

Document Control

Title			
Disciplinary Policy & Procedure			
Author Tim Robinson		Author's job title Assistant Director of HR	
Directorate Workforce		Department Human Resources	
Version	Date Issued	Status	Comment / Changes / Approval
1.0	Feb 2014	Draft	
2.0	July 2014	Final	Amended and agreed by Policy Development Group
2.1	Dec 2015	Final	Updated with Appeal Procedure (Appendix K)
3.0	May 2019	Final	Updated with Guidance in relation to Volunteers
Main Contact Assistant Director of Human Resources		Tel: Direct Dial – 01271 313948 Tel: Internal – 4248 Email: tim.robinson@nhs.net	
Lead Director Director of People			
Superseded Documents NDHT Disciplinary Policy/Procedure NHS Devon Disciplinary Policy/Procedure			
Issue Date May 2019		Review Date May 2022	Review Cycle Three years
Consulted with the following stakeholders: (list all) <ul style="list-style-type: none"> • Pay & Reward Group • Staffside 			
Approval and Review Process <ul style="list-style-type: none"> • Partnership Forum 			
Local Archive Reference G:\ Disciplinary Policy & Procedure			
Local Path Disciplinary Policy & Procedure			
Filename Disciplinary Policy & Procedure			
Policy categories for Trust's internal website (Bob) Location(s) on Bob Harmonised		Tags for Trust's internal website (Bob) Investigations	

CONTENTS

Document Control	1
1. Introduction	4
2. Purpose	4
3. Definitions	5
Suspension.....	5
Misconduct	5
Gross Misconduct	5
Prima Facie Facts (See Section 5)	5
Terms of Reference	5
Commissioning Manager	5
Investigation Meeting.....	6
Chair.....	6
Working Days	6
4. Roles & Responsibilities	6
Role & Responsibilities of the Chief Executive	6
Role & Responsibilities of the Directorate and HR Operations Team	6
Role & Responsibilities of the Line Manager / Commissioning Manager	7
Role & Responsibilities of the Investigating Officer	8
Role & Responsibilities of the Employee.....	8
Role & Responsibilities of the Chair of the Panel/Disciplining Officer	9
Role & Responsibilities of the Hearing Panel	9
Role & Responsibilities of the Trade Union Representative	9
Role & Responsibilities of Workplace Colleague.....	9
Role & Responsibilities of Witnesses.....	9
Confidentiality – Responsibility of All.....	10
5. Procedure	10
Informal Procedure	10
Formal Procedure	11
Formal Investigations.....	12
Counter Fraud Procedure	14
Safeguarding Issues	14
Significant Event Audits (SEA) / Serious Incidents Requiring Investigation (SIRI).....	14
6. Procedure for Conducting a Disciplinary Hearing	15
Preparation.....	15
Non Attendance at a Disciplinary Hearing.....	17
Resignation of employee	18
Witnesses.....	18
Disciplinary Hearing Process	19
7. Disciplinary Hearing Outcomes	22
First Written Warning	23
Final Written Warning	23
Impact of Disciplinary Sanctions on Career Progression.....	24
Expiry of Warnings.....	24

Dismissal	24
Dismissal with Notice	25
Summary Dismissal (Dismissal Without Notice)	25
Action Short of Dismissal/Alternative Sanctions	25
8. Right of Appeal	26
9. Actions Outside the Workplace and Criminal Proceedings	26
10. Conflict of Interest Employment – Outside Employment	27
11. Reporting to Professional Bodies.....	28
12. Reporting to the Disclosure & Barring Service (DBS).....	28
13. Support for Employees.....	28
14. Monitoring Compliance with and the Effectiveness of the Policy	29
Standards/ Key Performance Indicators.....	29
Process for Implementation and Monitoring Compliance and Effectiveness.....	29
15. Equality Impact Assessment.....	29
16. References	30
17. Associated Documentation	30

1. Introduction

This document sets out Northern Devon Healthcare NHS Trust's policy and processes where there are concerns regarding the conduct of an employee. It provides a robust framework to ensure a consistent approach across the whole organisation.

2. Purpose

Northern Devon Healthcare NHS Trust recognises its obligation outlined in the Employment Rights Act 1996, the Employment Act 2002 and Employment Act 2008 to provide a fair and consistent procedure for all its employees and therefore the purpose of this policy is to:

- Provide a framework within which the Trust can ensure the safe and effective operation of its services by promoting fair treatment of individual employees. It outlines the procedures to be followed for promoting a prompt, fair, non-discriminatory, effective and systematic approach to the enforcement of standards of conduct in line with ACAS (Advisory, Conciliation and Arbitration Service) guidance and best practice.
- Enable members of staff to understand the circumstances which may lead to disciplinary action, the procedures to be followed, the penalties and remedies which may be imposed, and the available rights of representation and appeal.

This policy is to be applied equitably and consistently across the Trust, whether employees are on permanent or fixed term contracts of employment.

Relevant operational policies and protocols must be fully considered and invoked, if appropriate, prior to any disciplinary action being taken.

The policy applies to all employees of the Trust. However, for matters relating to the professional conduct and performance of medical staff, the Trust's policy on Managing Performance Concerns for Medical and Dental Staff should be referred to in the first instance. Where issues of personal misconduct are raised in connection with medical staff then this policy will apply.

Please note that policy does not apply in full to Volunteers. Please see Appendix L for guidance in respect of Volunteers.

Where an employee is an accredited representative of a recognised trade union, no action should be taken until the case has been brought to the attention of the Human Resources (HR) Operations Team, who will discuss the circumstances of the case with the appropriate trade union full time officer. No action under the procedure, other than suspension in instances of apparent gross misconduct will be taken against any accredited staff side representative until the case has been discussed with a full time officer of the relevant trade union or professional body.

3. Definitions

Suspension

- 3.1. Suspension is the process of placing an employee on paid leave, with a requirement that they do not attend work, while an investigation is undertaken into the allegations or concerns reported. Suspension is a neutral act; it is neither a disciplinary action nor an assumption of guilt. Please refer to the Trust's Suspension Policy for further information.

Misconduct

- 3.2. "Misconduct" is improper, unacceptable or unprofessional behaviour. This can include a breach of Trust rules, regulations, policies, procedures and guidance or negligence, carelessness, thoughtlessness which causes loss, damage, injury or distress to others. See Appendix A for further details of employee rules.

Gross Misconduct

- 3.3. "Gross Misconduct" is misconduct or gross negligence which is of such a nature, that it fundamentally breaches the contractual relationship between the employee and the Trust and justifies the employer in no longer accepting the continued presence of the employee at the workplace and potentially so serious as to justify the summary dismissal of a member of staff without notice or payment in lieu of notice. See Appendix A for further details and examples.

Prima Facie Facts (See Section 5)

- 3.4. These are the facts as they appear on initial presentation before the benefit of detailed consideration and/or investigation.

Terms of Reference

- 3.5. For the purpose of this policy the terms of reference is the framework provided to the investigating officer setting out the issues to be investigated and matters to be considered as part of the investigation.

Commissioning Manager

- 3.6. The Commissioning Manager is the manager responsible for requesting that an investigation takes place into an alleged incident or matter of concern. The Commissioning Manager is responsible for drawing up the terms of reference for the investigation and appointing the investigating manager. See section 4.3 below for full details on the role and responsibilities of the Commissioning Manager.

Investigation Meeting

- 3.7.** An investigation meeting is a formal meeting held with employees to establish the facts of the concern / issue raised and is often referred to as a fact-finding meeting. Employees against whom allegations have been lodged are entitled to be accompanied by a Trade Union Representative or workplace colleague at this meeting.

Chair

- 3.8.** The Chair of the panel will be the Manager hearing the case at the Disciplinary Hearing, who may also be referred to as the Disciplining Officer.

Working Days

- 3.9.** For the purposes of the timescales within this Policy the expression 'working day' refers to Monday through Friday and does not include Saturdays or Sundays.

4. Roles & Responsibilities

Role & Responsibilities of the Chief Executive

- 4.1.** The Chief Executive has the overall responsibility for all matters of Human Resources and ensuring that all mechanisms are in place for the overall implementation, monitoring and revision of this Policy. The Chief Executive has nominated the Director of People as lead for all Human Resources matters.

Role & Responsibilities of the Directorate and HR Operations Team

- 4.2.** It is the role of the HR Operations Team to ensure that employees and line managers receive appropriate advice and guidance in the implementation of this policy. The Directorate is also responsible for providing assurance that this policy has been adhered to in safeguarding the Trust against claims for constructive dismissal.

Where appropriate a representative from the HR Operations Team will work with the Investigating Officer through the formal stages of the disciplinary process where such assistance can be provided in a timely manner. It is not the role of the representative of the HR Operations Team to provide clerical assistance to the investigation.

Role & Responsibilities of the Line Manager / Commissioning Manager

- 4.3. Line managers are responsible for implementing this Policy when considering invoking the Disciplinary Procedure. The Line Manager/Commissioning Manager is responsible for reporting all disciplinary matters to the appropriate representative of the HR Operations Team.

Line managers have an important role in seeking to rectify problems of minor lapses in conduct, performance and attendance through discussion with their staff members where the emphasis is on improvement, without using the formal disciplinary procedures. Therefore, managers should ensure that regular meetings are in place, which includes; proper local induction (for new employees, internal transfers and those who have been promoted), management and clinical supervision, 1:1's and Development and Review (Appraisal) meetings. All reasonable efforts should be made to identify the cause of the problem and to identify appropriate support and guidance.

It is normally the role of the line manager or Commissioning Manager to decide whether an employee needs to be suspended, redeployed to alternative duties and/or workplace and/or requires increased supervision for the duration of the investigation or the until the disciplinary process has been completed.

The "Commissioning Manager" will be the manager who instigates the formal procedure and "commissions" the investigation process. Depending on the circumstances of the case this may be the line manager. In more serious cases or where the line manager may be required to undertake the investigation or be a witness, a more senior manager will undertake the role of "Commissioning Manager". The "Commissioning Manager" will set the Terms of Reference and timescale for the investigation. They will be responsible for ensuring that appropriate administrative support is provided to the Investigating Officer, for monitoring the progress of the investigation and ensuring that process is completed robustly and in a timely manner. The "Commissioning Manager" may be called upon to review the Terms of Reference as the investigation progresses. On completion of the investigation, the "Commissioning Manager" will determine whether there is a case to be considered and if so whether the matter should be dealt with under the informal procedure (see 5.1 below) or needs to be dealt with at a formal level. This will normally be at a Disciplinary Hearing. However there may be situations where there is a disciplinary case to be considered but where the Commissioning Manager considers the matter may be more appropriately dealt with through an alternative to a full formal disciplinary hearing. Where this is the case, the Commissioning Manager must discuss the case with an Assistant Director of HR before any alternative option is put to the individual and their representative. (*See Appendix B for further information.*)

Depending on the circumstances, the seriousness of the matter and the extent of their involvement in the investigatory process, the Commissioning Manager may be the manager who will hear the case at a Disciplinary Hearing and in these circumstances would be the Disciplining Officer.

Role & Responsibilities of the Investigating Officer

- 4.4.** The “Investigating Officer” may be the line manager, an appropriate manager from within the department or may be from another department within the Trust, who should have gained relevant training / experience in carrying out, or assisting in, investigations. In exceptional circumstances, it may be necessary to appoint an Investigating Officer from another organisation. The Investigating Officer will not be permitted to hear the case.

The Investigating Officer will be responsible for leading and co-ordinating the investigation (i.e. arranging and conducting interviews, issuing paperwork, preparing the investigation report and management case). The Investigating Officer must ensure that the investigation is carried out in a prompt and timely manner and is responsible for supervising the administrative support provided for the investigation. The Investigating Officer is responsible for the quality of the investigation and the Investigation Report/Management Case. Where necessary the Investigating Officer should seek advice and support from a representative of the HR Operations Team.

Role & Responsibilities of the Employee

- 4.5.** All employees are expected to behave in a manner that is conducive to good relations with their colleagues, managers and the users of the Trust’s services. As employees of the Trust, all staff are looked upon to present a good impression to the general public, patients and their relatives/carers, and to avoid any actions that might jeopardise the good reputation of the Trust or its employees.

The responsibilities of employees are to:

- Participate fully in the process
- Seek support as required
- Provide an honest and accurate account when asked
- Maintain confidentiality
- Respond in a timely manner to communication
- Make every effort to attend meetings and maintain open communication with the investigating officer or HR representative supporting the investigation
- Ask questions when unsure
- Escalate any relevant concerns appropriately.

Role & Responsibilities of the Chair of the Panel/Disciplining Officer

- 4.6. The Chair of the Panel/Disciplining Officer is responsible for ensuring that due process has been followed during the Disciplinary Hearing. The Chair is responsible for confirming the outcome in writing to the employee. Appendix C confirms the Level of Authority for managers involved in Suspension and Charing Disciplinary Hearings and Appeal Panels.

Role & Responsibilities of the Hearing Panel

- 4.7. The Hearing Panel is responsible for considering all of the information presented to them from both parties, determining whether a disciplinary sanction is appropriate and if so the level of sanction. The panel will be comprised of a Chair and if necessary another manager. An expert to provide subject matter advice may attend to support the hearing panel.

A member of the HR Operations Team will be available, but depending on the seriousness of the case, not necessarily present, to provide procedural advice and support to the hearing panel. The member of the HR Operations Team may also be a formal member of the panel.

Role & Responsibilities of the Trade Union Representative

- 4.8. To make themselves available in a timely manner to participate in formal meetings relating to any stage of the disciplinary process and, where they cannot make themselves available in a timely manner, to ensure alternative representation from within the relevant Trade Union is provided to the employee.

To be familiar with and work with the policy and its requirements; they should be consulted with as part of the regular review of this policy.

Role & Responsibilities of Workplace Colleague

- 4.9. In place of a Trade Union Representative, staff may choose to be accompanied by a workplace colleague at the formal investigation meeting, Disciplinary Hearing or Appeal Hearing. The workplace colleague should be allowed to address meetings and hearings and at a hearing 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 hearing. The workplace colleague does not however have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the employee or employer from explaining their case.

Role & Responsibilities of Witnesses

- 4.10. To provide an honest and accurate account of what they personally witnessed or heard.

To respect the confidentiality of the investigation process and the rights of those involved with it.

If required, to attend the Disciplinary Hearing or Appeal Hearing and answer questions on their evidence. In some cases witnesses may be required to attend, give evidence and undergo cross examination at an Employment Tribunal or professional body Hearing e.g. Nursing & Midwifery Council. Guidance for Witnesses is attached at Appendix D.

Confidentiality – Responsibility of All

- 4.11. All individuals involved in the investigation of a potential disciplinary issue or in any hearings or other associated processes have a duty and responsibility to treat all information provided or received in the strictest confidence.

5. Procedure

Managers and supervisors will, through day-to-day management, aim to achieve change and improvement in matters of conduct, performance and attendance on the part of their employees. Where this is not effective, managers will initially consider the need for an informal meeting to raise and address any concerns.

Where misconduct is identified or alleged, the responsible manager may carry out an informal initial investigative meeting to clarify the prima facie facts and to determine whether further investigation is necessary. Following this meeting, the responsible manager will advise the employee accordingly of their decision and ensure this is documented. The informal initial investigative meeting should not be allowed to develop into a full and formal investigative meeting. It will usually be a brief meeting to establish whether the formal process needs to be instigated. Employees will not normally be entitled to be accompanied by a Trade Union representative or workplace colleague during this informal meeting.

Appendix E provides a summary flowchart of the key stages of the Disciplinary Procedure.

Informal Procedure

- 5.1. In cases of minor misconduct or shortfalls in standards that do not warrant formal disciplinary action, the line manager will, having given reasonable notice, meet with the employee to discuss the nature and cause of the problem, and ensure that a remedial course of action is agreed. Advice on how to manage the informal stage of the disciplinary procedure should be sought from a representative of the HR Operations Team.

The meeting should be a two-way discussion examining possible causes and encouraging improvement. Criticism should be constructive with the emphasis being on finding ways for sustained improvement.

The action will clearly identify the standards that are required to be met and the timescales within which these are to be achieved. The manager will also explain to the employee that if they fail to meet the required standards, or should any repetition occur, this may result in the implementation of the formal disciplinary procedure.

It is essential that notes are kept of the meeting and that the improvements required are confirmed in writing to the employee with a copy placed on their personal file (*see toolkit*).

Formal Procedure

- 5.2.** Where it is not appropriate for an issue to be dealt with at an informal level, the formal disciplinary procedure will be invoked.

5.2.1. Suspension / Restricted Duties / Temporary Redeployment / Transfer of Workplace / Increased Supervision

The Trust reserves the right where the circumstances warrant it, to suspend an employee with pay, restrict their duties and/or redeploy an employee to an alternative work base while either it carries out an internal investigation or to resolve an issue pertaining to an individual's employment. Temporary redeployment can be anywhere in the Trust (within reason), in a role that the employee has the skills to undertake. In some circumstances registered professional staff may be redeployed to work in a non-registered capacity with increased supervision. The employee should suffer no financial detriment as a result of the temporary redeployment or adjustments which may continue for the duration of the investigation or until the disciplinary process has been completed.

Please refer to the Suspension of Employees Policy for further details and guidance.

After establishing the need for suspension or other restriction the employee should be called to a meeting to inform them of the reason for the action. The line manager should conduct this meeting and must be accompanied during that meeting by another appropriate manager/supervisor or a representative from the HR Operations Team and must not meet with the employee alone. The employee should be offered the opportunity to bring a colleague with them for support, but the manager does not have to postpone the meeting in order for this to be arranged. The employee should receive a letter confirming the outcome of the meeting, the reason(s) for the action and the next steps (*see template letter in Suspension of Employees Policy*).

Formal Investigations

- 5.3.** When a situation is identified which may potentially require formal disciplinary action, it is the responsibility of the Line Manager to instigate the commissioning of a full investigation. However, if the situation is a fraud related matter it should be reported to either the Director of Finance or the Local Counter Fraud Specialist before implementing this disciplinary policy. See Section 5.4 below and Appendix F.

In deciding how the matter should be investigated, the Commissioning Manager will consider: -

- The nature of the alleged breach
- The seriousness of the alleged breach
- The Trust's policies/protocols and documents
- The Manager's authority level
- What is the lowest level at which the matter can be appropriately handled
- And complete the Terms of Reference for the investigation

An objective Investigating Officer will be appointed in line with the Selection Criteria detailed in Appendix G to lead investigative process. The Commissioning Manager will commission the investigation by giving a factual briefing to the Investigating Officer on the scope and parameters of the investigation ensuring that terms of reference for the investigation are provided (See Appendix H for Terms of Reference guidance).

The employee will be issued with a copy of the Guidance for Employees as attached at Appendix I.

The Line Manager or Commissioning Manager will advise the employee in writing that the matter will be formally investigated and that the employee will be required to meet with the Investigating Officer. The employee will be informed of their right to be accompanied by a Trade Union representative or workplace colleague (*see toolkit*).

The employee will be issued with a copy of Rights of Staff as attached at Appendix J.

Consideration should be given to the provision of an interpreter or facilitator if there are understanding or language difficulties on the part of the employee. This person may need to attend in addition to the trade union representative or workplace colleague though ideally one person should carry out both roles.

Provision should be made for any reasonable adjustments to accommodate the needs of a person with disabilities.

The Investigating Officer will complete their investigation of the case as soon as feasible taking into account all of the circumstances. The Investigating Officer may consult with professional colleagues and experts as appropriate. If the investigation exceeds the expected timescales, it is the responsibility of the Investigating Officer to provide the Commissioning Manager, the employee and their representative with an explanation and an estimation of revised timescales.

Actions on Outcome of Investigation

In the event that there is no case to answer, the employee will be advised in writing that no further investigation or action will be taken on this matter (See *toolkit*). This letter will be kept in the individual's personal file however all other information relating to the investigation should be held confidentially by the HR Operations Team.

In circumstances where the investigation has identified specific recommendations, the relevant line manager will be accountable for the implementation and monitoring of such recommendations and placing a record of this on the personal file.

In the event that the Commissioning Manager finds from the investigation outcome that there is a potential case for disciplinary action they will first decide whether the matter needs to be automatically referred to a full Disciplinary Hearing for deliberation or could potentially be dealt with through an agreed alternative mechanism. The process for agreeing alternative options and examples of potential options that can be considered are set out in Appendix B. NOTE: An alternative option to a full Hearing can only be agreed with the support of the individual facing disciplinary action. They will retain the right for the case to be considered at a full formal Disciplinary Hearing if that is their choice. The procedure for conducting a Disciplinary Hearing is set out in Section 6 below.

Procedure for Medical & Dental Staff

Matters relating to the professional conduct and performance of medical staff Medical and Dental Staff are covered by the Trust's Policy and Procedure for Managing Performance Concerns for Medical and Dental Staff which is available on BOB. However, personal conduct issues for these staff, as for all other staff groups, are dealt with under this Disciplinary Policy. Where cases cover both performance and personal conduct concerns it will be for the Medical Director to decide upon which is the most appropriate procedure to use, having consulted the National Clinical Assessment Service (NCAS) and the Director or Workforce & Organisational Development.

Where the alleged misconduct being investigated under the Trust's Disciplinary Policy relates to matters of a professional nature, or where an investigation identifies issues of professional conduct, the investigating officer must obtain appropriate independent professional advice (i.e. NCAS). Similarly where a case involving issues of professional conduct proceeds to a hearing under this procedure the panel must include a member who is medically qualified (in the case of doctors) or dentally qualified (in the case of dentists) and who is not currently employed by the organisation. The Trust will agree the selection of the medical or dental panel member with the Medical Advisory Committee (MAC).

Counter Fraud Procedure

- 5.4. When an allegation or suspicion has been made against an employee of the Trust relating to Fraud or Corruption the line manager should ensure that the suspected employee is NOT informed and that the process detailed in Appendix F is followed.

Safeguarding Issues

- 5.5. Where the matter specifically relates to a safeguarding issue for either children or adults then a strategy meeting should be convened in accordance with the Trust's Safeguarding policies and procedures. NOTE: should the disciplinary investigation be conducted under the Multi-Agency Safeguarding Adults or Child Protection provisions, this should be made clear to the employee. Any police or social services investigation may preclude the initial disclosure of information to the employee. In these cases advice and guidance should be sought from the HR Operations Team.

Significant Event Audits (SEA) / Serious Incidents Requiring Investigation (SIRI)

- 5.6. The purpose and key focus of any SEA and/or SIRI investigation is to identify learning. If issues arise through the course of the investigation which may have implications under the Trust's Disciplinary Policy, consideration should be given by the manager to conducting an HR investigation alongside, but separate from, the SEA or SIRI.

Any witness interviews or statements may be used for both investigations to reduce the need for duplication. In these circumstances all parties who have provided statements to any SEA/SIRI investigation should be informed in writing of the provision of their statements to the Investigating Officer conducting the Disciplinary investigation and provided with the Guide for Witnesses set out in Appendix D. On completion of the SEA/SIRI investigation, the report and any further supporting evidence may also be provided to the Investigating Officer conducting the disciplinary investigation.

6. Procedure for Conducting a Disciplinary Hearing

Where a decision is taken that a full Disciplinary Hearing is required the following process shall be implemented.

Preparation

- 6.1. A Disciplinary Hearing should be held as soon as possible after the conclusion of the investigation but allowing for a reasonable amount of notice to be given to all parties (7 working days as a minimum). The purpose of the Hearing is to ensure that all of the relevant facts and the circumstances of the allegation(s) are fully heard and to decide whether or not disciplinary action should be taken and the appropriate disciplinary sanction issued.

The Hearing will be chaired by a manager with the requisite level of authority to take the potential level of action the case may merit (see Appendix C). Care will be taken to ensure there is no conflict of interest and the Chair of the Disciplinary Hearing will always be a different manager to the Investigating Officer.

Where it is deemed that professional advice may be required, a professional advisor to the Panel should be nominated. This advisor could be internal to the Trust or from an external organisation. The Chair shall be responsible for the proper conduct of the Hearing, which should be conducted on a formal basis.

An HR representative will be available, though not necessarily present, to provide procedural advice and support to the Chair and Panel. The HR representative may also attend and be a full formal member of the panel. Where the HR representative is a formal member of the panel they will be involved in the decision making process. Where an HR representative is only available to provide procedural advice and support to the Chair/Panel if needed, they will not be part of the Panel or the decision making process. The role of the HR representative will be made clear at the outset of the Hearing.

Consideration should be given to the provision of an interpreter or facilitator if there are understanding or language difficulties on the part of the employee. This person may need to attend in addition to the trade union representative or workplace colleague though ideally one person should carry out both roles.

Provision should be made for any reasonable adjustments to accommodate the needs of a person with disabilities.

The Trust may at its discretion choose to make a digital audio recording of the proceedings at the Hearing. Alternatively notes will be taken and this may require a note-taker to be present at the Hearing. Should an appeal be lodged this record may but will not necessarily form part of the documentation available to the management and employee sides and Appeal Panel.

At least 7 working days before the Hearing is due to take place the line manager (or other manager hearing the case) should write to the employee confirming:-

- The date, time and venue of the Hearing
- That the Hearing is to be held under the Trust's Disciplinary Policy, who will be present and in what role
- The alleged misconduct and the classification of the alleged misconduct i.e. minor, serious or gross
- If appropriate, refer to any previous disciplinary action
- The right to be accompanied by a Trade Union representative or workplace colleague not associated with the case being considered
- The right to submit, prior to the hearing, a written reply to the allegation(s) and any additional evidence for consideration, together with advice that the written reply should be provided no less than two working days in advance of the Hearing.
- The right to call relevant witnesses
- Instructions for the employee to confirm their attendance at the Hearing
- The action which will be taken should the employee fail to attend the Hearing ie that the Trust reserves the right to proceed in their absence
- The fact that should the allegation be substantiated, disciplinary action may be taken. If dismissal or summary dismissal is a potential outcome of the Hearing then this must be detailed in the letter.

The letter should be accompanied by copies of any written evidence e.g. witness statements. This will usually take the form of a statement of case and supporting documents from the presenting manager. An additional copy of the letter and documents should be provided to the employee for their representative or sent direct to the representative with the permission of the employee. Copies will also be sent to the panel hearing the case.

Please note that all correspondence to the employee relating to the disciplinary hearing should be either available for collection by the individual or issued to them by Recorded Delivery TM signed for. The same applies to any appeal process.

If the employee wishes to submit, prior to the Hearing, any written response to the allegation(s), for consideration at the Hearing by the panel, this must be received at least 2 working days before the hearing. This information will be provided to the panel and to the presenting manager. Note however, that it is not a requirement that the employee submits a written response to the allegations.

A statement must be included in the letter requiring attendance at a Disciplinary Hearing, warning the individual that the Trust reserves the right to proceed with a Disciplinary Hearing if the member of staff fails to attend, however all the circumstances must be taken into account prior to a decision being made to proceed.

If the employee's representative or chosen companion is unable to attend the date originally proposed for the meeting, the employee must contact the manager organising the Disciplinary Hearing and agree another date for the Hearing to convene provided that it is reasonable and is not unduly delayed due to the repetitive unavailability of any party.

Non Attendance at a Disciplinary Hearing

- 6.2.** If an employee fails to attend a Hearing all reasonable steps should be taken to establish the reason and where appropriate one alternative date may be arranged. Where the employee or their representative cannot be contacted, all reasonable steps should be taken to advise them of an alternative date for the Hearing and warn them that failure to attend without reasonable cause may result in a decision being made in their absence. In these circumstances, a representative from the HR Operations Team must be consulted before any decision is taken.

If an employee refuses to attend a scheduled Disciplinary Hearing, but reports for duty, or fails to attend the Hearing without giving a reasonable explanation, the Hearing may be held in the employee's absence. It will be the responsibility of the employee to confirm their attendance in accordance with instructions provided in the letter requiring their attendance which may have been issued by the Investigating Officer, Chair of the Hearing or their line manager

If the employee presents a medical certificate that covers the period when the Hearing is due to be held advice should be sought from HR on the appropriate action to be taken which may include a referral to Occupational Health to assess fitness to attend. The Hearing may therefore need to be re-scheduled in accordance with medical advice.

Where an employee is certified as sick for more than 8 weeks, and depending upon the type of medical condition and prognosis, the Trust reserves the right to proceed with the Hearing, in the absence of the employee. The employee and their representative will be made aware of any decision to proceed and the representative will be allowed to present the employee's case in their absence if that is the wish of the employee and is confirmed in writing by the employee and the representative.

Resignation of employee

- 6.3.** Should an employee choose to resign from their post, they should be made aware that the disciplinary process may not automatically be cancelled in order to obtain an appropriate outcome. Any disciplinary sanction decided at the conclusion of the disciplinary procedure would be included in any reference provided by the Trust and the information would, where appropriate, be provided to the employee's professional regulatory body. If it is not possible to reach a conclusion on a disciplinary matter relating to an employee who resigns during the process, for example if they have not been interviewed and afforded an opportunity to state their case, then references will include the fact that there was an incomplete formal disciplinary investigation at the time the employee resigned from the Trust.

Witnesses

- 6.4.** All witnesses should be made aware at the investigatory meeting that they may be required to attend and give evidence at a Disciplinary Hearing and that their statement will be made available as part of the management / employee case. The normal expectation will be that any individual whose statement is put forward as evidence to a Disciplinary Panel will be available to be called as a witness at the Disciplinary Hearing. If the presenting manager does not consider it necessary to call a witness in person, they should seek to reach agreement on this with the defending employee and/or their representative. Even where agreement is reached between the presenting manager and the defending employee and/or their representative that a witness does not need to attend in person, the Disciplinary Panel may consider it necessary to question the witness in order to be able to reach a fair decision.

It is the responsibility of the employee to notify the Investigating Officer of any witnesses who have given evidence during the investigation they wish to call no less than 3 working days before the Hearing. The Investigating Officer will co-ordinate the attendance requests of these witnesses and will confirm to the employee whether they are able to attend, in writing.

If it is not practical for witnesses to attend, the Hearing would normally proceed so long as it is clear that the witness' verbal evidence would not affect the substance of the complaint. An adjournment of the Disciplinary Hearing to enable the attendance of witnesses may be considered by the Hearing Chair who will seek advice from a senior representative from the HR Operations Team. Any adjournment should be of no more than five working days.

Intimidation or victimisation of witnesses will not be tolerated. If a witness considers that they are being intimidated or experiences pressure to alter their evidence, they should bring this to the attention of the relevant representative of the HR Operations Team. Appropriate arrangements will be agreed to protect the witness. This may include arrangements for them to present their evidence to the Panel without the defending employee being present. Any victimisation of witnesses will result in further disciplinary action being taken.

If the defending employee and/or their representative wishes to call additional witnesses who were not interviewed as part of the investigation or whose statement is not put forward in evidence by the presenting manager, then it will be the responsibility of the individual or their representative to advise the Trust of the names of the additional witness(es) they wish to call and the purpose for which they are being called (e.g. to provide evidence specific to the case, an expert witness or a character witness etc.). The Chair of the Disciplinary Hearing will have the authority to refuse permission for additional witnesses to be called where they consider the evidence to be presented will have little or no additional value. They may also limit the number of additional witnesses who can attend where similar evidence is being presented. For example if a defending employee and/or their representative wish to call 10 character witnesses the Chair of the Disciplinary Hearing may restrict attendance to say 1 or 2 witnesses and accept written statements from the other character witnesses.

Where approval is granted for additional witnesses to be called, it will be the responsibility of the defending employee and/or their representative to co-ordinate the attendance of those witnesses. It will be the responsibility of each individual witness to ensure that they discuss their attendance at a Disciplinary Hearing with their manager so that they can be released from duty to attend. It will also be the responsibility of the employee or the representative to appraise their own witness(es) regarding the case they will be making in support of the employee and what they should expect at the Hearing. A copy of the Guidance for Witnesses attached at Appendix D should be provided to all witnesses attending prior to the Hearing.

Disciplinary Hearing Process

- 6.5.** All Disciplinary Hearings will be undertaken in accordance with the following process:

Introductions

The Chair of the Panel will:

- introduce the panel and then ask the management and employee sides to introduce themselves
- confirm the Hearing is being held in accordance with the Trust's Disciplinary Policy and Procedure
- summarise the steps below

- explain any housekeeping issues
- check that both sides are in possession of all paperwork pertinent to the case
- summarise the allegation to set the scene

The Case in support of the Trust

- The Trust's representative i.e. the Investigating Officer will present the Trust's management case to the Hearing Panel, in the presence of the employee and their representative, and may call witnesses.
- The employee or their representative will have the opportunity to ask questions of the Trust's representative and any witnesses they have called.
- In circumstances where the employee and/or their representative wish/es to ask questions of any witnesses, these should be directed through the Chair of the Panel. This is to avoid the witness feeling harassed or intimidated by cross questioning. It is for the Chair of the Panel to decide whether questions can be allowed.
- The Hearing Panel will have the opportunity to ask questions of the Trust's representative and any witnesses.
- The Trust's representative will have the opportunity to ask their witness further questions on any matter that has been raised in stages above.
- Witnesses will be present only when required to be and shall withdraw immediately afterwards. However, if necessary, they must be readily available for recall until the Hearing is concluded.

The Case in support of the Employee

- The employee or their representative shall put their case to the Hearing Panel, in the presence of the Trust's representative. The employee may call witnesses in support of their case.
- The Trust's representative shall have the opportunity to ask questions of the employee, their representative and any witnesses.
- In circumstances where the management side wishes to ask questions of any witnesses, these should be directed through the Chair of the Panel. This is to avoid the witness feeling harassed or intimidated by cross questioning. It is for the Chair of the Panel to decide whether questions can be allowed.
- The Hearing Panel shall have the opportunity to ask questions of the employee, their representative or any witnesses.
- The employee will have the opportunity to ask their witness(s) further questions on any matter that has been raised in the stages above.

Summing Up

- The Trust's representative will have the opportunity to sum up their case if they so wish.
- The employee or their representative will have the opportunity to summarise their case or speak last.
- Neither party may introduce any new matter at this stage.

The Hearing Panel

The Hearing Panel may be supported by a representative of the HR Department who will arrange for a written record of the Hearing to be made, unless the Hearing has been digitally audio recorded.

Nothing stated above will prevent the Hearing Panel from seeking amplification on any statement made or from asking questions to ascertain whether statements will be supported by evidence.

Where it is identified that insufficient evidence has been submitted to support the case, or that a decision cannot be made due to lack of material evidence, then the Hearing Panel have the right to suspend a decision until appropriate evidence is provided. In such circumstances, the Hearing will be reconvened at the earliest opportunity or the final decision will be communicated in writing.

Adjournments

- Either side may request an adjournment during the Disciplinary Hearing and should do so if time is needed to gather thoughts or if things take an unexpected turn. Permission should be sought through the Chair who will give timescales for adjourning and reconvening.
- The Hearing Panel may at their discretion adjourn the Hearing in order that further evidence may be produced by either party, or adjourn for any other reason.
- During an adjournment, the employee, their representative, the Trust's representative and all witness shall withdraw.

Reaching a decision

- The Hearing Panel will deliberate in private only recalling both parties to clear points of uncertainty on evidence already given. If recall is necessary both parties shall return notwithstanding only one is concerned with the point giving rise to doubt.
- Where possible decisions will be made on the day of the Hearing and will be communicated to both parties by recall. Where this is impractical the Hearing Panel has discretion to make alternative arrangements (e.g. re-convene at a later date or inform by telephone, email or letter).
- Written confirmation of a decision will normally be provided within 5 working days and no longer than 7 working days from the Disciplinary Hearing unless an alternative agreed date is provided during the Hearing..

Possible Outcomes

- No formal warning issued
- First written warning
- Final written warning
- Dismissal with Notice or Summary Dismissal (where this was indicated in advance as a possible outcome of the hearing)

Where a disciplinary sanction is issued, the rationale for the decision and the level of this action will be explained, together with the employee's right of appeal.

Where deemed appropriate the outcome of a Disciplinary Hearing will be provided to the employee's professional body (see Section 10).

Appeal

- The employee will be advised at the Disciplinary Hearing of their right of appeal and this will be confirmed in the letter confirming the outcome of the Disciplinary Hearing.
- A written letter of appeal must be received by the Director of People no later than 10 working days from the date of the Disciplinary Hearing.
- All disciplinary appeals will be conducted in accordance with the procedures laid out in Appendix K (see also Section 8).

7. Disciplinary Hearing Outcomes

In circumstances of serious or gross misconduct, or where attendance becomes a potential risk to the Trust or the staff team concerned, the matter can be considered as potentially resulting in a sanction of Dismissal or Summary Dismissal.

Wherever possible minor conduct issues will initially be dealt with via the Informal Procedure (see section 5.1), however if the problem persists or where the concern is of a more serious nature the disciplinary sanctions below would be instigated. Other than in circumstances of serious or gross misconduct the following stages would normally be sequential and would follow after reasonable and appropriate support procedures had been applied. However there may be circumstances where the issues under consideration are not considered so serious as to warrant potential dismissal/summary dismissal but are considered serious enough, if proven, to warrant of a sanction up to and including a Final Written Warning even though no previous warning has been issued. In these circumstances the Trust retains discretion to proceed at the level considered most appropriate.

The employee or ex-employee has the right to be represented by a Trade Union representative or supported by a workplace colleague at each formal stage of the procedure.

Legal representation at Disciplinary Hearings will not usually be permitted and will only be considered in exceptional circumstances. Where an employee makes request to be allowed to be legally represented, advice and guidance should be sought from a senior member of the HR Operations Team.

First Written Warning

7.1. A First Written Warning may be issued for any breach of conduct (see definitions above and examples in Appendix A). The minimum duration that a First Written Warning can be issued for is 12 months and the maximum duration it can be issued for is 2 years. In order to avoid any possible misunderstanding, the panel Chair must advise the member of staff during the Hearing and issue a letter to the individual, which should include the following:

- The reasons for the first written warning
- The standards of conduct expected in the future and how this will be monitored
- The duration of the warning
- That further disciplinary action will result if there is a recurrence or failure to maintain sustained standards
- That the first written warning will be cited in the event of any further act of misconduct for the duration of the warning
- That the member of staff can seek a review of the decision by lodging an appeal to the Director of People within 10 working days of the date of the Disciplinary Hearing; the date by which any appeal must be lodged should be included in the outcome letter
- That the warning will be recorded as spent after the designated period subject to satisfactory conduct, but will not be removed from the personal file.

The warning will remain on the employee's personal file for the stated period. If authorised by the employee a copy of the letter should be sent in confidence to their trade union representative or workplace colleague. At the date of expiry, the letter should be crossed through stating that the sanction has been spent, but must not be removed from the personal file.

Final Written Warning

7.2. If there is a further breach of conduct or failure to improve; a final written warning may be issued at the Hearing. If there have not been previous breaches but the shortfall in standards of conduct is sufficiently serious to warrant a final warning but insufficient to justify dismissal then the sanction issued may be a final written warning. The minimum duration that a Final Written Warning can be issued for is 1 year and the maximum duration it can be issued for in exceptional circumstances is 3 years. In order to avoid any possible misunderstanding, the chair of the panel must advise the member of staff during the Hearing and issue a letter to the individual, which should include the following:

- The reasons for the final written warning
- The standards of conduct expected in the future and how this will be monitored
- The duration of the warning

- That further disciplinary action will result if there is a recurrence or failure to maintain sustained standards
- That the final written warning will be cited in the event of any further act of misconduct during the duration of the warning
- That the member of staff can seek a review of the decision by lodging an appeal to the Director of People within 10 working days of the date of the Disciplinary Hearing; the date by which any appeal must be lodged should be included in the outcome letter
- That the warning will be recorded as spent after the designated period subject to satisfactory conduct, but will not be removed from the personal file.

This warning will also state that failure to improve may result in dismissal. The reason for this decision would be outlined at the conclusion of the Disciplinary Hearing.

The warning will remain on the employee's personal file for the stated period. If authorised by the employee a copy of the letter should be sent in confidence to their trade union representative or workplace colleague. At the date of expiry, the letter should be crossed through stating that the sanction has been spent, but must not be removed from the personal file.

Impact of Disciplinary Sanctions on Career Progression

- 7.3. When disciplinary sanctions have been put in place, there will not normally be an opportunity for the individual to gain promotion to any other post until the sanction is spent. However, depending upon the circumstances and seriousness of the case and/or the improvements achieved, there may be circumstances where career development can be achieved. The Line Manager will therefore be responsible for reviewing progress within the disciplinary sanction in liaison with the appropriate representative from the HR Operations Team.

Expiry of Warnings

- 7.4. Expired warnings must not be removed from the personal file at the end of the stated period, but must be crossed through and marked spent. Whilst the details of the investigation cannot be used in future Disciplinary Hearings the information relating to the level and duration of any spent sanction(s) will be included in the informed employment history of that employee.

Dismissal

- 7.5. Normally an employee will not be dismissed for a first offence, or without at least one prior warning, except in cases of gross misconduct or a breach of a statutory requirement.

Only a manager with the authority to dismiss can dismiss an employee (See Appendix C) and therefore the chair of the panel must have the appropriate level of authority.

Dismissal with Notice

In cases where a final written warning has been issued and where there has been no improvement, failure to sustain improvement and/or where further breaches of a serious nature have occurred the employee may be dismissed.

Where the employee is dismissed in these circumstances, notice will be given in line with the terms and conditions of employment (contractual notice) or payment in lieu may be ordered by the Chair. Regardless of being dismissed, the employee will be entitled to payment of any outstanding annual leave accrued as at the date of the termination of their employment.

Summary Dismissal (Dismissal Without Notice)

In cases where the panel finds there has been gross misconduct, (examples of which are set out in Appendix A) the employee may be summarily dismissed and their employment will terminate immediately without payment in lieu of notice.

Regardless of being summarily dismissed, the employee will be entitled to payment of any outstanding annual leave accrued up to the date of dismissal.

In all cases of dismissal, the employee will receive written confirmation of their dismissal and this will include the grounds for the decision for their dismissal, the effective date of the dismissal and their right of appeal which must be lodged with the Director of People within 10 working days of the date of the Disciplinary Hearing; the date by which any appeal must be lodged should be included in the outcome letter. The letter of confirmation should be issued normally within five working days of the hearing but no later than 7 working days.

Action Short of Dismissal/Alternative Sanctions

- 7.6.** There may, exceptionally, be cases where management take the view that whilst dismissal or summary dismissal may be warranted, organisational and employee circumstances may best be served by action short of dismissal/summary dismissal itself. In these circumstances, one of the following sanctions may be considered as an alternative sanction to dismissal/summary dismissal only. These sanctions will normally be applied immediately and on a substantive basis, and will not attract any pay protection. If the employee does not agree with this course of action, then dismissal or summary dismissal as appropriate (notwithstanding the outcome of any appeal) will be the only alternative.

1. Final written warning for no less than 3 years duration

2. Final written warning with demotion and disciplinary transfer
3. Final written warning and disciplinary transfer

The Trust cannot create posts to accommodate demotion or disciplinary transfers, and consideration of such a course of action will only be possible where a suitable vacancy exists at the time of the Disciplinary Hearing.

8. Right of Appeal

The opportunity to appeal against a disciplinary decision is essential to natural justice and will not normally result in any increase in penalty. Employees may choose to raise appeals on a number of grounds, which could include:

- perceived unfairness of the judgement through the Disciplinary Hearing Panel failing to consider all the information raised,
- overly harsh sanction issued,
- new evidence coming to light that they believe would affect the outcome which was not available at the time of the Disciplinary Hearing,
- procedural irregularities or
- the findings of the Disciplinary Hearing on a point of fact.

The employee will be advised at the Disciplinary Hearing of their right of appeal.

Based on the grounds notified for the appeal, the purpose of an appeal is to consider whether the disciplinary action taken was fair and reasonable taking into account all the circumstances, and whether the correct procedures were applied in deciding on the disciplinary action. The appeal must take account of any evidence that has emerged since the initial Disciplinary Hearing, but the role is not to re-hear the original case.

All disciplinary appeals will be conducted in accordance with the appeals procedure laid out in Appendix K.

9. Actions Outside the Workplace and Criminal Proceedings

Any employee who is arrested on any charge or served with a summons on a criminal charge must inform his/her manager as quickly as possible. Failure to do so will be treated as a disciplinary offence in itself.

In circumstances where actions outside of the workplace take place the Trust has a duty of care to protect the integrity of the Trust and its staff, service users and stakeholders.

In the event of misconduct or gross misconduct outside of the workplace, action may be taken in accordance with the procedures in the following cases.

- Where an employee's actions are liable to bring the Trust into disrepute. Examples include misuse of funds, media publicity which could damage the Trust's good reputation or breaches of confidentiality
- Where an employee is charged with a criminal offence which is considered relevant to their employment

Managers must consult with their designated representative from the HR Operations Team whenever there is a police investigation for advice on whether and at what stage disciplinary action should be taken. If an employee is accused of a crime which might lead to a custodial sentence, any internal disciplinary enquiry/hearing should always take place in addition to the police enquiry.

Where the police are material witnesses to the incident, it may be appropriate for them to produce a written statement or (where operationally practical) to attend an internal Disciplinary Hearing.

A criminal offence unconnected with employment will not automatically be treated as a reason for disciplinary action. However, if the offence is one which makes the person unsuitable for his or her type of work or unacceptable to other employees, disciplinary action may be taken, including dismissal, if in the circumstances this is regarded as a fair and reasonable action.

Written records of all instances referred to in these circumstances should be retained within the Workforce Directorate.

10. Conflict of Interest Employment – Outside Employment

Employees must not engage in outside employment that may conflict with their Trust employment or be detrimental to it. The Trust will be responsible for judging whether a conflict of interest exists and the individual will be responsible for ensuring that the employer is aware of any activity which may present a potential conflict. This includes the Trust's duty of care under the Working Time Regulations. Employees and workers must declare in writing outside employment which may conflict with their Trust employment.

It is essential that a member of staff who wishes to undertake paid work outside of their contracted working hours discuss this with their manager and seek authorisation to ensure that no conflict of interest is identified. If a conflict is identified the appropriate Director will be consulted and a decision will be made as to whether the outside activity breaches any of the Trust's policies or disciplinary rules, and appropriate action will be taken. A written record of the decision must be retained on the employee's personal file.

11. Reporting to Professional Bodies

The Trust may notify the specified statutory body that is responsible for the professional registration of particular groups of staff in all cases of dismissal or resignation connected with adverse findings in civil proceedings or a criminal conviction.

The Trust will also be at liberty to report any other factual information which in its reasonable opinion, believes ought to be in the possession of the employee's professional body, or statutory regulating organisation. The individual affected by disciplinary sanction or dismissal will be notified of this action in the letter confirming disciplinary action or dismissal.

The Trust will ensure that any guidance issued by the relevant statutory body relating to professional registrations which have lapsed or about to lapse is followed when making the notification.

12. Reporting to the Disclosure & Barring Service (DBS)

Where a proven allegation of misconduct pertains to, or has implications for, the safeguarding of children or vulnerable adults the disciplinary panel must make an assessment whether the matter requires referral to the Disclosure & Barring Service (DBS). Advice and guidance should be sought from the Trust's Safeguarding Leads and/or HR as appropriate.

13. Support for Employees

It is recognised that the disciplinary process is likely to be a stressful experience for all employees concerned. The organisation has therefore produced Guidance for Employees Involved in the Disciplinary Procedure, which can be found at Appendix I and this will be sent to all employees involved in the disciplinary process. Additionally, advice and guidance on how to cope with stress can be found on the Trust's intranet and the staff counselling service can be accessed through Occupational Health. The rights of staff involved in a disciplinary procedure can be found at Appendix I.

The disciplinary process can also be as equally stressful for witnesses and they should be provided with Guidance for Witnesses, which can be found at Appendix D. Witnesses should also be made aware of the support services available.

14. Monitoring Compliance with and the Effectiveness of the Policy

Standards/ Key Performance Indicators

14.1. Key performance indicators comprise:

- Equality data on employees subject to sanctions under the policy
- Number of incidences suspension

Process for Implementation and Monitoring Compliance and Effectiveness

14.2. Line managers are responsible for ensuring this policy is implemented across their area of work.

Support for the implementation of this policy will be provided by the HR Team.

14.3. Monitoring compliance with this policy will be the responsibility of the HR Team.

Where non-compliance is identified, support and advice will be provided to improve practice.

15. Equality Impact Assessment

Table 1: Equality impact Assessment

Group	Positive Impact	Negative Impact	No Impact	Comment
Age			X	
Disability			X	
Gender			X	
Gender Reassignment			X	
Human Rights (rights to privacy, dignity, liberty and non-degrading treatment), marriage and civil partnership			X	
Pregnancy			X	
Maternity and Breastfeeding			X	
Race (ethnic origin)			X	
Religion (or belief)			X	
Sexual Orientation			X	

16. References

- Employment Rights Act 1996
- Employment Act 2002
- Employment Act 2008
- Advisory, Conciliation and Arbitration Service (ACAS)
(<http://www.acas.org.uk>)

17. Associated Documentation

- Capability Procedure
- Bullying & Harassment Policy
- Equal Opportunities Policy
- Grievance/Dispute Policy
- IT Security Policy
- Maintaining High Professional Standards in the Modern NHS and the Trust's Disciplinary Framework
- Recruitment & Selection Policy and Procedure
- Maximising Attendance Policy
- Smoking Policy
- Suspension Policy
- Trust's Standing Financial Instructions
- Whistle-blowing Policy