

Board of Directors (in Public)

Item 5.6

Subject: Disciplinary Policy & Procedures
Date of Meeting: Tuesday 27th July 2021
Prepared by: Vicki Wilson, Head of HR
Presented by: Karen Nightingall, Chief People Officer
Purpose of Report: For Approval

BAF Reference	Impact on BAF
BAF4, BAF5, BAF6.	Ensuring that our disciplinary procedures are compliant with IPP recommendations and consistent with the principles of a compassionate and just culture will support our delivery of the NHS People Plan, specifically in relation to 'Looking after our people' and 'Belonging in the NHS'.

Level of assurance (please tick one) To be used when the content of the report provides evidence of assurance					
<input type="checkbox"/>	Acceptable assurance Controls are suitably designed, with evidence of them being consistently applied and effective in practice	<input checked="" type="checkbox"/>	Partial assurance Controls are still maturing – evidence shows that further action is required to improve their effectiveness	<input type="checkbox"/>	Low assurance Evidence indicates poor effectiveness of controls

1. Executive Summary

Following a review and update of the Trust's Disciplinary Policy in March 2021 and an update to Trust Board at that time, this paper sights the Trust Board on the Trust's revised Disciplinary Policy (**Appendix 1**) and provides an opportunity for discussion and consideration regarding how the Trust can ensure it manages such processes in the most effective and compassionate way.

Whilst there has been an overall increase in activity during 2020/21, there has been more effective management of these cases in terms of decisions to suspend, review of ongoing suspensions and timeliness of suspensions being lifted. Good progress has been made in relation to IPP with some key changes to the Disciplinary policy and process, however there remains more to do to ensure that our staff are not unnecessarily subject to procedures which are known to have a significant and long last detrimental impact on their health and wellbeing.

The responsibility for Trust Boards to be sighted on and accountable for ensuring effective people management processes has been made clear, both through the requirements of the Improving People Practices (IPP) recommendations in 2019 and more recently emphasised through the letter from Prerana Issar, NHS Chief People Officer to all Trust Chief Executives and HR Directors in December 2020.

2. Background

Following a tragic event that occurred at Imperial College Healthcare NHS Trust in 2016, NHS England and NHS Improvement conducted an important piece of work, through an appointed Advisory Group, which led to a series of recommendations. Many of these recommendations were used as the basis for the provision of additional guidance to provider organisations in relation to the management of disciplinary procedures. The IPP guidance links with other recent NHS Improvement guidance on developing a more compassionate and just culture and features within the NHS People Plan. This work aligns closely with our Trust values, is reflective of LHCH as a responsible and caring employer and supports our ambition to be the best place to work.

In December 2020, Prerana Issar, NHS Chief People Officer wrote to all Trust Chief Executives and HR Directors, urging organisations to continue to do more in this area, including a specific ask to review on a yearly basis and by the end of this financial year, all disciplinary procedures against the recommendations and that these are formally discussed/minuted at a Public Board or equivalent. The Trust Board received an annual review of disciplinary activity for 2020/21 at the March 2021 meeting.

3. LHCH Disciplinary Policy

A complete refresh of the Trust's Disciplinary Policy was undertaken and the new policy approved in March 2021. The new policy incorporates key points which align with the approach of London Imperial College, shared nationally as best practice following the significant work done there to improve their people practices as a result of the serious incident in 2016.

The requirements to ensuring that cases are dealt with only by the most senior managers (8c and above) and ensure appropriate discussion with the employee to establish their version of events, before any decision is made are made explicitly clear in this policy. Managers have a duty to consider carefully at an early stage whether any formal action is required at all. They should be sure that they understand fully all the issues or concerns before deciding on the appropriate action. Early consideration is a key requirement in order to ensure that the principles of a just and fair culture are followed.

Decisions on suspension will not be taken by one person alone unless there is an immediate safety or security issue. The Case Manager will consult with another Senior Manager (8c or above) and seek advice from an HR representative before making a decision on suspension.

The decision to suspend will only be taken if genuine risks are identified and all alternative options have been ruled out.

The manager will discuss with the employee how the employee would like their absence explained to colleagues and/or patients, details of how to access appropriate staff support and identification of a nominated individual who will ensure regular contact with the employee to provide pastoral support.

Cases that may result in dismissal will be heard by a Panel of three or more members. The Chair will normally be a member of a divisional / directorate management team or an Executive Director where appropriate. If the employee is a senior divisional / directorate manager or consultant-level appointment, the Panel will always be chaired by an Executive Director.

4. Trust Board Responsibilities

It is the responsibility of the Chief People Officer to update the Trust Board about disciplinary processes generally, any learnings for the Trust, and positive steps taken to support the health and wellbeing of all employees of the Trust.

The Trust Board is responsible for maintaining oversight of all disciplinary matters within the Trust and for determining appropriate action to be taken in relation to any concerns reported to them about timeliness, independence, objectivity, or safeguarding of health and wellbeing or any other concerns that affect disciplinary processes undertaken in the Trust. The People Committee has delegated responsibility from the Trust Board to perform this role, and will report to the Trust Board on any matters of concern.

5. Conclusion

It is important that the Trust manages people practices, in particular instances of disciplinary action, as compassionately and sensitively as possible. Regardless of any misconduct alleged, the employee must be treated with appropriate dignity and respect throughout. The Trust must also be mindful of the impact of such processes on colleagues and others who may be connected to disciplinary cases, and ensure appropriate communication and support is in place. It is essential that the Trust can monitor and assess the impact of such procedures and take supportive actions to safeguard the welfare and mental wellbeing of all colleagues.

6. Recommendations

The Board of Directors is requested to note the contents of this paper and approve the Trust's updated Disciplinary Policy.