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1 INTRODUCTION

- 1.1 In cases of alleged misconduct where dismissal is not an option and where an employee does not wish to contest the allegations, they can opt to have their case dealt with by way of a fast-track process. This will be a quicker and far less stressful process for all those involved.
- 1.2 Any manager contemplating offering this route for employee consideration should seek the advice of their HR advisor.
- 1.3 Any employee considering this route in resolution of a conduct matter and the associated allegations against them should seek advice via their union representative, a workplace colleague or a member of the HR team.

2 WHAT A FAST TRACK DISCIPLINARY PROCESS IS

- 2.1 It is a process to deal with disciplinary matters without the need for a formal investigation, or a formal disciplinary hearing (should this be determined as an outcome from any investigation). Therefore the process is quicker with the intention of reducing the detrimental/stress impact of the process upon all employees associated with the matter but principally the employee subject to the allegations. Potential outcomes of the process could be up to and including the issuing of a final written warning.

3 SCOPE

- 3.1 This process can be applied to all employees and staff who are subject to the Trust's TW10-097 Disciplinary Policy and Procedure.
- 3.2 The process can be applied to all conduct matters, where the available facts of the case and any known mitigation are determined by a manager and their HR advisor as leading to a resolution or disciplinary sanction that is likely to be more than an informal route but less than a dismissal. This process does not preclude managers resolving matters via informal routes if at all possible.
- 3.3 There is no obligation for managers or employees to offer or apply for this route in conduct matters; however consideration should be given to the facts of the conduct matter, the potential outcome and any benefit identified to reducing the time and any detrimental impact on all those involved in the case.

4 THE PRINCIPLES OF THE PROCESS

- 4.1 The fast-track process is not applicable where there is any possibility of dismissal. Nor can it be used if any one of the allegations is contested by the employee.
- 4.2 Cases can only be fast-tracked with the relevant employee's agreement that they do not wish to proceed with a full disciplinary investigation and any associated hearing. If there is no agreement to proceed then a formal investigation can be put in place if required and thereafter the matter will go a formal disciplinary hearing if deemed appropriate by a relevant case manager.
- 4.3 There will only be agreement to proceed if sufficient facts about the case are known, there is an agreement by the employee that they may receive a sanction as per the Disciplinary Policy (with a final written warning as a maximum) and that there is belief that the employee has learnt from the experience and is unlikely to repeat the misconduct.
- 4.4 If other employees are involved in the alleged misconduct, the fast track process should only be agreed to if it would not complicate the other cases.

- 4.5 If the fast track application is accepted there will no need for a formal investigation report although a sufficient and reasonable examination of the known facts must have taken place. A formal investigating officer will therefore not need to be appointed.
- 4.6 If a formal investigation has however commenced the employee may still elect at a later stage to complete and sign a fast track application form requesting a fast track meeting. In this situation the investigation will be suspended pending a management decision.
- 4.7 Any employee using this process is made aware of the detail of the process and informed that they can change their mind should they wish to (by withdrawing the application prior to or on the day of the meeting).
- 4.8 That an employee should only submit an application where they are genuinely accepting the allegations and not merely just to get the matter resolved.
- 4.9 That all applications are dealt with quickly to ensure that the case is 'fast tracked'.
- 4.10 That any learning/improvements and reflections are acted upon with as much importance placed upon this as if they had arisen as actions from a formal disciplinary process.
- 4.11 If the fast-track process is agreed, no formal disciplinary hearing will take place. A 'fast-track meeting' will proceed.
- 4.12 Under the fast-track process there is one single Disciplinary Authority determining the outcome, no witnesses can be called, a HR representative will be present in an advisory capacity only. If appointed (due to a formal investigation commencing initially) the Investigating Officer will not be called to give additional evidence. Brief hand written notes of the meeting will be kept by the Disciplinary Authority and/or the HR support.
- 4.13 The Disciplinary Authority may be the manager who has notified the employee of the allegations and received the application, or may be another manager who is deemed appropriate and has received the relevant information surrounding the matter for consideration. Advice should be sought from HR to determine the most appropriate manager to act as the Disciplinary Authority.
- 4.14 The employee can elect to appeal if they consider that the fast track meeting has not been conducted in a fair manner i.e. in accordance with the procedure or against the severity of sanction. Consideration will be given as to the most appropriate route as an outcome of any appeal which may be via another disciplinary fast track meeting to consider the appeal or via a full formal investigation in accordance with the Disciplinary Policy and procedure.

5 APPLYING FOR THE USE OF A FAST TRACK DISCIPLINARY

- 5.1 In all cases where an employee admits the initial allegations put to them in full (in writing) and states that they have learnt from the experience, the manager should consider offering them the opportunity to access the fast track process. Equally a trade union representative or work colleague supporting the employee may suggest this option to the employee. (Referred to as **Step A** in the process flow chart).
- 5.2 If the employee wishes to take this route (it is recommended that advice is taken from a trade union representative or work colleague before reaching this decision) they must sign a statement detailing their involvement in the alleged misconduct, accepting all the allegations put to them by their manager and requesting a fast track meeting on the understanding that a sanction may be awarded to them, which will not exceed a final written warning. This signed information will be presented on a 'fast track application form'. The employee should always consider taking advice through this process.

- 5.3 The fast track application form, once complete should be submitted to the relevant line manager who has advised them of the allegations. Applications should be made as swiftly as possible, respecting that the employee will wish to seek advice. Should an application not be received within 2 working days of the written allegations being provided to the employee, the HR department will commence normal arrangements for any formal investigation to proceed. This does not prevent the employee still applying. (Referred to as **Step B** in the process flow chart).
- 5.4 If the manager feels that the fast track approach is appropriate, they should aim to respond within 2 working days of receipt of the fast track application form.
- 5.5 The invite to the fast track meeting will be in writing giving a minimum of 2 working days' notice. Unless there are exceptional circumstances the fast track meeting should take place no more than 10 working days after the application has been submitted to the manager. This invite will set out the allegations the employee has admitted to, the right to be accompanied by a trade union representative or work colleague and the potential outcome. On receipt of this invite the employee has a final opportunity to consider and withdraw from the fast track process and request the commencement of a formal investigation. An employee must not suffer any detriment if they choose to proceed with their right to a full investigation and any associated disciplinary hearing, should this be appropriate.
- 5.6 At a fast-track meeting, an employee has the opportunity to present any mitigating evidence to the allegations in the presence of the Disciplinary Authority who will consider this together with the statement of admission.

6 FORMAT OF A FAST TRACK MEETING

- 6.1 Fast track meetings will take place in the following format:
- 6.1.1 Introductions;
 - 6.1.2 The Disciplining Authority outlines the nature of the allegation(s) accepted by the employee and advises that it (they) may result in disciplinary action up to and including the sanction of a final written warning. All sanctions under consideration will be:-
 - 6.1.2.1 Recorded file note;
 - 6.1.2.2 Informal measures;
 - 6.1.2.3 First written warning;
 - 6.1.2.4 Final written warning.
 - 6.1.2.5 Additionally any other appropriate actions or resolutions may be determined, such as the application of a competency framework or referral to a professional body;
 - 6.1.3 The Disciplining Authority confirms with the employee that they accept the allegations previously stated;
 - 6.1.4 The employee or their representative will have the right to put forward any comments or statements relating to the incident (including any mitigation);
 - 6.1.5 The Disciplining Authority may wish to question the employee;
 - 6.1.6 The Disciplining Authority will adjourn briefly with their HR support to give consideration to the case;
 - 6.1.7 The Disciplining Authority will then communicate their decision to the employee and their representative. The penalty will not exceed the sanction of a final written warning but in exceptional circumstances (e.g. the employee denies some of the allegations or is clearly in denial about the seriousness of the misconduct) the Disciplinary Authority may decide that the matter should be referred for a formal investigation and any associated disciplinary hearing, inclusive of a higher sanction to be considered;

6.1.8 The Disciplining Authority will send a letter confirming the decision of the meeting to the employee. The record of any warning will be kept on the employees' personal file.

6.2 The disciplinary sanction imposed will have the same weight and be current for the same period of time as a comparable warning issued at a full disciplinary hearing.

7 RIGHT OF APPEAL

7.1 The employee can elect to appeal the outcome, if they consider that the fast track meeting has not been conducted in a fair manner i.e. in accordance with the procedure or that the sanction awarded is too severe. In the case of an appeal, the matter may revert to a full formal investigation in accordance with the Disciplinary Policy and procedure.

7.2 The employee will be given 7 calendar days (from the date on which the decision was sent or given to the employee) to appeal the decision.

7.3 If any appeal is heard via a further fast track meeting, with a new Disciplinary Authority, any outcome will be final and no further right of appeal will be given to the employee.

8 HUMAN RIGHTS ACT

Implications of the Human Rights Act have been taken into account in the formulation of this document and they have, where appropriate, been fully reflected in its wording.

9 ACCESSIBILITY STATEMENT

This document can be made available in a range of alternative formats e.g. large print, Braille and audio cd.

For more details, please contact the HR Department on 01942 77 3766 or email equalityanddiversity@wwl.nhs.uk

Appendix 1

ADDITIONAL MANAGEMENT GUIDANCE**What type of cases could this process be applied to?**

A manager should consider all cases/allegations in respect of their team members in the first instance to determine if a timelier and less stressful resolution via the fast track process could be applicable however this will not always be appropriate depending on the circumstances and facts of the case/allegations.

Equally an employee may submit an application in respect of any case. Again, in addition to the application having to meet the eligibility criteria, the case must be a suitable case.

A case will only be suitable if the following are true:

1. The facts of the case are known i.e. the act that underpins the allegations is not in dispute and is clearly evidenced and admitted.

That the case is 'fact-based' and therefore the case can be established without the need for a thorough formal investigation e.g. an issue evidenced by patient records, timekeeping records, IT audit, and professional registration renewal records. Therefore it is for cases where the heart of the matter is one of fact and therefore the allegations are clear and evidenced by records/data.

For example, it is alleged that an employee leaves work part way through a shift without permission and was therefore Absent Without Leave (AWOL) and this is recorded and there is no dispute that (a) the employee left work early and (b) they did not have permission to do so. Therefore the facts are not in dispute, the employee may have some reasons that they wish to put forward in way of mitigation but the case may be suitable for this process. (However, in this example, if the employee accepts that they left early but claims to have had permission and was therefore not AWOL then the case would not be suitable as whilst it seems to be a case that may be suitable the eligibility criteria would not have been met i.e. the employee disputes the allegation)

2. That it is not a case in which dismissal would be considered.

Human Resources must be involved in reviewing any applications and can provide advice on whether a case is suitable or not.

3. All eligibility criteria is met, namely:

- The employee does not wish to contest any of the allegations (the employee may feel that they have mitigation to put forward but admits in full to the allegation(s));
- The employee demonstrates that they have learnt from the experience;
- The employee does not have a live final warning on file;
- The employee has taken advice. Where the employee is a member of a Trade Union they should seek advice from their union representative. If the employee is not a member of a union they are encouraged to seek advice from a chosen source e.g. line manager, work place colleague, Human Resources etc.;
- The manager/HR feels there are no obvious indications that the employee does not appear to be making an informed decision. However, it is not reasonable to expect a manager to always be able to identify this and therefore it does remain the responsibility of the employee to take advice and seek information and support;
- There may be cases that a full investigation is required for another associated reason e.g. due to a referral to a professional body, a report for ICO, due to involvement of other employees etc.

Appendix 2: Process Flow Chart

