

Disciplinary Policy & Procedure

Version:	V4.0	
Summary:	This policy & procedure provides a mechanism for maintaining the standards and behaviours expected of colleagues, fairly, sensitively, objectively and consistently.	
Ratified by	Policy Ratification Group	Date:
Has an Equality Impact Assessment been carried out?	Yes	Date:
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Name of responsible committee:	Workforce Strategy Implementation Group	
Target audience:	Applies to all employees of Locala except for Medical and Dental colleagues, who are covered by the Maintaining High Professional Standards Policy.	
Date issued:		
Next Review date:	July 2023	

Review and Amendment Log

Version No	Type of Change	Date	Description of Change
4.0	Full Review	July 2020	

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1. Introduction

The standards of conduct and behaviour expected of colleagues are set out within the organisation's policies and procedures. Locala believe that colleagues are motivated by their responsibilities and commitment to the organisation and the communities in which we deliver services, and therefore in the majority of cases will maintain these standards.

The disciplinary policy provides a mechanism for maintaining these standards fairly, sensitively, objectively and consistently. This policy is aligned to the ACAS Code of Practice.

Locala is a value led organisation and we expect all colleagues to demonstrate our values as part of their day to day working lives, to;

Be caring... putting customers at the heart of what we do and providing great customer service by giving and receiving support and respecting others.

Be inspirational... create a vision and get others to share it; engage and enthuse; take a positive approach to challenges and set high standards for self and others.

Be part of it... motivation to improve the performance of our services and make a real difference to others' health and quality of life. To be part of it at Locala, a person needs to be community-minded, able to build relationships and seek to continuously challenge themselves.

2. Purpose

The purpose of this Policy is to ensure that when an instance occurs which does not uphold our values or contravenes an existing policy then the matter is deal with appropriately and consistently.

This policy does not normally apply where:

- Concerns exist about a colleagues work performance, these should be dealt with using The Supporting Colleague Performance Policy;
- The alleged incident of misconduct has occurred during the colleague's probationary period. In such cases, the probationary policy should be used.

3. Target Population

This Policy applies to all clinical and non-clinical employees, except for Medical and Dental staff, who are subject to the Maintaining High Professional Standards policy (which is aligned to their professional standards and governing bodies). This procedure does not apply to agency workers, bank workers or self-employed contractors. It does not form part of any employee's contract of employment. It may be amended at any time and Locala may depart from it depending on the circumstances of any case.

4. Explanation of Terms

Commissioning Manager – an Operational Manager (or above) who has identified the need for an investigation to be carried out under this policy. They will be responsible for identifying an appropriate investigation manager, and once the investigation has been concluded, determining whether there is a case to answer at a disciplinary hearing.

Companion – colleagues have a statutory right to be accompanied at a formal disciplinary or appeal hearing by a work colleague or a Trade Union representative (not acting in a legal capacity). Whilst not an automatic right, individuals will also be allowed to be accompanied, at an investigation meeting by their chosen companion, providing this does not unnecessarily delay the process. Where a work colleague is accompanying the individual, they should not be directly involved in the incident under investigation. The individual will be responsible for making their own arrangements to be accompanied.

Disciplinary / Appeal Panel – a panel will be made up of a Chair and usually one other manager or HR colleague, who will support the hearing. The panel will impartially review the evidence before reaching a conclusion on whether disciplinary action is appropriate in the circumstances. Members of the panel should not have had any previous involvement in the case, wherever possible. A panel must be chaired by a manager with the appropriate level of authority (see [Appendix C](#)).

Investigation – an investigation is the process of establishing the facts of the case. The type of investigation carried out, and its duration, will be dependent on the specific facts of each case. The investigation will be proportionate to the matter under investigation (see [Section 8.2](#) for further details).

5. Duties

All colleagues and managers involved in any disciplinary process are expected to maintain the highest levels of confidentiality at all times.

5.1. Individual colleagues

Colleagues are responsible for reading, complying with and maintaining up-to-date awareness of policies as laid down in job descriptions and contracts of employment and for undertaking training as appropriate to enable them to comply with policies relevant to their roles and as colleagues of Locala.

5.2. Line Managers

It is the responsibility of all line managers to ensure that they and the people they manage are conversant with this policy and its contents. It is also the responsibility of managers to inform the HR Advisory Team of any instances (alleged or otherwise) that potentially fall within this policy and to seek advice from the HR Advisory Team at each stage of the process.

Line managers must ensure that they undertake any necessary initial investigations promptly to establish the relevant facts before memories of an event fade.

They must also ensure that they maintain regular contact with any colleague in their team who is subject to a process under this procedure (unless alternative arrangements have been agreed). They should ensure that the individual receives regular updates about the process and any relevant work matters affecting them, as well as checking on the individual's welfare and offering appropriate support where required.

5.3. HR Advisory Team

The HR Advisory Team are responsible for providing managers and colleagues guidance and advice on the implementation of this policy.

Where a HR Advisor has been assigned to support a disciplinary process, they will ensure that regular welfare contact with the individual is maintained. This will include ensuring that the colleague fully understands the process, they receive timely updates on the progress of the case, and they have the appropriate support to look after their wellbeing.

5.4. Investigating Manager

The Investigating Manager will be responsible for establishing the facts of the case. They will be expected to carry out their investigation without undue delay, and will be responsible for ensuring that the individual is provided with regular updates informing them of the investigations progress and when the investigation is expected to reach a conclusion. Following the completion of their investigation, they will be responsible for producing a report in order to outline their findings.

5.5. Welfare Officer

A Welfare Officer may be appointed to the case. Their role will be to provide support to the individual whilst the disciplinary process is ongoing. They will be independent from the disciplinary process, so will not be able to provide updates on progress. However they will regularly contact the individual to check that they have the support they need and a general understanding of the process. They will also be there to listen to any concerns or questions the individual may have, responding where appropriate or escalating the issue if they are not able to resolve it themselves.

5.6. Chair of a Panel

The Chair of a Panel will be responsible for chairing the disciplinary or appeal meeting. They will be responsible for the outcome of that hearing and therefore must ensure that any decision is based on a fair procedure having been carried out. The Chair of the Panel should ensure that the hearing is conducted in accordance with this policy, that the investigation has established the relevant facts, the individual is given the opportunity to be accompanied to the meeting, is able to ask relevant questions, and is given the opportunity to present their case and/ or any mitigation, before a decision is taken.

The Chair will also be responsible for communicating their decision to the individual,

including their reasons, in writing following the hearing.

5.7. Trade Unions

Work in partnership with Locala in order to develop the organisations people policies and procedures.

Where requested by an individual, a representative from a Trade Union may act as the individual's companion. Trade Union representatives, who are not employed officials, should be certified by their union as being competent to accompany a colleague.

5.8. Responsible committee

It is the responsibility of the Workforce Strategy Implementation Group to monitor the implementation and effectiveness of this Policy.

5.9. Chief Executive

The Chief Executive has overall responsibility for the strategic and operational management of Locala including ensuring that the organisation's procedural documents comply with all legal, statutory and good practice requirements.

6. General Principles

Most colleagues are motivated by their responsibilities and commitment to our organisation. The majority of individuals understand the need for standards in our business environment and have no difficulty achieving and maintaining those standards. However, there are occasions when people fail to achieve the required standards of work or conduct for a number of reasons. This policy is in place for such occasions.

The basic principles are:

- Managers are responsible for speaking to colleagues if they have any concerns about their attitude or behaviour (which would usually be referred to as 'conduct');
- Disciplinary processes are confidential and therefore only those colleagues directly involved with the investigation, or those who need to know as part of their role, will be informed of the matter. All colleagues involved in the process are expected to maintain confidentiality at all times;
- An investigation to gather the facts will normally be carried out prior to a disciplinary hearing taking place;
- If formal action is being considered, colleagues will be notified in writing, outlining the reasons for the formal action;
- Any disciplinary matter will be dealt with fairly, consistently and in a timely manner.
- Where a disciplinary hearing is called, the panel will act impartially and the Chair will be more senior to the Investigating Officer (where possible);
- Colleagues will be given the right to be accompanied at any formal disciplinary hearing by a colleague or a Trade Union representative;

- Investigation meetings and disciplinary hearings will be documented, as appropriate and a copy will be kept on the colleague's personnel file;
- Colleagues will have the right to appeal against any disciplinary sanction;
- Where a hearing has found that misconduct or gross misconduct has occurred, the colleague's professional body may be notified of these findings, as appropriate.

6.1. Safeguarding

When dealing with issues or incidents under this policy there should always be a consideration of any potential safeguarding concerns e.g. whether or not an adult at risk or a child has been or may be harmed. Please note this includes Locala service users and the individual's own children and/or family members.

Should safeguarding concerns be identified, please refer to the [Safeguarding Children and Child Protection Policy](#) or the [Safeguarding Adults at Risk Policy](#). Advice should be sought from the Safeguarding Team before commencing any investigation. If the issue raises concerns about the individual's suitability to work with adults at risk or children the [Managing Safeguarding Allegations against Staff Policy & Procedure](#) must be followed. The above policies can be found on SharePoint.

6.2. Clinical Incidents

Where a clinical incident has occurred (including Serious Incidents), the [Clinical Incident Reporting, Management and Investigation Policy](#) should be referred to and followed, as appropriate. This policy can be found on SharePoint.

6.3. Fraud

Where the allegations being investigated relate to fraud, then the local counter fraud officer should be consulted prior to undertaking the investigation. Please also refer to the [Locala Fraud, Bribery and Corruption Policy](#).

6.4. Criminal Activity

If criminal activity is suspected, the case may be referred to the police. Advice should be sought from the HR Advisory Team. The disciplinary hearing may proceed without waiting for the outcome of a police inquiry where a criminal investigation is ongoing, provided that an internal investigation has been carried out.

6.5. Procedure relating to a trade union representative

Where disciplinary action is being considered against a colleague who is also a trade union representative, the normal disciplinary rules will usually apply. However, in line with the ACAS Code of Practice, depending upon the circumstances, the matter may be discussed first (with the colleague's agreement) with an official employed by the relevant trade union at an early stage.

6.6. Pay Progression

Where a formal sanction is applied following a disciplinary hearing, the colleague will not be able to progress to the next pay step until the disciplinary sanction has expired. Please refer to the [Pay Progression Policy](#), which can be found on SharePoint, for

further details.

6.7. Overlapping Grievance and Disciplinary and Cases

If a colleague raises a grievance during a disciplinary procedure, both issues will normally be dealt with concurrently. However, in exceptional circumstances, it may be more appropriate to temporarily suspend the disciplinary procedure in order to deal with the grievance. If the grievance relates to the disciplinary investigation, hearing or outcome, the decision may be taken to treat the complaint as an appeal against the disciplinary outcome and in such circumstances, the matter will be dealt with in accordance with this policy.

7. Informal Steps

In many cases, a carefully considered conversation at the right time between the line manager and a colleague is all that is necessary (and is often a more appropriate way) to achieve and maintain the required standards of conduct and behaviour than immediate disciplinary action. Accordingly minor cases of misconduct should, in the first instance, be dealt with informally.

When a colleague's conduct or behaviour has fallen below the standard expected, the line manager will meet with them to discuss the concern and what improvement is necessary. Additional training and/or coaching may be needed in order to support the improvements expected. A written note of the discussion and the agreed actions should be made.

The line manager may decide to issue an informal warning following the discussion in order to highlight the importance of a change to the colleagues conduct or behaviour. Any informal warning issued must set out clear objectives over an agreed period of time and how the colleague will be supported to achieve these.

An informal warning is not part of the formal disciplinary process, however the colleague should be made aware that the formal process will be instigated if there is no improvement or if improvements fail to be maintained.

If following the informal discussion, it is believed the case in question is serious or has happened on repeated occasion(s) it may be necessary to progress into a formal process.

7.1. Facilitated discussion

Conflict and disputes are best resolved quickly and as locally as possible. A facilitated discussion between the parties can sometimes be helpful in trying to achieve this, prior to invoking formal measures where appropriate. In disciplinary cases this would apply for example where there have been unacceptable behaviours demonstrated between colleagues in a team. The HR Advisory Team can advise whether a facilitated discussion would be suitable in the circumstances, and who would be appropriate to facilitate this.

8. Formal Disciplinary Procedure

Before any formal process is considered the appointed manager should contact a member of the HR Advisory Team for advice and support regarding the application of the policy and the process to be followed.

In order to determine whether it is appropriate to initiate a formal disciplinary investigation, it may be appropriate to carry out an initial fact find in order to establish certain facts of the case. For example whether the individual was on shift when the alleged incident took place.

8.1. Suspension

In certain circumstances consideration may need to be given to removing a colleague from their role or the organisation on a temporary basis to allow the investigation to be completed effectively. The Suspension Checklist should be used to consider and record the decision.

Any decision to suspend, will be taken by an Operational Manager (or above), who is (wherever possible) not directly involved in the issue which has arisen, and after consultation with a member of the HR Advisory Team. The colleague will be informed of the reasons for the decision to suspend and this decision will be regularly reviewed.

Where it is not possible for a decision to be properly considered (for example because the incident has occurred on a night shift), the colleague may be sent home from work, as a temporary measure, pending a decision on whether to suspend or not.

Suspension may be appropriate and will be considered in certain circumstances, which include (but are not limited to):

- Where the allegation is such that the colleague's continuing presence could affect the validity of the investigation (e.g. witness intimidation).
- It is believed that the colleague would pose a risk to patient care, other employees and/or property.
- Where the colleague is the subject of criminal proceedings which may affect whether they can do their job.
- Where working relationships have severely broken down.

Suspension is a precautionary measure and not a disciplinary sanction. For the duration of any suspension from work, the colleague will receive their normal pay.

In some cases an alternative to suspension may be appropriate and the following options will be considered:

- To move the colleague to an alternative role/location within the business;
- For the colleague to work from home

These options should be considered before a suspension is applied and as part of the regular review of the decision to suspend. These options can be invoked at any point during the disciplinary process.

When suspended from work the following conditions will apply:

- A colleague must not enter the premises or attempt to contact colleagues regarding their suspension without permission from the suspending/ investigating manager (except for the purposes of arranging a work colleague to accompany them to a disciplinary hearing);
- Locala will collect all organisational property, this includes laptop, phone, ID badge and smart card.

Throughout the period of any suspension, colleagues must remain available to attend investigation meetings and, if applicable, a disciplinary hearing.

If a colleague becomes ill during a period of suspension, they may be required to provide a Doctor's certificate (Fit Note), irrespective of the duration of the sickness period. For the duration of any illness the individual will be considered to be on sickness absence and therefore will be paid in line with their sick pay entitlement. Please note the investigation may be progressed in the individual's absence where it is appropriate to do so.

Any previously agreed annual leave will be honoured but new requests made after the start of the suspension will be subject to consideration.

The period of suspension should be kept to a minimum and regular contact should be maintained with the colleague throughout.

8.2. Investigation

Where an investigation is necessary, in order to establish the facts of the case, it should be carried out without unreasonable delay. The type of investigation required will be determined by the allegation(s) which have been made.

An investigating manager will be appointed to gather the evidence required to determine whether there is a case to answer at a disciplinary hearing. In most cases the investigating manager will be internal to the organisation, however where it is deemed necessary a suitably qualified external investigator may be appointed.

Principles of investigation:

- The investigation will be conducted by an individual who will not hear any subsequent disciplinary hearing. This individual will be referred to as the Investigating Manager.
- The Investigating Manager will not be involved in the matter as a witness.
- Where appropriate, colleagues will be required to attend an investigation meeting to enable further information and or evidence to be gathered.
- Where possible this investigation meeting(s) will be within a colleague's normal work time.
- If an individual cannot attend a meeting they must inform the Investigating Manager as soon as possible. If they fail to attend through circumstances outside of their control a further meeting will be arranged.
- There is no requirement for notice to be given of an investigation meeting.

- There is no automatic right to be accompanied at investigatory meetings, however should the colleague wish to be accompanied by a colleague or appropriate trade union representative (or they have a specific need due to disability or language), the Investigating Manager should be informed before the meeting and every attempt will be made to arrange a time and date which is suitable to all parties.
- If a colleague refuses or fails to attend an investigation meeting, the Investigating Manager will be entitled to make a decision to proceed with the investigation or not and whether it warrants a formal hearing or not, without their evidence.
- A written record of the investigation meeting will be made, colleagues should be asked to review and sign the notes to confirm that they are a true reflection of the meeting.
- If a colleague has additional comments to make or wishes to provide further clarification or evidence, they can provide this in writing to the Investigating Manager.
- It may be necessary to speak to other colleagues/ clients/ members of the public as part of an investigation. The individual under investigation, will not be present at these meetings. However, summary notes of these meetings will be taken.
- When the Investigating Manager feels the investigation has been concluded, they will write a report which sets out the findings of their investigation. The report will be submitted to the Commissioning Manager to decide if formal disciplinary action is appropriate.

8.3. Misconduct & Gross Misconduct

If an investigation has found that a formal hearing is required, it will be because there is a reasonable belief that misconduct, or gross misconduct has occurred.

Examples of Misconduct and Gross Misconduct are available in Appendix A and B.

8.4. Disciplinary Hearing

Where informal action has not resulted in the required change or where an investigation has found that the misconduct warrants formal action, a disciplinary hearing will be arranged.

The colleague will be invited to the hearing, in writing, providing at least 5 working days' notice (unless all parties agree otherwise). Within the letter the colleague will be:

- Advised who will be present at that meeting and their role;
- Given an outline the reason(s) for the meeting;
- Informed there is a right to be accompanied at the disciplinary hearing by a trade union representative or work colleague (the colleague will need to make their own arrangements to be accompanied);
- Informed of the possible outcomes of the hearing.

They will also be provided with a copy of the Disciplinary Policy & Procedure (unless previously provided) and all relevant documentation/ evidence, which the disciplinary panel will be able to review as part of the meeting. This will include the investigation report and any witness statements collected as part of the investigation, except where a witness's identity is to be kept confidential, in which case as much information as possible will be provided while maintaining confidentiality.

In the event that the colleague is unable to attend the disciplinary hearing, or their companion is unavailable. The hearing can be postponed for up to 10 working days to enable them and/or their preferred companion to attend, unless there are exceptional circumstances which would potentially require a lengthier postponement of the hearing.

A failure to attend a disciplinary hearing, an unreasonable delay in obtaining a companion or repeated postponements of the hearing, may result in the hearing taking place without the preferred companion, or in the colleague's absence.

Where the allegations are in regard to a clinical matter, the panel at any hearing may include a clinical expert.

At the disciplinary hearing, the procedure will be as follows:

- The Chair of the Panel will open the meeting by explaining the reason(s) why the disciplinary hearing has been arranged and detailing the incident(s) and/or allegation(s) to be considered at the disciplinary hearing;
- The information gathered during the investigation and provided to the colleague in advance will be discussed/considered during the disciplinary hearing;
- The colleague will be given the opportunity to set out their case and respond to the allegations;
- They will be given reasonable opportunity to ask questions, present evidence and raise points about any information provided by witnesses;
- At any time, the colleague's companion may add their input and may confer with the colleague. However, they do not have the right to answer questions on the colleague's behalf;
- If the Disciplinary Panel feel that further investigation is required, they may adjourn to allow such investigations to take place;
- Either party can request a recess of the meeting at any time.

When satisfied that the relevant information/evidence has been explored, an adjournment will be taken for the Disciplinary Panel to consider the information available to them and whether a disciplinary sanction is appropriate in this matter.

Once the panel have made their decision, they should inform the colleague. This will normally be communicated face to face following the adjournment, unless this is impractical or alternative arrangements have been agreed. The panel's findings, any sanction imposed and reasons for their decision will be confirmed to the colleague in writing.

8.5. Disciplinary Outcomes

The Disciplinary Panel has the responsibility for making a decision on the outcome and must act reasonably. The Panel will consider the case based on the facts they have been presented and their reasonable belief in what took place. They will reflect on:

- Has a fair and reasonable procedure has been followed;
- Was the level of investigation reasonable in the circumstances;
- Have the colleague's explanations / mitigating circumstances been considered;
- Whether on the balance of probabilities there are reasonable grounds to believe that the individual has committed the alleged misconduct.

When determining what action should be taken the disciplinary panel should consider the following:

- The level of severity of the misconduct;
- The mitigating circumstances put forward;
- What action Locala has taken previously in similar cases;
- The colleagues current, live disciplinary record.

8.6. Sanctions

Where the Disciplinary Panel reaches the decision that the allegations are not upheld, then no action will be taken. However, where the Panel upholds some or all of the allegations against the employees, the Panel will go on to consider the potential disciplinary sanctions to apply and has discretion to apply the penalty which it considers appropriate in all the circumstances (please see [Appendix C](#) for details of those with the authority to issue these sanctions):

The usual penalties for misconduct are set out below. Sanctions may be sequentially applied ('escalating' disciplinary action) as considered appropriate by the Panel or in certain cases, the colleague may be dismissed without prior warning.

Written Warning

- Minor breaches of conduct or expected behaviours where no action would be considered inappropriate in the circumstances;
- First instance of an offence/ poor conduct/ behaviour;

Final Written Warning

- Where there has been a failure to improve conduct after a written warning has been issued and remains live; or
- For a further and / or different offence after a written warning has been given and remains live; or
- For a serious offence which would not amount to Gross Misconduct but would justify a final written warning; or
- For a serious offence which would justify summary dismissal for Gross Misconduct, but where a lesser penalty is appropriate in the circumstances.

A copy of a Written Warning/Final Written Warning will remain 'live' for 12 months from the date of the issue of the warning (usually the disciplinary hearing date) and will be disregarded for disciplinary purposes after that time.

Dismissal (with notice)

- The colleague may be dismissed for failure to improve or for an act of further misconduct after a final written warning has been given and remains live. Dismissal will be with notice.

Summary Dismissal (dismissal without notice)

- The colleague may be summarily dismissed for an act of Gross Misconduct regardless of whether or not there are live warnings on the colleague's personnel file.

Where an individual has been dismissed, they will be required to immediately return all Locala property in their possession. This includes keys, access fobs, documents, credit cards, ID cards, uniform, phone and IT equipment etc. This list is not exhaustive.

Alternatives to dismissal

In some cases discretion there may be alternative sanctions to dismissal (in addition to those set out above). These may be authorised by a manager with the authority to dismiss in the circumstances, and will usually be accompanied by a final written warning. Examples include:

- Demotion;
- Transfer to another department or job;
- A period of suspension without pay;
- Loss of future pay increment or bonus;
- Loss of overtime.

9. Appeals

9.1. Appealing the Disciplinary Outcome

A colleague has a right to appeal against the outcome of the disciplinary hearing, if they feel that the decision was unfair or the procedure was not followed correctly.

The colleague should submit their appeal in writing to the Head of HR within 10 working days of receiving the outcome of the disciplinary hearing. The appeal should clearly state the basis on which the appeal is made, and include specific reasons for the citing these ground(s) of appeal.

Typically, the grounds for an appeal against a decision would be:

- The colleague believes that the penalty is unfair when compared to other similar decisions;
- New evidence is available that was not available at the time of the original hearing;
- The colleague believes that the person making the decision was biased or that the hearing had been carried out unfairly.

One appeal will be allowed at each stage of the formal disciplinary procedure.

9.2. The Appeal Hearing

An appeal panel will not have previously been involved directly or indirectly with the case. The Appeal Chair will normally be at the same level or a higher level as the Disciplinary Hearing Chair and will have the authority to make a decision on the circumstances presented irrespective of any previous decision.

Where the appeal is in regard to a clinical matter, the panel at any appeal hearing may include a clinical expert.

The colleague will be invited to attend an appeal hearing in writing. They will have the right to be accompanied by a trade union representative or a colleague, although they will be responsible for making the arrangements.

The hearing may be postponed by up to 10 working days in order to enable the colleague's chosen companion to attend or the colleague to attend in person, if the original date meant they would be unable to attend due to circumstances outside of their control. In exceptional circumstances, a further delay will be considered.

A failure to attend the appeal hearing, an unreasonable delay in obtaining a companion or repeated postponements of the hearing, may result in the hearing taking place without the preferred companion, or in the colleague's absence.

The Appeal Panel will have a copy of all the evidence considered as part of the disciplinary hearing together with the notes of the disciplinary hearing and the outcome letter.

At the appeal hearing the colleague will be asked to set out their reasons for appeal. The Appeal Panel will then have the opportunity to clarify these explanations and ask any questions. In some circumstances the Appeal Panel may decide to adjourn the appeal hearing to further investigate or consider any new evidence.

An appeal may result in the following outcomes:

- The original disciplinary outcome is upheld;
- The original disciplinary outcome is overturned;
- The original disciplinary sanction is reduced.

The decision of the appeal will be final and will be confirmed to the colleague in writing.

In the event that a decision to dismiss is overturned at the appeal hearing, reinstatement or re-engagement with continuous service will apply.

10. Support Available to Colleagues

10.1. During a Disciplinary Process

Disciplinary processes can be a stressful time for all involved. It is important that individuals who are subject to disciplinary procedures receive the appropriate support whilst the process is ongoing. This includes ensuring that the individual understands the process, they are regularly updated about the progress of the case, they have someone to speak to about their concerns and they have the necessary support to maintain their own wellbeing (see Section 5: Duties for more information).

In addition to these specifically assigned roles, colleagues also have access to advice and support via their Trade Union, our [Freedom to Speak Up Guardian](#) and our [Employee Assistance Programme](#).

10.2. Following the outcome of a Disciplinary Process

It should be recognised that following a disciplinary process (whatever the stage or outcome) it can be challenging for the individual to return to work. Prior to any return, a discussion should take place with the individual in order to identify any specific concerns they may have and/ or adjustments which may need to be made to support the reintroduction to work.

Consideration should be given to the following:

- Updating the individual on anything they may have missed (if they have been away from work)
- What other colleagues know about the situation and whether there is any information which needs to be shared to avoid negative impacts (e.g. gossip, low morale within the team)
- Agree what support would be required on their return (for example, would identifying a buddy be helpful).

Should the individual have any concerns following their return, they can raise these with their line manager, a member of the HR Advisory team, their Trade Union representative, or the Freedom to Speak Up Guardian. Support and guidance is also available at any time through our [Employee Assistance Programme](#).

11. Record Keeping & Sharing Information

11.1. Electronic Recordings

Locala do not record informal or formal meetings and it is expected that colleagues will not do so either. Covert recordings are not allowed, and colleagues are asked to respect the privacy of all individuals involved in the process. However, if there is a specific requirement to record a meeting this should be requested at the start of the process so that it can be considered fully.

If any video or audio evidence is provided as a result of overt recording (out in the open recording) the individual subject to the proceedings will be provided with a copy and/or a transcript of the recording.

11.2. Retaining documents from the Disciplinary Process

All Disciplinary and Appeal documentation will be stored confidentially, processed in line with GDPR and destroyed when no longer required.

The information will be used to monitor an individual's personal conduct and capability for general disciplinary action monitoring purposes.

11.3. Sharing information with other agencies

The investigation report and associated documentation are confidential documents and the investigating manager must ensure that that information is accessible only to those who are authorised to have access.

There may be occasions however, when there is a requirement to share this information with external organisations and without the consent of the employee. This request may come from several sources such as a professional body, coroner's court, social care, police, NHS organisation (this list is not exhaustive).

It is not the role of the investigating manager to decide whether or not to share information and advice must be sought from the relevant expert(s) in the organisation. Information must not be shared without taking advice. Equally information must not be withheld if it is appropriate to share but only information that is relevant and proportionate to the reason for the request must be shared.

Any requests for information to be shared, should be discussed with the relevant enabler:

- Head of Safeguarding
- Resolution Manager
- Compliance and Information Governance Manager
- Head of HR
- Director of Nursing, Allied Health Professionals and Quality

12. Equality Impact Assessment

Locala Community Partnerships aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others.

An Equality Impact Assessment Tool is used during ratification processes to establish whether its policies and practices would further, or had furthered, the aims set out in the section 149 (1) of the [Equality Act 2010]. Any outcomes have been considered in the development of this policy.

13. Consultation Process

A consultation process was carried out with key stakeholders in the development of this policy. These stakeholders included HR colleagues and Partnership Forum.

14. Dissemination and Implementation

14.1. Dissemination

The policy will be communicated through colleague briefing and a targeted and comprehensive communication plan. It will be placed in the relevant section of the Policies site on SharePoint. Where a review is identified and any changes made, these will be communicated.

14.2. Competence/Training

Prior to ratification of this policy the required education and training needs for ensuring effective implementation and compliance have been reviewed.

Specific guidance documents have been developed in order to support managers with the implementation of this policy and procedure. The HR Advisory team are available to provide tailored guidance and support where processes are being implemented. A training module will be developed to support the implementation of this policy, which will be rolled out through the organisations LEAD programme.

15. Monitoring Compliance with the Document

15.1. Process for Monitoring Compliance

Data relating to investigation and disciplinary procedures will be collated, recorded, and reported to the Workforce Committee on a regular basis. This will include: numbers of procedures; reasons for those procedures; adherence to process; justification for any suspensions/exclusions; decision-making relating to outcomes; impact on patient care and colleagues; and lessons learnt.

15.2. Key Performance Indicators

All disciplinary investigations and hearings will be conducted in line with the procedures set out above.

16. References/Bibliography

- Acas Code of Practice on disciplinary and grievance procedures (March 2015)

17. Associated Policy Documentation

There are guidance documents and templates available to support the implementation of this policy and procedure. These can be found on SharePoint.

NB. There may be more recent versions of the policies or procedures named below so that these should be checked accordingly.

[Alcohol and Substance Abuse in the Workplace Policy](#)

[Clinical Incident Reporting, Management and Investigation Policy](#)

[Confidentiality Policy](#)

[Locala Fraud, Bribery and Corruption Policy](#)

[Managing Conflicts of Interests Policy](#)

[Managing Safeguarding Allegations against Staff Policy & Procedure](#)

[Pay Progression Policy](#)

[Probationary Period Policy](#)

[Professional Registration Policy](#)

[Safeguarding Adults at Risk Policy](#)

[Safeguarding Children and Child Protection Policy](#)

[Supporting Colleague Performance Policy](#)

Appendix A – Examples of Misconduct

For clarification, instances of misconduct include, but are not limited to:

- Minor breaches of policies and procedures;
- Minor breaches of the employment contract;
- Damage to or unauthorised use of Organisation property;
- Poor timekeeping;
- Minor complaints relating to patient care;
- Unauthorised absence from work;
- Failure to comply with a reasonable management request, instruction or contractual requirement (unless this is repeated and/or creates a serious risk to employees and/or patients);
- Minor breaches of health and safety and hygiene rules, protocols and regulations.

This list is not, nor is intended to be, exhaustive but serves to illustrate examples of issues that may constitute Misconduct.

Appendix B – Examples of Gross Misconduct

For clarification instances of Gross Misconduct include, but are not limited to:

- Serious breach(es) of the terms and conditions of employment;
- Serious breach(es) of an organisation policy or procedure;
- Any criminal offences, whether committed at work or otherwise, that may affect an individual's ability to carry out their job, or that may have a detrimental effect on the Organisation's reputation;
- Any illegal activity on the Organisation's premises;
- Repeated or serious failure to obey instructions, or any other serious act of insubordination; Gross negligence or dereliction of duty and/or gross disregard for patient care;
- Serious breach(es) of trust and confidence;
- Reckless or deliberate damage to the Organisation's buildings, fittings, property, equipment or vehicles or the property of a colleague, service user or visitor;
- Serious misuse of the Organisation's property or name;
- Repeated cases of absence without leave;
- Sleeping whilst at work;
- Deliberately accessing internet sites to access inappropriate and/or offensive material, for example pornographic, offensive or obscene material, while at work or on any Organisation sites;
- Theft, fraud or misappropriation of organisation/ a patient's property and/or monies;
- Betting or gaming on work premises;
- Oppressive, violent, bullying, threatening or disrespectful behaviour; fighting or physical assault;
- Harassment of, or discrimination against employees, contractors, service users or members of the public, related to sex, maternity, gender, marital or civil partner status, gender reassignment, race, colour, nationality, ethnic or national origin, disability, religion or belief or age;
- Indecent and immoral behaviour; sexual misconduct;
- Any action which may or does bring the Organisation into disrepute;
- Use of social media to harass, bully, victimise or discriminate against another employee or to bring the Organisation into disrepute;
- Serious misuse of the Organisation's computers, systems and equipment;
- Serious infringement of health and safety rules; endangering the life of another person; causing a major preventable accident; failure to report an accident to the Organisation; leaving the scene of an accident without providing appropriate information;
- Unreasonable behaviour during the course of an investigation including refusal to answer questions and answering falsely;
- Making a disclosure of false or misleading information under our Whistleblowing Policy maliciously, for personal gain, or otherwise in bad faith;
- Making untrue allegations in bad faith against a colleague;
- Fraud; falsification of records or qualifications; false claims for business expenses; accepting a gift that may compromise or conflict with an individual's obligations to the Organisation;

- Refusal to disclose any of the information required by your employment or any other information that may have a bearing on the performance of your duties or fitness to practice;
- Failure to hold (or retain) the relevant statutory or professional registration for the role;
- Giving false information as to qualifications or entitlement to work (including immigration status) in order to gain employment or other benefits;
- Engaging in unauthorised employment during contracted hours;
- Unauthorised use, processing or disclosure of personal data contrary to our Data Protection Policy;
- Gross professional misconduct which includes actions which may result in expulsion from a professional institute or the cancellation of authorisation from a regulatory body;
- Knowing breach of statutory rules affecting an individual's work;
- Possession, consumption or being under the influence of alcohol or illegal drugs;

This list is not, nor is intended to be, exhaustive but serves to illustrate examples of issues that constitute Gross Misconduct.

Appendix C – Managers with the authority to take disciplinary action

The following table sets out the delegated authority for managers to issue a disciplinary sanction:

Staff Category	Written Warning	Final Written Warning	Dismissal
Chief Executive	Chairman	Chairman	Chairman
Directors	Chief Executive	Chief Executive	Chief Executive
Colleagues Band 7 and above, or equivalent	Director / Head of Service	Director / Head of Service	Director / Head of Service
Colleagues band 1-6, or equivalent	Operational Manager / Head of Service	Operational Manager / Head of Service	Operational Manager / Head of Service

Appeals Panels

Appeal panels should not have previously been involved directly or indirectly with the case.

The Appeal Chair will normally be at the same level or a higher level as the Disciplinary Hearing Chair and will have the authority to make a decision on the circumstances presented irrespective of any previous decision.

Appeal Panels in respect of disciplinary action taken against Directors, will include the Chairman, a Non-Executive Director, and the Head of Human Resources or nominated deputy.

Appeal Panels in respect of disciplinary action taken against the Chief Executive, will include a Non-Executive Director, a Director, and the Head of Human Resources.