



## EMPLOYEE CONDUCT POLICY

**Co-ordinator:**

Director of HR  
and Strategic  
Change

**Reviewer:**

Grampian Area  
Partnership  
Forum

**Approver:**

Grampian Area  
Partnership Forum

**Signature****Signature****Signature****Identifier:**

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This policy will  
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**APPLICATION:** The provisions of this policy, which was developed by a partnership group on behalf of GAPF, apply to all staff except Medical and Dental staff who have their own arrangements for dealing with such matters.

**NHS GRAMPIAN  
EMPLOYEE CONDUCT POLICY**

**If you have difficulty understanding the English language, this policy can be made available to you in a language of your choice.**

**This policy can also be made available, on request, in other formats e.g. in large print or on a computer disk.**

**For all requests for copies of this policy in another language, or in an alternative format, please call the Corporate Communications Team on 01224 554400.**

# **NHS GRAMPIAN EMPLOYEE CONDUCT POLICY**

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# **NHS GRAMPIAN EMPLOYEE CONDUCT POLICY**

## **1 INTRODUCTION AND POLICY STATEMENT**

NHS Grampian (NHSG) recognises that, in the main, employees do their best to achieve high standards of conduct and do not attend work with the intention of behaving inappropriately.

It is inevitable, however, that some employees may, on occasions, fail to meet acceptable standards and it is the intention of this Policy to promote the resolution of such difficulties in a supportive and proactive way.

To achieve this, managers need to have confidence in their staff and allow them the freedom to undertake their duties. They should also provide employees with the support and assistance needed to overcome any shortcomings.

The objectives of this Policy are, therefore, to:

- i) create an opportunity for taking positive action, which will assist employees to overcome deficiencies in conduct, where the normal process of conduct management has failed
- ii) provide a fair and consistent method of dealing with the failure of employees to observe standards of conduct relating to work and
- iii) assist the team, service and organisation to operate effectively
- iv) be supportive to all parties

## **2 PRINCIPLES**

- (a) The policy applies to all members of staff except Medical and Dental staff who have their own arrangements for dealing with such matters.
- (b) Managers must reaffirm confidentiality with all concerned at every stage of this procedure and information will only be shared on a “need to know” basis.
- (c) All cases will be addressed without unreasonable delay.

- (d) While the Employee Conduct Policy is primarily concerned with taking corrective rather than punitive action, an employee's conduct may, nevertheless, ultimately lead to disciplinary action and/or dismissal. This policy, consequently, enables managers and Staff Side Representatives\* to work together, at all levels, to seek appropriate resolutions in the management of the employee's conduct.
- \* (For the purposes of this policy, Staff Side Representatives are accredited representatives of a Trade Union, Staff Association or Professional Organisation.)
- (e) No officer who has been involved in the investigation, or assisted in the compilation of the case, or has a family relationship with any of the parties, should be a Member of the Disciplinary Panel which hears the case or of a subsequent Appeals Panel.
- (f) Employees have the right to state their own case and to be represented by a Trade Union or Staff-Side Organisation representative (including full-time Trade Union Officers), or be accompanied by a colleague, friend, or relative not acting in a legal capacity at all stages of the procedure.
- (g) Employees also have the right to:
- be informed of the allegations against them and provided with any supporting evidence against them and
  - respond to allegations made against them before any decisions are reached
- (h) No disciplinary action will be taken against an accredited representative of a Trade Union, Staff Association or Professional Organisation until the circumstances of the case have been discussed with a full time officer of the Trade Union/Staff Association/Professional Organisation concerned.
- (i) Special attention should be paid to communications with employees who have limited experience of working life, employees with learning difficulties, employees with physical disabilities or mental health issues which may impact on their ability to understand or express themselves and employees whose first language is not English.
- (j) As NHSG wishes to foster a culture which ensures that individuals are only held to account when they have been truly culpable, failures in systems and/or processes and/or failure to provide the necessary training will be taken into account.

Notwithstanding this, however, it is recognised that there will be occasions when there is no alternative to formal disciplinary action, although it is accepted that efforts should be taken to avoid such action.

### **3 STANDARDS OF CONDUCT**

It is a responsibility of all managers to make their staff aware of the standards, systems and processes to be observed and the standards of conduct expected of employees.

Consequently:

- i) the rules/standards of conduct relating to a department or work area, including any changes, should be clearly specified and apply equally to all employees and
- ii) an explanation of the standards **must** form part of the departmental induction process

Examples of unacceptable conduct/behaviour, which may lead to disciplinary action being taken, are given in **APPENDIX 1**.

### **4 APPLICATION OF POLICY**

The Employee Conduct procedures can be entered at any level dependent on the severity of the alleged misconduct - see the Employee Conduct Flowcharts which is attached as **APPENDIX 2**.

### **5 HUMAN RESOURCES INVOLVEMENT**

HR Teams are available to Managers and employees for advice and support at all stages of the process and **must** be consulted before a manager decides to take formal disciplinary action.

### **6 STANDARD SETTING**

Standard Setting does not form part of the Disciplinary Procedure and is dealt with separately in NHSG's Standard Setting Support Policy.

It should be noted, however, that relevant current standard setting letters may be referred to where a member of staff has failed to achieve the required standard and is the subject of a Disciplinary Hearing.

## 7 SUSPENSION

Suspension is not a disciplinary measure and any employee who is suspended will receive the pay that they would have received if the suspension had not been implemented.

Suspension will always be for as short a period as is possible and a review must be conducted before any extensions beyond the period originally advised to the employee is agreed. Any extension to a period of suspension **must** also be confirmed to the employee in writing.

- (a) Suspension will only be used in exceptional circumstances where, based on the evidence available:
  - i) it is considered necessary for the protection of the employee, or other persons, or public funds, or the maintenance of effective service delivery, or
  - ii) the continued presence of the member of staff in the work situation could obstruct the proper investigation of the alleged offence(s), or
  - iii) allegations of bullying or harassment have been made and it is considered necessary, for whatever reason, that neither party should attend work
- (b) Before suspending an employee the manager concerned must ensure that all alternatives to suspension have been carefully considered and must be able to provide reasons to support their decision for rejecting these alternatives.

Alternatives to suspension could include:

- (i) cessation of certain duties/responsibilities whilst continuing others
- (ii) oversight and supervision of certain duties by another member of staff

- (iii) restriction of working to designated areas other than the site of the alleged incident
  - (iv) short term redeployment to another area of work
- (c) Unless the situation dictates that immediate suspension is necessary, discussion will take place with the employee and their representative, before suspension is implemented.
- (c) If it is necessary to escort the employee from the premises, this **must** be done discreetly – refer to the **SUSPENSION GUIDANCE NOTE/ CHECKLIST** at **APPENDIX 3**.
- (e) The nature of suspension is such that the employee will be unable to enter NHSG premises, or to contact others employees other than their Staff Side representative or someone acting on their behalf, during the period of suspension unless an arrangement is made through their line manager or a relevant HR manager.

NHSG recognises that this can isolate individuals from their normal organisational support mechanisms and, while some individuals will receive support from Staff Side organisations, this will not be the case for all employees.

Consequently, when it is considered that a period of suspension is essential, a Contact Officer\* will be appointed to support the employee who has been suspended. The Contact Officer will be responsible for keeping the suspended employee up to date with the progress of the investigation and to act as a recognised point of contact for any issues that the employee may wish to raise.

\* The Contact Officer will not have been previously involved in the case and will be designated by the suspending manager after discussion with the employee. The Contact Officer can be a colleague from the employee's department, a colleague from another department, a member of the HR Team etc.

- (f) The employee will be provided with written confirmation of the suspension and any conditions attaching, within two working days of being suspended.

This letter will provide details of:

- i) the arrangements which the employee is required to meet with regard to keeping in contact with NHSG during the period of suspension and
- ii) the name and contact details of the designated Contact Officer.

The employee must also be advised that failure to observe the terms of their suspension may be treated as a disciplinary matter.

- (g) During suspension, the circumstances leading to the decision to suspend should be reviewed on a regular basis and consideration given to whether it would be appropriate for the employee to return to work. This includes a review of alternatives mentioned in (b) above
- (h) Where appropriate, proper provision should be made for a dignified return to work following suspension. Arrangements should, therefore be made for:
  - i) a confirmation of return letter and
  - ii) a discussion between the employee and their manager regarding work related issues
- (i) Communication that a suspension has occurred should be handled on a 'need to know' basis and those who are informed must be advised of the way in which they should respond to questions about the suspended colleague. In the event of media and press attention, a statement will be agreed between the manager, the employee and their representative and issued through the Corporate Communication Directorate.

**See also Appendix 3 – SUSPENSION GUIDANCE NOTE/CHECKLIST.**

## **8 INVESTIGATION**

Where an employee's conduct is suspected to have fallen below the required standard, the relevant line manager will conduct a full investigation, or commission another manager to conduct an investigation, after seeking advice from a member of the HR Team. Where a professional/technical issue is involved, the person conducting the investigation (normally referred to as the Investigating Officer) may also seek advice from staff with the appropriate professional/technical expertise.

However, before embarking upon any investigation, the line manager must advise the employee concerned, in writing, that an investigation is being initiated, the nature of the issue in question and an indication of the anticipated time-scale for completing the investigation. This should be confirmed to the employee in writing.

No disciplinary action may be taken against any employee unless a full and impartial investigation has been conducted and the result of the investigation suggests that there has been potential culpability on the part of the employee concerned

The purpose of any investigation is to establish the **facts** concerning an incident, or a formal complaint of alleged misconduct, by gathering relevant evidence to determine whether there is a case to answer.

It must be clearly understood that investigations are not Disciplinary Hearings, although investigations may lead to disciplinary proceedings if it is found, following an investigation, that there is a case to answer.

Where, following an investigation it is found that there is no case to answer, the manager will advise the employee of this outcome **in writing**.

Investigations must be conducted in line with the process outlined in **APPENDIX 4 - CONDUCTING AN INVESTIGATION**.

**See also:**

**APPENDIX 5 - EMPLOYEE RESIGNS AFTER/DURING AN INVESTIGATION**

**APPENDIX 6 – STATUTORY DISCIPLINARY, DISMISSAL PROCEDURE (SDDP) – for use when it is necessary to terminate a contract of employment because of Redundancy, expiry of a fixed term contract, organizational change, ill health termination etc.**

**APPENDIX 7 – ALLEGATIONS OF CRIMINAL BEHAVIOUR OUTWITH WORK**

## **9 DISCIPLINARY PROCEDURE**

The conduct and procedure to be followed at Disciplinary Hearings and Appeals is given in **APPENDIX 8**.

## 9.1 Invitation to attend a Disciplinary Hearing

In inviting the employee to attend a Disciplinary Hearing, they must be given at least 10 working days notice, in writing, of the date of the hearing and the specific nature of the alleged offence(s). This letter must contain enough information for the employee to understand both what it is they are alleged to have done and the reasons why it is not acceptable and inform them of their right to be accompanied at the Disciplinary Hearing.

It is the employee's responsibility to arrange for their Staff Side representative, colleague, friend, or relative to accompany them to the meeting and to provide them with the appropriate papers.

Where the employee has difficulty reading, or where their first language is not English, the manager must also ensure that the employee is given the opportunity to have the content of the letter explained orally.

When arranging a Disciplinary Hearing, the timing and location of the meeting should be mutually agreed with the employee and/or their representative and care should be taken to ensure that it is held in a private location where there will be no interruptions.

Where, without good reason, an employee fails to attend a Disciplinary Hearing at the agreed date and time arrangements will be made to re-convene the Hearing on another date. However, where, an employee fails to attend a re-convened Disciplinary Hearing without good reason, the Hearing may continue in their absence.

Care must also be taken to ensure:

- (i) that any reasonable adjustments are made to cater for employees who have a disability e.g. arranging the meeting in a location which has wheelchair access and
- (ii) that appropriate arrangements are made to assist any employee whose first language is not English e.g. by providing an interpreter. Where interpretation is required, it is imperative that the interpreter is acceptable to all parties and acts impartially.

## 9.2 Exchange of cases

To allow the Disciplinary Panel\* to prepare for the hearing they must be in possession of both the management and staff-side Statements of Case, plus any witness statements/corroborating evidence, at least 2 (two) working days prior to the Hearing.

- \* The Disciplinary Panel will be chaired by the relevant manager, as per the Scheme of Delegation and will also be comprised of a representative of HR and, where appropriate, a person with the relevant professional/technical knowledge. No member of the Disciplinary Panel will have had previous involvement in the matter under consideration i.e. they will **not** have been involved in the investigation, or assisted in the compilation of the case.

To achieve this, the Investigating Officer must submit four copies of the management Case, including any witness statements/ corroborating evidence, to the appropriate HR Representative at least 7 (seven) working days before the date of the Hearing. On receipt of the management Case and any witness statements/ corroborating evidence, the HR Representative will immediately forward a full copy to the employee concerned.

The employee must provide the HR Representative with a full copy of the staff side Case and any witness statements/ corroborating evidence, at least 3 (three) working days before the date of the Hearing.

On receipt of the staff side Case, the HR Representative will arrange for the appropriate number of copies of the staff side Case to be produced and forward one full copy of both the management and the staff side Case to each member of the Disciplinary Panel.

### 9.3 The Disciplinary Panel

The Disciplinary Panel will be chaired by an appropriate relevant manager, in line with the Scheme of Delegation and will also comprise a representative of HR and, where appropriate, a person with relevant professional/technical knowledge. No member of the Disciplinary Panel will have had previous involvement in the matter under consideration e.g. they will **not** have been involved in the investigation, or have assisted in the compilation of the case, or have a family relationship with any of the parties etc.

### 9.4 Grievances raised during the Employee Conduct process

In the event that an employee raises a grievance related to a disciplinary case in course against them, the disciplinary process will be suspended until the grievance has been dealt with.

Depending on the nature of the grievance, NHSG may arrange for a manager other than the employee's line manager to deal with either the grievance or the disciplinary process.

## 9.5 Employee resigns during the Employee Conduct process

See **APPENDIX 5**.

## 9.6 Possible outcomes from a Disciplinary Hearing

The possible outcomes of a Disciplinary Hearing are detailed below and Management reserves the right to enter the Disciplinary procedure at any level depending on the severity of the alleged misconduct.

### 9.6.1 No case to answer

In this case, no action is taken and all references to the allegation are removed from the employee's file.

### 9.6.2 Use of another policy

The Panel may consider that the matter might be better addressed through the use of another policy.

### 9.6.3 First Written Warning

This will normally be issued where either the employee has not achieved the required standard which has been set or there is an incident of misconduct.

The warning will be confirmed in writing to the employee within 5 working days of the Disciplinary Hearing taking place and will remain valid for 6 months. However, if the employee has an extended period of absence i.e. over a third of the monitoring period, during the currency of the warning, the currency of the warning will be extended by the length of the period of absence.

Providing the employee achieves the required improvements/changes and there are no further breaches of discipline in the interim, the warning will be removed from the employee's record on its expiry.

The warning letter will outline:

- (i) the circumstances leading to disciplinary action being taken
- (ii) the improvements/changes required
- (iii) the duration of the warning

- (iv) the potential consequences of the required improvements/changes not being achieved and

- (v) the employee's right of appeal

#### 9.6.4 First and Final/Final Written Warning

A Final Warning will normally be issued after a first written warning if the employee's conduct does not reach the required standard.

A First and Final Warning, however, may be issued where a Panel believes the misconduct concerned merits this level of sanction, irrespective of whether previous disciplinary action has been taken.

Final and First and Final Warnings will be confirmed in writing to the employee within 5 working days of the hearing taking place and will normally remain valid for 12 months. There may, however, be instances where the panel decides that, because of the severity of the matter, the warning should be valid for a period in excess of 12 months. However, if the employee has an extended period of absence i.e. over a third of the monitoring period, during the currency of the warning, the currency of the warning will be extended by the length of the period of absence.

Irrespective of the duration of the warning it will be removed from the employee's record on its expiry providing the employee achieves the required improvements/changes and there are no further breaches of the issue in the interim.

The warning letter will outline:

- (i) the circumstances leading to disciplinary action being taken

- (ii) the improvements/changes required

- (iii) details of the review arrangements

- (iii) the duration of the warning

- (iv) the potential consequences of the required improvements/changes not being achieved i.e. dismissal and

- (v) the employee's right of appeal

### 9.6.5 Continuous Final Warning

In very exceptional circumstances a panel may decide to issue a Continuous Final Warning i.e. one with no limit of time. Such warnings will only ever be used in circumstances where the panel decides that there are mitigating factors which allow them to issue a Continuous Final Warning **as an alternative to dismissal**.

By its nature, a continuous warning can only be issued once and any breach of the continuous warning which is established by a Disciplinary Hearing **will** result in dismissal.

A Continuous Warning will be confirmed in writing to the employee within 5 working days of the hearing taking place and will clearly show that it has been issued as an alternative to dismissal and has no expiry date.

The warning letter will also outline:

- (i) the circumstances leading to disciplinary action being taken
- (ii) the improvements/changes required
- (iii) the consequences of the required improvements/changes not being achieved or of any further breaches of the conduct/behaviour which resulted in the continuous warning being issued i.e. dismissal and
- (iv) the employee's right of appeal

### 9.6.6 Dismissal

An employee will only be dismissed following a Disciplinary Hearing and in the following circumstances:-

- (a) Persistent disciplinary breach following current warning(s) – such a dismissal will be with pay in lieu of notice
- (b) As a result of persistent and current unsatisfactory behaviour/conduct, where the system of written warnings has been exhausted – this can be on a collective basis and such a dismissal will be with pay in lieu of notice

- (c) As a result of gross misconduct. In cases of gross misconduct the outcome will be summary dismissal i.e. dismissal without notice or pay in lieu of notice.

Formal advice of dismissal will be issued to the employee within 5 working days of the Hearing taken place. Authority to dismiss is delegated to the appropriate level of management below the Chief Executive.

In addition, whenever the organisational structure permits, the dismissing officer will be at least one level above the officer who issued previous warnings.

- 9.6.6 Where appropriate e.g. in issues relating to fraud, patient safety etc., consideration should be given to notifying any professional body of which the employee is a member.

## 10 APPEALS

An employee wishing to exercise their right of appeal must do so in writing, stating the reasons for the appeal, within 15 working days of the date of the Disciplinary Hearing. An Appeal Hearing should be held within 20 working days of receipt of notification of the appeal although, in exceptional circumstances it may be necessary to extend this period by mutual agreement. The employee must be given at least 10 working days notice of the date of the Appeal Hearing.

### 10.1 Appeal Process

The conduct and procedure to be followed at an Appeal Hearing is given in **Appendix 9**. To allow the Appeal Panel to prepare for the Hearing, both management and staff side must submit a full copy of the written statement of case, including any witness statements, to the appropriate HR Manager at least 5 working days prior to the Appeal Hearing. Where necessary these time limits can be changed with the agreement of both parties.

On receipt of both statements of case the HR Manager will arrange to forward copies to the management and Staff Side presenters and to the Appeal Panel members.

The Appeal Panel will be chaired by an appropriate relevant manager, in line with the Scheme of Delegation, who is at a more senior level than the manager who made the original decision. It will also comprise a representative of HR and, where appropriate, a person with relevant professional/technical knowledge.

No member of the Appeal Panel will have had previous involvement in the matter under consideration e.g. they will **not** have been involved in the investigation, or have assisted in the compilation of the case, or have a family relationship with any of the parties etc.

The Chair of the Appeal Panel is responsible for making the decision, after taking account of advice from the other panel members.

The Appeal Panel cannot impose disciplinary action on the member of staff which is more severe than the action taken by the original disciplinary panel.

## 10.2 Levels of Appeal

- (a) First Warning, First and Final Warning, Final Warning and Continuous Final Warning

There is one level of appeal, at an appropriate level in line with the process outlined in 10.1, against all Formal Written Warnings.

- (b) Dismissal

There are two levels of appeal, at the appropriate levels in line with the process outlined in 10.1, against dismissal. In the final level of appeal, at least one member of the Panel will be a non-executive director.

**BEHAVIOUR COVERED BY THE DISCIPLINARY PROCEDURE**

The examples given below should be seen as a guide rather than an exhaustive list. Depending upon the context, circumstances and degree, therefore, the items listed below could be instances of misconduct, or gross misconduct.

**Misconduct**

- a) Absenteeism/bad time keeping
- b) Consistent sub standard conduct e.g. a pattern of re-offending after the end of a standard setting
- c) Negligence i.e. actions which deviate from what can be reasonably expected of a person with acceptable competence
- d) Failure to carry out reasonable instructions or to observe departmental/NHS Grampian rules and regulations
- e) Unauthorised absence from work
- f) Persistent time wasting or misuse of organisation time
- g) Misuse of property or equipment (including email, internet and intranet)
- h) Demonstrable culpability in incidents, or in a series of minor incidents and/or failure to notify such incidents or damage
- i) Unacceptable behaviour e.g. insubordination, offensive/abusive conduct
- j) Deviation from agreed standards of dress or general appearance

**Gross Misconduct**

The following examples of misconduct could lead to summary dismissal i.e. dismissal without notice. Managers should ensure that account is taken of any other policies and procedures in relation to allegations of this nature. Again this list is intended as a guide and each situation will be judged on its merits.

- a) Theft or unauthorised possession of property belonging to the NHS, patients, employees or members of the public
- b) Dishonesty, fraud or attempted fraud – see the NHSG Fraud Policy.

- c) Acts or threats of physical violence whilst on duty or on NHSG premises against other staff, patients or members of the public
- d) Accessing pornography by any means during working hours and/or on NHSG premises and/or using NHSG's equipment. In the event of child pornography being accessed in this way the matter will be referred to the police.
- e) Breach of confidentiality, i.e. disclosure of information to persons not authorised to possess it
- f) Criminal offences outside work which may affect the ability of an employee to carry out his/her contract of employment - see section below and Appendix 4
- g) Wilful recklessness e.g. intentional or non-accidental damage to property or equipment belonging to the NHS, patients, employees or members of the public
- h) Intoxication and/or drug abuse – see NHSG's Alcohol and Drug policy
- i) Contravention of safety regulations or failure to follow safe working practices, thereby endangering others or oneself
- j) Gross insubordination i.e. willful disobedience or non-compliance
- k) Bullying of another employee, patient or member of the public - see NHSG's Dignity at Work Policy
- l) Falsification of records
- m) Publishing defamatory, confidential, or generally unacceptable comments or views about NHS Grampian, its employees or its patients in any medium, including social networking sites
- n) Publishing any photographs of employees or patients in any medium, including social networking sites, without first obtaining formal permission

## Criminal Offences

Automatic disciplinary proceedings should not be taken against an employee who is charged with, or convicted of, a criminal offence committed outwith the working environment. By contrast, any offence arising out of the employee's conduct at work should be the subject of a disciplinary investigation. Where the offence is outwith the working environment, each situation requires to be considered individually on the basis of whether the employee's conduct warrants action because it has implications with regard to the individual's employment, or because it is unacceptable to other employees. Managers **MUST**, therefore, seek advice from the relevant HR manager before initiating any disciplinary proceedings.

In situations where it is considered that the conduct warrants investigation under the disciplinary procedure the following should be noted:

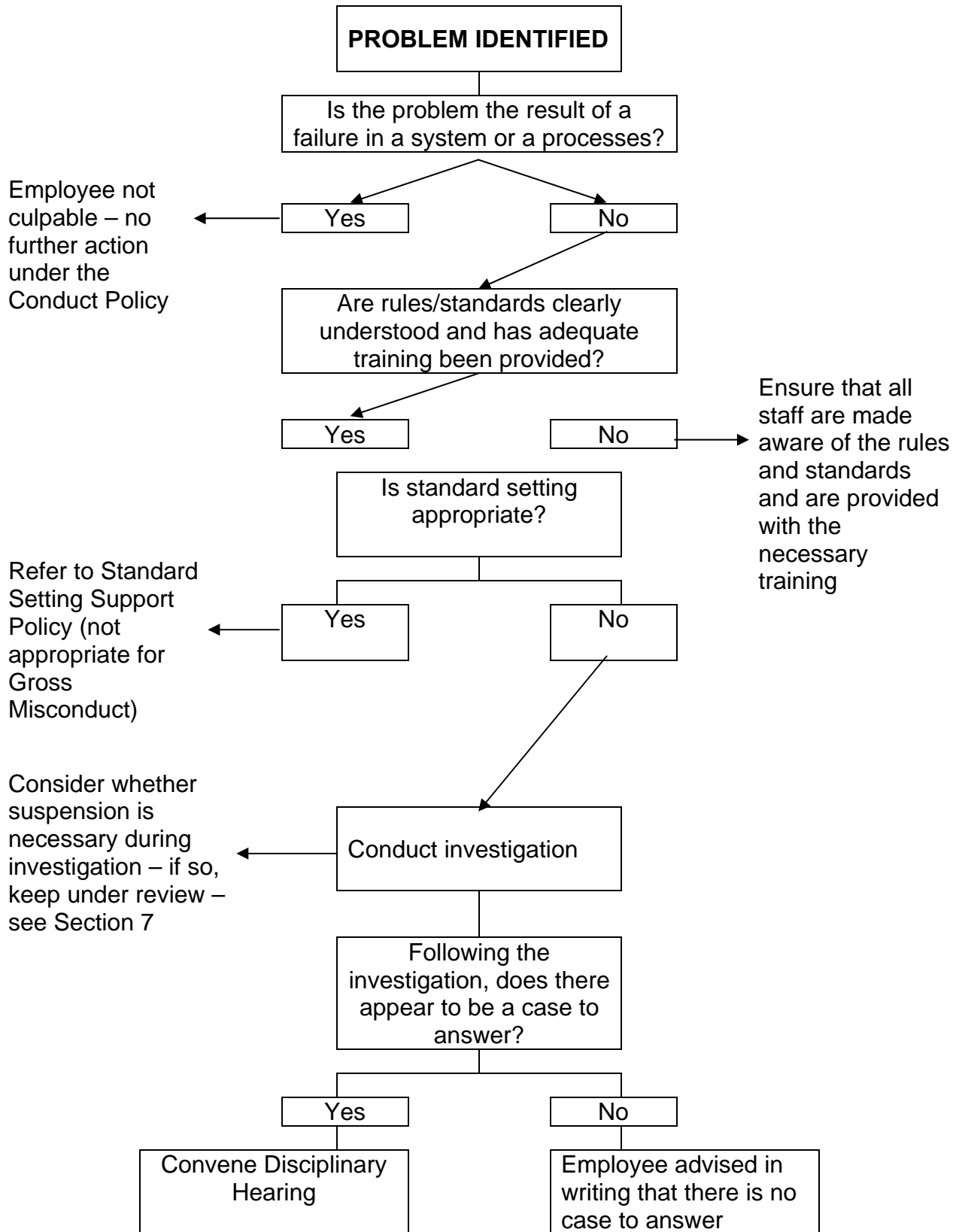
- An investigation into the facts of the case should be undertaken and, where possible, should include a meeting with the employee.
- It is not necessary to await the outcome of any criminal prosecution before taking action.
- The employee's refusal to co-operate with internal disciplinary investigations will not, in itself, stop NHSG from taking action. In these situations the employee should be advised in writing that unless further information is provided a decision will be taken, up to and including dismissal, on the basis of the information available.

If the employee attends a disciplinary investigation or Hearing, they can be asked to give an account of the matter under consideration and asked points of clarification. However, the employee should **not** be subjected to cross examination which tests the credibility of their evidence as this may have the effect of prejudicing any future criminal proceedings.

In some cases the nature of the offence may have no bearing on the employees employment, but the employee may not be available for work because they are in custody or on remand. Under such circumstances the absence will be considered as absence without leave and will be unpaid, although payment will be made for any period of such absence during which the employee uses outstanding annual leave.

Where, following a criminal conviction the individual is unable to carry out the duties of the job for which they are employed e.g. an employee who is employed as a driver has their driving license revoked, NHSG will consider whether suitable alternative work is available at the time of the disciplinary Hearing. In these circumstances, the manager will need to decide, after discussion with the employee, their representative and an appropriate member of the HR Team, whether the job can be kept open or if redeployment to an alternative post should be on a permanent basis. Redeployment can only take place with the consent of the employee concerned and if there is no consent, the manager must consider proceeding to dismissal.

EMPLOYEE CONDUCT FLOWCHART



**SUSPENSION GUIDANCE NOTE/CHECKLIST**

**Where practicable an appropriate Staff-side Representative should be present at this meeting.**

**1 Inform the employee -**

- of the alleged offence and the grounds for suspension
- that suspension is not a disciplinary measure - purpose is to protect all concerned and to allow a thorough investigation
- that they will remain on normal full pay
- that suspension is pending investigation which may or may not result in disciplinary action
- what arrangements, if any, the employee is required to meet regarding reporting in during the period of suspension
- that they must not to come on site without permission from either yourself or the HR Manager
- that if the conclusion of the investigation is that a Disciplinary Hearing is necessary, they will be given 10 days written notice of the date, time and location of the Hearing
- of the name and contact details of the designated Contact Officer
- of the agreed time limits of the suspension

Other than in exceptional circumstances, this should be done in a face to face meeting.

**2 Ask the employee -**

- to give you their ID badge and any relevant work-related documents, equipment, keys etc and
- not to discuss the allegation(s) with colleagues other than their representative until the investigation is complete and reaffirm need for confidentiality

### **3 Offer the employee appropriate support -**

Support should be offered, particularly if the employee is distressed and this could be provided by the Occupational Health Service, the Staff Counsellor, a Staff Side representative etc. You could also offer to contact a member of their family on their behalf.

### **4 Escort the employee discreetly from the premises -**

If the employee has driven to work, check whether they feel fit to drive home or if they would prefer that you make alternative arrangements e.g. a taxi paid for by NHSG. It is essential to ensure that the employee gets home safely and if they express the wish to drive home, ensure that they are fit to do so.

### **5 Ensure the appropriate Line Manager is informed -**

Where an employee has been suspended by someone other than their line manager, the appropriate line manager should be informed as soon as possible. The line manager is responsible for providing written confirmation of the suspension and ensuring a thorough investigation.

### **6 Written confirmation of the suspension -**

Confirmation of the suspension, including all the information already given verbally (see Section 1 above) should be issued within 2 working days. Managers should liaise with their HR Team - ideally before the suspension but, if this is not practicable, as soon as possible thereafter.

### **7 Investigation –**

The matter must be investigated by an appropriate manager as quickly and as thoroughly as possible.

### **8 Review of the suspension -**

During suspension the circumstances leading to this course of action being taken should be reviewed and consideration given as to whether it may be appropriate for the staff member to return to work.

## **9 Duration of the extension -**

Suspension will always be for as short a period as is possible and any extensions beyond the period originally advised to the employee must be confirmed to them in writing.

The employee has the right to question the extension.

## CONDUCTING AN INVESTIGATION

### 1 INTRODUCTION

Where an employee's conduct is suspected to have fallen below the required standard, or where a specific complaint has been received in respect of an employee's alleged misconduct, a full and impartial investigation **must** be conducted before any disciplinary action is taken against the employee concerned.

The purpose of any investigation is to **establish the facts** concerning an incident, or a formal complaint of alleged misconduct, by gathering relevant evidence to determine whether there is a case to answer.

Investigations are **not** Disciplinary Hearings, although they may lead to disciplinary proceedings if it is found that there is a case to answer.

### 2 GUIDING PRINCIPLES WHEN CONDUCTING INVESTIGATIONS

The conduct of any investigation which may lead to disciplinary action must be:

**(a) Fair**

Investigations must be conducted in a fair, consistent, reasonable, non-discriminatory and impartial manner.

**(b) Proportionate**

The scale of the investigation should be proportionate to the matter under investigation

**(c) Confidential**

Allegations, complaints and the details of investigations will only be disclosed to those who are directly involved in the process.

**(d) Natural Justice**

Investigations should follow the principles of natural justice i.e. an employee has the right to know in advance and in writing, the nature of any allegation that is made against them. They also have the right to be interviewed and to state their case as part of a subsequent investigation.

All employees have the right to be treated with dignity and NHSG will not tolerate the harassment, or victimisation (including informal pressures), of any member of staff who provides assistance in an investigation. Any instances of such action will be treated as misconduct.

**(e) Right to be accompanied**

Any employee who is being interviewed, either as a witness or as the person being investigated, has the right to be accompanied in line with the provisions of Section 2 (f) of this policy.

**(f) Timescales**

Investigations must be conducted promptly and completed in the shortest possible time-scale; this should be within a period of six weeks, unless there are exceptional circumstances. Where reasonable, an extension may be mutually agreed in writing between all the parties involved and such agreement should not be unreasonably withheld.

### **3 STEPS TO FOLLOW WHEN PLANNING AND CONDUCTING INVESTIGATIONS**

The investigating officer must determine what form of investigation is required in light of the nature of the issue, bearing in mind the principle of proportionality outlined in Section 1 above.

Investigating Officers need to be aware that some investigations require to be carried out in line with the provisions of the following policies:

**Dignity at Work Policy**

Investigations of alleged workplace bullying and harassment will be conducted under the provisions of the Dignity at Policy.

**Fraud Policy**

Where there is cause to suspect that a criminal offence has been committed involving public funds or property, account must be taken of NHSG's Fraud Policy under which there are provisions in place for Counter Fraud Service to conduct investigations.

**Policy on the Use of Internet and email**

Where there is cause to suspect that an employee has made use of the NHSG's email or internet system(s) to access or send offensive material e.g. sites or images which relate to pornography, gender, ethnicity, race, sexual orientation, religious or political convictions, disability etc., the Investigating Officer must contact the IT Security Officer for advice on whether the police should be notified.

These policies can be found on the intranet. Employees can also obtain a copy from their line manager, HR Team or Staff Side representative.

### **3.1 Prior to the investigation**

Where an investigation concerns a complaint or allegation, the complaint must be in writing and, if required, the complainant will be provided with assistance to do so.

Before embarking upon any investigation, the line manager must advise the employee concerned that an investigation is being initiated, the nature of the issue in question and the anticipated time-scale for completing the investigation. This should be confirmed to the employee in writing.

Where the employee has difficulty reading, or whose first language is not English, the manager must also ensure that the employee is given the opportunity to have the content of the letter explained orally.

The Investigating Officer(s) must be familiar with NHSG's Employee Conduct Policy, plus any other document which may be specifically pertinent to the investigation e.g. the Dignity at Work Policy, the Fraud Policy etc. and their appointment must take account of the need to ensure an impartial outcome.

### **3.2 During the investigation**

The investigation will gather and test relevant evidence, including any relevant documentary evidence e.g. absence records, time sheets etc and interviewing any relevant witnesses including, where appropriate, seeking specialist advice. It should also establish whether standards are in place and whether these are known and consistently applied.

In cases of sub standard performance or professional incompetence, the investigation should also establish whether appropriate training had been given.

Any failures in systems and processes, including a failure to provide necessary training, must be identified and taken into account during the course of the investigation.

#### **3.2.1 Interviews**

All interviews will include the opportunity for an employee to provide information, make a statement and answer questions relating to the issue under investigation. Interviewees may only, however, ask questions which relate to the investigation process or to seek clarification.

The interviewee should be given the opportunity to be accompanied as outlined in Section 2(f) of this policy, although the person accompanying them may not answer questions on their behalf. [See also NHS Grampian's Guidance for Employees and Non Employees Accompanying Employees to Meetings which is available on the intranet.]

The services of an independent language interpreter should be made available to interviewees whose first language is not English. Investigating Officers must also ask if interviewees require any reasonable adjustments for disabilities or ill-health to allow them to participate fully e.g. ground floor meeting room with wheelchair access, documentation in braille/large print, venue with induction loop etc.

### 3.2.2 Written statements

As an investigation may lead to a Disciplinary Hearing, written statements must be taken from relevant witnesses although only statements that have been signed and dated by the person making the statement may be taken into account as evidence at a subsequent Hearing. In the event that a witness declines to sign their statement, the Investigating Officer must set aside the information given in that statement, which may not be referred to at any subsequent Hearing.

### 3.2.3 The Investigation Report

A confidential and objective investigation report, which will form the basis of any subsequent management case, will be prepared. This report will:

- outline the background to the investigation, including the nature of the complaint or issue.
- explain the process used in the investigation, the timeline of events and describe and weigh the evidence and
- include a conclusion that recommends whether or not there is a case to answer.

The Investigation Report will also include, as appendices:

- a) the letter of complaint in cases where allegations have been made, plus any other relevant correspondence
- b) copies of all signed witness statements and

- c) all other evidence collected during the investigation e.g. documents, photographs etc.

### **3.3 Following the investigation**

If, following a full investigation, it is concluded that no culpability lies with the employee under investigation, they should be advised of this in writing and all details of and references to, the investigation should be removed from their file.

**EMPLOYEE RESIGNS AFTER/DURING AN INVESTIGATION**

Where a Disciplinary Hearing has been scheduled and the employee concerned resigns from their post, but is still employed at the date of the hearing i.e. working their notice, the Hearing should go ahead as planned.

However, where a Disciplinary Hearing has been scheduled and the employee concerned resigns from their post and the scheduled date of the Hearing is after the end of resignation period, the Hearing should be cancelled, as the employee/employer relationship will have ceased prior to the Hearing.

Under these circumstances the details of the investigation and/or management statement of case should be held on file and the information taken into account in the event that a reference be requested e.g. "... disciplinary hearing was scheduled for (insert the allegation) however the employee left employment prior to the date of the scheduled Hearing". Advice of the implication that their resignation under these circumstances will have on future references must be advised to the employee at the time that they leave NHS Grampian.

Where the investigation uncovered professional registration concerns, the professional lead/advisor, in discussion with the line manager, should consider whether referral to the appropriate body is necessary. Referral would include the management statement of case and a note that the person concerned left employment prior to a Disciplinary Hearing being held. The (former) member of staff must be advised that a referral has been made.

Where an investigation under the Employee Conduct Policy has commenced and the employee being investigated resigns from their post the investigation should be completed. If the decision, following the investigation, would have been for a Disciplinary Hearing to be arranged, this information should be held on file and taken into account should a reference be requested e.g. "... was subject to an investigation under the employee conduct policy for (insert allegation), however employee left employment prior to a Disciplinary Hearing being arranged".

Again, advice of the implication that their resignation under these circumstances will have on future references must be advised to the employee at the time that they leave NHS Grampian.

**NON DISCIPLINARY DISMISSAL PROCEDURE**

There is a legal requirement when considering terminating an employees' Contract of Employment for reasons other than conduct to use the following process which is best practice.

Reasons that a manager may have for considering the termination of an employee's contract for a reason other than one of a disciplinary nature include:

- redundancy
- expiry of a fixed term contract
- ill health termination
- Some other substantial reason e.g. employee does not appear for work and has not notified manager or responded to letters from manager

The formal process, which **must** be adhered to is as follows:

Issue letter 1 – which **must** contain the following points:

- Invitation to meeting (date, time and venue)
- Reason for meeting
- Employee's entitlement to representation at meeting
- What employee should do if unable to attend meeting

Issue letter 2 – which **must** contain the following points:

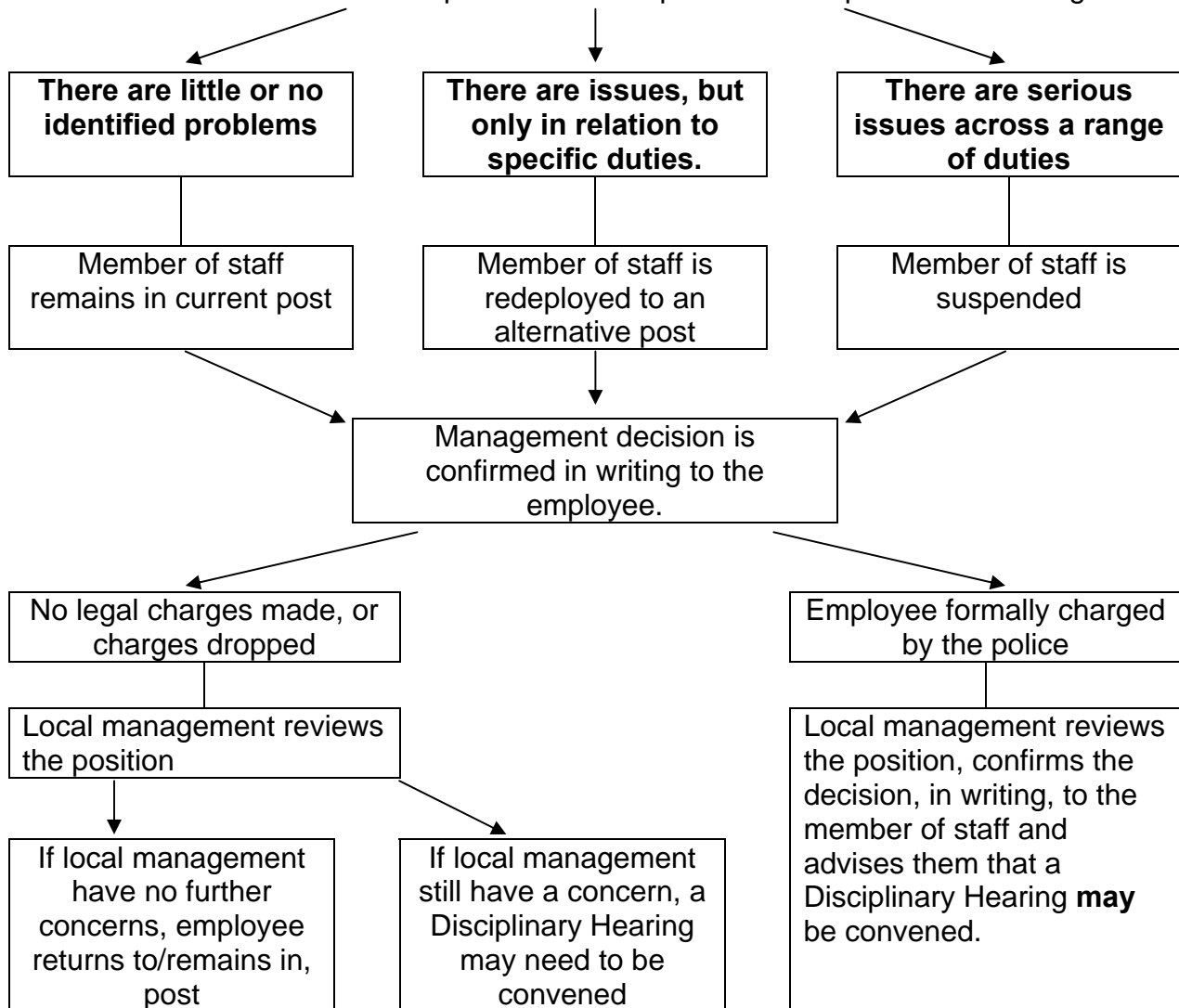
- Details of the outcome of the meeting referred to in letter 1
- Detail of the discussion at that meeting
- Employee's right to appeal against decision

Any manager considering a termination of employment for any of the above reasons must discuss the matter with a member of their HR team before commencing this process.

**ALLEGATION OF CRIMINAL BEHAVIOUR OUTWITH WORK e.g. Theft, Assault, Drug Abuse etc**

Line manager, in conjunction with HR, reviews the position to assess whether the employee should remain in their current post, pending the outcome of the criminal investigation:

- is it safe e.g. is there a question of patient vulnerability?
- does it breach the required relationship of trust with patients or colleagues?



**NOTE:** Members of staff have the right to be accompanied by an officer from their Trade Union/Staff Organisation, a fellow member of staff, or a friend or relative not acting in a legal capacity

**CONDUCT OF AND PROCEDURE AT DISCIPLINARY HEARINGS**

The Panel hearing the case will vary depending on which stage of the procedure is involved but will, as a minimum, comprise a Management Chair and a member of the HR Team who will act in an advisory role. In cases of professional misconduct, a senior person from the profession concerned will also sit on the Panel.

No one who has had any previous involvement in the case e.g. anyone who was involved in the investigation, or who assisted in the compilation of the case, or who has a family relationship with any of the parties involved in the Hearing will sit as a Panel Member.

In reaching a decision the Chair of the Panel will consider the following factors:

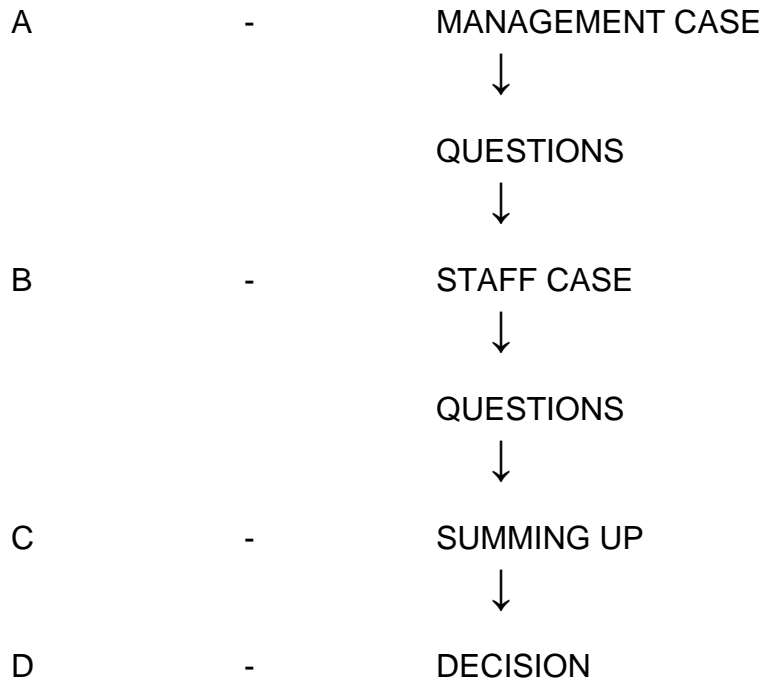
- any relevant disciplinary record and whether the employee concerned was aware of the standards required
- the employee's position, length of service and general conduct
- the action taken in similar cases in the recent past
- whether the proposed action is reasonable after due consideration of the evidence presented and any mitigating factors

The Chair of the Panel must therefore establish:

- what actually happened, including the when and where and taking account of witness statements
- what rules, if any, were broken and whether they had been clearly made known, in advance, to the employee
- what the employees explanation was and whether there were any mitigating circumstances for the employee's actions, or failure to act

## PROCEDURE

The purpose of the Hearing is to inform the employee, in detail, of the alleged offence against them and to give them the opportunity to state their case before a decision is reached. The basic pattern that will be followed is:



### A MANAGEMENT

1. Management present their case and call any witnesses.
2. Both the management presenter and witnesses are open to questions from the staff-side and the Panel.
3. The management presenter may re-question the witness/es to clarify any points that have arisen from the staff-side/Panel questions.

### B STAFF-SIDE

1. Staff-side present their case and call witnesses.
2. The employee, the representative and witnesses are then open to questions from the management presenter and from the Panel.

3. The staff-side presenter may then re-question the witness(es) to clarify any points that have arisen from the management-side/Panel questions.

## **C SUMMING UP**

The management and staff-side representative will be given the opportunity to sum up their cases. The staff-side always have the opportunity to speak last. Neither side may introduce new information at this stage.

## **D DECISION**

Both management-side and staff-side must leave at the end of the summing up stage.

The Panel will discuss and come to a decision in private. Where practicable the Panel will recall the staff-side and management presenters to inform them of the decision verbally. All decisions must be communicated in writing within 5 working days.

## **ADDITIONAL PRINCIPLES**

### **1. Witnesses**

Witnesses will only be present while giving their particular evidence and will leave once they have given their evidence. Witnesses will not be recalled unless clarification of a particular aspect is crucial to the outcome of the Hearing.

### **2. Adjournment**

The Panel may agree to halt a Hearing temporarily where this would assist its progress.

### **3. Clarification**

In the course of making their decision after the formal management and staff submissions, the Panel may require clarification from one or other of the sides. In such circumstances both sides must be present in order that they hear the query and have the opportunity to respond.

#### **4. Departures from Procedure**

The procedure is designed to be fair and a degree of flexibility may be used where it is agreed that this would assist in eliciting the facts. The basic pattern of approach should, however, be followed and any amendments to the procedure outlined above must be agreed.

**CONDUCT OF AND PROCEDURE AT APPEAL HEARINGS**

The conduct and procedure outlined in **APPENDIX 8** for Disciplinary Hearings will also apply to Appeal Hearings.

The purpose of an Appeal Hearing, however, is not to re-hear the original case, but to provide the employee with the opportunity to challenge the conduct of the initial hearing i.e. whether it was conducted fairly and whether the disciplinary action was reasonable in the circumstances. It also allows management to review the original decision and reach a view on whether, based on all the circumstances, the original outcome was fair and equitable.

It is clear from current unfair dismissal case law that, where an original decision to dismiss may have been unfair for a procedural reason and the opportunity for this to be rectified is taken, the decision to dismiss can still be upheld. In some circumstances, therefore, it may be appropriate for an appeal to be heard as a complete rehearing of the case rather than a mere submission of management's conclusions and the employee's point of view.

## SAMPLE LETTER 1

**PRIVATE AND IN STRICT CONFIDENCE - HAND DELIVER OR SEND BY  
RECORDED DELIVERY**

Dear

### **CONFIRMATION OF SUSPENSION**

With reference to the recent discussion between you and \_\_\_\_\_ on \_\_\_\_\_ and in accordance with NHS Grampian's Employee Conduct Policy, I write to confirm that you have been suspended from duty, on full pay, with effect from \_\_\_\_\_ pending investigation into the following alleged offence(s):

---

In order to provide you with appropriate support during this period of suspension, \_\_\_\_\_ is designated as your Contact Officer. This support will include keeping you up to date with the progress of any investigation and acting as a recognised point of contact for any issues you may wish to raise. Please note, however, that your Contact Officer is not a substitute for your Trade Union, Staff, or Professional Organisation representative

During the period of your suspension, you should not enter NHS Grampian premises, other than to visit a patient or attend hospital appointments, or contact other employees within the organisation, unless this is agreed in advance. Similarly, you should not discuss the allegation(s) against you with colleagues other than your representative and the members of any investigating team.

As you may be required to attend for interview(s) in connection with the investigation during your period of suspension, you should ensure your availability during normal working hours and should not, therefore, work for another employer during such hours.

You are also required to ensure that your ID badge and any keys etc., which are the property of NHS Grampian, are returned to your manager while you are suspended from duty.

The outcome of this investigation will be made known to you as soon as possible and may result in a disciplinary Hearing. If this is the case you will be informed in writing of the date, time and location of any Disciplinary Hearing and you will have the right to be accompanied at the hearing by a representative of a Trade Union, Staff Organisation or Professional Organisation, or by a colleague, friend or relative not acting in a professional capacity.

As agreed, you should report to \_\_\_\_\_ (provide a note of the name of the appropriate officer and specify the method and frequency of reporting) during the period of your suspension.

Should your address and/or telephone number change during the period of suspension, you must advise me immediately.

Yours sincerely

Manager (with authority to suspend)

c.c. HR Representative  
Contact Officer  
Employee's file  
Staff Side Representative (where appropriate)

## SAMPLE LETTER 2

### PRIVATE AND IN STRICT CONFIDENCE - HAND DELIVER OR SEND BY RECORDED DELIVERY

Dear

#### ATTENDANCE AT A DISCIPLINARY HEARING

Following the recent investigation, of which you are aware, I am writing to advise you that a Disciplinary Hearing, which you are required to attend, has been arranged for \_\_\_\_\_ on \_\_\_\_\_. This Hearing will be held at \_\_\_\_\_.

The purpose of the Hearing is to determine whether or not disciplinary action is to be taken against you in connection with the following alleged offence(s)

\_\_\_\_\_

This Hearing is being convened in terms of NHS Grampian's Employee Conduct Policy, a copy of which is enclosed and will be conducted in accordance with Section 9 and Appendix 8 of that document. There are a number of possible outcomes from a Disciplinary Hearing these are:

- No case to answer
- First warning
- Final warning
- First & Final warning
- Continuous warning
- dismissal

You have the right to be accompanied at the Hearing by a representative of a Trade Union, Staff Organisation or Professional Organisation, or by a colleague, friend or relative not acting in a professional capacity. Should you wish to exercise your right in this regard you should advise me as soon as possible of the name, address and, if appropriate, organisation of the person who will be acting for you. You should note that you are responsible for arranging for a representative to accompany you and for providing them with copies of all relevant papers.

The Disciplinary Panel will comprise \_\_\_\_\_ (names and designations)

A copy of management's Statement of Case is enclosed and I would ask you to provide me with your Statement of Case, plus any corroborating evidence, at least three days before the date of the Disciplinary Hearing i.e. by \_\_\_\_\_

You have the right to call witnesses in your defence at the Hearing or, if any witness is unable to attend the Hearing, to submit written evidence from such witnesses. I would, therefore, ask you to provide me with the names and designations of any witnesses you wish to call or, alternatively, written statements from witnesses, when you submit your Statement of Case.

In the event that you fail to attend this Hearing without having notified me that the above date and/or time is unsuitable for you, it may be held in your absence.

Yours sincerely

HR Representative

**Enc. Copy of NHS Grampian's Employment Conduct Policy.**

c.c. Manager,  
Panel Members,  
Employee's file  
Staff Side Representative (where appropriate)  
(Where the employee has been suspended a copy should also be sent to the Contact Officer)

## **SAMPLE LETTER 3**

**PRIVATE AND IN STRICT CONFIDENCE - HAND DELIVER OR SEND BY  
RECORDED DELIVERY**

Dear

### **OUTCOME OF DISCIPLINARY HEARING – NO ACTION TO BE TAKEN**

I refer to the Disciplinary Hearing which you attended in \_\_\_\_\_ at \_\_\_\_\_ on \_\_\_\_\_ in connection with the alleged offence(s) outlined in our letter of \_\_\_\_\_ and am pleased to confirm the decision taken by the Panel Members that no disciplinary action is to be taken against you.

All references to this matter will now be destroyed.

Yours sincerely,

Manager

c.c. HR Representative  
Staff Side Representative (where appropriate)  
(Where the employee has been suspended a copy should also be sent to the  
Contact Officer)

## SAMPLE LETTER 4

### PRIVATE AND IN STRICT CONFIDENCE - HAND DELIVER OR SEND BY RECORDED DELIVERY

Dear

#### CONFIRMATION OF FIRST WARNING

I refer to the letter from \_\_\_\_\_ dated \_\_\_\_\_ and to the subsequent Disciplinary Hearing held in \_\_\_\_\_ at \_\_\_\_\_ on \_\_\_\_\_ in connection with the alleged offence outlined in that letter and would confirm the decision taken at that Hearing, that you be issued with a First Warning in accordance with NHS Grampian's Employee Conduct Policy.

The offence for which this Warning is being issued is as follows:

\_\_\_\_\_

In the light of this Warning, the following changes/improvements in your conduct are required:

\_\_\_\_\_

This warning will be placed in your personal file, but will be removed after a period of 6 months provided that there is no re-occurrence of the offence detailed above. If, during this period you breach this Warning, you may be subject to further Disciplinary Action.

You have the right of appeal against this decision – see Section 10 of NHS Grampian's Employee Conduct Policy, a copy of which was issued to you at the time you were invited to attend the Disciplinary Hearing.

Any Notice of appeal should be in writing and must include the reason why you are appealing against the decisions taken and should be sent to \_\_\_\_\_ within 15 days of receiving this Disciplinary Warning i.e. by \_\_\_\_\_.

Yours sincerely

Manager/Chair of Panel

c.c. HR Representative on the panel.  
Staff Side Representative (where appropriate)  
Employee's file

## SAMPLE LETTER 5

**PRIVATE AND IN STRICT CONFIDENCE - HAND DELIVER OR SEND BY  
RECORDED DELIVERY**

Dear

### **CONFIRMATION OF FINAL WARNING** (following previous warning)

I refer to the letter from \_\_\_\_\_ dated \_\_\_\_\_ in which you were issued with a First Warning under the terms of NHS Grampian's Employee Conduct Policy. You were also advised that if you breached the offence within a period of 6 months you could be subject to further Disciplinary Action.

Since then, it was alleged that a further breach was committed and a Disciplinary Hearing was held in \_\_\_\_\_ at \_\_\_\_\_ on \_\_\_\_\_, to consider these allegations.

As a result of this subsequent Disciplinary Hearing, it was decided that you should be issued with a Final Warning in Accordance with NHS Grampian's Employee Conduct Policy.

The offence for which this Warning is being issued is as follows:

\_\_\_\_\_

In the light of this Warning, the following changes/improvements in your conduct are required:

\_\_\_\_\_

This warning will be placed in your personal file, but will be removed after a period of 12 months provided that there is no re-occurrence of the offence detailed above. If, during this period you breach this Warning, you may be dismissed in accordance with NHS Grampian's Management of Employee Conduct Policy.

You have the right of appeal against this decision – see Section 10 of NHS Grampian's Employee Conduct Policy, a copy of which was issued to you at the time you were invited to attend the Disciplinary Hearing.

Any Notice of appeal should be in writing and must include the reason why you are appealing against the decisions taken and should be sent to \_\_\_\_\_ within 15 days of receiving this Disciplinary Warning i.e. by \_\_\_\_\_.

Yours sincerely

Manager/Chair of Panel

cc Line Manager,  
Employee's file  
HR Representative on panel  
Staff Side Representative (where appropriate)

\*Delete as necessary

## SAMPLE LETTER 6

### PRIVATE AND IN STRICT CONFIDENCE - HAND DELIVER OR SEND BY RECORDED DELIVERY

Dear

#### CONFIRMATION OF FIRST AND FINAL WARNING

I refer to the letter from \_\_\_\_\_ dated \_\_\_\_\_ and to the subsequent Disciplinary Hearing held in \_\_\_\_\_ at \_\_\_\_\_ on \_\_\_\_\_ in connection with the alleged offence outlined in that letter and would confirm the decision taken at that Hearing, that you be issued with a First and Final Warning in accordance with NHS Grampian's Employee Conduct Policy.

The offence for which this Warning is being issued is as follows:

\_\_\_\_\_

In the light of this Warning, the following changes/improvements in your conduct are required:

\_\_\_\_\_

This warning will be placed in your personal file, but will be removed after a period of 12 months provided that there is no re-occurrence of the offence detailed above. If, during this period you breach this Warning, you may be dismissed in accordance with NHS Grampian's Management of Employee Conduct Policy.

You have the right of appeal against this decision – see Section 10 of NHS Grampian's Employee Conduct Policy, a copy of which was issued to you at the time you were invited to attend the Disciplinary Hearing.

Any Notice of appeal should be in writing and must include the reason why you are appealing against the decisions taken and should be sent to \_\_\_\_\_ within 15 days of receiving this Disciplinary Warning i.e. by \_\_\_\_\_.

Yours sincerely

Manager/Chair of Panel

cc Line Manager,  
Employee's file  
Staff Side Representative (where appropriate)  
HR Representative on panel

## SAMPLE LETTER 7

**PRIVATE AND IN STRICT CONFIDENCE - HAND DELIVER OR SEND BY  
RECORDED DELIVERY**

Dear

### **CONFIRMATION OF CONTINUOUS FINAL WARNING**

I refer to the letter from \_\_\_\_\_ dated \_\_\_\_\_ and to the subsequent Disciplinary Hearing held in \_\_\_\_\_ at \_\_\_\_\_ on \_\_\_\_\_ in connection with the alleged offence outlined in that letter and would confirm the decision taken at that Hearing, that you be issued with a Continuous Final Warning in accordance with NHS Grampian's Employee Conduct Policy.

The offence for which this Warning is being issued is as follows:

\_\_\_\_\_

In the light of this Warning, the following changes/improvements in your conduct are required:

\_\_\_\_\_

As has already been explained to you, the seriousness of your misconduct warranted dismissal. In considering your case, however, the Panel was of the opinion that the offence in question was out of character and, taking \_\_\_\_\_ into account, (EXAMPLE: your service, previously unblemished record, mitigating circumstances etc) decided to issue a Continuous Final Warning as an alternative to dismissal.

This warning will, therefore, remain in your personal file for as long as you are employed by NHS Grampian and any breach of this Warning will result in your dismissal, in accordance with the provisions of NHS Grampian's Management of Employee Conduct Policy.

You have the right of appeal against this decision – see Section 10 of NHS Grampian's Employee Conduct Policy, a copy of which was issued to you at the time you were invited to attend the Disciplinary Hearing.

Any Notice of appeal should be in writing and must include the reason why you are appealing against the decisions taken and should be sent to \_\_\_\_\_ within 15 days of receiving this Disciplinary Warning i.e. by \_\_\_\_\_.

Yours sincerely

Manager/Chair of Panel

cc Line Manager,  
Employee's file  
HR Representative on panel  
Staff Side Representative (where appropriate)

## SAMPLE LETTER 8

### PRIVATE AND IN STRICT CONFIDENCE - HAND DELIVER OR SEND BY RECORDED DELIVERY

Dear

#### CONFIRMATION OF DISMISSAL (following previous warning)

I refer to the letter from \_\_\_\_\_ dated \_\_\_\_\_ in which you were issued with a \*Final Warning/First and Final Warning in terms of NHS Grampian's Employee Conduct Policy. You were also informed that if you breached this Warning within a period of 12 months you could be dismissed. The offence for which this notice of dismissal is being issued is as follows

\_\_\_\_\_

\*[Delete as appropriate]

At the Disciplinary Hearing held in \_\_\_\_\_ at \_\_\_\_\_ on \_\_\_\_\_ you were dismissed in accordance with NHS Grampian's Management of Employee Conduct Policy.

You will be paid \_\_\_\_\_ weeks pay in lieu of notice and payment in lieu of your outstanding Annual Leave which equates to \_\_\_\_\_ days. Your last day of service with NHS Grampian will, therefore, be recorded as \_\_\_\_\_.

You have the right of appeal against this decision – see Section 10 of NHS Grampian's Employee Conduct Policy, a copy of which was issued to you at the time you were invited to attend the Disciplinary Hearing.

Notice of appeal should be in writing and must include the reason why you are appealing against the decision taken, to \_\_\_\_\_ and be lodged within 15 days of receiving this Confirmation of Dismissal i.e. by \_\_\_\_\_.

Yours sincerely

Manager/Chair of Panel

cc	HR Representative	HR Manager
	Payroll manager	Line manager
	Staff Side Representative (where appropriate)	Employee's file

## SAMPLE LETTER 9

### PRIVATE AND IN STRICT CONFIDENCE - HAND DELIVER OR SEND BY RECORDED DELIVERY

Dear

#### **CONFIRMATION OF DISMISSAL** (without previous warning)

I refer to the letter from \_\_\_\_\_ dated \_\_\_\_\_ and to the subsequent Disciplinary Hearing held in \_\_\_\_\_ at \_\_\_\_\_ in connection with the alleged offence outlined in that letter.

I am now writing to confirm the decision taken, namely that you were summarily dismissed in accordance with NHS Grampian's Management of Employee Conduct policy. Your last day of service with NHS Grampian, including \_\_\_\_ days outstanding annual leave, will be recorded as \_\_\_\_\_ and arrangements will be made for you to be paid up to and including that date.

The offence(s) for which this notice of dismissal is being issued is as follows:

\_\_\_\_\_

You have the right of appeal against this decision – see Section 10 of NHS Grampian's Employee Conduct Policy, a copy of which was issued to you at the time you were invited to attend the Disciplinary Hearing.

Any Notice of appeal should be in writing and must include the reason why you are appealing against the decisions taken and should be sent to \_\_\_\_\_ within 15 days of receiving this Confirmation of Dismissal i.e. by \_\_\_\_\_.

Yours sincerely

Manager/Chair of Panel

cc HR Representative  
HR Manager  
Payroll manager  
Line manager  
Staff Side Representative (where appropriate)  
Employee's file

## SAMPLE LETTER 10

### PRIVATE AND IN STRICT CONFIDENCE - HAND DELIVER OR SEND BY RECORDED DELIVERY

Dear

#### **APPEAL HEARING** (against a Warning)

I refer to your letter dated \_\_\_\_\_ indicating that you wish to appeal to \_\_\_\_\_ against the \*First Warning/First and Final Warning/Final Warning confirmed to you in letter from \_\_\_\_\_ dated \_\_\_\_\_.

\*[Delete as appropriate]

An Appeal Hearing has, consequently, been arranged to take place in \_\_\_\_\_ on \_\_\_\_\_ at \_\_\_\_\_.

This Hearing is being convened in terms of NHS Grampian's Employee Conduct Policy and will be conducted in accordance with Section 10 and Appendix 9 of that document. While you were provided with a copy of the Employee Conduct Policy at the time you were invited to attend the Disciplinary Hearing, I will be happy to provide you with a further copy, on request.

You have the right to be accompanied at the Hearing by a representative of a Trade Union, Staff Organisation or Professional Organisation, or by a colleague, friend or relative not acting in a professional capacity. Should you wish to exercise your right in this regard you should advise me as soon as possible of the name, address and, if appropriate, organisation of the person who will be acting for you.

The Appeal Panel will comprise \_\_\_\_\_ (names and designations)

I would ask you to provide me with your Statement of Case, plus any corroborating evidence, at least five before the date of the Appeal Hearing i.e. by \_\_\_\_\_. A copy of management's Statement of Case will be passed to you immediately I receive it.

You have the right to call witnesses in your defence at the Hearing or to submit written evidence from any witness who is unable to attend. I would, therefore, ask you to provide me with either the names and designations of any witnesses you wish to call, or written statements from witnesses who are unable to attend the Hearing, when you submit your Statement of Case.

In the event that you fail to attend this Appeal Hearing without having notified me in advance that the above date and/or time is unsuitable for you, it may be held in your absence.

Yours sincerely

HR Representative

cc Chair of Panel/Manager  
Assistant HR Manager/HR Manager  
Presenting line manager  
Staff Side Representative (where appropriate)  
Employee's file

## SAMPLE LETTER 11

### PRIVATE AND IN STRICT CONFIDENCE - HAND DELIVER OR SEND BY RECORDED DELIVERY

Dear

#### **APPEAL HEARING** (against Dismissal)

I refer to your letter dated \_\_\_\_\_ indicating that you wish to appeal to \_\_\_\_\_ against the Notice of Dismissal confirmed to you in letter from \_\_\_\_\_ dated \_\_\_\_\_.

An Appeal Hearing has, consequently, been arranged to take place in \_\_\_\_\_ on \_\_\_\_\_ at \_\_\_\_\_.

This Hearing is being convened in terms of NHS Grampian's Employee Conduct Policy and will be conducted in accordance with Section 10 and Appendix 9 of that document. While you were provided with a copy of the Employee Conduct Policy at the time you were invited to attend the Disciplinary Hearing, I will be happy to provide you with a further copy, on request.

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The Appeal Panel will comprise \_\_\_\_\_ (names and designations)

I would ask you to provide me with your Statement of Case, plus any corroborating evidence, at least five before the date of the Appeal Hearing i.e. by \_\_\_\_\_. A copy of management's Statement of Case will be passed to you immediately I receive it.

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In the event that you fail to attend this Appeal Hearing without having notified me in advance that the above date and/or time is unsuitable for you, it may be held in your absence.

Yours sincerely

HR Representative

cc Chair of Panel/Manager  
Assistant HR Manager/HR Manager  
Presenting line manager  
Staff Side Employee's file