



**Doncaster and Bassetlaw
Teaching Hospitals NHS
Foundation Trust**



Flexible Working Policy

This procedural document supersedes: CORP/EMP 48 v.5 - Flexible Working Policy
 and incorporates: CORP/EMP 45 v.5 (amended) - Career Break Policy
 CORP/EMP 43 v.4 - Job Share Scheme
 CORP/EMP 44 v.4 - Term Time Contract for Working Parents.



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Executive Sponsor(s):	Karen Barnard, Director of people & OD
Author/reviewer: (this version)	John Scott, HR Manager
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Amendment Form

Please record brief details of the changes made alongside the next version number. If the procedural document has been reviewed **without change**, this information will still need to be recorded although the version number will remain the same.

Version	Date Issued	Brief Summary of Changes	Author
Version 6	15 December 2017	Merger of related policies into one document	John Scott
Version 5	Jan 2012	General review of whole policy	Kerstie Stevens
Version 4	May 2009	3.1 & Appendix 1- To reflect changes in the right to request flexible working until a child is 16 years of age	Kerstie Stevens
Version 3	Aug 2007	<ul style="list-style-type: none"> • Section 2 - Replace 'at certain times' with 'to certain patterns' • Section 3 - Replace 'part-time' with 'flexible' • Section 3.1- Replace paragraph starting 'From April 2003...' to paragraph starting 'You have a statutory right...' • Replace separate points with one either/or point • Insert paragraph starting 'Parent/guardian includes...' • Replace 'not an automatic right' with 'right to have this request granted' • Insert sentence starting 'All requests for flexible working...' • Replace 'any change authorised will be permanent, unless otherwise...' to 'Changes may be on a permanent or fixed term basis as' • Replace 'the monetary implications' with 'all the implications, including financial' • Section 5.2 - Replace 'reserves the right to' with 'will' • Delete the sentence starting 'If a job share partner is not identified...' • Section 5.3 - Replace 'Staff who' with 'Term time working is when staff' • References - Insert References • Appendix 1 - Insert 'I am making this application to enable me to care for an adult' 	Rosalind Sullivan
Version 2	October 2005	Amended to include same sex partners (Civil Partnership Act 2005)	Helen Selvidge

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1. INTRODUCTION

We are committed to promoting a work environment that values diversity and is committed to developing policies and initiatives that will make a difference and support work-life balance. We understand that if we want to recruit and retain high quality staff, we need to be flexible and adopt modern employment practices and ways of working.

Equally, we also have a responsibility to deliver healthcare 24/7 all year round. Wards and departments need to be staffed to acceptable levels at all times and everyone needs to be flexible to respond to service needs. But there should still be scope for all employees to work flexibly, recognising their personal circumstances and commitments.

2. PURPOSE

The purpose of flexible working is to provide increased opportunities for those members of staff who need to change their working pattern due to personal circumstances. It also supports the recruitment of external candidates whose domestic arrangements allow them to work in only certain patterns. Doctors in Training who wish to request Flexible Working should in the first instance discuss this with their contact point at the Deanery.

Examples of flexible working arrangements used in the Trust are listed at appendix 1.

3. DUTIES AND RESPONSIBILITIES

A list describing roles and responsibilities is at appendix 2.

4. PROCEDURE

All current and prospective employees may apply to work flexibly. Applications will be considered on an individual basis and, although there is a formal process set out below, many changes may simply be agreed by mutual consent. Should a more formal approach be required, application forms are at appendix 3, and a flowchart describing the procedure is at appendix 4.

4.1 Statutory rights

Some employees will have a statutory right to request flexible working. This applies if you are an employee with at least 26 weeks continuous service and are:

- the parent/guardian of a child/children under the age of 17
- the parent/guardian of a disabled child under the age of 18
- the main carer for an adult

These rights do not apply to agency workers. The term 'parent/guardian' includes the child's mother, father, adopter, guardian, foster parent, and partner of the child's mother, father adopter, guardian, foster parent, including same sex partner. In effect, you must have responsibility for the child's upbringing.

4.2 Applications and decisions

This is a right to *request* to work flexibly, not a right to have this request granted. Applications must be in writing and are limited to only one application per year. Changes can be on a permanent or fixed term basis, as agreed between you and your manager. You will need to carefully consider all the implications, including financial, of changing your working arrangements and which working pattern will best suit your present and future needs for providing care.

A flowchart showing the timescale for application is at appendix 4. Your manager will arrange to meet with you within 28 days to discuss the request and, if they cannot agree to the request, to explore alternative solutions. They should then write within 14 days to either confirm the agreed new work pattern and start date, or give to a clear, justified reason why the request cannot be accommodated, explaining the operational reasons why this is not practicable.

4.3 Appeals

If your application is refused, you have the right of appeal to the next level of line management. The appeal should be made in writing within 14 days of the receipt of the refusal of the flexible working request. The manager will make the necessary arrangements to hear and consider the basis of the appeal, ideally within 28 days of receipt. The manager will confirm the outcome of the appeal in writing to the employee and their decision is final. However, if you feel that the procedure outlined in this policy has not been followed, you have access to the Trust's Grievance and Disputes Procedure.

5. TRAINING/ SUPPORT

There is no formal Statutory and Essential Training associated with this policy. HR Business Partners can offer support and advice to managers about the content of this policy.

6. MONITORING COMPLIANCE WITH THE PROCEDURAL DOCUMENT

What is being Monitored	Who will carry out the Monitoring	How often	How Reviewed/ Where Reported to
Suitability of policy	Deputy Director of P&OD	At least every three years, or if legislation changes	Monitor best practice and legal updates
Effectiveness of the arrangements	Deputy Director of P&OD, in partnership with Staff Side	Annually	Monitoring information should be analysed and used to review and revise policies and procedures to ensure continuing effectiveness.

7. DEFINITIONS

Explanations of flexible working terminology are included at appendix 1.

8. EQUALITY IMPACT ASSESSMENT

The Trust aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are disadvantaged over others. Our objectives and responsibilities relating to equality and diversity are outlined within our equality schemes. When considering the needs and assessing the impact of a procedural document any discriminatory factors must be identified.

An Equality Impact Assessment (EIA) has been conducted on this procedural document in line with the principles of the Equality Analysis Policy (CORP/EMP 27) and the Fair Treatment For All Policy (CORP/EMP 4).

The purpose of the EIA is to minimise and if possible remove any disproportionate impact on employees on the grounds of race, sex, disability, age, sexual orientation or religious belief. No detriment was identified. (See Appendix 5).

9. ASSOCIATED TRUST PROCEDURAL DOCUMENTS

Grievance and Dispute Procedure (including Staff Copy) - **CORP/EMP 3**
 Fair Treatment for All - **CORP/EMP 4**
 Restructure, Reorganisation, Redeployment and Redundancy Policy – **CORP/EMP 9**
 Retirement Policy - **CORP/EMP 12**
 Equality Analysis Policy – **CORP/EMP 27**
 Roster Policy - Nursing and Midwifery – **CORP/EMP 35**
 Recruitment and Selection Policy - **CORP/EMP 36**
 Special Leave Policy - **CORP/EMP 47**

10. REFERENCES

Employment Act 2014
 Agenda for Change: Terms and Conditions of Service Handbook
 The Flexible Working Regulations 2014
 Children and Families Act 2014
 The Equality Act 2010
 ACAS Rights and Responsibilities at Work

APPENDIX 1 - EXAMPLES OF FLEXIBLE WORKING

Listed below are some working patterns you may want to consider. Clearly, there may be jobs where operational demands mean they are not always feasible. But talk to your line manager about what might be possible.

Part-Time Working

In the context of delivering a 24 hour service, everyone works part-time. Part-time hours may vary from just a few to over 30 hours per week. Similarly, patterns of work vary tremendously - some staff work just weekends, others work evenings, mornings, afternoons, a few days a week or a combination to fit in with personal circumstances.

Job Sharing

This is where two people perform the duties of one job. The two job holders share the work load, the decision making, problem solving and in some instances, the staff supervision.

Term time only

You work term time only (39 weeks) and do not work at all during the school holidays, but are paid all year round at a pro-rata rate.

Many posts in the Trust may be suitable for a term time only contract but, as the demand for health services does not tend to go down significantly during school holidays, there is a limit to the number of term time posts each department or directorate can accommodate. If a term time only contract is granted, it will initially be for a fixed period of 1 to 2 years only and will be reviewed regularly.

People on term time only contracts are not allowed to take annual leave during term time, although managers can authorise unpaid leave in exceptional circumstances.

Home- or Tele- Working

Some posts do not require an employee to be permanently on site or closely supervised, and particular pieces of work can be done more easily without the interruptions of colleagues, phones etc.

Home working also helps support the Trust's "green" transport plan as it reduces the amount of travel to sites and car parking demand.

If you are spending a significant amount of time at home, your manager will need to agree arrangements for you to attend Trust events such as team brief, statutory training and regular keeping in touch and appraisal meetings.

You may have IT equipment you can use at home or it may be possible to borrow equipment. In either case, Information Services will need to check the security, confidentiality and safety issues connected with using IT equipment off site.

Annualised Hours

This is where you are contracted to work a total number of hours per annum or month. Your hours do not necessarily have to follow a set pattern or routine, and so is helpful for managing peaks and troughs in demand.

Compressed Hours

You work longer hours and reduce the number of days worked per week or per fortnight.

Self Rostering

This is about stating your preferred working pattern, within agreed parameters, before a rota is formally drawn up. The needs of the department remain paramount and must fully comply with service delivery needs.

Secondments

Secondments provide the opportunity to experience working elsewhere for a limited period of time whilst still retaining your job. It can be to another NHS organisation, or just to another department within the Trust. The terms of a secondment mean that your terms and conditions of employment are maintained by your 'home' employer. A secondment would not be regarded as a break in service.

Flexi-Time

Flexi-time allows you to vary your working hours within specified limits. There are usually earliest start and finish times in place and the opportunity to build up a debit or credit of 'flexi leave' over time.

Staggered Hours

This is a way of creating flexibility, similar to compressed hours, by working with different start and finish times. It can increase the number of hours the service is open and also allows for the service to be staffed during peak times. This works particularly well for clinics where less staff are required at the beginning and end of the day.

Career Break

A career break allows you to take an extended break (three months to five years) from the workplace without the need for resigning and seeking re-employment. There is a clear expectation that you will return to work for the NHS.

You can request a career break for a number of reasons including caring responsibilities, study leave, training, working abroad, voluntary work or travelling.

You need to think carefully about the pension implications of taking a career break and whether you wish to continue, or pause your contributions. You should seek advice from an NHS Pension expert and notify your line manager of your decision.

You cannot take other paid employment during your career break without the agreement of a Director of the Trust. Permission will only be considered where the work is likely to broaden your experience, or be of benefit to the Trust when you return to work.

If your career break is 12 months or less then, as far as reasonably practicable, you will

turn to your original post. You have to give at least two months' notice of your intention to return. Any longer than a year, that post is not guaranteed but, where practicable, you will be offered a job as similar as possible. You should give three months' notice. Your pay will only start once you take up a suitable vacancy. Standard pay protection arrangements apply.

Your vacancy search can continue for up to 3 months (in line with the notice period required for your return to work. If you refuse the offer of these posts, your employment will be terminated. The Trust will write to you explaining the situation and inviting you to a meeting to discuss the proposed termination. You are entitled to be represented at this meeting by a colleague or a Trade Union representative. You will be offered a right to appeal against the termination of their employment.

The main terms for a career break are included in the staff handbook, Agenda For Change, Part 5 Section 36: Employment Break Scheme

Flexible Retirement

This is an arrangement where you retire and draw your pension, but then return to work, often on a part-time or reduced hours basis. Full details are included in the [Retirement Policy](#).

APPENDIX 2 – ROLES AND RESPONSIBILITIES

ROLES AND RESPONSIBILITIES

People and OD are responsible for:

- Increasing awareness and publicising flexible working initiatives
- Advising managers and employees on policy and procedure
- Attending meetings if requested to discuss flexible working and employment break applications
- Entering changes onto HR Information System and liaising with payroll as appropriate.

Line managers are responsible for:

- Ensuring open discussion of employee requests for flexible working and employment break
- Following the principles of the policy and procedure and for giving full consideration to all requests for a change to working pattern or employment break
- Ensuring all applications are considered fairly and equally, and decisions are taken based on the needs of the service
- Confirming all meetings and decisions with the employee in writing
- Completing necessary forms detailing any change in working hours and promptly passing information to the Workforce Information Team to ensure any change is recorded in the HR Information Systems
- Reviewing flexible working arrangements at the end of a 3 month trial period.

Employees are responsible for:

- Familiarising themselves with flexible working options available for consideration
- Completing the relevant application form (see Appendix 3)
- Submitting the application form at least 6 weeks before the requested start date for flexible working
- Submitting the application form at least 3 months before the requested start date for an employment break
- Adhering to the procedure and following the principles outlined
- Where appropriate, arranging representation at meetings to discuss flexible working and employment break applications e.g. a trade union representative or work colleague.

APPENDIX 3 – APPLICATION FORMS

FLEXIBLE WORKING APPLICATION FORM

DONCASTER & BASSETLAW TEACHING HOSPITALS NHS FOUNDATION TRUST

Name:		Pay No:	
Post:		Hours:	
Department:		Hospital:	

I wish to apply for a new working pattern commencing on

I have worked for the Trust for at least 6 months	Yes/No
I am the parent (or have parental responsibility for a child under the age of 16) (18 years old if the child is disabled)	Yes/No
I am making this application to enable me to care for an eligible child	Yes/No
I am making this application to enable me to care for an adult	Yes/No
I have not made a previous application to work flexibly under this right during the past 12 months	Yes/No

Please indicate the type of flexible working pattern you are requesting, the reasons for your request, how this would assist you and what working pattern you would prefer:

Please outline any implications of this change for the Department:

I have carefully considered the implications of my request, including any financial impact there may be and understand that, unless otherwise agreed, this is a permanent change to my working pattern.

Signed: Date:

CC. HR Business Partner, People & OD

CAREER BREAK APPLICATION FORM

DONCASTER AND BASSETLAW TEACHING HOSPITALS NHS FOUNDATION TRUST

Name:		Pay No:	
Post:		Hours:	
Department:		Hospital:	

I wish to apply for a Career Break commencing on the for a duration of years/months. I have read, understand and agree to the conditions of service governing the application of the Career Break Scheme as defined by the Trust’s policy and undertake to return to work following the expiry of my Career Break:

I accept that:

- 1. I will be required to agree keeping in touch arrangements during my absence.
- 2. I will forfeit my right to return should I, during the period of my Career Break, be employed by any other organisation without the prior agreement of a Director of DBTH.
- 3. I understand that if my Career Break is for 12 months or less that every reasonable effort will be made to ensure my original post is available to me when I return. However, if my Career Break is for over 12 months, there is no guarantee that the job offered upon return, will be exactly the same number of hours, or in the same department or location as that relinquished at the commencement of my Career Break.
- 4. I understand that where practicable the Trust will offer me the same or similar post to the original, but where this is not possible a vacancy search will be carried out for three months. Should I fail to accept any posts, I understand that my employment with the Trust will cease.
- 5. Should I wish to change this agreement then I must notify my immediate manager at the earliest opportunity.

Signed: Date:

Head of Department

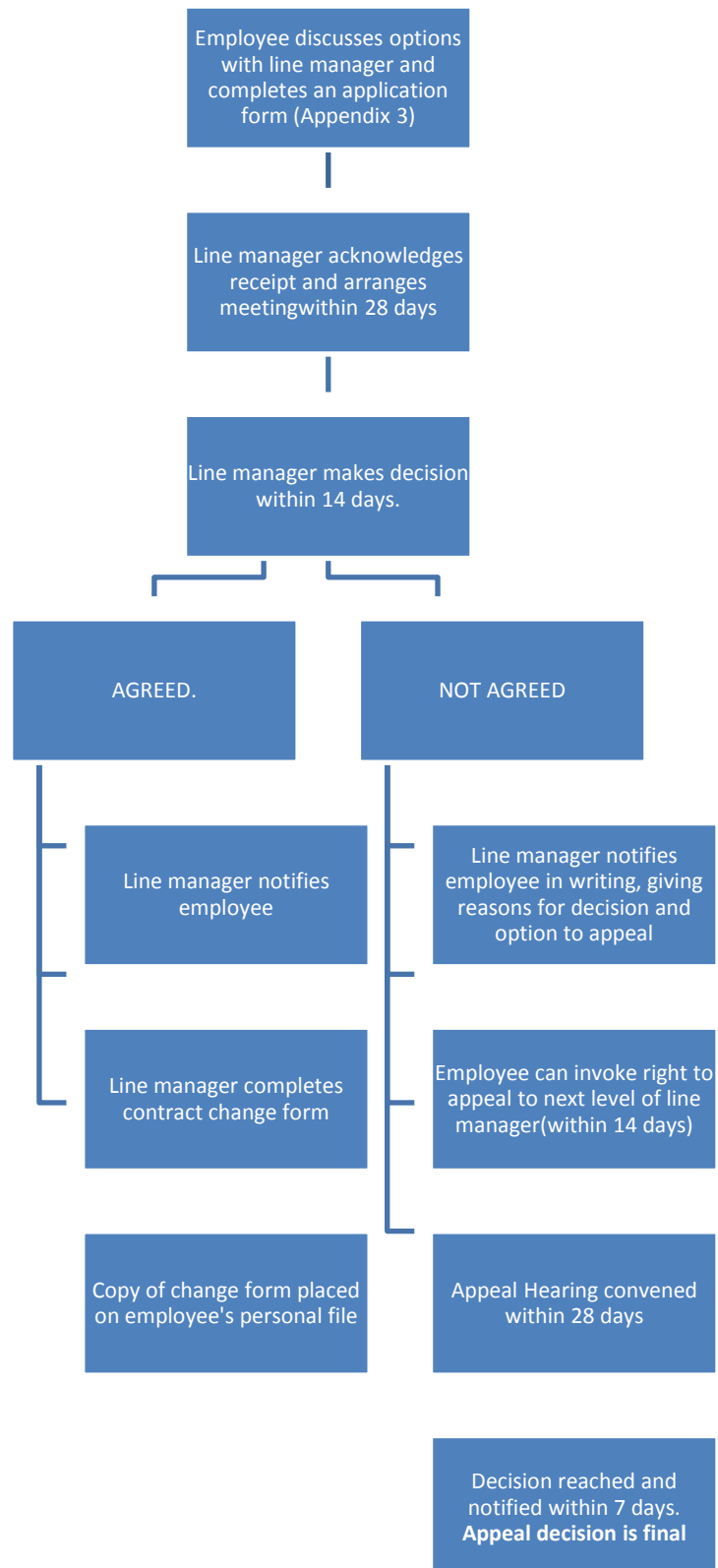
Further to your application to join the Career Break Scheme, I write to confirm that your application has been *accepted/not accepted.

*Delete as applicable

Comments/Reason for Decision.....

Signed: Date:

APPENDIX 4 – APPLICATION FLOWCHART



APPENDIX 5 - EQUALITY IMPACT ASSESSMENT PART 1 INITIAL SCREENING

Service/Function/Policy/Project/Strategy	Care Group/Executive Directorate and Department	Assessor (s)	New or Existing Service or Policy?	Date of Assessment
Flexible Working	People & OD	John Scott	Existing	15/11/2017
1) Who is responsible for this policy? Name of Care Group/Directorate: People & OD				
2) Describe the purpose of the service / function / policy / project/ strategy? Ensure widest access to opportunities at DBTH and flexibility in working				
3) Are there any associated objectives? Equality, diversity and Inclusion legislation; NHS initiatives and the Trust's People Strategy				
4) What factors contribute or detract from achieving intended outcomes? – Capability to re-design posts and service to accommodate flexible working				
5) Does the policy have an impact in terms of age, race, disability, gender, gender reassignment, sexual orientation, marriage/civil partnership, maternity/pregnancy and religion/belief? Only in terms of promoting accessibility				
<ul style="list-style-type: none"> If yes, please describe current or planned activities to address the impact n/a 				
6) Is there any scope for new measures which would promote equality? The new measures are designed to fundamentally promote equality				
7) Are any of the following groups adversely affected by the policy?				
Protected Characteristics	Affected?	Impact		
a) Age	No			
b) Disability	No			
c) Gender	No			
d) Gender Reassignment	No			
e) Marriage/Civil Partnership	No			
f) Maternity/Pregnancy	No			
g) Race	No			
h) Religion/Belief	No			
i) Sexual Orientation	No			
8) Provide the Equality Rating of the service / function /policy / project / strategy – tick (✓) outcome box				
Outcome 1 ✓	Outcome 2	Outcome 3	Outcome 4	
<i>*If you have rated the policy as having an outcome of 2, 3 or 4, it is necessary to carry out a detailed assessment and complete a Detailed Equality Analysis form in Appendix 4</i>				
Date for next review: November 2020				
Checked by: Anthony Jones		Date: 15 November 2017		



Disciplinary Procedure

This procedural document supersedes: Disciplinary Procedures – CORP/EMP 2 v.5.



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Executive Sponsor(s):	Karen Barnard, Director of People & OD
Author/reviewer: (this version)	Anthony Jones, Deputy Director of People & OD
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Amendment Form

Please record brief details of the changes made alongside the next version number. If the procedural document has been reviewed **without change**, this information will still need to be recorded although the version number will remain the same.

Version	Date Issued	Brief Summary of Changes	Author
Version 6	31 May 2018	Changes to format plus some changes to monitoring arrangements and title updates Minor amendments for factual accuracy	Sam Francis/ Anthony Jones
Version 5	17 August 2015	Minor amendments for factual accuracy	Ruth Cooper
Version 4	January 2010	<p>'Disciplinary Procedure Guidance Note for Managers' is now incorporated in this policy as Appendix 3 - major adjustments have been made and therefore needs to be re-read in full.</p> <p>1.4 points the reader to examples of gross misconduct.</p> <p>2.1 clarification of alternative arrangements for medical staff.</p> <p>3.4 slight amendment of wording for clarification</p> <p>3.5 Update of where additional information can be found</p> <p>3.6 Clarification of who to report fraud and/or corruption to.</p> <p>3.7 Slight amendment to words to remove reference to gender.</p> <p>3.8 more detailed information regarding rights to representation.</p> <p>4.2 Clarification on responsible manager decisions.</p> <p>5. Rewording and clarification on roles and responsibilities</p> <p>6.4 Removal of a duplicate statement regarding pay.</p>	J Lang

		<p>7.3 Clarification on right to be accompanied.</p> <p>8 Re-wording around involvement of LCFS in disciplinarys involving criminal offences.</p> <p>9 Clarification of the role of 'responsible manager' and consideration given at hearings to professional codes of conduct.</p> <p>10.1 points reader to further reading on investigations</p> <p>10.2 Amendment to wording</p> <p>10.3 points reader to further reading on investigations and wording amended for clarification.</p> <p>10.4 Re-wording of 'responsible' manager</p> <p>11 [1] Clarification of requirement.</p> <p>11[4] Removal of some unnecessary words</p> <p>11.2 Clarification of requirements for posting of Letters</p> <p>12[5] Details inserted to ensure consideration of referral to appropriate external bodies is made.</p> <p>12.2 Clarification of requirements of posting of letters</p> <p>16 Additional reference document added</p>	

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1 INTRODUCTION

1.1 The Trust is committed to providing an excellent standard of patient care. To do this, we rely on staff receiving support to enable them to fully understand their role and the Trust's expectations of them, and on all staff being committed to demonstrating positive and effective behaviours. This commitment will be underpinned by appropriate supportive policies and procedures. This procedure should be regarded as one of mutual and joint working, which enables employees to restore standards of performance to an acceptable level.

1.2 This policy and its associated documents apply to all Trust employees. This procedure should not be used to address issues of capability, which are dealt with under the Trust's Capability Procedure - CORP/EMP 25.

1.3 Management of personal and professional conduct, capability & ill health concerns involving medical and dental staff will be undertaken in accordance with the national framework detailed in 'Maintaining High Professional Standards in the Modern NHS (2005) (MHPS) and these are set out in Conduct, Capability, Ill Health and Appeals Policies and Procedures for Practitioners - CORP/EMP 13. However, the process for the hearing itself will follow the provisions of the Trust Disciplinary Procedure.

2 PURPOSE

2.1 This procedure is intended to enable disciplinary matters to be dealt with quickly, fairly, consistently and reasonably, having regard to the equity and substantial merits of each case.

2.2 The procedure should not be viewed primarily as a means of imposing sanctions. The procedure's prime purpose is to help and encourage employees to achieve and maintain standards of conduct, attitude and job performance, and to ensure that every employee reflects the values and behaviours expected within DBTH, treating patients, carers, members of the public and members of staff with dignity and respect, promoting a professional attitude at all times.

2.3 Wherever possible and appropriate, problems should be resolved through support/retraining/counselling, referring to other Trust Policies and Procedures before resorting to formal disciplinary procedures, with appropriate advice and support from Human Resources (See paragraph 4.4).

2.4 Apart from proven cases of gross misconduct, which generally warrant dismissal, no employee will be dismissed for a first offence without having first been warned and without having been given the opportunity to attain the required standards. Except in cases of gross misconduct, dismissal should only be used as a disciplinary sanction for misconduct, where earlier procedural stages have failed to produce the required improvement. Examples of acts which may be considered as gross misconduct can be found in Appendix 2.

2.5 This procedure requires that, at all stages of the formal procedure, the employee should be informed, in advance, of any hearing or interview, of the nature of the allegation or complaint and the employee should be notified of the right to be accompanied by a 'Companion' in accordance with paragraph 4.1.9. They should also be given advance notice of the purpose of any interview or hearing.

2.6 The principles to be followed are that disciplinary issues will be managed as a priority and that any interview or hearing should be, wherever practicable, convened without causing undue delay to the disciplinary process. At the disciplinary hearing the employee, is to have the opportunity to bring witnesses, to offer evidence, to respond to the management case and to state their case to the disciplinary panel who will make the disciplinary decision, before the decision is made. Upon notification of the decision, the employee is to be informed of their rights and method of appeal (see section 4.12).

2.7 The level at which the procedure is invoked will be determined by the seriousness of the allegation/misconduct and/or where appropriate, the existence of a previous warning which has not expired.

N.B. Gross misconduct is defined as a breach of discipline which is so wilful; pre-meditated; serious or irresponsible, that it strikes at the root of the employment contract. It is misconduct which effectively destroys the trust and confidence which the Trust must have in an employee. This includes criminal offences outside employment where the offence is one that makes the individual unsuitable for the type of work or unacceptable to other employees.

3 DUTIES AND RESPONSIBILITIES

3.1 **People & Organisational Development** - The Director of People & Organisational Development reserves the right for either the Director or a member of the P&OD department to participate at the informal and formal stages of this procedure for the provision of advice.

3.2 **The Companion** – A companion can be a recognised trade union official, representative from a professional association or a work colleague.

The companion is allowed to address the disciplinary hearing in order to:

- put forward the employee's case
- sum up the employee's case
- respond on the employee's behalf to any view expressed at the disciplinary hearing.

The companion can also confer with the employee during the disciplinary hearing. It is good practice to allow the companion to participate as fully as possible in the disciplinary hearing, including asking witnesses questions.

The companion has no right to answer questions on the employee's behalf, or to address the disciplinary if the employee does not wish it, or to prevent the employer from explaining their case.

Further information on the right to be accompanied can be found in the ACAS Code of Practice 1 – Disciplinary and Grievance Procedures.

3.3 **Employees** - The duty to co-operate

It is recognised that it is in the interests of both any affected staff member and the Trust to ensure the procedures set out in this document are carried out efficiently and without unnecessary delay. All parties will reasonably co-operate at all times to ensure that this occurs.

3.4 **Responsible Manager** – This is the manager who has responsibility, under the delegation of authority, to appoint an investigating officer, review the investigatory information and decide whether the issue should be heard in a formal disciplinary hearing, and make decisions around the level of disciplinary action to be taken following a disciplinary hearing.

3.5 **Investigating Officer** – Appointed by the Responsible Manager, with regard to the type of allegations and the skill set required to conduct an appropriate investigation, the investigating officer will collect and collate all the available evidence, provide a summary of the facts of the case to the responsible manager. He/she may be required to attend any resultant disciplinary hearing and present the supporting facts and material; it follows, therefore, that the investigating officer can neither adjudicate at the hearing nor be in any way involved/connected with the allegation.

4 PROCEDURE

4.1.1 It is the Trust's policy that the agreed procedures set out in this document shall be observed in the handling of disciplinary cases. Exceptionally, there may be cases in which procedure may be amended, examples of which are:

[a] where an employee has been given a term of imprisonment; A hearing will be held in the absence of the employee, with the opportunity for written information to be considered by a panel.

[b] when an employee refuses or fails to attend a disciplinary hearing without good reason; A hearing will be reconvened once only and may be held in the absence of the employee.

[c] where an employee admits the allegations without challenge and agrees to receive a sanction outside of a hearing - see paragraph 4.7.5.

4.1.2 In cases of gross misconduct, such amendments to procedure will only be fair where guilt is so obvious that failure to follow the procedure will not render an injustice to an employee. In extreme cases, subject to the observations of the principles of natural justice as set out in paragraph 4.1.8, the Trust reserves the right to immediately dismiss.

4.1.3 This procedure will be reviewed, should it be necessary, and as a result of changes in legislation, or at the request of either parties to the agreement, or as a consequence of local conditions of service being agreed and implemented by the Trust.

4.1.4 Disciplinary action against a trade union official can lead to a serious dispute if it is seen as an attack on the union functions. Although normal disciplinary standards apply to their conduct as employees, no disciplinary action beyond a Verbal Warning should be taken until the circumstances of the case have been discussed with a Full Time Official. Where disciplinary action is to be taken a Trade Union Official has the right to be accompanied by a companion who is a Full Time Officer or more senior union colleague. In all cases where disciplinary action against union officials is contemplated the Director/Deputy of People and Organisational Development should be notified.

4.1.5 In addition to investigating the matter in accordance with the normal disciplinary procedure, managers should also report all suspected financial irregularities to the Director of Finance in order to ensure co-ordination of agencies such as Internal Audit, the Trust's Local counter Fraud Specialist, the Police etc. and to ensure that the allegations and evidence are properly co-ordinated. Examples may include suspected thefts or frauds. Further information is given in relation to matters of Fraud and Corruption in appendix 3 and the Trusts Fraud Policy and Response Plan.

4.1.6 Where disciplinary matters are associated with attempts to defraud or corrupt, then although normal disciplinary standards will still apply in parallel, the Trust will be required to notify the Trusts Local Counter Fraud Specialist (LCFS), the Police, Internal and external audit and NHS Counter Fraud Office.

4.1.7 In cases of potential Safeguarding matters, the Trust's Safeguarding Lead must be informed and advice sought on appropriate action towards the patients involved.

4.1.8 In dealing with disciplinary matters, even where the procedure is amended in extreme cases of proven gross misconduct, it is essential that the following rules are observed:

- [a] the employee should know the nature of any accusation(s) against them;
- [b] the employee should be given an opportunity to state their case to the person (or body) who will take the disciplinary decision, before the decision is made;
- [c] that those hearing the matter should act in good faith.
- [d] each step in the procedure and action taken within it, must be taken without unreasonable delay.

[e] the timing and locations of meetings must be reasonable.

4.1.9 All employees have a statutory right to be accompanied by a companion at a disciplinary hearing, held under the provisions of the procedure. A companion can be a recognised trade union official or work colleague. This statutory right does not extend to other meetings within the disciplinary process e.g., investigatory meetings. However, staff may be accompanied by a companion at these, provided that this does not cause an unreasonable delay in the process. Further details regarding rights to representation can be found in Appendix 3, section 3. Employees must take all reasonable steps to attend investigatory; disciplinary or appeal hearings convened under this policy. If an employee or their companion cannot attend the disciplinary hearing, the employee must propose an alternative date for a hearing within the next 10 calendar days. If it is acceptable, the employer will re-arrange the hearing for the new date. A hearing may only be rescheduled on one occasion. Should an employee fail to attend a hearing, this may be held in their absence.

4.1.10 Management reserve the right, with agreement, to inform a full time official/senior local official of a trade union, professional organisation or staff association of any disciplinary proceedings or action involving a member.

4.1.11 In cases where disciplinary action is taken against an employee regarding allegations that could be a breach of the code of practice of the applicable Professional Registration Body, the Trust reserves the right to refer their case to that professional body. Consideration should be given in respect of what stage this should occur and an immediate referral at investigation stage may be required. Where the professional body then suspends, removes or places conditions on an employee's professional registration, the Trust may need to take further disciplinary action.

4.1.12 An employee may request to be legally represented at hearings, only in respect of an Appeal, the outcome of which may impact on or exclude them from their ability to practice their chosen profession. Once a request has been made, the decision on this will be at the discretion of the Trust. In reviewing such a request, the gravity of the allegations and their consequences shall be considered. At such appeal hearings where an employee's request to be legally represented is approved, the Trust may do likewise and the employee shall be responsible for such costs as they may incur.

4.1.13 If an employee raises a formal grievance or formal complaint of bullying or harassment during the course of a disciplinary case, consideration will be given to suspending procedures whilst the grievance or complaint is addressed. Where the grievance and disciplinary cases are connected, it may be appropriate to deal with both issues concurrently. If an investigation finds that the grievance is groundless and that it was raised solely with the intention of avoiding or disrupting the disciplinary process, this will be resumed and consideration given to whether further disciplinary action should be taken in relation to this matter.

4.1.14 Unauthorised audio/visual recording of any meetings held as part of this procedure is not permitted by the Trust, unless there are exceptional circumstances and this should be by agreement in advance of the hearing.

4.2 DELEGATION OF AUTHORITY TO DEAL WITH DISCIPLINARY MATTERS

4.2.1 The authority to deal with disciplinary matters is delegated in accordance with the schedule attached at Appendix 1 to these procedures. It should be noted that the Managers referred to in the schedule are the level to whom authority is delegated. However the Trust reserves the right, where it considers it appropriate, to delegate such authority to other Managers. Should the level of a Manager, against whom disciplinary action is being contemplated, be equal to or higher than that of the level described in the schedule, a more senior decision maker will be required. As a general rule, no Manager may dismiss an immediate subordinate.

4.2.2 It is the manager with delegated responsibility who will, having reviewed the investigatory information, decide whether the matter needs to proceed to a disciplinary hearing.

4.3 SUSPENSION

4.3.1 Suspension from duty must only take place should there be no other option that would ensure the safety of patients and employees, protect the integrity of the investigation and ensure the alleged offense does not take place again. Some examples of alternatives to suspension that must be considered are working under restricted duties, in an alternative environment, working from home where appropriate or on non-clinical duties.

4.3.2 Authority to suspend rests with the appropriate senior member of staff on duty at the time. Following receipt of information which may lead to suspension of an employee, he/she may seek advice from a more senior member of staff on-call within the Trust before taking the decision to suspend. Advice must also be sought from a member of the People and Organisational Development Department.

4.3.3 In certain cases (e.g. where gross misconduct is suspected or alleged, where continued working may give rise to further misconduct or interfere with the process of fair investigation) management reserves the right to immediately suspend an employee. It should be made clear to the employee that suspension is a neutral act and not a disciplinary sanction nor is it a presumption of guilt, but a means of facilitating proper investigation and/or preventing further misconduct or allegation.

4.3.4 Whenever possible a suspension meeting will be arranged to advise an employee of their suspension. If an employee is off duty and all reasonable enquiry fails to contact the employee at home, they should be informed in writing not to commence duty, but to contact the writer of the letter (or some other named officer) as a matter of urgency.

4.3.5 At the time of suspension, the reason for it and, where established, its duration, together with advice that the employee should contact their trade union or professional organisation, will be notified to the employee and confirmed in writing as soon as possible. A copy of the suspension letter must be sent to the Human Resources Case Management Team. SBS should be advised in writing of the suspension with no reduction in normal pay.

4.3.6 Whilst on suspension staff will continue to receive their normal pay which means an average of contracted pay, paid over the previous 3 months.

4.3.7 Where an employee has been charged or convicted of a criminal offence and is in custody, on remand or restricted due to legal restrictions (e.g. curfew) and thus unavailable for work, the period of absence will be considered as unauthorised and therefore the employee will not be paid by the Trust.

4.3.8 Where an employee's registration with their professional body has been suspended or is subject to conditions of practice, reference should be made to the Trust's Professional Registrations Policy – Fitness to Practice – CORP/EMP 11. A lapse in registration can lead to suspension without pay or alternative employment arrangements; or possible dismissal where lapses in registration are not acted upon within a reasonable period of time.

4.3.9 Where a suspended employee fails to engage with the disciplinary process or fails to maintain contact during a period of suspension, the Trust reserves the right to suspend all pay.

4.3.10 Suspensions must be reviewed 2 weekly and contact maintained with the employee by the suspending manager or other designated person. At least fortnightly contact must be made should the suspension extend beyond 2 weeks.

4.3.11 During a period of suspension, it is expected that an employee should remain available for work. If professional registration is required, this should be maintained during suspension. It is reasonable to expect them to attend meetings in normal working hours, unless a period of annual leave has been booked and notified in advance of the meeting. Requests for annual leave should be submitted following normal departmental practice.

4.3.12 If an employee becomes too ill to work during suspension, this should be reported to their manager following normal absence notification procedures. Where this means an employee is unable to attend meetings held under this procedure, advice will be sought from Occupational Health regarding their ability to participate. In terms of administration, sickness absence takes precedence over suspension. This has the effect that the suspension is placed on hold until the individual is well enough to return to work. Once they are well enough to return, if the matter is ongoing, the suspension would be reinstated.

4.4 COUNSELLING

4.4.1 Many unsatisfactory situations of a minor nature occur because of misunderstandings about the content of the job, because employees have different learning

styles, or, in some cases, because employees do not realise the full importance of complying with particular parts of their terms and conditions.

4.4.2 There will, therefore, be many opportunities to resolve difficulties of a minor nature without the need to resort to formal disciplinary procedures. These can take many forms which will generally be referred to as counselling interviews and which will be conducted by the employee's immediate manager. At this stage efforts will be made to determine whether there are problems facing the employee either at work or domestically which could have a bearing on the situation and efforts will be made to try and resolve any such difficulties.

4.4.3 At this stage, there will be no necessity or right to involve a companion, first because the interview is of a counselling nature and secondly because many such interviews will take place, and indeed are best undertaken immediately. If an employee is dissatisfied with the conduct of such an interview, it will, of course, be open to them to raise this with their manager.

4.4.4 A written record should be made of any counselling discussions and provided to the employee, to enable both the manager and employee the opportunity to clarify exactly what standards are expected, what follow up actions are required and agree support that needs to be put in place. This should be agreed and signed by both the manager and employee.

4.5 CRIMINAL OFFENCES

4.5.1 The Trust reserves the right to take disciplinary action where alleged conduct or incidents, either within or outside the workplace, are subject to criminal or counter fraud investigations and, in certain circumstances, this could lead to dismissal. The Trust will consider the circumstances, the ability of the individual to fulfil their obligations in a satisfactory manner and their suitability for continued employment. This will include undertaking an assessment of the potential risk to patients and members of staff as well as reputational damage.

4.5.2 Where it appears that a criminal offence has been committed within employment (e.g. theft, fraud, assault etc.) the Trust will inform the LCFS, police or other appropriate parties.

4.5.3 Such cases will be dealt with, so far as possible, in accordance within this disciplinary procedure. However, this may not be possible if it interferes with either LCFS or police investigations or prejudices any court proceedings.

4.5.4 A senior manager, will decide whether disciplinary action is appropriate at any stage during or after the police investigation, prosecution, or any appeal procedure. A criminal offence within employment may amount to gross misconduct and result in dismissal, even if it is a first offence.

4.5.5 Where separate disciplinary matters arise from the same incident, apart from those directly related to the alleged criminal offence, they will be investigated and dealt with in accordance with the disciplinary procedure.

4.5.6 Where staff are unavailable for work due to a criminal conviction, they should be dealt with as detailed in paragraph 6.6 where appropriate.

4.6 FORMAL STAGES OF DISCIPLINARY ACTION

The selection from the disciplinary procedure of the sanctions appropriate for each breach of discipline is a matter of judgement for Responsible Managers having considered all the appropriate evidence at a disciplinary hearing and having regard to;

- [a] the seriousness of the disciplinary breach in question;
- [b] the circumstances or features of the particular case;
- [c] the employee's length of service and previous record;
- [d] any relevant professional codes of practice or conduct;
- [e] consideration of fairness, justice and consistency;
- [f] the requirements of employment legislation that the employer acts reasonably, having regard to equity and the substantial merits of the case.

The operation of this procedure will include one or more of the following stages:

- [1] Stage 1 - for which the issue of a recorded verbal warning will be appropriate;
- [2] Stage 2 - for which the issue of a first written warning will be appropriate;
- [3] Stage 3 - for which the issue of a final written warning will be appropriate;
- [4] Stage 4 – dismissal

In accordance with the provisions of paragraph 5.1, the Director of People & Organisational Development reserves the right for either the Director or a member of the P&OD department to participate at any stage of this procedure in the provision of advice. Managers are strongly advised to seek the guidance and/or the assistance of the Director of People & Organisational Development and P&OD staff, at any stage in the procedure but always when sanctions at either Stage 3 or 4 are being considered.

4.7 INVESTIGATION

4.7.1 Where circumstances necessitate it, the immediate supervisor should first establish whether, on first impression, a case exists, which if founded could lead to disciplinary action being taken. Prior to any formal investigation commencing, the immediate line manager must discuss the allegation with the employee to gain their initial response. If there appears to be a case, then the responsible manager will appoint an investigating officer who will conduct the investigation on their behalf. The investigation will be conducted in accordance with Appendix 3. Should the employee at this stage admit to the allegation against them, this shall be considered by the Responsible Manager and may potentially be handled under 4.7.5 - Sanction Outside of a Hearing.

4.7.2 Where the Responsible Manager believes there is a requirement for a formal disciplinary investigation, the employee should be advised accordingly of the nature of the allegations that are to be investigated and the arrangements made for an investigatory interview to be convened by the Investigating Officer.

4.7.3 After the Responsible Manager has given the employee notice of the allegation, the Investigating Officer will seek to establish the facts in accordance with the guidance given in Appendix 3. In collecting evidence, the Investigating Officer has a duty to act in good faith. No less than 7 calendar days prior to being called to any disciplinary hearing, the employee must be given a statement of the Investigating Officer's findings and all available documentation necessary for him/her to make sense of those alleged facts. In hearing the case and weighing the evidence, it is for the Chair of the panel to decide the degree of weight they attach to written evidence, as opposed to that which can be challenged by cross questioning of witnesses.

4.7.4 Having investigated a case where the facts warranted the consideration of disciplinary action, the employee must be called to a disciplinary hearing. The employee must be informed in writing, in advance, of the allegations against them that, if founded, may result in disciplinary action, and of their right to be accompanied. At this hearing the employee must be given the opportunity to state their case, to produce witnesses if required, and to respond to the investigating officers findings. They should be given the opportunity to address and to make representation to the panel with authority to take disciplinary decisions, prior to any decision being made. Upon being informed of the disciplinary decision, the employee must also be informed as to their right of appeal (see section 4.12).

4.7.5 Where an employee is accused of a breach of disciplinary rules which falls short of gross misconduct and acknowledges and admits their actions, issuing a sanction outside of hearing may be appropriate. This may be suggested by the investigating manager but, to demonstrate engagement with this process, it must then be requested, either by the member of staff or by the member of staff's union representative.

4.7.6 Usually a sanction outside of a hearing would not require the full and normal investigation process to be undertaken and concluded. However, the member of staff requires confirmation of the allegations against them in writing ensuring they are clear on

the detail of each allegation. A senior manager, usually General Manager / Head of Nursing, would be required to consider the request for a sanction outside of a hearing and can either agree to the request or reject the request. If the senior manager chooses to reject the request for a sanction outside a hearing the normal investigation and disciplinary hearing process will be followed. Any rejection should be accompanied by the rationale for this decision.

4.7.7 If, however, the Senior Manager chooses to agree to the request for a sanction outside of a hearing then the Senior Manager will consider the allegations against the member of staff, seek advice from colleagues in the People & OD Directorate and if appropriate discuss any mitigating circumstances with the member of staff or the member of staff's union representation. After giving the matter due consideration the Senior Manager will arrange to meet with the member of staff and the member of staff's representative, with support from the People & OD Directorate, and confirm the level of sanction and any other remedial action required. This will be confirmed in writing to the member of staff.

4.7.8 Due to the nature of requesting a sanction outside of a hearing and the fact that the member of staff has admitted wrong doing and accepted the allegations against them and the breach in trust disciplinary rules it is not anticipated that the member of staff will exercise their right of appeal against the sanction given. However, if a member of staff chooses to exercise their right of appeal the Trust reserves the right to undertake a full investigation into the matter and follow the disciplinary process outlined in this policy.

4.8 DISCIPLINARY WARNINGS

4.8.1 If it is appropriate to the particular stage of the procedure to issue a written warning, then a letter confirming the warning should be provided within seven days of the disciplinary decision. The letter of warning must include:

- [1] the nature of the disciplinary action and a clear statement of the misconduct, i.e. the allegations
- [2] the reason for the action, together with a summary of the facts on which the disciplinary action is being based;
- [3] what is expected of the employee in future;
- [4] an explanation that this is a formal disciplinary warning which will be recorded and will be retained on the employee's personal file. The type of warning will be specified (e.g. verbal, first written warning or final written warning) as will any time limit given for improvement or review. (e.g. 6-12 months)

In the case of review, it must be made clear to the employee whether or not the review will be conducted at the end of the specified period or whether review will be a continuous process undertaken throughout the period. Similarly, whether or not (in the event of further unsatisfactory behaviour etc.) a decision as to further action

will be taken at the end of the review period or whether management reserve the right to take some further action at any time during the period.

In cases where a training need has been identified, as part of the review process, appropriate arrangements will be made for the employee to receive any necessary instruction and/or training to afford them an opportunity to acquire skills to appropriately discharge the duties of the post for which they are employed (in exceptional cases retraining may not be either appropriate or practical, and in such cases the employee and their companion will be given the reasons as to why management have taken this view). Normal rights to be accompanied apply if further action is contemplated.

[5] any warning will clearly state the period during which it will remain extant and/or upon the employee's personal file for reference purposes;

[6] notice that any subsequent misconduct of the same or of a similar nature will result in further, more severe, disciplinary action. The warning to be worded in such terms as to ensure that the employee is left in no doubt as to the consequences of any further breach;

[7] a statement of the employee's right and method of appeal.

4.8.2 All written warnings must be either handed to the employee in the presence of a reliable management witness, be posted to their stated or last known home address, or sent using a secure, verified e-mail address.. A copy will be given to the employee's companion.

4.8.3 Records of disciplinary hearing warnings issued and/or circumstances of dismissal will be retained by managers for the time limit specified at paragraph 14. On expiry of this period of time a written summary of the circumstances of each case will be made by the manager and retained on the personal file. Original documents, e.g. witness statements, will be removed from the personal file. Any expired warnings will be disregarded for the issuing of further sanctions. Whilst they will not be relied on for disciplinary decisions, they may be relied on to demonstrate repeated patterns of same/similar conduct.

4.9 DISMISSAL

4.9.1 Where a decision has been taken to dismiss, in accordance with this procedure, then the facts of dismissal must be confirmed by letter. The letter will include:

[1] the nature of the disciplinary action;

[2] a statement of the full reason for dismissal, together with a summary of the facts leading to the decision;

[3] full details of relevant current warnings taken into consideration;

[4] confirmation of the employee's right and method of appeal, giving time limits for appeal and stating how and to whom the appeal should be addressed.

[5] whether details of the case will be referred to any outside agency egg a professional body, ISA or the issue of an alert letter.

4.9.2 The letter concerning the decision to dismiss should be provided, if practicable, within seven days of the decision, either being handed to the employee or by being sent by first class post or recorded delivery to the employee's stated or last known home address, or sent using a secure, verified e-mail address. The letter will be signed by the person having delegated authority to dismiss (see Appendix 1).

4.10 ACTION SHORT OF DISMISSAL - TRANSFER OR DEMOTION

4.10.1 In addition to warnings and/or in place of other disciplinary outcomes a decision may be made to transfer or demote an individual. This decision cannot be made unless the misconduct was such to warrant dismissal, but has been reduced to another sanction when mitigating factors have been taken into account.

4.10.2 The employee will have a choice as to whether or not to accept these sanctions as an alternative to dismissal. If he / she refuse then dismissal will apply.

4.10.3 An employee who agrees to work at the downgraded position will accept that their wages / salary will be adjusted accordingly (i.e. protection of salary will not apply).

4.11 TIME LIMITS

4.11.1 In order to ensure a measure of consistency in respect of the period for which warnings will remain extant (i.e. the period during which repetition of the same or a similar offence will result in automatic reference to a subsequent stage of the procedure) the following limits will prevail in respect of the different types of warning:

[1] a recorded verbal warning will remain extant for a period of six months;

[2] a first written warning will remain extant for a period of six months;

[3] a final written warning will remain extant for a period of twelve months from the date of the letter of warning.

4.11.2 If the employee is absent from work for a period of over 4 weeks during the warning period, this will be extended to reflect this.

4.11.3 Full written records of circumstances leading to the decision will be retained for 24 months.

4.12 RIGHT OF APPEAL

4.12.1 Employees have the following rights of appeal:

[1] against the issue of a recorded verbal warning or written warning, to the next higher level of management not previously involved. The appeal to be lodged within 21 calendar days of the date of the warning letter;

[2] against dismissal, to the Chief Executive of the Trust, within 21 calendar days of the date of the letter of termination. Such appeals will be heard by a sub-committee of the Trust Board.

4.12.2 Such appeals should normally take place within five weeks of the receipt of the appeal by the Trust although it is acknowledged that there will be circumstances when it is required for this period to be extended. The employee shall be given at least 10 calendar days' notice of the appeal hearing. The outcome of any appeal hearing will be confirmed in writing.

5 TRAINING/SUPPORT

The training requirements of staff will be identified through a training needs analysis. Role specific education will be delivered by the service lead.

Managers should speak to the Case Management Team or their HR Business Partner if they require any further guidance or support.

6 MONITORING COMPLIANCE WITH THE PROCEDURAL DOCUMENT

What is being Monitored	Who will carry out the Monitoring	How often	How Reviewed/ Where Reported to
All Disciplinary cases	Responsible line manager	Commencement of the informal stage	HR Case Management Team
Applicability of policy	HR Business Partners/Senior Managers	Monthly	As part of Accountability Meetings
Currency	HR Case Management Team	Ongoing	Monitor developments in good practice/legislation

<p>Audit of cases</p> <ul style="list-style-type: none"> • Nature of allegation • Level of action taken • Action by staff group • Action by Division/Directorate • Action by Equality data • Number of appeals and the results 	Trust Board	Annually (or exceptionally)	Report considered and actions/changes commissioned
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7 DEFINITIONS

None identified

8 EQUALITY IMPACT ASSESSMENT

The Trust aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are disadvantaged over others. Our objectives and responsibilities relating to equality and diversity are outlined within our equality schemes. When considering the needs and assessing the impact of a procedural document any discriminatory factors must be identified.

An Equality Impact Assessment (EIA) has been conducted on this procedural document in line with the principles of the Equality Analysis Policy (CORP/EMP 27) and the Fair Treatment For All Policy (CORP/EMP 4).

The purpose of the EIA is to minimise and if possible remove any disproportionate impact on employees on the grounds of race, sex, disability, age, sexual orientation or religious belief. No detriment was identified. (See Appendix 4)

9 ASSOCIATED TRUST PROCEDURAL DOCUMENTS

CORP/EMP 1 - Sickness Absence Policy

CORP/EMP 4 – Fair Treatment for All

CORP/EMP 11 - Professional Registrations Policy – Fitness to Practice

CORP/EMP 13 - The Conduct, Capability, Ill-Health and Appeals Policies and Procedures for Practitioners

CORP/EMP 14 – Raising Concerns: We Care, We Listen, We Act

CORP/EMP 25 – Capability Procedure: Managing Poor Performance

CORP/FIN 1D – Fraud, Bribery and Corruption Policy and Response Plan

10 REFERENCES

ACAS Code of Practice 1 – Disciplinary and Grievance Procedures. (Ref CP01)

ACAS Discipline and grievances at work – the ACAS guide (Ref H02)

www.acas.org.uk

APPENDIX 1 – SCHEDULE OF DELEGATED AUTHORITY TO DEAL WITH DISCIPLINARY MATTERS

The Directors of Services may only be suspended/disciplined/dismissed by the Chief Executive or Acting Chief Executive in their absence.

Deputy Directors, Care Group/Directorate Managers, and Heads of Service may only be suspended/disciplined/dismissed by the Director of Service or equivalent.

All other members of staff may only be suspended or disciplined by the appropriate Senior Line Manager, except in cases of gross misconduct. Members of staff would then normally only be disciplined by the Care Group/Directorate/Business/Unit/Ward Manager, Heads of Nursing, Senior Managers acting in a General Manager capacity, Matrons or the Director of that service.

In the case of gross misconduct advice must be sought from the People & Organisational Development Department

APPENDIX 2 – DISCIPLINARY PROCEDURE - STAFF COPY

This document forms part of your contract of employment

DONCASTER AND BASSETLAW TEACHING HOSPITALS NHS FOUNDATION TRUST

The Trust has made an agreement with the Staff Side Representatives to provide an agreed means for dealing with breaches of discipline.

DISCIPLINARY

Rules Relating to the Employment

As is recognised in the ACAS Code of Practice, any set of rules is unlikely to be exhaustive or embrace all the circumstances which may arise. The Trust realises that it is not possible to provide a set of disciplinary rules to cover all circumstances that arise.

The Trust recognises that because of the nature of the work involved, staff will often be required to follow practices and procedures which, because of their nature, cannot be written down precisely. In addition, the Trust recognises that many staff within the organisation are professionally qualified/highly trained and an essential feature of their work will be to exercise independent judgement, and any precise procedures may act as a constraint against this vital element.

All staff within the Trust should receive the necessary training and instruction to enable them to carry out their duties competently. Should you be unsure of how to complete a task, or if you are unsure about any particular practices or procedures, then you should contact your immediate superior for advice and guidance.

Your Appointing Officer or Head of Department will advise you of any specific rules or procedures which apply within your department and when a breach of these rules is likely to result in the form of disciplinary action.

It is important at the outset to attempt to establish the differences between action that may be taken following breaches of rules etc. (Conduct), and action which may be taken due to your ability to give an overall satisfactory performance of job duties. (Capability)

Where a breach of rules/procedures has occurred or your job performance through a specific incident is considered irresponsible, or you fail to carry out an important function or duty, then disciplinary action will be applied and will be related to the seriousness of the misdemeanour, unless counselling between yourself and manager is considered suitable to bring the matter to a satisfactory conclusion.

Where the overall performance of your duties is considered unsatisfactory, then this will be brought to your attention and you will be given every opportunity to improve, including the application of any Performance Appraisal system by the manager, and/or if appropriate special arrangements for alternative job duties as agreed between yourself and the manager concerned. Should your

performance fail to improve following the above course of action then capability procedure will be followed or disciplinary action may be applied, whichever is appropriate.

To help in your work, the following information sets out the circumstances when disciplinary action may arise:

[i] **Contractual Obligations** - As a member of the staff of the Trust, it is expected that at all times you will comply with the contractual requirements which you have entered into between yourself and your employer.

Your contract of employment, of which you have already received a copy, details the obligations which you have entered into in accepting employment.

[ii] **General Conduct** - You are reminded that your behaviour and actions both inside and outside of work should uphold the reputation of the Trust and your own professional/personal integrity. This includes postings on social networking sites.

[iii] **Attendance for Duty** - Your contract requires that you will present yourself for duty at the correct time and work for the hours stated. If you are subject to shift work your commencement of duty time may vary from week to week. You will be expected to present yourself for duty in such a manner that you can carry out your work competently and effectively.

[iv] **Smoking on Duty**. The Trust has a policy of no smoking on its sites. A copy of this may be seen on request. You are reminded that smoking in all areas of Trust premises is strictly forbidden.

[v] **Theft/Fraud** - Theft will involve any action in which property is removed and subsequently used for your own purposes. There are occasions when it will not necessarily even involve the removal of property, e.g. the consumption of food which has been provided for patients or other people, making private telephone calls without declaring them, and passing through the official mail, letters that are not of official business.

Claiming payment for time that you did not work is also a form of theft, e.g. making false entries on a time sheet or arranging for another person to clock you in or out.

Where disciplinary matters are associated with attempts to defraud or corrupt, then although normal disciplinary standards apply, the Trust will be required to notify the Police, Internal and external audit and NHS Counter Fraud Office

[vi] **Personal Harassment** - As a member of staff of the Trust it is expected that you will uphold the Trust policy, that it is the right of every employee to work in an atmosphere free of personal harassment and that you should take steps to promote such a workplace.

Personal harassment may include; bullying, unwelcome remarks or suggestions, malicious gossip, practical jokes, offensive literature or pictures, gestures, unnecessary physical contact, physical assault.

[vii] **Criminal/Civil Offences** - All charges and cautions brought against you for any criminal or civil offence, whether connected with your employment or not, must be reported immediately to your Head of Department.

[viii] **Unauthorised Presence on Health Service Premises** - Staff are reminded that they should only be on Health Service premises for official purposes or in a private capacity in the same way as hospital visitors or as a visitor to an official or private function, except for those staff who are resident when they have access to their area of residence and to the hospital dining rooms.

[ix] **Private Business** - Private business arrangements in paid time are forbidden. Private business arrangements are where an individual member of staff undertakes other work during paid time, where patients and other members of staff are customers, the results of which provide additional personal income by way of cash or goods, i.e. running mail order catalogues.

[x] **Confidentiality** - The nature of all Health Service work, especially that relating to information about patients *and staff* is highly confidential. Any unauthorised disclosure to any outside person or agency or misuse of information will be treated as a serious breach of discipline, *All staff are required to safeguard personal data in accordance with the requirements of the Data Protection Act 1998.* If you are ever in doubt please consult with your Head of Department or Manager.

[xi] **Gifts** - All staff are strictly forbidden to seek gifts, including money, in respect of any services provided. Staff are also strictly forbidden to accept money, or any gifts which are offered as an inducement to provide or accept services.

[xii] **Declaration of Interests** - All employees should declare such interests to the Trust where they have a relevant and material interest in a business or other activity which may lead to the supply of either goods or services to the Trust.

[xiii] **Unauthorised Use of Computer Systems** - Staff must not make unauthorised access to, modification to or copy computer material in breach of the Computer Misuse Act 1990. Staff should only access information required to do their job

Access to Internet sites which are not work related is strictly forbidden, as is the download of any programs or utilities which are not supported by Computer Services or which may affect the computer systems.

Receiving, sending or distributing offensive material, e.g. racist, sexist or pornographic material will result in disciplinary action, possibly dismissal.

The examples quoted above do not constitute an exhaustive list.

Disciplinary Action

It is important that the gravity of any disciplinary action should be related as closely as possible to the nature and seriousness of the misdemeanour. It is accepted that the vast majority of misdemeanours will be dealt with satisfactorily by counselling between yourself and the manager concerned. It is, therefore, important that in order for the counselling stage to be constructive, the counselling will not be regarded as part of any formal disciplinary action.

Where formal disciplinary action is seen to be necessary, then one or more of the under-mentioned will be applied:

Verbal Warning

First Written Warning

Final Written Warning

Dismissal

In addition, where a manager is able to deal with breaches of discipline in an alternative satisfactory way, which is accepted by both yourself and the manager, then this course of action may be taken.

Factors Related to Disciplinary Action

[i] At all points, you will be given every opportunity to present whatever facts you wish to be taken into account, at a personal interview.

[ii] Apart from counselling, at all formal hearings you will have the right of being accompanied by a companion who may be a recognised representative of your trade union or alternatively, you may choose to be accompanied by a work colleague. This right does not extend to other meetings within the disciplinary process e.g., investigatory meetings. However, staff may be accompanied by a companion at these, provided that this does not cause an unreasonable delay in the process.

[iii] Any disciplinary action resulting in the issuing of a verbal warning or a first written warning will be disregarded if, in the ensuing six months, there has been satisfactory conduct. The period will be twelve months in the case of a final written warning. Any expired warnings will be disregarded for the issuing of further sanctions. Whilst they will not be relied on for disciplinary decisions, they may be relied on to demonstrate repeated patterns of same/similar conduct.

[iv] Following any interview at which any decision is made to issue you with a first written warning, a final written warning or a decision taken to dismiss you, you will receive within seven calendar days a letter concerning any such action taken, stating the nature of the action together with a summary of the alleged facts upon which the action was based. You may ask for a copy of any letter for your companion.

Gross Misconduct

Gross misconduct is an act which is so serious that it overturns the employment contract, and will justify summary dismissal (this is dismissal without notice)

It is for the Trust to determine if an act is gross misconduct, however examples of what gross misconduct might include are;

- Theft or fraud
- Physical violence or bullying
- Deliberate and serious damage to property
- Serious misuse of an organisation's property or name
- Deliberately accessing internet sites containing pornographic, offensive or obscene material
- Serious insubordination

- Unlawful discrimination or harassment
- Bringing the organisation into serious disrepute
- Serious incapability at work brought on by alcohol or illegal drugs
- Causing loss, damage or injury through serious negligence
- A serious breach of health and safety rules
- A serious breach of confidence

Appeals

You will have a right of appeal if you have been subject to disciplinary action resulting in your employment being terminated this will be submitted to the Chief Executive. However, if you are dissatisfied with the issuing of a verbal warning or written warning, you may appeal in writing to the next higher level of management.

All staff are reminded that they may have access to the official disciplinary procedure operating within the Trust via the Trust intranet.

APPENDIX 3 – GUIDANCE NOTE FOR MANAGERS

Guidance Note for Managers

- Section 1: The Investigation
- Section 2: The Use of Suspension
- Section 3: Investigating Officers
- Section 4: Witness Statement
- Section 5: Clinical Investigations
- Section 6: Procedure to Follow at a Disciplinary Hearing
- Section 7: Disciplinary Decisions
- Section 8: Investigation of Fraud and Corruption

INTRODUCTION

1 There can be few decisions which can reflect an organisation's management style more than those made in the disciplinary setting. These guidance notes are written with the intention of facilitating appropriate management action that will ensure fair and judicious decision in the disciplinary arena. The Trust disciplinary procedure is agreed with the Staff Side and together they have produced a document which reflects management's responsibility to maintain discipline, which is understood by all staff, and which ensures that all disciplinary matters will be dealt with in a fair and consistent manner. Managers should make themselves fully conversant with the procedure and address any enquiries to members of the People & Organisational Development department before commencing any action within the procedure.

OBJECTIVES OF THE PROCEDURE

2 The objectives of the disciplinary procedure are:

- 2.1 To promote improvement in individual conduct and not simply to be used as a means of imposing sanctions. The formal procedure should, therefore, only be used when informal avenues have been fully explored.
- 2.2 To promote fairness, order and consistency in the treatment of individuals for alleged failures to meet the required standards of work or conduct.
- 2.3 To ensure that employees are made aware of the standards of conduct expected of them.
- 2.4 To give ample warning to individuals of the consequences of failing to achieve or maintain those standards.
- 2.5 To guide managers and supervisors in the day to day dealings with those they supervise.
- 2.6 To provide for full and speedy consideration by management of all the relevant facts in order that disciplinary action can be applied equitably.

REPRESENTATION

3.1 Employees have a statutory right to be accompanied by a companion where a disciplinary hearing could result in:

- A formal warning being issued; or
- The taking of some other disciplinary action; or
- The confirmation of a warning or some other disciplinary action (appeal hearings)

3.2 Staff may be accompanied by a companion at other meetings within the disciplinary process e.g. investigatory meetings, provided that this does not cause an unreasonable delay in the process.

3.3 A companion may be a work colleague, or a trade union representative.

3.4 It would not be reasonable for an employee to be accompanied by a companion whose presence would prejudice the hearing, nor would it be reasonable to be accompanied by a full time officer companion when there is someone suitable and willing available on site, particularly where this introduces unreasonable delay to the process.

3.5 Further guidance on rights to be accompanied by a companion can be found in the ACAS Code of Practice on Disciplinary and Grievance procedures. Where agreement cannot be reached then the principals contained within the code of practice will apply.

CHECKLIST FOR HANDLING A DISCIPLINARY MATTER

4.1 This checklist sets out the key steps which Responsible Managers should consider when handling a disciplinary matter. All managers should observe the principles of natural justice embodied below:

4.2 Gather all the relevant facts:

- Promptly before memories fade seeking statements from staff member/witnesses
- In serious cases, consider suspension with pay whilst an investigation is conducted (see Section 2)
- Where matters involve clinical matters refer to Section 5.
- Where fraud is suspected, advice needs to be sought without delay from the Local Counter Fraud Specialist (LCFS). It is vital that allegations of fraud are referred without delay to prevent the loss or tampering of potential evidence sources. Fraud investigations are carried out independently to the disciplinary process and follow legal procedures enshrined in criminal law and as directed in the NHS Counter Fraud and Corruption manual. Guidance for referring allegations of fraud are contained in the Fraud, Bribery and Corruption Policy and Response Plan or can be made by calling the confidential NHS Fraud & Corruption Reporting Line on: 0800 028 40 60.

4.3 Be clear about the complaint(s) and the investigation. Prime facie (on first impression) decide if action is needed at this stage.

4.4 If yes, decide whether the action should be:

- Advice and counselling (informal)
- Formal Investigation

4.5 If informal counselling is the decision, a meeting should take place within 7 calendar days to conclude the matter. This timeframe can be extended with agreement of both parties:

- Don't forget to record the discussion/objectives in the personal file

4.6 If there is a prima facie case and a formal investigation is required, appoint an investigating officer to commence the investigatory process (See Section 1)

4.7 If a formal investigation has taken place, you should undertake a review of the investigation report and decide whether or not the matter should proceed to a formal disciplinary hearing.

4.8 If your decision is to proceed to a disciplinary hearing then you should arrange a disciplinary hearing as appropriate.

4.9 Arrange for an appropriate panel to be constituted. You should never conduct these matters on your own and you should always be accompanied by a member of the People & Organisational Development Department for disciplinary hearings where the outcome may be final warning or dismissal.

4.10 Please remember that all employees subject to investigation under the procedure should be given the opportunity to be accompanied at any disciplinary hearings by a companion who could be their trade union representative or a work colleague.

4.11 Invite the member of staff to the disciplinary hearing. The letter should include the following information;

- Date, time and venue of the hearing
- Allegations which will be addressed
- Copies of any documents to be considered by the panel at the hearing, including the management report, witness statements, and any other documentary evidence.
- Right to be accompanied
- Right to call any witnesses
- That a formal disciplinary outcome is likely
- If the matter is so serious that the panel may consider dismissal, then this should also be stated.

4.12 Ensure delivery of documents is evidenced.

4.13 If an employee or their companion cannot attend the disciplinary hearing, the employee must propose a reasonable alternative date for a hearing within 10 calendar days of the original date. If it is acceptable, the employer will re-arrange the hearing for the new date. A hearing may only be rescheduled on one occasion.

4.14 Ensure that an accurate record of proceedings is taken.

4.15 Further guidance on the disciplinary hearing can be found at Section 6.

SECTION 1: THE INVESTIGATION

A1.1 A crucial ingredient for the fair handling of disciplinary matters is an adequate investigation. This does not necessarily mean exploring every avenue, but it does mean:

- Enquiring into the circumstances surrounding the suspected or alleged misconduct;
- Obtaining a statement from the respondent.
- Giving the employee a chance to offer an explanation;
- Taking a balanced view of the information that emerges;
- Enabling the Responsible Manager to reach a decision on whether or not there are sufficient grounds for an allegation of misconduct; and if so, deciding whether it should be dealt with informally or under the disciplinary procedure (formal).

A1.2. Ensure that all supervisors and managers are sufficiently aware of their responsibilities for managing their staff and how to initiate action under the disciplinary procedure if the need to do so arises.

A1.3 The responsible manager will decide who will investigate the alleged misconduct and provide these persons with sufficient authority to undertake the investigation, to suspend the employee if necessary, and be provided with sufficient information about the conduct of investigations to enable matters to be both speedily and adequately handled. (See Section 3 - Investigating Officers, Section 5 for matters associated with Clinical Investigations and Section 8 for matters of fraud.)

A1.4 The person conducting the investigation should normally interview the employee as a preliminary step, making it clear that it is not a formal disciplinary hearing but an investigatory interview to hear any response the employee may wish to make about the suspected or alleged act of misconduct and to establish the facts of the case. Notes should be taken of the meeting.

A1.5 The investigating officer should always be accompanied at an investigatory meeting by either a member of the People & Organisational Development Department or another member of management.

A1.6 The employee may have a companion in attendance if he or she so wishes as long as this does not result in an unreasonable delay to the investigation meeting.

A1.7 Other persons believed to have information about the alleged misconduct (witnesses) may also be interviewed and/or written statements obtained from them. Statements should be signed and dated. Where statements are provided electronically and a signature is unavailable, these should be received from a secure, verified e-mail address. Where the statements contain sufficient correlating information, it may be decided not to interview and to take the statements as read. Do not rely on private conversations which may not be substantiated at a later date.

A1.8 On completion of the investigation, the investigating officer should prepare a statement of what facts have emerged from the enquiries. The facts and documents should be assembled and

presented to the responsible manager. If the matter proceeds to a disciplinary hearing then any relevant information collected during the course of the investigation will be made available to the individual prior to the disciplinary hearing.

A1.9 The responsible manager will be required to decide whether the matter needs to be considered within the context of the disciplinary procedure (normally a formal hearing) and, if so, the employee should be informed of this decision and the hearing convened.

A1.10 If a hearing is decided upon, the employee should be given copies of all the statements obtained during the course of the investigation and any other documents/evidence relevant to the matter which will be referred to during the hearing. If any of them support any contentions put forward by the employee during the investigation, then these will be made available also.

A1.11 The delivery of all documents relating to the disciplinary matter should be clearly evidenced.

SECTION 2: THE USE OF SUSPENSION

A2.1 When an allegation is made against a member of staff which, if well founded, might lead to disciplinary action, suspension may be considered. If it is, it is most important that any decision is taken after carefully considering the reasons for doing so.

A2.2 It is important to remember before suspending a member of staff that consideration should be given to alternatives to suspension. Some examples of alternatives to suspension are working under restricted duties, in an alternative environment, working from home where appropriate or on non-clinical duties. Consideration should also be given to restriction of access to Trust property and assets such as IT systems and restricted areas.

A2.3 It should be borne in mind that suspension from employment on full pay is not punitive in nature, it is not part of the disciplinary process and under no circumstances does it constitute disciplinary action or indicate guilt. This is complicated by the fact that it is by its nature very public, in contrast to the disciplinary process itself, which should remain in the strictest confidence throughout.

A2.4 If the employee is in custody convicted of a criminal offence then they will be suspended on no pay on the grounds that they are not available to report to work.

A2.5 Where an employee's registration with their professional body has been suspended or is subject to conditions of practice, reference should be made to the Trust's Professional Registrations Policy – Fitness to Practice – CORP/EMP 11. A lapse in registration can lead to suspension without pay or alternative employment arrangements; or possible dismissal where lapses in registration are not acted upon within a reasonable period of time.

A2.6 The most frequent reasons for suspending staff are:

- Where the employer considers it necessary to allow an acutely intense situation to settle - a "cooling off" period - while the incident/allegations are investigated;
- Where an employer needs more time to investigate the circumstances surrounding an allegation of misconduct or incompetence;
- Where the investigation of a case may be hindered by the presence of the person under investigation;
- Cases where the employer believes there is good reason for concern for the safety/wellbeing of patients and/or staff;
- In the rare circumstances where dismissal for gross misconduct is being considered.

A2.7 The terms of the suspension should be set out clearly in writing to the employee and should include an instruction not to attend any Trust premises except at the investigation, at the request of the investigating officer to discuss the case being investigated, or as a normal member of the public in terms of attending at the hospital for treatment or care and/or visiting.

A2.8 The period of suspension should be as short as possible, consistent with the management and investigation of the case. To ensure that this is so, a 2 weekly review of this aspect of the case is valuable, specifically focusing on whether the reason for suspension is still valid. Since suspension is not in itself disciplinary action, lifting this restriction need not compromise the management of the case.

A2.9 During a period of suspension, it is expected that an employee should remain available for work. If professional registration is required, this should be maintained during suspension. It is reasonable to expect them to attend meetings in normal working hours, unless a period of annual leave has been booked and notified in advance of the meeting. Requests for annual leave should be submitted following normal departmental practice.

A2.10 If an employee becomes too ill to work during suspension, this should be reported to their manager following normal absence notification procedures. Where this means an employee is unable to attend meetings held under this procedure, advice will be sought from Occupational Health regarding their ability to participate.

A2.11 Where a suspended employee fails to engage with the disciplinary process or fails to maintain contact during a period of suspension, the Trust reserves the right to suspend all pay.

SECTION 3: INVESTIGATING OFFICERS

A3.1 Under the Trust's disciplinary procedure the role of the investigating officer is paramount. He/she will collect and collate all the available evidence, provide a summary of the facts of the case to the responsible manager. He/she will attend any resultant disciplinary hearing and present the supporting facts and material; it follows, therefore, that the investigating officer can neither adjudicate at the hearing nor be in any way involved/connected with the allegation.

A3.2 The investigating officer will normally be the immediate supervisor of the employee against whom the allegation is made, except where this supervisor is involved or connected with the allegation. However, any member of management can be appointed as an investigating officer and this decision must rest with the Responsible Manager who will ultimately adjudicate at the disciplinary hearing and will always be at least one step removed from the employee concerned, i.e. the immediate supervisor's manager.

A3.3 There is a statutory right for employees to be accompanied by a companion at a disciplinary hearing where;

- A formal warning is being issued; or
- The taking of some other disciplinary action; or
- The confirmation of a warning or some other disciplinary action (e.g. appeal hearing)

There is therefore no statutory right for employees to be accompanied at investigatory interviews, or meetings to suspend an employee. However the Trust will under normal circumstances allow employees under investigation, interviewed as part of a formal investigation to have a companion in attendance if he or she so wishes as long as this does not result in an unreasonable delay to the investigation.

Checklist of Procedures for Investigating Officer

A3.4 The guidance below sets out clearly the steps to be taken by the investigating officer from being asked to undertake the role to presenting the facts at any subsequent disciplinary hearing.

A3.5 All aspects should be handled both promptly and adequately

A3.6 Obtain a brief of the allegation from the responsible manager and any supporting documents already to hand.

Where the allegation involves "professional" conduct, then the Responsible Manager, in conjunction with the investigating officer, will ensure that the appropriate advice is accessed and appropriate professional codes of conduct/practice are reviewed.

A3.7 Consider the brief and set down an action plan considering witnesses to be seen and any further documentary evidence to be obtained, e.g. NMC and other professional Codes of Conduct, other relevant Trust policies and procedures, job descriptions, Standing Financial Instructions, etc.

A3.8 Obtain further documentary evidence.

A3.9 Request witnesses to complete a witness statement (see Section 4) without delay whilst events are fresh in their minds. Collect statements promptly. If necessary arrange individual appointments with witnesses to discuss their statements and clarify as necessary. The purpose of these meetings should be fully explained and should normally be held within one week of the allegation being made.

A3.10 Write to the employee concerned in the allegation, without delay, giving full details of the allegation and if appropriate asking him/her to provide a written statement in response. Arrange a meeting to discuss the allegations and evidence ensuring that the employee is aware that the meeting is an investigatory interview and not part of the disciplinary hearing, and explain that the employee may have a companion in attendance if he or she so wishes as long as this does not result in an unreasonable delay to the investigation.

A3.11 If appropriate arrange this meeting as the last of your interviews so that you have all the witness statements to hand and can interview the employee concerned adequately. Arrange interviews for the same day where possible.

Please ensure throughout, that all employees interviewed are aware of your role, the purpose of the meeting, and possible outcomes.

A3.12 Set aside a quiet, undisturbed room for the interviews and ensure that you are accompanied at the meeting by a member of the People & Organisational Development Department. (see A1.5). It is advisable to conduct the interviews on the same day where possible and to check and double check the points raised.

A3.13 Thank the witnesses for their assistance and inform them that they may be called as witnesses at any subsequent disciplinary hearing and that notes of the meeting may also be used/shared at any disciplinary hearing. Re-assure as necessary.

A3.14 Use open questions to clarify unclear points. Do not ask leading questions.

A3.15 Accurately record details of interviews, paying particular attention to any discrepancy within the original statement/information and clarifying any change in response. Arrange for the details to be typed up for use at any subsequent hearing, and forward a copy to the individual concerned for information.

A3.16 Thank the employee concerned for his/her assistance and give an assurance of early contact regarding the outcome of the investigation.

A3.17 Consider all the facts and prepare a written statement (management report) of what has emerged from the enquiries.

A3.18 Provide the responsible manager with a copy of your management report together with all the documents and any other evidence gathered as part of your investigation.

A3.19 Attend any subsequent disciplinary hearing/appeal to present "management's case" and any supporting facts and evidence and answer questions as required.

A3.20 If, during the course of your investigation, you find that a serious breach of discipline has occurred, you may consider suspending the employee concerned on full pay as a precautionary measure, pending the outcome of the matter. This authority was delegated to you upon appointment as the investigating officer, noting that paid suspension is not punitive and must be confirmed in writing as soon as possible. However, see Section 2 and advice should be sought from People and Organisational Development.

Witness Statements

A3.22 Request statements from eye witnesses and any others involved, Investigating officers should adopt a supportive approach to witnesses, respecting how difficult the process can be for some employees. -. However individual employees do have a contractual duty to co-operate fully with Trust investigations and if an individual is required to participate, this would be considered to be a reasonable management instruction.

A3.23 No pressure should be brought to bear to try and generate a witness statement.

A3.24 Statements should be obtained as soon as possible, as not only will this mean that evidence is being taken whilst it is still fresh in the mind of the witness, but it should also minimise the recollection becoming biased by the pressure of colleagues or others. See Section 4.

A3 25 In exceptional circumstances, if a witness will not actually commit themselves to a written statement then the witness should be interviewed and detailed notes of the interview made. Send a copy of the notes of the meeting to the witness for information.

You should also advise them that whilst they are not willing to make a statement, they may be required to attend any subsequent disciplinary hearing in order to give evidence to the notes of the meeting.

SECTION 4: WITNESS STATEMENTS

Details of Incident Being Investigated (Date, Time, Place Etc.)

Name of person writing the statement

Position of person writing the statement

Date of statement

Normal place of work

Place where statement written

Confirmation of names and posts of any other persons present during the incident

Statement

Please give full details of what you observed and what you believed were the facts, in your own words, including the reason why you were in that vicinity (please continue overleaf if necessary).

Sign and date the statement.

SECTION 5: CLINICAL INVESTIGATIONS

A5.1 In addition to the requirements as set out for Investigating Officers under Section 3 of this appendix; the following are some issues that would need to be considered in relation to an investigation surrounding clinical practice. This list is not presumed to be exhaustive but simply is an indicator of matters that need to be considered.

A5.2. Policies and Procedures

- Are there Trust or local clinical guidelines, protocols or procedures which underpin the clinical practice?
- Are there national guidelines which underpin practice?
- Is there a professional body or an organisation which promotes good practice in this area?

The Investigating Officer will need to clarify:

- Is there a national or local position on this issue or is the issue relevant only to this Trust?

Other issues that Investigating Officers will need to consider through the investigation process are the extent to which professional judgement was appropriately exercised and which sections, if any, of Professional Codes of Conduct/Practice are in question.

A5.3 Documentation

Documentation is of crucial importance when investigating clinical practice. The following are issues which need to be examined:

- What was recorded is it to an expected standard, taking into account the environment, staffing levels, pressures, skill and grade of nurses?
- Does the investigation support what is recorded in the documentation?
- Are the supporting documents required to assist the investigation, i.e. controlled drug register etc Please note that where patient notes are used as supporting documents these must always be redacted.

NB It is important to note that the conduct of the individual must always be related to their experience and qualification and judged in relation to the expected standard.

A5.4 Equipment

If the investigation requires examination and referral to equipment, the following issues need to be considered.

- Are there guidelines for maintaining equipment in those areas?
- What training in the use of the equipment has been given?
- Is there a clear line of responsibility for ensuring that equipment is used and maintained in an appropriate manner?
- Has the current equipment been adapted for use by the staff suitable for their own needs based on their practice?

Are the differences in clinical practice highlighted by a senior member of staff via the induction process of a new member of staff to that area?

A5.5 Roles of the Clinician

If a procedure has not been undertaken it needs to be established:

- Who should have informed the clinician that the procedure was required to be undertaken?
- Has the procedure been undertaken previously?
- Are there any precedents?
- Has the individual had any counselling in respect of alleged poor performance in this area?

NB There is a separate procedure to follow for Medical and Dental Staff.

SECTION 6: PROCEDURE TO BE FOLLOWED AT DISCIPLINARY HEARING

- A6.1. The Management representative shall state the Management case in the presence of the employee and the employee's representative, and call witnesses as appropriate.
- 6.2. The employee or his/her representative shall have the opportunity to put questions to the Management representative and each of the witnesses called in turn.
- A6.3. The members of the panel will have the opportunity to ask questions of the Management representative and each of the witnesses in turn.
- A6.4. The Management representative will have the opportunity to re-examine any witnesses called on any matter referred to in cross-examination by members of the panel and/or the employee or his/her representative.
- A6.5. The employee or his/her representative shall put their case in the presence of the Management representatives and call witnesses as appropriate.
- A6.6. The Management representative will have the opportunity to question the employee, the employee's representative and each witness called in turn.
- A6.7. Members of the panel will have the opportunity to ask questions of the employee, the employee's representative and each witness called in turn.
- A6.8. The employee or his/her representative will have the opportunity to re-examine any witness on any matter referred to in cross-examination by the Management representative and/or members of the panel.
- A6.9. The Management representative will have the opportunity to make a closing statement to sum up the case.
- A6.10. The employee or his/her representative will have the opportunity to sum up their case.
- A6.11. In their final summing up neither party may introduce any new matter or evidence.
- A6.12. There is nothing in the above procedure to prevent members of the panel from inviting either party to clarify any statement they have made, or to ascertain if they propose to call evidence in respect of any parts of their statements, or alternatively whether they are speaking from personal knowledge.
- A6.13. If either representative is speaking from personal knowledge then they will be able to be questioned by the Management or Staff Side representative, as appropriate, and by members of the panel.
- A6.14. The panel may, at its discretion, adjourn the hearing in order that further evidence may be produced by either party. To facilitate a proper hearing both Management side and the Employee and their companion if they have one, will withdraw whilst the panel considers.

If recall is necessary both parties shall return even if only one is concerned with the point that is giving rise to doubt.

SECTION 7: DISCIPLINARY HEARING PROCESS AND DECISIONS

A7.1 Any responsible manager adjudicating at a hearing under the Trust disciplinary procedure, as a member of the panel or as an individual, has the responsibility for disciplinary decisions and is expected to act reasonably in the interests of fairness to the Trust on the one hand and fairness to the individual on the other. If disciplinary action results in dismissal, the responsible manager might have to explain his or her decision at an appeal hearing or to an Employment Tribunal, if the dismissed employee satisfies the legal requirements to go there and chooses to do so. In some circumstances, if the employee fails to respond to formal warnings and is dismissed for a further act or omission, the reasonableness of the warning may be challenged if the dismissal would have been unlikely but for the existence of the previous formal warning on the employee's record. The employee has a right of appeal under the Trust's disciplinary procedure, and those hearing the appeal would wish to know how and why the initial decision was taken.

A7.2 At the hearing the responsible manager should open the hearing by:

- Introducing those present and explain the purpose of the hearing and the process which will be followed (as per Section 6).
- Setting out the nature of the allegation(s) and the potential outcome.

A7.3 Except in the most exceptional cases, call an adjournment to consider the evidence before reaching a decision.

A7.4 These considerations put a burden on the responsible manager to act with reasonable objectivity, fairness and consistency. Whatever the foreknowledge of the responsible manager, he or she must act with impartiality before reaching a decision. To do this, the following questions should be posed before a decision is reached.

1. Has there been as much investigation as is reasonable in the circumstances?
2. Have I paid sufficient regard to any explanation put forward by or on behalf of the employee?
3. Do I genuinely believe that the employee has committed the misconduct as alleged?
4. Have I reasonable grounds on which to sustain the belief that on the balance of probabilities (i.e. is it more likely than less likely) that the employee did what is alleged?

A7.5 "Yes" answers to each of these questions will mean finding that the employee has committed the act of misconduct. What to do about it will then become the next consideration for the manager. Three further questions will help with this, namely:

1. Is the conduct sufficiently serious to justify the disciplinary decision I am contemplating?
2. Have I given due regard to any mitigating circumstances put forward by or on behalf of the employee (and any response to these by management's representative, if any)?
3. Is it consistent with other decisions made in similar disciplinary cases heard within the Trust.

The member of the People & Organisational Development Department will be able to advise on such matters.

A7.6 If then, after full consideration of these questions, a decision is taken that dismissal is the appropriate sanction, the prospects of the employee being successful at an Employment Tribunal will be significantly reduced if the manager, when giving evidence at a Tribunal about the reasons for the dismissal and how the decision was arrived at, presents the 7 questions to the Tribunal and explains that each was carefully and sequentially answered by them with a firm "yes", or by the panel if there was one, before taking the decision to dismiss.

A7.7 It is, therefore, imperative that a full and accurate record of both the hearing and the deliberations is made, as soon as possible after the hearing is concluded, and kept with all the case papers.

A7.8 Such records are invaluable when deliberating on the case in the future. It could be a number of months before the case, if it is referred to an Employment Tribunal, is heard.

A7.9 With regard to less serious disciplinary hearings, the same degree of record keeping should be maintained.

A7.10 When the decision about which sanction if any to award has been made, the disciplinary hearing should be reconvened to:

- Inform the individual of the decision of the panel and the sanction taken, if any.
- To explain the reason for the decision.
- Explain their right of appeal and how it operates.
- In the case of a warning, explain what improvement is expected, how long the warning will last, and what the consequences of failure to improve may be.

A7.11 The outcome of the hearing should be confirmed in writing, ensuring that reasons for the decision are clear and are directly related to the allegations set out in the letter inviting the individual to the disciplinary hearing.

SECTION 8: INVESTIGATION OF FRAUD AND CORRUPTION - SOME KEY ISSUES

A8.1 The Trust is committed to eliminating any potential for fraud or corruption within it and an integral part of the investigation of such matters is having procedures in place to:

- Encourage prevention
- Promote detection
- Identify a clear pathway for investigation under the auspices of the Trust Disciplinary Procedure.

A8.2 The Trust is already involved in a high degree of external scrutiny of its affairs by a variety of bodies such as:

- District Audit - the External Auditor
- Audit Commission
- Central Government Departments and Parliamentary Committees
- HM Customs and Excise
- Inland Revenue
- NHS Counter Fraud Service

A8.3 Staff should be encouraged to raise any concerns they may have on issues associated with fraud or corruption and that they may do this in the knowledge that these allegations will be treated in confidence, as all allegations are, and properly investigated. Where they believe a route is necessary other than the normal line management relationship, then they are able to raise concerns via alternative routes such as:

- The Trust's Local Counter Fraud Specialist
- Chief Executive
- Executive and Non-Executive Directors
- Audit Committee
- Internal Audit
- External Audit
- NHS Fraud & Corruption Reporting Line
- NHS Protect online

A8.4 Staff may wish to consult policy CORP/EMP 14 – Raising Concerns: We Care, We Listen, We Act, which provides further guidance in raising concerns in the Trust in difficult situations.

A8.5 This would equally apply to members of the public who believe they have information regarding allegations of fraud or corruption.

A8.6 The investigating officer (identified under Section 3) will be responsible for following up an allegation of fraud or corruption received and, in addition to beginning the investigation, they will notify immediately the Internal Audit Service, the Local Security Manager Specialist as appropriate, and the Director of Finance . They should also involve at this stage the Director of People & Organisational Development in order to obtain the appropriate advice.

A8.7 An integral part of the investigation of any alleged fraud or corruption will be to ensure compliance with:

- Trust Standing Orders
- Standards of Business Conduct & Declaration of Interests
- Compliance with Trust Standing Financial Instructions

A8.8 The investigation of allegations of fraud and corruption should be used pro-actively in order that the Trust is able to maintain a continuous overview over such arrangements. In particular through the Director of Finance, Internal Audit Service, the Local Security Manager Specialist, Standing and Financial Instructions, and Accounting Instructions to ensure that there is a co-ordinated approach that is developmental.

APPENDIX 4 - EQUALITY IMPACT ASSESSMENT PART 1 INITIAL SCREENING

Service/Function/Policy/Project/ Strategy	Care Group/Executive Directorate and Department	Assessor (s)	New or Existing Service or Policy?	Date of Assessment
Disciplinary Policy	People & OD	Anthony Jones	Existing	29 January 2018
1) Who is responsible for this policy? People & OD				
2) Describe the purpose of the service / function / policy / project/ strategy? Set out principles and procedures for disciplinary arrangements in the Trust				
3) Are there any associated objectives? Employment Law; ACAS Code of Practice				
4) What factors contribute or detract from achieving intended outcomes? – Conduct of staff; capability of managers				
5) Does the policy have an impact in terms of age, race, disability, gender, gender reassignment, sexual orientation, marriage/civil partnership, maternity/pregnancy and religion/belief? No				
• If yes, please describe current or planned activities to address the impact				
6) Is there any scope for new measures which would promote equality? No				
7) Are any of the following groups adversely affected by the policy?				
Protected Characteristics	Affected?	Impact		
a) Age	No			
b) Disability	No			
c) Gender	No			
d) Gender Reassignment	No			
e) Marriage/Civil Partnership	No			
f) Maternity/Pregnancy	No			
g) Race	No			
h) Religion/Belief	No			
i) Sexual Orientation	No			
8) Provide the Equality Rating of the service / function /policy / project / strategy – tick (✓) outcome box				
<input checked="" type="checkbox"/> Outcome 1	<input type="checkbox"/> Outcome 2	<input type="checkbox"/> Outcome 3	<input type="checkbox"/> Outcome 4	
<i>*If you have rated the policy as having an outcome of 2, 3 or 4, it is necessary to carry out a detailed assessment and complete a Detailed Equality Analysis form – see CORP/EMP 27.</i>				
Date for next review:		January 2021		
Checked by:		John Scott	Date:	29 January 2018

Please Note: This policy is currently under review and is still fit for purpose.

GRIEVANCE AND DISPUTE PROCEDURE

This procedural document supersedes: CORP/EMP 3 v.5 – Grievance and Dispute Procedure



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The Trust discourages the retention of hard copies of policies and can only guarantee that the policy on the Trust website is the most up-to-date version. **If, for exceptional reasons, you need to print a policy off, it is only valid for 24 hours.**

Name of author:	Keeley Cromwell – Senior Human Resources Advisor
Date revised:	February 2011
Approved by (Committee/Group)	Joint Staff Consultative Committee
Date of approval:	July 2011
Date issued :	September 2011
Review date:	July 2013 – extended to June 2015
Amended for factual accuracy by:	Ruth Cooper – Head of Human Resource – 13 August 2015
Date re-published:	17 August 2015
Review date:	March 2016 – Extended to November 2018
Target audience:	Trust-wide

WARNING: Always ensure that you are using the most up to date policy or procedure document. If you are unsure, you can check that it is the most up to date version by looking on the Trust Website: www.dbh.nhs.uk under the headings → ‘Freedom of Information’ → ‘Information Classes’ → ‘Policies and Procedures’

GRIEVANCE AND DISPUTE PROCEDURE**Amendment Form**

Version	Date	Brief Summary of Changes	Author
Version 6	17 August 2015	Minor amendments for factual accuracy.	Ruth Cooper
Version 5	February 2011	<ul style="list-style-type: none"> • The process has been amended and shortened, timeframes within the formal element of the process have been added. • Monitoring Effective Compliance added at section 9. • Appendix 3 on process to follow at formal hearing has been removed and Appendix 4 and 5 have been re-numbered accordingly. • Appendix - Grievance Procedure Summary flow chart has been updated. 	Keeley Cromwell
Version 4	August 2009	<ul style="list-style-type: none"> • Section 2 - Delete 'Whitley Council negotiations or any other' • Staff copy – amended paragraph numbering – is now Appendix 5 • Amended to reflect Employment Act 2008 and ACAS Statutory Code of Practice 2009 • Section 5 – 'role of the HR department' added • Section 8 – updated to include mediation and clarification on timescales for meetings. • Appendix 4 – Grievance Procedure Flowchart • Employee Representation clarified 	Michelle Victor
Version 3	January 2005	<p>Page 2 – paragraph 3.9 removed</p> <p>Staff copy – no revisions made (remains version 2)</p>	Jayne Lang

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GRIEVANCE AND DISPUTE PROCEDURE

1. Introduction

The Trust recognises that from time to time employees may wish to raise matters, which are causing them concern, or to seek redress for grievances related to their employment. The grievance procedure provides a structured framework to allow employees' grievances to be handled fairly, speedily and consistently and at the point closest to where the grievance was originally raised.

1.2 The objectives of the procedure are:

1.2.1 To provide a mechanism for employees individually or collectively to resolve grievances which affect the terms and conditions of service under which they work. To also ensure that all employees are aware of the agreed procedure.

1.2.2 To facilitate grievances and disputes being settled fairly with a minimum delay and as near as possible to the point of origin.

1.2.3 To integrate the means of handling both individual and collective grievances.

1.2.4 To help create a constructive and positive industrial relations climate.

1.3 This procedure covers all staff employed under a contract of employment by the Trust and all questions which may become a source of grievance, excluding matters concerned with disciplinary action (including suspension from duty and dismissal) for which a separate procedure exists. The procedure includes any grievance concerned with an employee's job, conditions of service, grading or circumstances which are considered to be grounds for claiming constructive dismissal, together with such other matters for which statutory provision is made for applications to be heard by an employment tribunal (except applications alleging unfair dismissal) or other outside agency. This procedure shall not apply to matters pertaining to national insurance, income tax, rules of pension schemes, staff appraisal/performance review or matters concerning future joint negotiating machinery. Concerns about harassment will be dealt with in line with the Fair Treatment for All Policy [CORP/EMP 4 v.6](#)

1.3.1 All employees have access to the 'Staff Copy' (Appendix 4) of this procedure. Full copies will be made available to all managers, supervisors, and duly accredited and recognised employee representatives and can be accessed on the Trust intranet

2 Equality Impact Assessment

An Equality Impact Assessment (EIA) has been conducted on this procedural document in line with the principles of the Equality Analysis Policy [CORP/EMP 27 v.3](#) - and the Fair Treatment For All Policy [CORP/EMP 4 v.6](#).

The purpose of the EIA is to minimise and if possible remove any disproportionate impact on employees on the grounds of race, sex, disability, age, sexual orientation or religious belief. No detriment was identified.

A copy of the EIA is available on request from People and Organisational Development.

3. General Principles

- 3.1 This procedure has been identified as an acceptable means of handling grievances. The operation of the procedure shall be followed free from any form of duress by either party and there is an obligation upon both parties to maintain the status quo. Industrial action, therefore, would only be taken when all the avenues of appeal, conciliation or arbitration have been exhausted and there is still a failure to agree.
- 3.2 Nothing in paragraph 3.1 is to be taken as limiting management's exercising its responsibility to manage or to take or implement decisions which are needed urgently in the interests of patient services. Such a departure from the principle of status quo will be taken only on the authority of the appropriate manager who will report that decision and reasons for it in writing to the staff organisation(s) concerned. Staff individually or collectively may subsequently raise their disagreement with such decisions at the appropriate stage in this procedure.
- 3.3 Where an employee has an enquiry, problem or a grievance concerned with their job, conditions of service or grading, this should in the first instance be raised with their immediate supervisor in order to try and resolve the matter informally. Only in the event of the immediate supervisor:
 - (a) advising that the matter must be referred to a higher level of management for a decision; or
 - (b) giving what the employee considers to be an unsatisfactory decision, should the employee proceed to Stage 1 of the Procedure.
- 3.4 At all stages of the procedure the appropriate Head of Department/immediate Manager should consult as necessary with other members of management to find a satisfactory solution. Such consultation is vital where the solution of a grievance has implications for staff elsewhere in the Trust or may establish precedence.
- 3.5 An issue may be referred back to any previous stage of the procedure if it appears likely to produce a speedier or more acceptable solution.
- 3.6 Decisions in favour of employees will be applied with effect from the date upon which the grievance was formally lodged.
- 3.7 The name of the functional head who will be acting as Secretary to the Appeal Committee at Stage 4, will be notified to the employee before the date of the grievance procedure.

3.8 At all stages in the procedure up to and including Stage 3, the Director of People and Organisational Development or members of the P&OD department will be used in an advisory/conciliatory capacity.

4. Representation

4.1 The term companion within the context of this agreement means:

- a representative of a Trade Union (i.e. duly elected and accredited in accordance with the Trust's agreement on Facilities for Trade Unions or a full-time Union Officer)
- a representative of a Professional Organisation
- a work colleague who is acting as a supporter and not in a professional capacity.

4.2 An employee can choose to be accompanied by a companion at all stages of the procedure.

4.3 An employee with an individual grievance has the right to a personal appearance at all stages of the procedure.

4.4 The delegation arrangements for all stages of the procedure are detailed Appendix 2.

5. The Role of People and Organisational Development (P&OD) Department

5.1 The P&OD Department should be notified of any formal grievance received by a manager. A HR representative should accompany the manager during any meetings which take place.

5.2 The role of the P&OD Department is to monitor the grievance process and provide support throughout the process.

6 Collective Disputes/Grievances

6.1 For the purposes of this agreement a collective dispute is defined as a grievance which is common to two or more employees, and the grievance is within the scope of those matters which can be resolved by the Trust.

6.2 Two or more employees with a collective grievance are expected to be represented by an appropriate employee representative.

7. Time Limits

7.1 The time limits given for each stage are the maximum time limits given and are not to be regarded as the length of time it should take to resolve a grievance. It is in the interests of all parties to produce an acceptable solution as soon as possible. The time limits may be extended by mutual agreement. The time taken for grievance/disputes to receive a decision at each stage will

be routinely monitored by the appropriate next stage manager. Abuse of limits will attract appropriate criticism.

- 7.2 Where specific managers are designated as responsible for certain parts of this procedure and they are unavailable within the time limits, action may be taken by whomever else is authorised to act for them or reference will be made to the next appropriate stage.
- 7.3 It is recognised that problems involving bandings, collective disputes and appeal hearings may involve longer time limits.

8. Procedure

8.1 Stage 1 (Informal)

- 8.1.1 Before an employee or, in a collective grievance, a companion of the group takes up a formal grievance under this procedure they should raise the matter informally with their immediate supervisor/line manager in an attempt to resolve the issue by informal discussion(s).
- 8.1.2 Many problems can be resolved through discussions between the parties involved. It is in the interest of everyone to resolve grievances at the earliest opportunity through constructive and open discussions between the parties involved. To help facilitate this, mediation which provides a means whereby two parties can be helped to reach a mutually acceptable solution to their dispute by an agreed third party may be an appropriate option. If mediation is being considered as an option, staff/managers involved in the grievance may wish to seek advice from People and Organisational Development who will help assist with identifying an appropriate mediator. The role of the mediator is to offer unbiased, impartial advice and guidance to both parties.
- 8.1.3 If, in particularly sensitive cases, the employee or representative of the group feels unable to raise the grievance with their immediate supervisor/line manager or the supervisor/line manager's manager, it may be raised with People and Organisational Development or if preferred, with their staff side representative to raise it on their behalf.
- 8.1.4 If the matter is not resolved through informal discussion(s) with their immediate supervisor/line manager, the grievance should be put in writing to the next level of management, using the form at Appendix 1.
- 8.1.5 Stage 2 should not be initiated until after the informal procedure at Stage 1 has been followed and no resolution has been found at that stage.

8.2 Stage 2 (First Formal)

- 8.2.1 Where an employee has a grievance which has not been resolved through discussion with their immediate supervisor then the employee should submit their grievance in writing to the next level of management setting down the nature of the alleged grievance as in 8.1.4 above.

- 8.2.2 The manager in receipt of the grievance should acknowledge this within 14 days of receipt, inviting the employee to a meeting to discuss the alleged grievance and include the employees right to be accompanied by a companion, either a fellow worker, trade union or professional body representative. All parties should make every effort to attend the meeting.
- 8.2.3 At the meeting the manager will ask the employee for further details of the grievance and how the employee would like to see the grievance resolved. The employee may present witnesses and the manager may ask questions of the witnesses. Following the presentation of their evidence, the immediate manager will provide information about their action prior to the formal procedure being invoked. Following this both parties will be given the opportunity to sum up their case.
- 8.2.4 Having considered all the evidence, the manager hearing Stage 2 of the procedure should give their decision explaining the reasons. If the manager needs to adjourn to consider their decision or make further investigations, they should inform and agree with the employee the timescales for making their decision.
- 8.2.5 An answer shall be given in writing within 14 days of the date of the meeting. Included in the letter must be information about the employees right of appeal informing the employee:
- who they should address the appeal to (normally the next level of management)
 - that any appeal must be raised in writing within 14 days of receipt of the outcome
 - their right to be accompanied as detailed in 8.2.2

8.3 Stage 3 (Final Formal Stage for Individual Grievances)

- 8.3.1 If the matter is not resolved at Stage 2 within 14 days, the employee should confirm the nature of the grievance in writing, to the next responsible Senior Manager. This should be submitted within 14 days from the date of written notification of the outcome of stage 2 of the procedure.
- 8.3.2 A separate report from the Manager who heard Stage 2 of the procedure containing their comments and details of any further action taken by them should be submitted at this stage.
- New evidence may only be produced at the hearing which could not reasonably have been known to either parties prior to the hearing's commencement.
- 8.3.3 The Senior Manager in receipt of the Stage 3 grievance appeal should acknowledge the letter within 14 days of receipt and invite both the employee and the Manager who heard Stage 2 of the procedure to a meeting to discuss the alleged grievance.
- 8.3.4 The same process should be followed as paragraph 8.2.3 to 8.2.5

8.3.5 An answer shall be given, in writing within 14 days of the date of the meeting.

8.3.6 **For individual grievances, this is the final stage of this procedure.**

8.4 Stage 4 (Final Formal Stage for Disputes)

8.4.1 In the case of a collective dispute which remains unresolved at Stage 3 it shall be open to either party to give notice of appeal to a locally convened panel. This panel will be made up of an independent chairperson acceptable to both sides, and two members on each side, appointed by the Trust and the Staff Organisation(s) concerned. In the case of a dispute involving more than two recognised staff organisations, not more than four members shall be appointed from each side. Only one person on each side on every occasion may be a member or employee of the Trust. No member or employee shall be a member of the appeal panel if they have been directly involved in the dispute. The chairperson will be recognised by both sides as having a conciliatory role, and the panel will have the essential task of exploring all the issues involved in the dispute and will attempt to reach an agreed settlement. Recommendations made will be by agreement of both sides of the panel.

8.4.2 Where both parties agree, the appeal panel will be recognised as having the powers of arbitration.

8.4.3 In the event of the panel being unable to resolve the dispute, the dispute may be referred to the Advisory Conciliation and Arbitration Service (ACAS):

- (a) by either party for conciliation or
- (b) by joint agreement of the parties for arbitration.

8.4.4 **This will be the final stage of this procedure**

9. Process for Monitoring Effective Compliance

All formal grievances including outcome and any subsequent appeals will be logged on ESR by the appropriate Human Resources Advisor.

10. Other Relevant Policies

- CORP/EMP 2 - Disciplinary Procedure
- CORP/EMP 4 - Fair Treatment for All Policy
- CORP/EMP 13 - Conduct, Capability, Ill Health and Appeals Policies and Procedures for Practitioners
- CORP/EMP 14 - Whistleblowing Policy - Voicing Your Concerns
- CORP/EMP 25 - Capability Procedure

11 References

Gov.uk –Handling an employee’s grievance

<https://www.gov.uk/handling-employee-grievance/overview>

Employment Act 2008

ACAS code of practice on disciplinary and grievance procedures 2015

Appendix 1

DONCASTER AND BASSETLAW HOSPITALS NHS FOUNDATION TRUST

JOINT GRIEVANCE REPORT FORM

NOTE: This form is only used in the event of a "Failure to Agree" at Stage 1 of the procedure and should be completed jointly by the employee/employee representative and the employee's Supervisor/Line Manager/Immediate Manager

1 Employee(s) Name(s) or Department(s)	Representative
--	----------------

2. Details of outstanding grievance	
Signed (Employee or Employee Representative)	Head of Department (Designation)

3. Head of Department's Decision

4. Head of Department's comments or reasons

Date

Signed

GRIEVANCE AND DISPUTE PROCEDURE

DELEGATION ARRANGEMENTS

The following are the delegated arrangements in respect of Stage 1 to Stage 3 of the agreed procedure.

Stage 1

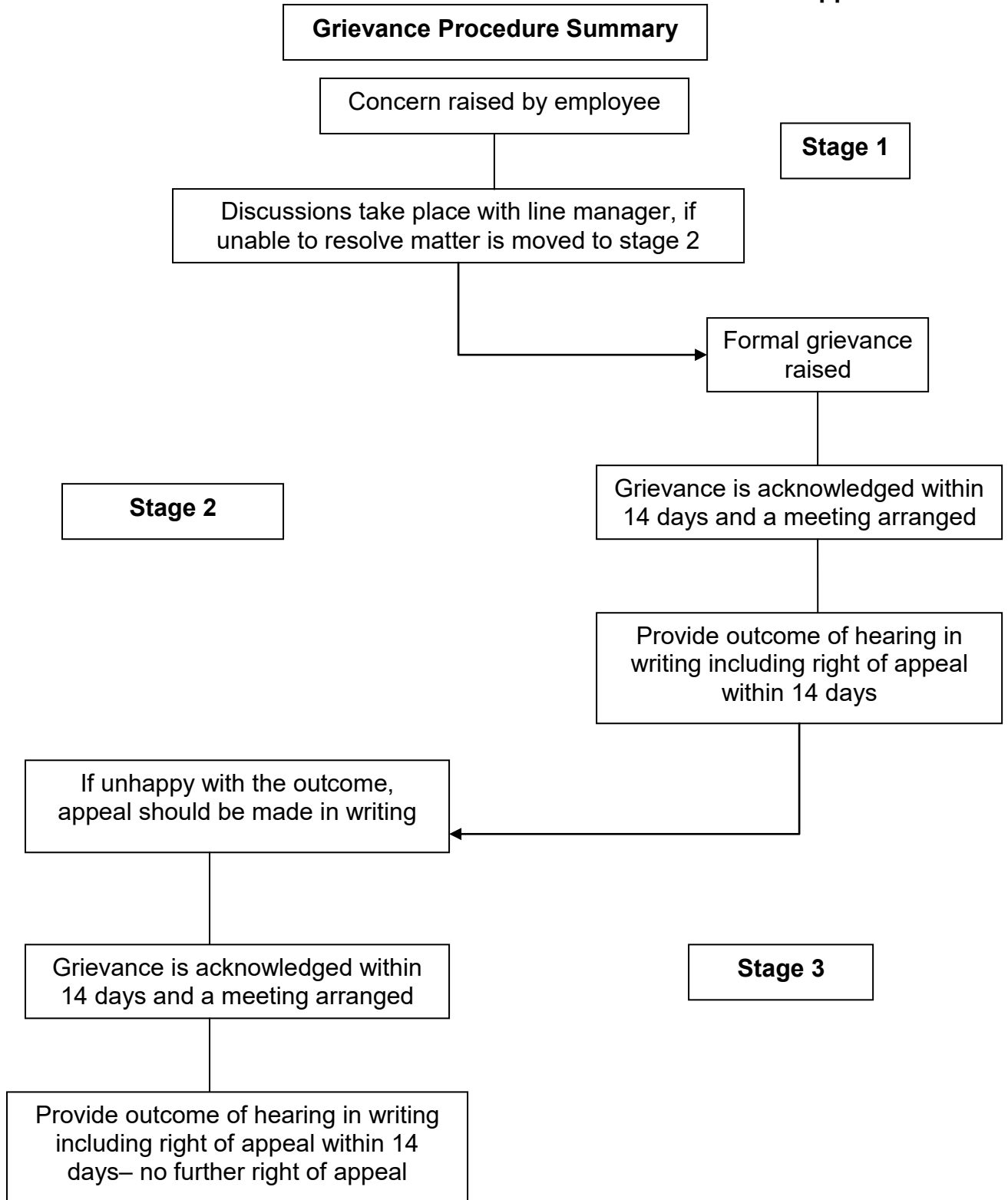
Supervisor
Line/Ward Manager
Head of Department
General Manager or equivalent
Director
Chief Executive

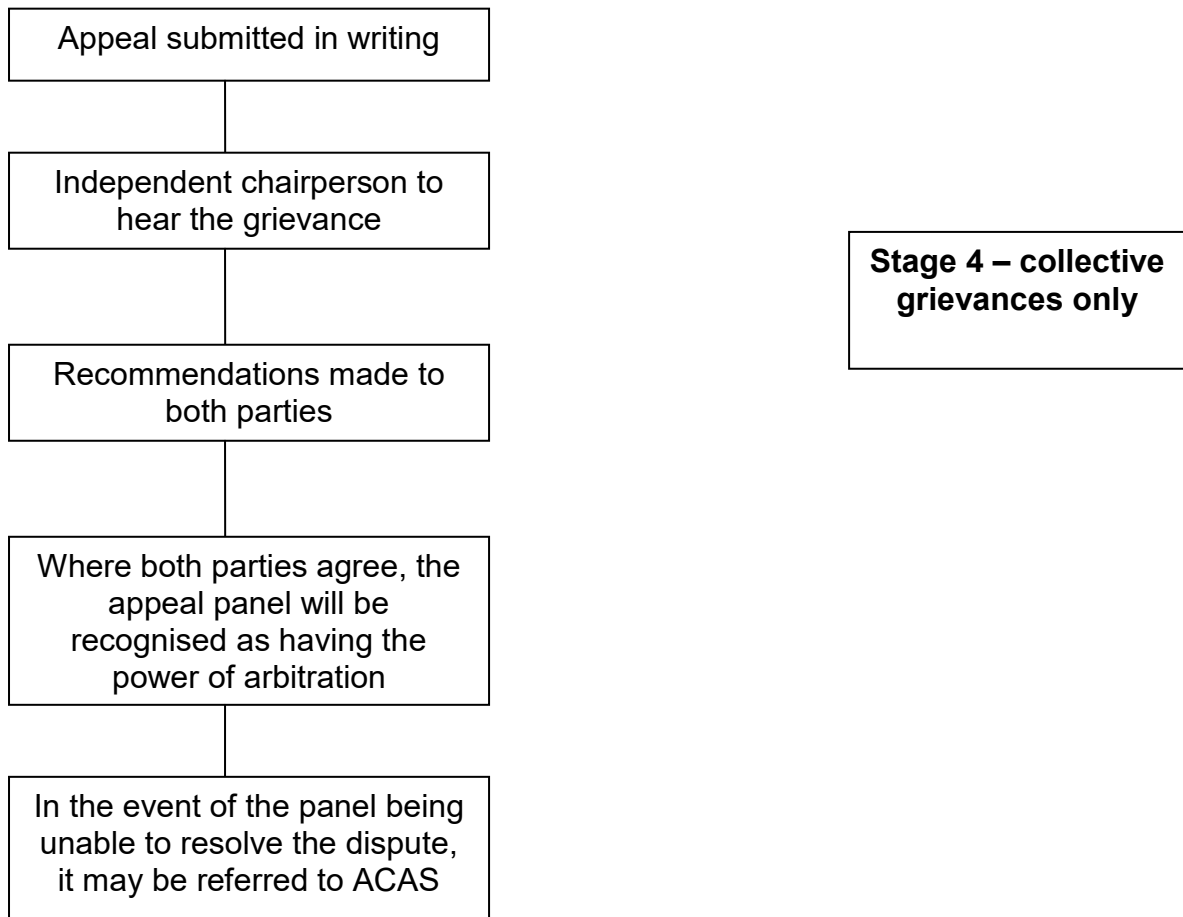
Stage 2

Line/Ward Manager
Head of Department
General Manager or equivalent
Director
Chief Executive

Stage 3

Head of Department
General Manager or equivalent
Director
Chief Executive





This document forms part of your contract of employment

DONCASTER AND BASSETLAW HOSPITALS NHS FOUNDATION TRUST

TITLE: GRIEVANCE AND DISPUTE PROCEDURE - ADVICE TO STAFF

1. The Trust operates a procedure to provide a means for employees individually or collectively to resolve grievances which affect the terms and conditions of service under which they work. The scope of the procedure covers all staff employed under a contract of employment by the Trust and all questions which may become a source of grievance, excluding matters concerned with disciplinary action (including suspension from duty and dismissal) for which a separate procedure exist, but includes any grievance with the employee's job, conditions of service, grading, or circumstances which are considered to be grounds for constructive dismissal, together with such other matters for which statutory provision is made for applications to be heard by an employment tribunal (except allegations alleging unfair dismissal) or other outside agency. This procedure shall not apply to matters pertaining to national insurance, income tax, rules of pension schemes, staff appraisal/performance review or matters concerning future terms and conditions of service which are properly within the scope of Agenda for Change negotiations or any other joint negotiating machinery. Concerns about harassment will be dealt with in line with the Fair Treatment for All Policy Personal Harassment Policy (CORP/EMP 4).
2. Where an employee has an enquiry, problem or a grievance concerned with their job, conditions of service or banding this should, in the first instance be raised with their immediate supervisor in order to try and resolve the matter informally.
3. Stage 1 - If the matter has not been settled satisfactorily through discussion as above, employees should write to their Supervisor/Line Manager/ Immediate Manager setting down the nature of the grievance. A meeting will be arranged with the employee and any decision reached at this stage shall normally be communicated within 14 days.
4. Stage 2 - In the event of failure to agree at Stage 1, the case should be submitted in writing to the appropriate Manager or Head of Department. This should represent a joint agreement of the outstanding source of grievance to be resolved. Completion of the form should be undertaken jointly by the employee/companion and the Supervisor/Line Manager/Immediate Manager. This should be submitted within 14 days of the date of notification of the outcome of Stage 1 of the procedure. The manager or Head of Department will acknowledge receipt of the grievance within 14 days and include arrangements for the forthcoming hearing. Any decision reached at this stage shall normally be communicated within 14 days.

5. Stage 3 - In the event of a failure to agree at Stage 2, the nature of the grievance should be submitted in writing to the Senior Manager designated to deal with matters at Stage 3 of the procedure. Details of these Senior Managers are available within the full Grievance Policy. This should be submitted within 14 days of the date of notification of the outcome of Stage 2 of the procedure. The Senior Manager will acknowledge receipt of the grievance within 14 days and include arrangements for the forthcoming hearing. Any decision reached at this stage shall normally be communicated within 14 days. **This is the final stage of appeal for individual grievances.**
6. Collective disputes which remain unresolved at Stage 3 it shall be open to either party to give notice of appeal to a locally convened panel consisting of an independent Chairman acceptable to both sides and two members on each side appointed by the Trust and the staff organisation(s) concerned.
7. You are reminded that at any stage during this procedure you are entitled to be accompanied by a companion. (i.e. a Trade union representative, staff association or a work colleague who is acting as a supporter)
8. It is recognised that problems involving bandings, collective disputes and appeal hearings may involve longer time limits.
9. All staff are reminded that they may have access to the official Grievance and Disputes Procedure operating within the Trust, copies of which are available on the Trust intranet and all managers and duly accredited and recognised employee representatives have been notified of these.



Please Note: This policy is currently under review and is still fit for purpose.

Restructure, Reorganisation, Redeployment and Redundancy Policy

This procedural document supersedes: CORP/EMP 09 v.4 - Management of Change Redeployment & Redundancy and incorporates CORP/EMP 26 v.2 - Pay Protection Policy.



Did you print this document yourself?

The Trust discourages the retention of hard copies of policies and can only guarantee that the policy on the Trust website is the most up-to-date version. **If, for exceptional reasons, you need to print a policy off, it is only valid for 24 hours.**

Author/reviewer: (this version)	Dawn Jarvis, Director of People and Organisational Development
Date written/revised:	January 2014
Approved by:	Policy Approval and Compliance Group
Date of approval:	19 February 2014 and 19 March 2014
Date issued:	26 March 2014
Next review date:	February 2017 – Extended to November 2018
Target audience:	Trust-wide

Restructure, Reorganisation, Redeployment and Redundancy Policy

Amendment Form

Version	Date Issued	Brief Summary of Changes	Author
Version 5	26 March 2014	This policy has been fully reviewed and rewritten to reflect legislative and policy updates. It incorporates the pay protection policy (previously CORP/EMP 26 v 2) implementing changes to short and long-term protection of earnings, following agreement with Staff Side.	Dawn Jarvis
Version 4	June 2010	The Policy has been fully reviewed, and re-written, to reflect current legislative and procedural requirements.	Janette Bailey & Rhiannon Hammond-Jones
Version 3	April 2007	<p>1.4 Clarification of scope of policy Various – addition of representation from ‘employee representatives’</p> <p>4 Curtailment of recruitment – major rewording of paragraphs.</p> <p>5 Suitable alternative employment – clarification of what would equate to suitable alternative employment</p> <p>9 Procedure to deal with redundancy – Clarification of procedure and detail around information available to staff organizations</p> <p>10 Selection for Redundancy – Clarification of selection processes and possible selection criteria. Removal of any age related selection criteria.</p> <p>13 Redundancy Payments – updated with Agenda for Change T&Cs reference.</p> <p>Appendix 1 – Addition of registration for Redeployment form.</p>	Jayne Lang

Restructure, Reorganisation, Redeployment and Redundancy Policy

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Restructure, Reorganisation, Redeployment and Redundancy Policy

1. INTRODUCTION

As an employer, Doncaster and Bassetlaw Hospitals NHS Foundation Trust wants to provide job security for its employees as far as possible. We are committed to minimising redundancy and only considering this when all other options have been exhausted. We want to do everything possible to ensure the highest level of job security for all our employees.

Sometimes, to meet the changing needs of our patients or commissioners we need to reorganise or restructure. Where these changes affect our staff we will consider measures such as the restriction of recruitment, filling of vacancies, reduction or elimination of overtime, retraining and the redeployment or transfer of staff before we consider redundancy, either voluntary or compulsory. However, there may be some circumstances which make redundancies unavoidable. This policy will apply to permanent staff employed by the Trust. If you are on a temporary or fixed term contract your contract may be ended with appropriate notice to facilitate such restructuring.

2. EQUALITY IMPACT ASSESSMENTS

An Equality Impact Assessment has been undertaken this is available at Appendix 3, no detriment was identified.

3. PURPOSE

The purpose of this policy is to provide consistency of approach when dealing with organisational or structural change that may result in redeployment or redundancy situations. We will seek to ensure a balance between the needs of the individual to remain in employment and the needs of the organisation to have appropriately trained and qualified staff.

4. DUTIES AND RESPONSIBILITIES

In the event of proposed staffing reductions, the Trust will consult with the recognised trade unions/staff organisations and, where appropriate, workforce representatives, which represent locally the occupational group of employees concerned. These may be either existing representatives or new ones specially selected for the purpose, in accordance with the legal requirements. Where redundancies are being considered then the Trust will comply with the appropriate legislation.

5. PROCEDURE

5.1 Communication and engagement

When a change is planned managers should ensure they communicate and engage affected staff as far as possible in the proposed changes. They should use the DBH Change Curve available from their HR Business Partner or the intranet as a guide, making sure they can answer the questions in the five sections for all staff affected, paying particular attention to:-

- Why the change is happening
- Who is affected and how
- What is going to happen
- What it will be like (once the change has occurred)
- How the change will be made to “stick” (be monitored to show improvements and application of the changes)

5.2 Selection of who is affected

It is very important to be able to explain what the new structures will look like as soon as possible once a change is announced. This will enable people to understand whether they are affected by the changes and if they are, how they are affected.

Managers should produce a “new” structure chart showing as far as possible the numbers of new posts, at which band and in what structure, are going to be available. This should **NOT** include reference to any individuals in the new posts until a job filling process has taken place.

At the same time the current (“old”) structure should be produced showing individuals in post that will be affected by the change. This allows a “lock down” date to be agreed (usually the date of the announcement of the change).

This is an important date as it means that everyone in the old structure on the “lock down” date has the opportunity to fill the jobs in the new structure, even if changes take place after the “lock down date”.

This will usually be limited to existing staff employed on permanent contracts within the “old” structure. This structure (and therefore the staff within it) may need to be agreed, as it is likely that all staff in that “old” structure will be entered on the Redeployment Register or will be formally declared “At Risk” of redundancy at some point in the future. This includes internal staff in acting positions of in excess of nine months duration and staff in open-ended secondments from other areas within the Trust where that secondment has already been of nine months’ duration.

If there are several groups of staff affected, individuals can usually only have one place where they are “at risk” or appear in one pool for redeployment, as it would be unfair to allow staff to apply for posts in their substantive role as well as the one they were on

secondment to. Individuals will usually be able to decide which group they want to be considered in (their substantive role or their secondment role).

Definition of the “old” structure and of the people potentially “At Risk” posts within that area will be the responsibility of the departmental management team, in consultation with relevant accredited staff representatives and HR Services.

In situations where an individual member of staff, or group of staff, believe they have been wrongly excluded from (or included in) the “At Risk” group, the issue will be considered by the Head of HR Services for a final decision.

5.3 Job filling for the new structure

The filling of all posts in the new structure will be the subject of one or more type of process applicable, depending on the size of the change and whether there are more or less posts overall in the new structure. This might be job matching, applications for posts or filling posts in some other way, and this will usually be agreed with staff side at the start of any major change but is generally expected to follow the stages below, though not necessarily in order.

- 5.3.1 In the first instance every individual will be required to produce their current job description for the post they are doing on the date of “lock down”.
- 5.3.2 Secondly, the job descriptions and person specifications for the roles in the new structure will be circulated to all affected staff. This will be after the collection of the current “old” structure job description so that everyone has a fair chance of being matched to future posts.
- 5.3.3 Thirdly staff (at this stage only in the “At Risk” group) will be asked to apply for the new roles and express a preference of which roles they would like, usually up to three posts but this will depend on the size of the exercise. It may be that there are brand new jobs created which may, at this stage be advertised more widely or externally, if the skills do not already exist in the organisation.

5.4 Proceeding with job filling

Several things may occur as a result of this first stage of job filling:-

- 5.4.1 There are more posts than people at a particular band - usually this will mean that everyone secures a role by their old job description being matched to the new job description and their preferences being taken into account as much as possible. If people are already doing more than 75% of the new role in their old role and it isn't more highly banded in the new structure, then they are likely to be slotted into the new role. However it may be that there isn't a skills, qualifications or behaviours match to the new roles, or they are less than 75% similar, in which case these roles won't, at this stage be appointed to, and may be widened out to the whole organisation or advertised externally.
- 5.4.2 There are more people than posts at a particular band – usually this means some form of competition will take place. This could initially begin with a preference exercise similar to above, again using the 75% rule; this could mean several

people applying for one job, using the organisation's standard recruitment policy.

- 5.4.3 Despite there being more people than roles, it might also be the case that there aren't the skills, qualifications or behaviours required to match to the new roles, in which case these roles won't at this stage be appointed to, and may be widened out to the whole organisation or advertised externally.
- 5.4.4 There are roles in the new structure that cannot be filled by the people in the old structure due to new skills, qualifications or behaviours required by the role, in which case these roles may be widened out to the whole organisation or advertised externally.

5.5 Applications and selection methods

Applications will normally require the completion of the Trust's standard application form. If appropriate there may be provisions for stating a preference for posts, or an agreed format of expression of interest instead of the completion of an application form. It will not normally be necessary to take up references for staff within internal department "ring-fences", but they may be required in competitive interview situations.

Application forms and references will always be required when applying for promotion opportunities or situations where, although of the same level, the role applied for is significantly different from that which the employee currently holds.

Selection testing or psychometric testing may be used depending on the roles being filled, but this will be announced at the start of the process.

Finally there may need to be formal interviews if there are more people than posts. This policy cannot give detailed process points for every future restructure but the principles contained in here will be used to guide the choice of selection methods.

5.6 People who get a post in the new structure

People who get a post in the new structure will be expected to move to that new structure as soon as reasonably possible while maintaining an ongoing service and thorough transition to their new role.

If there has been an agreed "go live" date for the change, any change to banding, pay or terms and conditions will begin for everyone on that agreed "go live" date.

5.7 Staff who do not get a post in the new structure

Staff may not get a post in the new structure for a variety of reasons and the action taken to support that member of staff will vary:-

- 5.7.1 They may have chosen not to enter into the selection process for new roles – in which case they will be entered onto the "Redeployment Register" and may be at risk of future redundancy.
- 5.7.2 They may not have been successful at any stage of the job filling or selection process - in which case they will be entered onto the "Redeployment Register" and may be at risk of future redundancy. Wherever possible, and practical,

manager(s) will seek to provide support and training for individuals they consider not immediately suitable. Opportunities for training and trial periods to equip a member of staff to take on a new role will be provided. However, there will be situations where re-training is not appropriate, where an individual is not considered suitable, or where a post within the re-organised area is not available, every effort will be made to redeploy the member of staff to a suitable post elsewhere within the Trust.

- 5.7.3 They may not have got their preference – in which case they will either be expected to take the role offered in the new structure or they will be entered onto the “Redeployment Register” and may be at risk of future redundancy.
- 5.7.4 They may not have got a role at their current pay band but may be offered a role at a lower pay band - in which case they will either be expected to take the role offered in the new structure at the lower pay band on appropriate pay protection (see section 6) or they will be entered onto the “Redeployment Register” and may be at risk of future redundancy or may lose their right to redundancy.

5.8 Unsuccessful Applications

Where a member of staff is deemed not to be suitable for a post applied for which is commensurate with their present role, he/she should receive verbal feedback and also, if the employee requests it, a written statement from those responsible for making the selection decision giving their specific reasons for reaching this decision. Where possible, this should be received within 7 working days of the decision. All recruitment decisions should be documented in line with the Trust’s current recruitment guidance. Where a staff member is deemed not suitable for a post applied for which is commensurate with their present role then the documented decision should be forwarded to the Director of People & Organisational Development.

6. PAY PROTECTION

6.1 Overview

As a result of either organisational change and restructuring or individual down grading (other than for a reason of capability or conduct) individuals are able to receive some protection of earnings, basic wage or other conditions of service as follows.

Protection does not apply following periods of secondment or acting up or to voluntary moves or redeployment because of incapability or incapacity for their existing post.

Each subsequent change of post due to the application of the provisions of paragraph 1 of this agreement may attract protection in its own right. Employees receiving protection under the provisions that applied before the implementation of these provisions may continue to be protected under those provisions until the protection expires. If you are on a fixed term contract you will only receive protection until the end of your fixed term period, which may be ended earlier as a result of structural change.

6.2 Short-Term Protection of Earnings

Short term protection will apply in certain circumstances – i.e. where organisational change as defined in section 3, has resulted in a reduction in total earnings (e.g. loss of unsocial hours enhancements, contractual overtime, reduction of working hours within the standard week). This protection of ‘Protectable earnings’ will be offered to those eligible in accordance with the following table:-

Reckonable Service	Protection Period (Months)
0-2 years	2
2-3 years	3
3-4 years	4
4-5 years	5
5+ years	6

The period of calculation of the protectable earnings is the normal weekly average over the 6 months immediately preceding the first day of employment in the next post, unless this period is deemed not to be a representative period. Earnings, in the new post means the basic salary in the new post and any other remuneration in respect of overtime, shift work or other additional duties.

When calculating the earnings for the new post, the rates used for calculating the payments in respect of overtime, shift work and other additional duties should be those applicable to the new post.

Earnings in the new post will be offset against protectable earnings. If for any particular pay period the earnings in the new post exceed protectable earnings, protection of earnings is extinguished and the earnings in the new post are paid in full for that particular period, although the period itself will count against the full protection period.

6.3 Long Term Protection

Long Term protection applies where, as a result of organisational change, an employee is moved from one post to another and is downgraded (usually by one pay band) as a result of the move. An employee to whom this agreement applies shall be entitled to full protection of basic salary in accordance with the following:

Reckonable Service	Protection Period (Months)
0-5 years	6
6-10 years	12
10+ years	24 Months (2 years)

At the end of this period the salary will revert to the current rate for the new job or grade you are working in at the end of the protected period. You are entitled to long term protection until:

- 6.3.1 The period of protection above expires.
- 6.3.2 You are appointed to a post in which the normal basic wage or salary is equal to or exceeds the protected basic wage or salary

- 6.3.3 You move on your own application to a post with a basic wage or salary which is lower than that of the existing post
- 6.3.4 You retire or leave the organisation
- 6.3.5 Your basic wage or salary is equal to or exceeds the protected wage or salary due to pay rises in the new post.

You may be eligible for both long-term protection and short-term earnings protection concurrently. Until the short-term protection expires, you shall be paid according to the condition of whichever right, (short or long-term) is more favourable to you. Thereafter payment is on the basis of the on-going entitlement to long-term protection.

Where incremental points apply, you will be transferred to the nearest equivalent pay point within the new pay band, based on your current salary.

6.4 Conditions of short and long-term pay protection

6.4.1 Short-term protection

If you are in receipt of short term protection it is a condition placed upon you to undertake any overtime, or shift work which may be required, up to the level at which earnings in the new post equal the protected earnings. If you opt not to undertake overtime, shift work or other additional duties for which you are in receipt of protectable earnings, then the protectable earnings will cease immediately. Short-term protection of earnings is also conditional on you accepting any offer of another post which attracts a basic wage or salary in excess of the basic wage or salary applying to the new post.

6.4.2 Long-term protection

If you are in receipt of long term protection it is a condition placed upon you to undertake any other additional duties which may be required, up to the level at which earnings in the new post equal the protected earnings. If you opt not to undertake these additional duties then the protectable earnings will cease immediately.

If you undertake overtime/additional hours in your new role while in receipt of either short or long term protection, the additional hours will be paid at the rate applicable to the new post.

You must give an undertaking to move to a post at the band you are being paid protection for if such a post becomes available. If you fail to give such an undertaking, or unreasonably refuse to apply for or accept such a post, protection will cease.

6.5 Protection of other terms and conditions of service

Period of Notice

You are entitled to continue to receive the protection of period of notice appropriate to the former post, while under your protection period.

Hours

You will acquire the conditioned hours appropriate to the new post.

Movement between full and part-time posts or vice versa or increases or decreases in part-time hours as a consequence of the application of this agreement will have protection limits applied pro rata to them.

Entitlement to Offer Terms and Conditions of the New Post

You can at any time during your protection period opt for the complete package of remuneration and conditions of service applicable to the new (or any subsequent) post. This option, once exercised, cannot be cancelled.

Should redeployment mean regular travel to another site then travel expenses to and from that site will be paid for the period of long or short term pay protection only if the inter site transport provided by the Trust cannot be reasonably used.

Continuity of Employment

You shall, as a result of the application of this agreement, in respect of all terms and conditions of service, be regarded as being in continuous employment.

Flexi retirees

You shall only gain pay protection from the day you return to the Trust following any period of flexible retirement, rather than relying on your original NHS start date.

6.6 Pensions arrangements

If, as a consequence of this agreement, your pay is ultimately reduced you may, in accordance with the NHS Pension Scheme, apply for the period of membership at the higher rate of pay to be treated as preserved membership. Should you wish this to happen you should notify NHS Shared Business Services (SBS) in writing within one month of your pay being reduced in order to be eligible.

7. REDUNDANCY AND REDEPLOYMENT

7.1 Introduction

Where organisational or service changes could result in altered staffing levels, skill mix, duties and/or possible redundancies, the Director of P&OD should be notified by the responsible manager leading on the changes.

7.2 Consultation with Joint Staff Side Committee

Where proposed changes in staff requirements indicate potential redundancies, the Trust will inform and if appropriate formally consult with the staff affected (i.e. the staff "At Risk") and also inform and if appropriate formally consult with recognised staff organisations, in accordance with its statutory obligations of 30 days if 20 – 99 staff are to be dismissed as redundant and 90 days if more than 100 staff are to be dismissed as redundant. Information provided by the Trust will include as a minimum:-

- 7.2.1 The reasons for the proposed redundancies
- 7.2.2 The numbers and descriptions of employees at risk of redundancy
- 7.2.3 The total number of employees of any such description employed at the

establishment in question

- 7.2.4 The proposed method of selecting employees who may be dismissed
- 7.2.5 The proposed method of carrying out the dismissals (with regard to this policy and including the period over which the redundancies will take place).
- 7.2.6 The proposed method of calculating any redundancy payments, other than those required by statute, that the Trust proposes to make.

The consultation will include discussion about ways of avoiding, reducing or minimising the consequences of such dismissals including the consideration of restriction on recruitment, redeployment, consideration of requests for voluntary redundancy etc., though this list is not exhaustive.

7.3 Consultation and support of staff who may be made redundant – individual consultation

Any employee who is at real risk of redundancy will be offered at least one individual consultation meeting with the appropriate line manager and a member of the HR Services. Staff should be encouraged to be accompanied at the meeting by a recognised trade union official, recognised professional organisation official or elected staff representative. Alternatively, an employee may choose to be accompanied by a work colleague. The purpose of the meeting will be to:-

- 7.3.1. explain the changes and the projected timetable for the anticipated changes in staff requirements;
- 7.3.2. explain this policy and procedure and how it will be implemented;
- 7.3.3. explain the method of selection of the employees whose posts may be redundant;
- 7.3.4. ascertain the individual's views in relation to the proposals, future employment, redeployment and re-training and, where appropriate, premature retirement, and to give advice as required in respect of all of these areas;
- 7.3.5. assist the employee in obtaining specialist advice as required, or to give direction as to where it can be obtained;
- 7.3.6. to advise the individual of internal and external support mechanisms; and to
- 7.3.7. listen to the employee's views and consider ways in which the redundancy could be avoided.

At least one further meeting will be held with each individual employee before any selection for redundancy is confirmed.

7.4 Redeployment

The Recruitment and Workforce Planning Team keep a register of all staff available for redeployment. If staff may be at risk of redundancy due to a forthcoming change in structure they will be placed on the "Redeployment Register"

This means that they will be encouraged to apply for any vacancies which might arise (and notified through the restricted vacancies functionality of NHS jobs). Any alternative forms of communicating vacancies, which may arise, will be agreed with staff.

Staff on the “Redeployment Register” will be given preferential consideration for eligibility for any suitable vacancies within the Trust, at an equivalent or lower grade than their current post. They will be expected to apply for all and any job that they could carry out and will be given an interview (providing the essential criteria for the post, as detailed in the job description and person specification, are met, or can be achieved within a reasonable timescale). There may be reasons for not appointing someone from the “Redeployment Register, for example their skills, qualifications or behaviours may not make them capable of satisfactory performance in the job, but consideration needs to be given to whether they can be developed, or supported to carry out the role in a reasonable amount of time. Where they are not appointed, they must be given feedback and support to help them secure a future role from the vacancy manager.

7.5 Selection for Redundancy

The Trust is committed to ensuring fair treatment in the selection for redeployment or redundancy, along with its overriding need to ensure the maintenance of operational efficiency. In selecting employees for redundancy, the following criteria (not necessarily in this order of priority) may be applied within the department or group of employees affected:-

- 7.5.1. Qualification (where required roles).
- 7.5.2. Skill, competence, behaviours and experience
- 7.5.3. Working in accordance with the Trust values
- 7.5.4. Performance and Conduct Record
- 7.5.5. Attendance record
- 7.5.6. Operational and financial criteria
- 7.5.7. Length of service at the Trust (to be used in a “tie-break” situation)
- 7.5.8. Other Criteria.

Consultation with staff and recognised staff organisations will take place with regard to the actual criteria, and specific measures to be employed in each case where selection is required.

Accredited representatives of staff/professional organisations directly affected by the redeployment/redundancy exercise will be dealt with in the same way as other staff. Where, however a staff representative is selected for redundancy, the date of termination may be deferred where it is agreed that it would be helpful for the representative to continue to represent other members similarly affected.

7.6 Notice of Redundancy and payments

Those selected for redundancy will be given written notice of their dismissal due to redundancy. The period of notice shall be, as a minimum, that to which they are contractually entitled. Eligibility for, and calculation of, redundancy payments will be made in accordance with the individual's contractual entitlements.

7.7 Suitable Alternative Employment

The Trust will do all that is reasonably practicable to redeploy staff who are placed at real risk of redundancy into suitable alternative employment.

Suitable alternative employment for individuals will be identified on a case by case basis and may be held open for individuals until they have had a chance to compete in the job filling parts of the restructuring.

“Suitable alternative employment” refers to the capacity in which the employee would be employed. This may not necessarily be at the same grade, on the same pay, or on the same site. The employment should be judged in the light of the employee’s qualifications, skills, behaviour, ability to perform the duties, working environment and hours of work. Where redeployment results in a loss of earnings, pay and terms and conditions will be protected as appropriate using section 6 of this policy

Any suitable alternative employment will be brought to the employee’s notice before the date of termination of contract and allowing the employee reasonable time to consider it. The employment should be available not later than four weeks from that date. Where this is done, but the employee fails to make any necessary application, the employee shall be deemed to have refused suitable alternative employment and may lose their right to redundancy.

7.8 Trial Periods

If suitable alternative employment is accepted, you are entitled to a statutory trial period of a minimum of four consecutive calendar weeks. On-going supervision and support must be provided during the trial period and a thorough review of the trial period must be undertaken. This period can be extended for up to twelve weeks if training is required.

If during the extended trial period it is clear that the requirements of the new role won’t be met the trial period may be terminated early (but not before the statutory minimum of four weeks has been completed). Trial periods will not affect any subsequent entitlement to redundancy payment unless the new post is unreasonably refused.

7.9 Time off to seek Alternative Employment

If you are under formal notice of redundancy, you are allowed reasonable time off with pay during the notice period to look for alternative employment, to undertake training and to seek support from agencies such as job centre plus.

7.10 Early Release of Redundant Employees

If you are under formal notice of redundancy and you get offered a new job with another employer you can be released early, unless there are compelling reasons to prevent this, on a mutually agreed date. That date will become the revised date of redundancy for the purposes of calculating any entitlement to a redundancy payment and for establishing your effective date of termination.

If you leave employment before formal notice to terminate employment has been given you will not be redundant and are not entitled to a redundancy payment.

If you find a new job in the NHS at another employer or with this organisation in the formal notice period you will not be entitled to a redundancy payment, and you should be aware

that should you obtain NHS employment in the future there are options open to this and other organisations to “claw back” parts of your redundancy payment, depending on the length of time between employments.

7.11 Notice of and appeals against redundancy dismissal

The Trust will write to each individual employee if it is contemplating dismissal on the grounds of redundancy. The Trust will hold a meeting with each individual to discuss the contemplated dismissal. In the event that an employee is given notice to terminate his/her employment on the ground of redundancy, s/he will be given a right of appeal to a more senior manager than the manager who gave notice.

8. SUPPORT FOR IMPLEMENTING THIS POLICY AND ORGANISATION OR STRUCTURAL CHANGES

People and OD offer support for managers and staff on the practical, emotional and behavioural aspects of managing such changes. Please speak in the first instance and as early as possible in the planning of such changes, to you HR Business Partner and they can source other relevant support from the rest of People and OD. In situations involving potential pay protection NHS Shared Business Services (SBS) will also be available for advice.

9. APPEALS OR GRIEVANCES AS A RESULT OF THIS POLICY

Any appeals arising out of the application of this policy shall be dealt with using the Trust’s Grievance and Disputes Procedure (see CORP/EMP 3).

10. MONITORING AND COMPLIANCE

Monitoring of the application of this policy will be undertaken and reported to the Trust Board on an exception basis. Elements to be reported will include redeployment numbers, reduction in hours, staff numbers and job roles and any resultant potential redundancies.

11. ASSOCIATED DOCUMENTS

Equality Impact Assessment Policy - CORP/EMP 27
Fair Treatment for All Policy - CORP/EMP 04
Grievance & Dispute Procedure - CORP/EMP 22
'Getting the Best Person for the Job' Recruitment Guide

12. REFERENCES

Department for Business, Innovation & Skills Website <http://www.bis.gov.uk/>

Employment Rights Act 1996

Information and Consultation of Employees Regulations 2004

NHS Terms and Conditions of *Service Handbook*

The Equality Act 2010

Trade Union and Labour Relations (Consolidation) Act 1992

NB Nothing in this policy shall be deemed to replace regulations as notified by the appropriate regulating body and this policy may need to be revised in the light of changes to regulations and advice.

APPENDIX 1

Registration for Redeployment

Reason for Redeployment			
Organisational Change	<input type="checkbox"/>	Health	<input type="checkbox"/>
Other (Please specify)			
Employee Details			
Name			
Home Address			
Home Phone		Work Phone	
Current Role Details			
Job Title			
Band			
Work Base			
Hours			
Work Pattern			
Relevant Skills, Experience & Qualifications			
Skills			
Experience			
Qualifications			

Redeployment Information		
Explain:		
<ul style="list-style-type: none"> i) "suitable alternative employment" and the tests of reasonableness which the Trust has adopted. ii) they would compete / have first opportunity of a post if the type of work was the same as their present post (dependent on how many staff are on the redeployment system) iii) they would ordinarily have a preferential interview having completed an application form and pass an interview, especially if the post is a different specialty. 		
New Role - Preferences		
Type of Work		
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
Acceptable hours of work range		
Shift / rota pattern limitation		
Work Locations		
How do you travel to work?		
How long does it take you?		
Are you a car driver and Have use of a car?		
Other Relevant Information		
Present		
	Name	Signature
Employee		
Line Manager		
TU Rep		
HR Rep		
Other		

DEFINITIONS – Appendix 2

Organisational Change

Organisational change means any structural change in the organisation.

Personal downgrading

Personal downgrading is when an individual is moved to a new post, irrespective of the post title, or band, and that post carries a salary less than that which applied to the post previously held or than that of a personal grade held in the previous post.

Basic Salary or Wage

Basic salary or wage is the annual salary or wage for basic hours, as reckoned on the day immediately preceding the first day of employment in the new post in which protection will operate. Where an employee's basic pay is already subject to protection at the point of any new protection arrangements being implemented the protected level of basic pay should be used. The calculation will exclude any payments made in respect of acting up, standby and on-call duty.

Reckonable Service

Reckonable service is the continuous service determined by the date the employee joined the Trust.

Protectable earnings

Protectable earnings are the basic wage or salary, plus unsocial hours enhancements and contractual overtime calculated over an agreed period.

'Mark time basis'

"Mark time basis" means the protectable earnings are payable during the appropriate period, with no increase to that rate during that time unless the rates these are paid in the new post catch up with the "mark time" pay. If they do, and are more than the "mark time" pay, you will move over to the new pay rates applicable for the new job earlier than the end of the protection period. In any event, at the end of the appropriate period short term protection will cease and all overtime, shift work or other additional duties will be calculated and paid at the rate applicable to the new post.

APPENDIX 3 – CORP/EMP 27 - EQUALITY IMPACT ASSESSMENT PART 1 INITIAL SCREENING

Policy	CSU/Executive Directorate and Department	Assessor (s)	New or Existing Service or Policy?	Date of Assessment
CORP/EMP 9 v.5	People and OD	Dawn Jarvis	Existing	January 2014
Who is responsible for this policy? People and OD Directorate				
Describe the purpose of the policy? Sets the framework for organisational change and pay protection				
Are there any associated objectives? Trust strategy and improvements to service delivery/patient experience				
What factors contribute or detract from achieving intended outcomes? Organisational change and/or redundancy policy and process applied incorrectly				
Does the policy have an impact in terms of age, race, disability, gender, gender reassignment, sexual orientation, marriage/civil partnership, maternity/pregnancy and religion/belief? No				
If yes, please describe current or planned activities to address the impact N/A				
Is there any scope for new measures which would promote equality? N/A				
Are any of the following groups adversely affected by the policy?				
Protected Characteristics	Affected?	Impact		
Age	No			
Disability	No			
Gender	No			
Gender Reassignment	No			
Marriage/Civil Partnership	No			
Maternity/Pregnancy	No			
Race	No			
Religion/Belief	No			
Sexual Orientation	No			
Provide the Equality Rating of the service/ function/policy /project / strategy				
Outcome 1 x	Outcome 2	Outcome 3	Outcome 4	
1.9 Date for next review February 2017				
Checked by: Dawn Jarvis			Date: January 2014	



Removal and Associated Expenses

This procedural document supersedes: CORP/EMP 10 v.4 - Removal and Associated Expenses



Did you print this document yourself?

The Trust discourages the retention of hard copies of policies and can only guarantee that the policy on the Trust website is the most up-to-date version. **If, for exceptional reasons, you need to print a policy off, it is only valid for 24 hours.**

Executive Sponsor(s):	Karen Barnard, Director of People & OD
Author/reviewer: (this version)	Anthony Jones, Deputy Director of People & OD
Date written/revised:	15 November 2017
Approved by:	Workforce and Education Committee
Date of approval:	21 November 2017
Date issued:	1 February 2018]
Next review date:	November 2020
Target audience:	Trust-wide

Amendment Form

Please record brief details of the changes made alongside the next version number. If the procedural document has been reviewed **without change**, this information will still need to be recorded although the version number will remain the same.

Version	Date Issued	Brief Summary of Changes	Author
Version 4	1 February 2018	<ul style="list-style-type: none"> • Document has been reviewed and formatted in line with the Trust's style. • Added sections including monitoring and compliance, training and equality impact assessment. 	Anthony Jones
Version 3	November 2009	<ul style="list-style-type: none"> • Format Changed • Appendices Updated 	J Dixon
Version 2	November 2006	<ul style="list-style-type: none"> • Insertion of 'Foundation' when referring to Doncaster & Bassetlaw Hospitals NHS Foundation Trust • Para 7.1 – removed Whitley Council – inserted 'respective pay arrangements' • Para 7.3 – removed Whitley Council throughout the grid – inserted 'respective pay arrangements' • Para 7.6 (b) ii – removed Whitley Council – inserted 'respective pay arrangements' • Appendix B - Total change to the Notional Purchase Price • Appendix B (second sheet) Changed the figures on the typical example and the amount of stamp duty • Appendix C & D - Insertion of Foundation Trust • Appendix E – Insertion of Foundation Trust 	Claire Cox

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1 INTRODUCTION

This policy has been developed for the Doncaster and Bassetlaw Teaching Hospitals NHS Foundation Trust in order to determine the scope and level of financial assistance associated with the reimbursement of removal and associated expenses for newly appointed staff.

2 PURPOSE

The policy aims to provide a fair and equitable means of assisting new employees with removal expenses. Advice on its application is available from People & OD Directorate.

3 DUTIES AND RESPONSIBILITIES

3.1 Director of People and OD /Director of Finance

To ensure that the procedure is applied appropriately according to the content of the procedure and in line with HM Revenue and Customs Regulations relating to the payment of tax free relocation expenses.

3.2 People and OD

Responsible for reviewing, updating and monitoring the implementation of this procedure and for providing advice to managers in terms of its application.

To process initial applications for relocation expenses.

To monitor and check all claims before payment ensuring that no claim exceeds the upper limit of the grant.

To initiate and manage the process of recovery of removal expenses where appropriate.

3.3 Recruiting Managers

To provide a copy of this Policy as requested to successful applicants and

3.4 Employee

Not to take any action in relation to relocation on the assumption that the Trust will reimburse relocation expenses until express notification has been provided by the Trust that relocation expenses are approved.

3.5 Payroll Partner – NHS Shared Business Services (SBS)

To reimburse relocation expenses within the terms of this procedure.

All authorised claims, which are processed by the Trust and SBS, are accepted in good faith on the understanding that the claimant is making a true and accurate claim. Making any false claim including the alteration or adaption of supporting documents would constitute an offence under the Fraud Act 2006 and will result in disciplinary action and/or civil recovery and prosecution, Suspicions of fraudulent claiming activity will be referred to the Trusts Local Counter Fraud Specialist. [CORP/FIN1](#) Fraud, Bribery and Corruption Policy & Response Plan provides further information.

4 PROCEDURE

4.1 Tax liability and applying for removal expenses

Any payments received from the Doncaster and Bassetlaw Teaching Hospitals NHS Foundation Trust in relation to relocation are part of taxable earnings and will be notified in accordance with the current procedures by a P11D notification to the Inland Revenue. Advice on tax liability as associated with relocation expenses is available from within the Trust. Removal expenses must be incurred within 2 tax years from the date of commencement in order to avoid increased tax and national insurance liability. A tax year runs from 6th April one year to 5th April the next.

An application for removal expenses must be submitted to the Trust within three months from commencement in post using the form at Appendix 3. The forms at Appendix 5 will then be issued which must be signed and returned prior to any claims being paid.

4.2 General conditions

4.2.1 Approval of payment of expenses and the acceptability of location (as per 4.4) rests with the Director People and Organisational Development or a nominated deputy. The nominated deputy would in all circumstances be a senior member of the People & OD team.

4.2.2 Expenses will be reimbursed (up to a maximum of £8,000) and paid only when the Trust is satisfied that the removal of the employee's home is required and that the arrangements proposed are reasonable.

4.2.3 The Trust is responsible for the payment of removal expenses. Only one set of payments will be made in respect of a property. The expenses must have been incurred by the applicant who must certify that they are not recoverable in full, or part, from any other source. Receipts or confirmation of payments incurred must be provided for all claims under this policy.

The appropriate rates to be paid are those in operation at the date that the employee takes up appointment, as identified within the Terms and Conditions of Employment, unless otherwise agreed.

The financial limits of this policy will be reviewed by the Trust every 2 years. Any amendments to the limits will take account of changes in tax law, inflation rates etc.

Cases of difficulty should be referred to the Director of People & OD.

4.2.4 The Trust will expect the following obligations to be fulfilled by newly appointed staff:

- All staff who take up appointment with the Trust will be required, as a condition of receiving payment of removal expenses, to give an undertaking that they will not leave the Trust within a period of 2 years.
- Those who do leave within the time period will be required to reimburse in full, or in part, expenses received. The amount to be repaid will be dependent upon the length of actual employment with the Trust.
- The schedule of reimbursement will be:
 - If you leave the Trust within 12 months, you will be liable to repay 50% of expenses paid.
 - If you leave the Trust within 18 months, you will be liable to repay 25% of expenses paid.

The Trust reserves its right on an individual basis to waive recovery of the fees where there are exceptional circumstances surrounding the non-completion of the service requirements.

4.3 Eligibility

4.3.1 To be eligible for the payment of removal and associated expenses in accordance with the provision of this policy, you must meet the following criteria:

- [a] Be appointed to a permanent post within the Doncaster and Bassetlaw Teaching Hospitals NHS Foundation Trust.
- [b] Be required to move in order to take up the post.
- [c] To move from either owner occupied or rented accommodation (as defined in section)

4.4 Location

4.4.1 Individuals must reside within 10 miles of their base or half an hour's travelling time, the half hour travelling time being assessed at peak times of the day.

4.4.2 Employees will be required to agree in advance with the Trust an acceptable location. Failure to obtain this agreement may render any subsequent claim for expenses void.

4.5 Expenses

4.5.1 All claims for expenses are subject to the employee satisfying the Trust that every attempt is being made to sell their property in the old area. A quarterly review meeting with an appropriate officer may be used in order to review progress and documentary evidence may be required.

Expenses for Preliminary Visits

4.5.2 Employees should agree leave with their **existing** employer before they make any preliminary visits regarding their relocation. The Trust will pay travelling and subsistence expenses according to the rates defined within the respective pay arrangements for employees, partners and children (if any) subject to the following conditions:

- [a] The overnight subsistence allowance shall not be paid for more than the equivalent of 3 overnight stays.
- [b] The rate of subsistence allowance for the employee's partner and any children over 12 years of age shall be two thirds of the employee's rate, and any children under 12 half the employee's rate.
- [c] Where an employee uses a private car to make the visit, public transport mileage rate will be paid (lease cars will be paid at the appropriate Trust mileage rate at the time of travel).

Where individuals do not travel by car they will be reimbursed the actual costs of coach or bus travel if used. If individuals travel by rail expenses will be limited to standard class.

- [d] The maximum entitlement under this provision will be the equivalent of 3 return journeys.

4.6 Excess daily travel

4.6.1 Householders who intend to relocate and cannot find suitable accommodation to move into but would otherwise qualify for reimbursement of removal expenses will be reimbursed the extra daily travelling expenses, and paid at public transport rate, from their home to their permanent base only in accordance with the following conditions:

- [a] The employee must have indicated that they intend to occupy new permanent accommodation in line with 4.4 above on location.

- [b] The reimbursement will be for 3 months in the first instance. Thereafter the Trust will review the matter and may, at its discretion, extend the period for a further 3 months if it is satisfied that the employee is making every reasonable effort to find suitable accommodation. The payment shall not normally continue in any case for more than 6 months.

4.6.2 The Trust will only reimburse these expenses where the individual is:

Unable to find suitable permanent accommodation or the Trust is unable to provide suitable temporary accommodation. The entitlement will cease if at any time during the first or second 3-month period, temporary accommodation becomes available.

4.6.3 An individual who is claiming excess travel due to suitable accommodation not being found, may change from excess travel claims to Continuing Commitment Allowance. For example, if you have claimed excess travel for the last 5 months and then move into accommodation in the new area before selling your old property, only one month's Continuing Commitment Allowance will be paid. In such circumstances the payment shall not normally exceed the maximum period of 6 months, and will be calculated using both the excess travel and Continuing Commitment Allowance claim.

An example of how to calculate excess travel is:

Old home to old base	=	10 miles
Old home to new base	=	40 miles
Excess Travel	=	30 miles

4.7 Continuing commitments allowance

4.7.1 Where an employee unavoidably incurs regular expenses in respect of accommodation they previously occupied in the old area, concurrently with the accommodation expenses in the new area, they may be given assistance with such expenses based on the lower of the two costs and supported by documentary evidence.

4.7.2 The circumstances in which an employee may incur such expenses are categorised as follows:

Category	Old Area Expenses	New Area Expenses	Payable
Owner occupied in the old area to temporary hospital accommodation in the new area	<ul style="list-style-type: none"> • Monthly mortgage payments (inc. endowment) • Annual council tax • Annual water rates • Annual ground rent • Annual insurance of buildings <p>Weekly travel to old area at rates set out in the respective pay arrangements</p>	<ul style="list-style-type: none"> • Monthly rent • A subsistence allowance equivalent to the daily meals allowance plus an incidental allowance payable for each night that the accommodation is actually occupied (not payable on the nights when the employee returns to the old area). The respective pay arrangements apply. <p>Weekly travel to old area at rates set out in the respective pay arrangements</p>	The temporary accommodation expenses subject to a maximum of the overall expenses in the old area should these be the lower of the two costs.
Owner occupied to temporary rented commercial accommodation	As above	<ul style="list-style-type: none"> • Unabated rent • Annual council tax • Annual water rates <p>Weekly travel home to the old area at rates set out in the respective pay arrangements</p>	As above
Owner occupied to permanent rented accommodation	As above	<ul style="list-style-type: none"> • Unabated rent • Annual council tax • Annual water rates <p>Weekly travel home to the old area at rates set out in the respective pay arrangements.</p>	The lower of the two costs
Owner occupied to owner occupied	As above	<ul style="list-style-type: none"> • Monthly mortgage payments (inc. endowment) • Annual council tax • Annual water rates • Annual ground rent • Annual insurance of buildings <p>Weekly travel to old area at rates set out in the respective pay arrangements</p>	The lower of the two costs

Category	Old Area Expenses	New Area Expenses	Payable
Rented accommodation to temporary rented hospital accommodation	<ul style="list-style-type: none"> • Unabated rent • Annual council tax • Annual water rates <p>Weekly travel home to the old area at rates set out in the respective pay arrangements</p>	<ul style="list-style-type: none"> • Monthly rent • A subsistence allowance equivalent to the daily meals allowance plus an incidental allowance payable for each night that the accommodation is actually occupied (not payable on the nights when the employee returns to the old area). The respective pay arrangements rates apply. <p>Weekly travel to old area at rates set out in the respective pay arrangements</p>	The temporary accommodation expenses subject to a maximum of the overall expenses in the old area should these be the lower of the two costs.
Rented accommodation to temporary rented commercial accommodation	<ul style="list-style-type: none"> • Unabated rent • Annual council tax • Annual water rates <p>Weekly travel home to the old area at rates set out in the respective pay arrangements</p>	<ul style="list-style-type: none"> • Unabated rent • Annual council tax • Annual water rates <p>Weekly travel home to the old area at rates set out in the respective pay arrangements</p>	The lower of the two costs.
Rented accommodation to permanent rented accommodation	<ul style="list-style-type: none"> • Unabated rent • Annual council tax • Annual water rates <p>Weekly travel home to the old area at rates set out in the respective pay arrangements</p>	<ul style="list-style-type: none"> • Unabated rent • Annual council tax • Annual water rates <p>Weekly travel home to the old area at rates set out in the respective pay arrangements</p>	The lower of the two costs
Rented accommodation to permanent owner occupied accommodation	<ul style="list-style-type: none"> • Unabated rent • Annual council tax • Annual water rates <p>Weekly travel home to the old area at rates set out in the respective pay arrangements</p>	<ul style="list-style-type: none"> • Monthly mortgage payments (inc. endowment) • Annual council tax • Annual water rates • Annual ground rent • Annual insurance of buildings <p>Weekly travel to old area at rates set out in the respective pay arrangements</p>	The lower of the two costs

4.7.3 The above allowances will be payable for 3 months in the first instance where the employee incurs such expenses. The Trust will only continue to reimburse for a further 3 months subject to it being satisfied that the employee is making every effort to sell their property, *and* in the case of rented accommodation to relinquish responsibility for the expenses in the old area by finding suitable accommodation in the new area (subject to a period of notice on the old area rental agreement). The entitlement will normally be limited to a maximum of 6 months in total. In relation to travel, reimbursement will be based on the Public Transport Rate.

4.7.4 Any rent received from letting the property in the old area will be offset against the appropriate allowance.

4.8 Vouched legal and other expenses

4.8.1 When householders buy a house because of a new appointment and it is the first permanent, unfurnished accommodation occupied in the new area, or sell a house in which they are living immediately before the new appointment, they will be entitled to reimbursement of all reasonable vouched legal and other expenses as defined in section 7.

4.8.2 Such expenses may include:

- [i] House Purchase - solicitors' fees, stamp duty, land registration fees, incidental legal expenses, expenses in connection with a mortgage or loan including guarantee premium and survey fees (excluding interest and penalty charges for late payment), cost of building society survey, cost of one electrical wiring test, cost of one drains test.
- [ii] House Sale - solicitors' fees including legal expenses on redemption of the mortgage, house agents' or auctioneer's fees (where an employee does not employ an estate agent, solicitor, or auctioneer, they will be reimbursed all the reasonable vouched legal and other expenses of sale including reasonable expenses associated with advertising).

4.8.3 If as a result of a sale there is negative equity (i.e. the sale price is lower than the outstanding mortgage) no compensation can be paid for this loss. If employees let their house in circumstances in which they would be entitled to legal expenses for a house sale, they will be reimbursed their legal expenses for a tenancy agreement.

4.9 Abandoned purchase

4.9.1 If an employee incurs expenses by way of legal costs, survey fees etc in relation to a proposed purchase which does not take place, such expenses will be reimbursed at the Trust's discretion. In the case of an abortive purchase where costs have been incurred the Trust must be notified immediately.

4.9.2 The Trust will determine whether the costs for which reimbursement are claimed are reasonable in relation to services received and the stage reached before the purchase was abandoned. In exercising its discretion as to whether to reimburse such expenses, the Trust needs to be satisfied that the employee was in no way responsible for the abandonment of the transaction; e.g. the house having been withdrawn from the market by the vendor for his/her own reasons or that the employee's reasons for withdrawal were entirely reasonable having regard to the difficulties encountered. Where employees remain dissatisfied with the decision regarding the reimbursement of expenses incurred, they have the right of appeal through the Trust's Grievance Procedure.

4.10 Travel expenses on removal

Journey from the Old to the New Home

4.10.1 The cost of one journey from the old to the new home will be met by the Trust. If the length of the journey warrants it, subsistence will be paid in accordance with the terms as laid down in 4.5.2. The dependants for whom these expenses will be paid are the dependant members of the employee's household. A car owned by the employee or his/her partner shall be driven from the old home to the new home and the public transport rate will be paid, plus passenger allowance for each passenger whose fare would otherwise be reimbursed. No allowance will be paid for a motor vehicle owned by any other member of the household.

Return Visit to Supervise Removal

4.10.2 Where it is necessary for the employee to make a return visit to supervise removal from their home, they will be allowed:

- [i] Travelling expenses (where any employee uses their own private motor vehicle, the public transport rate of mileage will be paid). Where individuals do not travel by car they will be reimbursed the actual costs of coach or bus travel if used. If individuals travel by rail, expenses will be limited to standard class.
- [ii] Receipted expenses in accordance with the subsistence allowance determined by the respective pay arrangements.
- [iii] Reasonable time off will be paid up to a maximum of 3 days for removal subject to prior approval

4.11 Expenses of actual removal

4.11.1 The Trust will reimburse employees on the basis of the lowest quote for removal services. The employee will be required to obtain 3 written quotes for removal services.

The lowest quote will be reimbursed, unless there are exceptional circumstances as to why another quote should be accepted. Employees are free to choose any of the three quotes on the understanding that the lowest quote will be reimbursed.

4.11.2 The approved expenditure to be reimbursed is:

- [i] The cost of removal from the old home to the new one of furniture and effects belonging to the employee or dependant members of their household at the time of transfer. This may include pedal cycles and heavy but ordinary articles of furniture or garden equipment. If the removal of special items (e.g. a piano) involves special arrangements, the extra expense must be met by the employee. Livestock or animals, other than domestic pets, will be conveyed at the employee's own expense.
- [ii] The storage of furniture and effects - charges for storage of such articles of furniture and effects as part of removal are at the expense of the Trust. These will be reimbursed where the necessity for storage arises from the removal until the employee moves into permanent unfurnished accommodation. Reimbursement for storage charges will be paid initially for a period of 3 months and will be reviewed after that. They may be reimbursed for a further 3 months, normally subject to a maximum period of 6 months.
- [iii] The costs of removal from storage or temporary accommodation to permanent unfurnished accommodation will be reimbursed in accordance with the provisions of paragraph [i] above.

4.12 Miscellaneous expenses

4.12.1 This allowance is for the replacement of domestic goods, e.g. carpets and curtains that are required because the employee has disposed of his/her old home but the goods used there are unsuitable for installation in the new home. Evidence will be required for the proof of sale of the old goods and purchase of suitable replacements.

4.12.2 Items included in the sale of the house will be included in the documentation for the solicitor, a copy of this form must be used to cross check claims for replacement items. In this case the items will have a residual value of nil and, therefore, the full amount may be claimed.

4.12.3 If items are sold as a separate arrangement to the sale of the property, receipts must be provided, only the net amount between the old goods and new goods will be paid.

4.12.4 The payment will be limited to a maximum payment of £1,000, where the payment of the grant does not exceed the upper limit of removal expenses of £8,000. Where the payment of the maximum grant of £1,000 causes the upper limit of £8,000 to be breached, the grant shall be limited to an amount equivalent to the balancing sum to achieve the upper limit of £8,000.

4.13 Claiming expenses

Please submit your claims using the appropriate form from Appendix 5. All forms should be submitted to the Trust with original receipts to support all claims being made.

5 TRAINING/SUPPORT

The training requirements of staff will be identified through a training needs analysis. Role specific education will be delivered by the service lead.

6 MONITORING COMPLIANCE WITH THE PROCEDURAL DOCUMENT

What is being Monitored	Who will carry out the Monitoring	How often	How Reviewed/ Where Reported to
To ensure expenses are being reimbursed in line with the limits within the policy	People and OD	On receipt of claim	Each claim will be reviewed and claims above the upper limit will be discussed with the Care Group and Deputy Director of People and OD
The policy will be reviewed.	People and OD	Every three years	The policy will be reviewed and amended as deemed necessary
The cost of the policy and the number of claimants till be monitored	People and OD	Bi- annually	A report will be provided to the Workforce and Education Committee with details of the number of claimant and the value of these claims.

7 DEFINITIONS

For the purpose of this policy the following expressions have the stated meanings assigned to them.

Removal Expenses	The removal and associated expenses as set out in this policy.
Reasonable Agreement	This is a move to accommodation which is reasonable given all the circumstances. In particular, the Trust will consider the broad comparability of new accommodation with that occupied before the move (equivalence being measured in terms of housing standards rather than absolute cost).

Comparability Valuations	<p>When an employee claims removal and associated expenses, one of the Trust's responsibilities is to ensure that the arrangements proposed are reasonable. Accordingly, it has to take account of the requirement that expenses should be reimbursed on the basis that the move is to accommodation that is broadly comparable to that occupied in the previous area. Where there is a demonstrable improvement in the standard of accommodation, a proportion of the legal expenses of house purchase may be reimbursed rather than the full amount.</p> <p>In order to qualify for payment of expenses, the claimant must supply the Trust with either an Estate Agent brochure or a similarly detailed description of their home and the area from which they are moving.</p> <p>The Trust will determine the comparability by use of the formulae as outlined in Appendix 1. Where there are areas of dispute in relation to the comparability valuation the Trust will involve an Estate Agent.</p> <p>If an employee remains dissatisfied with the decision given, they have the right of appeal through the Trust's Grievance Procedure.</p>
Householder	An employee who, in their previous employment, occupied unfurnished accommodation of more than one room, rented or owner-occupied.
Dependants	Are the employee's partner and/or children.
Child	Is a member of the household who is under the age of 17 years.

8 EQUALITY IMPACT ASSESSMENT

The Trust aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are disadvantaged over others. Our objectives and responsibilities relating to equality and diversity are outlined within our equality schemes. When considering the needs and assessing the impact of a procedural document any discriminatory factors must be identified.

An Equality Impact Assessment (EIA) has been conducted on this procedural document in line with the principles of the Equality Analysis Policy (CORP/EMP 27) and the Fair Treatment For All Policy (CORP/EMP 4).

The purpose of the EIA is to minimise and if possible remove any disproportionate impact on employees on the grounds of race, sex, disability, age, sexual orientation or religious belief. No detriment was identified. (See Appendix 6)

9 ASSOCIATED TRUST PROCEDURAL DOCUMENTS

Fraud, Bribery and Corruption Policy - [CORP/FIN1](#)

Fair Treatment For All Policy - ([CORP/EMP 4](#))

Equality Analysis Policy - ([CORP/EMP 27](#))

Recruitment Policy ([CORP/EMP 36](#))

APPENDIX 1 - EXAMPLES OF NOTIONAL PURCHASE PRICE

The property for which reimbursement of removal and associated expenses is to be made should be of a broadly comparable standard (in terms of present housing arrangements i.e. rented or owner occupied, number of rooms, semi-/detached – not absolute cost) to that occupied in the area of previous employment. Should that not be the case, reimbursement would normally be made as though the new property was similar to the old.

Stamp duty is based on the price of the property being purchased and will therefore be affected by the notional valuation. Solicitor's fees, for example, are usually based on the time to carry out the conveyancing and are not based on the price of the property.

Notional price = the estimated value of your existing property if purchased in the new area.

Residential property – Purchase price	Rate of Stamp Duty Land Tax
Up to £125,000	0%
£125,001 - £250,000	1%
£250,001 - £500,000	3%
£500,001 or more	4%

1.	Purchase Price	£150,000
	Notional Purchase Price	£110,000

Stamp duty is not reimbursable as the notional purchase price has been set at less than the £125,000 stamp duty limit. *Under these circumstances* the stamp duty is wholly the responsibility of the claimant.

2.	Purchase Price	£275,000
	Notional Purchase Price	£175,000
	The amount reimbursed	£ 1,750

The stamp duty in this case will be £8,250 which is 3% of the purchase price. The amount reimbursed will be £1,750, which is 1% of the notional purchase price. The reason for this is that the two valuations lie in different price bandings for charging stamp duty.

3.	Purchase Price	£350,000
	Notional Purchase Price	£275,000
	The amount reimbursed	£ 8,250

The amount would be capped at the £8,000 limit. It is important to note that regardless of the amount claimed for the full application form must still be completed and supporting documentation supplied

APPENDIX 2 - CALCULATION OF NOTIONAL PURCHASE PRICE

The notional purchase price equals the estimated value of your existing property if purchased in the new area. The process to be used is where there is a significant improvement in residential accommodation, then the proportion of expenses to be reimbursed will be calculated by reference to the selling price in relation to elements such as stamp duty etc and other variable expenses associated with the purchase of the new property. The overall amount will be restricted by the limit of £8,000 as set out in paragraph 3.1.

A typical example would be:	Purchase Price	£199,995
	Sale Price	£154,995

The expenses to be reimbursed, subject to the £8,000 limit, would be £1,550, i.e. the proportion of stamp duty calculated against the selling price rather than the purchase price

APPENDIX 3 - REMOVAL/ ASSOCIATED EXPENSES APPLICATION FORM

1. Name of Employee: _____

Details of Post: _____

Commencement Date: _____

2. Address of Property to be sold:
(if appropriate) _____

3. Contact details Telephone: Home _____

Work _____ Ext _____

Address for communication (if different from above) _____

4. Is the property Freehold/Leasehold? Freehold/Leasehold
If Leasehold, length of lease _____

5. Is the property on the market? Yes/No

If Yes, name and address of Estate Agents instructed _____

Telephone No. _____

Current asking price £ _____

How long on the market _____ years _____ months _____ weeks

Have you altered the asking price since placing the property on the market? Yes/No

If yes, original price £ _____

6. Is the property currently vacant? Yes/No

If yes, date vacated _____

Address at which you are currently living _____

7. Have you appointed a Solicitor for the selling of your Property? Yes/No

If yes, name and address of instructed solicitor _____

8. Have you found a new property in the new area? Yes/No

If yes, please give details of current status _____

I agree that the information I have given on this form is correct and complete and that I have not claimed elsewhere for anything recorded above. I understand that if I knowingly provide false information this may result in disciplinary action and I may be liable for prosecution and civil recovery proceedings. I consent to the disclosure of information from this form for the purpose of verification of this claim.

Signed: Date:

FOR PEOPLE & OD USE ONLY (To be completed by Director of P&OD or nominee)

Date application form received _____

Approved: Yes/No

If No, reason for rejection of application _____

Cash limit applicable: £

I am an authorised signatory for my department. I am signing below to confirm that I have checked and verified the claim and that I approve payment. I understand that if I knowingly authorise false information this may result in disciplinary action and I may be liable for prosecution and civil recovery proceedings.

Authorising Officer (BLOCK CAPS).....

Signed: Date

(Director of POD or nominee)

Return to: Directorate of People & OD

APPENDIX 4 - ASSISTANCE WITH REMOVAL EXPENSES

PART 1 - To be completed by People & OD

Confirmation of Eligibility for Assistance with Removal Expenses

This is to confirm that in principle Mr/Mrs/Miss/Dr/Prof/Ms
..... who has been appointed to the post of
..... commencing
on is eligible for assistance with Removal
Expenses as detailed in the Doncaster and Bassetlaw Teaching Hospitals NHS
Foundation Trust Removal Expenses Policy.

The total scheme finance to be made available to the above employee will be
£..... provided that receipts for expenses are presented and an application is
made for the payment of expenses as covered by the Removal Policy.

I am an authorised signatory for my department. I am signing below to confirm that I
have checked and verified the claim and that I approve payment subject to the
conditions specified. I understand that if I knowingly authorise false information this
may result in disciplinary action and I may be liable for prosecution and civil recovery
proceedings.

Authorising Officer (BLOCK CAPS).....

Signed:Date
(Director of POD or nominee)

PART 2 - To be signed by the above-named Employee

This is to confirm that I wish to accept assistance with Removal Expenses as detailed in the Doncaster and Bassetlaw Teaching Hospitals NHS Foundation Trust Removal Expenses Policy. I myself (spouse or partner) also confirm that removal expenses are not recoverable in full or part from any other source whatsoever. I confirm that my property address is:

.....
.....

I agree to reimburse the Trust either the total amount, or the proportion, of removal expenses paid to me in accordance with the policy should I leave the employment of the Doncaster and Bassetlaw Teaching Hospitals NHS Foundation Trust within two years from the date of commencement.

I understand that any taxation liabilities which apply as a consequence of receiving assistance with Removal Expenses will be payable by me in full.

I agree that the information I have given on this form is correct and complete. I understand that if I knowingly provide false information this may result in disciplinary action and I may be liable for prosecution and civil recovery proceedings. I consent to the disclosure of information from this form for the purpose of verification of this claim.

Signed: Date:

Name (BLOCK CAPS)

To be returned to: Directorate of P&OD

People & OD only

Application received on:

Application approved/rejected *:

* delete as appropriate

Reason for rejection

.....

Authorising Officer (BLOCK CAPS).....

Signed: Date
(Director of P&OD or nominee)

APPENDIX 5 - FORMS FOR CLAIMING REMOVAL EXPENSES**FORM**

- 5A Preliminary Visits (Paragraph 4.5.2)
- 5B Excess Daily Travel (Paragraph 4.6)
- 5C Concurrent Continuing Commitment Allowance Claim (Paragraph 4.7)
- 5D/E Vouched Legal and Other Expenses for House Sale and Purchase (Paragraph 4.8)
- 5F Removal and/or Storage and Travel Expenses on Removal (4.11)
- 5G Miscellaneous Expenses (Paragraph 4.12)

FORM 5A - PRELIMINARY VISITS

NAME (BLOCK CAPS)	
New Post	
Correspondence Address	

These are visits made to look for accommodation after accepting the appointment and prior to commencing employment. A maximum of 3 nights may be claimed. All claims must be supported by original receipts.

Travel

Date	Details of Journey	Mileage	No of Passengers	Public Transport Cost (rail, coach, etc)
TOTAL				

Subsistence

Date	Details of Accommodation Used	Cost of Accommodation (£) (attach original receipts)
TOTAL		

If the accommodation includes partners or children, please attach details.

I agree that the information I have given on this form is correct and complete. I understand that if I knowingly provide false information this may result in disciplinary action and I may be liable for prosecution and civil recovery proceedings. I consent to the disclosure of information from this form for the purpose of verification of this claim.

Signed Date

I am an authorised signatory for my department. I am signing below to confirm that I have checked and verified the claim and that I approve payment. I understand that if I knowingly authorise false information this may result in disciplinary action and I may be liable for prosecution and civil recovery proceedings.

Authorising Officer (BLOCK CAPS)..... Date.....

SignatureDirectorate

Office Use Only

Calculation Financial Code

FORM 5B - EXCESS DAILY TRAVEL

To be claimed if the new employee travels from the old area to the new base. The maximum initial claim period is for 3 months only. Further extension, up to a maximum of 6 months, may be sought through the appropriate officer in the Trust.

Home to new base (return) miles
 LESS home to old base (return) miles
 Total Daily Excess miles

Date	Details of Journey	Excess Mileage
TOTAL		

I agree that the information I have given on this form is correct and complete. I understand that if I knowingly provide false information this may result in disciplinary action and I may be liable for prosecution and civil recovery proceedings. I consent to the disclosure of information from this form for the purpose of verification of this claim.

Signed Date
 Name (BLOCK CAPS)

I am an authorised signatory for my department. I am signing below to confirm that I have checked and verified the claim and that I approve payment. I understand that if I knowingly authorise false information this may result in disciplinary action and I may be liable for prosecution and civil recovery proceedings.

Authorising Officer (BLOCK CAPS)..... Date

SignatureDirectorate

Office Use Only

Calculation Financial Code

FORM 5C - CONCURRENT CONTINUING COMMITMENT ALLOWANCE CLAIM

Employees who unavoidably incur regular expenses for mortgage/rent/rates in respect of accommodation they previously occupied in the old area, concurrently with accommodation expenses in the new area, may be given assistance with such expenses.

The following details, along with evidence of costs involved, should be supplied.

Name (BLOCK CAPS)	
Base	
Directorate	
Address	
Period Claimed	
Date on which concurrent charges first occurred	

The maximum initial period is three months, further extension up to a total of six months may be sought. An application for this should be made through the Directorate of P&OD.

Please note that all claims are retrospective.

	Old Area		New Area	
	Amounts £	Treasurer's Use £	Amounts £	Treasurer's Use £
Monthly Mortgage/ Unabated rent				
Annual Council Tax				
Annual Water Rates				
Annual Ground Rent				
Annual Buildings Insurance				
TOTALS				

Office Use Only

Total Claimed

Financial Code

Subsistence Allowance

If your new accommodation is in Health Service property, please state how many days during the period claimed that you were actually residing in the property.

Days

(Please note that if you return to the old area, these dates cannot be counted against your claim for subsistence).

Travel Home

Date	Details of Journey	Mileage	Public Transport Cost (rail, coach, etc)
TOTAL			

* RENTS - Any charges for heating, lighting or services should be excluded.

Please attach the original receipts in support of all claims made.

I agree that the information I have given on this form is correct and complete. I understand that if I knowingly provide false information this may result in disciplinary action and I may be liable for prosecution and civil recovery proceedings. I consent to the disclosure of information from this form for the purpose of verification of this claim.

Signed Date

I am an authorised signatory for my department. I am signing below to confirm that I have checked and verified the claim and that I approve payment. I understand that if I knowingly authorise false information this may result in disciplinary action and I may be liable for prosecution and civil recovery proceedings.

Authorising Officer (BLOCK CAPS)..... Date

SignatureDirectorate

Office Use Only

Total Claimed

Financial Code

FORM 5D - VOUCHERED LEGAL & OTHER EXPENSES CONNECTED WITH HOUSE SALE

Please tick the following statement which is applicable to your situation:

My property is being sold by:

- [a] A sole agent (1 estate agent only)
- [b] A multiple agency (A group of estate agents)
- [c] My own advertisement

Type of Expense	Amount (£)
Solicitor's Fees	
Mortgage Redemption	
Estate Agent's Fees	
Advertising Expenses	
Ad hoc Expenses	

Please attach the original receipts in support of all claims made.

I agree that the information I have given on this form is correct and complete. I understand that if I knowingly provide false information this may result in disciplinary action and I may be liable for prosecution and civil recovery proceedings. I consent to the disclosure of information from this form for the purpose of verification of this claim. I confirm that I have no personal or business relationship with any of the businesses/companies that I seek reimbursement of expenses.

Signed Date

Name (BLOCK CAPS)

I am an authorised signatory for my department. I am signing below to confirm that I have checked and verified the claim and that I approve payment. I understand that if I knowingly authorise false information this may result in disciplinary action and I may be liable for prosecution and civil recovery proceedings.

Authorising Officer (BLOCK CAPS)..... Date

SignatureDirectorate

Office Use Only

Calculation

Financial Code

FORM 5E - VOUCHERED LEGAL & OTHER EXPENSES CONNECTED WITH HOUSE PURCHASE

In order to claim for expenses incurred with house purchase, a full description of the old property will be required. An estate agent's brochure of a full, written description should be submitted prior to the claim being made (please refer to Appendices 1 and 2 on notional valuation for a full explanation of calculations).

Type of Expense	Amount (£)
Solicitor's Fees	
Stamp Duty	
Land Registration Fees	
Mortgage Guarantee	
Survey Fee for Valuation	
Survey Fees (Ad hoc)	
Abandoned Purchase (please forward evidence for transaction being	
Ad hoc Claims	

Please state if there are any discounts offered by the various bodies involved which may alter the amount being reimbursed.

Please attach the original receipts to support all claims.

I agree that the information I have given on this form is correct and complete. I understand that if I knowingly provide false information this may result in disciplinary action and I may be liable for prosecution and civil recovery proceedings. I consent to the disclosure of information from this form for the purpose of verification of this claim. I confirm that I have no personal or business relationship with any of the businesses/companies that I seek reimbursement of expenses.

Signed Date

Name (BLOCK CAPS)

I am an authorised signatory for my department. I am signing below to confirm that I have checked and verified the claim and that I approve payment. I understand that if I knowingly authorise false information this may result in disciplinary action and I may be liable for prosecution and civil recovery proceedings.

Authorising Officer (BLOCK CAPS)..... Date

SignatureDirectorate

Office Use Only

Calculation

Financial Code

FORM 5F - REMOVAL AND/OR STORAGE OF FURNITURE

Please note that three competitive quotes are required in order to claim for the removal and storage of furniture and effects. The lowest quote should be used. (If, for any reason beyond your control, the firm with the lowest quote cannot be used, please supply a written explanation with this claim form).

In the case of personal preference, any quote may be used but only the lowest quote will be reimbursed. Copies of all three quotes and the receipted bill will be required to support the claim.

	Removal Firm	Amount (£)
Quote 1		
Quote 2		
Quote 3		

Removal Firm used Amount

Storage Period Amount

Financial Code

Return visit to supervise the removal..... milespassenger miles

Financial Code

Names of Passengers

Journey from old home to new home milespassenger miles

Financial Code

Names of Passengers

I agree that the information I have given on this form is correct and complete. I understand that if I knowingly provide false information this may result in disciplinary action and I may be liable for prosecution and civil recovery proceedings. I consent to the disclosure of information from this form for the purpose of verification of this claim. I confirm that I have no personal or business relationship with any of the businesses/companies that I seek reimbursement of expenses.

Signed Date

Name (BLOCK CAPS)

I am an authorised signatory for my department. I am signing below to confirm that I have checked and verified the claim and that I approve payment. I understand that if I knowingly authorise false information this may result in disciplinary action and I may be liable for prosecution and civil recovery proceedings.

Authorising Officer (BLOCK CAPS)..... Date

SignatureDirectorate

APPENDIX 6 - EQUALITY IMPACT ASSESSMENT PART 1 INITIAL SCREENING

Service/Function/Policy/Project/Strategy	Care Group/Executive Directorate and Department	Assessor (s)	New or Existing Service or Policy?	Date of Assessment
Removal & Associated Expenses	P&OD	John Scott	Existing	21/12/17
1) Who is responsible for this policy? P&OD Recruitment Team				
2) Describe the purpose of the service / function / policy / project/ strategy? Outlines support available and rules that govern approval.				
3) Are there any associated objectives? NHS Constitution;				
4) What factors contribute or detract from achieving intended outcomes? Diligence of authorising officers				
5) Does the policy have an impact in terms of age, race, disability, gender, gender reassignment, sexual orientation, marriage/civil partnership, maternity/pregnancy and religion/belief? No				
<ul style="list-style-type: none"> If yes, please describe current or planned activities to address the impact n/a 				
6) Is there any scope for new measures which would promote equality? No				
7) Are any of the following groups adversely affected by the policy?				
Protected Characteristics	Affected?	Impact		
a) Age	No			
b) Disability	No			
c) Gender	No			
d) Gender Reassignment	No			
e) Marriage/Civil Partnership	No			
f) Maternity/Pregnancy	No			
g) Race	No			
h) Religion/Belief	No			
i) Sexual Orientation	No			
8) Provide the Equality Rating of the service / function /policy / project / strategy – tick (✓) outcome box				
<input checked="" type="checkbox"/> Outcome 1	<input type="checkbox"/> Outcome 2	<input type="checkbox"/> Outcome 3	<input type="checkbox"/> Outcome 4	
*If you have rated the policy as having an outcome of 2, 3 or 4, it is necessary to carry out a detailed assessment and complete a Detailed Equality Analysis form – see CORP/EMP 27.				
Date for next review: December 2020				
Checked by: Anthony Jones		Date: 21/12/17		



Please Note: This policy is currently under review and is still fit for purpose.

Parental Leave Policy

This procedural document supersedes and combines the following policies, please read in full:

- CORP/EMP 15 v.8 - Maternity Leave Guidelines
- CORP/EMP 41 v.5 - Paternity Leave Policy
- CORP/EMP 42 v.5 - Adoption Leave
- CORP/EMP 46 v.5 - Leave for Parents



Did you print this document yourself?

The Trust discourages the retention of hard copies of policies and can only guarantee that the policy on the Trust website is the most up-to-date version. **If, for exceptional reasons, you need to print a policy off, it is only valid for 24 hours.**

Author/reviewer: (this version)	Tracey Davies – Head of Employee Services Operations
Date written/revised:	June 2014 (amended - April 2015 to comply with legislation)
Approved by:	Policy Approval and Compliance Group
Date of approval:	18 June 2014
Date issued:	20 August 2014 – re-issued 5 January 2016
Next review date:	October 2017 – extended to November 2018
Target audience:	Trust Wide

Amendment Form

Please record brief details of the changes made alongside the next version number. If the procedural document has been reviewed **without change**, this information will still need to be recorded although the version number will remain the same.

Version	Date Issued	Brief Summary of Changes	Author
Version 10	April 2015	Addition of Shared Parental Leave and Statutory Shared Parental Pay at section 6a. End date of Additional paternity leave added.	Tracey Davies
Version 9	20 August 2014	Complete review of policy, and combined with other policies.	John Scott
Version 8	June 2012	Section 11- Amendment to detail how accrual of annual leave whilst on Maternity Leave does include Bank Holidays	Kerstie Stevens
Version 7	February 2012	Addition of Appendix 8 – confirmation of return to work date	Jayne Lang
Version 6	October 2011	<ul style="list-style-type: none"> • General Update • References updated • Appendix 1 updated and re-designed • Appendix 7- New information on Doctors on Rotation 	Kerstie Stevens
Version 5	May 2010	<ul style="list-style-type: none"> • Item 2 - Duties and Responsibilities added and paragraphs re-numbered accordingly. • Paragraph 5 amendment to wording • Paragraph 7 clarifications that for the purpose of calculating maternity leave and pay, the EWC will commence on the day your baby is due. • Paragraph 15 amended to reflect extension of non-cash benefits up to 52 weeks. • Appendix 4 - Application to change hours-amendments for monitoring purposes/ to mirror flexible working policy request form • Paragraph 10 - amended to reflect changes in requesting flexible working • Paragraph 11- Premature birth - changes for a child who may remain in hospital for a particular period 	Kerstie Stevens
Version 4	November 2006	<p>For women with expected week of childbirth commencing after and including 1st April 2007</p> <ul style="list-style-type: none"> • Extension of Statutory Maternity pay to 39 weeks • 10 days keep in touch available to employees – Page 13 • All employees entitled to AML regardless of length of service – Page 5. • Notification to change return date – within 8 weeks – Page 12 & Page 9. 	Joanne Dixon

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Links to other documents and forms

[Definitions/ Glossary of terms used](#)

[Maternity/Adoption Leave/Pay Application Form](#)

[Frequently Asked Questions – Maternity/Adoption Leave](#)

[Paternity / Partner Leave / Pay Application Form](#)

[Parental Leave Application Form](#)

[Parental Leave Record Form](#)

[Shared Parental Leave/Pay Application Form](#)

[Risk Assessment Guidance and Risk Assessment Form](#)

Links to flow charts

[Maternity and Adoption leave and pay flow chart](#)

[Entitlement to Ordinary Paternity Leave flow chart](#)

[Entitlement to Additional Paternity Leave flow chart](#)

1. INTRODUCTION

We want to support you to deliver our service for patients by providing you with clear and accessible guidance on your employment terms, entitlements and arrangements. By providing you and your manager with a clear, up-to-date and accurate policy, you can make informed decisions that will affect your future.

The Trust will make sure that your leave does not cause you any long-term disadvantage in relation to training needs and/or self-development. Taking a period of maternity/adoption or paternity leave will not affect your incremental date, increments where you are at a gateway point, pay awards or your continuous NHS and Trust service.

If you feel aggrieved by the interpretation or application of this policy, you should follow the Trust's agreed Grievance Policy.

There is no formal training in support of this policy. Support in the interpretation and application of the policy can be obtained in the first instance from your line manager or from the NHS Shared Business Services (SBS) and HR Business Partners.

2. PURPOSE

This policy covers arrangements for maternity leave, which women employees have had as a statutory right for many years; and paternity and adoption leave, which has been a statutory right for fathers and adoptive parents since April 2003. These also apply to same sex partnerships. A glossary of definitions used in this policy is included [here](#). This Policy is intended to give you and your manager relevant information and is not an exhaustive account of all the regulations.

3. POLICY AND PROCESS AT A GLANCE

Maternity/Adoption	Paternity	Shared Parental	Parental
<p>What is it?</p> <p>Up to 52 weeks maternity leave (Ordinary Maternity/Adoption leave is 26 weeks, followed by Additional Maternity/Adoption Leave). By law you must take a minimum of two weeks leave after childbirth.</p> <p>Maternity/Adoption Leave Pay for 39 weeks. First six weeks at 90%.</p> <p>A right to return to work: to your own job (if you come back to work within 26 weeks), or to a similar job (if you come back after 26 weeks).</p> <p>Paid time off to attend ante natal care appointments/official adoption meetings.</p>	<p>What is it?</p> <p>Two weeks paid time off to provide care for a new-born baby/newly placed adopted child.</p> <p>It can start from the date of the baby's birth or any day of the week following the birth.</p> <p>You will return to the same job; on the same terms and conditions; and will not be subjected to any disadvantage, unfair treatment or dismissal.</p> <p>You are also entitled to further unpaid parental leave and to request flexible working.</p>	<p>What is it?</p> <p>It allows parents to choose how they wish to share up to 50 weeks leave to care for a new born baby/newly placed adopted child.</p> <p>It allows parents to choose how they wish to share up to 50 weeks leave to care for a new born baby/newly placed adopted child.</p> <p>A right to return to work: to your own job (if you come back to work within 26 weeks), or a similar job (if you come back after 26 weeks).</p> <p>You may also be entitled to any unused statutory maternity/adoption pay up to a maximum of 37 weeks</p>	<p>What is it?</p> <p>Up to 18 weeks unpaid leave to look after or to make arrangements for your child (children).</p> <p>It can be taken in week blocks up to 18 weeks in total.</p> <p>You will return to the same job; on the same terms and conditions; and will not be subjected to any disadvantage, unfair treatment or dismissal.</p>
<p>Who does this apply to?</p> <p>The leave applies to anyone who is pregnant, or the primary carer in adoption.</p> <p>To receive maternity/adoption leave pay, you must have 26 weeks' continuous service (at the 15th week before the week the baby is due/child is due to be placed).</p>	<p>Who does this apply to?</p> <p>The father can be either the baby's biological father, or the partner/husband of the mother, or someone who has, or expects to have, responsibility for the baby's upbringing.</p>	<p>Who does this apply to?</p> <p>SPL can only be used by two people: The mother/adopter and one of the following: - the father of the child (in the case of birth) or - the spouse, civil partner or partner of the child's mother/adopter.</p> <p>The mother/adopter of the child must be/have been entitled to statutory maternity/adoption leave or they must be/have been entitled to statutory maternity/adoption pay or maternity allowance and must have ended or given notice to reduce any maternity/adoption entitlements.</p>	<p>Who does this apply to?</p> <p>Natural or adoptive parents or people with parental responsibility under the Children Act.</p>

How do I apply/get more information?	How do I apply/get more information?	How do I apply/get more information?	How do I apply/get more information?
Read this guidance.	Tell your manager that you plan to take paternity leave by the end of the fifteenth week before the baby is expected.	Read this guidance and see information provided via the links to the internet.	First application to your manager 21 days before you plan to take the leave.
Tell your manager that you are pregnant and the likely dates of absence/date of placement in your family.	Tell your manager: when the baby is due; when you plan to take the time off; and how long you are taking.	Tell your manager that you intend to apply for shared parental leave and complete the forms included in this guidance.	

4. DUTIES AND RESPONSIBILITIES

Employees

- Co-operate with the requirements of the leave procedures
- Make every effort to attend meetings arranged

Managers

- Deal promptly with requests for leave.
- View any applications with an open mind and follow a fair and justifiable decision making process
- Maintain appropriate records of applications in line with best practice for information governance

HR Business Partners/ NHS Shared Business Services (SBS)

- Provide support, advice and guidance on all matters relating to the operation of this policy
- SBS will process any maternity /adoption / paternity leave applications promptly
- HR will review and maintain the policy through agreed forums within the Trust

5. MATERNITY AND ADOPTION

Introduction/Notifying your manager

When you have formal confirmation that you are pregnant, or have a placement date for your child, you should tell your manager the expected week of childbirth (EWC) and the date on which you want to begin your maternity/adoption leave. That cannot be earlier than the 11th week before the EWC or more than 14 days before the child is placed with your family.

Complete the application form for [Maternity/Adoption](#) leave no later than the end of the 15th week before the EWC or no more than 28 days before the child is due to be placed with your family. Attach your medical evidence (the original MAT B1 form signed by your GP or midwife or, for adoption, the Matching Certificate). Your manager will write to confirm the end date of your leave.

Antenatal and Post natal Care

You have a statutory right to paid time off for antenatal care, regardless of your length of service or the number of hours you work. That can include relaxation and parent-craft classes recommended by your doctor, midwife or health visitor.

After your first appointment, show your manager your appointment card and discuss the time you need off, so that your manager can arrange to cover. For exceptional operational reasons, you may be asked to change appointments, and you should comply with this if practical. Similar arrangements apply for paid time off for post natal care.

Starting your leave and changing the notified date

You can start your maternity leave any time between the 11th week before the EWC and the date of birth, provided you have notified your manager. You can vary the date later if you give at least 28 days' notice.

Your maternity leave will begin automatically if you are absent from work for any pregnancy related illness during the four weeks prior to your EWC, regardless of when your maternity leave was planned to begin. The first date of maternity leave will be the day after the first day of your absence. If you are sick earlier than this, or as a result of a reason other than your pregnancy, the absence will be recorded in the normal manner.

Your leave will also commence automatically if you give birth before your maternity leave period was due to start. Please notify the Trust in writing as soon as is reasonably practicable of the date you gave birth, and your maternity leave will begin from the day after birth. If your baby is born prematurely (at least 11 weeks before the baby is due), you can agree with your line manager for your leave to be split, taking a minimum of two weeks leave immediately after childbirth and the rest when your baby is discharged from Hospital. Your manager will confirm any date changes in writing.

Leave entitlement

You can take up to 52 weeks Maternity/Adoption Leave. This is made up of two parts: 26 weeks of Ordinary Maternity /Adoption Leave, followed by 26 weeks of Additional Leave. By law, you cannot come back to work until two weeks after the birth.

Right to return

If you return to work during or at the end of the first 26 weeks of Ordinary leave, you are entitled to return to your job on the same terms and conditions. If you take additional leave (more than 26 weeks) and it isn't reasonably practicable to return to the same job, you are entitled to return to a suitable job on terms and conditions, which are no less favourable.

Rates of pay

This will depend on your individual situation. Check this [flow chart](#) describing Maternity/Adoption Leave and Pay Entitlements.

Statutory Maternity Pay/Statutory Adoption Pay (SMP/SAP) and Maternity Allowance/Adoption Allowance (MA/AA)

If you have at least 26 weeks' continuous service at the start of the 15th week before your child is born, you will normally be entitled to receive SMP/SAP whether or not you intend to return to work.

SMP/SAP is payable at two rates for a maximum of 39 weeks. For the first six weeks a higher rate of either Statutory Maternity pay or 90% of salary is paid.

After this time you will be paid SMP/SAP or 90% of your earnings, whichever is lower. Statutory pay rates can be found on the HM Revenues and Custom website:

www.hmrc.gov.uk/payee/employees/statutory-pay/smp-overview.htm#1

If you have less than 26 weeks continuous service at the start of the 15th week before your child is born/adopted, you may be entitled to claim MA/AA. More information is available on the DWP website www.dwp.gov.uk. You will need to apply to the Department for Work and Pensions by completing an SMP1 form, which, SBS will provide.

Occupational Maternity and Adoption Pay (OMP/OAP)

You will receive this if you have 12 months continuous service with one or more NHS employers at the beginning of the 11th week before the EWC and intend to return to work for a minimum of 3 months. It is paid at 8 weeks full pay inclusive of Maternity and Adoption Allowance or SMP/SAP, followed by 18 weeks half pay plus Maternity and Adoption Allowance or SMP/SAP.

Full pay is calculated by taking the average over the eight week period prior to the qualifying week. This will include all the pay you receive in the 2 months up to and including the last normal pay day before the end of the qualifying week. The qualifying week is 15 weeks before the expected week of childbirth.

Should you opt to receive Occupational Maternity/Adoption pay and then not return to undertake the 3 months of work required within this policy, you may be liable to repay the difference between Statutory Pay and the Occupational Pay received.

Maternity and Adoption pay will be paid into your bank account on the same date that you would have received your salary and will be subject to the usual deductions for tax, National Insurance (NI) and pension contributions.

Fixed term or training contracts

If your contract expires less than 11 weeks before your baby is due, or during your maternity/adoption leave, you will be entitled to the same maternity/adoption pay as if you had a permanent contract. If you have the required service to entitle you to SMP/SAP and OMP/OAP, your fixed term contract will be extended so you can take 52 weeks of Maternity/Adoption leave.

If your contract expires between the 11th and 15th week before your baby is due, or your child is due for placement you will qualify for SMP/SAP and we will extend your contract to the date that SMP/SAP ceases.

If you do not have 26 weeks service with the Trust at 15 weeks prior to when your baby is due then you will not be entitled to SMP/SAP or OMP/OAP and your contract will terminate on the existing date of termination.

If your contract expires earlier than 15 weeks before your baby is due, you are not entitled to maternity/adoption leave or pay and your contract will terminate on the existing date of termination.

Where your contract expires during your maternity/adoption leave, you will not be entitled to return to work.

If you are a medical practitioner or are participating in a planned rotation of appointments as part of your training programme, you have the right to return to the same post or in the next planned post with the same or another authority, irrespective of whether your contract would have ended if pregnancy and birth had not occurred. In this case, your contract will be extended to enable you to complete the training programme. Further information on Maternity/Adoption Leave for Doctors in Training can be found on the NHS Employers website at:

www.nhsemployers.org

Miscarriage and stillbirth

If you have a miscarriage before the end of the 24th week of pregnancy, normal sick leave provisions apply. If a stillbirth occurs from the beginning of the 25th week of pregnancy, you will be entitled to the same amount of Maternity Leave and pay as if your baby was born alive

Annual Leave and Bank Holidays

Your entitlement to annual leave and bank holidays accrues during your maternity/adoption leave, whether it is paid or unpaid. If you have outstanding annual leave, you should agree with your manager whether you should take some or all of it before your maternity/adoption leave starts. If this is not possible, you should discuss the possibility of taking accrued annual leave when you return from maternity/adoption leave, either in a single period or to allow a short period of part-time working, especially where you may be carrying annual leave/bank holidays over into a new leave year.

If you do not intend to return to work, you should ideally take all your outstanding annual leave for the entire period of maternity leave prior to start of your maternity leave.

You cannot take annual leave directly after paid maternity/adoption leave if it is your intention to take unpaid maternity/adoption leave, as this would be considered as a return to work. If you do so, the unpaid maternity/adoption leave would be treated as normal unpaid leave, which your manager is under no obligation to grant. However, you may make an application for a period of unpaid leave in line with the career break policy or for a period of statutory unpaid parental leave, details of which are given in this Policy under Section 8 for Parental Leave.

NHS Pension

Your pension rights and contributions are dealt with in line with the provisions of the NHS Pension Scheme. During periods of paid maternity/adoption leave, you and the Trust will continue to make pension contributions.

During periods of unpaid maternity/adoption leave, your occupational pension rights will continue to accrue. If you are already making contributions to the NHS Pension Scheme and you decide to take the option of unpaid maternity/adoption leave, you will be required to pay the accumulated contributions to cover the period of unpaid maternity/adoption leave. The accumulated contributions are taken over a period of time from your salary when you returns to work.

If you change your mind and decide not to return to work, you will still be liable for contributions to the scheme and arrears may be payable where you have taken a period of unpaid leave.

Keeping in touch (KIT) arrangements

Your manager will discuss voluntary arrangements for keeping in touch if you are planning to return to work. You may want to receive occasional work-related updates, attend training or development/away-days. You are under no obligation to keep in touch or to maintain any contact. By law, you can attend work up to 10 KIT days to facilitate a smooth return to work. Days can be consecutive and can be shorter than a normal working day, though working for a part of any day counts as one of the 10 KIT days. KIT arrangements must be agreed by both you and your manager and neither can insist on KIT days being used.

KIT days are paid at your normal hourly rate as if you were at work if taken during the unpaid part of your maternity/adoption leave. If a KIT day is taken during paid maternity/adoption leave then you will be paid at the normal hourly rate with an adjustment made to the SMP and OMP calculation for that week. Payment of KIT days will be made on your return from maternity/adoption leave. Your manager will notify SBS on your return of the number of KIT days and the dates worked

Professional Registration must be maintained or renewed if this is due to/has expired whilst you are on maternity/ adoption leave, if you wish to work and be paid for KIT days.

Return to work

The Maternity/Adoption Leave/Pay Application Form asks whether you intend to return to work. Your Manager will write to you within 28 days to confirm your return to work date and entitlement to maternity/adoption leave and pay.

If you want to return to work before the end of the stated maternity/adoption leave period, you must give your manager 8 weeks' notice. Although this does not have to be in writing and may be given before the period of maternity/adoption leave begins, we would encourage you to discuss your return to work date at the earliest opportunity, so that suitable arrangements can be put in place.

If you do not give the required notice of an early return to work the Trust may postpone your return until a date that would secure the 8 weeks' notice. If you still return to work before this date, the Trust is under no obligation to pay you during the period of postponement.

If you are sick and cannot return to work on the date notified, the Trust's normal procedures for managing sickness absence will apply and you should notify your manager in the usual way.

If you wish to resign during or after a period of maternity/adoption leave, you should give written notice in the usual manner to your manager.

If you want to apply for a period of unpaid parental leave or a flexible working arrangement after your period of maternity/adoption leave, you should refer to Section 7 in this Policy on Parental Leave or the Trust's Flexible Working Policy.

There is no automatic right for you to reduce your hours or return to work on different conditions, but your manager will consider your request in line with the Trust's Flexible Working Policy and explain their decision in writing, if it cannot be granted.

On your return to work after a period of maternity/adoption leave, subject to any organisational change, you have the right to return to the same job, on no less favourable terms and conditions. If there is no right of return because your contract of employment would have ended if pregnancy and childbirth had not happened, the repayment provisions set out above will not apply.

When you return to work, your manager will update you on developments in your absence, including new and amended policies and arrange any necessary training.

A list of frequently asked questions and answers in relation to Maternity and Adoption Leave/Pay are included [here](#). In addition to this a fact sheet on maternity rights can be found on the Working and Families website: www.workingfamilies.org.uk

Guidance on breast-feeding upon returning to work after maternity leave can be found [here](#).

6. PATERNITY LEAVE

Definition

This is time off to care for a new baby or adopted child. This can apply to either the baby's biological father, or the partner/husband of the mother, or has/or expects to have responsibility for the baby's upbringing. It also applies to adoptive fathers but can also be granted to adoptive mothers, if the father is the primary care giver, and to nominated carers and same sex partners.

There are two types of Paternity Leave: Ordinary Paternity Leave (OPL) taken within 56 days of baby's birth date; and Additional Paternity Leave (APL) to be taken at least 20 weeks after the baby's birth date.

Notifying your manager and applying

Tell your manager by the end of the fifteenth week before the baby is expected. Include when the baby is expected, the date you want to start your leave and how long you want to take.

Leave entitlement

The entitlement is for two weeks and can start from the date of the baby's birth or any day of the week following the birth. Qualifying fathers are also entitled to unpaid parental leave and to reasonable paid time off to attend ante-natal classes or official Adoption meetings. Your line manager may ask to see the appointment card. Paternity Leave cannot start until after the birth or placement of your child.

You should take OPL within 56 days of the date of your child's birth, adoption placement, or start of the expected week of childbirth. You can take two single weeks or two consecutive weeks. Your manager will deal with your request as quickly as possible and will agree wherever possible operationally.

If your baby is still born after the start of the 16th week before the expected week of confinement, you can still take paternity leave, as long as all other eligibility conditions are met.

Application

Complete and submit the [application form](#) to your line manager at least 28 days before the date you expect your leave to start. Your manager may ask for medical evidence, like a copy of the MAT B1 or Matching Certificate. The SC3/SC4 forms can be obtained from the NHS Shared Business Services (SBS) or from the following website: <http://www.hmrc.gov.uk/forms/sc3.pdf>

Right to return

You will return to the same job on the same terms and conditions.

Rates of pay

Rates of pay for Ordinary Paternity Leave depend on your individual situation. This [flow chart](#) summarises entitlement to Ordinary Paternity Leave/Pay.

Statutory Paternity leave

You are entitled to two weeks paid Statutory Paternity leave if you have worked continuously for the Trust for either 26 weeks ending with the 15th week before your baby is due; or the end of the week in which the adopter is matched with the child. Statutory Paternity leave is paid at the rate of statutory pay or 90% of your earnings, whichever is less.

Occupational Paternity Pay

If you have twelve months continuous service with the NHS before your child is expected to be born, or placed in Adoption, you are entitled to Occupational Paternity Pay. This is paid at full pay for two weeks, inclusive of Statutory Paternity Pay.

Additional paternity leave – Only available for parents of children born/matched before 5th April 2015. No longer available after 5th April 2016.

Additional paternity leave and pay may be available to you if you meet the requirements for Ordinary Paternity leave and the child's mother/primary adopter has returned to work and is entitled to statutory maternity leave, maternity pay or allowance, or statutory adoption leave or pay.

You can take up to 26 weeks additional paternity leave to care for your new baby. It must be taken in one block of time of between 2 weeks and 26 weeks. It cannot start earlier than 20 weeks after the birth and must end before your child's first birthday.

The child's mother or adopter must have returned to work. If the mother or primary adopter takes annual leave, sick leave or parental leave at the end of the maternity leave pay period, this does not count as a return to work.

If the additional Paternity Leave is taken during the mother's 39 week statutory maternity pay (SMP) period then it can be paid and this would be at the pay rate of statutory paternity pay.

In the case of adoption, Additional Paternity Leave can start anytime between 20 weeks and 52 weeks after the child starts living with the adopter. This [flow chart](#) summarises entitlement.

Use [this form](#) to request Additional Paternity Leave from your line manager at least 8 weeks before the start date of your planned leave.

Additional Paternity Pay will be at the statutory rate of pay (or 90% of the employee's average weekly earnings, whichever is lower), only up to the point where the child's mothers Statutory Maternity/Adoption pay would have ended. Following this, the entitlement will be unpaid.

Statutory pay rates can be found on the HM Revenues and Custom website:

<http://www.hmrc.gov.uk/>

6A. SHARED PARENTAL LEAVE (SPL) AND STATUTORY SHARED PARENTAL PAY (SHPP) – ONLY AVAILABLE TO PARENTS OF CHILDREN BORN/MATCHED ON OR AFTER 05/04/2015.

From April 2015, parents will have greater choice in how they share time off work and care in the first year of their child's life. The new rules also apply to adoption or surrogacy. Existing rules on maternity and ordinary paternity leave and pay remain the same but additional paternity leave and pay will be abolished. Shared Parental Leave and Pay maybe available if you, or your partner, have ended your maternity or adoption leave or pay early. A mother must take a minimum of 2 weeks' maternity leave following the birth. The remaining leave will be available as SPL. The remaining pay may be available as Shared Parental Pay.

More information including Statutory Pay Rates can be found on Her Majesty's Customs and Revenue website: <https://www.gov.uk/shared-parental-leave-and-pay/overview>

If you are eligible and you or your partner end maternity or adoption leave and pay (or Maternity Allowance) early, you can:

- take the rest of the 52 weeks of leave (up to a maximum of 50 weeks) as Shared Parental Leave (SPL)
- take the rest of the 39 weeks of pay (up to a maximum of 37 weeks) as Statutory Shared Parental Pay (ShPP)

Shared Parental Leave

You can take SPL in up to 3 separate blocks. You can also share the leave with your partner if they're also eligible. Parents can choose how much of the SPL each of them will take.

SPL and ShPP must be taken between the baby's birth and first birthday (or within 1 year of adoption).

Shared parental leave in touch (SPLIT) days

You and your partner can both work up to 20 days during SPL. These are called 'shared parental leave in touch' (or SPLIT) days.

These days are in addition to the 10 'keeping in touch' (or KIT) days already available to those on maternity or adoption leave.

Keeping in touch days are optional - both you and your manager must agree to them.

To qualify for SPL, the child's mother (or adoptive parent) must be eligible for either:

- maternity leave or pay
- Maternity Allowance
- adoption leave or pay

You must also:

- have worked continuously for the Trust for at least 26 weeks by the end of the 15th week before the due date (or date matched with adopted child)
- still be employed by the Trust while you take SPL
- give correct notice including a declaration that your partner meets the employment and income requirements which allow you to get SPL. At least 8 weeks before the start of the leave period.

Where a mother or adopter takes 51 weeks or more of the 52 weeks of maternity or adoption leave that is available to him or her, then no shared parental leave can be created.

Statutory Shared Parental Pay

You can get ShPP if one of the following applies:

- you qualify for Statutory Maternity Pay or Statutory Adoption Pay
- you qualify for Statutory Paternity Pay and have a partner who qualifies for Statutory Maternity Pay or Maternity Allowance or Statutory Adoption Pay

Where a mother or adopter takes 38 weeks or more of statutory maternity or adoption pay or maternity allowance, then no statutory shared parental pay can be created. ShPP is paid at the Statutory Pay Rate or 90% of your average weekly earnings, whichever is lower.

How to apply for SPL/ShSPP

You must give your employer written notice of your entitlement to SPL and ShPP, including:

- your partner's name
- start and end dates for maternity or adoption leave and pay
- the total amount of SPL and ShPP available and how much you and your partner intend to take
- confirmation that you're sharing childcare responsibility with your partner

You must also include a signed declaration from your partner stating:

- their name, address and National Insurance number
- that they satisfy the qualifying requirements for SPL and ShPP
- that they agree to you taking SPL and ShPP

To apply for Shared Parental Leave/Pay please complete the form that can be found at (LINK TO FORM).

After receiving this notice, your manager has 14 days if they want to ask for:

- a copy of the child's birth certificate
- the name and address of your partner's employer.

you must provide this information within 14 days.

7. PARENTAL LEAVE

Definition

This is unpaid parental leave to look after or to make arrangements for the good of a child or children.

Entitlement

Natural or adoptive parents or people with parental responsibility under the Children Act may take up to eighteen weeks. You must have one year's continuous service with the NHS, be the parent named on a birth certificate of a child under 14 (18 in cases of adoption or disabled children), or have, or expect to have, formal parental responsibility, as defined by the Children Act 1989 or the Children (Scotland) Act 1995. Foster parents do not have the right to Parental Leave.

You must take the leave before your child's 5th birthday or 18th for disabled children. If your child is adopted, you must take it before their 18th birthday or the 5th anniversary of their adoption, whichever comes first. The entitlement is for each child and so is doubled for twins.

Your manager will keep a record of any parental leave taken on your personal file using the parental leave record sheet.

Your manager may ask your previous employer about any previous periods of parental leave or may ask you to sign a declaration about the amount of parental leave you have already taken.

Notifying your manager and applying

Your first application for parental leave for each child should be supported by evidence of parental responsibility: either the child's birth certificate, adoption matching certificate/official notification, or documents from a court detailing acquired formal parental responsibility.

If you want to take parental leave immediately after the birth of your child, you must also provide a copy of the MAT B1 certificate and a copy of your child's birth certificate. This is in addition to any entitlement to paternity leave. Talk to your manager as early as possible so that cover arrangements can be made.

Apply using [this form](#) at least 21 days before you propose to start your leave.

Your manager will confirm whether or not it can be agreed and advise the NHS Shared Business Services (SBS).

You must take your leave in blocks of one week up to eighteen working weeks. However, if your child has a disability, you can take shorter periods, including individual days. For multiple births, 18 weeks is available for each child.

Your manager will agree to the leave, wherever possible. If they refuse, they must be able to demonstrate a significant reason, such as serious disruption to the department. Your leave can be postponed for up to six months and your entitlement will not be lost if it is postponed by the Trust beyond your child's 18th birthday.

If you have given 21 days' notice, the Trust will not postpone any period of unpaid parental leave immediately after the birth or adoption of a child. The leave will start on the day your child is born, regardless of whether your child is born early or late.

You can ask to change the dates of agreed parental leave, and your manager will agree to changes, if reasonably practicable.

A period of unpaid parental leave will count as continuous employment with the Trust, although pay and most contractual benefits are suspended. Your entitlement to annual leave continues to accrue. Your occupational pension rights are preserved until you return to work but if you want the period to be counted for pensionable service, you must make up the necessary employer's and employee's contributions via the Authority's pensions office. It is your responsibility to make any necessary arrangements.

Return to work

You are entitled to return to the same job. A period of parental leave cannot count towards the obligation of a mother to return to work for three months to qualify for the higher maternity benefits provided by the NHS maternity scheme.

If you do not wish to return to work after a period of parental leave you should resign in writing to your manager in the usual way.

8. HEALTH & SAFETY FOR NEW AND EXPECTANT MOTHERS

Management of Health & Safety at Work Regulations 1999 places a legal requirement on employers to assess the risks/hazards to both mother and unborn child and breastfeeding women, and to take steps to eliminate or reduce the risks as far as is reasonably practicable.

A specific additional risk assessment must be carried out for every pregnant employee using this guidance. So tell your manager as early as possible.

9. MONITORING COMPLIANCE WITH THE PROCEDURAL DOCUMENT

What is being Monitored	Who will carry out the Monitoring	How often	How Reviewed/ Where Reported to
<ul style="list-style-type: none"> • That the use of maternity, adoption, paternity and parental leave is actively managed and there is documentary evidence of this; • Decisions regarding the allocation of maternity, adoption, paternity and parental leave have been fairly applied in line with policy – there have been no successful challenged of those decisions 	Care Group Managers will monitor with support from HR Business Partners	Annually	Any significant issues will be escalated to the Care Group Director and/or to the Head of HR Services or to the Director of People and Organisational Development.

10. EQUALITY IMPACT ASSESSMENT

An Equality Impact Assessment (EIA) has been conducted on this procedural document in line with the principles of the Equality Analysis Policy (CORP/EMP 27) and the Fair Treatment For All Policy (CORP/EMP 4).

The purpose of the EIA is to minimise and if possible remove any disproportionate impact on employees on the grounds of race, sex, disability, age, sexual orientation or religious belief. No detriment was identified and a copy of the EIA is at Appendix 1.

11. ASSOCIATED TRUST PROCEDURAL DOCUMENTS

- Carers Leave and Leave for Domestic Emergencies - CORP/EMP 47
- Flexible Working Policy - CORP/EMP 48
- Grievance and Dispute Procedure - CORP/EMP 3

12. REFERENCES

NHS Terms and Conditions of Service Handbook, Jan 2010 <http://www.nhsemployers.org>

National Health Service Hospital Medical and Dental Staff and Doctors in Public Health Medicine and Community Health Service (England and Wales) Terms and Conditions

HMRC website: <http://www.hmrc.gov.uk/taxcredits/keep-up-to-date/changes-affect/family-change/maternity-adoption.htm>

Department for Work and Pensions website: <http://www.dwp.gov.uk/publications/specialist-guides/technical-guidance/ni17a-a-guide-to-maternity/>

Directgov website:

<http://www.direct.gov.uk/en/MoneyTaxAndBenefits/BenefitsTaxCreditsAndOtherSupport/Expectingorbringingupchildren/index.htm>

Government Maternity Pay and Leave Guide:

<http://www.gov.uk/maternity-pay-leave/overview>

Maternity and Parental Leave Regulations 1999 and amendments:

<http://www.legislation.gov.uk/uksi/1999/3312/contents/made>

This Policy is intended to give you and your manager relevant information and is not an exhaustive account of all the regulations. You can make reference, where necessary to Section 15 and 35 of the Agenda for Change Terms and Conditions of Service handbook on Maternity, Paternity, Adoption, Parental and related leave and includes maternity provisions contained in the Employment Rights Act 1996 as amended by the Employment Relations Act 1999 and the Employment Act 2002. Also reference can be made to the Health & Safety Executive (HSE) Pregnancy guide.

Changes to this policy will be made in accordance with legislative changes.

APPENDIX 1 - EQUALITY IMPACT ASSESSMENT PART 1 INITIAL SCREENING

Policy	CSU/Executive Directorate and Department	Assessor (s)	New or Existing Service or Policy?	Date of Assessment
CORP/EMP 15 v.9 – Parental Leave Policy	People and Organisational Development	Jayne Lang	Existing	October 2013
1. Who is responsible for this policy? Human Resources				
2. Describe the purpose of the policy? Process/guidance on implementation of maternity, adoption, paternity, parental leave & pay legislation.				
3. Are there any associated objectives? Provide consistent approach to implementation of legislation and terms & conditions across the Trust				
4. What factors contribute or detract from achieving intended outcomes? Staff may be unaware of their contractual and legislative rights				
5. Does the policy have an impact in terms of age, race, disability, gender, gender reassignment, sexual orientation, marriage/civil partnership, maternity/pregnancy and religion/belief? Yes, for Gender				
<ul style="list-style-type: none"> If yes, please describe current or planned activities to address the impact The policy complies with legislative requirements 				
6. Is there any scope for new measures which would promote equality? No				
7. Are any of the following groups adversely affected by the policy?				
a. Protected Characteristics	Affected?	Impact		
b. Age	No			
c. Disability	No			
d. Gender	No			
e. Gender Reassignment	No			
f. Marriage/Civil Partnership	No			
g. Maternity/Pregnancy	No			
h. Race	No			
i. Religion/Belief	No			
j. Sexual Orientation	No			
8. Provide the Equality Rating of the service/ function/policy /project / strategy				
Outcome 1 ✓	Outcome 2	Outcome 3	Outcome 4	
9. Date for next review October 2017				
Checked by: Jayne Lang		Date: October 2013		



Capability Procedure: Managing Poor Performance

This procedural document supersedes: Capability Procedure: Managing Poor Performance
 - CORP EMP 25 v.3



Did you print this document yourself?

The Trust discourages the retention of hard copies of policies and can only guarantee that the policy on the Trust website is the most up-to-date version. **If, for exceptional reasons, you need to print a policy off, it is only valid for 24 hours.**

Executive Sponsor(s):	Karen Barnard, Director of People & OD
Author/reviewer: (this version)	Anthony Jones, Deputy Director of People & OD
Date written/revised:	January 2018
Approved by:	Workforce & Education Committee
Date of approval:	March 2018 provisional
Date issued:	31 May 2018
Next review date:	March 2021
Target audience:	Trust-wide

Amendment Form

Please record brief details of the changes made alongside the next version number. If the procedural document has been reviewed **without change**, this information will still need to be recorded although the version number will remain the same.

Version	Date Issued	Brief Summary of Changes	Author
Version 4	31 May 2018	Removal of reference to health impacting on capability Minor amendments for factual accuracy	Sam Francis/ Anthony Jones
Version 3	17 August 2015	Minor amendments for factual accuracy	Ruth Cooper
Version 2	February 2011	<ul style="list-style-type: none"> • Amendment form added • Sections added: <ul style="list-style-type: none"> - Equality Impact Assessment - Monitoring and Compliance - Associated Trust Procedural Documents - References 	Keeley Cromwell

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1 INTRODUCTION

The Trust is committed to providing an excellent standard of patient care. To do this, we rely on staff receiving support to enable them to fully understand their role and the Trust's expectations of them, and on all staff being committed to demonstrating positive and effective behaviours. This commitment will be underpinned by appropriate supportive policies and procedures. This procedure should be regarded as one of mutual and joint working, which enables employees to restore standards of performance to an acceptable level.

This policy and its associated documents apply to all Trust employees, except Medical and Dental staff who should refer to The Conduct, Capability, Ill-Health and Appeals Policies and Procedures for Practitioners CORP/EMP13.

This procedure should not be used to address issues of conduct, which are dealt with under the Trust's Disciplinary Procedure (see CORP/EMP 2).

Capability concerns that are linked to ill health and/or disability, where long term or persistent absence occurs, should be addressed taking guidance from the Trust's Sickness Absence Policy, paying particular attention to Annex 2 (see CORP/EMP 1).

Where there are performance concerns that are linked to health and/or disability but no absence occurs, this should be managed using this policy, with particular attention being paid to the requirements of the Employment Act 2010 on making appropriate modifications and redeployment.

2 PURPOSE

2.1 The primary aim of the Capability Procedure is to support employees to maintain expected levels of performance and to provide a way of supporting an employee if their performance is found to be unacceptable and below the expected standard.

2.2 Upon commencement of employment an employee will learn the expected standard of performance in line with Trust policies and procedures, as well as professional standards and values and behaviours. The importance of careful recruitment, selection and training should not be underestimated, as this will facilitate a reduced risk of unsatisfactory performance. In order to manage performance positively, managers should refer to Appendix 1 for new or newly promoted employees.

2.3 This procedure allows management to deal with capability issues in a fair and consistent manner with respect for the employee as an individual and provides a consistent approach to the management of all issues of competence and capability.

2.4 Should the manager be unclear whether underperformance is a capability or a conduct issue, they should seek advice either from their HR Business Partner or the Case Management Team on which procedure to instigate.

3 DUTIES AND RESPONSIBILITIES

The Trust

Through raising awareness, the Trust aims to have a workforce as a whole who understand the rationale of this procedure. In addition the responsibility of the Trust is:

- To provide education and training for those responsible for operating the procedure.
- To set out standards of performance in line with Trust policies and procedures, as well as professional standards and values and behaviours.
- To evaluate periodically the effectiveness of the procedure.

The Staff Side Organisations and Trade Unions

- To help inform the workforce of the procedure and to encourage employees who may have problems to use the facilities available within the procedure.
- To advise members of their rights and responsibilities under the procedure and to be available to represent employees at appropriate meetings.

The Employee

- To take personal responsibility for understanding and maintaining expected levels of performance and to notify their manager of any issues that may impact on their continued performance.
- To participate in good faith in any action plan initiated by their manager/supervisor in accordance with this procedure.

4 PROCEDURE

4.1 SETTING STANDARDS OF PERFORMANCE

- 4.1.1 The Trust is responsible for setting realistic and achievable standards of work performance and making sure employees understand what is required. Employees have a contractual responsibility to achieve a satisfactory level of performance and should be given help and encouragement to reach it.
- 4.1.2 Standards should be capable of being measured in terms of quality, quantity, time and possibly cost. Any shortfall in performance should be discussed with the

employee concerned, and consideration given to whether this is due to inadequate instruction, training, supervision or some other failing.

4.1.3 The following principles should be observed when the employee starts in the organisation:

- the standard of work required should be explained and employees left in no doubt as to what is expected of them.
- job descriptions should accurately convey the main purpose and scope of each job and the tasks involved;
- the consequences of any failure to meet the required standards should be explained;
- where an employee is promoted within the organisation the consequences of failing to meet the required standards in the new job should be explained.

4.1.4 There should be arrangements in place for regular discussions between managers and employees regarding performance. Employees should be encouraged and supported to be safe and effective in their practice and to overcome shortfalls in performance. Issues should be resolved as close to their point of origin and as soon as reasonably practical after they have been identified, to avoid issues escalating to a point where formal action is unavoidable.

4.2 THE INFORMAL PROCEDURE

Where a member of staff exhibits an inability to perform their duties satisfactorily, the matter will normally be addressed informally in the first instance, following the steps set out in Appendix 2. A meeting will take place and will normally be between the employee and their manager.

The main emphasis of the meeting will be to discuss with the employee where there are shortcomings and areas of concern, to establish the reasons for poor or diminishing performance and also how the individual can be assisted in addressing the problem.

This process should be a transparent one and to inform any discussions with the employee it is essential that any evidence of poor performance is shared with them.

The line manager may wish to discuss these areas of concern beforehand, with their Human Resources Business Partner to clarify the issues raised.

The manager will then agree the expected performance standards with the member of staff and a time period in which an improvement in performance is expected to be achieved. This time period should be reasonable and realistic in the context of the nature of the problem and to allow for any necessary support to be put in place. They will also agree how the employee's performance will be monitored over this time.

The manager will record the outcome of the meeting and confirm this in a letter sent to the member of staff. This will indicate the nature of the unsatisfactory performance, what is expected and how future performance needs to be improved to meet the expected standards. It will also outline the support to be given, how their performance will be monitored and over what time period this will be undertaken.

If the employee opposes the contents of the letter, they should first discuss it with the manager concerned. Advice should be sought from a representative of Human Resources if this cannot be resolved.

If the employee's performance improves adequately over the agreed time scale, then the process will end at this stage. If however the employee's unsatisfactory performance remains or returns, then the manager will initiate the Formal Procedure.

Performance Impaired by Health

It is possible that an underlying health problem, which may not be apparent, could be the cause of an employee's poor performance. This should be considered and if appropriate, the employee referred to their GP or Occupational Health.

Where health is impacting on performance, the manager should explore this and discuss any changes or support necessary before a decision is made. This support could include redeployment, flexible working, reduced hours or workload, or variation of tasks and duties. Each case should be considered individually. Where an employee has a disability and is covered by the Equality Act 2010 the manager should explore making reasonable adjustments to enable the staff member to return and continue working.

However, after changes and/or reasonable adjustments have been made and there is still no likelihood of the employee being able to fulfil contractual obligations, this could lead to dismissal on the grounds of ill health. See Sickness Absence Policy.

4.3 THE FORMAL PROCEDURE

PLEASE NOTE: Prior to commencing or during the formal procedure if it appears that the cause of the performance issue relates to conduct, rather than capability, then it would be appropriate to default to and implement the disciplinary procedure (see CORP/EMP 2).

The Formal Procedure would be implemented, where either the Informal Procedure has proved to be ineffective, or where there appears to be serious concerns about an employee's performance. A table showing the Formal Procedure is at appendix 3.

Where there are serious concerns about an employee's performance, or where their performance presents a risk to patients, the Trust reserves the right to escalate or bypass stages in this formal procedure. Where it is safe to do so, an employee should be provided

with a minimum of one opportunity to demonstrate they can improve their performance before a decision is made about their suitability for continued employment.

If the employee's performance worsens at any stage within the formal procedure, it is acceptable for either party to bring forward the date of the review meeting.

Where an individual has been subject to formal performance management at any stage and has achieved the required standards, they will be removed from the formal process. However, they will continue to be monitored for an agreed period, normally 12 months. Should the underperformance return at any time during this review period, the individual will be placed back in to the formal process at an appropriate stage.

If the required standard is still being achieved after the monitoring period, the formal performance management process will generally be considered to be concluded. This means that the management of any new performance issues would generally start from the beginning of this process. However, the Trust reserves the right to initiate performance management at any of the stages and also to address matters using other Trust policies.

The manager will initially discuss the issues with their Human Resources Business Partner or Case Management Team, before invoking the formal procedure.

1st Stage Meeting

- The employee is informed personally by the manager, wherever possible, and then in writing of a meeting being held under the Formal Stage of the Capability Procedure. The employee is notified of their right to be represented and what the issues of concern are. The manager may be accompanied by a Human Resources representative at this meeting.
- If issues of professional competence are to be addressed at the meeting and the manager is not qualified in that profession, then it is expected that an adviser, qualified in that profession will also be present at the meeting. The purpose of the adviser is to clarify, explain and/or advise on any issues, which are of a professional nature.
- The manager will put forward the issues concerning the employee's performance (e.g. discussions from previous meetings, Performance Appraisal records, training attended, assistance given, etc as well as other sources as appropriate e.g. audit reports etc).
- The manager will remind the employee of the standards of performance that are required.
- Once the issues of concern have been highlighted, the employee and the employee's representative will have an opportunity to put forward the member of staff's point of view and to identify possible reasons for the poor performance.

- The manager will listen to, clarify and discuss the issues and then discuss the appropriate action.

The outcome of the meeting will be either to:

- Take no further formal action and revert back to the informal procedure, informing the employee of this in a letter.

Or

- Indicate to the employee that the current performance level is unacceptable. The employee should give their commitment to achieve the required standards. An action plan should be agreed with the employee that will outline the specific measurable objectives that need to be achieved within a specific timeframe and the **consequences of failing to achieve the objectives within the given timeframe must be made clear**. This will be formally outlined in a letter to the employee.

The letter will indicate how the employee's progress will be monitored and any assistance that will be given to help the employee to improve. This may for example take the form of a development programme, training etc. A time scale will also be set for their performance to improve and a review day set. It will also emphasise the importance of the employee addressing the concerns raised.

2nd Stage Meeting

Following review of the employee's performance, should the poor performance have continued despite the assistance provided at the previous stage, the process set out above will be repeated. If appropriate, on this occasion, the next more senior manager will see the employee.

This meeting will be convened and arranged as before. Discussion at this meeting is likely to centre on performance during the review period.

- If there has been an improvement which still falls short of the required standard the employee will be encouraged to keep trying and the review period will be extended.
- If there has been no improvement the employee will be offered the opportunity to give reasons for this.
- The manager should attempt to identify any additional measures of support. An appropriate level of assistance should once more be given to the employee in order to assist them to reach the required standards.

- A further review period will be set and a date will be set for a meeting. The employee should be advised that if there is no improvement or there are further issues concerning their performance during the agreed review period, stage 3 will be implemented and this is likely to result in their contract of employment being terminated on capability grounds.

A letter will be sent to the employee confirming the points covered at the previous meeting with the employee's line manager as well as the points covered during this most recent meeting. It will also clearly state that if an improvement is not forthcoming, a final meeting will be convened, at which the appropriate manager will consider terminating their contract on the grounds of capability.

Where an individual has achieved the required standards, they will be removed from the formal process. However, they will continue to be monitored for an agreed further period, normally 12 months, and should the underperformance return at any time during this review period, they will be placed back in to the formal process at an appropriate stage.

If the required standard is still being achieved after the further monitoring period, the formal performance management process will generally be considered to be concluded. This means that the management of any new performance issues would generally start from the beginning of this process. However, the Trust reserves the right to initiate performance management at any of the stages and also to address matters using other Trust policies.

3rd Stage Meeting (Final Stage)

- If, at the end of the review period, the required standard has been met, the employee will be told this and they will be encouraged to maintain this standard. They will continue to be monitored for an agreed further period, normally 12 months, and should the underperformance return at any time during this review period, they will be placed back in to the formal process at an appropriate stage.
- If, after the further monitoring period, the required standard is still being achieved, the formal performance management process will generally be considered to be concluded. This means that the management of any new performance issues would generally start from the beginning of this process. However, the Trust reserves the right to initiate performance management at any of the stages and also to address matters using other Trust policies.
- If the standard has not been met, a meeting should be arranged with the appropriate delegated authority to dismiss. A review of all actions and outcomes should take place at this meeting. If the standards have not been met, the employee will be informed and told that a decision will now be made to dismiss him/her from employment. This will generally be with immediate effect with payment made in lieu of notice.

4.4 THE MONITORING PERIOD

A key element of helping the employee to improve is the monitoring period set for them to meet their specific objectives. During this time there may also be specific training or development activities that will need to be undertaken, to enable the employee to improve. The time scale for the monitoring period will be dependent on the circumstances, but will usually last from three to six months.

If the employee maintains a consistent and satisfactory performance level during the monitoring period, the procedure would then come to an end. The employee would then be informed that their performance is satisfactory at that point. The usual performance appraisal process would then take its place.

Once twelve months have elapsed after the end of a satisfactory monitoring period, then the capability procedure would be at an end. Should further concerns regarding the employee's performance be raised at a future date, then the issues would be addressed as appropriate through evoking the capability procedure afresh, or through the disciplinary procedure.

In circumstances, where it appears that the cause of the performance issue relates to conduct rather than capability, then it would be appropriate to refer to the disciplinary procedure.

4.5 DOWNGRADING OR TRANSFER

In certain cases it may be appropriate to use downgrading and/or transfer to address the issues raised, rather than dismissal. Any downgrading and/or transfer will be subject to the agreement of the employee concerned, and subject to a suitable alternative post being available within the Trust. Where agreement is reached with an employee to downgrade or transfer, this may also be accompanied by a programme of reorientation and/or further training. Where agreement is reached with an employee to downgrade and/or transfer, this action is not subject to appeal.

Where staff are downgraded or transferred there is no entitlement to pay protection.

4.6 EMPLOYEE REPRESENTATION

An employee, to whom this formal procedure is applied, will have the right at any stage to be accompanied by either his or her trade union representative or by a fellow employee.

This provision does not preclude an employee seeking advice at any stage from their trade union representative nor should it dissuade managers from inviting employees to be accompanied within the informal procedure if the manager believes that this step would be

conducive to a productive outcome at an earlier stage. However, this should not introduce an unreasonable delay in the process.

4.7 RIGHT OF APPEAL

Given that within the formal procedure, action can only be taken by those officers authorised under the schedule of delegation within the Trust Disciplinary Procedure, the right of appeal in respect of any action taken under the formal part of this procedure mirrors the arrangements in the Disciplinary Procedure (see CORP/EMP 2).

5 TRAINING/SUPPORT

The training requirements of staff will be identified through a training needs analysis. Role specific education will be delivered by the service lead.

Managers should speak to the Case Management Team or their HR Business Partner if they require any further guidance or support.

6 MONITORING COMPLIANCE WITH THE PROCEDURAL DOCUMENT

What is being Monitored	Who will carry out the Monitoring	How often	How Reviewed/ Where Reported to
All Capability cases	Responsible line manager	Commencement of the informal stage	HR Case Management Team
Applicability of policy	HR Business Partners/Senior Mangers	Monthly	As part of Accountability Meetings
Currency	HR Case Management Team	Ongoing	Monitor developments in good practice/legislation

7 DEFINITIONS

Capability: The Employment Rights Act 1996 gives a legal indication of what is meant by capability; ‘capability assessed by reference to skill, aptitude, health or any other physical or mental quality’.

Conduct or Capability:

It is essential that managers identify the underlying cause of an individual's poor performance and whether this relates to conduct or capability at the earliest opportunity, to determine the appropriate way of dealing with the matter. A simple question to ask is "Does the concern relate to skill or willingness?"

Where the underlying problem is related to conduct, such as carelessness, negligence or unwillingness – e.g., the individual could do the work to the required standard if they chose to do so, the Trust's Disciplinary Procedure – CORP/EMP 2 should be initiated.

Concerns regarding capability may arise when a member of staff is failing in a significant or persistent way, to carry out their responsibilities, or duties, in a satisfactory manner. This may be due to issues affecting competence, such as;

- a lack of professional insight;
- an inability to cope with reasonable workloads;
- not being able to meet identified standards;
- an inability to prioritise work;
- a lack of aptitude for the work itself;
- inadequate training;
- inability to achieve changes to the role over time;
- lack of role clarity;
- a lack of experience.

The above list should be regarded as an indication of what may be encountered and is not an exhaustive list.

8 EQUALITY IMPACT ASSESSMENT

The Trust aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are disadvantaged over others. Our objectives and responsibilities relating to equality and diversity are outlined within our equality schemes. When considering the needs and assessing the impact of a procedural document any discriminatory factors must be identified.

An Equality Impact Assessment (EIA) has been conducted on this procedural document in line with the principles of the Equality Analysis Policy (CORP/EMP 27) and the Fair Treatment For All Policy (CORP/EMP 4).

The purpose of the EIA is to minimise and if possible remove any disproportionate impact on employees on the grounds of race, sex, disability, age, sexual orientation or religious belief. No detriment was identified. (See Appendix 5)

9 ASSOCIATED TRUST PROCEDURAL DOCUMENTS

CORP/EMP 1 - Sickness Absence

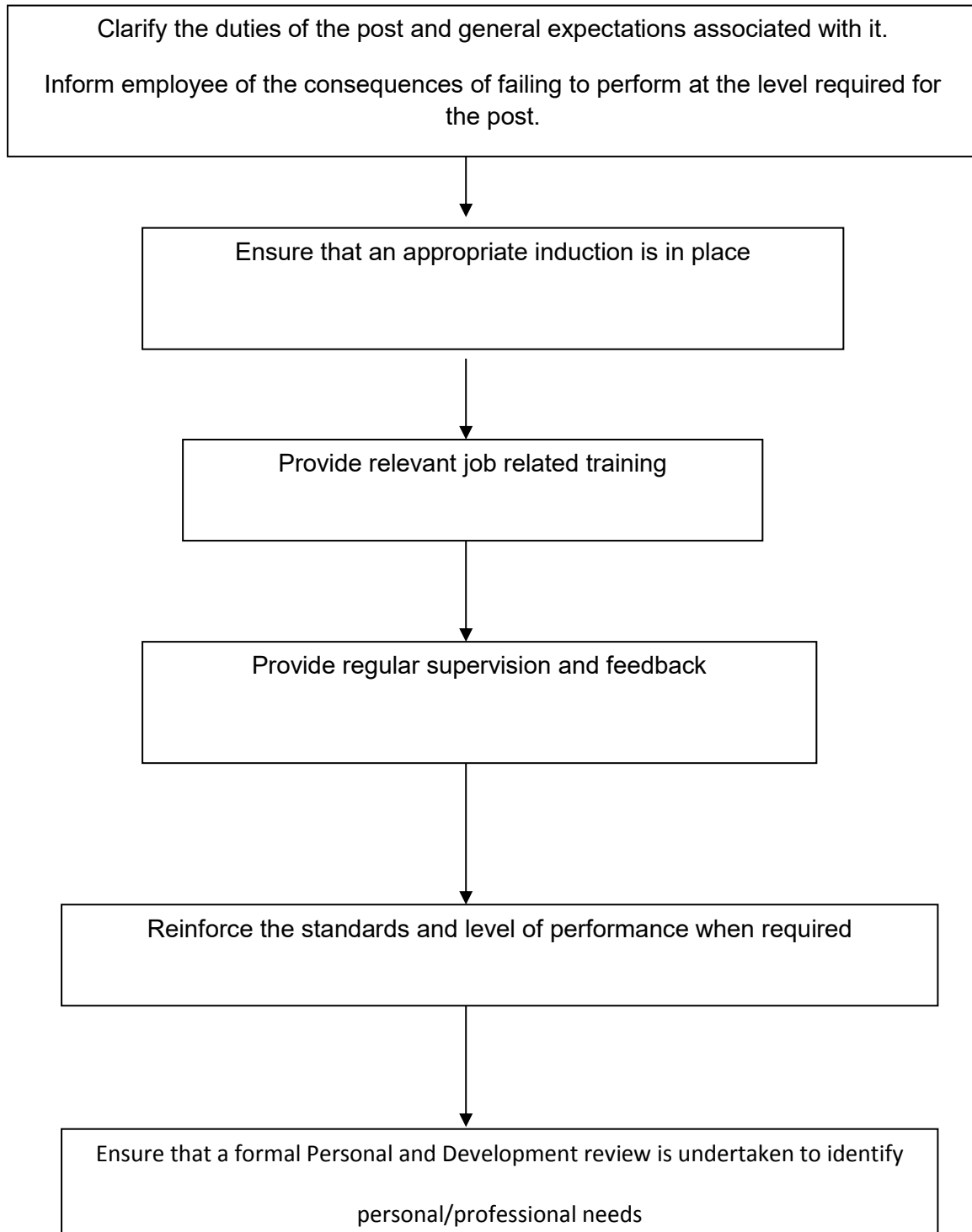
CORP/EMP 2 - Disciplinary Procedure

CORP/EMP 13 - The Conduct, Capability, Ill-Health and Appeals Policies and
Procedures for Practitioners

CORP/EMP 4 – Fair Treatment for All

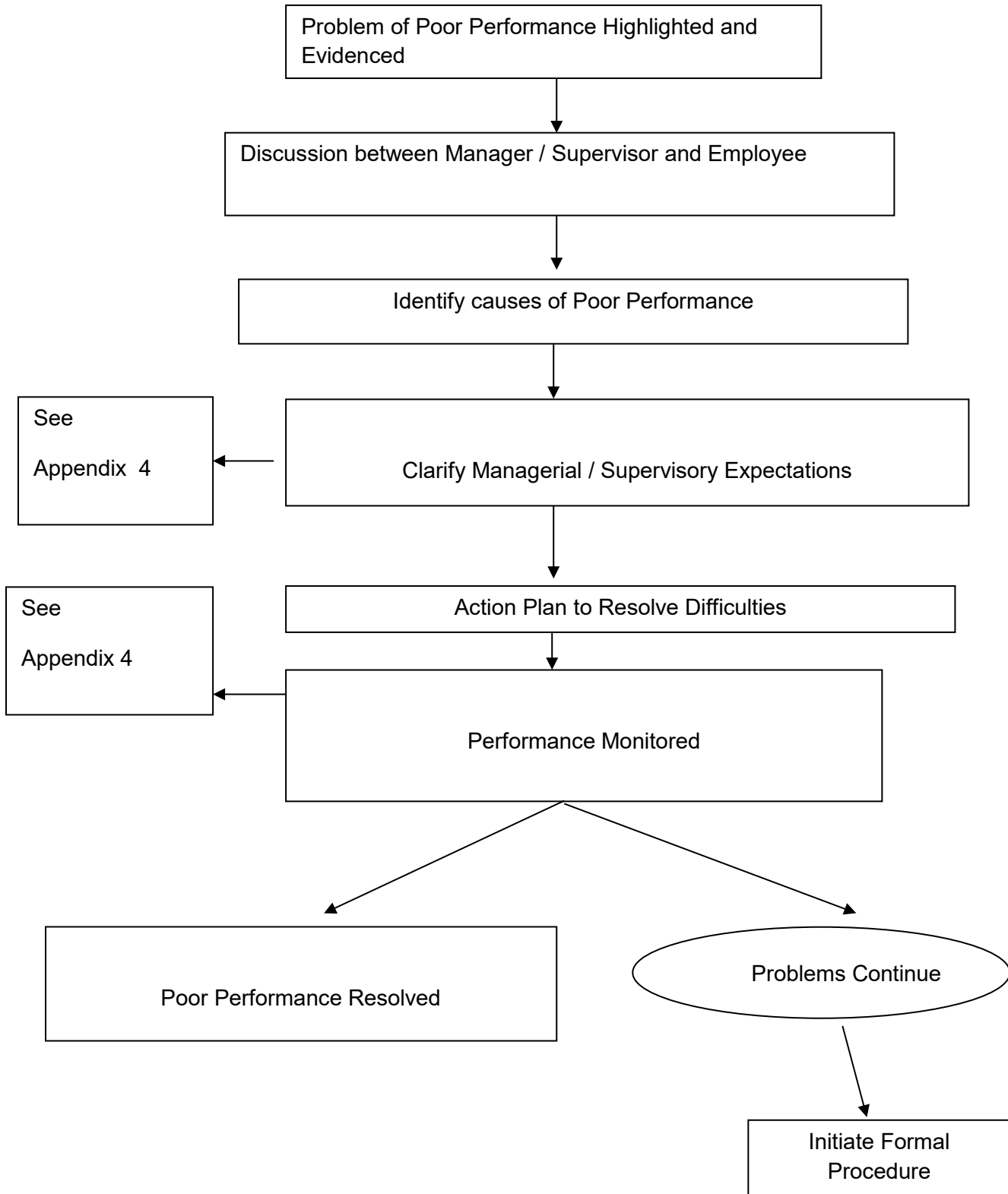
10 REFERENCES

[ACAS Advisory Booklet – How to Manage Performance, October 2014](#)

APPENDIX 1 – MANAGING PERFORMANCE POSITIVELY***Implement upon commencement for all new employees***

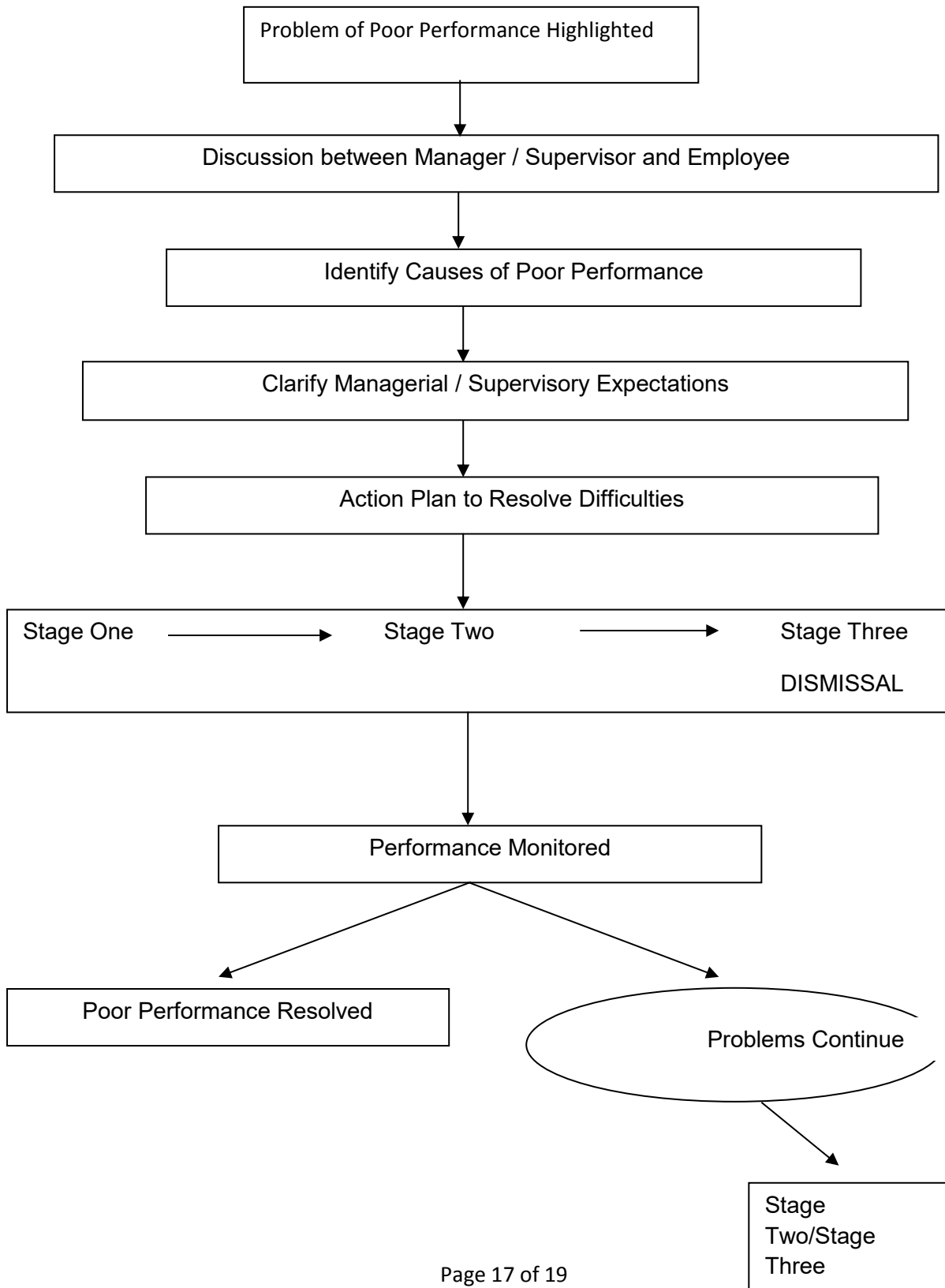
APPENDIX 2 – MANAGING POOR PERFORMANCE INFORMAL

INFORMAL PROCEDURE



APPENDIX 3 – MANAGING POOR PERFORMANCE - FORMAL

FORMAL PROCEDURE



APPENDIX 4 – AIDE MEMOIRE: CAUSES & REMEDIES

In the lists that follow, the examples are illustrative not exhaustive. They are intended to act as an aide memoir, not to constrain the options available to a manager / supervisor in addressing problems of poor performance.

Possible causes of poor performance

- Poor initial selection
- Inadequate understanding of the role
- Lack of appropriate induction
- Insufficient Training
- Lack of Supervision
- Absence of regular feedback
- Physical or mental incapacity
- Personal circumstances
- Relationships at work
- Family/domestic circumstances

Suggested remedies

- Standard Setting
- Work Shadowing
- Coaching / Mentoring
- Re-training
- Secondment
- Alternative employment – temporary or permanent
- Supervised practice
- Modification of duties
- Educational programme e.g. clinical, personal or organisational skills

APPENDIX 5 - EQUALITY IMPACT ASSESSMENT PART 1 INITIAL SCREENING

Service/Function/Policy/Project/ Strategy	Care Group/Executive Directorate and Department	Assessor (s)	New or Existing Service or Policy?	Date of Assessment
Capability Procedure	People & OD	Anthony Jones	Existing	29 January 2018
1) Who is responsible for this policy? People & OD				
2) Describe the purpose of the service / function / policy / project/ strategy? Clarity on processes and procedure for managing poor performance at DBTH				
3) Are there any associated objectives? ACAS code of practice				
4) What factors contribute or detract from achieving intended outcomes? – Capability of line managers				
5) Does the policy have an impact in terms of age, race, disability, gender, gender reassignment, sexual orientation, marriage/civil partnership, maternity/pregnancy and religion/belief? No				
<ul style="list-style-type: none"> • If yes, please describe current or planned activities to address the impact n/a 				
6) Is there any scope for new measures which would promote equality? no				
7) Are any of the following groups adversely affected by the policy?				
Protected Characteristics	Affected?	Impact		
a) Age	No			
b) Disability	No			
c) Gender	No			
d) Gender Reassignment	No			
e) Marriage/Civil Partnership	No			
f) Maternity/Pregnancy	No			
g) Race	No			
h) Religion/Belief	No			
i) Sexual Orientation	No			
8) Provide the Equality Rating of the service / function /policy / project / strategy – tick (✓) outcome box				
✓ Outcome 1	Outcome 2	Outcome 3	Outcome 4	
<i>*If you have rated the policy as having an outcome of 2, 3 or 4, it is necessary to carry out a detailed assessment and complete a Detailed Equality Analysis form – see CORP/EMP 27.</i>				
Date for next review: January 2021				
Checked by: John Scott		Date: 29 January 2018		



Please Note: This policy is currently under review and is still fit for purpose.

Statutory and Essential Training (SET) Policy

This procedural document supersedes: CORP/EMP 29 v.3 – Mandatory and Statutory Training Policy and CORP/EMP 28 v.2 – Corporate and Local Induction Policy. These two documents have been merged together.



Did you print this document yourself?

The Trust discourages the retention of hard copies of policies and can only guarantee that the policy on the Trust website is the most up-to-date version. **If, for exceptional reasons, you need to print a policy off, it is only valid for 24 hours.**

Author/reviewer: (this version)	Alison Barlow, Business Manager, Training and Education
Date written/revised:	May 2015
Approved by:	Policy Approval and Compliance Group
Date of approval:	22 nd July 2015
Date issued:	30 th July 2015
Next review date:	March 2018 – extended to November 2018
Target audience:	Trust Wide

Amendment Form

Please record brief details of the changes made alongside the next version number. If the procedural document has been reviewed **without change**, this information will still need to be recorded although the version number will remain the same.

Version	Date Issued	Brief Summary of Changes	Author
Version 4	30th July 2015	This is a new procedural document replacing the Mandatory and Statutory Training Policy (CORP/EMP 29 v.3) and the Corporate and Local Induction Policy (CORP/EMP 28 v.2)	Alison Barlow

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Section		Page No.
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1. INTRODUCTION

We are committed to creating and maintaining a positive and safe working environment, ensuring that you have the right skills, knowledge and ability to undertake your role to the required standard and minimise the risk to you and to patients, visitors and colleagues.

By following the required Statutory and Essential Training (SET) and completing the Local Induction process laid out in this policy you will be able to carry out your duties safely, effectively and efficiently ensuring that we meet the requirements of the NHS inspection regime and external legislation, in particular the NHS Litigation Authority (NHSLA) minimum data set, Care Quality Commission standards and the Health and Safety Executive.

Training needs will vary for groups of staff according to your profession and area of work. It is essential that your manager clearly identifies the training requirements for you. Appendix 1 has details of SET for each staff group.

This document is designed to provide you with corporate guidance and is in addition to any requirements made by your professional body or training which your Care Group or department has decided is essential in order for you to carry out your role.

2. PURPOSE

This policy has been developed to ensure that we have a positive risk management culture at DBHFT. The policy applies to all employees including those on permanent and temporary contracts, voluntary staff and all staff seconded to the Trust.

3. DUTIES AND RESPONSIBILITIES

3.1 Chief Executive

The Chief Executive will endorse and support the Statutory and Essential Training (SET) programmes for all staff within the Trust, encouraging a positive health and safety culture.

3.2 Trust Board

The content of SET sessions and packages will be identified and updated by subject leads. The Trust Board will approve and endorse the policy and we will make provisions for compliance within each Care Group/ Directorate.

3.3 Senior Managers

The Executive, Corporate and Care Group Directors/Managers are responsible for ensuring compliance with the policy within their areas of responsibility.

3.4 Training Leads

Subject leads are responsible for updating the content of all SET. They must ensure that there are sufficient training opportunities for all staff. The way in which the SET is delivered to you will be flexible and delivered at times convenient to operational areas. Subject leads must ensure

that records of attendance are sent to the Training and Education Department in a timely manner to allow details to be entered onto the Oracle Learning Management System (OLM) system.

3.5 Training and Education Department

The Training and Education Department will manage SET and this policy. We will ensure all courses are setup on the OLM including all necessary competencies. We will record all training attendances on OLM to ensure that monitoring and reporting is complete. Reports will be issued to Care Groups/Corporate Departments monthly identifying non-attendance. Compliance reports will be issued quarterly.

3.6 Managers

Managers must ensure that you receive a local induction in the first month of employment and must book you onto a Trust Welcome session. As part of your Appraisal your manager will identify the SET needed for your role, to ensure you are competent in all areas of your role.

Your manager must allow you to attend SET training sessions and is responsible for ensuring that you book onto and are released to attend SET face to face sessions or to complete by means of eLearning. Your manager must follow up any non-attendance and/or cancellation.

Managers must support and comply with this policy, making provisions to release staff for SET and provide information to the Training and Education department on training needs identified by the Appraisal process.

3.7 Employees

You are responsible for ensuring that you attend all training onto which you are booked and be able to demonstrate application of the training in your clinical area/department. You must inform your manager if you are unable to attend scheduled training and this must be rebooked immediately.

4. PROCEDURE

4.1 Trust Welcome

All new members of staff will receive a half day Trust Welcome session, focussing on Values and Behaviours within the first month of employment. This session will also include Health, Safety and Fire Awareness training.

4.2 Local Induction

New staff will also receive a local induction conducted by their Line manager. This must be completed within one week of the start of employment and confirmation of completion must be sent to the Training and Education Department to allow this to be recoded on OLM.

4.3 Core Skills SET

See Appendix 1

In order to make it possible for you to attend SET Training Leads may organise specific training tailored to clinical areas/departments. Your manager will contact trainers if this is necessary.

4.4 Action to be taken when employees fail to attend SET

All non-attendance (DNAs) and cancellations will be notified to your manager by the Training and Education Department. At this point your manager must reschedule for the next available training date. Failure to attend the rescheduled training dates will be documented in your personal file. Continued failure to attend may result in disciplinary action and immediate suspension from duty until you have completed the required training. It may also mean that you are unable to revalidate (currently applies to medical staff and in future will apply to nursing staff); and that you will be unable to move to any new pay points if a gateway to the new pay point includes the need to have completed SET.

5. MONITORING COMPLIANCE WITH THE PROCEDURAL DOCUMENT

What is being Monitored	Who will carry out the Monitoring	How often	How Reviewed/ Where Reported to
SET Requirements	Training and Education Department	Annually	Management Board, Executive Team, Trust Board.
Attendance	Training and Education Department	Monthly	Using OLM, compliance will be reported to Care Group Directors, General Managers and Directorate managers for dissemination to managers within their area of responsibility
Non Attendance	Training and Education Department	Monthly	Using OLM non-attendance will be brought to the attention of Care Group Directors, General Managers and Directorate managers for dissemination to managers within their area of responsibility
Effectiveness of training	Trainers and the Training and Education Department	After each session	The Training and Education Department will monitor using feedback questionnaires. Feedback will be collated and sent to course facilitators.
Completion of Local Induction	Training and Education Department	Monthly	Confirmation of Induction training will be matched to New Starter lists. Non completion will be reported

			to Care Group Directors, General Managers and Directorate managers for dissemination to managers within their area of responsibility.
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6. DEFINITIONS

Statutory Training

Statutory training is mandated by parliamentary legislation or statute regardless of the employing bodies own rules and regulations, and is required by law. At the development of this policy, the statutory training requirement for the DBHFT is Health and Safety and Fire. Initial training in this will be delivered at Trust Welcome.

Essential Training

Essential training is that which is required or commanded by your employer and is compulsory for staff. It is essential to enable you to carry out your duties safely, effectively and efficiently, which will help you maintain your competencies to the required standards.

Role Specific Training

Role Specific training is that which is required by your department and/or professional body.

7. EQUALITY IMPACT ASSESSMENT

An Equality Impact Assessment (EIA) has been conducted on this procedural document in line with the principles of the Equality Analysis Policy (CORP/EMP 27) and the Fair Treatment For All Policy (CORP/EMP 4).

The purpose of the EIA is to minimise and if possible remove any disproportionate impact on employees on the grounds of race, sex, disability, age, sexual orientation or religious belief. No detriment was identified. **See Appendix 3.**

8. REFERENCES

NHSLA Risk Management Standards for Acute Trusts 2011/2012 <http://www.nhs.uk>

APPENDIX 1 – SET MATRIX

SET Matrix

	Statutory or Essential	Frequency	E-learning/ Leaflet/ Classroom	Qualified Nursing	CSWs	Admin & Clerical Non - Patient Facing	Admin & Clerical Patient Facing	Allied Health Professionals	Doctors	Other Staff e.g. Ancillary	Notes:
Statutory											
Fire Safety	S	A	C/EI	•	•	•	•	•	•	•	
Health and Safety	S	A	C/EI	•	•	•	•	•	•	•	
Essential											
Manual Handling Level 1	E	3 Yearly	C			•	•				
Manual Handling Level 2	E	2 yearly	C	•	•			•	•	•	Staff working within SCBU, Medical Imaging, Dental, ECG, Occupational Health, Resus Team, Clinical Skills, Sim Centre, Outpatients (clinics), Chatsfield, Pain management unit, GU Medicine, Dietetics, SALT, Orthotics, Service Assistants, Tissue Viability Team and Medics.
Manual Handling Level 3	E	A	C	•	•			•			For ward staff, Physiotherapy, Occupational Therapy, Emergency Services (DCC, A&E, ITU), Theatre's and Children's.
Resuscitation - Basic Life Support Awareness - Vinnie Jones Video and Leaflet	E	Once Only	Video/L			•	•			•	See Resus Matrix
Resuscitation Level 1 - BLS / PBLs	E	A	C					•			See Resus Matrix
Resuscitation Level 2 - HBLS / PHBS	E	A	C	•	•			•	•		See Resus Matrix

Resuscitation Level 3 - ILS / PILS	E	A	C	•				•	•		See Resus Matrix
Resuscitation Level 4 - ALS / EPLS / NLS	E	A	C	•					•		See Resus Matrix
Infection Control Level 1	E	3 yearly	EI/L			•	•			•	
Infection Control Level 2	E	2 yearly	C	•	•			•	•		
Information Governance	E	A	EI/C/L	•	•	•	•	•	•	•	
Fraud Awareness	E	3 yearly	EI/C/L	•	•	•	•	•	•	•	
Equality & Diversity	E	3 Yearly	EI/C	•	•	•	•	•	•	•	
Safeguarding Children and Adults Level 1	E	3 Yearly	C/L			•	•			•	2 hour session including Safeguarding, Children, Safeguarding Adults, Prevent, MCA/DOLs, Domestic Abuse and Child Sexual Exploitation
Safeguarding Children and Adults Level 2	E	3 Yearly	C	•	•			•	•		Full day including Safeguarding, Children, Safeguarding Adults, Prevent, MCA/DOLs, Domestic Abuse and Child Sexual Exploitation
Safeguarding Children Level 3	E	3 Yearly	C	•				•	•		For staff who work directly with children – Accessed Externally
Conflict Resolution Awareness	E	3 Yearly	C	•	•	•		•	•	•	2 hour session for non-frontline staff who do not see patients or the public
Conflict Resolution Full Day	E	3 Yearly	C	•	•	•	•	•	•	•	Full day session for frontline staff who do see patients and the public
Key:											
Statutory - S											
Essential - E											
E-learning - EI											
Leaflet - L											
Classroom face to face - C											
Annual - A											

Resuscitation Matrix

Resuscitation Training Levels

	Qualified Nursing	CSWs	Admin & Clerical Non - Patient Facing	Admin & Clerical Patient Facing	Allied Health Professionals	Doctors	Other Staff e.g. Ancillary
BLS Awareness			*	*			*
Level 1					*		
Level 2	*	*			*	*	
Level 3	*				*	*	
Level 4	*					*	

Please note BLS Awareness is once only.

All other levels are annual.

Resuscitation Council (UK) level 3 courses must be recertified annually.

Resuscitation Council (UK) level 4 courses must be recertified every 4 years and updated annually on an in house update.

The level of training is dependent on clinical roles & responsibilities and may vary according to specialty.

As a general rule the minimum requirement is:

Qualified Nursing

- Band 5 ward based nurses should attend Level 2 training.
- Band 6 & 7 ward based nurses should attend Level 3 training.
- Band 5 nurses working in ED, AMU, SAW, MIU will attend Level 3 training.
- Band 6 & 7 nurses working in ED, AMU, SAW, MIU will attend Level 4 training.
- Midwives should attend Level 2 adult training and Level 4 Newborn.

Allied Health Professionals

- SALT, OT & Dietetics should attend Level 1 training.
- Physiotherapists should level 2 training.
- Physiotherapists covering on-call should attend Level 3 training.

Doctors

- All medical staff responding to cardiac arrest/medical emergency calls should attend Level 4 training.
- All other medical staff should attend the level of training relevant to role as recommended by Royal College guidance.

Staff with clinical responsibilities for multiple patient groups must attend training relevant to each (i.e. adult & paediatric or paediatric and neonatal). In this instance the levels may vary according to role.

If you are unsure of which level you require please clarify with your Royal College guidance or professional body according to your job role.

You may also wish to contact Resuscitation Services on extension 3827 or email resuscitation.services@dbh.nhs.uk to discuss this further.

APPENDIX 2 – LOCAL INDUCTION CHECKLIST

Local Induction Checklist



Doncaster and Bassetlaw Hospitals **NHS**
NHS Foundation Trust

LOCAL INDUCTION CHECKLIST FOR ALL TRUST STAFF

Name

Post Title

Care Group / Department / Ward/Area

Date of appointment

Name of line manager

Name of inductor if different from above

This document has been created to assist with the induction of new employees to the Trust. Please note that this is the minimum content requirement and some departments may wish to adapt this document to accommodate other issues unique to the department. A copy of adapted local induction programmes MUST be sent to the Training and Education department for audit purposes.



Introduction

The Induction Checklist ensures that all aspects of the induction process are covered in a timely and effective manner. This manual will help support in welcoming and preparing you for your role in the Trust. Ideally, your line manager will carry out the induction process, however, where this is not possible he/she will nominate an appropriate deputy. Local Induction is an important element in ensuring that you are safe and fully prepared for your new role.

The Induction process will enable you to feel part of your new area and have a better understanding of your role.

Checklist

You must be booked onto the next available Trust Welcome session in line with the Statutory and Essential Training (SET) Policy.

Although Induction starts at the recruitment process when you start to learn about the organisation and your role, the overall Local Induction could take several days or weeks, depending on your job and your individual needs. However, information on (or clarification of) basic conditions of employment, departmental, domestic and geographical information, should take place on the first day. As each item is discussed and your inductor feels happy that it has been adequately covered, it will be ticked, if any item does not apply to the post, it will be marked not applicable (N/A). Both you and your inductor must then sign when you are both happy that the subjects have been adequately covered.

Once the checklist has been completed, it will be placed in your personal file, a copy will be given to you for your records. The confirmation slip must be sent to the Training and Education Department by your inductor and details of completion will be recorded onto the Oracle Learning Management (OLM) system.

This induction must be carried out within the first week of employment.

The following section must be completed and signed off by the line manager (or deputy) within the FIRST WEEK of employment

Date of Trust Welcome session:

Please allow new employee adequate time to read all relevant procedures

INDUCTION SUBJECTS	INDUCTOR Please Tick	LOCAL NOTES
Health & Safety <ul style="list-style-type: none"> • Health & Safety at Work Act • Safety Representative • Procedures • Security • Waste disposal & COSHH • Display Screen regulations • Slips, Trips and Falls • Sharps Injuries • Food Hygiene • Fluid Contact 		
Fire safety procedure, notices and assembly points <ul style="list-style-type: none"> • Fire exits • Equipment • Alarms • Evacuation procedures • Emergency telephone numbers 		
Emergency Procedures <ul style="list-style-type: none"> • Major Incident Plan 		
Clinical Risk Management <ul style="list-style-type: none"> • Explain the Trust's culture of reporting • Explain the relationship between reporting and disciplinary action • How to obtain valid consent • <i>How to raise concerns about another's practice</i> 		
Datix Reporting of Accidents, Incidents and Near Miss <ul style="list-style-type: none"> • When to complete • How to complete 		
Reporting Faults <ul style="list-style-type: none"> • Estates • IT 		
First Aid <ul style="list-style-type: none"> • Name of First Aider: • Location of First Aid box 		
Resuscitation procedure <ul style="list-style-type: none"> • Procedure • Equipment • Crash trolley location • Emergency telephone number • Date for training session..... 		

<p>Use of equipment and medical devices training</p> <ul style="list-style-type: none"> • Explain training arrangements for all relevant pieces of equipment • Explain arrangements for checking competence 		
<p>Manual Handling (Locally)</p> <ul style="list-style-type: none"> • Advise - should not carry out manual handling activities until trained • Explain Manual Handling Policy • Give name of Manual Handling trainer • Explain process for accessing Induction training 		
<p>Personal Protective Equipment</p> <ul style="list-style-type: none"> • Advise what equipment should be worn/used • Issue or advise how to obtain it 		
<p>Infection Control procedures</p> <ul style="list-style-type: none"> • Refer to policy and location • Hand hygiene procedure • Infectious status of clinical setting • Give date for training session..... 		
<p>Hot Water (safe temperatures)</p> <ul style="list-style-type: none"> • Advise of safe temperatures for bath, shower, baby bath, bidet 		
<p>Salary/Payment</p> <ul style="list-style-type: none"> • Payment of salaries • Pay and pension queries • Claim forms • Salary progression (pay scale) • Pay clinics 		
<p>Identity Badge</p> <ul style="list-style-type: none"> • Explain policy on Identity Badges 		
<p>Uniform/dress code</p> <ul style="list-style-type: none"> • Procedure • Advise what is expected • Inform how to obtain • Location of changing facilities 		
<p>Personal Property</p> <ul style="list-style-type: none"> • Personal responsibility • Ensuring security of personal property • Lockers 		
<p>Security</p> <ul style="list-style-type: none"> • Personal safety • Ward/departmental security • Security of patients' property • Difficult or violent situations • Date for Conflict Resolution Training. If necessary..... 		
<p>Hours of Work</p> <ul style="list-style-type: none"> • Timekeeping • Confirm start and finish times • Advise of lunch/break times • Explain eRostering system 		

eRostering/ Time Sheets <ul style="list-style-type: none"> • Explain usage • Location of forms 		
Sickness Reporting <ul style="list-style-type: none"> • Who to ring • When to ring 		
Leave <ul style="list-style-type: none"> • Explain procedure for booking annual leave • Notify entitlement • Authorised Leave • Statutory holidays • Special leave • Maternity leave, partner/paternity, adoption leave • Career break scheme • Paid and unpaid leave 		
Trust Welcome <ul style="list-style-type: none"> • Confirm date of attendance and venue 		
Performance Appraisal <ul style="list-style-type: none"> • Appraisal arrangements • Objective setting 		
Car parking <ul style="list-style-type: none"> • Location of car parks • Security of car parks • Park and Ride/Shuttle Buses • Obtaining car parking permit 		
Ward/department geography <ul style="list-style-type: none"> • Toilets • Kitchen 		
Site geography <ul style="list-style-type: none"> • Location and opening times of Catering facilities /vending / Shops 		
Site maps <ul style="list-style-type: none"> • Identify relevant areas from maps 		
Trust <ul style="list-style-type: none"> • Trust Board • Strategic Direction and Annual Plan • Board and corporate committees • Directorate Staffing 		
Roles and Responsibilities Departmental introductions <ul style="list-style-type: none"> • Meet key colleagues • Identify responsibilities • Unit Structure • Key people • Strategy/objectives • Key issues 		
Policies and Procedures <ul style="list-style-type: none"> • Advise on location • Allocate time for individual to view/read as 		

<ul style="list-style-type: none"> appropriate • Advise individual of their responsibility for adhering to policies and procedures 		
<p>Confidentiality</p> <ul style="list-style-type: none"> • Explain code of practice • Has the confidentiality form been signed? 		
<p>Communications</p> <ul style="list-style-type: none"> • Data Protection • Using the telephone systems • Telephone skills • Electronic communications • Ward/Departmental Meetings • Give list of useful telephone numbers including emergency numbers • Explain how to use the e-directory • Explain policy on personal calls and mobile phones • Give hand-out on use of telephone system (e.g. transferring calls) • Dealing with complaints • Interactive Information Bulletin • Vacancy Bulletin • Training Manual and Bulletin • Care Brief 		
<p>Paging system</p> <ul style="list-style-type: none"> • Give list of useful names and numbers • Give hand-out on use of bleep systems 		
<p>Staff Support</p> <ul style="list-style-type: none"> • Occupational Health • 24/7 Counselling services • Physiotherapy • Chaplaincy 		
<p>Computer systems</p> <ul style="list-style-type: none"> • Give dates for training: 		
<p>Libraries</p> <ul style="list-style-type: none"> • Trust Libraries 		

Signature of Inductor.....

Date.....

Signature of Individual.....

Date.....

Departmental or Job Role Specific INDUCTION SUBJECTS	INDUCTOR Please Tick	LOCAL NOTES
<u>(please list)</u>		

STATUTORY AND ESSENTIAL TRAINING		
See MATRIX at Appendix 1 for subjects and methods of delivery	Date of Training Session Booked or Completed	Signature of Inductor

CLINICAL/OPERATIONAL POLICIES AND PROCEDURES			
	Date Completed	Signature of Individual	Signature of Inductor

EQUIPMENT & MEDICAL DEVICES			
	Date of Training	Signature of Individual	Signature of Inductor

Name of Individual(Please Print)

Signature of Individual

Date.....

Name of Inductor(Please Print)

Signature of Inductor

Date.....

*Please indicate below any subjects, which have not been covered and state reason.

.....

**The checklist must be retained in the individual’s personal file and a copy given to the individual.
Please return**

**Please ensure that a copy of the Confirmation of Completion of Local Induction below is sent to the
Training and Education Department, Education Centre, DRI**

CONFIRMATION OF COMPLETION OF LOCAL INDUCTION

I can confirm that a full local induction has been carried out and was completed on (insert date)

.....

For the following member of staff

Whose employment with the Trust commenced on

Name of Inductor.....

Signature of Inductor.....

Signature of Individual.....

Date.....

Please return to Training and Education, Education Centre, DRI

APPENDIX 3 - EQUALITY IMPACT ASSESSMENT PART 1 INITIAL SCREENING

Service/Function/Policy/Project/ Strategy	CSU/Executive Directorate and Department	Assessor (s)	New or Existing Service or Policy?	Date of Assessment
Statutory & Essential Training Policy	P&OD, training and Education	Alison Barlow	New policy	210715
1) Who is responsible for this policy? Name of CSU/Directorate		P&OD		
2) Describe the purpose of the service / function / policy / project/ strategy? Intended to benefit all Trust staff. To provide clear guidelines on the required Statutory and Essential Training requirements for all staff and a comprehensive Local Induction checklist.				
3) Are there any associated objectives? Improved compliance rates.				
4) What factors contribute or detract from achieving intended outcomes? – None				
5) Does the policy have an impact in terms of age, race, disability, gender, gender reassignment, sexual orientation, marriage/civil partnership, maternity/pregnancy and religion/belief? No				
<ul style="list-style-type: none"> • If yes, please describe current or planned activities to address the impact [e.g. Monitoring, consultation] – 				
6) Is there any scope for new measures which would promote equality? N/A				
7) Are any of the following groups adversely affected by the policy? No				
Protected Characteristics	Affected?	Impact		
a) Age	No			
b) Disability	No			
c) Gender	No			
d) Gender Reassignment	No			
e) Marriage/Civil Partnership	No			
f) Maternity/Pregnancy	No			
g) Race	No			
h) Religion/Belief	No			
i) Sexual Orientation	No			
8) Provide the Equality Rating of the service / function /policy / project / strategy – tick (✓) outcome box				
Outcome 1 ✓	Outcome 2	Outcome 3	Outcome 4	
<i>*If you have rated the policy as having an outcome of 2, 3 or 4, it is necessary to carry out a detailed assessment and complete a Detailed Equality Analysis form in Appendix 4</i>				
Date for next review: July 2018				
Checked by: Sam Debbage, Deputy Director of Education			Date: 21.07.15	



Employee Expenses and Subsistence Policy

This procedural document supersedes: CORP/EMP 33 v1 (amended) – Employee Expenses and Subsistence Policy



Did you print this document yourself?

The Trust discourages the retention of hard copies of policies and can only guarantee that the policy on the Trust website is the most up-to-date version. **If, for exceptional reasons, you need to print a policy off, it is only valid for 24 hours.**

Executive Sponsor(s):	Karen Barnard, Director of People & OD
Author/reviewer: (this version)	Mark Brookes, Associate Director of People & OD
Date written/revised:	21 November 2017
Approved by:	Workforce Education Committee
Date of approval:	21 November 2017
Date issued:	15 December 2017
Next review date:	November 2020
Target audience:	Trust-wide

Amendment Form

Please record brief details of the changes made alongside the next version number. If the procedural document has been reviewed **without change**, this information will still need to be recorded although the version number will remain the same.

Version	Date Issued	Brief Summary of Changes	Author
Version 2	15 December 2017	Minor changes to reflect outsourced payroll services	Mark Brookes
Version 1 (amended)	21 October 2014	Section 4.5.6 – Mileage Allowance - Use of Private Car amended.	Dawn Jarvis/ Mark Brookes
Version 1	27 May 2014	<ul style="list-style-type: none"> • New Policy – Read in full 	Dawn Jarvis

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1 INTRODUCTION

This policy applies to all staff groups of Doncaster & Bassetlaw Teaching Hospitals NHS Foundation Trust and details entitlements to claim expenses when costs are incurred by you as a direct result of work performed on behalf of the Trust.

In line with the Trust's commitment to environmental sustainability you are encouraged to minimise the environmental impact of your journeys by limiting journeys, car sharing, using the hospital shuttle bus and using low emission lease cars.

2 PURPOSE

The purpose of this policy is to reimburse you the necessary extra costs of meals, accommodation and travel arising out of official duties or training. It is important that you are not out of pocket when you are required to travel as part of your job; that you feel safe if you stay away from home as part of your job and that the Trust protects public money by ensuring that only actual costs incurred are reimbursed.

Expenses are paid at a rate to ensure you are not out of pocket AND to ensure the Trust is spending money wisely. Rates may be subject to revision at any time, but they will usually be reviewed annually.

3 DUTIES AND RESPONSIBILITIES

You are responsible for claiming the costs incurred on business travel using the e expenses system. You **MUST** ensure you only claim actual costs incurred.

Your line manager is responsible for ensuring ALL claims on the e expenses system are actual costs incurred as a result of travelling on business on behalf of the Trust. Your manager will also challenge you where it may have been more appropriate to use public transport or where a Trust shuttle bus service should have been used to travel between hospitals.

All authorised claims, which are processed by the Trust, are accepted in good faith on the understanding that the claimant is making a true and accurate claim. Making any false claim including the alteration or adaption of supporting documents would constitute an offence under the Fraud Act 2006 and will result in disciplinary action and/or civil recovery and prosecution, Suspicions of fraudulent claiming activity will be referred to the Trusts Local Counter Fraud Specialist. [CORP/FIN1](#) Fraud, Bribery and Corruption Policy & Response Plan provides further information.

4 PROCEDURE

4.1 Administration

Expenses will be reimbursed by credit transfer into your bank account usually in the month following the approval of the claim. Original receipts (i.e. not photocopies) must support all claims and, if VAT has been charged, the receipts should contain the VAT Registration number and the rate of VAT. For hotel accommodation, please ensure that the receipt is either in the name of the Trust or your own name. Receipts made out in the name of other organisations will be returned unpaid.

Expenses are claimed using the Trust's on line mileage calculation tool. For mileage and toll claims, the system uses online maps, shortest route to calculate the number of miles that can be claimed. The system has parameters which will allow a small increase in mileage should you need to travel a different route due to traffic or time constraints. However a warning message will be generated which your line managers is required to authorise.

To ensure payment is made in the month following the expense is incurred, claims must be submitted by you and approved by your line manager no later than close of play on the third working day after the month end.

You MUST present to your manager on request all valid receipts for all your claims for audit purposes. If you have lost a receipt then you need to explain why a receipt was not available in the "other details" section and have this authorised by your line manager. Any un-receipted expenses will be taxed as per Her Majesty's Custom and Revenue (HMRC) rules. To comply with the HMRC rules employees must retain their receipts for three complete tax years after the end of the tax year to which the claim relates to.

You should claim each month in arrears. Other than in exceptional circumstances, claims that are more than three months old will be automatically rejected by the on line expenses system. This is to make sure that managers and the whole Trust can closely manage expenses budgets. In addition you should ensure that all claims are made within the same financial year, and towards the end of the financial year (February and March) you seek to claim your expenses in a timely manner to ensure the Trust can continue to manage its finances and budgets effectively.

4.2 Travel Expenses

You will have Trust site base for the purposes of claiming travel expenses, this will be as stated on your contract of employment. Some people have a Trust wide contract meaning they are required to work at any site and fund their own travel and time to get there. Very occasionally, some colleagues might have their home listed as their base, but this is unusual.

Normal travel to work is not covered by the expenses policy and you cannot claim for travel from home to work. If you are on call and coming into work out of hours you are able to claim. Entitlement details can be found in either the Agenda for Change handbook, or in the appropriate Medical terms and conditions documents.

Once you are at work, if you need to travel to another Trust site, or to attend another venue as part of your Trust duties you are able to claim travel expenses for any excess over and above your normal travel to work costs. However, you are expected to use Trust transport e.g. the shuttle buses or public transport (when travelling to meetings in other cities for example) before you use your own car. If you are able to use the shuttle bus or public transport but you choose to use your own car you will only be reimbursed at the discretion of your line manager.

If you cannot use the shuttle bus or public transport for a valid reason, such as patient safety, no availability, time of travel etc. you will be reimbursed for miles travelled in the performance of your duties which are in excess of your home to work base (return) journey.

When the journey being reimbursed for starts at a location other than your agreed work base, for example home, the mileage eligible for reimbursement will be as set out in the example below.

In this example you work 15 miles away from your home

Journey (outward)	Distance	Eligible miles
Home to base	15 miles	None
Home to first call	Less than 15 miles	None
Home to first call	More than 15 miles	Eligible mileage starts 15 miles from home
Journey (return)		
Last call to base		Eligible mileage ends at base
Last call to home	Less than 15 miles	None
Last call to home	More than 15 miles	Eligible mileage ends 15 miles from home

If you normally use public transport for your daily commute to and from work you should deduct the normal cost of your daily commute from any claim. Any reimbursement of a weekly/monthly/annual travel pass will be taxable in line with HMRC regulations.

4.3 Change of Base of Work

If you are required by the Trust to work at an alternative site on either a temporary or permanent basis, and it costs you more than travelling to and from your original place of work, you are able to claim the extra costs at the Lower Rate of mileage (see Appendix 1) or for the appropriate bus/rail fare costs that are incurred. If you are required to change your

base of work permanently, you are able to claim excess travelling costs in the short term, in line with the [CORP/EMP9 v 5 policy](#).

These expenses are taxable, and you are expected wherever possible to use the inter site shuttle buses rather than make a mileage claims.

4.4 Coming to work outside normal working hours

If you are required to return to work outside your normal hours of duty you can claim travel expenses, but only where additional cost has been incurred, so if you have a travel season ticket for example or a parking season ticket you should not claim for those costs. If the only option open to you is to use your own transport, you will be able to claim mileage at the current agreed rate.

4.5 Other travel by road

4.5.1 Car Hire

If you require a hire car, petrol and hire costs will be reimbursed if your manager has sought and received written permission from an Executive or Care Group Director of the Trust. It may be that this is cheaper or more cost effective when time and other considerations are taken into account. All reasonable attempts should be made to keep costs to a minimum.

4.5.2 Taxi Fares

Taxi fares will only be reimbursed in exceptional circumstances and must be authorised in advance by an Executive or Care Group Director for example:

- When heavy or bulky goods/supplies need to be transported (though if this is inter site, advance arrangements should be made with inter site transport).
- When the public transport service is inadequate or not available.
- When saving in time is deemed to justify the payment.
- When on Trust business and travelling out of normal office hours for personal safety.
- When several staff are travelling together and this is cheaper than the public transport cost or use of a private vehicle.

In cases where you still choose to travel by taxi and the above circumstances do not apply, only the equivalent to public transport costs (i.e. bus or train fares) will be reimbursed.

4.5.3 Use of Motorcycles/Scooters

If you use your own motorcycle/scooter to travel on official business, a mileage rate will be paid (see Appendix 1). A receipt should support claims for parking, or other incidental expenses.

4.5.4 Travel Pedal Cycle

If you use your own bicycle to travel on official business, a mileage rate or an allowance will be paid (see Appendix 1).

4.5.5 Passenger Allowance

You can claim an additional allowance (see Appendix 1) if you give a lift to a Trust colleague in your own or lease car whilst you are both are travelling on official business.

4.5.6 Mileage Allowance – Use of Private Car

You as the driver, not the Trust, are personally liable for any incident. You MUST ensure your own personal motor insurance policy is fully comprehensive and permits the use of your vehicle for the purposes of travel on Trust business. Please note this is not the same as “cover for travel (or commuting) to and from your normal place of employment”.

You will not be able to claim unless you hold a motor insurance certificate that confirms you are covered for business use. A copy of this certificate must be forwarded to the People and Organisational Development Workforce Information Services team before any claim is submitted using the on line expenses system.

Your manager or the Workforce Information Services Team may ask to see this certificate at any time and it is your responsibility to keep this up to date. You cannot drive your own car for Trust business purposes without it, and you cannot therefore make a claim for expenses without the correct certificate.

Mileage reimbursement is paid at two rates:-

Lower Rate or LR – currently 25 pence per mile

LR will be allowance the majority of employees will be paid, as the Trust expects you to use the shuttle bus or public transport for inter Trust travel and travel to external meetings, unless there are valid reasons why you are unable to use the Trust facilities. If you intend to use your own vehicle and claim mileage, you should agree this with your line manager prior to travelling.

Special Rate or SR – currently 56 pence per mile up to 3500 miles dropping to 20 pence per mile thereafter (as per Agenda for Change National Agreement).

SR would apply to a small group of staff paid under the Agenda for Change Terms and Conditions of employment. In particular roles which require them to use a car to carry out their work duties in the Community. For example Community Midwives and Support Staff, Community Physiotherapists or Paediatricians as they need to travel to several patients' houses, to off-site clinics or GP surgeries in a day as part of their job.

For Medical Grades when they are travelling for clinical work, the special rate will also be payable. Further details can be found in the respective terms and conditions of employment documents (schedule 21 for consultants and schedule 20 for SAS doctors).

However for both staff groups, when they are using their car for non-community or non-clinical related travel, they must claim the lower rate mileage. The table below shows the e expenses rates for each mileage category:

Mileage category name	Staff group	Travel Type	Mileage Rate Paid
Consultant/SAS Schedule 21/20 only business mileage	Medical	Clinical	Special Rate
Consultant/SAS standard business mileage	Medical	Non-clinical	Lower Rate
Community Based business Mileage	Agenda for Change	Community	Special Rate
Business mileage	Agenda for Change	Non-Community	Lower rate

In order to be eligible to receive the special rate employees paid under the Agenda for Change terms and conditions, should complete the form at Appendix 2, have this signed by your line manager and sent to the Associate Director of P&OD who will respond within 10 days letting you know whether you are entitled to receive the special rate. The link below takes you to the form which requires completing:

[Pay and Pensions Page - Special rate Application form](#)

From the date this is authorised the on line expenses system will be updated to pay you the SR for any mileage incurred. You may be asked on an annual basis to update your application to ensure that your circumstances have not changed. If there is a dispute over your entitlement, you should seek to reach agreement in the first instance with your line manager, or with the Associate Director of People and OD and finally with the Director of People and OD.

The total claim for any journey made by car (including the mileage rate, parking, toll fees etc), should not exceed the standard class rail fare that can be achieved by advance booking. Should this occur then the equivalent of the standard rail fare will be reimbursed.

If you have a Trust lease car the mileage rate you can claim is as per the Her Majesties Revenue and Customs (HMRC) rates in force at the time you travel. You cannot claim the LR or SR under any circumstances.

4.5.7 The Corporate Manslaughter and Corporate Homicide Act (private vehicle use)

The Corporate Manslaughter and Corporate Homicide Act 2007 (CMCHA) was a landmark in law. For the first time, companies and organisations can be found guilty of corporate manslaughter as a result of serious management failures resulting in a gross breach of a duty of care.

The Act, which came into force on 6 April 2008, clarifies the criminal liabilities of companies including large organisations where serious failures in the management of health and safety result in a fatality. The legislation covers the use of employees using their own cars to drive on business.

Driving is the most dangerous work activity that people do. Research indicates that approximately 20 people are killed and 220 seriously injured each week in crashes, involving someone who was driving, riding or otherwise using the road networks for their work. For businesses that use vehicles at work, the new law means the employer is responsible for ensuring safety on the road.

Employer's duty of care under the legislation extends not only to their employees, but the members of the public that could come into contact with an employee who is using their own car for work purposes.

It is therefore essential that managers and their employees comply with the following at all times when a private vehicle is used for business purposes:

- The vehicle MUST be insured for business use. Social, domestic and pleasure and commuting insurance is insufficient for any type of business journey
- If over three years old, the vehicle MUST have a valid MOT certificate
- The employee MUST be a member of a roadside recovery organisation
- The vehicle MUST be regularly serviced and roadworthy
- The employee MUST carry out routine maintenance e.g. windscreen washer reservoir refill ; replace damaged wiper blades
- The manager MUST also ensure that the employee is licenced to drive the vehicle

More information on employer responsibilities in respect of other aspects of CMCHA can be found in the following links from the NHS Employer's website: [NHS Employers CMCHA link.](#)

4.6 Travel by Air

Travel by air will only be agreed in exceptional circumstances to support the Trust's commitment to environmental sustainability. Expenses claims for air travel will only be reimbursed by the Trust where:

- Where no such alternative train/coach service is available
- In cases of urgency

In all cases, the cost of air travel must be authorised in advance by an Executive Director of the Trust.

4.7 Travelling by public transport

The costs of standard public transport will be reimbursed by the Trust. You are expected to make advanced bookings on fixed trains wherever possible to take advantage of any cheap fares available.

If you need to book a rail ticket, this can either be done by contacting General Office or by booking direct on line and providing the receipt and tickets.

First class travel will not be reimbursed under any circumstances.

4.8 Toll charges

You can claim toll charges if you have to take a route which incurs such a cost e.g. bridges or toll roads, but you are expected to take the most cost effective route and avoid these costs wherever possible.

4.9 Parking charges

You can claim parking charges if you have had to park somewhere in the course of carrying out your duties. However you are responsible for ensuring that you have chosen the most cost effective parking, not necessarily the most convenient. You must make use of free parking if available e.g. use of a visitor's parking space the venue you are visiting. You cannot normally claim parking charges if you are attending a DBTH site, even if it is not your normal home site.

You must produce a receipt (to include VAT if appropriate) as the expense will not be paid without one. Parking fines or fines for other motoring-related offences will not be paid for in any circumstance.

4.10 Accommodation and Subsistence

The purpose of this section is to advise on expenses that can be claimed for the necessary extra costs of meals, accommodation or other sundries arising as a result of official duties or study leave away from home. Business expenses that may arise, such as the cost of a fax, Wi-Fi or official telephone calls, may also be reimbursed with proof of expenditure. No reimbursement will be made for any alcohol purchased and no request should be made to any person or organisation providing receipts to disguise its provision.

4.10.1 Overnight Accommodation

When you stay overnight in a hotel, guest house or other commercial accommodation with the agreement of your manager, the overnight costs will be reimbursed as follows:

- The actual, receipted cost of bed and breakfast up to a maximum limit set out in Appendix 1; plus
- The actual, receipted cost of a main evening meal and one other daytime meal per 24 hours, up to a maximum limit set out in Appendix 1.

Accommodation can be booked on line through the various hotel chain websites or sites such as late rooms etc. You should reclaim the expenditure incurred in the normal way.

4.10.2 Short overnight stays in Non Commercial Accommodation

When you stay for short overnight periods with friends or relatives or other non-commercial accommodation, the flat rate set out in Appendix 1 is payable, this includes an allowance for meals. No receipts will be required.

4.10.3 Host Organisation Accommodation

Employees staying in accommodation provided by the host organisation, for example for a residential training course, shall be entitled to an allowance to cover meals if they are not provided free of charge up to the total set out in Appendix 1.

Where accommodation and meals are provided without charge to employees, for example a residential training course, an incidental expenses allowance at the rate set out in Appendix 1 can be claimed.

4.10.4 Day Subsistence

A meal allowance is payable when you have to work elsewhere on official business and it is impractical for you to have taken your lunch with you. Day meals allowance rates are set out in Appendix 1. These allowances are not paid where meals are provided free at the temporary place of work e.g. a working lunch at a meeting or event; where you are at another Trust site where there is a subsidised eating facility or where you would normally bring a packed lunch and can do so at the different venue.

A day meals allowance is payable only when an employee necessarily spends more on a meal/meals than would have been spent at their place of work. The actual cost will be paid up to the limit set out in Appendix 1, and a receipt must be provided.

Normally, to claim a lunch meal allowance you would be expected to be away from your base for a period of more than five hours, including the normal lunch time period of 12 noon to 2 pm.

4.10.5 Evening Subsistence

To claim an evening meal allowance, you would normally be expected to be away from base for more than 10 hours and unable to return to base or home before 7 pm and as a result of the late return need an evening meal. You may qualify for both lunch and evening meal allowances in these circumstances.

4.11 Hospitality Expenses

The Trust will not normally reimburse hospitality expenses; however, in cases where this may be necessary, the permission in advance, of an Executive Director and the Chief Executive or in the absence of the Chief Executive, the Chair to the Board, will need to be sought. **Alcohol must never be claimed for.**

Section 3.8 of the [CORP/FIN 4 – Standards of Business Conduct Policy](#) provides further information

P11D AND TAX

In July each year, the Trust's SBS the Trusts payroll services provider will send some individuals a copy of their P11D tax return. The Inland Revenue regards some expenses as a

benefit (i.e. a profit). The P11D shows the total mileage and reimbursement for the year, and the assessed taxable benefits.

If the Trust reimburses for the costs of travelling to and from work, or pays these direct, for example by buying a season ticket for the employee, the value of this benefit is generally taxable. It is your responsibility to ensure that all taxable benefits are disclosed appropriately to HMRC.

As a rule, any mileage paid for home to work travel e.g. for staff on call, will be taxable unless the individual can show that there is an emergency and that they have 'taken responsibility', from the moment they received a call. The Inland Revenue generally consider that only medical staff can 'take responsibility'. Where home to work mileage is taxable, this is done through pay, and thus does not form part of the P11D return.

For further advice on tax matters, the following web site is a useful source of information; http://www.adviceguide.org.uk/england/tax_e/tax_what_is_taxable_income_e/benefits_in_kind.htm

Alternatively, you can contact the tax office (the details of which are shown on your annual notification of tax coding), or you can follow the link below for more information on how to contact the HMRC.

<http://search2.hmrc.gov.uk/kb5/hmrc/contactus/view.page?record=hpkspulskxM>

5 TRAINING/SUPPORT

User guides on how to make a claim for your expenses can be found on the intranet by following the link below:

http://intranet/E_expenses.aspx

This also contains a number of Frequently Asked Question to support users along with on line demos on how to input your expenses claim.

If you still encounter problems, each Care Group/ Corporate Directorate has a super user trained in the use of the system. Your line manager should be able to advise on who to contact.

6 MONITORING COMPLIANCE WITH THE PROCEDURAL DOCUMENT

What is being Monitored	Who will carry out the Monitoring	How often	How Reviewed/ Where Reported to
All employee expense claims	System generated	Every claim	Line Managers as a warning message.
All employee expense claim receipts	Line Managers	Every claim	Line managers will check receipts match with each claim.

All expense claims with warning messages that require payroll approval	Employee Services Management	Monthly	ESC will complete on line check against each claim with a warning.
All employee expense claims	Internal Audit	Periodically	Audit will complete a percentage check on submitted claims to ensure validity and appropriate authorisation.

7 DEFINITIONS

ESC	Employee Services Centre
HMRC	Her Majesties Revenue and Customs
LW	Lower rate mileage
SR	Special Rate mileage

8 EQUALITY IMPACT ASSESSMENT

The Trust aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are disadvantaged over others. Our objectives and responsibilities relating to equality and diversity are outlined within our equality schemes. When considering the needs and assessing the impact of a procedural document any discriminatory factors must be identified.

An Equality Impact Assessment (EIA) has been conducted on this procedural document in line with the principles of the Equality Analysis Policy (CORP/EMP 27) and the Fair Treatment For All Policy (CORP/EMP 4).

The purpose of the EIA is to minimise and if possible remove any disproportionate impact on employees on the grounds of race, sex, disability, age, sexual orientation or religious belief. No detriment was identified. (See Appendix 2)

9 ASSOCIATED TRUST PROCEDURAL DOCUMENTS

[CORP/FIN1 - Fraud, Bribery and Corruption Policy & Response Plan](#)

[CORP/EMP 9 - Restructure, reorganisation, Redeployment and Redundancy Policy](#)

[CORP/FIN 4 – Standards of Business Conduct Policy](#)

[E Expenses User guidelines and demos](#)

[Equality Analysis Policy \(CORP/EMP 27\)](#)

[Fair Treatment for All Policy \(CORP/EMP 4\)](#)

10 REFERENCES

[NHS Employers - Guidance on the Corporate Manslaughter and Corporate Homicide Act 2007](#)

[HMRC website \(employee contacts numbers and email address\)](#)

[Citizens Advice Bureau - Guide for tax](#)

APPENDIX 1 – INFORMATION ON SUBSISTENCE RATES

The following rates apply when making expenses claims for time spent away from the office or home on official Trust business or study leave.

Allowance	Conditions	Amount
Commercial short stay overnight with breakfast	Maximum amount on presentation or receipt	£80 outside the Greater London boundaries; £110 within the Greater London area
Non-commercial overnight stay	Flat rate	£25
Overnight stay meals allowance	Per 24 hour period	£20
Day Meals	Over 5 hours but less than 10 hours in 24 away from office	£5
Evening Meal	More than 10 hours from office and after 7pm	£15
Incidental Expenses Allowance	This allowance is for each 24 hour period	£4.50

Please note payments in excess of the above will only be approved in exceptional circumstances and must be agreed by the line manager before travelling e.g. Hotels in London can be more expensive at peak time of the year for example; Wimbledon, or other major sporting events.

In addition total payments for each 24 hour period away should never exceed £29.50 which is the maximum payable when adding any combination of applicable payments from the list above.

Mileage Allowances (with effect from 1st June 2014, and then reviewed annually)

Allowance	Rate	Who can claim
Private Car - Lower rate per mile	25p	All employees using their own car (see section 4.5.6)
Private car Special Rate per mile	56p	Employees using their own car who have line management and P&OD approval ONLY can claim this rate (see section 4.5.6)
Motorcycles/Scooters rate per mile	16p	All employees
Pedal Cycle rate per mile	10p (or £5 per day)	All employees
Passenger Allowance rate per mile	2p	All employees using their private or lease car and carrying passengers for business
Lease car mileage rate	Employees with a lease car can claim the current HMRC approved lease car mileage rate	

If a Hire Car is used for solely business purposes the Trust will reimburse the cost of refuelling on production of a receipt.

APPENDIX 2 - EQUALITY IMPACT ASSESSMENT PART 1 INITIAL SCREENING

Service/Function/Policy/Project/ Strategy	Care Group/Executive Directorate and Department	Assessor (s)	New or Existing Service or Policy?	Date of Assessment
CORP/EMP 33 v2	People & OD	Mark Brookes	Existing	21 November 2017
1) Who is responsible for this policy? People & OD				
2) Describe the purpose of the service / function / policy / project/ strategy? to ensure all employees claim their expenses and subsistence payment correctly and in accordance with the guidelines set down in this policy				
3) Are there any associated objectives? The Trust Strategy to control and reduce the cost of healthcare				
4) What factors contribute or detract from achieving intended outcomes? – joint staff side agreement to the policy, expense on line system automatic monitoring of payment thresholds				
5) Does the policy have an impact in terms of age, race, disability, gender, gender reassignment, sexual orientation, marriage/civil partnership, maternity/pregnancy and religion/belief? No <ul style="list-style-type: none"> • If yes, please describe current or planned activities to address the impact n/a 				
6) Is there any scope for new measures which would promote equality? n/a				
7) Are any of the following groups adversely affected by the policy?				
Protected Characteristics	Affected?	Impact		
a) Age	No			
b) Disability	No			
c) Gender	No			
d) Gender Reassignment	No			
e) Marriage/Civil Partnership	No			
f) Maternity/Pregnancy	No			
g) Race	No			
h) Religion/Belief	No			
i) Sexual Orientation	No			
8) Provide the Equality Rating of the service / function /policy / project / strategy – tick (✓) outcome box				
<input checked="" type="checkbox"/> Outcome 1	<input type="checkbox"/> Outcome 2	<input type="checkbox"/> Outcome 3	<input type="checkbox"/> Outcome 4	
<i>*If you have rated the policy as having an outcome of 2, 3 or 4, it is necessary to carry out a detailed assessment and complete a Detailed Equality Analysis form – see CORP/EMP 27.</i>				
Date for next review: November 2020				
Checked by: John Scott		Date: 22 November 2017		



Special Leave Policy

(Incorporating Carer's and Emergency Leave)

This procedural document supersedes: CORP/EMP 47 v.4 – Carers Leave and Leave for Domestic Emergencies



Did you print this document yourself?

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Executive Sponsor(s):	Karen Barnard, Director of People & OD
Author/reviewer: (this version)	John Scott, HR Manager
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Amendment Form

Please record brief details of the changes made alongside the next version number. If the procedural document has been reviewed **without change**, this information will still need to be recorded although the version number will remain the same.

Version	Date Issued	Brief Summary of Changes	Author
Version 5	15 December 2017	Re-named to reflect extension of policy to all types of special leave	John Scott
Version 4	Aug 2010	Format changed in line with CORP/COMM 1 v.5 New Sections:- <ul style="list-style-type: none"> • Section 2 - Equality Impact Assessment • Section 5 - Duties & Responsibilities • Section 11 - Monitor and Compliance 	Keeley Cromwell
Version 3	Aug 2007	Section 2 - Replace sentence 'staff (of either sex)' to 'all staff regardless of gender'	Rosalind Sullivan
Version 2	March 2005	Many changes made in line with Agenda For Change Terms and Conditions – please read policy in full.	Nicola Hellewell

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1. INTRODUCTION

Our staff are key to the continuing and future success of DBTH. Our aim is to become an employer of choice and our approach to people management is clearly summarised in the phrase Develop. Belong. Thrive. Here.

We want to support you to deliver our service for patients by providing you with clear and accessible guidance on your employment terms, entitlements and arrangements. By providing you and your manager with a clear, up-to-date and accurate policy, you can make informed decisions. To support this, we need a fair and consistent approach to leave entitlements.

If you feel the policy has not been applied correctly, you should talk to your line manager and, if necessary, you should follow the Trust's agreed Grievance Policy.

2. PURPOSE

This document outlines the various types of special leave, both paid and unpaid which may be granted at management discretion. It also details how to apply and in what circumstances the request may be agreed. Not all special leave granted is paid. Managers have a responsibility to ensure that unpaid leave is correctly recorded and reported to payroll promptly to ensure that the necessary adjustments to salary are made and that overpayment is avoided.

3. DUTIES AND RESPONSIBILITIES

For the policy and procedure to be effective, all DBTH staff need to be aware of this policy and follow it. Ultimately, it is the responsibility of the senior management of the Trust (including the Chief Executive, Executive Team and Care Group Directors); in conjunction with People & Organisational Development to ensure that this is the case. A table of responsibilities is included at Appendix 1.

4. PROCEDURE

4.1 Requesting and Approving Special Leave

4.1.1 Requests for all leave must be made to your line manager using the form included at appendix 2, giving as much notice as possible. Line managers will consider the needs of the service to ensure there is no adverse impact on service or patient care.

4.1.2 If the leave is granted, managers must record this using the form at appendix 2. A copy should be placed on the personal file. The line manager will follow the SBS process to stop pay, where appropriate.

4.1.3 All reasonable requests for special leave will be given due consideration. However, if your request has been rejected, and you fail to attend work, this may be regarded as an unauthorised absence and unpaid. It may also be regarded as misconduct and may be managed under the disciplinary procedure.

4.2 Types of special Leave

Information on the following types of leave is included at appendix 3.

- 4.2.1 Time Off for Medical or Dental Appointments
- 4.2.2 Bereavement
- 4.2.3 Emergency Leave
- 4.2.4 Parental Leave
- 4.2.5 Carer's Leave and Support for Carers
- 4.2.6 Jury Service
- 4.2.7 Leave for Other Public Duties
- 4.2.8 Military Reservists and Cadet Force Members
- 4.2.9 Magisterial Duties
- 4.2.10 Professional Leave
- 4.2.11 Other Special Leave (Paid)
- 4.2.12 Other Special Leave (Unpaid)

5. TRAINING/ SUPPORT

There is no formal training in support of this policy. Support in the interpretation and application of the policy can be obtained in the first instance from your line manager or from People and OD.

6. MONITORING COMPLIANCE WITH THE PROCEDURAL DOCUMENT

What is being Monitored	Who will carry out the Monitoring	How often	How Reviewed/ Where Reported to
Non-compliance of policy by Care Groups and Directorates	People & Organisational Development	On-going	Issues to be reported to respective Care Group and Directorate management teams.
Review of Policy	People & Organisational Development	On-going	Amendments to reflect guidance from NHS Employers, changes in best practice, or changes to legislation.
Compliance at Care Group/Directorate level	Care Group/ Directorate Senior Management	On-going	Managers review with Care Group and Directorate management teams as part of staff monitoring.
Compliance of Policy	Internal Audit	Annual Audit Practice	As per annual audit practice.
Compliance with Policy	Senior Management responsible for approval of annual leave	On-going	Review of staffing levels and workforce issues.

7. DEFINITIONS

None identified.

8. EQUALITY IMPACT ASSESSMENT

An Equality Impact Assessment (EIA) has been conducted on this procedural document in line with the principles of the Equality Analysis Policy (CORP/EMP 27) and the Fair Treatment For All Policy (CORP/EMP 4).

The purpose of the EIA is to minimise and if possible remove any disproportionate impact on employees on the grounds of race, sex, disability, age, sexual orientation or religious belief. No detriment was identified. (See Appendix 4)

We are committed to equal opportunities for all. This policy does not discriminate on the grounds of race, gender, disability, sexual orientation, religious belief, age, work pattern or Trade Union membership. The philosophy of the organisation is one that supports the development of all staff, enabling individuals to fulfil their full potential, expanding their knowledge and skill base whilst enabling the Trust to develop services. This policy has been assessed for equality and diversity as described in CORP/EMP 27 and the equality impact assessment is provided at appendix 4.

9. ASSOCIATED TRUST PROCEDURAL DOCUMENTS

- [Equality Analysis Policy \(CORP/EMP 27\)](#)
- [Fair Treatment for All Policy \(CORP/EMP 4\)](#)
- [DBHFT Leave Policy \(including Annual, Study, Professional and Duty for all staff, including medical\)CORP/EMP 49\)](#)
- [Parental Leave Policy \(CORP/EMP 15\)](#)

10. REFERENCES

NHS Employers - <http://www.nhsemployers.org/home>

APPENDIX 1 – ROLES AND RESPONSIBILITIES

Chief Executive	Formal overall responsibility for ensuring that all leave processes and procedures within the Trust are consistent.
Director of People & OD	Responsible for ensuring that there are robust leave processes and procedures in place.
Care Group & Corporate Directorate	Each area should establish clear, fair and equitable ways of applying this policy which are communicated regularly to all staff. This is to make sure that their core business and safe patient care is maintained.
All Managers	<p>A manager's first responsibility is to ensure the continuity of services for our patients. This needs balancing with the responsibility to ensure all staff have access to appropriate support in terms of time off to address situations and maintain a work/life balance.</p> <p>Secondly managers are responsible for ensuring they apply this policy consistently and fairly across their area, escalating any issue with covering the service or any unresolved disputes regarding application of this policy as soon as possible to their line manager with ultimate discretion lying with the Care Group or Corporate Management Teams.</p> <p>To do this, line managers should deal promptly with requests for leave, view any applications with an open mind and follow a fair and justifiable decision making process, and maintain appropriate records of applications in line with best practice for information governance.</p>
All Staff	We all share a responsibility to make sure that we organise our time and plan our time away from work. Part of this means reading and understanding this, and related policies, following the guidance and co-operating with the requirements of the leave procedures, and working with your line manager to avoid disruption to our services.

APPENDIX 2 - APPLICATION FORM FOR SPECIAL LEAVE

Please refer to the Trust’s Special Leave Policy for details of eligibility, entitlement, application process and requirements for supporting documentation.

Employee Name _____ Job Title _____

Type of Leave requested:

Reason for request:

Dates of leave:

(Dependent upon circumstances, this may be in retrospect or in advance and the dates may be actual or estimated – please make this clear).

Signature _____ Date _____

Manager’s Comments:

Manager’s Name _____ Job Title _____

Signature _____ Date _____

c.c. Employee
Personnel File

APPENDIX 3 - TYPES OF SPECIAL LEAVE

4.2.1 Time Off for Medical or Dental Appointments

There is no automatic right for paid time off to attend medical or dental appointments and whenever possible appointments should be arranged in your own time. If you cannot arrange an appointment outside of normal working hours, or, in an emergency situation, your manager may use their discretion and authorise time off, which may be time in lieu, time owing to the employee, or for the time to be made up later.

The authorisation of the time off should be agreed in advance. You should make your manager aware of all appointments and let them know at least the day before about the appointment. You will need to show your manager any letters, or appointment cards, confirming the procedure.

If you request time off for a non-emergency situation such as an elective procedure, you must get prior authorisation from your manager before confirming the date for the procedure/ appointment.

Failure to follow this procedure and/or provide relevant evidence of procedures or appointments may result in the time off being unpaid, treated as unauthorised absence and as a conduct issue.

For information on antenatal appointments please see the Maternity Policy and Procedure.

4.2.2 Bereavement

Leave can be granted on compassionate grounds in the event of a death involving either your immediate or close relatives. This leave entitlement is available to all employees regardless of length of employment.

In the event of a death involving an immediate relative, (normally defined as a spouse, civil partner, child, parent or sibling of the employee) up to six days paid special leave may be granted to give time off to make funeral arrangements.

If a death involves a close relative (normally defined as a grandparent, niece, nephew, aunt/uncle, or immediate relative of a partner) up to two days unpaid special leave may be granted.

Further time off may be granted at the discretion of your manager, which may be taken as annual or unpaid leave.

If you request leave to attend a funeral of an immediate relative (as defined above), paid leave should normally be granted for the day of the funeral. This is in addition to the provision made for bereavement.

Managers should consider individual circumstances and the needs of the service when granting special leave to attend a funeral, taking into account that some employees may have to travel long distances including going to another country. In these circumstances further unpaid special leave may be granted at the discretion of the manager, or you may choose between taking annual leave or unpaid leave or a combination of each.

Paid time off to attend a funeral for a work colleague as a representative of the Trust may be given when possible and subject to service delivery and standards being maintained.

4.2.3 Emergency Leave

The Trust recognises that there may be other occasions when you may need emergency leave to deal with unexpected situations and make necessary longer term arrangements.

You may be able take 1 or 2 days paid leave at short notice to deal with emergency circumstances. If more leave is required this may be granted at the discretion of the manager as annual leave or unpaid leave. There is no right to paid emergency leave.

Emergency leave is intended for urgent situations that could not be foreseen. It may be agreed when care for dependants breaks down e.g. child care or, there are other urgent domestic crises. A dependent is described as a partner, or “a near relative” or someone who lives at the same address as the employee. A relative for this purpose includes: parents, children, siblings or is someone who relies on the employee in a particular emergency.

Examples of when Emergency Leave may be granted:

- If a dependent falls ill or has been involved in an accident or assaulted.
- To make longer term arrangements for a dependent who is ill or injured.
- To deal with the unexpected breakdown in care arrangements for a dependent.
- To deal with an incident involving the employee’s child during school hours.
- Urgent and distressing domestic situations such as fire, flood or burglary.

Emergency leave is intended to cover unforeseen matters. If an employee knows in advance that they require time off, i.e. for a planned operation of a child, this should be taken as annual leave.

One day should normally be sufficient to make arrangements for the emergency situation, although more time may be required depending on the circumstances. Towards the end of the day you should contact your line manager to discuss the circumstances and the plan for the following day, at this point a decision on taking annual leave or unpaid leave could be made or your manager can defer the decision until your return to work.

‘There is normally a limit of six days (45 hours) paid leave in any rolling 12 month period (pro rata for part time employees). If you need a longer period of absence, talk to your line manager who may be able to offer alternative support (like additional unpaid leave; time of in lieu; or a career break.)The manager will record the amount of Emergency Leave, and whether it is paid or unpaid on the appropriate information system.

4.2.4 Parental Leave

Is covered in the Trust's [Parental Leave Policy \(CORP/EMP 15\)](#)

4.2.5 Carer's Leave and Support for Carers

If you are the primary carer of an adult who is disabled, ill or elderly, you can request unpaid carer's leave of up to one week per year. You must have completed one year's continuous service with the NHS and should give 21 days' notice in writing.

Managers have discretion to agree carer's leave and the period of leave granted and will act reasonably in considering requests. However, there may be occasions when this is not possible due to service requirements.

Situations may occur where your normal caring arrangements fall through or you need to undertake further caring duties that impact on your usual working hours. This might include covering school drop off/pick up, checking on an ill relative, attending hospital appointments that cannot be arranged outside of working hours.

In these cases, you can request short term flexibility to deal with the situation. Agreement is subject to the manager's discretion and dependent on service requirements. If the agreed flexibility is for less than 1 month and the hours worked are staying the same, the arrangement will be classed as informal.

For longer periods of time and where hours will change, please refer to the Flexible Working Policy and Procedure to apply for a change of hours.

Carers may need to check on the person they care for on a regular basis. In these circumstances carers may seek permission from their line manager to make a private call.

Frequency and duration of calls will be at the discretion of the manager but it is recommended that calls are limited to twice a day at agreed times.

4.2.6 Jury Service

You will be granted time off with pay for jury service provided you are not claiming expenses from the Courts for loss of earnings. In exceptional circumstances, where granting time off would be detrimental to the service and patient care, you may be asked to request a postponement of jury service. However, it will be the Court's decision as to whether the request is agreed. If a postponement is granted and you are called for jury service again, it is not usually possible to obtain a second postponement, again the final decision will rest with the Court.

If your jury service goes ahead you will receive pay from the Trust for the duration of the jury service. Your manager will record the length of time taken for jury service on your file.

4.2.7 Leave for Other Public Duties

Reasonable unpaid leave will be granted for essential civic and public duties, examples include serving as a justice of the peace or for membership of statutory tribunals. If you wish to apply for special leave under this heading, you must inform your manager as soon as you know the dates needed, by showing the official letter of notice.

4.2.8 Military Reservists and Cadet Force Members

Members of the reserve or cadet forces are entitled to one week's additional paid leave per year in order to attend annual camp. You can also opt to take your second week at camp as either special leave without pay or from your annual leave entitlement. You should advise your line manager of your intention to volunteer for service and provide documentary evidence of membership and confirmed dates of annual camp, giving adequate notice as outlined under the annual leave policy.

Compulsory mobilisation cannot be refused but the Trust may make an application for an exemption, deferral or revocation if your absence is likely to have a serious impact on delivering our service. Reservists will normally be given 28 days' notice of mobilisation and the maximum period for mobilisation is 12 months. Application must be made within 7 days of the employee's receipt of the mobilisation notice. If you want to volunteer for mobilisation, you must seek prior agreement from the Trust. We are not obliged to give consent for voluntary mobilisation.

Mobilisation is unpaid and annual leave will not accrue during this period. Where applicable the MOD will pay you're the employer's contributions to your NHS pension subject to you continuing to pay their own pension contributions. The Trust may apply to the MOD for an employer's award in respect of replacement costs that exceed the employee's earnings, for any non-recurring costs such as agency fees and advertising costs, and for any training needed as a result of mobilisation when they return to work to carry out their duties properly (but excluding any training that would have been carried out anyway).

After mobilisation you have the right to be reinstated to your former job within 6 months of mobilisation on terms and conditions that are no less favourable. Where this is not possible you will be offered an alternative position with same terms and conditions. To preserve the right to reinstatement, you must write to your manager no later than the third Monday after demobilisation confirming your intention to return within 13 weeks. In exceptional circumstances this may be extended up to a maximum of a further 13 weeks.

Mobilisation will not be a break in employment if you are reinstated within 6 months of demobilisation, and the service will be considered as continuous.

For further details please refer to www.sabre.mod.uk.

4.2.9 Magisterial Duties

If you undertake magisterial duties you may be granted special leave with pay, providing these do not exceed 18 days in any period of 12 months.

4.2.10 Professional Leave for Consultants

There can often be mutual benefit in Consultants undertaking some external non-DCC activity (e.g. work for Royal Colleges, formal teaching, wider NHS activities etc.). This will be reviewed annually during your job plan review. Any such external work must be agreed with your Care Group Director or Medical Director before you agree to it. Where it has been approved, the Trust will make every effort to support you by either approving leave or time shifting clinical commitments so that you can fulfil your commitment.

Application and authorisation is detailed in CORP/EMP 49: DBHFT Leave Policy (including Annual, Study, Professional and Duty for all staff, including medical))

4.2.11 Other Special Leave (Paid)

You may apply to your manager for special leave with pay if you are required to undertake public duties, which might include:

- serving as a justice of the peace
- membership of a local authority
- membership of a Police Authority
- membership of a Board of Prison Visitors
- membership of the managing or governing body of an educational establishment maintained by local education authority of further or higher education corporation
- attendance at court as a witness

4.2.12 Other Special Leave (Unpaid)

Special leave without pay for other reasons may be granted in exceptional circumstances and, normally, only when the employee's annual leave has been exhausted. Line managers should discuss the amount of leave granted with a member of their senior management team and/or their HR Business Partner.

APPENDIX 4 - EQUALITY IMPACT ASSESSMENT PART 1 INITIAL SCREENING

Policy	Care Group/Directorate and Department	Assessor (s)	New or Existing Service or Policy?	Date of Assessment
CORP/EMP 47 Special Leave Policy	People and Organisational Development	John Scott	Updated Policy	April 2017
1. Who is responsible for this policy? P&OD				
2. Describe the purpose of the policy? Process/guidance on implementation of special leave requirements.				
3. Are there any associated objectives? Provide consistent approach to implementation and application of annual leave processes across the Trust				
4. What factors contribute or detract from achieving intended outcomes? Staff may be unaware of their roles & responsibilities				
5. Does the policy have an impact in terms of age, race, disability, gender, gender reassignment, sexual orientation, marriage/civil partnership, maternity/pregnancy and religion/belief? No				
<ul style="list-style-type: none"> If yes, please describe current or planned activities to address the impact N/A 				
6. Is there any scope for new measures which would promote equality? No				
7. Are any of the following groups adversely affected by the policy?				
a. Protected Characteristics	Affected?	Impact		
b. Age	No			
c. Disability	No			
d. Gender	No			
e. Gender Reassignment	No			
f. Marriage/Civil Partnership	No			
g. Maternity/Pregnancy	No			
h. Race	No			
i. Religion/Belief	No			
j. Sexual Orientation	No			
8. Provide the Equality Rating of the service/ function/policy /project / strategy				
Outcome 1 ✓	Outcome 2	Outcome 3	Outcome 4	
9. Date for next review: November 2020				
Checked by: Anthony Jones		Date: April 2017		