

## Investigation Toolkit - Version 1.0 (August 2021)

### Key Notes:

This Toolkit must be read in conjunction with the Disciplinary Policy and Creating Terms of Reference Toolkit (for investigations relating to HR processes) and the Maintaining High Professional Standards (for medical and dental staff)

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## 1. Introduction

This toolkit has been produced to detail the process for case managers and individuals who have been appointed to conduct an investigation into an incident, complaint or allegation. The process as outlined must be followed to ensure best practice and to uphold an investigation process that is structured, fair, transparent, thorough and just for all concerned.



See Appendix 1 for the role descriptors for the case manager, investigating officer and HR Lead.

### What is an investigation?

The purpose of an investigation is to establish the facts relating to an allegation of misconduct, and to report this back to the Case Manager in order for a decision to be made about whether there is a case to answer or not. Investigations must be a thorough review of all the facts or events, and must be fair, transparent and objective.



**Investigating Officers, remember that an investigation involves gathering all the information relevant to the allegations (records, CCTV footage, witness accounts) to allow you to understand what may or may not have happened**

Wherever possible, investigations should normally be completed within 28 calendar days from the start of the investigation which is the date that the Case Manager writes to the employee providing them with a copy of the Terms of Reference for the investigation. With the agreement of the Case Manager, the timeline may be extended and all parties will be informed of this with the reasons.

### Right to Representation

At all stages of the formal process, employees have the right to be accompanied by a trade union representative or workplace colleague, not acting in a legal capacity. If the employee is unable to meet at the proposed date and time, or is unable to arrange to be accompanied for that meeting, the meeting may be re-arranged once, save significant extenuating

circumstances. All reasonable steps should be taken to agree a convenient time and date no later than 10 working days after the original scheduled date.

Should an employee not attend any meetings or participate in an investigation, any outcomes and subsequent decisions will be based upon the facts and evidence that are available at that time.

In exceptional circumstances where it is felt necessary for an HR representative to attend an informal meeting the employee may be accompanied by a trade union representative or work place colleague not acting in a legal capacity.

Witnesses do not have the right to be accompanied at investigatory interviews, a Disciplinary Hearing or an Appeal Hearing. However, reasonable requests can be made to the manager conducting the meeting and these will be considered on a case by case basis.

## 2. Informal Stage

Line managers should aim to manage most instances of misconduct informally and to provide support to employees to improve.



**Line managers - Remember to keep a record of any meetings and/or discussions you have with members of your team about conduct even informal discussions and provide a copy to the employee**

On identifying an incident of misconduct, the manager should arrange to meet with the employee without delay. The meeting is a normal manager-employee meeting with no requirement to provide notice and the employee does not have a right to be accompanied. (See Right to Representation section)

At the meeting, the manager should highlight the incident causing concern, seek the employee's response, outline the expected standards/behaviour and identify any support required by the employee in achieving the expected standards/behaviour. A record of the meeting should be made and provided to the employee and a copy placed on the employee's departmental file. The record (this may take the form of an e-mail) may be referred to if conduct concerns persist or the matter is escalated to the formal stages.

If standards of conduct do not improve, the manager will use their discretion and consider the seriousness of the misconduct in deciding on the next steps. In cases of repeated instances of what could be considered as "minor misconduct", a further manager-employee meeting should take place, as above.

If standards of conduct do not improve, despite a number of manager-employee meetings or in cases of more serious misconduct, the manager should complete a Request to Progress to Investigation form as provided in **Appendix 2**.

Consideration should also be given to the option to apply the Fast Track Process and the manager may have a separate meeting with the employee to discuss this. The employee is entitled to be accompanied by a trade union representative or work place colleague not acting in a legal capacity and an HR representative will also attend. Refer to the Fast Track process below for details of this process.

On completion of the Request to Progress to Investigation form, the manager should forward this to the Head of Employee Relations (or nominated deputy).

## Fact Find Assessment

For instances of misconduct a Fact Find Assessment will be undertaken by the manager. This should involve gathering information which is relevant to the incident.

The employee should be given the opportunity to provide their response to the incident of concern at a Fact Find meeting. Notification of the Fact Find meeting should be verbal (confirmed in writing later), given the time constraints of this stage of the process.

The manager may also need to speak with witnesses to the incident and to collate statements.

The line manager will complete the Fact Find Assessment report as contained in **Appendix 3** and forward to the Head of Employee Relations.

The Fact Find process should proceed without delay and take no longer than 5 calendar days to conclude.

If the manager feels the matter requires investigation, they should complete Request to Progress to Investigation form and forward to the Head of Employee Relations (or nominated deputy). (**Appendix 2**).

The outcome of the Fact Finding Assessment may identify that there is no case to answer or it is appropriate to deal with the matter through management action e.g. training. A record of this should be made and provided to the employee and a copy placed on the employee's departmental file.

## Deterring Unnecessary Investigations – the Just Culture approach

Managers should be mindful of avoiding unnecessary investigations to prevent the associated distress for the employees concerned. In this regard, the Trust fully supports the Just Culture approach where investigations are undertaken in a fair and kind way, with consideration for employees' wellbeing, and a focus on learning and improvement. The Trust also has processes in place to minimise unnecessary investigations e.g. the Triage decision making process, NHSE/I Just Culture Guide (**Appendix 13**).

## Triage Decision Making Process

Following an initial review of the reports by the appropriate HR colleague, the relevant form i.e. either the Request to Progress to Investigation or the Fact Finding report will be forwarded for consideration to the Head of Employee Relations (or nominated deputy). The circumstances of each case will be considered. The Head of Employee Relations, in conjunction with the relevant manager and HR Lead will determine whether the matter should proceed for investigation and if a Fast Track Request has been made, to also consider this. The Head of Employee Relations in conjunction with the relevant manager and HR lead may alternatively decide that there is no case to answer or that the matter should be dealt with via informal resolution. Where the case relates to a member of staff from a BAME background, a cultural ambassador will be involved. The Triage Decision Making process is outlined in **Appendix 4**. The process should be completed within 3 working days, wherever possible and the employee then notified of the decision within 2 working days.

## 3. Formal Stage

### Fast Track Process

There may be occasions where it is appropriate for the Fast Track process to be used. Please refer to the Disciplinary Policy.

### Commissioning the investigation

Following the Triage Decision Making Process, the HR Lead will advise the line manager on whether an investigation should take place. The manager should then take steps to commission an investigation. This manager will become the Case Manager for the investigation. In some circumstances a more senior manager may need to undertake this role depending on the circumstances and roles of the individuals concerned. This should be discussed with HR.

### The Terms of Reference

The Terms of Reference (TOR) sets out how an investigation into a complaint or allegations of misconduct should be undertaken.

The TOR should be completed by the Case Manager using the Creating TOR Toolkit

The Case Manager will be responsible for appointing the Investigating Officer who must be independent of the issue raised, specifically trained and have experience to be able to conduct a balanced and thorough investigation, as well as being available to be able to complete the investigation within a reasonable period of time. There may be occasions where it may be appropriate to use an external investigating officer which may be someone from another NHS organisation or external to the NHS.



**Case Managers - remember that investigations can be time consuming! Nominate an Investigating Officer who will have the capacity to devote the required time to the task.**

### Informing an Employee

If there is a requirement for an individual to be investigated, then they will be informed as soon as is reasonably practicable and preferably in a face to face meeting. It is the responsibility of the Case Manager, who may also be the employee's line manager, to notify the employee that an investigation will take place in line with the template in [Appendix 5](#) and to provide the Terms of Reference (TOR) outlining the scope and timescales of the investigation. The employee should also be advised of the support provided by the organisation throughout the investigation.

On very rare occasions, for example with allegations of a safeguarding or criminal nature, the Trust may not be able to provide the exact nature of the allegation/s. When this situation occurs, the Triage Decision Making Group will need to determine how and if the investigation can progress and inform the employee of this where it appropriate to do so.

## 4. Conducting the Investigation

### Planning

The Investigating Officer is required to undertake a reasonable investigation into the allegations as set out in the TOR. Consideration must be given to what is relevant to the matter in hand to establish the facts. Where the scope of the investigation extends beyond that outlined in the TOR, the Investigating Officer should inform the Case Manager of this and with their approval the TOR will be updated and reissued to the employee.

**Evidence** may include policies and procedures, complaints, emails, file notes, letters and witness statements submitted before or after the investigation started, as well as any phone call recordings or video recordings that may exist.

The Investigating Officer should prepare the **interview questions** using the template in **Appendix 6**. When setting the specific questions relating to the allegations, the Investigating Officer should seek to identify specific details around times, dates and witnesses, identify any additional relevant information that may be the employee's mitigation, offer the employee the opportunity to explain their response, ask the employee if they can identify any witnesses that they would like to be interviewed and if so, the reason for this.

Good **interview questions** are balanced, unbiased, consistent, and tailored around the investigation's TOR, which will allow the Investigating Officer to obtain as much information as possible. The questions may be probing, but not intimidatory or leading, and could be a combination of open questions (e.g. *tell me about.... Talk me through...describe what happened*) and closed questions (e.g. *what day did the incident happen?*). They may also seek to check and/or clarify something.



**Employees may wish to have character witness testimonies considered as part of the investigation. This can be done by asking the witness to provide a written statement and does not require a formal interview by the Investigating Officer.**

It is usually the case that the **employee subject to the disciplinary process** is interviewed last in order to understand the evidence from witnesses before hand. When the investigation is being held in accordance with **the Grievance or Bullying and Harassment process** then the employee raising the concern is interviewed first.

**Witnesses** to the events under investigation may need to be interviewed. These employees will usually be identified in the TOR document. If there is are a large number of witnesses, then the Investigating Officer should identify the most relevant to interview. In some circumstances, statements can be requested from those who have relevant third hand

evidence (e.g. someone who saw the impact of the incident or to whom the matter was reported).

It is for the Investigating Officer to determine whether there is the need to meet the witness face to face/via video call or whether a written signed statement would suffice.

The template for signed statements should be used in [Appendix 8](#)

## Meeting Invites

The employee who is subject to the investigation will be advised by the Investigating Officer of the details of the meeting, the allegations and their right to be accompanied by a trade union representative or workplace colleague, not acting in a legal capacity. Where the employee is from a BAME background, with their agreement, a cultural ambassador may attend this meeting. This will be confirmed in writing in line with the template letter in [Appendix 7](#). For further details around the right to be accompanied refer to the section on Right of Representation in Section 4.

The Investigating Officer will notify **witnesses** if they are required to attend at an investigatory interview. This will be confirmed in writing. Although witnesses do not have the right to be accompanied at these meetings, the Investigating Officer can exercise discretion in considering requests. Additionally if the witness requests to have a person providing emotional support, this will also be considered by the Investigating Officer.

### Employees who find themselves subject to disciplinary procedures have the right to:

- know the case against them
- respond to any allegations
- have due consideration given to their case
- be accompanied by a colleague or trade union official at a formal meeting or disciplinary hearing
- appeal any decision made

## Format of Investigation Meetings

All investigation meetings are confidential so should take place in a private meeting room or may be held virtually. In some cases, it may be appropriate to hold the meetings offsite.

Investigation meetings are likely to cause employees stress so it is important that the meeting is as structured as possible in order to ensure a smooth process. The Investigating Officer should use the Investigation Meeting Notes template as contained in [Appendix 6](#).

## Investigation Report

The investigation report should objectively set out the facts that the Investigating Officer has been able to establish and identify any facts that remain unclear. All comments will be factual and not opinion. Once these have been set, the Investigating Officer will then need to apply their judgement and draw conclusions.

Documented evidence including statements, notes from meetings, letters and other relevant documents including codes of conduct, job descriptions and contracts of employment should be included as appendices to the investigation report and clearly labelled. Relevant documents and investigatory interview notes should be signed and dated as appropriate.

Any patient records which are provided as evidence must be anonymised/redacted in order to fully comply with patient confidentiality.

The template report as contained in **Appendix 9** should be used.

## When additional evidence comes to light...

Generally, it is preferable to include any new matters into the current investigation where there is a direct link. Including new matters will be the decision of the Case Manager who may then amend the TOR. Where it is not relevant to the current investigation, a separate investigation may be authorised to run alongside the original matter. The decision is not for the Investigating Officer to make and will need to await instructions from the Case Manager.

## Conclusion of Investigation

Once completed, the report should be submitted to the Case Manager within 7 calendar days of the completion of the investigation. The Case Manager will consider the findings, and conclusions and make a decision on what action will be taken within 7 calendar days. They may require a meeting with the Investigating Officer.

If formal action is decided upon, then the Case Manager will notify the employee of this in writing within 2 working days of making a decision. The letter contained in **Appendix 10** should be used. The Case Manager will also contact the line manager and in consultation with the HR lead will nominate an independent manager to act as the Hearing Officer.

The duty of confidentiality does not allow information relating to the outcome of the investigation to be shared with all those involved with the investigation.



**No further action made be decided upon as the outcome of the investigation. This may occur where there is a lack of evidence. In this scenario, the Case Manager will notify the employee of this in writing and inform the line manager of such within 2 working days of the decision. When this is known the investigation should cease at that point.**



## Appendix 1

### Investigations – Role Descriptors

#### **Case Manager (normally the line manager, department manager or senior manager)**

1. To oversee the case and ensure momentum is maintained
2. To write the terms of reference for the investigation with support from the Human Resources (HR) Lead
3. To appoint the Investigating Officer (IO)
4. To hold an initial meeting with the IO and HR Lead to discuss the terms of reference, plan the investigation interviews and confirm the investigation timescales
5. To identify administrative support for the investigation
6. To inform the employee, in writing, of the allegations, that an investigation will be undertaken and provide them with a copy of the terms of reference
7. To ensure the employee and any witnesses are provided with appropriate wellbeing support.
8. In conjunction with the HR lead to consider, having undertaken a full risk assessment, if the employee should be suspended or work with restrictions (the appropriate approval for suspensions must be obtained). To confirm details of any restrictions or suspension in writing to the employee. To keep restrictions or suspension under regular review.
9. To ensure the employee and their line manager are regularly kept informed of progress with the case
10. To provide support to the Investigating Officer with regard to resolving any delays/issues with the investigation process
11. To receive the report from the Investigating Officer and make a decision on the next steps for approval by the Decision Making Group
12. To ensure that any action points arising from the investigation outcome or disciplinary hearing are detailed in an action plan and completed e.g. any training/development to be undertaken by the employee with specified timeframes
13. Where the decision is to proceed to a hearing, in conjunction with the HR lead to nominate an independent person as the Hearing Officer
14. To advise the complainant/witnesses when the process has concluded.

#### **Investigating Officer**

1. To undertake the investigation in the allegation(s) as detailed in the Terms of Reference
2. To chair all investigatory meetings/interviews
3. To provide regular updates on progress with the investigation to the Case Manager and HR Lead
4. To escalate to the Case Manager and HR Lead any concerns with completion of the investigation within the agreed timeframe
5. To escalate to the Case Manager and HR lead any additional information which comes to light during the investigation which may require amendment to the terms of reference or require alternative action.
6. To provide an investigation report to the Case Manager
7. To ensure a copy of all documentation is provided to the HR lead

If case proceeds to a hearing –

8. To produce a management statement of case prior to the hearing
9. To agree with the case manager and HR lead the witnesses required at the hearing
10. To present the case at the hearing

#### **Human Resources Lead**

1. To support the Case Manager with completion of the Terms of Reference
2. To provide support and advice to the Case Manager and Investigating Officer throughout the process
3. For cases involving BAME staff, to identify a cultural ambassador to support the process
4. To provide support/advice to the Case Manager with regard to resolving any delays/issues with the investigation process
5. Upon completion of the process, to ensure the relevant documentation is securely filed.
6. If the case proceeds to a hearing to ensure the hearing is arranged and relevant documentation prepared.

Please note that for cases relating to Doctors and Dentists which are managed under Maintaining High Professional Standards there may be variations to the above to meet MHPS requirements.

*Appendix 2***Request to Progress to Investigation**

Upon completion of the Request to Progress to Investigation report, the manager should send to the Head of Employee Relations (or nominated deputy).

<b>Employee Name:</b>	
<b>ESR number:</b>	
<b>Role:</b>	
<b>Ward/Dept and Site:</b>	
<b>Manager:</b>	
<b>Nature of reoccurring incident/ misconduct:</b>	
<b>Management efforts to support improvement (provide dates of meetings, support provided to employee, expectations outlined, employee response):</b>	
<b>Documents attached (records of manager-employee meetings, training provided, other evidence):</b>	
<b>Manager's decision and rationale:</b>	
<b>Name of manager submitting request to progress to Investigation:</b>	
<b>Date:</b>	

**Consideration of the Fast Track Process**

	Indicate Yes or No
<b>After consideration by the employee and the manager, will a request to apply the Fast Track Process be made?</b>	

If a request is being made, the Fast Track Process form should be completed and forwarded with the Request to Progress to Investigation report to the Head of Employee Relations.

**Senior Management Consideration**

On receipt, the Head of Employee Relations in conjunction with the relevant manager and HR lead should meet to consider and agree on whether the matter should proceed to investigation.

<b>Employees length of service:</b>
<b>Employees employment record:</b>
<b>Name of Manager considering the report:</b>
<b>Name of Head of Employee Relations considering the report:</b>
<b>Name of HR Lead considering the report :</b>
<b>Decision (to proceed with investigation or not):</b>
<b>Rationale for decision:</b>
<b>Date agreed:</b>
Name of Manager/ HR rep to inform employee

## Appendix 3

## Fact Find Assessment

Upon completion of the Fact Find Assessment, the manager should complete the report and send to the Head of Employee Relations. The assessment including the submission to the Head of Employee Relations should normally be completed within 5 working days of the incident.

<b>Employee Name:</b>	
<b>ESR number:</b>	
<b>Role:</b>	
<b>Base:</b>	
<b>Manager:</b>	
<b>Date of Incident/ Allegation:</b>	
<b>Nature of Incident/ Allegation:</b>	
<b>Name of witness 1 and what they witnessed:</b>	
<b>Name of witness 2 and what they witnessed:</b>	
<b>Employee response (including mitigation)</b> <i>(not to be taken if Counter Fraud or Safeguarding involved until they have given clearance)</i>	
<b>Fact Find Assessment findings (is there sufficient evidence at this stage to indicate that the incident/ allegation did take place, that this involves a breach that will need to be investigated?)</b>	
<b>Are there any restrictions in place</b> (For example moved to another area/patient record access removed):	

<b>Depending on the nature of the incident, there are a number of reporting mechanisms that are required to be followed. Please indicate below if the necessary departments have been contacted.</b>	
<b>Reported to Safeguarding: Yes/No</b>	<b>Reported to Counter Fraud: Yes/No</b>
<b>Contacted HR: Yes/No</b>	<b>Reported to Pharmacy: Yes/No</b>
<b>Patient Number:</b>	
<b>Documents attached:</b> <b>(For example - Incident Reporting Forms, Witness Statements, Complaint letter)</b>	
<b>Reason for delay with submitting/the completion the Fact Find Assessment:</b>	
<b>Managers decision and rationale:</b>	
<b>Name of manager undertaking the Fact Find Assessment:</b>	
<b>Date considered:</b>	

### Consideration of the Fast Track Process

	<b>Indicate Yes or No</b>
<b>After consideration by the employee and the manager, will a request to apply the Fast Track Process be made?</b>	

If a request is being made, the Fast Track Process form should be completed and forwarded with the Fact Find Assessment report to the Head of Employee Relations.

### Management Consideration

On receipt the Head of Employee Relations, relevant manager and HR Lead should meet to consider and agree on whether the matter should proceed to investigation.

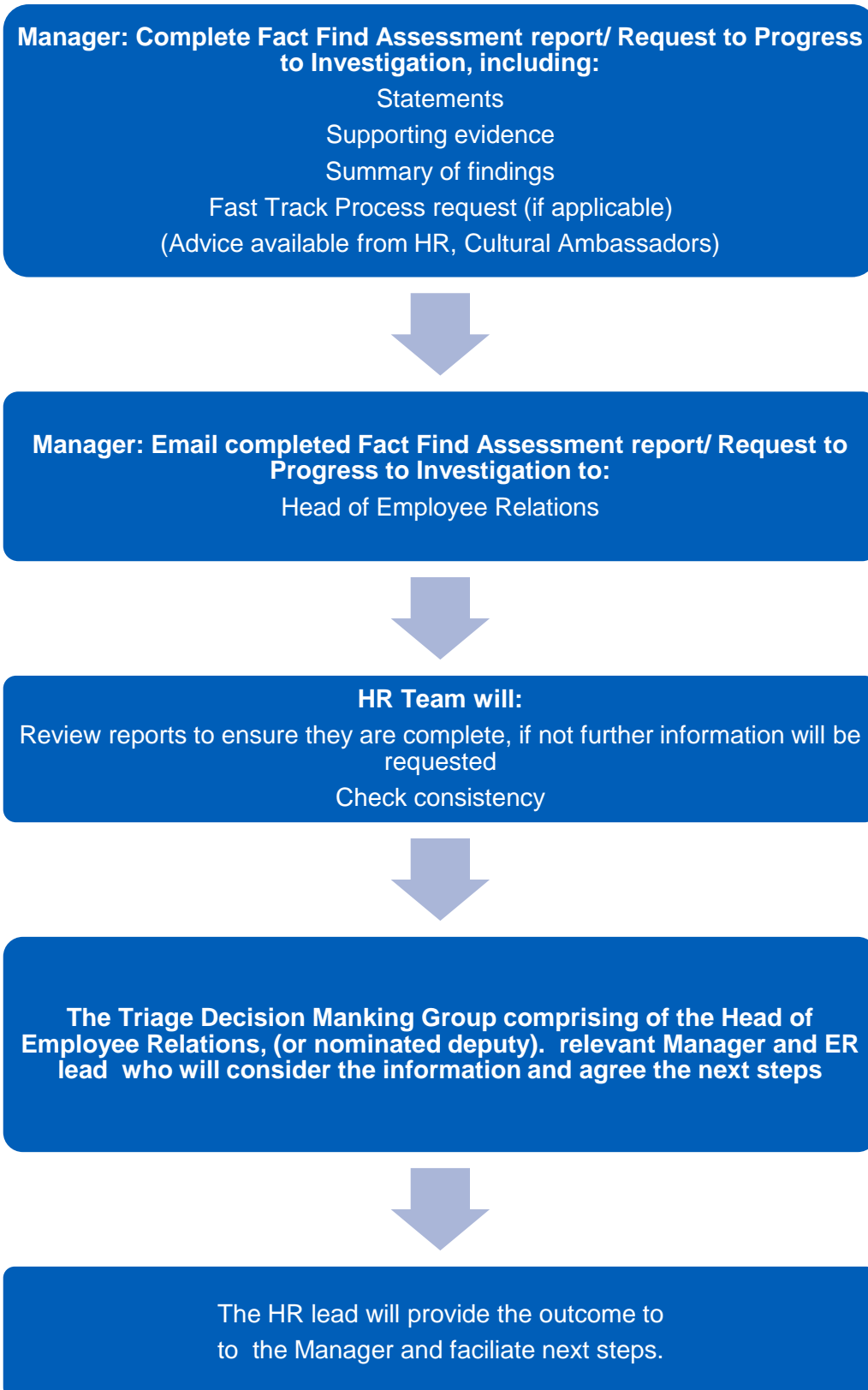
<b>Employees length of service:</b>
<b>Employees employment record:</b>
<b>Name of manager considering the report:</b>

<b>Name of Head of Employee Relations considering the report:</b>
<b>Name of HR lead considering the report:</b>
<b>Decision (to proceed with investigation or not):</b>  <b>Rationale for decision:</b>
<b>Date agreed:</b>  Name of Manager/ HR rep to inform employee

*Appendix 4*

Triage Decision Making Process

The purpose of the process is to ensure consistency in decision making regarding the instigation of investigations under the Disciplinary process throughout the Trust.





## Appendix 5

### Letter to Employee – Notification of Investigation

#### PRIVATE AND CONFIDENTIAL

[name]

[address]

Dear [name],

#### Notification of Investigation

Further to our conversation on [date], I am writing to inform you that I have now formally commissioned an investigation into the allegations that have been made relating to your conduct in the workplace.

The alleged misconduct is that you:

1. [copy commissioning details from terms of reference here]
- 2.

A copy of the full Terms of Reference is enclosed with this letter.

An Investigating Officer has been appointed and I confirm that is [name], [title]. [Name] will be in contact with you directly. *Suspended staff only:* You are reminded that whilst on suspension you should be available to attend any meetings that the Trust invites you to.

It is anticipated that the investigation will be completed as quickly as possible but by no later than [date]. Should it be necessary to extend the timeframe, you will be notified accordingly.

The investigation will be conducted impartially and fairly. Until the investigation has concluded, no decision will be made as to whether or not it will be necessary to instigate the Trust's formal [name procedure here]. Once the investigation has concluded, you will be informed in writing of its outcome and what the next steps will be.

If you have any queries or require any further clarification on the content of this letter, please do not hesitate to contact [Name] HR Advisor, on [telephone number] in the first instance.

If you are a member of a union, you may also wish to inform your Trade Union representative and seek advice as appropriate.

During our conversation we discussed wellbeing support and (either detail support identified/agreed\_or I would like to take this opportunity to remind you of the wellbeing support available as follows:

- Occupational Health - telephone: 01206 745284 (Colchester or 01473 704011 (Ipswich) or email: occupational.health2@nhs.net
- CIC service – the employee assistance programme – Telephone 0800 085 1376, email:assist@cic-eap.co.uk, on line/live chat: well-online.co.uk. please use the following: Username: esneft, Password: wellbeing

The wellbeing hub on the staff intranet also contains additional resources and information

[https://intranet.esneft.nhs.uk/pages/your\\_wellbeing\\_hub](https://intranet.esneft.nhs.uk/pages/your_wellbeing_hub)

Additionally, you may also chose to contact your trade union representative for support.

Yours sincerely

[name and title ]

## Appendix 6

## INVESTIGATION MEETING NOTES

Q		√
	<b>Introductions and explanation of process</b>	
	Introduce those present	
	<b>Explain:</b>	
	Investigatory meeting and not a disciplinary hearing	
	Representation rights (employee only)	
	Formal notes of the meeting will be taken by either the investigating officer or the admin support or may be digitally recorded (explain notes will not be verbatim)	
	They will have the opportunity to confirm/otherwise accuracy of notes	
	Notes/statements given will form part of management's statement of case if a case to answer is identified. A copy shared with the employee who is subject to the allegations.	
	Where appropriate advise that witness statements will not normally be shared if no case to answer	
	A break can be taken at any time if required	
	Confidential meeting, not to be discussed with anyone other than those present, representative and/or allocated support contact	
	Questions/statements can be repeated if required	
	<b>Questions</b>	
	Ask initial introductory questions around how long the employee has worked at the Trust, their role, their line manager/ colleagues (as relevant to the allegations), how their working relationship is with their manager/ colleagues (as relevant to the allegations)	
1	What is your role with the Trust?	
2	How long have you worked in the role of ...	
	<i>Ask questions about each of the allegations in detail and ask for employees'/witnesses response. Allow the employee/witness appropriate opportunity to respond.</i>	

3	(For employee only ) Did you [state the allegation] on [date]?	
4	(For employee only) Why did you do this?	
	<b>Closing Comments</b>	
	<b><i>Explain:</i></b>	
	<p>What happens next i.e. explain that you will continue with the investigation. Once it is complete you will prepare a report on the investigation and provide to the Case Manager for them to decide on whether the matter proceeds to a formal hearing or not.</p> <p>If the decision is for a formal hearing, you may be requested to attend as a witness.</p> <p>Explain that the case manager will confirm when the process has concluded, but due to confidentiality, the details of the outcome cannot be shared.</p>	
	To ensure that the investigation can be conducted as fairly as possible they must keep the matter, and what has been discussed, confidential. To discuss the matter with any other member of staff other than a Trade Union representative or their agreed support may be prejudicial to the investigation and may amount to misconduct and lead to a further disciplinary matter.	
	Following the meeting, if employee is suspended, the Investigating Officer should update the Case Manager with regards to any relevant findings so the Case Manager can review the suspension.	

## Appendix 7

### Letter to Employee – Invite to Investigation Interview

#### PRIVATE AND CONFIDENTIAL

[name]

[address]

Dear [name],

I have been asked by [name], Case Manager, to undertake an investigation into the allegation that [detail of allegation as previously advised to the employee – include dates where this is appropriate].

I would like to meet with you to discuss the allegation/s and I have made arrangements for us to meet on [date, time & venue]

The purpose of the meeting will be to gather further information from you regarding the allegations as detailed in [your conversation with [name] on [date]/the letter from [name] dated [date]. You may bring with you a prepared statement for discussion. As there is no note taker, the meeting is likely to be recorded via TEAMS so that I can send you an accurate account of what is discussed. You will be sent a copy of your statement which you will be required to sign and return.

You may if you wish be accompanied by a trade union representative or workplace colleague not acting in a legal capacity.

I do appreciate that this is a very stressful time for you and I will conclude the investigation in line with the policy requirements **of 28 calendar days**. If for any reason this is not possible due to unforeseen circumstances, you will be fully informed with reasons for the non-completion.

I would like to take this opportunity to remind you of the wellbeing support available as follows:

- Occupational Health - telephone: 01206 745284 (Colchester or 01473 704011 (Ipswich) or email: occupational.health2@nhs.net
- CIC service – the employee assistance programme – Telephone 0800 085 1376, email:assist@cic-eap.co.uk, on line/live chat: well-online.co.uk. please use the following: Username: esneft, Password: wellbeing

The wellbeing hub on the staff intranet also contains additional resources and information

[https://intranet.esneft.nhs.uk/pages/your\\_wellbeing\\_hub](https://intranet.esneft.nhs.uk/pages/your_wellbeing_hub)

You may also chose to contact your trade union representative for support.

The meeting is being held in accordance with the Trust's Disciplinary Policy, a copy of which is enclosed.

You are required to maintain confidentiality regarding this issue at all time. Please let me know if you have any problems attending this meeting.

Yours sincerely

[Name]

[Title]

Appendix 8



Summary of Meeting Held On

Page No: [? of ?]

- Summary of:
  - Present Role:
  - Accompanied by:
  - Investigating Officer:
  - Note Taker:
- 

This summary consisting of [?] pages is true to the best of my knowledge and belief and I make it known that, if it is tendered in evidence, I shall be liable to disciplinary action if I have wilfully stated anything which I know to be false, or do not believe to be true.

Signature: .....Date:.....

---

- 1.
- 2.

There we no further points to make

Signature.....Date.....

*Appendix 9*

**INVESTIGATION REPORT**  
**[NAME], [POLICY TYPE]**  
**STRICTLY PRIVATE AND CONFIDENTIAL**

**1 INTRODUCTION AND BACKGROUND**

Why it was deemed necessary to carry out an investigation and how it came about

**2 TERMS OF REFERENCE**

Outline the terms of reference and the nature of the incidents to be investigated

**3 METHODOLOGY**

- Outline the name of the employees that were interviewed, the details of any other statements considered, and what information was collated as evidence e.g. timesheets, notes of meetings
- Refer to the applicable Trust or specialist policies and procedures
- If there have been any delays with the investigation – provide details and reasons

**4 FINDINGS**

This will be the largest section of the report. Each allegation should be presented in turn with all relevant evidence that supports or contradicts the allegation. This section should include

- A chronological order of events
- The Investigating Officer's factual account of what has occurred (as revealed by the investigation)
- How the evidence was evaluated, which where applicable should be referenced to the relevant policy, code of practice, etc which may include definitions or specific sections.
- Details of factors which the Investigating Officer believes contributed to the situation
- If there was conflicting evidence, why a particular version of events was preferred
- Any mitigating factors in relation to allegations which have been upheld

**5 CONCLUSIONS**

This section summarises the case and concludes the findings.

The Investigating Officer should provide an answer to each point asked within the terms of reference and state whether sufficient evidence has been gathered as part of the investigation to support the allegation(s) or not.

If fault is to be attributed, it should be outlined here. If a process or procedure was not followed, or an individual behaved inappropriately, what went wrong and what should have happened instead should be outlined.

If, following the investigation, the findings are inconclusive this should be made clear along with the rationale .

## **6 APPENDICES**

- Terms of Reference
- All statements (must be signed and dated)
- Copies of codes, policies, procedures
- Copy of the Disciplinary Policy or the applicable policy
- Any letters or correspondence between relevant parties relating to the investigation
- Copies of relevant codes of professional practice

Further examples of documents which may form appendices could be (this list is not exhaustive):

- Copy of contract of employment
- Copy of job description
- Copy of recent appraisal (if relevant)
- Copies of notes relating to previous meetings
- Copies of records relating to clinical or technical errors etc.
- Sickness Absence Records
- Training Records

## Appendix 10

### Letter to Employee – Outcome of Investigation

#### PRIVATE AND CONFIDENTIAL

[name]

[address]

Dear [Name]

#### Outcome of Investigation

I am writing to advise you that following the conclusion of the investigation I have recommended proceeding to a Disciplinary Hearing.

You will be contacted in due course to be advised of the hearing date and you will also be given a copy of the Hearing Pack.

The allegations under consideration are:

- Allegation 1 -
- Allegation 2 -
- Allegation 3 -

You will be given the opportunity to present your case at the hearing, which will be carried out in accordance with the Trust's Disciplinary Policy (copy previously provided).

[Please note that you will remain on restricted duties until the Hearing.]

We appreciate that this will be a difficult time for you and I would also like to take this opportunity of reminding you again of the wellbeing support available as follows:

- Occupational Health - telephone: 01206 745284 (Colchester or 01473 704011 (Ipswich) or email: occupational.health2@nhs.net
- CIC service – the employee assistance programme – Telephone 0800 085 1376, email:assist@cic-eap.co.uk, on line/live chat: well-online.co.uk. please use the following: Username: esneft, Password: wellbeing

The wellbeing hub on the staff intranet also contains additional resources and information

[https://intranet.esneft.nhs.uk/pages/your\\_wellbeing\\_hub](https://intranet.esneft.nhs.uk/pages/your_wellbeing_hub)

You may also chose to contact your trade unions representative for support.

Yours sincerely

[name]

[role]

cc: HR Adviser



Appendix 11 – NHSI/E - A Just Culture Guide

# A just culture guide

## Supporting consistent, constructive and fair evaluation of the actions of staff involved in patient safety incidents

This guide supports a conversation between managers about whether a staff member involved in a patient safety incident requires specific individual support or intervention to work safely. Action singling out an individual is rarely appropriate - most patient safety issues have deeper causes and require wider action.

The actions of staff involved in an incident should **not** automatically be examined using this *just culture guide*, but it can be useful if the investigation of an incident begins to suggest a concern about an individual action. The guide highlights important principles that need to be considered before formal management action is directed at an individual staff member.

An important part of a just culture is being able to explain the approach that will be taken if an incident occurs. A just culture guide can be used by all parties to explain how they will respond to incidents, as a reference point for organisational HR and incident reporting policies, and as a communication tool to help staff, patients and families understand how the appropriate response to a member of staff involved in an incident can and should differ according to the circumstances in which an error was made. As well as protecting staff from unfair targeting, using the guide helps protect patients by removing the tendency to treat wider patient safety issues as individual issues.

**Please note:**

- A just culture guide is not a replacement for an investigation of a patient safety incident. Only a full investigation can identify the underlying causes that need to be acted on to reduce the risk of future incidents.
- A just culture guide can be used at any point of an investigation, but the guide may need to be revisited as more information becomes available.
- A just culture guide does not replace HR advice and should be used in conjunction with organisational policy.
- The guide can only be used to take one action (or failure to act) through the guide at a time. If multiple actions are involved in an incident they must be considered separately.

Start here - **Q1. deliberate harm test**

1a. Was there any intention to cause harm?



Yes

**Recommendation:** Follow organisational guidance for appropriate management action. This could involve: contact relevant regulatory bodies, suspension of staff, and referral to police and disciplinary processes. Wider investigation is still needed to understand how and why patients were not protected from the actions of the individual.

END HERE

No go to next question - **Q2. health test**

2a. Are there indications of substance abuse?



Yes

**Recommendation:** Follow organisational substance abuse at work guidance. Wider investigation is still needed to understand if substance abuse could have been recognised and addressed earlier.

END HERE

2b. Are there indications of physical ill health?



Yes

**Recommendation:** Follow organisational guidance for health issues affecting work, which is likely to include occupational health referral. Wider investigation is still needed to understand if health issues could have been recognised and addressed earlier.

END HERE

2c. Are there indications of mental ill health?

if **No to all** go to next question - **Q3. foresight test**

3a. Are there agreed protocols/accepted practice in place that apply to the action/omission in question?



If No to any

**Recommendation:** Action singling out the individual is unlikely to be appropriate; the patient safety incident investigation should indicate the wider actions needed to improve safety for future patients. These actions may include, but not be limited to, the individual.

END HERE

3b. Were the protocols/accepted practice workable and in routine use?

3c. Did the individual knowingly depart from these protocols?

if **Yes to all** go to next question - **Q4. substitution test**

4a. Are there indications that other individuals from the same peer group, with comparable experience and qualifications, would behave in the same way in similar circumstances?



If Yes to any

**Recommendation:** Action singling out the individual is unlikely to be appropriate; the patient safety incident investigation should indicate the wider actions needed to improve safety for future patients. These actions may include, but not be limited to, the individual.

END HERE

4b. Was the individual missed out when relevant training was provided to their peer group?

4c. Did more senior members of the team fail to provide supervision that normally should be provided?

if **No to all** go to next question - **Q5. mitigating circumstances**

5a. Were there any significant mitigating circumstances?



Yes

**Recommendation:** Action directed at the individual may not be appropriate; follow organisational guidance, which is likely to include senior HR advice on what degree of mitigation applies. The patient safety incident investigation should indicate the wider actions needed to improve safety for future patients.

END HERE

if **No**

**Recommendation:** Follow organisational guidance for appropriate management action. This could involve individual training, performance management, competency assessments, changes to role or increased supervision, and may require relevant regulatory bodies to be contacted, staff suspension and disciplinary processes. The patient safety incident investigation should indicate the wider actions needed to improve safety for future patients.

END HERE