



Disciplinary Policy

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The CCG is committed to an environment that promotes equality, embraces diversity and respects human rights both within our workforce and in service delivery. This document should be implemented with due regard to this commitment.

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Version Control Sheet

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DISCIPLINARY POLICY

1.0 POLICY STATEMENT

- 1.1 The Disciplinary Policy applies to all staff and is in accordance with all legal requirements and ACAS guidance. The policy aims to encourage employees to achieve and maintain the required standards of conduct, performance and attendance.
- 1.2 It ensures fairness and consistency in the treatment of individuals. In cases where an employee fails to attain the required standard the disciplinary policy will be instigated and this may result in disciplinary action.
- 1.3 The CCG believes that employees are motivated by their responsibilities and involvement in their work and not the threat of disciplinary action; and that employees understand the need for high standards of behaviour and conduct and that action has to be taken where those standards are not met.
- 1.4 Disciplinary issues concerning the Chief Officer or Chair will be referred to the Board of the Organisation. Cases will be progressed by the Board in accordance with the principles and procedures set out in this policy.
- 1.5 The policy applies to all employees. Healthcare professionals must comply with the standards of their regulatory or professional bodies and allegations relating to professional performance or misconduct.

2. PRINCIPLES

- 2.1 Alleged breaches of conduct, performance or attendance will be fully investigated before any disciplinary action is taken and wherever possible, the manager will attempt to resolve the matter through informal discussion with the employee.
- 2.2 Managers considering whether or not an issue should be progressed to a disciplinary hearing should discuss the matter with a representative from the HR Service Provider before making a decision.
- 2.3 All cases of suspected fraud within the CCG must initially be referred to the Chief Finance Officer and Local Counter Fraud Specialist prior to a full investigation being initiated as required under the Standing Financial Instructions.
- 2.4 This is to assess the case and exercise discretion as to the need to involve others or whether to allow the matter to be dealt with internally. If the latter is preferred, the Counter Fraud Protocol and Whistleblowing Policy will apply.
- 2.5 No disciplinary action will be taken against a trade union representative without firstly discussing the matter with the relevant full time trade union officer.
- 2.6 Employees will be informed in writing of any issues causing concern and given the opportunity to present their views at a disciplinary hearing before a decision is made.
- 2.7 Employees are entitled to be accompanied at all formal meetings by a Trade Union Representative or work colleague (not acting in a legal capacity)

- 2.8 If the employee has been requested to attend a disciplinary hearing they must inform the Chair of the Disciplinary Panel of their chosen companion, at least 2 working days in advance of the meeting.
- 2.9 The employee may not be accompanied by a colleague whose presence would prejudice the meeting or who might have a conflict of interest. It would also be unreasonable for an employee to ask to be accompanied by a colleague from a remote location when someone suitably qualified was available on site.
- 2.10 Should there be any dispute regarding the chosen companion that cannot be resolved, the matter will be escalated to a HR representative or the HR service provider.
- 2.11 Employees are required to attend all meetings relating to the disciplinary process. If they, or their companion, are unable to attend the arranged meeting, they must give notice and reasons why they are unable to attend.
- 2.12 The meeting will then be rescheduled to a mutually convenient time, within 10 working days of the original date, wherever possible.
- 2.13 However, where an employee fails to attend such meetings without reasonable grounds, then the meeting may be held in their absence. The employee will be informed of this in writing.
- 2.14 If an employee has a valid objection to the person appointed to undertake the investigation or to hear the case, they must raise this objection in writing with a representative of the HR service provider.
- 2.15 The level of disciplinary action to be taken will be determined according to the seriousness and nature of the alleged misconduct.
- 2.16 Once the formal disciplinary procedure has been initiated subsequent misconduct within the warning period may lead to further, and perhaps more serious, disciplinary action, which may ultimately lead to dismissal.
- 2.17 Warnings are active from the date of issue for the periods detailed in Section 8.1, except in exceptional circumstances.
- 2.18 No employee will be dismissed for a first instance of misconduct however, summary dismissal may occur in the case of Gross Misconduct.
- 2.19 The employee will have the right of appeal against any disciplinary warning or sanction issued in the formal stages of the procedure. Please refer to Part 2, Section 6 of the procedure on Appeals.
- 2.20 The CCG will ensure that all managers with responsibility for disciplinary issues are suitably trained and have the necessary knowledge and skills.
- 2.21 Should an employee raise a complaint either under the Grievance Policy or the Dignity at Work Policy whilst subject to action under this policy, the disciplinary process may be temporarily suspended in order to deal with the grievance.
- 2.22 Where an initial investigation into the complaint, conducted by another manager, finds that the grievance and disciplinary cases are related, it may be appropriate to deal with both issues concurrently.

- 2.23 If the grievance complaint is found to have no bearing on the matters being investigated under this policy then the disciplinary proceedings will continue from the point at which they were suspended. In any event, advice should be sought from an HR Representative.
- 2.24 Data is held and destroyed in accordance with the provisions of the Data Protection Act 1998 and any Authority/CCG policy which derives from that Act.
- 2.25 All matters relating to any part of this procedure will be treated in strict confidence. Any breach of this confidentiality may render those responsible, liable to disciplinary action.
- 2.26 However, it must be remembered that legislation requires the accused to be made aware of the allegations against them and the name(s) of those making the allegations along with witnesses.

3. RESPONSIBILITIES

3.1 Responsibility of CCG

- 3.2 The CCG is responsible for the provision of a policy and procedure on discipline.
- 3.3 Through its line management structure, the CCG will ensure this policy is applied fairly and equitably and that staff are aware of the standards of conduct required.
- 3.4 The CCG will oversee the introduction, operation and monitoring of this policy to ensure its fair and consistent application.

3.5 Responsibility of Human Resources Service Provider

- 3.6 The HR Service Provider will provide training to staff, as appropriate and provide advice and support to line managers on the operation of this policy.
- 3.7 The HR Service Provider will promote a consistent approach to discipline in accordance with accepted standards of good personnel practice and employment legislation.

3.8 Responsibility of Line Managers

- 3.9 Line Managers will ensure that this policy is applied fairly and consistently in their own team and area of responsibility.
- 3.10 Line Managers will ensure that employees are aware of the conduct, standards and behaviour required by the CCG

3.11 Responsibility of Employees

- 3.12 Employees must co-operate in all stages of any disciplinary investigation.
- 3.13 It is the employees' responsibility to inform their Trade Union representative or work colleague of the date and time of any meetings.
- 3.14 Employees must also inform HR of the name of the person supporting them at least 2 days in advance of the hearing.

4.0. PROCEDURE

- 4.1 The disciplinary procedure is detailed in PART 2 and should be read in conjunction with the appendices.

5.0 SCHEME OF DELEGATION

Informal procedure	Line Manager or equivalent level manager from elsewhere within the organisation
Formal procedure	Line manager or equivalent level manager from elsewhere within the organisation or the line manager's direct manager if the line manager has been previously involved or implicated
Appeal following formal procedure	Line Manager's manager or equivalent who has not previously been involved or implicated
Dismissal Hearing	Chaired by Chief Officer's delegated representative plus one other manager and an HR representative.
Appeal against dismissal	Chaired by a Chief Officer plus one other manager and HR representative

6.0 EQUALITY STATEMENT

- 6.1 In applying this policy, the CCG will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.
- 6.2 An Equality Analysis has been carried out on this policy and can be viewed in Human Resources.
- 6.3 As part of the CCG's equal opportunities monitoring, all disciplinary hearings are monitored on a rolling annual basis.
- 6.4 Subsequently information may be held on the disciplinary monitoring register longer than the duration of the warning itself.

7.0 MONITORING AND REVIEW

- 7.1 The policy and procedure will be reviewed every 3 years by the CCG Board in conjunction with operational managers and Trade Union representatives. Where review is necessary due to legislative change, this will happen immediately.
- 7.2 The implementation of this policy will be audited on an annual basis by the Corporate Governance Committee.

PART 2 – DISCIPLINE PROCEDURE

1.0 PROCEDURE

- 1.1 If an employee fails to meet the required standards of performance, conduct or attendance, they may be subject to this disciplinary procedure.
- 1.2 At all stages the employee will be told of the reason for using this procedure.
- 1.3 Management will ensure that the changes in performance, conduct or attendance required and the timescales involved are reasonable, achievable and where possible agreed by all parties. Please refer to the Managing Attendance at Work Policy and the Capability Policy for further information and guidance.
- 1.4 Further misconduct, or expiry of the review period without improvement, may lead to progressive disciplinary action which may ultimately result in dismissal.
- 1.5 This procedure may also apply where cases of unacceptable conduct take place outside the working environment.

2.0 INFORMAL STAGES

- 2.1 Where there is an identified failure in performance, the procedure in the Managing Work Performance Policy will be implemented. Where unsatisfactory progress is made towards the agreed performance level, the formal stages of the Disciplinary Policy will apply.
- 2.2 Where levels of attendance are a cause for concern, the procedure in the Managing Attendance Policy will be implemented.
- 2.3 In cases of suspected minor misconduct in relation to conduct or behaviour, the following process will be followed:
 - The employee's line manager will speak to the individual, in private, as soon as possible after an issue comes to light. This is a discussion aimed at establishing the circumstances of the conduct and encouraging improvement.
 - If, during the discussion, it becomes evident that there is no problem the manager will confirm to the employee that no formal disciplinary action will be taken.
 - Where an improvement in conduct is required, the manager must make sure the employee understands what needs to be done, and over what period of time.
 - The required improvement, the length of the review period and any sanctions imposed, e.g. the withdrawal of flexitime, will be confirmed in writing following the meeting and the letter will also include the consequences of a failure to improve.
 - Further meetings will be held to review progress during, and at the end of, the review period. Notes of all meetings will be taken and agreed.
 - If, during the initial discussion, it becomes obvious that the matter may be more serious, the meeting will be adjourned and the employee advised that an investigation will be instigated under the formal stages of the disciplinary procedure.
 - If managed informally there is no right to be accompanied by a Union Representative or workplace colleague at any meetings with the line manager.

3.0 FORMAL STAGES

- 3.1 Line Managers may wish to seek advice from an HR representative before using this formal disciplinary procedure.
- 3.2 Before any disciplinary hearing is held, an investigation must take place to establish the facts of the case. This will normally be in the form of a fact finding meeting where notes will be taken.
- 3.3 However in exceptional circumstances and with advice from an HR representative, other forms of evidence may be sufficient.
- 3.4 For example, in the case of short-term persistent absence, absence records, return to work interviews and Occupational Health reports may be used as the basis for disciplinary proceedings.
- 3.5 Normally, the investigation process should take no longer than 4 weeks. Where it is not possible to complete the process within this timescale, the reasons for the delay will be recorded and the expected date for completion of the investigation process communicated in writing to all parties involved.
- 3.6 An employee is entitled to be accompanied at all stages of the formal process by a Trade Union representative or a work colleague (not acting in a legal capacity).
- 3.7 In cases of possible criminal misconduct at work, which may require police involvement, the Local Counter Fraud Specialist and a representative from the HR Service Provider **must** be consulted before contacting the police.
- 3.8 **Managers Authorised to Take Disciplinary Action:-**
- 3.9 To ensure fairness and impartiality, where reasonably practicable, the disciplinary panel should consist of a minimum of two members. The meeting will be led by a manager who has not previously been involved in the matter, in consultation with either another impartial manager or an HR representative.
- 3.10 Where dismissal is a possibility, the disciplinary hearing will be conducted by a Manager authorised to dismiss an employee and an HR Representative.
- 3.11 Please consult the HR Service Provider to establish Managers authorised to dismiss an employee. (Please refer to Part 1, Section 5 of the Policy – Scheme of Delegation).
- 3.12 The outcome of a disciplinary hearing will generally fall into one of the following categories:-
- Case dismissed
 - No action required
 - The employee is required to attend counselling or retraining
 - First written warning
 - Final written warning
 - Dismissal

Also see Section 3.20 of this Procedure for further sanctions.

3.13 **First Written Warning**

3.14 If the issue is serious, a First Written Warning will normally be issued and will be kept on the employee's personal file for 12 months. A copy of the written warning will be kept on file but should be disregarded for disciplinary purposes and reference requests after 12 months from the date of issue.

3.15 **Final Written Warning**

3.16 If the issue is more serious, or if there is still an active First Written Warning in place and insufficient improvement has been made or further misconduct occurs, a Final Written Warning will normally be issued and will be kept on the employee's personal file for 12 months.

3.17 A copy of the written warning will be kept on file but should be disregarded for disciplinary purposes after 12 months from the date of issue.

3.18 **Dismissal with Notice**

3.19 If, within 12 months of the issue of a Final Written Warning, further misconduct occurs or insufficient improvement has been made, the employee will normally be dismissed with notice.

3.20 The employee will be provided with written reasons for dismissal, the date on which the employment will terminate, their entitlement to pay, and the right of appeal. (Please refer to Part 2, Section 6 of the procedure – Appeals)

3.21 The CCG reserves the right to make a payment in lieu of notice.

3.22 **Summary Dismissal**

3.23 Where behaviour or misconduct is sufficiently serious to constitute gross misconduct (see examples in Appendix A) the employee will normally be summarily dismissed - i.e. without notice. In exceptional cases an alternative sanction may be applied. Please refer to section 3.20 of the procedure.

3.24 The employee will be provided with written reasons for dismissal, the date on which the employment will terminate and the right of appeal. (Please refer to Part 2, Section 6 of the procedure – Appeals).

3.25 **Potential Additional Sanctions**

3.26 Additional sanctions may be included after full discussion with an HR Representative who will be able to advise on the appropriateness, equity and viability of any further sanction. These could include, but are not limited to:-

- Demotion or transfer to another job or location;
- Deferred increment;
- Loss of privileges e.g. removal of right to self-certificate absence and the requirement for all absences to be covered by a medical certificate, removal of flexi-time.

4.0 SUSPENSION

- 4.1 This does not constitute disciplinary action or sanction. Suspension is only to be invoked when an individual's continued presence at work places themselves/other person(s) at risk, or hampers any investigation.
- 4.2 If appropriate, suspension should be effected as soon as possible after the matter to be investigated comes to light, or a need for suspension is identified. Suspension will always be on full pay and should be for as brief a period as possible.
- 4.3 It is expected that suspension will be no longer than 4 weeks, but may be extended in exceptional circumstances. Employees who are suspended will be informed in writing of the reasons for the suspension. The necessity or otherwise for suspension, will be agreed between the manager and an HR Representative.
- 4.4 Should it be concluded that no further action is necessary following investigation, a briefing session should be held between the individual, their trade union representative or work colleague if required, and their line manager prior to a return to work.

5. THE DISCIPLINARY HEARING

- 5.1 A disciplinary hearing (See Appendix B) will normally be held by a panel consisting of a manager, who has not been previously involved in the matter, who will act as the Panel Chair.
- 5.2 They will either be accompanied by another appropriate manager or an HR Representative, or in some cases both.
- 5.3 Should the attendance of an HR Representative be required, their role will be to provide advice on Human Resources policies and employment legislation and to ask questions to obtain clarification on any issues that are discussed or new relevant information disclosed. (Please refer to Part 1, Section 5 of the Policy – Scheme of Delegation).
- 5.4 Before the disciplinary hearing the employee will be advised in writing of the purpose of the meeting and details of the complaint or allegation being considered, covering all issues to be discussed.
- 5.5 The individual will be given a minimum of 5 working days notice of the disciplinary hearing. If the individual, or their chosen companion, is not available to attend on the date proposed, the Organisation will endeavour to offer an alternative reasonable date within 10 working days of the original date wherever possible. Note: This meeting will normally only be re-arranged once, except in exceptional circumstances.
- 5.6 Should either party wish to call any witnesses to the disciplinary hearing they must give at least 2 working days notice to the Disciplinary Panel, and have full responsibility for arranging the attendance of these witnesses.
- 5.7 All relevant facts and evidence will be made available to the employee at least 5 working days prior to the disciplinary hearing. Additional information gathered by the employee, that they wish to present at the meeting, must also be made available to the disciplinary panel at least 2 working days prior to the meeting.
- 5.8 Either party may present evidence including details of previous relevant warnings, witness statements, call witnesses and have the opportunity to ask questions.

- 5.9 Adjournments may be called by the panel at any time during the hearing should new facts emerge which require investigation or clarification. If the employee becomes distressed an adjournment may be called in order for them to regain their composure. Should the employee be unable to continue, the meeting will be adjourned to a later date.
- 5.10 An adjournment must be held in order that there can be a period of dispassionate reflection by the disciplinary panel to consider what action, if any, is to be taken. Where possible, both parties will be verbally informed of the outcome after the adjournment.
- 5.11 The employee will be advised in writing of the outcome of the disciplinary hearing within 7 working days unless a longer period is specified and can be justified.
- 5.12 If disciplinary action is taken, the employee will be informed of the required improvements which are necessary and if applicable details of timescales for achievement, the duration of the warning and the consequence of a failure to improve performance, as required.
- 5.13 The letter must include the date of the disciplinary hearing, the reason for issuing the warning, as well as details of any sanctions which may be imposed.
- 5.14 It should also be noted whether the employee invoked their right to be accompanied. The right of appeal will also be included.

6.0 APPEALS

- 6.1 An employee in receipt of a disciplinary warning or notice of dismissal has the right of appeal.
- 6.2 Appeals, outlining the grounds on which the appeal is being made, must be lodged in writing to the person specified in the notification letter within 5 working days of the receipt of the written notice of disciplinary action or dismissal. The letter must include details of their grounds for appeal. In exceptional circumstances this period may be extended.
- 6.3 The employee must submit details of their grounds for appeal, plus any new evidence they wish to present, to the Appeal Hearing Panel at least 2 working days prior to the appeal meeting.
- 6.4 Appeals will be heard within 5 weeks of receipt of the letter requesting the appeal but either party may, with the consent of the other and in exceptional circumstances, be entitled to extend this period.
- 6.5 The employee must be given at least 5 working days' notice of the date of the appeal hearing.
- 6.6 The Appeals Hearing Procedure (Appendix C) must be followed.
- 6.7 Appeals will normally be heard by a more senior manager to the person taking the first instance disciplinary action unless directed otherwise by the Chief Executive. All appeals will include a representative of the Human Resources Service Provider wherever possible.
- 6.8 The employee will have the right to be accompanied at the Appeal Hearing by either a staff side representative or workplace colleague.
- 6.9 Both parties must provide to the Appeal Hearing Panel, a full written statement of case including the grounds upon which the appeal is presented/resisted, with copies of any documents the party concerned intends to use in evidence, and, the identities of any

witnesses the party concerned intends to call, at least 2 working days prior to the Appeal Hearing.

6.10 The decision of the panel will be communicated to both parties verbally, following the adjournment wherever possible, and in any case will be confirmed later in writing (again to either party), no later than 5 working days after the Appeal Hearing.

6.11 The decision of the appeal panel is final.

7.0 KEEPING RECORDS

7.1 It is important, and in the interests of both the CCG and its employees, to keep written records during the disciplinary process.

7.2 Records should be treated as confidential and should be kept no longer than necessary in accordance with the Data Protection Act 1998. This Act gives individuals the right to request and have access to certain personal data.

7.3 Copies of meeting records should be given to the employee including copies of any formal minutes that may have been taken. In certain circumstances, the CCG may withhold some information. However, such action should be taken only after consultation has occurred with a HR representative.

8.0 DURATION OF WARNING / RECORDS

8.1 The duration of warnings will normally be as follows:-

First Written Warning	12 months
Final Written Warning	12 months

In exceptional circumstances and in conjunction with advice from an HR Representative, a longer timescale may be specified at the outcome of the disciplinary meeting.

8.2 A copy of the warnings will be kept on file but should be disregarded for disciplinary purposes after 12 months from the date of issue.

APPENDIX A - EXAMPLES OF GROSS MISCONDUCT

Gross misconduct is behaviour of such a nature that the CCG is justified in no longer tolerating the continued employment of the individual who commits such an offence.

The following are examples of offences that, having given due consideration to all of the circumstances, may be regarded by the CCG as gross misconduct. It is possible that an employee could be dismissed without previous warnings. This list is to be regarded neither as exclusive nor exhaustive:

- Ill treatment/wilful neglect of patients or gross negligence.
- Being under the influence of drink or drugs to the extent of being incapable of carrying out the duties of the post or potentially endangering patients or fellow employees or visitors. When such behaviour is being investigated, medical opinion should be sought. Or the illegal possession of drugs and/or administering of such drugs to oneself or others on health service premises or allowing such a practice to take place.
- Criminal conduct at work.
- Sexual offences or sexual misconduct at work.
- Conduct at work likely to offend decency.
- Violence or other exceptionally offensive behaviour.
- Theft of or unauthorised possession of property belonging to the NHS, to patients, to a fellow employee or to a visitor to NHS premises.
- Fraud or dishonesty, such as stating falsely and intentionally that another employee is in work, defrauding the NHS of resources or wilfully falsifying records or booking or defrauding patients or staff.
- Criminal conduct other than at work. An offence unconnected with work will not in itself be reason for disciplinary action, but when deciding the gravity of such an offence, the CCG will have regard to the relevance of the offence to the duties and tasks the employee is required to perform. In such cases, the CCG's decision may be affected by the view taken of the employee by the appropriate statutory body.
- Failure to declare a criminal conviction or caution received at any time whilst employed by the CCG.
- Discrimination against a member of staff or public on the grounds of sex, race, colour, nationality, marital status, sexual orientation, religion, disability or social background or hours of work.
- Bullying and harassment at work including sexual or racial harassment.
- Wilful/deliberate/negligent falsification of remuneration (including time sheets, medical certificates, subsistence and expenses claims etc); and falsification of or inappropriate alteration of, or omissions from, documents or records relating to patients, staff or other persons.
- Falsification of qualifications which are stated requirement of employment; or any information used in support of an application for any post in the employment of the CCG (*subject to the conditions of the Rehabilitation of Offenders Act 1974*); or any other misrepresentation which results, or could result, in financial gain.
- Whilst reporting to be sick, working or indulging in activities likely to be inconsistent with the reason for absence and/or unlikely to be conducive to recovery.
- Engaging in outside employment during the hours when contracted to work for the CCG.
- Corrupt or improper practice, e.g. when an employee improperly uses, or attempts to use their position to their own private advantage or to the advantage of some other person.
- Any tampering with, or unauthorised access, or inappropriate use of computer systems likely to cause damage or interruption to such systems.

- Damage caused maliciously or by gross negligence to the CCG's property/equipment or records written or automatically processed.
- Serious misuse of electronic communication at the CCG e.g. Internet adult content web sites, misuse of electronic mail etc as described in the acceptable use of e mail policy.
- Breaches of safety regulations endangering oneself or other people including deliberate damage to, neglect of, or misappropriation of safety equipment. Reckless behaviour which constitutes a danger to health or safety of any person.
- Breaches of confidentiality including misuse or failure to safeguard confidential information relating to patients or staff or other persons, which may give rise to damage to the individual or a loss of confidence in the service provided.
- Breach of trust/confidentiality – unauthorised disclosure of information that is confidential to the CCG. This may include confidential information relating to patients, staff or business plans, financial position, staffing details where the relationship between the employee and the CCG, as the employer, is undermined.
- Disobeying a given instruction or reasonable order from a relevant manager (*whether in writing or not*) or failing to observe operational regulations and standing orders of the CCG or employing department when the consequences are likely to result in danger to patients or staff.

Misconduct

Listed below are examples of offences of misconduct, other than gross misconduct, which may result in disciplinary action and/or informal discussion in the light of the circumstances of each case. This list is to be regarded neither as exclusive nor exhaustive. Other forms of misconduct may give rise to disciplinary action.

- When an employee, without sufficient cause, disobeys, omits or neglects to carry out a lawful and reasonable order, (*whether in writing or not*) or failing to observe operational regulations and standing orders of the CCG or employing department.
- When an employee abuses his/her status or position when dealing with fellow employees or members of the public.
- When an employee, without sufficient cause, is absent from duty, is late for duty or other attendance, or without permission or sufficient cause leaves their place of work.
- Failure to behave reasonably when notifying the head of department of the inability to report for duty as a result of sickness or any other mishap.
- When an employee, without sufficient cause:
 - Fails to discharge the obligation which statute or their contract of employment place upon them
 - Causes any loss damage or injury to occur to any person or property, by carelessness or neglect.
 - Fails to report any matter which is their duty to report.
 - Fails to make any entry, which it is their duty to make, in any book or document.
 - Fails properly to account for, or to make a prompt and true return of any money or property that comes into their possession in the course of their duties.
- The CCG advises its employees engaging in employment in off duty hours to ensure that such employment does not adversely affect their work in the CCG. The Disciplinary Procedure may be invoked either:
 - If the CCG feels that the employee's performance is thereby affected.
 - Or if the interests of the CCG are adversely affected by the nature and the length of the time engaged in outside employment.
 - Or if the number of hours worked results in the employee being in breach of the Working Time Regulations.

- When an employee, knowingly or through neglect, makes any false, misleading or inaccurate oral or written statement or entry in any record or document written or automatically processed.
- When an employee, without sufficient cause, destroys or mutilates any record or document for the purposes of the CCG, or alters, erases or adds to any entry in such a record or document written or automatically processed.
- When an employee, without proper authority, advertently or negligently communicates to any person information which was given to him/her in confidence as an employee of the CCG or communicates to any person information which the employee has access to and which is of a confidential nature, including that held on computers.
- Where an employee, wilfully or without due care, causes any waste, loss or damage to any property of the CCG or fails to take proper care thereof.
- Where an employee fails to report any loss or damage to any such property entrusted to their care.
- Where any employee renders themselves unfit, through the use of drink or illicit drugs, for duties which they are, or will be required to perform, or which they may reasonably foresee having to perform. e.g. unfit for a duty period due to use of drink/drugs on the previous day/night. Staff are advised to inform their manager if they are taking prescription medication which might affect their performance.
- Unauthorised sleeping on duty.
- Dangerous horseplay.
- Failure to maintain current professional registration.
- Smoking on the CCG's premises.
- Being an accessory to a disciplinary offence.
- Failure to follow the current procedure in respect of the reporting of accidents and other incidents.
- Parking in or impeding access to designated disabled parking bays.
- Malicious misrepresentation of facts in relation to a matter raised under the CCG's whistle blowing policy.

APPENDIX B - CONDUCTING A DISCIPLINARY HEARING

A disciplinary hearing will normally be held by a panel consisting of a manager, who has not previously been involved, who will act as the Panel Chair and either another appropriate manager or a HR representative, or in some cases both. Should the attendance of HR be required, their role will be to provide advice on Human Resources policies, employment legislation and to ask questions to obtain clarification on any issues or new information disclosed.

The Disciplinary hearing follows the following stages:

1. Opening the meeting by Panel Chair
2. Management side present their case (summary of allegation by the investigating officer), including calling of any witnesses
3. Employee side, then the Disciplinary Panel, will have the opportunity to ask questions
4. Employee side to present their case, including calling of any witnesses
5. Management side, then the Disciplinary Panel, will have the opportunity to ask questions
6. Summing up by management side, then by employee side
7. Adjournment
8. Action to be taken (if any)
9. Establishment of a review date (if appropriate)

Opening the Disciplinary Hearing

All employees are entitled to be accompanied by their Trade Union representative or a workplace colleague. Where an employee is not accompanied, the employee must be reminded of this right, and if declined, this must be recorded. Those 'hearing' the disciplinary must introduce those present and outline the reasons for the disciplinary meeting taking place (the reason/s outlined in the invite to disciplinary letter) and the format the meeting will take.

Summary of Allegation

At this stage the investigating officer(s) must summarise the case on behalf of management. The investigating officer(s) presenting the case must adhere to the facts and not introduce opinions, hearsay or issues that have not previously been mentioned. All documentation that will be used as evidence (including previous relevant warnings and witness statements where applicable) will already have been made available to the individual prior to the disciplinary hearing taking place (copies will have been sent with the invite to disciplinary meeting letter).

Should a new matter arise during the course of the disciplinary meeting then the Disciplinary Panel should adjourn in order that consideration may be given to the appropriateness of the introduction of this new matter. To avoid unnecessary duplication of the process as well as ensuring fairness, it may be more beneficial to adjourn the disciplinary meeting in order that further investigations may be carried out in relation to the new matter.

The aim of the disciplinary meeting is to seek verification and clarification about the issues of concern through questions and, where appropriate, witnesses and other evidence.

After the investigating officer has stated their case the employee will be given the opportunity to ask questions and state their case. The employee's representative will be able to ask questions for clarification purposes.

If the disciplinary hearing is dealing with multiple issues, each issue should be addressed in turn and the employee and/or their representative be allowed to state their case in relation to each issue as it is addressed.

Exploration of any differences in facts, as they appear to the manager and employee should be carried out in a constructive manner in order to gain an understanding of the facts which are, as far as possible, acceptable to both manager and employee.

The investigating officer should remain present during the disciplinary hearing to allow for any questions.

Both parties will be given the opportunity to sum up their case if they so wish. The summing up shall not introduce any new matter. If at any stage new facts are alleged or new evidence produced, the Disciplinary Panel may adjourn the meeting (of its own volition or at the request of one of the parties) for so long as it thinks fit.

Adjournment

Before any decision is taken, it is necessary to adjourn the disciplinary hearing to give adequate consideration to the facts as they have been presented and the responses that have been given to the allegations, including any mitigating circumstances. At this stage both parties will be asked to leave the room and the panel must decide the facts of the case, with advice from an HR Representative, where appropriate, and whether the behaviour requires disciplinary action to be taken and if so, at what level.

Where possible, an indication of the length of time of the adjournment should be given, including the reasons for the adjournment, i.e. to consider what action to take, if any.

The disciplinary hearing may also be adjourned to consider other issues, e.g. to direct further investigations to take place or to investigate new information/facts that have been brought to light.

There is no set time for an adjournment and adjournments can be called at any time during the disciplinary meeting, by either party.

Taking disciplinary action is not a matter to be taken lightly and should only be taken if it is to be constructive in attempting to produce the desired behaviour. Managers will also need to consider, if disciplinary action is to be taken, whether any other sanctions will be attached to the warning (see Section 3).

When the disciplinary hearing is reconvened the Panel Chair should explain that consideration has been given to all of the issues raised at the beginning of the hearing, and all of the facts and issues raised during the course of the hearing. The Panel Chair must then outline what action, if any, will be taken including any sanctions.

It is important that where a warning/sanction is given, the employee is informed of the length of time it will remain on their record, their right of appeal, the procedure that will be followed in relation to confirming the action in writing and any arrangements for the review of sanctions imposed.

APPENDIX C - APPEALS HEARING PROCEDURE

Appeals will normally be heard by a more senior manager to the person taking the first instance disciplinary action. In cases of dismissal of a Director, the appeal will be heard by a panel of Board members. All appeals will include a representative of the Human Resources Service Provider, in an advisory capacity, wherever possible.

An employee may choose to appeal if, for example:

- They think a finding or penalty is unfair
- New evidence comes to light
- They think the Disciplinary procedure was not used correctly

Should either party require an adjournment then this request should be made to the Hearing Panel, with an indication of the length of time required.

The procedure for an appeal hearing is as follows:

1. The appellant will present their case first, detailing the grounds for their appeal including the calling of any witnesses.
2. The management side will then be able to ask any questions about the case the appellant has presented
3. The appeal panel members will also have an opportunity to ask any questions.
4. The management side will then be asked to present their case, explaining the reasons for the action taken, including the calling of any witnesses.
5. The appellant may then wish to ask management side any questions about the case.
6. The appeal panel members will also have the opportunity to ask any questions.
7. Both parties will have the chance to sum up their case.
8. There will then be an adjournment when both sides will be asked to leave the room while the appeal panel consider the information and reach their decision.
9. The decision of the panel will be communicated to both parties verbally, following the adjournment, and in any case will be confirmed later in writing (again to either party), no later than 5 working days after the Appeal Hearing.
10. The decision of the Appeal Panel is final.

APPENDIX D– Template letters

D1 – Invitation to Disciplinary Investigatory Interview

Date:

Your Ref:

Our Ref:

Dear Name

INVESTIGATORY INTERVIEW

I would inform you that you are instructed to attend the above interview at TIME on DAY, DATE at LOCATION.

The interview will consider the following allegations:

ALLEGATIONS

The above notice is given in accordance with the CCG's Disciplinary Procedures and in accordance with which you are advised of your right to representation by your Trade Union or a work colleague at the above interview.

Please confirm receipt of this notice by signing and returning the enclosed copy letter.

Yours sincerely

Cc: CCG Disciplinary Policy

D 2 – Disciplinary Hearing notification

Date:

Your Ref:

Our Ref:

Dear Name

DISCIPLINARY HEARING

1

I am writing to tell you that you are required to attend a disciplinary meeting on at am/pm which is to be held in

At this meeting the question of disciplinary action against you, in accordance with the CCG's Disciplinary Procedure, will be considered with regard to:

I enclose the following documents*:

.....

The possible consequences arising from this meeting might be:

.....

You are entitled, if you wish, to be accompanied by another work colleague or a trade union representative.

Yours sincerely

Signed

Manager

** Delete if not applicable*

D4 – Suspension letter

Date:

Your Ref:

Our Ref:

Strictly Private & Confidential

Dear

Re: Suspension from CCG

At a meeting on [insert date], you were formally suspended, as a neutral act, pending a [police] investigation and this suspension remains in place.

In addition and separate to the above, on behalf of the Board of the CCG, I am writing to give you formal notice that you are suspended with immediate effect subject to an investigation into the following allegations:

- [insert]

The reason for this parallel suspension is that it is the CCG's view that your actions with regard to your conduct indicate that you may have:

- behaved in a way that
-

The above will need further consideration as to whether your actions constitute:

- a failure to meet the professional standards expected by a member [insert e.g. nursing profession]
- an act of gross misconduct

The period of your suspension relating to the above will enable these allegations and all other relevant issues to be fully investigated.

During your period of suspension you should not enter any of the CCG's premises nor make contact with any of the CCG's employees or its customers. Support is available to you from a named, may be contacted on the number below and our Occupational Health Provider/EAP

Programme (delete as appropriate), and you may find it useful to avail yourself of this support, as some people do find being suspended very difficult to deal with.

I should bring to your attention that should we need to clarify issues relating to the allegations we will contact you in writing and you should make yourself available for such interviews as appropriate.

The first investigatory interview has been scheduled for [insert time] on [insert day] with the investigatory panel that comprises the [insert names]f. The venue for this interview is[insert venue]. Please ask for me on your arrival at reception.

The above notice is given in accordance with the CCG's dismissal and disciplinary procedure, under which you are advised of your right to be accompanied at the above meeting by a trade union representative or a work colleague. If you wish to have a legal representative at the investigatory hearing I should be grateful if you would provide me with their details by [insert time] on [insert day].

I will ensure that you are contacted at regular intervals to keep you updated on the investigation and we will contact you again to confirm the outcome of the investigation.

Should the outcome of the investigation be that no action is required we will work with you to ensure that your return to work is managed without any detriment to you as an individual. However I should bring to your attention that if the investigation determines that your conduct constitutes misconduct or gross misconduct you will be invited to attend a disciplinary hearing. A copy of the CCG's Disciplinary Procedure is enclosed for your information

Please contact me if you have any queries relating to any of the above issues.

Yours sincerely

D5 – Notice of written warning or final written warning

Dear

You attended a disciplinary hearing on I am writing to inform you of your written warning/final written warning*.

This warning will be placed in your personal file but will be disregarded for disciplinary purposes after a period of months, provided your conduct improves/performance reaches a satisfactory level**.

a) The nature of the unsatisfactory conduct or performance was:

.....

b) The conduct or performance improvement expected is:

.....

c) The timescale within which the improvement is required is:

.....

d) The likely consequence of further misconduct or insufficient improvement is:

Final written warning/Dismissal

You have the right of appeal against this decision (in writing) ** to within days of receiving this disciplinary decision.

Yours sincerely

Signed

Manager

* *The wording should be amended as appropriate*

** *Delete if inappropriate*

D6 - Notice of appeal meeting against warning

Date

Dear

You have appealed against the written warning/ final written warning* confirmed to you in writing on

Your appeal will be heard by in on at

You are entitled to be accompanied by a work colleague or trade union representative.

The decision of this appeal hearing is final and there is no further right of review.

Yours sincerely

Signed
Manager

** The wording should be amended as appropriate*

D7 - Notice of result of appeal against warning

Date

Dear

You appealed against the decision of the disciplinary hearing that you be given a warning/in accordance with the CCG's Disciplinary Procedure.

The appeal hearing was held on

I am now writing to confirm the decision taken by the Manager who conducted the appeal hearing, namely that the decision to X stands*/the decision to X be revoked* [specify if no disciplinary action is being taken or what the new disciplinary action is].

You have now exercised your right of appeal under the CCG's Disciplinary Procedure and this decision is final.

Yours sincerely

Signed

Manager

** The wording should be amended as appropriate*

D8 - Reasons for the proposed dismissal or action short of dismissal and arranging the meeting

Date

Dear

I am writing to tell you that [insert organisation name] is considering dismissing OR taking disciplinary action [insert proposed action] against you.

This action is being considered with regard to the following circumstances:
.....

You are invited to attend a disciplinary meeting on at am/pm which is to be held in where this will be discussed.

You are entitled, if you wish, to be accompanied by another work colleague or your trade union representative.

Yours sincerely

Signed
Manager

D9 Letter to be sent by the employer after the disciplinary meeting

Date

Dear

On you were informed that [insert organisation name] was considering dismissing OR taking disciplinary action [insert proposed action] against you.

This was discussed in a meeting on At this meeting, it was decided that:
[Delete as applicable]

- Your conduct/performance was still unsatisfactory and that you be dismissed.
- Your conduct/performance was still unsatisfactory and that the following disciplinary action would be taken against you
- No further action would be taken against you.
- The reasons for your dismissal are:
.....

I am therefore writing to you to confirm the decision that you be dismissed and that your last day of service with the CCG will be

The reasons for your dismissal are:
.....

I am therefore writing to you to confirm the decision that disciplinary action will be taken against you. The action will be

The reasons for this disciplinary action are:
.....

You have the right of appeal against this decision. Please [write] to within days of receiving this disciplinary decision.

Yours sincerely

Signed
Manager

D10 Notice of appeal meeting against transfer/demotion/dismissal/disciplinary action

Date

Dear

You have appealed against your dismissal/disciplinary action [delete as appropriate] on confirmed to you in writing on

Your appeal will be heard by in on at ... am/pm.

You are entitled, if you wish, to be accompanied by another work colleague or a trade union representative.

The decision of this appeal meeting is final and there is no further right of review.
Yours sincerely

Signed.....
Manager

D11 - Letter to be sent by the employer after the disciplinary meeting

Date

Dear

On you were informed that [insert organisation name] was considering dismissing OR taking disciplinary action [insert proposed action] against you.

This was discussed in a meeting on At this meeting, it was decided that:
[Delete as applicable]

- Your conduct/performance was still unsatisfactory and that you be dismissed.
- Your conduct/performance was still unsatisfactory and that the following disciplinary action would be taken against you
- No further action would be taken against you.
- The reasons for your dismissal are:
.....

I am therefore writing to you to confirm the decision that you be dismissed and that your last day of service with the CCG will be

The reasons for your dismissal are:
.....

I am therefore writing to you to confirm the decision that disciplinary action will be taken against you. The action will be

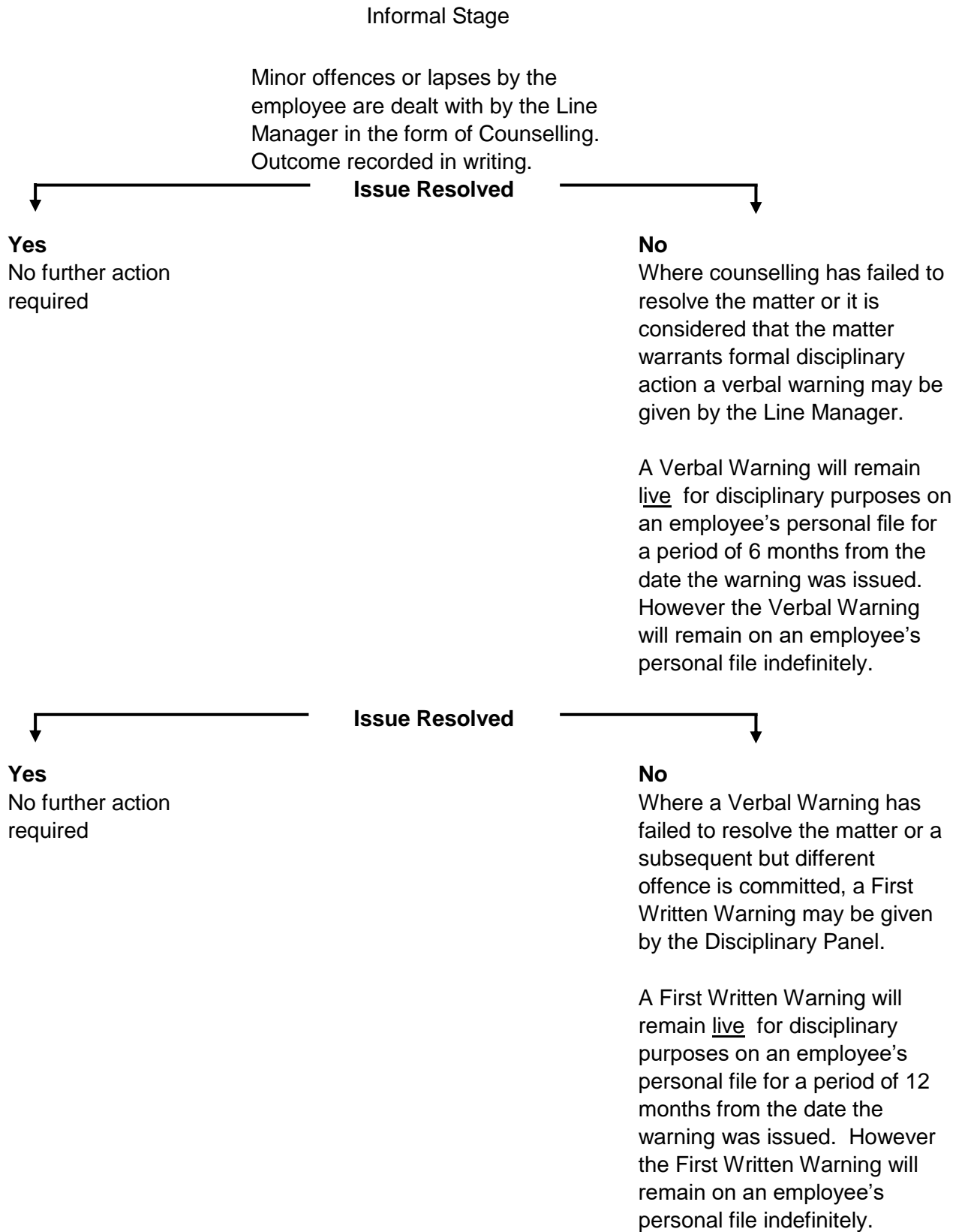
The reasons for this disciplinary action are:
.....

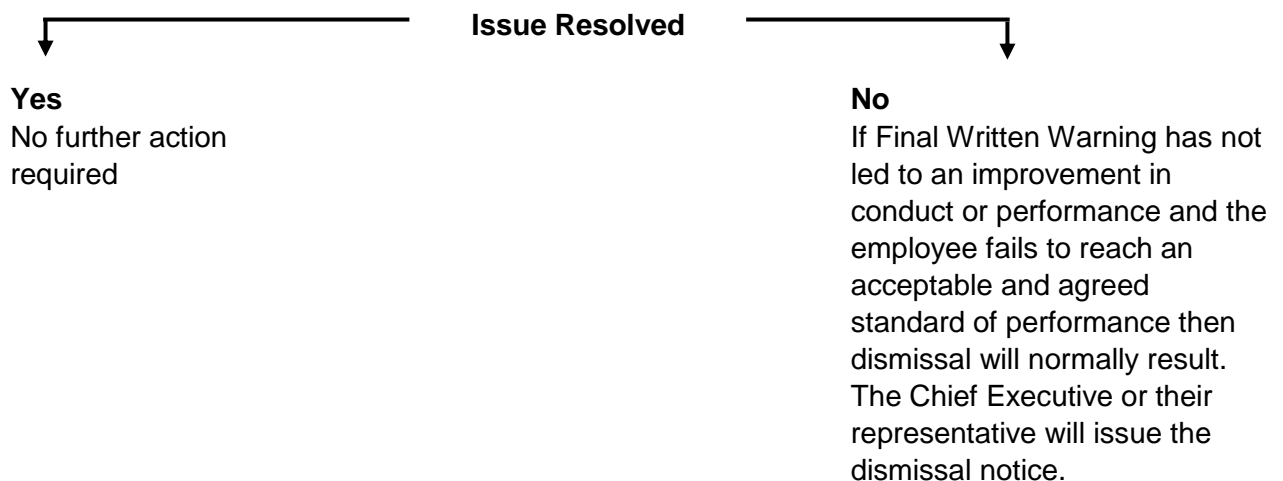
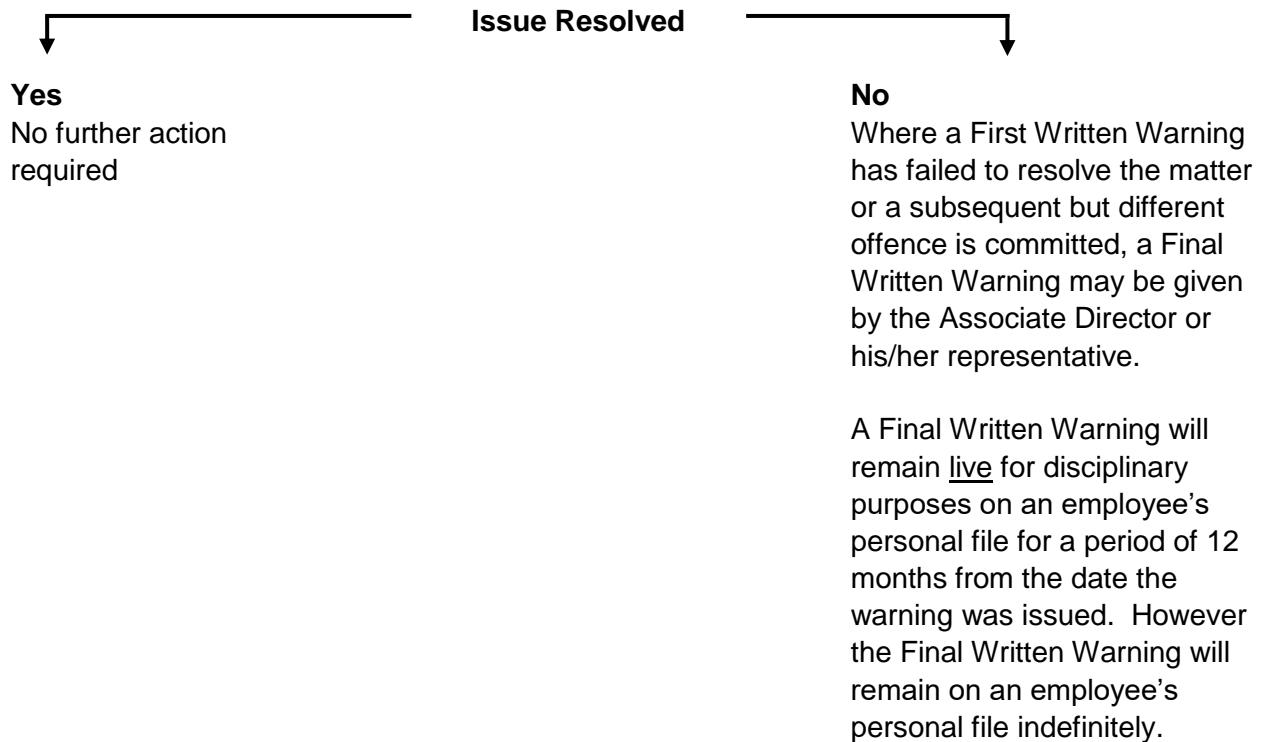
You have the right of appeal against this decision. Please [write] to within days of receiving this disciplinary decision.

Yours sincerely

Signed
Manager

Appendix E – Disciplinary Flow Chart





NB Depending on the nature of the allegation it may be necessary to bypass stages of the procedure.

At all stages of the Procedure and employee has the right to be accompanied by a Trade Union Representative or work colleague.

Equality Analysis Initial Assessment**APPENDIX F****Title of the change proposal or policy:**

Disciplinary Policy

Brief description of the proposal:

To ensure that the policy amends are fit for purpose, that the policy is legally compliant, complies with NHS LA Standards and takes account of best practice.

Name(s) and role(s) of staff completing this assessment:**Date of assessment:**

Please answer the following questions in relation to the proposed change:

Will it affect employees, customers, and/or the public? Please state which.

Yes, it will affect all employees.

Is it a major change affecting how a service or policy is delivered or accessed?

No

Will it have an effect on how other organisations operate in terms of equality?

No

If you conclude that there will not be a detrimental impact on any equality group, caused by the proposed change, please state how you have reached that conclusion:

No anticipated detrimental impact on any equality group. The policy adheres to the NHS LA Standards and best practice. Makes all reasonable provision to ensure equity of access to all staff. There are no statements, conditions or requirements that disadvantage any particular group of people with a protected characteristic

Please return a copy of the completed form to the Equality & Diversity Manager