter inviting them to the hearing must set out:

- the date, time and venue of the hearing;
- the nature of the alleged offence(s) and the reason for the hearing;
- the right to representation;
- the fact that disciplinary action, including possible dismissal, may be taken;

The management case should be included with the letter, and the member of staff will be invited to provide their case in writing in their defence no less than three working days before the hearing.

The composition of a disciplinary hearing should be as follows:

- a senior manager will chair the hearing, advised by a member of the Human Resources Department. The Chair will normally be the manager of the investigating manager so long as they have had minimal prior involvement in the case. Where this is not possible an alternative senior manager may chair disciplinary hearing. The Human Resources team should be asked to advise on the suitability of the panel in all cases;
- the investigating manager, who will present the management case, may choose to be advised at the hearing, by the member of the Human Resources Department that has supported them during the investigation;
- the member of staff against whom allegations are made, accompanied by a work colleague, a trades' union representative or an official employed by a trades' union if they wish;
- Witnesses, who can be called by either the manager presenting the Management Case, or the member of staff. All staff have a duty to co-operate with disciplinary proceedings, including attending as witnesses if requested.

All evidence, statements and details of witnesses must be available to both the investigating manager and the member of staff. The presentation of new evidence on the day of the hearing should be avoided. In exceptional circumstances and where it has been agreed by the panel that supplementary information can be tabled at the meeting, where such new evidence is presented, it may be necessary for the panel to adjourn the hearing to allow the submission to be fully considered.

Formal Disciplinary Hearing – Process to be followed

The process to be followed at a disciplinary hearing will be as follows:

- the Chair introduces the hearing and those present
- the investigating manager presents the Management Case, which must have been previously provided to the member of staff and the hearing Chair

- the investigating manager calls any relevant management witnesses, addressing and questioning them as to their knowledge and perception of the incidents
- the Chair, HR representative and member of staff (or their representative) may ask questions of management witnesses, as they are called
- the Chair, HR representative and member of staff (or their representative) may ask questions of the investigating manager based on their Management Case
- Following this, the member of staff (or their representative) presents their case
- the member of staff (or their representative) calls any witnesses
- the Chair, HR representative and manager may ask questions of the member of staff's witnesses
- the Chair, HR representative and manager may ask questions of the member of staff
- the investigating manager sums up the management case
- the member of staff (or their representative) sums up their case including presentation of any mitigating circumstances
- the hearing will then adjourn for the Chair, advised by the member of the Human Resources Department, to make a decision based on the evidence presented. They must decide whether there are reasonable grounds to believe that a breach of disciplinary rules or standards of conduct did take place, and if necessary, decide what level of disciplinary penalty is appropriate. Following an initial adjournment, the Chair will normally reconvene the hearing to clarify whether the hearing will reconvene within a given timescale, or whether the outcome will be notified by letter.

Decision of the hearing panel

No Case to Answer

In an event when there is no case to answer, the manager that heard the case will write to the employee confirming the outcome within five working days. The letter will confirm that the matter has been closed within the Trust's procedures and highlight any recommendations that may be prudent.

If other employees were involved in an investigation process or acted as witnesses, the investigating manager should meet with the member of staff subject to disciplinary proceedings to agree appropriate and sensitive messages to share with staff about the outcome.

Where it is proven that the allegations which led to disciplinary proceedings were malicious or vexatious then a written apology will be given by the respective director.

Formal Written Warning

If a formal written warning is to be issued it must be sent within five working days of the decision, stating the following, as appropriate:–

- the nature of the offence
- the nature of the warning , that is, a formal written warning
- the standard of conduct required in the future
- the nature of any further action should further misconduct occur
e.g. final written warning or dismissal
- that a record of the warning will be kept on the member of staff's personnel file for a stated period of time and that the warning will be removed from the employee's record at the end of that time. The period of time may be varied according to the offence, but should not normally exceed 12 months.
- any mitigation that was given
- the member of staff's right to appeal (see Section 6.15).

Final Written Warning

A final written warning will be appropriate if there has been repetition of previous misconduct and where a previous written warning has been ineffective. In more serious cases of misconduct it may be appropriate to issue a final written warning, even if there has been no prior warning or penalty given.

If a final written warning is issued it must be confirmed in writing within five days of the decision, stating the following:

- the nature of the offence
- the nature of the warning , that is, a final written warning
- the standard of conduct required in the future
- the nature of any further action should further misconduct which would warrant formal action occur , that is, the likelihood of dismissal
- that a record of the warning will be kept on the member of staff's file for a stated period of time and that the warning will be removed from the employee's record at the end of that time. The period of time may be varied according to the offence, but should not exceed 18 months.
- any mitigation that was given
- the member of staff's right to appeal

Review of Warnings

The employee will be informed of the arrangements for reviewing any warnings. All such warnings should be reviewed regularly to assess whether improvements are being achieved. Warnings should be reviewed formally by the disciplining manager in a meeting with the staff member within the timespan of the warning. If further disciplinary action is contemplated, a hearing will have to be convened before the warning lapses.

Dismissal

Dismissal may be appropriate when previous warnings have been ineffective or where misconduct is particularly serious and amounts to a fundamental breach of trust between employer and employee such that the necessary trust and confidence to maintain the employment relationship no longer exists. Where it is decided to dismiss the member of staff, notice of termination should be

confirmed in writing within five working days. The letter must state:

- the nature of the offence;
- that the member of staff is dismissed, the reason, giving their contractual or statutory notice period and termination date or that the member of staff is summarily dismissed (that is, without notice); and
- the member of staff's right to appeal.

Officers with the authority to dismiss are outlined in Appendix C of this policy.

Appeals against Disciplinary Action

Any member of staff who is issued with a disciplinary penalty has the right to appeal against that decision according to the provisions of the Trust's Appeals Procedures.

Any appeal by the member of staff should be received by the Director of Human Resources within two weeks of the date of the letter confirming the outcome of the hearing. The date for receipt of an appeal will have been included in the letter giving the outcome of the disciplinary hearing.

7 Training Requirements

This policy and procedure will be available to all staff via the website. The HR team will maintain their skills and knowledge in relation to this procedure through appropriate training. This will include employment law and investigation skills training.

Managers will be offered training on managing conduct and disciplinary issues through the Trust's staff training programme.

8 Process for monitoring compliance with this Procedure

Particular reference will be made to record keeping and the nature of any challenges forwarded by or on behalf of any member of staff subject to the informal and/or formal disciplinary procedure.

The Director of HR will monitor any challenges raised by staff subject to this policy, with reference to the external legal advice as required, and will ensure that the Executive Management Team and Joint Staff Consultative Committee (JSCC) are kept fully up to date with relevant matters.

9 **References**

Employment Act 2002

ACAS Disciplinary and Grievance Procedures Code of Practice

Bribery Act 2002

Maintaining high professional standards in the modern NHS (MHPS)

10 **Associated documents¹**

Employee Capability Procedure

Equal Opportunities Procedure

Raising Concerns at Work Procedure

Sickness Absence Procedure

Recruitment Policy and Procedure

Anti-Bribery Policy and Procedure

¹ For the current version of Trust procedures, please refer to the intranet.

Appendix A : Equality Analysis

Completed by	Craig de Sousa
Position	Director of Human Resources
Date	18 May 2016

The following questions determine whether analysis is needed	Yes	No
Does the policy affect service users, employees or the wider community? The relevance of a policy to equality depends not just on the number of those affected but on the significance of the effect on them.	Y	
Is it likely to affect people with particular protected characteristics differently?	Y	
Is it a major policy, significantly affecting how Trust services are delivered?		N
Will the policy have a significant effect on how partner organisations operate in terms of equality?		N
Does the policy relate to functions that have been identified through engagement as being important to people with particular protected characteristics?		N
Does the policy relate to an area with known inequalities?	Y	
Does the policy relate to any equality objectives that have been set by the Trust?	Y	
Other?		N

If the answer to *all* of these questions was no, then the assessment is complete.

If the answer to *any* of the questions was yes, then undertake the following analysis:

	Yes	No	Comment
Do policy outcomes and service take-up differ between people with different protected characteristics?	Y		There is evidence that black and minority ethnic (BME) staff, in London, are more often subject to disciplinary proceedings.
What are the key findings of any engagement you have undertaken?			The Trust has a lower than average number of staff being disciplined.
If there is a greater effect on one group, is that consistent with the policy aims?	Y		BME Staff
If the policy has negative effects on people sharing particular characteristics, what steps can be taken to mitigate these effects?			Regular reporting and review of disciplinary data will be undertaken and shared through the quarterly HR board reports.
Will the policy deliver practical benefits for certain groups?		N	
Does the policy miss opportunities to advance equality of opportunity and foster good relations?		N	
Do other policies need to		N	

change to enable this policy to be effective?			
Additional comments			

If one or more answers are yes, then the policy may unlawful under the Equality Act 2010 –seek advice from Human Resources.

Appendix B : Disciplinary Rules

Disciplinary Rules

The Trust has certain rules and regulations including standing financial instructions and standing orders, and standards of behaviour which it has established for the wellbeing and safety of its staff and for the efficient running of the organisation. Every health service employee is required to combine a prompt and efficient service with a concern for others, especially patients and members of the public. Inevitably there will be a small number of staff who infringe these rules and regulations and it is the purpose of both the disciplinary policy and procedure and this document to ensure that those members of staff are treated fairly and reasonably and that disciplinary action is taken.

The details below indicate the standards of conduct and performance required of staff and those offences which may warrant summary action. The following is not exhaustive but should be taken as an example as it is not practical to list all the offences which would justify disciplinary action nor those which are regarded as warranting summary dismissal.

Standards of Conduct and Performance

Every member of staff is required to give constant and regular attendance in keeping with the terms and conditions of their contract. Failure to attend punctually or regularly will entail disciplinary action, including dismissal if the offence(s) continues after previous warnings. The distance of an employee's home from their place of work or any difficulty in access cannot be accepted as a reason for irregularity attendance or warranting preferential hours. In the event of a temporary short term difficulty, staff are advised to discuss this with their line manager.

Absence

Staff must not absent themselves from work without prior permission except in cases of sickness, contact with infectious disease or sudden domestic emergency. Staff must ensure that any absence is reported to their manager as early as possible but not later than 1 hour after the commencement of their normal working time/shifts.

Sickness

For periods of sickness of seven days or less staff will be asked to sign a self-certificate form upon their return to work as evidence of their sickness.

Medical certificates (form Med 3) will be required for periods of sickness beyond seven days in duration.

Absence

All episodes of un-notified absence and repeated short absence will be investigated and may lead to disciplinary action including dismissal.

Confidentiality

Many employees will have access to confidential information (eg. medical information, tenders, personal details etc.). Breaches of confidence are very serious matters and are subject to disciplinary action.

Public Statements

Employees are not authorised to make public statements on behalf of the Trust unless specifically designated to do so.

Effective Performance

Employees are expected to co-operate with management and each other and to carry out the reasonable instructions of supervisors and managers quickly and efficiently. In circumstances where there is some disagreement reasonable instructions should be obeyed and the disagreement pursued afterwards if necessary using the grievance procedure.

Financial interest

Any employee who is involved in any way as part of their duties with the preparation of specification for the placing of contracts and/or with any arrangements with the placing of contracts shall inform their superiors as soon as it comes to their notice that they have a financial interest in any contract or contracting company which the Trust has entered into or proposes to enter into whether or not they are a party to that contract. In the case of married partners or a couple living together in a domestic relationship the interests of the one are deemed to be the interests of the other.

Other Employment

NHS employees are not precluded by their contracts of employment from accepting other employment outside their normal working hours. However, such other employment must not in any way hinder or conflict with the interests the employees work with the Trust. An employee who is in doubt as to the advisability of accepting other employment should consult with their manager as appropriate. If suspended on full pay the employee must not accept any other post with the Trust either directly or through an agency.

Behaviour in Trust residences

Any misuse of residences may lead to the individual being required to leave the residence.

Summary Action

Certain offences are so serious that they may merit summary dismissal. This action can be taken irrespective of whether a written warning has already been given. In cases of summary dismissal the Trust will not be obliged to pay any outstanding annual leave entitlement or contractual notice. These offences include:-

Theft

Any incidence of theft from the Trust, a patient, a member of the public or a member of the staff on Trust premises and/or during the course of carrying out Trust business. In general staff should obtain a letter of authority in cases where they take items away from the place of work for personal use on Trust business.

Fraud

Any deliberate attempt to defraud the Trust or a member of the public a patient or member of staff in the course of official duties.

Corruption

Receipt of money, goods, favours or excessive hospitality in respect of services rendered.

Negligence

Any deliberate or wilful action or failure to act which seriously threatens the health or safety of a patient, member of the public, another member of staff or oneself. Any blatant violation of safety rules causing or likely to cause serious health or safety hazard/accident.

Breach of Statutory Requirements

Where an employee no longer meets the statutory requirements of their appointment (ie. registration with appropriate professional bodies, covered by a medical protection society, holding a driving licence etc.). Any breach of the mental health act particularly sections 126 and 128 could lead to an employee being dismissed.

Assault

Any assault or violent or threatening behaviour which takes place on Trust premises and/or during the course of carrying out Trust business.

Refusal to Carry Out Reasonable Instruction

Failure to following a reasonable management instruction or clinical instruction to act.

Malicious Damage

To Trust property or to anyone else's property on Trust premises.

Incapacity

Incapacity due to drink or drugs whilst on duty is a serious disciplinary offence especially if the staff concerned are involved with patients or equipment which might be a health and safety hazard to themselves or others. Where a member of staff has developed an addiction or dependence to drugs or alcohol they will be signposted to the appropriate support channels within the organisation.

Discrimination

Any action of direct discrimination, on the grounds of race, sex, ethnic origin, religious belief etc. will be deemed as gross misconduct and will be a dismissible offence.

Criminal offences outside the Trust's employment

An employee who is arrested on any charge or served with a summons on a criminal charge or is convicted with the offence or alleged offence concerned may have implications for the discharge of their duties is advised to inform their manager as soon as possible. This places the onus on the employee to judge whether an offence may or may not have implications for the discharge of their duties but management must reserve the right to challenge any such judgement at a later date. In the case of a charge or arrest, the Trust may immediately suspend the employee from duty pending the outcome of the proceedings if the allegation has implications for Trust employment. In the case of a conviction, if the Trust considers that the conviction renders the employee unsuitable for further employment with the Trust, they may be dismissed.

Appendix C : Those with the Authority to Dismiss

- The Trust chair
- Any member of the executive management team
- Director of financial operations
- Director of estates, facilities and capital projects
- Divisional directors