Disciplinary Policy

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**Practice Guidance Note – Listed Separate to Policy**

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1 **Introduction**

1.1 This Policy is designed to help Cumbria, Northumberland, Tyne and Wear NHS Foundation Trust (the Trust/CNTW) to maintain a courteous, professional and supportive environment in which employees can work for the benefit of patient care.

2 **Purpose and Scope**

2.1 The aim of this Policy is to set out guidance to all employees on expected standards of behaviour and to provide procedures for addressing instances where an individual fails to meet required standards of conduct. This Policy supports consistent and fair treatment for all.

2.2 This Policy should be read in conjunction with other publications which reference expected norms of behaviour and performance including the CNTW Employees’ Charter; local Directorate or Departmental Policies; and Professional Codes of Conduct.

2.3 The Policy applies to all individuals employed by the Trust (except in instances of professional conduct, capability or competence by medical staff). In all circumstances relating to medical staff, this policy should be read in conjunction with the Trust’s Policy, CNTW(HR)02 – Handling Concerns about Doctors.

2.4 Supporting Guidance Notes/templates for Managers on the application of this Policy are available from the Workforce Department.

3 **Duties**

3.1 The Chief Executive has overall responsibility for ensuring the Trust has adequate Policies in place.

3.2 The Executive Director of Workforce and Organisational Development is the Lead Officer for the purpose of this Policy.

3.3 The Quality and Performance Group will oversee the implementation, monitoring and effectiveness of this Policy.

3.4 Managers will:

- Ensure that disciplinary matters are handled in accordance with this Policy, guidance and employment legislation
- Set out the disciplinary rules within their work area and make employees aware of the expected behaviour, conduct and CNTW Trust Values. This is recommended to be done through local communication in Team Meetings

3.5 Employees will understand and comply with the required standards of behaviour, conduct and performance expected of them at all times.
3.6 The Workforce Department will provide support and advice to Managers and employees in relation to disciplinary matters in relation to the relevant Workforce Policies, guidelines and employment legislation.

4 Definition of Terms Used

- **Lead Officer:** The Executive Director accountable for the Policy
- **Author(s):** The person nominated by the Quality and Performance Meeting and/or Lead Officer to prepare the Policy
- **Policy Administration:** Person appointed to support the Author and Quality and Performance Meeting in the preparation of Policies
- **Development:** A process by which something passes by degrees to a different stage, process of clarification
- **Consultation:** An exchange of views, time limited period during which the views/advice of others are sought to further inform the Policy content
- **Ratify:** Formal agreement and acceptance
- **Implement:** Put into practice/operation
- **Embedded:** Established
- **Review:** Reassess

5 Principles

5.1 The intention of this Policy is that potential disciplinary cases are dealt with at an early stage, with a view to resolving problems as quickly and fairly as possible; and that employees are encouraged to improve their standard of work and/or conduct.

5.2 All employees are required to co-operate and participate fully with all stages of the disciplinary procedure. This includes employees who may have experienced or been witness to allegations of unacceptable behaviour.

5.3 All employees who are the subject of investigation or action under this policy will be given the opportunity to be accompanied at all stages of the procedure by a Trade Union representative or fellow worker.
5.4 At every stage in the procedure, unless related to an incident of a 
Safeguarding or Fraudulent nature, the employee will be advised of the 
nature of the complaint against him/her and will be given the opportunity to 
state his/her case before any decision is made.

5.5 The strictest confidentiality will be preserved at all times throughout the 
application of this Policy.

5.6 The Workforce Department is able to provide advice and guidance on the 
application of this Policy.

5.7 The Trust is committed to providing equal opportunities in employment 
practice. The implementation of this procedure will not discriminate directly 
or indirectly on the grounds of gender, sexual orientation, marital status, 
race, religion, culture, disability, age or trade union membership. The 
application and impact of this Policy will be monitored in line with the Trust’s 
CNTW(O)42 - Equality, Diversity and Human Rights Policy.

6 **Patient Safety Incidents - The Incident Decision Tree**

6.1 Before embarking on disciplinary action following a patient safety incident, 
Managers are advised to use the Incident Decision Tree Flowchart 
(Appendix 2) which helps determine whether the incident was due to an 
individual or was a systems failure and therefore whether a disciplinary 
investigation is appropriate. Although it promotes good management 
practice, it is not designed for use in other situations, such as poor 
performance or absenteeism.

6.2 If more than one employee is involved, it is essential to work through the 
Incident Decision Tree separately for each person.

7 **Using an Informal Approach**

7.1 Wherever possible, Managers should deal with minor problems informally. 
A quiet word in private to draw an issue to an individual's attention in a 
supportive way may be all that is needed to improve future behaviour. This 
is best done as soon as possible after the incident or occurrence which led 
to the concern and would involve only the Manager and the employee and 
would be kept strictly confidential.

7.2 Examples of where an informal approach may be considered include:

- When it is evident that management action is needed within 
  the whole ward/department rather than against one employee
- It is apparent that local procedures and guidelines are not in 
  place
- It is clear that the misconduct is as a result of a Trust/management failure
- When advice and counselling for the individual would be more appropriate and effective
- It is reasonable to conclude that others would have acted in the same way
- This is a first offence and very out of character for the individual

7.3 Where an employee's conduct does not improve but the concern remains minor, the Manager may wish to take a more structured approach, which should be documented in a letter/file note, for example:

- Further discussion and advice
- Referencing information to assist (e.g. CNTW Trust Values, Employees’ Charter, professional codes of conduct etc.)
- Coaching or refresher training
- Objective setting
- Workplace support

7.4 These actions should be part of a two-way conversation with constructive input from both parties and the outcome should be to provide:

- A clear understanding of what is expected of the employee in the future
- A framework of support and a clear understanding of what action may be taken if the employee fails to improve in the identified areas

7.5 A brief file note of any agreed action points or informal conduct discussion notes will be kept for reference purposes and a copy given to the employee. This will not be considered to be disciplinary action and is not subject to appeal.

7.6 Should the misconduct persist or matters appear to be more serious than originally thought, the formal procedure may need to be invoked and advice should be sought from the Workforce Department.

7.7 It is important that the informal approach is used consistently and not for more serious offences such as:

- Safeguarding Incidents
- Substance Misuse
- Allegations of Theft/Fraud
8 Fact Find Investigations

8.1 When an alleged breach of discipline occurs it will be necessary for the Line Manager of the person who is alleged to have committed the misconduct to establish whether a potential case exists by carrying out a preliminary investigation.

8.2 The preliminary fact find investigation and the outcome should be completed as soon as possible after the incident has occurred. It might be necessary to redeploy one or both parties while this is carried out.

8.3 The fact find should involve gathering information which is relevant to the incident, such as collecting statements from the employee or anyone who may have witnessed the incident, and collating relevant paperwork such as rosters, timesheets, etc.

8.4 This information will then be assessed by an Associate Director in conjunction with Workforce (and the Group Nurse Director where relevant) to decide whether a more detailed investigation is required or whether the issue can go straight to a hearing.

9 Medication Errors

9.1 When a medication error or a breach in the Trust’s CNTW(C)17 - Medicine Management Policy is identified it is important that the incident is appropriately risk assessed before any decision is made about whether or not formal action is necessary. The Line Manager must undertake an initial fact find to ascertain the nature of the error and contact Workforce to discuss the incident. The relevant Group Nurse Director must then be contacted in order to triage the case and outline any immediate action that is required in relation to the member of staff.

9.2 A number of factors will be taken into consideration before any formal action is taken including whether or not the individual was aware of the error and how they responded to this, whether or not the error has happened previously and any other contextual information such as systems and processes in that Department.

9.3 In the majority of instances if the error occurred deliberately or due to negligence then the issue will be dealt with through this Disciplinary Policy. If however, the error was not done deliberately and as a result of a training need, this will be dealt with as a performance issue. Each case must be triaged individually to ensure the appropriate action is taken and a detailed flow chart can be found in Appendix 6.

10 Suspension

10.1 There may be circumstances where it is necessary to suspend an employee; this will be on full pay with average enhancements or Medical and Dental Conditions of Service, while a case is being investigated. When
an investigation is required and the individual needs to be removed from their workplace, all alternatives will be considered before a decision to suspend is made.

10.2 Examples of possible reasons when suspension should be considered are as follows:

- The allegations are of such a nature they could, if proven, constitute gross misconduct
- The allegations raised are of a safeguarding nature
- It would not be possible to carry out a full and proper investigation with the individual employee at work
- The individual could not continue to work normally whilst an investigation is undertaken
- The individual would have an opportunity to alter or tamper with the evidence relating to the incident
- The individual is considered unfit for duty. The Manager in conjunction with Workforce will make this decision and in these circumstances it may be necessary to involve Occupational Health if there is a likelihood that if the individual continued to work further incidents/allegations may occur

10.3 This is not designed to be an exhaustive list but rather an indication of the types of reasons when suspension may be appropriate.

10.4 Suspension is not a form of disciplinary action, nor is it a presumption of guilt.

10.5 It is important that the Manager does not exercise their right to suspend an employee without proper grounds and without full and proper consideration of whether there is an alternative to suspension. The Head of Workforce and Group Nurse Director must be consulted prior to any suspension.

10.5.1 If the Manager considers it necessary to suspend someone out of office hours and no one from Workforce is contactable, he/she must contact Workforce the next working day to confirm whether or not the suspension is appropriate.

10.6 Prior to a suspension every effort should be made to contact an individual’s Trade Union Representative or chosen companion, at the earliest opportunity. However, a suspension meeting may proceed without a companion present.

10.7 The employee’s Manager has the authority to suspend an employee from duty. In circumstances where that Manager is unavailable, another Manager on duty may assume this responsibility.
10.8 In carrying out the suspension, the Manager must:

- State why the employee is being suspended
- Make it clear that suspension is not a form of disciplinary action
- Make it clear that the employee should not contact other Trust employees while at work or come back onto Trust premises without the prior permission of their Manager (except for the purposes of personal or family healthcare)
- Inform the employee of his/her right to be accompanied by a Trade Union Representative or fellow worker at any meetings
- Make it clear that independent support is available to the employee from the counselling service or Occupational Health Department

10.9 Whilst on suspension an employee must remain contactable and must be available to attend for any investigatory interview or disciplinary hearing during normal office hours unless there are specific circumstances which prevent this. They must not engage in secondary employment during the hours they would normally work for the Trust or engage in any bank work whilst on suspension. The specific arrangements regarding regular contact and availability must be agreed between the employee and the Manager at the time of suspension.

10.10 A letter confirming the suspension and conditions of the suspension should be sent to the employee within five working days of the suspension. A web-based reporting form (see Trust’s CNTW(O)05 – Incident Policy) must be completed when a member of staff is suspended, and if they are working via the Trust’s Staffing Solutions (bank) must be informed to cease shifts. Suspension should be with full pay and average enhancements. Should the employee subsequently become ill and provide a sick note, he/she will still be considered to be on suspension, although sick pay regulations will apply (e.g. up to the employee’s entitlements).

10.11 Any suspension should be for the minimum necessary period of time. If the suspension continues beyond fourteen days, the Manager must inform the employee in writing of the likely timescale. In the event of suspension being necessary for a longer period, the Manager must undertake a review every calendar month with the outcome reported in writing to the employee and a copy sent to the Head of Workforce and Group Nurse Director.

10.12 The Considering Manager must conduct a formal review in the event that a suspension continues beyond three months to ensure that appropriate progress is made. This will be reported to the Corporate Decision Team by the Executive Director of Workforce and Organisational Development.
10.13 Employees must maintain confidentiality and not discuss any element of the investigation or suspension with any other CNTW employee. The Suspending Manager must assign a designated Point of Contact (POC) who they can contact for support during the suspension. Employees who are suspended must discuss with the Suspending Manager any necessary contact/relationships they have with colleagues outside of work.

10.14 The investigation process may be difficult for employees causing anxiety, therefore ensure that an appropriate contact is provided to support them through the process. This person should make contact with the employee at the beginning of the process and agree what level of contact will be maintained throughout.

11 Formal Procedure

11.1 In circumstances where informal actions have not been successful the required improvement(s) and minor breaches of discipline are persistent, or where more serious breaches of discipline are alleged to have occurred, the formal Disciplinary Procedure should be invoked as set out below. However, it is important that a number of factors are considered before proceeding.

11.2 Considerations before proceeding

11.2.1 It is important that the Workforce Department are consulted before the formal procedure is started.

11.2.2 Where, exceptionally, it is felt that an internal investigation may prejudice Protection of Vulnerable Adult, Safeguarding Children regulations or Management of Allegations (Appendix 3), fraud; theft; police; IT or other enquiries, the investigation may not be able to commence until clearance has been given to do so. Reference should be made to the appropriate regulations or Information Governance Guidance.

11.2.3 The Counter-Fraud Officer must be informed before an investigation is instigated where there is an allegation of fraud, misuse of public funds or wilful damage. Reference should also be made to the Trust’s Policy CNTW(O)23 - Fraud, Bribery and Corruption.

11.2.4 The Trust’s Local Security Management Specialist must be informed before a formal investigation is instigated where there is an allegation of theft. Reference should be made to the Trust’s Policy CNTW(O)21 - Security Management.

11.3 Informing the employee of the allegation(s) against them

11.3.1 The member of staff should be informed in a private supportive meeting with their Manager of the allegations against them which are to be investigated. They should receive written confirmation of the allegations against them and the investigation process within five working days of being informed verbally. The Manager who decides that a Formal Disciplinary Investigation is required is referred to as the Considering Manager.
12 The Investigation

12.1 An appropriate Investigating Officer will be appointed to conduct a balanced and reasonable Investigation to find out the facts. A Workforce Representative will normally assist in the Investigation although, on occasion, this may not be required with the agreement of Workforce. The Investigation will include the collection of statements from witnesses and the individual who is being investigated; this can include individuals submitting written statements, face to face and telephone interviews.

12.2 An investigation needs to be a thorough review of all relevant documentation, statements from appropriate witnesses and the response from the employee to the allegation(s). This information needs to then be presented to the Considering Manager to decide whether further disciplinary action is necessary. Should, at any point during the Investigation, it becomes clear there is no case to answer, the Investigating Officer must discuss this with the Considering Manager and Workforce to then stop the Investigation process. This must then be confirmed in writing to the employee.

12.3 An employee has a statutory right to be accompanied at a Disciplinary Hearing and at an Appeal Hearing against a disciplinary outcome.

12.4 Employees, including witnesses may also be accompanied during an investigation meeting providing it does not delay the investigation. It will be the responsibility of the individual to make arrangements to be accompanied or represented as appropriate.

13 Investigation Outcome

13.1 The Considering Manager must not be the same Manager that suspended the employee. This is to ensure the consideration is totally impartial from the initial decision to suspend.

13.2 The Considering Manager will read the investigation findings and decide whether they believe there is a case to answer. If so, the matter should progress to a Disciplinary Hearing as soon as possible. The Considering Manager will normally chair the Disciplinary Panel with Workforce support as appropriate. The Chair of the Panel must always be of the appropriate seniority to issue sanctions based on the severity of the allegations, this may mean that a more/less senior Manager than the Considering Manager Chairs the Panel. Nothing in this Policy, however, prohibits another Manager from assuming this role at a Hearing, although it is important that any other members of the Disciplinary Panel have not previously been involved in the case.

13.3 The Considering Manager may decide at any point during the investigation process and based on the findings that the issue should not go forward to a Disciplinary Hearing, but that informal action is required, or other
interventions such as coaching or an Occupational Health referral is necessary. The employee must be informed in writing of the decision regarding next steps.

14 Agreed Outcome

14.1 In some circumstances whereby the individual admits to the allegation, and in cases where after the investigation, the facts of the case are not disputed by the employee, the Considering Manager, with advice from the Workforce Team, may, with the agreement of both parties, issue a First Written Warning without the need to proceed to a Formal Hearing. This decision will be communicated in writing (by recorded delivery if posted) to the employee who will be given up to five working days to decide if they wish to accept the warning. If the employee accepts the warning it will remain in force for twelve months. If the employee does not accept the warning, a Disciplinary Hearing will be convened where the employee will retain their right of appeal.

14.2 This is not to be used in instances whereby the allegation could constitute gross misconduct or where the individual already has a live warning. In these instances please see Section 18.

15 The Disciplinary Hearing

15.1 Arranging the Disciplinary Hearing

15.1.1 The employee must be provided a letter stating the allegations against them which will be heard at the Disciplinary Hearing. Once confirmation of the progress to Hearing has been given, Workforce will contact the employee and their representative (if applicable) in order to arrange the date for the Hearing in partnership and at the earliest convenience. Wherever possible, the available investigation documents may be shared with the employee/their representative at this point at their request.

15.1.2 Employees have a right to be accompanied during a Disciplinary Hearing by a Trade Union Representative or fellow worker. Any delays in availability must not be for longer than five working days. It would not be reasonable for the employee to insist on being represented by one individual who is not available, when an alternative companion is available to support them during the Hearing. The Hearing will be re-arranged once due to employee/companion availability; if the employee fails to attend the second Hearing, then the Hearing will proceed in their absence and a decision made on the information available.

15.1.3 Where an individual is absent due to sickness, the Considering Manager (in consultation with Workforce) should obtain Occupational Health advice on whether the individual will be fit to attend the hearing in the foreseeable future and whether any necessary reasonable adjustments may be required. It may not be reasonable to delay a hearing for an indefinite period
and, if an individual is unable to attend, arrangements should be offered for the employee to submit written submissions or for a representative to attend on his/her behalf.

15.1.4 The employee should be given at least five working days’ notice of a Disciplinary Hearing and a copy of the investigation documents made available within five working days. In circumstances where the employee / their representative are in agreement with Workforce this timescale can be reduced. The employee should also submit any documents which they intend to present at the Disciplinary Hearing five working days in advance.

15.1.5 Relevant witnesses may be called to attend the Hearing by the Chair of the Panel and this will be co-ordinated by Workforce. On confirmation that the case will progress to a hearing the Investigating Officer and the employee/representative shall make Workforce aware of any witnesses they would find helpful to attend and why. This must be done in reasonable time to avoid delay in the Hearing Date.

15.1.6 Individuals providing character references would not be permitted to attend as a witness. Instead a written statement can be submitted to the panel for consideration instead.

16 The Disciplinary Hearing Process

16.1 The Chair of the Hearing must be a Manager with the appropriate level of authority to hear the case. Often this will be the Considering Manager. However, any Manager with the appropriate level of authority can hear a Disciplinary Case. The Hearing provides the opportunity for the investigation documents to be considered and the employee to respond to the allegations against them. The Investigating Officer does not automatically need to be present at all Disciplinary Hearings unless this has been requested by the Chair of the Panel, the employee/their representative or the Investigating Officer themselves. This will usually be for more complex cases.

16.2 It is recognised that Disciplinary Hearings can be stressful for the employee and attempts must be made to ensure the tone of the meeting is factual, non-accusational and professional.

16.3 The Chair, supported by the members of the panel, will use the meeting to determine, on the balance of probabilities, what the facts of the matter are, and whether or not a disciplinary sanction is appropriate, and what other outcomes would be most appropriate for the case.

16.4 At the Hearing this must be held in the most sensitive way possible. The following procedure will normally apply:

- Should the Investigating Officer be required to attend they can then be asked to summarise their findings and be questioned by the employee and by the panel
Any relevant witnesses will then attend and be questioned by the employee and by the panel

The employee and their Trade Union Representative or their companion will talk through their response to the investigation documents, which may include evidence they would like to be considered by the panel

The panel will question the employee. Their Trade Union Representative or their companion cannot respond to questions on the employee’s behalf

Any final questions may be asked by the panel and Investigation Officer to the employee

If necessary the Investigating Officer summarises their findings

If necessary the Employee summarises their response to the management case and investigation documents

Panel adjourns to reach decision

16.5 Witnesses will only be present while they are required to be questioned.

16.6 There may be occasions where the witnesses do not want to attend the hearing; however, there is a duty on all employees to co-operate with the process. Workforce must be consulted to advice on these instances prior to the hearing.

17 Decision

17.1 Where the facts of the case call for disciplinary action to be taken the Manager conducting the Disciplinary Hearing must:

- Consider the employee’s general record including relevant active disciplinary sanctions
- Consider any mitigating circumstances
- Never dismiss for a first breach of discipline except in cases of gross misconduct

17.2 Following the Disciplinary Hearing, the Chair of the Hearing must inform the employee of the decision without undue delay and send a letter usually within seven days of the decision. The letter should include:

- The decision taken
- Clear reasons for the level of disciplinary action, if any, and period of review, if appropriate
Any future improvement expected of the employee and potential future action if improvement is not achieved which may include dismissal

Right of appeal

Whether details of the case will be referred to any outside agency e.g., a professional body, DBS (Disclosure and Barring Service) or the issue of an alert letter

18 Disciplinary Sanctions

18.1 The following levels of warnings are available and will remain active for the following periods:

- **Stage 1 - First written warning – 12 months.** It will usually be appropriate for a first act of misconduct where there are no other active written warnings on the employee’s disciplinary record

- **Stage 2 - Final written warning – 24 months.** It will usually be appropriate for:
  - Misconduct where there is already an active written warning on the employee’s record, or
  - Misconduct that is considered sufficiently serious to warrant a final written warning even though there are no other active warnings on your record

- **Stage 3 – Dismissal -** It will usually only be appropriate for:
  - Any misconduct during the employee’s probationary period
  - Further misconduct where there is an active final written warning on your record, or
  - Any gross misconduct regardless of whether there are active warnings on your record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal). Examples of gross misconduct are set out in our Disciplinary Rules

18.1.1 Records of disciplinary action will be held on the employee’s personal file. They will be disregarded for disciplinary purposes after the expiry date of the warning as shown above.
18.2 Action Short of Dismissal - Transfer or Demotion

18.2.1 In addition to warnings and/or in place of other disciplinary outcomes a decision may be made to transfer or demote an individual. This decision cannot be made unless the misconduct was such to warrant dismissal, but has been reduced to another sanction when mitigating factors have been taken into account.

18.2.2 The employee will have a choice as to whether or not to accept these sanctions as an alternative to dismissal. If he/she refuses, then dismissal will apply.

18.2.3 An employee who agrees to work at the downgraded position will accept that their wages/salary will be adjusted accordingly (i.e. protection of salary will not apply).

18.3 Summary Dismissal

18.3.1 In cases where gross misconduct is established, the employee may be liable to be summarily dismissed. Examples of gross misconduct are included in Appendix 1. This is termination of the contract without notice or pay in lieu of notice. In these circumstances no pay in lieu of holiday entitlement will be made, other than pay in lieu of statutory holiday entitlement.

19 Appeals

19.1 Employees have the right to appeal against first and final written warnings, action short of dismissal and also dismissals. The appeal should be made to and heard by the next appropriate higher level of management not previously involved in the case and wherever practicable, appeals will be heard within four weeks of being lodged. Appeals against dismissals should be made to the Executive Director of Workforce and Organisational Development.

19.2 Where an appeal against dismissal is upheld, reinstatement should be dated from the effective date of dismissal, and may therefore result in back-dating of pay. The Manager hearing the appeal will make decisions regarding any conditions for the reinstatement of the member of staff.

19.3 Written notice of the appeal should be lodged within ten working days of the date of the outcome letter with sufficient details of the reasons for the appeal. The appeal should be based on one or more of the following grounds:

- The Disciplinary Policy and Procedures were not followed and was not taken into consideration by the panel
- Non-compliance with statutory Policy, procedure and legal rights
- Acts of discrimination, bullying and harassment in the Hearing
20 Additional Information

20.1 Complaints about the Application of the Policy

20.1.1 Concerns about the application of the Policy will be handled as part of the normal appeal and will not be considered as a separate grievance unless the grievance involves a complaint of unlawful discrimination or that the action is not genuinely on grounds of conduct.

20.2 Criminal Charges or Convictions Out-side Employment

20.2.1 Employees who are arrested on any charge or cautioned or served with a summons for a criminal charge must inform the Trust, usually via line management. Failure to do so may render the individual liable to disciplinary action.

20.2.2 If an employee is charged with, or convicted of, a criminal offence not related to work, this is not in itself reason for disciplinary action. The Manager should establish the facts of the case and consider whether the matter is serious enough to warrant starting the disciplinary procedure. The main consideration should be whether the offence, or alleged offence, is one that makes the employee unsuitable for their type of work. Similarly, an employee should not be dismissed solely because they are absent from work as a result of being remanded in custody.

20.2.3 A decision should not normally be deferred simply because the outcome of a prosecution is not yet known.

20.2.4 The Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA) have merged to become the Disclosure and Barring Service (DBS). CRB checks are now called DBS checks. Where a DBS check reveals undeclared convictions, the employee will likely be subject to an investigation under the Disciplinary Policy and this may potentially result in Disciplinary Action. Failure to correctly declare known criminal convictions may also be subject to criminal and/or civil sanctions being pursued by the Trust together with potential referral to any relevant professional body.

20.3 Professional Conduct

20.3.1 Employees who are governed by professional codes of conduct through a professional body (e.g. the Nurses and Midwifery Council - NMC) will be aware that the Trust has a duty to report incidents which may involve possible professional misconduct to those bodies. The Trust may separately investigate the circumstances and take any necessary internal disciplinary action in accordance with this procedure.

20.4 Trade Union Officials

20.4.1 As employees, representatives of employees side organisations are subject to the normal disciplinary standards. However, no Disciplinary Action
should be taken until the circumstances of the case have been discussed with a full time official. Accredited representatives will not be subjected to any disciplinary action relating to their role as a trade union representative.

20.4.2 The full time officer should be informed at the earliest possible opportunity, normally prior to an investigatory hearing or suspension if this is involved.

21 Development

21.1 This Policy has been introduced to provide effective and timely management of disciplinary matters. It will support the management of cases in line with timescales outlined in the Trust's Workforce Strategy.

22 Identification of Stakeholders

22.1 This Policy applies to all Trust employees and following the criteria set out in CNTW(O)01 – Development and Management of Procedural Documents, this Policy was circulated Trust-wide for a four week consultation to the standard distribution listed below:

- Corporate Decisions Team
- Local Negotiating Committee
- North Locality Care Group
- Central Locality Care Group
- North Cumbria Locality Care Group
- South Locality Care Group
- Clinical Governance and Medical Directorate
- Communications, Finance, IM&T,
- Staff-Side
- Workforce and Organisational Development
- Commissioning and Quality Assurance
- Business Delivery Group
- Safer Care Group
- Internal Audit

23 Training
23.1 There is a general need for awareness raising about the existence of this Policy to all CNTW employees so that people can access appropriate advice and support.

23.2 Training on this Policy will be included in the Workforce Policy Training Programme.

23.3 Please refer to Appendix B – Training Checklist and Training Needs Information.

24 Implementation

24.1 Taking into consideration all the implications associated with this Policy, it is considered that this Policy will be implemented with immediate effect.

25 Monitoring and Compliance

25.1 Changes to employment legislation will be monitored to ensure that this Policy complies accordingly.

25.2 The Workforce Policy Training Programme for Managers will be used as a means of identifying any improvements that could be made to this Policy.

26 Standard Key Performance Indicators

26.1 Board of Directors will receive regular statistics detailing the percentage of the workforce absent due to work-related stress. The statistics will be analysed and monitored in conjunction with the Workforce Strategy targets.

27 Fair Blame

27.1 The Trust is committed to developing an open learning culture. It has endorsed the view that, wherever possible, disciplinary action will not be taken against employees who report near misses and adverse incidents, although there will be clearly defined occasions where disciplinary action will be taken.

28 Fraud, Bribery and Corruption

28.1 The Trust is committed to minimising the opportunities for fraud and corruption wherever they occur, and is committed to taking positive action to achieve this.

28.2 In accordance with the Trust’s Policy CNTW(O)23 – Fraud, Bribery and Corruption Policy, all suspected cases of fraud and corruption should be reported immediately to the Trust’s Local Counter-Fraud Specialist or to the Executive Director of Finance.
28.3 Alternatively, suspicions of fraud may be reported via the Fraud and Corruption Reporting Line on 0800 0284060 or via www.reportnhsfraud.nhs.uk

28.4 All cases of suspected fraud will be reported to the Trust's Local Counter-Fraud Specialist who will ensure the allegations are investigated and reported to the Northern Internal Audit and Fraud Service as appropriate.

29 Equality and Diversity Assessment

29.1 In conjunction with the Trust's Equality and Diversity Advisor this Policy has undergone an Equality and Diversity Impact Assessment which has taken into account all human rights in relation to disability, ethnicity, age and gender. The Trust undertakes to improve the working experience of staff and to ensure everyone is treated in a fair and consistent manner.

30 Associated Documents

30.1 This Policy should be read in conjunction with appropriate Trust Policies and terms of service including:

- Contracts of employment
- Agenda for Change Terms and Conditions Medical and Dental Terms and Conditions CNTW(HR)02 - Handling Concerns About Doctors
- CNTW(HR)05 - Grievance Policy
- Employees Charter
- CNTW(HR)08 - Dignity and Respect at Work Policy
- CNTW(HR)10 - Attendance Management Policy/Sickness Absence Management Policy
- NHS Code of Conduct for Managers
- CNTW(O)23 Fraud, Bribery and Corruption Policy
- CNTW(O)51 - Standing Financial Instructions

31 References

- Discipline and Grievance at Work - The ACAS Guide
### Equality Analysis Screening Toolkit

<table>
<thead>
<tr>
<th>Names of Individuals involved in Review</th>
<th>Date of Initial Screening</th>
<th>Review Date</th>
<th>Service Area / Locality</th>
</tr>
</thead>
<tbody>
<tr>
<td>Christopher Rowlands</td>
<td>March 2018</td>
<td>March 2021</td>
<td>Trust-wide</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Policy to be analysed</th>
<th>Is this policy new or existing?</th>
</tr>
</thead>
<tbody>
<tr>
<td>CNTW(HR)04 - Disciplinary Policy</td>
<td>Existing</td>
</tr>
</tbody>
</table>

**What are the intended outcomes of this work?** Include outline of objectives and function aims

The aim of this Policy is to set out guidance to all employees on expected standards of behaviour and to provide procedures for addressing instances where an individual fails to meet required standards of conduct. This Policy supports consistent and fair treatment for all.

**Who will be affected?** e.g. staff, service users, carers, wider public etc.

All Staff

**Protected Characteristics under the Equality Act 2010.** The following characteristics have protection under the Act and therefore require further analysis of the potential impact that the policy may have upon them

<table>
<thead>
<tr>
<th>Disability</th>
<th>No impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sex</td>
<td>No impact</td>
</tr>
<tr>
<td>Race</td>
<td>No impact</td>
</tr>
<tr>
<td>Age</td>
<td>No impact</td>
</tr>
<tr>
<td>Gender reassignment (including transgender)</td>
<td>No impact</td>
</tr>
<tr>
<td>Sexual orientation</td>
<td>No impact</td>
</tr>
<tr>
<td>Religion or belief</td>
<td>No impact</td>
</tr>
<tr>
<td>Marriage and Civil Partnership</td>
<td>No impact</td>
</tr>
<tr>
<td>Pregnancy and maternity</td>
<td>No impact</td>
</tr>
<tr>
<td>Carers</td>
<td>No impact</td>
</tr>
<tr>
<td>Other identified groups</td>
<td>No impact</td>
</tr>
</tbody>
</table>

**How have you engaged stakeholders in gathering evidence or testing the evidence available?**

Through standard Consultation routes
### How have you engaged stakeholders in testing the policy or programme proposals?

Through standard Policy Process Procedures

### For each engagement activity, please state who was involved, how and when they were engaged, and the key outputs:

Appropriate Policy Review by Author / Team

### Summary of Analysis

No impact

Now consider and detail below how the proposals impact on elimination of discrimination, harassment and victimisation, advance the equality of opportunity and promote good relations between groups. Where there is evidence, address each protected characteristic.

<table>
<thead>
<tr>
<th>Protecte Characteristic</th>
<th>Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eliminate discrimination, harassment and victimisation</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Advance equality of opportunity</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Promote good relations between groups</td>
<td>Not applicable</td>
</tr>
<tr>
<td>What is the overall impact?</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Addressing the impact on equalities</td>
<td>Not applicable</td>
</tr>
</tbody>
</table>

From the outcome of this Screening, have negative impacts been identified for any protected characteristics as defined by the Equality Act 2010? **NO**

If yes, has a Full Impact Assessment been recommended? If not, why not?

Manager’s signature: Christopher Rowlands  
Date: March 2018
## Communication and Training Check List for Policies

### Key Questions for the accountable committees designing, reviewing or agreeing a new Trust policy

<table>
<thead>
<tr>
<th>Question</th>
<th>Existing Policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is this a new policy with new training requirements or a change to an existing policy?</td>
<td></td>
</tr>
<tr>
<td>If it is a change to an existing policy are there changes to the existing model of training delivery? If yes specify below.</td>
<td>All Managers identified via the ESR system will be expected to attend the training which will be delivered via the Trusts training department.</td>
</tr>
<tr>
<td>Are the awareness/training needs required to deliver the changes by law, national or local standards or best practice?</td>
<td>There are some legal aspects but requirement of attending training is best practice.</td>
</tr>
<tr>
<td>Please give specific evidence that identifies the training need, e.g. National Guidance, CQC, NHS Resolutions etc.</td>
<td></td>
</tr>
<tr>
<td>Please identify the risks if training does not occur.</td>
<td></td>
</tr>
<tr>
<td>Please specify which staff groups need to undertake this awareness/training. Please be specific. It may well be the case that certain groups will require different levels e.g. staff group A requires awareness and staff group B requires training.</td>
<td>All employees with managerial responsibility</td>
</tr>
<tr>
<td>Is there a staff group that should be prioritised for this training / awareness?</td>
<td>As above</td>
</tr>
<tr>
<td>Please outline how the training will be delivered. Include who will deliver it and by what method.</td>
<td>Formal training course</td>
</tr>
<tr>
<td>The following may be useful to consider:</td>
<td></td>
</tr>
<tr>
<td>Team brief/e bulletin of summary</td>
<td></td>
</tr>
<tr>
<td>Management cascade</td>
<td></td>
</tr>
<tr>
<td>Newsletter/leaflets/payslip attachment</td>
<td></td>
</tr>
<tr>
<td>Focus groups for those concerned</td>
<td></td>
</tr>
<tr>
<td>Local Induction Training</td>
<td></td>
</tr>
<tr>
<td>Awareness sessions for those affected by the new policy</td>
<td></td>
</tr>
<tr>
<td>Local demonstrations of techniques/equipment with reference documentation</td>
<td></td>
</tr>
<tr>
<td>Staff Handbook Summary for easy reference</td>
<td></td>
</tr>
<tr>
<td>Taught Session</td>
<td></td>
</tr>
<tr>
<td>E Learning</td>
<td></td>
</tr>
<tr>
<td>Please identify a link person who will liaise with the training department to arrange details for the Trust Training Prospectus, Administration needs etc.</td>
<td></td>
</tr>
</tbody>
</table>
Training Needs Analysis

<table>
<thead>
<tr>
<th>Staff / Professional Group</th>
<th>Type of Training</th>
<th>Duration of Training</th>
<th>Frequency of Training</th>
</tr>
</thead>
<tbody>
<tr>
<td>All staff identified as supervisors in ESR</td>
<td>Formal face to face via the CNTW Management Skills Programme</td>
<td>3 days</td>
<td>Once</td>
</tr>
</tbody>
</table>

Should any advice be required, please contact: 0191 223 2216 (internal 32216)
Monitoring Tool

Statement

The Trust is working towards effective clinical governance and governance systems. To demonstrate effective care delivery and compliance, policy authors are required to include how monitoring of this Policy is linked to auditable standards / key performance indicators will be undertaken using this framework.

<table>
<thead>
<tr>
<th>Auditable Standard / Key Performance Indicators</th>
<th>Frequency / Method / Person Responsible</th>
<th>Where results and any associated action plan will be reported to, implemented and monitored; (this will usually be via the relevant governance group)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. A robust and fair process is undertaken as set out in this policy and the Trust's associated SLA with Capsticks HR Advisory Team.</td>
<td>On-going throughout month via meetings with Head of Workforce where cases are audited as well as quarterly meetings with HR Advisory Manager.</td>
<td>Monthly Written Report which is presented at the Capsticks HR Advisory SLA Review Meeting.</td>
</tr>
<tr>
<td>2. Suspension is appropriately used.</td>
<td>Regularly monitored on an on-going basis via weekly and monthly meetings with Head of Workforce.</td>
<td>Considering managers review of suspension over three months reported to CDTW</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Monthly Written Report which is presented at the Capsticks HR Advisory SLA Review Meeting.</td>
</tr>
</tbody>
</table>

The Author(s) of each Policy is required to complete this monitoring template and ensure that these results are taken to the appropriate Quality and Performance Governance Group in line with the frequency set out.