

REF:
VERSION 8.0

DISCIPLINARY POLICY AND PROCEDURE

<p><u>SUMMARY & AIM</u> Airedale NHS Foundation Trust is committed to providing an environment in which patients are treated with dignity and respect and receive safe, effective, compassionate and high-quality care. Employees of the Foundation Trust are expected to observe acceptable standards of behaviour and conduct towards patients, colleagues and visitors. This will be reinforced through the provision of fair and effective arrangements for dealing with disciplinary matters.</p>	<p><u>KEY REQUIREMENTS</u> This Policy provides managers and employees with instruction and guidance for dealing with matters of misconduct; and to provide the applicable process to follow when dealing with matters of misconduct.</p>
<p><u>TARGET AUDIENCE</u> All Agenda for Change Employees</p>	
<p><u>TRAINING REQUIREMENTS</u> Managers will need to be trained by the Human Resource Directorate in the balanced and equitable implementation of this policy.</p>	
<p><u>EVIDENCE OF IMPLEMENTATION</u> Review of the policies implementation and through external measures such as WRES and WDES reporting.</p>	

DOCUMENT CONTROL

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Approved Documents Relating To This Policy

Document name	Document reference / hyperlink
Grievance Policy	The Grievance Policy
Sickness Absence Policy	The Sickness Absence Policy
Work Performance Capability	The Work Performance Capability
Medicine Management Framework	The Medicine Management Framework
Handling Concerns Regarding Medical and Dental Staff Conduct and Capability	Handling Concerns Regarding Medical and Dental Staff Conduct and Capability
The Safeguarding Children and Safeguarding Adults Combined Policy	The Safeguarding Children and Safeguarding Adults Combined Policy
The Management of Security Policy	The Management of Security Policy
The Bribery, Corruption and Anti-Fraud Policy	The Bribery, Corruption and Anti-Fraud policy
Medicine error pathway	Medicine error pathway

Statement of changes made from version 7

Version	Date	Section & description
8	21/10/20	Full policy review

List of stakeholders who have been asked to review this document

(list each person, a department or head of department with responsibilities)

Name	Title	Date
Karen Al-Muhandis	Staff Side Chair	21/10/20

Karen Savage	RCM Rep	21/10/20
Rachel Dix	GMB Organiser	21/10/20
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Chris Rigby	Royal Society of Radiographers	21/10/20
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1. INTRODUCTION

Airedale NHS Foundation Trust is committed to providing an environment in which patients are treated with dignity and respect and receive safe, effective, compassionate and high-quality care. Employees of the Foundation Trust are expected to observe acceptable standards of behaviour and conduct towards patients, colleagues and visitors. This will be reinforced through the provision of fair and effective arrangements for dealing with disciplinary matters.

It is our expectation that most cases of minor misconduct will be dealt with informally by line managers, for example through either a rebuke or the provision of advice, coaching, counselling or training. HR will advise managers on how to provide the necessary advice and assistance to employees, and the length of time which should be allowed for improvement. Line managers will be expected to attend appropriate in-house training to equip them with the skills needed to deal with this type of situation effectively. However, cases of a more serious nature or repeated instances of minor misconduct will be dealt with through the formal disciplinary procedure and could result in dismissal.

2. PURPOSE

Our discipline policy and procedure supports the Foundation Trust's commitment to patient safety and high quality care by helping employees improve behaviour and conduct in line with required standards. When standards are not met we will take timely disciplinary action, including where appropriate dismissal.

This policy and procedure provides managers with clear guidance about how to deal with instances of misconduct fairly and effectively, thereby enabling the Foundation Trust to maintain acceptable standards of conduct amongst its employees and to ensure compliance with the rules of the organisation. This policy also provides employees with a transparent process which affords them the opportunity to learn and improve. Where an employee's conduct is found to fall short of the expected standards, the procedure will be applied fairly and consistently and the individual given help and encouragement to improve (except in cases of gross misconduct, depending on personal mitigation). This policy and procedure complies with the ACAS Code of Practice on Disciplinary and Grievance Procedures (July 2020).

Issues with capability will be dealt with through the [Foundation Trust's Work Performance Capability Procedure](#). Issues with sickness absence will be dealt with through the Foundation Trust's Sickness Absence procedure.

3. SCOPE

This policy and procedure applies to all staff employed by Airedale NHS Foundation Trust with the exceptions of those outlined in Appendix 1 of the Managers' Toolkit.

4. POLICY

4.1 Responsibilities

4.1.1 Employees

- To familiarise themselves with this policy and procedure
- To understand and comply with local policies and procedures outlining expected standards of conduct for their role
- To understand and comply with Foundation Trust policies and procedures outlining general standards of conduct for employees
- To understand and comply with their own professional codes of conduct as appropriate
- To comply with their individual contractual obligations
- To make every effort to attend any meetings in relation to this policy and procedure when given the agreed notice
- To make arrangements for their own companion to meetings in a timely manner
- To attend relevant training about conduct standards, including mandatory training, when requested and within expected time-frames
- To inform their manager if they experience any barriers to complying with expected standards of conduct, and seek appropriate support
- To comply with any attempts by their line manager to address instances of minor misconduct informally
- To comply with the formal disciplinary process by not reasonably delaying meetings and decisions
- To comply with any action plans that may arise from the disciplinary process
- To notify their managers of any criminal offences outside of employment

4.1.2 Managers

- To familiarise themselves with this policy and procedure, including attending relevant training, and seek advice about its application from HR, as appropriate
- To support their employees to understand local policies and procedures outlining expected standards of conduct
- To support their employees to understand Foundation Trust policies and procedures outlining general standards of conduct
- To support their employees to understand professional codes of conduct, as appropriate
- To support their employees to understand their individual contractual obligations
- To facilitate their employees to attend relevant training about conduct standards, including mandatory training, within expected time-frames
- To support their employees to overcome any barriers to complying with expected standards of conduct
- To tackle any instances of misconduct promptly, through explaining to their employee why the conduct has fallen short of the required standard, and giving support and encouragement to improve

- To support their employees to improve their conduct, where possible, without having to resort to the formal disciplinary process
- To support their employees to comply with any action plans that may arise from the disciplinary process
- To apply the disciplinary process fairly and consistently amongst their staff
- To not unreasonably delay meetings and decisions
- To ensure their employees are aware of the different sources of support available e.g. Employee Health & Wellbeing, when subject to the disciplinary process
- To assess and escalate appropriately any risks to patient safety and/or safeguarding concerns as soon as they arise

4.1.3 Human Resources

- To provide advice and guidance to managers and employees in the application of this policy and procedure
- To participate in discussions with managers, when requested, to assess potential risks to patient safety and/or potential safeguarding issues and take appropriate action
- To provide advice and support to managers undertaking investigations
- To provide advice and guidance to employees involved in the process
- To liaise with the Local Counter Fraud Specialist as appropriate
- To provide advice and guidance to disciplinary panels
- To advise managers on whether suspension is appropriate

4.1.4 Commissioning Manager

- To commission an investigation of the allegation/s
- To consider whether suspension or alternative duties are appropriate
- To appoint a suitably trained and experienced investigating officer in conjunction with the HR department
- To determine the terms of reference for the investigation
- To maintain regular contact with a suspended employee
- To decide if there is a case to answer or not upon completion of investigation
- To prepare the management case and present at the disciplinary hearing if the matter progresses to a hearing

4.1.5 Investigating Officer

- To investigate and establish the facts in the case by holding investigatory interviews and gathering statements and data as appropriate
- To produce an investigation report for the case manager. The report will outline the facts of the case
- To request that they add to the Terms of Reference during the investigation should something significant come to light that is directly associated with the investigation
- To act as a witness at any Disciplinary Hearing that may result from the investigation

5 DISCIPLINARY PROCEDURE

5.1 Informal Discussions about Conduct

- 5.1.1 Many potential disciplinary issues can be resolved informally, through the line manager explaining to the employee what they have done that is unsatisfactory or unacceptable, indicating clearly the type of conduct that is expected and checking the employee's understanding. The line manager should set a review date, which will normally be three months later, and provide relevant support and/or training. A letter confirming this discussion will be placed on the employee's file and a copy sent to the employee. This is appropriate for first or minor instances of misconduct. Where conduct fails to improve over the specified time period, and there are no mitigating factors, it may be necessary to implement the formal procedure.

5.2 Investigations

- 5.2.1 Investigations will be conducted to establish the facts surrounding allegations of misconduct. In advance of any investigation being commissioned the employees manager should seek to assess the initial facts of the matter to determine whether the matter should be dealt with using the Disciplinary Procedure or can be resolved by other means such as further training.
- 5.2.2 The Trust aims to take balanced and proportionate action in relation allegations of misconduct. When making the assessment about whether to proceed to a formal investigation, the manager should refer to the Just Culture Guide in the Manager's Toolkit. Furthermore, to ensure balanced and proportionate decision making any case involving an employee of a BAME background should be review confidentially with a trained member of the Trust's BAME Staff Network before a final decision is made to proceed to an investigation.
- 5.2.3 Investigations will be commissioned by the manager or senior manager of the department where an employee works. Investigations will be undertaken by an appointed investigator along with a member of the HR team. The commissioning of an investigation is a neutral act with the primary focus being to establish the facts of any issue.
- 5.2.4 Consideration should be given at the outset i.e. when a concern first arises as to whether there are potential safeguarding concerns. Advice should be sought from the Foundation Trust's Leads for Safeguarding Children and Safeguarding Adults as appropriate (see 5.13).
- 5.2.5 If fraud, bribery or corruption is suspected HR will report the matter to the Local Counter Fraud Specialist (LCFS) and/or the Director of Finance. HR will liaise with the LCFS and advise as to whether parallel investigations may be carried out (see 5.15).
- 5.2.6 It is important that issues are dealt with promptly by managers and employees. Meetings and decisions should not be unreasonably delayed. Any delays should be explained in writing to the other party.
- 5.2.7 Employees can be accompanied at meetings by a fellow worker, a trade union representative, or an official employed by a trade union not acting in a legal capacity. Employees should not normally be accompanied by more than one companion at an investigation meeting.

- 5.2.8 The employee's companion may address the meetings to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee during the meeting. The companion does not, however, have the right to answer questions on the employee's behalf, address the meeting if the employee does not wish it or prevent the employer from explaining their case.
- 5.2.9 If investigations indicate that there is a disciplinary case to answer, the employee will be invited to a formal disciplinary hearing in writing at least fourteen calendar days before the hearing date, unless a shorter period is mutually agreed, for example to enable witnesses to attend. The written notification will contain sufficient information about the alleged misconduct and its possible consequences to enable the employee to prepare an answer to the case to be discussed at the hearing. The full investigation report as well as a management case explaining the key findings of the investigation and the reasons for the decision to progress to a disciplinary hearing will be included with the notification of hearing.
- 5.2.10 The notification will give details of the time and venue of the disciplinary hearing and advise the employee of their right to be accompanied. It will also include copies of any written evidence, including witness statements. The employee will be asked to submit their written response to the case at least seven calendar days before the date of the hearing. If a manager or employee intends to call witnesses at the hearing they must give advance notice to the person who has invited them to the disciplinary hearing.
- 5.2.11 Where the outcome of the investigation is clear and the employee has admitted the allegations there is an option for a 'Mutually Agreed Sanction'. In these cases the allegations must amount to misconduct and the action will need to be agreed by the Head of HR Business Partner Service. If all parties agree a sanction will be awarded without the right of appeal (see section 5.5).

5.3 Disciplinary Hearing

- 5.3.1 The disciplinary hearing will be chaired by an appropriate neutral manager who will be at the same level or higher than the commissioning manager. A member of the HR team will be present in an advisory capacity and will take a note of the hearing. The commissioning manager will also be in attendance to present the management case. The investigating officer will be present to provide an overview of their investigation and answer any questions about the investigation process. The member of the HR team who supported the investigation will also be present. The manager chairing the hearing must not have been involved in the investigation.
- 5.3.2 Where a registered health care practitioner is accused of professional misconduct and their fitness to practise is called into question, the relevant Head of Service will nominate a manager to accompany the Chair of the hearing. For matters of alleged professional misconduct relating to established medical staff please refer to the Foundation Trust's [The Procedure for Handling Concerns Regarding Medical and](#)

[Dental Staff Conduct and Capability.\(Conduct and Capability Procedure for Medical and Dental Staff\)](#)

- 5.3.3 If dismissal is a potential outcome of the hearing, a manager with the appropriate dismissal authority will chair the hearing.
- 5.3.4 The Commissioning Manager will present the case. The employee will then be given the opportunity ask questions before presenting their case; including calling any witnesses and putting forward any mitigating circumstances.
- 5.3.5 The chair will then call an adjournment to consider the evidence presented and to decide on whether a disciplinary sanction is appropriate (see section 5.4). They will then call the employee back into the meeting to explain the outcome, or where further information is required the employee will be informed of the outcome in writing.
- 5.3.6 The outcome of the disciplinary hearing will be confirmed in writing within seven calendar days and should include notes of the hearing. The outcome of the hearing will be copied to the commissioning manager and employee's line manager so that it can be kept on the employee's file. The outcome of the hearing will be recorded on the employee's Electronic Staff Record (ESR).
- 5.3.7 Where the alleged misconduct has been an issue of fraud, bribery or corruption, HR will advise the LCFS of the outcome of the disciplinary hearing.

5.4 Disciplinary Sanctions

- 5.4.1 Chairs of Disciplinary Hearings will decide on the appropriate sanction, taking into account the seriousness of the misconduct and any mitigating circumstances, for example any relevant health, domestic or social factors, length of service, previous conduct.
- 5.4.2 Disciplinary Sanctions will be recorded on the employee's ESR.

5.5 Mutually Agreed Sanction

- 5.5.1 A 'Mutually Agreed Sanction' system within the Disciplinary Policy exists to avoid a protracted disciplinary investigation and to help speed up the process of staff being disciplined, where the outcome of the investigation would result in a sanction of First Written Warning. In order for the Mutually Agree Sanction system to be applicable the staff member must admit to the allegations and agree to a fast track sanction being implemented. The proposal for a sanction be accepted by the Head of HR Business Partnering as being appropriate for a Mutually Agree Sanction. Then a meeting will take place and the staff member will be awarded the sanction. The employee has the right to withdraw their commitment to a Mutually Agreed Sanction at any stage up to seven calendar days after the written warning is awarded without suffering a detriment. If an employee chooses to withdraw from the Mutually Agreed Sanction at any stage a full investigation or disciplinary hearing will commence.
- 5.5.2 Mutually Agreed Sanctions will not be used for matters of Gross Misconduct.

5.5.3 The principles and process of Mutually Agreed Sanctions are contained in Guidance 5 of the Manager's Toolkit.

5.6 First Written Warning

5.6.1 Where misconduct is confirmed, it is usual to give the employee a first written warning, unless it is a repeated offence or an offence of gross misconduct.

5.6.2 The written warning will set out the nature of the misconduct and the change in behaviour required with timescales. Any change or improvement in behaviour will be specified within the outcome. The employee will be told how long the warning will remain current, and informed that a further act of misconduct or no satisfactory improvement to behaviour identified through a disciplinary procedure within a set period will normally result in a final written warning. A record of this warning will be kept on the employee's file for twelve months and will be disregarded after that time has elapsed if conduct is satisfactory. The employee will be informed about this at the time the penalty is issued.

5.7 Final Written Warning

5.7.1 If the employee's misconduct is sufficiently serious (but short of grounds for dismissal), or there is a current warning about conduct, a final written warning may be appropriate. This might occur where the employee's actions have had or are liable to have a serious or harmful impact on the Foundation Trust and/or patient safety. The warning will remain on the employee's file for a period of eighteen to twenty four months but will be kept on an employee's record.

5.7.2 The Final Written Warning will set out the nature of the misconduct and the change in behaviour required, with timescales. They should also be told of the consequences of further misconduct within the set period, e.g. dismissal. A record of the warning will be kept on the employee's file for twenty four months and will be disregarded after that time has elapsed if conduct is satisfactory. The employee will be informed about this at the time the sanction is issued.

5.8 Dismissal

5.8.1 If a further act of misconduct occurs of a similar nature to the final written warning within twenty four months of the sanction being issued, or if there is an act of gross misconduct, the employee will normally be dismissed, depending on personal mitigation. Only a manager with the appropriate authority can take the decision to dismiss. The manager will inform the employee of the reasons for dismissal, the date on which the employment contract ends, the appropriate period of notice and their right of appeal.

5.8.2 Gross misconduct is defined as 'misconduct serious enough to destroy the employment contract between the employer and employee and make any further working relationship with the Foundation Trust impossible'. It is normally restricted to very serious offences for example physical violence, theft or fraud. An extensive list of misconduct is available in Guidance 4 of the toolkit.

5.8.3 If an employee is accused of gross misconduct a formal investigation will take place. If the manager conducting the disciplinary hearing that follows concludes that gross misconduct has occurred, the employee could be summarily dismissed without notice or payment in lieu of notice.

5.9 Alternatives to dismissal

5.9.1 In some situations, particularly when there are mitigating circumstances, managers may consider alternatives to dismissal, including demotion.

5.10 Appeals

5.10.1 An employee can appeal against a written warning or dismissal. They should do so in writing within fourteen calendar days of receiving notification of the outcome of the disciplinary hearing to the Chair of the hearing, setting out the grounds for their appeal. In exceptional circumstances this period can be extended.

5.10.2 A sub-committee of the Foundation Trust Board will hear the appeal (normally one executive director and one non-executive director). The panel will be supported by a member of the HR team.

5.10.3 The employee will be invited to an appeal hearing normally within seven working days of receipt of their letter and given seven calendar days' notice of the hearing.

5.10.4 There will be no further right of appeal.

5.11 Implementation of Other Policies and Procedures

5.11.1 Where an employee raises a grievance during the process, the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related, it may be appropriate to deal with both issues concurrently. The decision on whether to proceed will be taken by HR.

Specific circumstances relating to discipline

5.12 Criminal Offences

5.12.1 Criminal offences outside employment will not be treated as automatic grounds for disciplinary action or dismissal. The main consideration should be whether the offence makes the employee unsuitable for the type of work and the effect of the charge or conviction on their relationship with the Foundation Trust, work colleagues, patients and customers. In circumstances where an employee is absent from work because a charge is pending or they have been remanded in custody it may be appropriate to consider suspension or unpaid leave. This will be discussed between the employee's line manager and HR.

5.13 Safeguarding

5.13.1 As soon as it becomes apparent that the matter of concern may be a potential safeguarding issue the line manager or investigating officer should seek advice from the Foundation Trust's Lead for Safeguarding Children or Safeguarding Adults.

5.14 Medicines Errors

For guidance on how to deal with [errors in the administration of medicines](#), managers should refer to the following flow-chart:

5.15 Fraud/Bribery/Corruption or Theft

5.15.1 Where fraud/bribery/corruption or theft is suspected HR will refer the matter to the appropriate Local Counter Fraud Specialist (LCFS) immediately for investigation and possible prosecution.

5.15.2 The criminal process does not automatically take precedence over the disciplinary one. However, a disciplinary hearing should not normally take place if it would prejudice on-going criminal proceedings. Public protection is paramount.

5.15.3 HR will liaise with the LCFS and the Director of Finance in determining which process to give precedence to. Where there is a high risk to patient safety the Foundation Trust should proceed with its own disciplinary process, whilst continuing to keep the LCFS informed of any proceedings.

5.15.4 Where fraud, bribery or corruption is suspected, the employee should be informed at the beginning of the interview that, depending on the outcome of the disciplinary investigation, the matter may be referred to NHS Counter Fraud or the Police and criminal proceedings may result. The person conducting the investigation should never make any express or implied assurance that the case will not give rise to criminal action if the employee answers questions.

Contact details:

Fraud/bribery/corruption – Local Counter Fraud Specialist **01274 228193** or in their absence the Director of Finance.

Theft – Local Security Management Specialist 01535 292658

5.15.5 Where internal investigations are already underway and potential fraud or theft comes to light, the investigations will be suspended pending advice from the specialists. When an incident occurs out-of-hours managers can act and even suspend employees (see 5.15).

5.16 Local Representatives of Staff Organisations

5.16.1 No formal disciplinary action shall be taken against an accredited representative until the circumstances of the case have been discussed with a full-time official of the staff organisation concerned. At any disciplinary interview the local official will have the opportunity to be represented by a full-time official.

5.17 Suspension and Redeployment

5.17.1 In certain circumstances, it may be appropriate for managers to consider redeploying employees involved in an investigation or suspension from duty on full pay. It is a neutral act that enables the Trust to fully investigate allegations of a serious nature or to protect the employee from subsequent allegations.

5.17.2 At times it may be necessary to send an individual home for a “cooling off” period this will not necessarily be a formal suspension. If later it is

deemed appropriate that it should be a formal suspension this will be confirmed in writing by the line manager. This period would not normally exceed 24 hours.

5.17.3 The decision to suspend will be taken once a suspension risk assessment has been undertaken by the line manager with advice from HR. Any decision to suspend will require the approval of the Head of HR Business Partner Service and the Head of Department, Director of Operations or Executive Director. Any suspension period should be kept to a minimum whilst the allegations are being investigated.

5.17.4 All other alternatives must be exhausted before suspension is implemented. Alternatives to suspension may be temporary adjustment of role or redeployment of the employee to another role. Adjustments may include:

- limiting patient access,
- increasing levels of supervision,
- move to an untrained role.
- redeployment to a different role/location.
- restricted duties.

5.17.5 Suspension will be on full pay, including any enhancements, except for those periods where the employee is certified as being sick. In these circumstances, pay will be in accordance Agenda for Change terms and conditions.

5.17.6 The employee will have the suspension confirmed in writing The suspension should be reviewed after fourteen calendar days except where agreed otherwise with the employee and their representative (see appendix H). The suspension of a medical practitioner will be dealt with in accordance with the [The Procedure for Handling Concerns Regarding Medical and Dental Staff Conduct and Capability](#) (now called [Conduct and Capability Procedure for Medical and Dental Staff](#)) as outlined in 'Maintaining High Professional Standards in the Modern NHS'

6 CONSULTATION PROCESS

This revised policy has been reviewed in detail with members of the staff-side unions, including regional representatives. Changes have been incorporated into the policy as a result of this feedback. The policy has also passed through the People and Organisational Development Governance process and sent to PDRG for final organisational

7 DISSEMINATION, IMPLEMENTATION AND TRAINING

7.1 Dissemination

This policy and procedure will be communicated to the Executive Team via the Executive Directors Group (EDG) and to all staff via the Staff Brief. The policy and procedure will be communicated to management teams via Divisional and Directorate management meetings by HR representatives and a series of online briefing sessions will be held to inform managers and employees of the policy changes and updates. At each stage Trust managers will be asked to cascade the policy and procedure through their respective teams and

immediate reports, who will in turn cascade to their own staff at team meetings. Thereafter, it will be available for all employees to access via Airesshare.

7.2 Implementation

Following final ratification, the policy will be implemented across the Trust. Managers will thereafter revert to this document and will refer employees to this document as appropriate, following the dissemination referred to above. Managers should seek advice on implementation from HR. Employees should seek advice on implementation from their line manager in the first instance.

8. TRAINING & SUPPORT

Each employee's contract of employment refers to the Disciplinary Policy and Procedure. New starters to the Foundation Trust will be informed at Trust Induction about Trust policies and procedures relating to standards of conduct. New starters will be informed by their line manager at their departmental induction about local policies and procedures relating to standards of conduct. Existing staff will be briefed about new policies relating to standards of conduct or changes to existing policies via the staff brief and their line managers. The Organisational Learning and Improvement team will provide training in the application of this policy and procedure to line managers on a regular basis; and the HR Business Partner Team will provide regular online briefings about policy development and best practice. A current version of this policy will be available on Airesshare for all employees to access.

9. PROCESS FOR MONITORING COMPLIANCE

Standard to be monitored	Process for monitoring	Frequency	Person responsible	Assurance Group
Training will be provided to line managers on how to deal with disputes at work.	Audit	Annually	Head of HR Business Partnering Team	People and Organisational Development Governance Group People Committee
Managers will comply with timescales set out in the Disciplinary policy and procedure.	Audit	Annually	HR Business Partner	People and Organisational Development Governance Group People Committee
Data on disciplinary matters will be collected to identify trends (including those related to protected characteristics) and to monitor consistency in the issuing of disciplinary sanctions. Where improvement is needed, appropriate action will be taken.	Audit	Annually	HR Business Partner	People and Organisational Development Governance Group People Committee

10. ABBREVIATIONS & TERMS USED

Term	Meaning
ACAS	The Advisory, Conciliation and Arbitration Service. A statutory independent body set up to provide conciliation and mediation as a means of avoiding and resolving disputes between employers and employees.
ACAS Code of Practice	Guidance on good practice in disciplinary and grievance matters in employment.
Allegations	A statement that someone has done something wrong, although this has not been proved.

Bribery	Money or favour given or promised in order to influence the judgment or conduct of a person in a position of trust
Capability	How well an employee carries out their duties and whether it is to the standard expected by the Foundation Trust.
Conduct	Behaviour
Corruption	Dishonest behaviour by those in positions of power.
Demotion	Reassignment of an employee from one position to another position at a lower pay grade or salary range; or reassignment of duties to a lower level of pay or responsibility.
Disciplinary action	Any steps taken under this procedure.
Disciplinary matters	Matters which are serious enough to be addressed through the Trust's formal disciplinary process i.e. this document.
Dismissal	Termination of an employee's contract of employment with the Foundation Trust.
Employee	Person who has contract of employment with the Foundation Trust.
Established medical staff	Medical staff who have a contract of employment with the Foundation Trust
Executive Director	A member of the board of directors of the Foundation Trust who is also an employee.
Formal disciplinary procedure	This document.
Foundation Trust	Airedale NHS Foundation Trust.
Fraud	An act of deception intended for personal gain or to cause a loss to another party.
Grievance	Problems or concerns that employees may have about their work, working conditions or relationships with colleagues.
Gross misconduct	Behaviour which is serious enough to destroy the employment contract between the employee and the Foundation Trust.
Informally	How a manager deals with instances of minor misconduct without having to resort to the formal disciplinary procedure.
LCFS	Local Counter Fraud Specialist.
Line Manager	The manager an employee directly reports to.
Minor misconduct	Behaviour which falls short of the standard expected by the Foundation Trust, but is not serious enough to be dealt with through the formal disciplinary procedure, unless it is repeated.
Misconduct	Behaviour which falls short of the standard expected by the Foundation Trust.
Mitigating factors	Reasons for an employee's behaviour falling short of the standard required by the Foundation Trust.
Non-Executive Director	A non-working director of the Foundation Trust.
Patient	Person receiving treatment from the Foundation Trust.
Professional misconduct	Behaviour outside the bounds of what is considered acceptable by the governing body of that particular profession.
Rebuke	How a manager verbally informs an employee that their behaviour has fallen short of the standard expected by the Foundation Trust.
Safeguarding	The process of protecting children, young people or vulnerable adults from abuse or neglect.
Summarily dismissed	Termination of an employee's contract of employment without pay in lieu of notice.
Suspended	Put on hold.
Suspension from duty	When an employee is instructed by management that they should refrain from work, on full pay, whilst an investigation is on-going.

11. DUTIES (ROLES & RESPONSIBILITIES)

Role	Duty
Director of People and Organisational Development	Has the delegated responsibility for providing assurance to the Board of Directors for them to discharge their duties in relation to this Policy.
Employees	<ul style="list-style-type: none"> • To familiarise themselves with this policy and procedure • To understand and comply with local policies and procedures outlining expected standards of conduct for their role • To understand and comply with Foundation Trust policies and procedures outlining general standards of conduct for employees • To understand and comply with their own professional codes of conduct as appropriate • To comply with their individual contractual obligations • To make every effort to attend any meetings in relation to this policy and procedure when given the agreed notice • To make arrangements for their own companion to meetings in a timely manner • To attend relevant training about conduct standards, including mandatory training, when requested and within expected time-frames • To inform their manager if they experience any barriers to complying with expected standards of conduct, and seek appropriate support • To comply with any attempts by their line manager to address instances of minor misconduct informally • To comply with the formal disciplinary process by not reasonably delaying meetings and decisions • To comply with any action plans that may arise from the disciplinary process • To notify their managers of any criminal offences outside of employment
Managers	<ul style="list-style-type: none"> • To familiarise themselves with this policy and procedure, including attending relevant training, and seek advice about its application from HR, as appropriate • To support their employees to understand local policies and procedures outlining expected standards of conduct • To support their employees to understand Foundation Trust policies and procedures outlining general standards of conduct • To support their employees to understand professional codes of conduct, as appropriate • To support their employees to understand their individual contractual obligations • To facilitate their employees to attend relevant training about conduct standards, including mandatory training, within expected time-frames • To support their employees to overcome any barriers to complying with expected standards of conduct • To tackle any instances of misconduct promptly, through explaining to their employee why the conduct has fallen short of the required standard, and giving support and encouragement to improve • To support their employees to improve their conduct, where possible, without

	<p>having to resort to the formal disciplinary process</p> <ul style="list-style-type: none"> • To support their employees to comply with any action plans that may arise from the disciplinary process • To apply the disciplinary process fairly and consistently amongst their staff • To not unreasonably delay meetings and decisions • To ensure their employees are aware of the different sources of support available e.g. Employee Health & Wellbeing, when subject to the disciplinary process • To assess and escalate appropriately any risks to patient safety and/or safeguarding concerns as soon as they arise
Human Resources	<ul style="list-style-type: none"> • To provide advice and guidance to managers and employees in the application of this policy and procedure • To participate in discussions with managers, when requested, to assess potential risks to patient safety and/or potential safeguarding issues and take appropriate action • To provide advice and support to managers undertaking investigations • To provide advice and guidance to employees involved in the process • To liaise with the Local Counter Fraud Specialist as appropriate • To provide advice and guidance to disciplinary panels • To advise managers on whether suspension is appropriate
Commissioning Manager	<ul style="list-style-type: none"> • To commission an investigation of the allegation/s • To consider whether suspension or alternative duties are appropriate • To appoint a suitably trained and experienced investigating officer in conjunction with the HR department • To determine the terms of reference for the investigation • To maintain regular contact with a suspended employee • To decide if there is a case to answer or not upon completion of investigation • To prepare the management case and present at the disciplinary hearing if the matter progresses to a hearing
Investigating Officer	<ul style="list-style-type: none"> • To investigate and establish the facts in the case by holding investigatory interviews and gathering statements and data as appropriate • To produce an investigation report for the case manager. The report will outline the facts of the case • To request that they add to the Terms of Reference during the investigation should something significant come to light that is directly associated with the investigation • To act as a witness at any Disciplinary Hearing that may result from the investigation
Airedale Partnership Group	Responsible for ensuring that the use and implementation of the policy is reviewed and evaluated.
Workforce Development Manager	Responsible for coordinating the Trust training needs analysis and must be consulted on all Procedural Documents where training needs are identified.

Heads of Nursing, Matrons, Ward Sisters, Charge Nurses and Departmental Heads	Responsible for ensuring that the correct policy and procedure is followed when managing people.
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12. REFERENCES

ACAS Code of Practice 1 Disciplinary and Grievance Procedures (July 2020)
Maintaining High Professional Standards in the Modern NHS: Department of Health Guidance (February 2005)