FOI REF: 26/713

6th November 2026

East Sussex Healthcare
NHS Trust

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Further to your recent request for information made under the Freedom of Information Act (FOIA) 2000, I now set out our answers to your specific questions, and any clarifications sought and provided, as follows:

If a member of staff were reasonably suspected of being under the influence of drugs or alcohol at work, what procedure would apply (for example removal from duty, referral to Occupational Health, any form of testing, or the disciplinary process), and is this set out in a written policy? If so, please provide a copy of the relevant section.

Please find attached the following redacted documents in response to your request:

- Disciplinary_Redacted, specifically Sections 2.6, 2.6.1, 2.7.5 and 5.9.2.
- 00871_P Drug, Alcohol and Substance Misuse Policy_Redacted, which is relevant in its entirety.

Please note that it is the Trust's FOI policy to only provide the names of staff that are graded at Band 8a (senior staff) or above, and therefore the names of staff at Band 7 and below have been redacted from the attached document.

Please also note we are applying Sections 31(1)(a), 40(2) and 44 as we have redacted the names of the Trust's IT Systems, staff that no longer work for the Trust, and any reference to direct phone numbers, as set out below:

Section 31(1)(a)

Under Section 31(1)(a) of the Freedom of Information Act (FOIA), the Trust can confirm that it holds information relevant to your request, however, we are unable to disclose it for the reasons explained below.

Historically, we would disclose information relevant to the Trust's IT systems, infrastructure and software as part of our transparency agenda under the terms of the Freedom of Information Act (FOIA). However, in light of the recent cyber-attacks on NHS hospitals and the serious impact these have had on patient services and the loss of patient data, we are having to reconsider this approach. Please see several links to news articles about these recent cyber incidents provided below for your information.

- *NHS England — London » Synnovis Ransomware Cyber-Attack*
- *NHS England confirm patient data stolen in cyber attack - BBC News*

- *Merseyside: Three more hospitals hit by cyber attack - BBC News*

As a result of these attacks, thousands of hospital and GP appointments were disrupted, operations were cancelled, and confidential patient data was stolen which included patient names, dates of birth, NHS numbers and descriptions of blood tests.

When we respond to a Freedom of Information request, we are unable to establish the intent behind the request. Disclosure under the FOIA involves the release of information to the world at large, free from any duty of confidence. Providing information about our systems or security measures to one person is the same as publishing it for everyone. While most people are honest and have no intention of misusing information to cause damage, there are criminals who look for opportunities to exploit system weaknesses for financial gain or to cause disruption.

In the context of the FOIA, the term ‘’public interest’’ does not refer to the private or commercial interests of a requestor; its meaning is for the “public good”. The Trust receives a significant number of requests each year regarding our IT systems, infrastructure and cyber security measures. Most of these requests are commercially driven and serve no direct public interest. Information relevant to our IT portfolio is often requested by consultancy companies who then pass on this information to their client base. Many of these requests are submitted through the FOI portal whatdotheyknow.com who publish our responses, making this information available to an even wider audience.

As a large NHS Trust we hold extensive personal data relevant to our patients and staff, much of which is considered very sensitive. A lot of this information is held electronically on various administration and clinical systems. We have a duty under the Data Protection Act 2018 and the UK GDPR to protect this personal information and take all necessary steps to ensure this data is kept safe. This means not disclosing information that could allow criminals to gain unlawful access to our systems and infrastructure. The Trust can be heavily fined should it be found to have acted in a negligent way which results in a personal data breach. We need to demonstrate that we comply with our legal obligations under data protection and freedom of information legislation, but we must be careful that too much transparency does not result in harm to our patients or staff, or cause disruption to our services.

Moreover, under the Network and Information Systems (NIS) Regulations Act 2018, operators of essential services such as NHS organisations like ours have a legal obligation to protect the security of our networks and information systems in order to safeguard our essential services. By releasing information that could increase the likelihood or severity of a cyber-attack, the Trust would fail to meet its security duties as stated in Section 10 of the Network and Information Systems Regulations 2018. Should we not comply with these requirements regulatory action can be taken against the Trust. Further information about the Network and Information Systems (NIS) Regulations Act 2018 can be found here – The Network and Information Systems Regulations 2018: guide for the health sector in England - GOV.UK

Your request asks for policy documents which unfortunately mention specific details regarding our IT Systems which, for the reasons explained above, would be inappropriate to release into the public domain. If disclosed, it is possible that patient data as well as other confidential information would be put at risk. Such disclosure could also impact on the security of our systems and result in serious disruption to the health services we deliver to the local community. Section 31(1)(a) of FOIA provides that information is exempt if its disclosure would, or would be likely to, prejudice (a) the prevention or detection of crime. In this case, disclosure would be likely to prejudice the prevention of crime by enabling or encouraging

malicious acts which could compromise the Trust's IT systems and infrastructure. The Trust's capacity to defend itself from such acts relates to the purposes of crime prevention and therefore Section 31(a) exemption is applicable in these circumstances. For these reasons, the Trust considers disclosure of the information you are seeking to be exempt under Section 31(1)(a) [law enforcement] of the FOIA and the names of the IT systems within the policy is being withheld. The full wording of Section 31 can be found here: Freedom of Information Act 2000

Section 31 is a qualified exemption and therefore we must consider the prejudice or harm that may be caused by disclosure of the information you have requested, as well as apply a public interest test that weighs up the factors in maintaining the exemption against those in favour of disclosure.

In considering the prejudice or harm that disclosure may cause, as explained should the Trust release information into the public domain which draws attention to any weaknesses relevant to the security of our systems or those of a supplier, this information could be exploited by individuals with criminal intent. Increasing the likelihood of criminal activity in this way would be irresponsible and could encourage malicious acts which could compromise our IT systems or infrastructure, result in the loss of personal data and/or impact on the delivery of our patient services. We consider these concerns particularly relevant and valid considering the increasing number of cyber incidents affecting NHS systems in recent years and the view by government, the ICO and NHS leaders that the threat of cyber incidents to the public sector is real and increasing.

- *Organisations must do more to combat the growing threat of cyber attacks | ICO*

In the Government's Cyber Security Strategy 2022-2030, the Chancellor of the Duchy of Lancaster and Minister for the Cabinet Office states on page 7:

"Government organisations - and the functions and services they deliver - are the cornerstone of our society. It is their significance, however, that makes them an attractive target for an ever-expanding army of adversaries, often with the kind of powerful cyber capabilities which, not so long ago, would have been the sole preserve of nation states. Whether in the pursuit of government data for strategic advantage or in seeking the disruption of public services for financial or political gain, the threat faced by government is very real and present.

Government organisations are routinely and relentlessly targeted: of the 777 incidents managed by the National Cyber Security Centre between September 2020 and August 2021, around 40% were aimed at the public sector. This upward trend shows no signs of abating."

With this in mind, we then considered the public interest test for and against disclosure. It should be noted that the public interest in this context refers to the public good, not what is 'of interest' to the public or the private or commercial interests of the requester. In this case we consider the public interest factors in favour of disclosure are:

- Evidences the Trust's transparency and accountability
- Provides information relevant to the IT systems and applications the Trust uses
- Reassures the public and partners that the Trust procures these systems in line with Procurement legislation

- Reassures the public and partners that the Trust's IT infrastructure and systems are secure

Factors in favour of withholding this information are:

- Public interest in crime prevention
- Public interest in avoiding disruption to our health services
- Public interest in maintaining the integrity and security of the Trust's systems
- Public interest in the Trust avoiding the costs associated with any malicious acts (e.g. recovery, revenue, regulatory fines)
- Public interest in complying with our legal obligations to safeguard the sensitive confidential information we hold

In considering all of these factors, we have concluded that the balance of public interest lies in upholding the exemption and not releasing the information requested. Although disclosure would provide transparency about our software systems and IT infrastructure, this is outweighed by the harm that could be caused by people who wish to use this information to assess any vulnerabilities in our security measures and consequently use this information for unlawful purposes. Cybercrime can not only lead to major service disruption but can also result in significant financial losses. As a publicly funded organisation, we have a duty for ensuring our public funding is protected and spent responsibly. Moreover, as a public body the Trust must demonstrate that it keeps its confidential data and IT infrastructure safe and complies with relevant legislation, but at the same time we must be vigilant that transparency does not provide an opportunity for individuals to act against the Trust. In considering the impact that recent cyber-attacks have had on NHS services, including the cancellation of thousands of patient appointments and procedures as well as the loss of confidential patient data, we consider the overriding public interest lies in withholding this information. The private or commercial interests of a requester should not outweigh the public interest in protecting the integrity of our systems and continuity of our essential patient services. Although we appreciate there may be legitimate intentions behind requesting this information, we must take a cautious approach to requests of this nature and appreciate your understanding in this matter.

I trust this information is helpful in its detail or explanation however, if you are dissatisfied with the response, then you have the right to request an internal review. If you wish to seek an internal review, please write to the Freedom of Information Team at esh-tr.foi@nhs.net quoting the above FOI reference number, within 40 working days. Please note the Trust is not obliged to accept a request for an internal review after this time period.

Yours faithfully

Freedom of Information (FOI) Team
East Sussex Healthcare NHS Trust
0300 131 4716
Core Hours of Business: Monday to Friday 9.00am to 4.00pm

East Sussex Healthcare NHS Trust

Disciplinary Procedure

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Associated Documents:	Policy for Safeguarding Allegations Against Staff Exclusion from Work Guidelines Protocol for Parallel Criminal and Disciplinary Investigations Anti-Fraud Bribery and Corruption Policy Violence and Aggression Policy Professional Registration Policy Disclosure and Barring Service Policy Pay Procedure Interests, Gifts, Hospitality and Sponsorship Policy Performance Improvement Procedure Sickness Management Procedure Resolution Procedure Anti-Harassment and Bullying Policy Corporate Records Management Policy

Did you print this yourself?
Please be advised the Trust discourages retention of hard copies of procedural documents and can only guarantee that the procedural document on the Trust website is the most up to date version

Version Control Table

Version number and issue number	Date	Author	Reason for Change	Description of Changes Made
V3.0	December 2016	[redacted], HR Manager	Review and refine processes	Re-formatted re-write of procedure
V4.0	April 2021	[redacted], HR Advisor	Periodic Review	Introduction of Just Culture principles including Pre - Investigation checklist & Colleague Support Checklist Introduction of agreed outcome
V5.0	February 2025	[redacted], HR Advisor	Periodic Review	Re-formatted re-write of procedure

Consultation Table

This document has been developed in consultation with the groups and/or individuals in this table:

Name of Individual or group	Title	Date
Operational HR		December 2024
Workforce Policies Partnership Group		March 2025

This information may be made available in alternative languages and formats, such as large print, upon request. Please contact the document author to discuss.

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1. Introduction

1.1 The Trust is committed to ensuring that acceptable standards of conduct and behaviour are expected from all colleagues; in line with the Trust's values and we are committed to helping people improve and learn from mistakes. This policy and procedure is designed to ensure a fair, systematic and consistent approach is taken when a colleague's behaviour or action is in breach of workplace rules and falls short of the expected standards.

1.2 The fair treatment of colleagues supports a culture of fairness, openness and learning in the NHS by making colleagues feel confident to speak up when things go wrong, rather than fearing blame. An objective and prompt examination of the issues and circumstances should be carried out to establish whether there are truly grounds for a formal investigation and/or formal action. Would training for support, guidance or informal management be more appropriate and productive?

1.3 This procedure embeds a "Just Culture" approach to managing concerns, which can be seen as an environment where equal emphasis is put on accountability and learning, and one that when an adverse event occurs the instinctive approach is to ask "what went wrong?" rather than "who is to blame?"

1.4 In addition to the breaches outlined in Appendix B of this procedure, the Trust may also terminate a contract of employment due to Some Other Substantial Reason (SOSR).

1.5 Where a colleague's ability to do their job is affected by a lack of skill or knowledge, or ill health, this will be managed by following the Performance Improvement Procedure or the Sickness Management Procedure.

1.6 East Sussex Healthcare NHS Trust has made every effort to ensure this policy does not have the effect of unlawful discrimination on the grounds of the protected characteristics of: age, disability, gender reassignment, race, religion/belief, sex, sexual orientation, marriage/civil partnership and pregnancy/maternity. The Trust will not tolerate unlawful discrimination on the basis of, spent criminal convictions, Trade union membership or non-membership. In addition, the Trust will have due regard to advancing equality of opportunity for and fostering good relations between; people from different groups and people with protected characteristics. Where adjustments are needed to make this policy/procedure more accessible to colleagues, this can be discussed with the HR Solutions Team.

2. Purpose, Rationale, Principles & Scope

2.1 This procedure is intended to help maintain high standards and to ensure fairness and consistency when dealing with allegations of misconduct.

2.2 Minor conduct issues can usually be resolved informally by the line manager. This procedure sets out the informal steps and also the formal steps to be taken if the matter is more serious or cannot be resolved informally.

2.3 This procedure applies to all colleagues regardless of length of service. It does not apply to Temporary Workforce Services (Bank), agency workers or self-employed contractors.

2.4 This procedure does not form part of the contract of employment and it may be amended at any time following the usual process for changing procedures.

2.5 Where a colleague raises a request for resolution during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the resolution. Where the resolution and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

3. Definitions

Disciplinary Standards describe the types of conduct that warrant disciplinary action and are listed in Appendix B. This is a guide and not an exhaustive list.

Responsible Officer – senior divisional manager who reviews the outcome of the Pre-Investigation checklist and determines if formal investigation is required. NB not to be confused with the role of Case Manager in regard to medical and dental colleagues.

Investigating Officer – identified by the Responsible Officer to undertake a formal investigation into the allegations.

Hearing Chair – Independent manager not previously involved in the process to chair disciplinary hearing.

Some Other Substantial Reason – This is one of the five legal reasons to dismiss a colleague and although there is no legal definition of substantial, the Trust's view a substantial reason is one that is not frivolous or insignificant. Examples of some other substantial reason for dismissal include: the colleague's refusal to accept new terms of employment that the Trust deem reasonable, a significant breakdown in working relationships, conflict of interest, and reputational risk.

4. Accountabilities and Responsibilities

4.1 All colleagues are expected to behave in a manner that promotes good relations with other colleagues and are expected to present a professional image to the general public, patients/service users, relatives and carers.

4.2 All colleagues are responsible for ensuring they are aware of this procedure.

4.3 Managers must consider how they can support any colleague involved in this process. The following list gives examples of adjustments that may need to be considered. This list is not exhaustive.

- Consideration of any disability, e.g. access to rooms, larger font paperwork
- Consideration of carers responsibilities, e.g. timing of meetings
- Consideration of any health requirements, e.g. sickness, Occupational Health Advice
- Translation services
- Consideration of the protected characteristics of the Investigating Officer, Chair of the hearing and the Appeal Hearing Chair

4.4 Responsibilities of Colleagues

It is the responsibility of colleagues to:
• Behave in accordance with the ESHT values.
• Actively take part in investigation

• To attend all meetings that form part of the Disciplinary Procedure including informal and formal meetings if fit to do so
• To attend Occupational Health appointments if there is any doubt with regards to fitness to attend a formal meeting
• To maintain and uphold confidentiality at all times.

- To identify a trade union representative/workplace companion (if desired) and update the relevant parties during the process if the union representation/workplace companion changes
- give the necessary permission for information to be shared with the trade union representative and whether withdrawn
- There may be occasions whereby in accordance with the professional body colleagues are required to self-refer and it is incumbent on the individual to know their responsibilities of when to do so. If a colleague self refers they should inform the Trust of any concerns relating to their practice

4.5 Responsibilities of the Investigating Officer

It is the responsibility of the Investigating Officer to:
• Behave in accordance with the ESHT values.
• To carry out a full and impartial investigation, obtain witness statements and compile a report for consideration without undue delay.
• To establish, based on the evidence identified, whether there is a case to answer
• To attend the hearing and present their investigation findings.
• To maintain and uphold confidentiality at all times.
• To provide weekly updates to the colleague and their identified representative, HR Advisor, Responsible Officer and HR Business Partner.

4.6 Responsibilities of the Human Resources team

It is the responsibility of the Human Resources team to:
• Behave in accordance with the ESHT values
• Provide advice to managers and colleagues on the application of this procedure.
• Provide support to managers on the application of this procedure.
• Ensure that all relevant documentation is copied and distributed to all relevant parties.
• Advise colleagues of their right to be accompanied by a trade union representative/workplace companion at the formal and appeal stages of the procedure.
• To maintain and uphold confidentiality at all times.

- Where permission is given, to share information and updates with the identified trade union representative or workplace companion

4.7 Responsibilities of the Hearing Chair and Chair of the Appeal Panel

It is the responsibility of the Hearing Chair to:
• Behave in accordance with the ESHT values
• Be satisfied that a fair and reasonable process has been followed and that a fair hearing has been undertaken.
• Communicate the outcome in writing to the colleague within 14 calendar days of the hearing.
• To maintain and uphold confidentiality at all times.

4.8 Responsibilities of the workplace companion including trade union representative or workplace colleague

It is the responsibility of the workplace companion to:

• Behave in accordance with the ESHT values
• Attend formal hearings when requested - trade union representatives who are colleagues of the Trust should not be unreasonably refused time off to attend hearings. Formal hearings will be arranged taking into consideration the availability of the colleague and workplace companion (where this is known in advance) and other relevant attendees. Should the representative be unable to attend on the chosen day, an alternative date will be agreed with the colleague and their representative in line with the Employment Relations Act, provided that the request is reasonable, and the date ideally falls within 7 calendar days of the original date for the hearing.
• Be allowed to address the hearing to put and sum up the colleague's case and confer with the colleague during the hearing. The workplace companion does not have the right to answer questions on the colleague's behalf, address the hearing if the colleague does not wish it or prevent the colleague from explaining their case.
• A colleague with a disability who may need additional support at the formal hearing can additionally be accompanied by an individual who will provide the support: for example, a signer.
• To maintain and uphold confidentiality at all times.
- To notify the HR Solutions team if they are no longer representing a colleague

5. Procedures and Actions to Follow

5.1 Colleague Support

5.1.1 Being subject to allegations of misconduct can be very upsetting and stressful for the colleague and other colleagues affected. Managers will use the Colleague Support Checklist to ensure that support is identified (Appendix H).

5.1.2 Investigating Officers are responsible for maintaining communications and will make every effort to ensure the colleague being investigated receives regular progress updates on any investigation until the matter is concluded.

5.1.3 Where there are concerns about a colleague's health or wellbeing, Occupational Health advice will be sought.

5.1.4 Colleagues, including those who are involved as witnesses, will have access [redacted] and can obtain information on support services available via the Occupational Health and Wellbeing, Supporting the Emotional Wellbeing of Colleagues extranet page.

5.2 Assessment of allegations

5.2.1 Allegations of misconduct will be carefully assessed by the relevant line manager, with HR advice, to decide if the matter can be managed informally where possible or whether there are grounds for further investigation and/or formal action.

5.2.2 The line manager will carry out initial fact finding, without unreasonable delay and should ensure that they have explored all of the issues where possible, being certain of the veracity of any facts and meet the colleague to establish their version of events. The line manager may also meet with other relevant individuals to get a good understanding about what has happened.

5.2.3 What is the difference between 'fact finding' and a 'formal investigation?

Establishing Facts (Informal)	Investigation (Formal)

Line Manager	Investigating Officer to be appointed (this is usually the line manager)
Gathering information/facts surrounding the issue/complaint that have given rise to concern – readily available e.g. documentary records such as timesheets/written statements	Investigation is directed by allegations.
The individual concerned has been made aware informally that there is an issue	Individual notified formally by the Responsible Officer (RO) of formal proceedings that will take place
Issue is known about by local team manager(s)	Case discussed with the RO
No notice is required i.e. no invite to formal meeting; no right of representation	Right to notice to prepare following notification of formal invite to meeting in writing
No right of representation	Right of representation applies
Progress managed locally	Progress monitored by RO
Not following a formal process	Action in line with disciplinary process

Prior to an investigation commencing the line manager will review the information gathered and complete the Pre-Disciplinary Investigation Checklist (Appendix F) before the Responsible Officer makes a decision to commence any formal investigation.

5.3 Informal Action

5.3.1 One of the main aims of this procedure is to promote a supportive workplace culture where concerns about conduct or behaviour are dealt with informally and directly with those concerned wherever possible.

5.3.2 It is good practice for managers to deal with issues of minor misconduct informally. In many cases, an informal conversation between a manager and the colleague will be sufficient to address any issues and identify if there are any prevailing contributory factors. There will be careful consideration of each case, and a decision made whether informal action can occur. This may not always be appropriate i.e. cases relating to sexual misconduct.

5.3.3 The line manager will discuss any concerns regarding the colleague's conduct and behaviour directly with them in an environment that is conducive to discretion and confidentiality. In some cases it may be appropriate for additional training, coaching and advice may be offered to the colleague. When there are concerns about conduct, line managers will talk to the colleague, as soon as possible, normally within a few days. The line manager should facilitate a conversation that is two-way, offering opportunity for the colleague to discuss and talk through the issue. If any scope for development or improvement is identified as a result of this the manager should provide constructive and honest feedback to the colleague considering how best to support them in achieving this.

During this discussion the line manager will:

- Make the colleague aware of the nature of the concern about their conduct or behaviour
- Advise the colleague of the standard of conduct expected
- Support the colleague to improve by agreeing standards and behaviours that need to be attained within a set timeframe
- Agree a period of review

- Complete a meeting summary detailing the conversation and agree these with the colleague. A copy will be given to the colleague and a copy will be retained by the line manager. If the colleague's conduct has improved and is sustained the file note will be disregarded after a period of 12 months.

5.3.4 Should the concerns persist the line manager will review and give consideration to whether formal action under this policy should be invoked.

5.4 Formal Action - Investigations

5.4.1. When a misconduct issue is alleged to have occurred and before any disciplinary hearing is held, the matter will be investigated. The line manager will undertake a brief fact-finding exercise to enable them to complete the Pre-Disciplinary Investigation Checklist. The Responsible Officer will review the outcome of the Pre-Disciplinary Investigation checklist and confirm if the investigation is to proceed.

5.4.2 In some cases of alleged misconduct, it may be necessary to relocate, make role adjustments or exclude the colleague from work while the investigation(s) or disciplinary procedure (or both) are carried out. If excluded, the colleague should not visit Trust premises or contact any Trust colleague or patients unless authorised to do so by the manager (or line manager's manager), or in the case of a medical emergency. Exclusion is not considered to be disciplinary action. During the period of exclusion, the Investigating Officer will maintain regular contact with the excluded colleague in order to keep the colleague informed of any progress in the investigation. The Investigating Officer will agree with the colleague what will be reasonable contact for the duration of the exclusion. See Exclusion from Work Guidelines for further information.

5.4.3 The Investigating Officer should make all efforts to complete the investigation within 6 weeks of appointment and submit their report to the Responsible Officer within a further five days. In cases where it is not possible to complete the investigation within 6 weeks, the Investigating Officer must inform the Responsible Officer about this and outline an update on the investigation, who will then communicate the new timescales to the colleague.

5.4.4 The Investigating Officer will provide weekly progress updates to the colleague under investigation and their identified representative, the Responsible Officer and HR Business Partner regarding the progress of the investigation.

5.4.5 Should the colleague under investigation have concerns regarding the timeframe for the investigation they should raise their concerns with the Responsible Officer.

5.4.6 The Trust's Counter Fraud team are responsible for investigating allegations involving Fraud Bribery and Corruption, in accordance with procedures documented in the NHS Anti-Fraud Manual issued by the NHS Counter Fraud Authority. The investigation will be conducted in line with the Trust's Anti-Fraud Bribery and Corruption Policy, which outlines the process for criminal investigation by the Counter Fraud Service (CFS), and in conjunctions with HR as outlined in the Trusts Protocol for Parallel Criminal and Disciplinary Investigations.

5.5 Agreed Outcome

5.5.1 Where the facts of the allegation are not in dispute, the colleague has accepted the allegations against them and the allegations do not constitute gross misconduct where dismissal is a potential outcome; an agreed outcome process can be considered following the conclusion of the investigation process.

Appendix I details the agreed outcome process and this must be considered by the Responsible Officer with the full agreement of the individual and their Trade Union Representative or workplace colleague. The HR Department will support the Responsible Officer in this process.

If either the Responsible Officer or the colleague concerned does not accept an agreed outcome or level of sanction offered, the formal disciplinary process will be followed.

5.6 Disciplinary Hearing

5.6.1. The Responsible Officer will identify an independent manager, not previously involved in the process, to Chair the Disciplinary Hearing. The identified Hearing Chair will be asked to declare any conflict of interest prior to the hearing. A professional member of the Human Resources Department will be appointed to support the Hearing Chair and will ensure that the hearing is conducted in accordance with Trust procedure and will provide guidance and advice to the Hearing Chair on relevant employment law and good practice.

5.6.2 The colleague will be given written notice of the hearing, including sufficient information about the alleged misconduct and possible consequences to enable them to prepare at least 14 calendar days prior to the hearing. The colleague will be given copies of relevant documents and witness statements.

5.6.3 With the agreement of all parties and on the instruction of the Hearing Chair, the HR representative to the Hearing Chair will make an electronic recording of the Disciplinary Hearing to ensure an accurate account of the hearing is made. The use of any other form of electronic recording or listening device, including mobile phones at meeting, without prior agreement is strictly prohibited and may be subject to further disciplinary action.

5.6.4 The colleague has a right to be accompanied at the hearing by a trade union representative or a workplace colleague, to act as a companion.

5.6.5 If the colleague refuses or is unable to attend a meeting on two occasions the Chair may make a decision in their absence based on the evidence provided.

5.6.6 The colleague should let the Hearing Chair know as early as possible, but no later than 7 calendar days before the hearing if there are any relevant witnesses they would like to attend the hearing or any documents or other evidence they wish to be considered.

5.6.7 At the hearing, the Investigating Officer will state the nature of the allegation(s) and outline the case by going through the available evidence. The colleague will be given the opportunity to respond to the allegation(s). Whilst the colleague has to respond directly to any questions, the colleague's representative has the right to outline the colleague's case, ask questions and clarify questions and statements for and on behalf of the colleague.

5.6.8 In considering whether a sanction is to be given, the Hearing Chair will take into account the colleagues previous work record and evidenced mitigation. Expired sanctions will only form part of the Hearing Chair's consideration where they demonstrate a pattern of behaviour relevant to the allegation(s). The hearing will follow the procedure as set out in appendix D.

5.6.9 The Hearing Chair will inform the colleague in writing of the decision, ideally within 7 calendar days of the hearing and no longer than 14 calendar days. Where there are any delays, the colleague will be informed with a reason for the delay.

5.7 Disciplinary Action and Dismissal

Sanctions include the following:

First written warning. Where there are no other active written warnings on a colleague's record, they will usually receive a first written warning. It will usually remain active for six months.
Final written warning. In cases of further misconduct where there is an active first written warning on a colleague's record, they will usually receive a final written warning. This may also be used without a first written warning for serious cases of misconduct. The warning will usually remain active for 12 months.
Dismissal or other action. A colleague may be dismissed for further misconduct where there is an active final written warning on their record, or for any act of gross misconduct. Examples of gross misconduct are given in section 5.8.

The Hearing Chair may consider other sanctions short of dismissal, including demotion or redeployment to another role (where permitted by the contract), and/or extension of a final written warning with a further period of review

Additional action as result of being issued with a disciplinary sanction: If a first or final warning is issued, the colleague will not be awarded a pay increase on the pay step date whilst the sanction is still live. The Chair of the hearing will ask the line manager to action this. In those situations, the manager should initiate a pay step review meeting before the expiry of the warning, and if all other requirements have been met, the colleague will progress to the next pay step effective from the date after the warning expires.
In addition to the issue of a final written warning the following actions may be appropriate:

- Transfer to another department/location/site
- Demotion or downgrading without pay protection
- Change of shift or working pattern

5.8 Appeals

5.8.1 The colleague may appeal in writing to the Chief People Officer, stating the full grounds of appeal, within 14 calendar days of receipt of written confirmation of the decision.

5.8.2 Grounds for the appeal may be one or more of the following:

• The sanction is too severe in relation to the misconduct
• There is an allegation of bias
• Misrepresentation of facts affecting the reason(s) for dismissal
• The procedure was not fairly followed

5.8.3 The appeal letter should include all documents in support of the appeal, although the colleague may submit further documents up until a minimum of 7 calendar days before the date of the appeal hearing. Any documents submitted outside of this timeframe may not be considered. The appeal document and any supporting documents are considered to be the

colleague's statement of case. Management side will prepare a response to the appeal and present their response at the hearing.

5.8.4 Where a colleague lodges an appeal, a hearing should be arranged as soon as possible, taking into account the notice period for notification of the hearing and sharing documentation.

5.8.5 The appeal will be chaired by an impartial manager and of equal pay band or above to the chair of the disciplinary hearing. The appeal manager will be someone who has not previously been involved in the case. The colleague will have a right to bring a companion; the companion may be either a trade union representative or a colleague.

5.8.6 A professional member of the Human Resources Department will be appointed to provide procedural advice to the manager hearing the appeal. The HR representative will advise the manager hearing the appeal on relevant employment law and good practice.

5.8.7 The final decision will be confirmed in writing, usually within 7 calendar days of the appeal hearing. There is no further right of appeal.

5.8.8 In cases of appeal against a dismissal, the date of which the dismissal takes effect will not be delayed pending the outcome of the appeal hearing.

5.9 Gross Misconduct (Appendix B)

5.9.1. Gross misconduct will usually result in dismissal without warning, with no notice or payment in lieu of notice (summary dismissal).

5.9.2 The following are examples of matters that are normally regarded as gross misconduct:

a) theft or fraud
b) physical violence (see appendix G) or bullying
c) deliberate and serious damage to property
d) serious misuse of the Trust's property or name
e) deliberately accessing internet sites containing pornographic, offensive or obscene material
f) serious insubordination
g) unlawful discrimination or harassment
h) bringing the Trust into disrepute
i) serious incapability at work brought on by alcohol or illegal drugs in accordance with the Substance Misuse Policy
j) causing loss, damage or injury through serious negligence
k) clinical misconduct/compromise of patient safety
l) a serious breach of health and safety rules
m) a serious breach of confidence

This list is intended as a guide and is not exhaustive; further details can be found at Appendix B.

5.10 Referral to External Bodies

Depending on the allegations, where a colleague is registered with a professional body, such as registered nurse, midwife, or other, the regulatory body may be notified either during or after the investigation process. This decision will be taken by the most senior professional lead from the Division, in conjunction with the relevant professional lead for the Trust such

as ADN, Chief Pharmacist, Lead AHP etc. Colleagues will usually be notified by the referrer when a referral is made. All referrals will be logged and overseen by the Lead nurse for workforce. See Professional Registration Policy for more details.

There may be occasions whereby in accordance with the professional body colleagues are required to self-refer and it is incumbent on the individual to know their responsibilities of when to do so. If a colleague self refers they should inform the Trust of any concerns relating to their practice.

Where allegations concern the safeguarding of children or vulnerable adults, the Trust Safeguarding Lead must be notified without delay. See Policy for Safeguarding Allegations Against Staff.

The Trust has a legal duty to refer to the Disclosure and Barring Service if a colleague has been removed from a regulated activity, see Disclosure and Barring Service Policy for more details.

Where appropriate, investigations by the counter fraud team, or other agencies, such as the police or social services, may be carried out separately from investigations under this procedure. The Trust will give full cooperation and in these circumstances the Trust will only delay carrying out internal investigations following the disciplinary procedure where absolutely necessary. See Anti-Fraud Bribery and Corruption Policy and Protocol for Parallel Criminal and Disciplinary Investigations.

Where cases include serious personal data breaches likely to result in a risk to the rights and freedoms of data subjects, the Trust has a legal duty to report such cases to the Information Commissioners Office within 72 hours via the Trust's Data Protection Officer.

5.11 External Advice

Colleagues can access further guidance on employment issues from the following bodies;

The Advisory, Conciliation and Arbitration Service **(**ACAS**)** - ACAS | Making working life better for everyone in Britain

The Advisory, Conciliation and Arbitration Service **(**ACAS**) - ACAS Code-Based Employer Helpline - Employers Direct**

Citizens Advice - Citizens Advice

6. Equality and Human Rights Statement

6.1 An Equality and Human Rights Impact assessment has been carried out and is documented in appendix A.

7. Training

7.1 Please refer to the Induction and Mandatory training policy and the Training Needs Analysis.

7.2 On-line guidance of the policies referred to in this policy can be found via the Extranet Page or the Human Resources Department.

8. Data protection

8.1 When managing colleagues under the Disciplinary Procedure, the Trust processes personal data collected in accordance with its Data Protection Policy and retained in accordance with the Corporate Records Management Policy. Data collected from the point at which the Trust commences action under the procedure is held securely and accessed by, and disclosed to, individuals only for the purposes of managing their conduct. Inappropriate access or disclosure of a colleague's data constitutes a data breach and should be reported in accordance with the organisation's Data Protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the Trust's Disciplinary Procedure.

9. Monitoring Compliance with the Document

Monitoring Table

Element to be Monitored	Lead	Tool for Monitoring	Frequency	Responsible Individual/Group/ Committee for review of results/report	Responsible individual/ group/ committee for acting on recommendations/action plan	Responsible individual/group/ committee for ensuring action plan/lessons learnt are Implemented
No. and level of sanction per year -– including agreed outcomes	Assistant Director HR – Operations	Conformity	Annual	Trust Board	HR SMT	HR SMT
Colleagues with protected characteristics	Assistant Director HR – Operations	Conformity	Annual	POD	HR SMT	HR SMT

10. References

- Employment Rights Act 1996
- Employment Relations Act 2004
- Employment Act 2008
- Protocol for Parallel Criminal and Disciplinary Investigations http://nww.esht.nhs.uk/finance/cfs/
- Advisory, Conciliation and Arbitration Service (ACAS) Acas | Making working life better for everyone in Britain - NHS Improvements Dido Harding letter 24 May 2010 with guidance relating to the management and oversight of local investigation and disciplinary procedures
- NHS Resolution "Being Fair – Supporting and Just and Learning Culture for staff and patients following incidents in the NHS Being fair report - NHS Resolution

Equality and Health Inequalities Impact Assessment (EHIA) template **Appendix A – EHIA Form**

Undertaking EHIA helps us to make sure that our services and polices do not inadvertently benefit some groups more than others, ensuring that we meet everyone's needs, and our legal and professional duties.

This is important because:

- Assessing the potential for services and policies to impact differently on some groups compared with others is a legal requirement.
- People who find it harder to access healthcare services are more likely to present later when their disease may be more progressed, have poorer outcomes from treatment, and need more services than other groups who have better access.

The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. It is against the law to discriminate against anyone because of:

- age
- gender reassignment
- being married or in a civil partnership
- being pregnant or on maternity leave
- disability
- race including colour, nationality, ethnic or national origin
- religion or belief
- sex
- sexual orientation.

These are called 'protected characteristics'. The Act requires that public sector organisations meet specific equality duties in respect of these protected characteristics. This is known as the public sector equality duty.

Public Sector Equality Duty

Public bodies have to consider all individuals when carrying out their day-to-day work – in shaping policy, in delivering services and in relation to their own employees.

Public bodies must have due regard to the need to:

- eliminate discrimination
- advance equality of opportunity
- foster good relations.

Armed Forces Covenant Duty

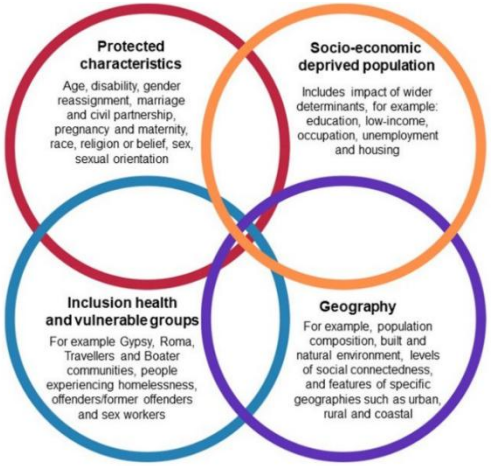
The new Covenant Duty raises awareness of how Service life can impact on the Armed Forces community, and how disadvantages can arise due to Service when members of that community seek to access key local services. The Duty requires organisations to pay due regard to the Covenant principles when exercising functions in healthcare. “Due regard” means that we need to consciously consider the unique obligations and sacrifices made by the Armed Forces; that it is desirable to remove disadvantages faced by the Armed Forces community; and that special provision may be justified in some circumstances.

Health Inequalities Duties- Equity for all
In addition to our legal duties in relation to Protected Characteristics, the Health and Social Care Act and other legislation, NHS Planning Guidance and sector specific recommendations require the NHS to have regard to the need to address health inequalities (or differences in access to or outcomes from healthcare) and take specific action to address them.

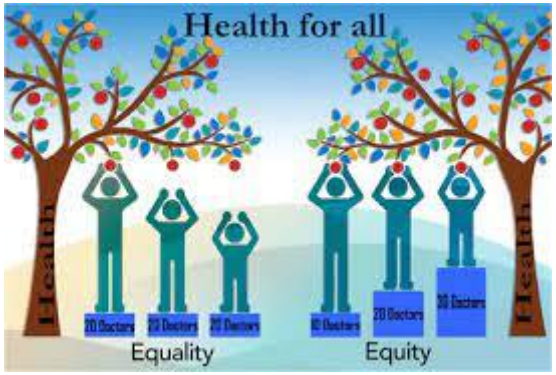
Figure 1 shows the different population groups, factors associated with where we live, or our individual circumstances, which separately, or when combined, influence access to and outcomes from health care.

Getting equal outcomes may require different inputs (or services). In completing an EHIA its important to think about whether a one size fits all approach will generate the same good outcomes for everyone, or whether we might need to make some tweaks or adjustments to enable everyone to benefit equally. The health tree diagram shows that unless we think about the needs of different people, equal services might generate unequal outcomes.

Factors associated with poorer health outcomes (PHE 2021)[1]



The Health Tree[1]



The following principles, drawn from case law, explain what we must do to fulfil our duties under the Equality Act:

- **Knowledge:** everyone working for the Trust must be aware of our equality duties and apply them appropriately in their work.
- **Timeliness:** the duty applies at the time of considering policy options and/or before a final decision is taken – not afterwards.
- **Real Consideration:** the duty must be an integral and rigorous part of your decision-making and influence the process.
- **Sufficient Information:** you must assess what information you have and what is needed to give proper consideration.
- **No delegation:** the Trust is responsible for ensuring that any contracted services which provide services on our behalf can comply with the duty, are required in contracts to comply with it, and do comply in practice. It is a duty that cannot be delegated.

[1] https://www.researchgate.net/figure/Equality-and-equity-of-medical-resources-distribution_fig2_323266914

- **Review:** the equality duty is a continuing duty. It applies when a policy/process is developed/agreed, and when it is implemented/reviewed.
- **Proper Record Keeping:** to show that we have fulfilled our duties we must keep records of the process and the impacts identified.

NB: Filling out this EHIA in itself does not meet the requirements of the equality and health inequalities duties. All the requirements above must be fulfilled or the EHIA (and any decision based on it) may be open to challenge. Properly used, an EHIA can be a tool to help us comply with our equality and health inequalities duty and as a record that to demonstrate that we have done so. It is advised that you complete the short EHIA training session on [redacted] before completing this EHIA.

SECTION A ADMINISTRATIVE INFORMATION

A completed copy of this form must be provided to the decision-makers in relation to your proposal. The decision-makers must consider the results of this assessment when they make their decision about your proposal. **Function/policy/service name and number:**	Disciplinary Procedure		
Main aims and intended outcomes of the function/policy/service and summary of the changes you are making (if existing policy/service):	To help maintain high standards and to ensure fairness and consistency when dealing with allegations of misconduct		
How will the function/policy/service change be put into practice?	Through promotion on Trust Extranet.		
Who will be affected/benefit from the policy?	The policy will support an equitable and inclusive workplace for our workforce		
State type of policy/service	Policy ✓	Service	
	Business Case	Function	Existing
Is an EHIA required? NB :Most policies/functions will require an EA with few exceptions such as routine procedures	Yes ✓		
	No (If no state reasons)		
Accountable Director: (Job Title)	Chief People Officer		

Assessment Carried out by:	[redacted]
Contact Details:	[redacted]
Date Completed:	21.01.2025

This form is a central part of how the Trust makes sure and can demonstrate to others that we are meeting our legal duties; and how we can assure ourselves that all patients will get the best outcome for them from our services.

SECTION B ANALYSIS AND EVIDENCE

Analysis of the potential impact – Equality and Health Inequalities Duties

For this section you will need to think about all the different groups of people who are more likely to experience poorer access or have poorer outcomes from health and care services. For each group please describe in the first column the potential impact you have identified, in the second column explain how you have arrived at this conclusion and what information you used to identify the potential impact, and in the third column say what you are going to do to prevent it from happening, or which elements of a service or policy specifically address the potential impact. Key things to remember.

- Everyone has protected characteristics but some groups who share one or more protected characteristics may be more likely to have poorer outcomes or access compared with others – and it is this potential that the EHIA process seeks to identify and address.
- The information included here should be proportionate to the type and size of the policy/service/change.
- An update to a policy should demonstrate that you have considered the potential for the policy to impact differently on different groups and taken steps to address that.
- A minor policy update is likely to need to be much less comprehensive than an EHIA for a major service change.
- You will need to know information about who uses or could use your service/policy will apply to (the population). You can use information about current patients or colleague, and about the general population the Trust serves.

3. PROTECTED CHARACTERISTICS - Main potential positive or negative impact of the proposal for protected characteristic groups summarised

Please write in the box below a brief summary of the main potential impact (positive or negative) Please state **N/A if your proposal will not impact adversely or positively on the protected characteristic groups listed below, but make sure you include information on how you know there will be no impact.**

This policy address our legal specific Public Sector Equality Duty (PSED) where we must, in the exercise of our functions, have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

Protected characteristic groups	**Summary explanation of the potential positive or adverse impact of your proposal**	**How do you know this? (include here a brief explanation of what information you have used to identify potential adverse impact e.g. NICE guidance, local data, evidence reviews, stakeholder or patient feedback**	**Action that will be taken to address the potential for negative impact.**
Age: older people; middle years; early years; children and young people.	Procedure will allow colleagues to follow a fair, consistent and transparent process	There is strong evidence that where an NHS workforce is representative of all protected characteristics it fosters a sense of belonging – detailed in the NHS People Plan NHS England » Belonging in the NHS	Where appropriate reasonable adjustments can be viewed in line with the Equality Act.
Disability: physical, sensory and learning impairment; mental health condition; long-term conditions.	Procedure will allow colleagues to follow a fair, consistent and transparent process	There is strong evidence that where an NHS workforce is representative of all protected characteristics it fosters a sense of belonging – detailed in the NHS People Plan NHS England » Belonging in the NHS	Where appropriate reasonable adjustments can be viewed in line with the Equality Act.
Gender Reassignment and/or people who identify as Transgender	Procedure will allow colleagues to follow a fair, consistent and transparent process	There is strong evidence that where an NHS workforce is representative of all protected characteristics it fosters a sense of belonging – detailed in the NHS People Plan NHS England » Belonging in the NHS	Where appropriate reasonable adjustments can be viewed in line with the Equality Act.
Marriage & Civil Partnership: people married or in a civil partnership.	Procedure will allow colleagues to follow a fair, consistent and transparent process	There is strong evidence that where an NHS workforce is representative of all protected characteristics it fosters a sense of belonging – detailed in the NHS People Plan NHS England » Belonging in the NHS	Where appropriate reasonable adjustments can be viewed in line with the Equality Act.

Pregnancy and Maternity: before and after childbirth and who are breastfeeding.	Procedure will allow colleagues to follow a fair, consistent and transparent process	There is strong evidence that where an NHS workforce is representative of all protected characteristics it fosters a sense of belonging – detailed in the NHS People Plan NHS England » Belonging in the NHS	Where appropriate reasonable adjustments can be viewed in line with the Equality Act.
Race:	Procedure will allow colleagues to follow a fair, consistent and transparent process	There is strong evidence that where an NHS workforce is representative of all protected characteristics it fosters a sense of belonging – detailed in the NHS People Plan NHS England » Belonging in the NHS	Where appropriate reasonable adjustments can be viewed in line with the Equality Act.
Religion and belief: people with different religions/faiths or beliefs, or none.	Procedure will allow colleagues to follow a fair, consistent and transparent process	There is strong evidence that where an NHS workforce is representative of all protected characteristics it fosters a sense of belonging – detailed in the NHS People Plan NHS England » Belonging in the NHS	Where appropriate reasonable adjustments can be viewed in line with the Equality Act.
Sex:	Procedure will allow colleagues to follow a fair, consistent and transparent process	There is strong evidence that where an NHS workforce is representative of all protected characteristics it fosters a sense of belonging – detailed in the NHS People Plan NHS England » Belonging in the NHS	Where appropriate reasonable adjustments can be viewed in line with the Equality Act.
Sexual orientation	Procedure will allow colleagues to follow a fair, consistent and transparent process	There is strong evidence that where an NHS workforce is representative of all protected characteristics it fosters a sense of belonging – detailed in the NHS People Plan NHS England » Belonging in the NHS	Where appropriate reasonable adjustments can be viewed in line with the Equality Act.
Veterans/Armed Forces Communities	Procedure will allow colleagues to follow a fair, consistent and transparent process	There is strong evidence that where an NHS workforce is representative of all protected characteristics it fosters a sense of belonging – detailed in the NHS People Plan NHS England » Belonging in the NHS	Where appropriate reasonable adjustments can be viewed in line with the Equality Act.

4. HEALTH INEQUALITIES -Potential positive or adverse impact for people who experience health inequalities summarised

Please briefly summarise the main potential impact (positive or negative) on people at particular risk of health inequalities (as listed below). **If the policy/procedure is unrelated to patients, this section does not require completion.**

Please state none if you have assessed that there is not an impact, but please make sure you complete the 'how do you know this' column to demonstrate that you have considered the potential for impact**. If you identify the potential for impact for one or more of these groups please complete the full assessment in Appendix A**

Groups who face health inequalities[2]	Summary explanation of the potential positive or adverse impact of your proposal	How do you know this? (include here a brief explanation of what information you have used to identify potential adverse impact e.g. NICE guidance, local data, evidence reviews, stakeholder or patient feedback	Action that will be taken to address the potential for negative impact.

SECTION C ENGAGEMENT

5. Engagement and consultation

a. Talking to patients, families and local communities can be a rich source of information to inform health care services. If you are making substantial changes it's likely that you'll have to undertake specific engagement with patients. For smaller changes and policies your may have undertaken some engagement with patient groups, gained insight from routine sources e.g. patient surveys, PALS or Complaints information or information from Healthwatch, you may also have looked at relevant engagement that others have undertaken in the Trust, or locally
Have any engagement or consultative activities been undertaken that considered how to address equalities issues or reduce health inequalities? Please place an x in the appropriate box below.

Yes	No
x	

b. If yes, please ensure all stakeholders are listed in the consultation table at the beginning of the policy.

SECTION D SUMMARY OF FINDINGS

Reflecting on all of the information included in your review-

6. EQUALITY DUTIES: Is your assessment that your proposal will support compliance with the Public Sector Equality Duty?
Please **add an x** to the relevant box below.

	Tackling discrimination	Advancing equality of opportunity	Fostering good relations
The proposal will support?	x	x	x
The proposal may support?			
Uncertain whether the proposal will support?			

7. HEALTH INEQUALITIES: Is your assessment that your proposal will support reducing health inequalities faced by patients?
Please add an x to the relevant box below.

	Reducing inequalities in access to health care	Reducing inequalities in health outcomes
The proposal will support?		
The proposal may support?		
Uncertain if the proposal will support?		

8. Outstanding key issues/questions that may require further consultation, research or additional evidence. Please list your top 3 in order of priority or state N/A

Key issue or question to be answered		Type of consultation, research or other evidence that would address the issue and/or answer the question
1		

	N/A	
2	N/A	
3	N/A	

9. EHIA sign-off: (this section must be signed)

Person completing the EHIA:	[redacted]	**Date:** 21/01/2025
Line Manager of person completing:	Lucy Birch	**Date: 03/02/2025**

Appendix A

Breakdown of Groups who are more likely to experience health inequalities:

Groups who face health inequalities[3]	**Summary explanation of the potential positive or adverse impact of your proposal**	**How do you know this? (include here a brief explanation of what information you have used to identify potential adverse impact e.g. NICE guidance, local data, evidence reviews, stakeholder or patient feedback**	**Action that will be taken to address the potential for negative impact.**
Looked after children and young people			
Carers of patients			

Groups who face health inequalities[3]	Summary explanation of the potential positive or adverse impact of your proposal	How do you know this? (include here a brief explanation of what information you have used to identify potential adverse impact e.g. NICE guidance, local data, evidence reviews, stakeholder or patient feedback	Action that will be taken to address the potential for negative impact.
Homeless people. People on the street; staying temporarily with friends /family; in hostels or B&Bs.			
People involved in the criminal justice system: offenders in prison/on probation, ex-offenders.			
People with addictions and/or substance misuse issues			
People or families on a low income			
People with poor literacy or health Literacy: (e.g. poor understanding of health services poor language skills).			
People living in deprived areas			
People living in remote, rural and island locations			
Refugees, asylum seekers or those experiencing modern slavery			

Groups who face health inequalities[3]	Summary explanation of the potential positive or adverse impact of your proposal	How do you know this? (include here a brief explanation of what information you have used to identify potential adverse impact e.g. NICE guidance, local data, evidence reviews, stakeholder or patient feedback	Action that will be taken to address the potential for negative impact.
People who have served in the Armed Forces			
Other groups experiencing health inequalities (please describe)			

Appendix B – EHIA Resources
Sources of Information on the East Sussex population and sources of community or patient insight.

Population Data
State of the County 2021 Focus on East Sussex

East Sussex JSNA

Community Insight

Further Reading on Equality and Health Inequalities

Training

Appendix B

EAST SUSSEX HEALTHCARE NHS TRUST

DISCIPLINARY STANDARDS

Disciplinary standards and procedures are produced to ensure that you are aware of the standards of conduct expected of you and the type of conduct that will warrant disciplinary action including summary dismissal.

The following list has been drawn up to enable you to know and understand the types of conduct that will warrant disciplinary action and describe the Trust's approach to issues of colleague misconduct but should not be regarded as exhaustive or complete

1 Examples of conduct warranting disciplinary action

1.1 Failure to knowingly carry out duties satisfactorily.
1.2 Failure to obey reasonable instructions.
1.3 Acts of insubordination.
1.4 Failure to comply with the Infection Control Policy.
1.5 Persistent failure to wear ID badge(s) or adhere to dress codes.
1.6 Failure to administer drugs in accordance with NMC guidelines.
1.7 Persistent bad timekeeping.
1.8 Unauthorised absence without good reason.
1.9 Unauthorised or inappropriate use of NHS property.
1.10 Smoking within Trust premises.
1.11 Using offensive language.
1.12 Other actions considered a breach of good conduct and/or likely to bring the Trust into disrepute.
1.13 Failure to provide an efficient, safe and high-quality service with concern and respect for the feelings and well-being of other colleagues, patients and visitors.
1.14 Failure to observe the Trust internal policies.
1.15 Failure to follow the correct procedure for dealing with the media.
1.16 Inappropriate use of the internet.
1.17 Making malicious complaints under the Dignity at Work or Whistle blowing Policy.
1.18 Serious or persistent breach of Trust values.
1.19 The use of any other form of covert recording using electronic recording or listening device, including mobile phones on Trust premises without prior agreement.

2 Examples of Conduct Warranting Dismissal

2.1 There are in addition, certain types of conduct which are considered so serious as to constitute 'gross misconduct' and to warrant dismissal with no previous warnings and no notice or pay in lieu of notice.

2.1.1 **Dishonesty/Fraud/ Theft**

(a) Unauthorised possession or use of Trust property. E.g. removing Trust property from site. This includes property belonging to patients, visitors or colleagues or installation of unauthorised software.

(b) Deliberate falsification of records or the deliberate attempt to obtain money from the Trust by false pretences or from a member of the public in the course of official duties. This includes misrepresentation of entitlement to expenses or allowances; overtime or mileage claims

(c) Falsification or misrepresentation of timesheets or clock cards.

(d) The unauthorised receipt of money, goods, favours or hospitality in respect of any service rendered.

(e) Giving or receiving a bribe in the form of a financial or other advantage to encourage the recipient to perform their functions improperly.

(f) Undertaking paid or unpaid employment whilst claiming sick pay from the Trust or whilst on suspension from duty.

(g) Any deliberate action that causes financial loss to the Trust.

(h) Taking any property belonging to the Trust or another person without their permission.

2.1.2 **Failure to Disclose an Interest**

(a) Any action which is contrary to the Trust's Standing Orders or Standing Financial Instructions.

2.2 **Assault**

2.2.1 Any assault or attempt to cause injury (including verbal assault) upon a patient, member of the public, or other colleague that takes place on Trust premises or whilst on duty, including threats of serious assaults.

2.3 **Bullying and Harassment**

2.3.1 Any uninvited, unwelcome or unreciprocated behaviour of a sexual or social nature which is offensive to the person involved and causes that person to feel threatened, humiliated or embarrassed, or which compromise the protection of whistleblowers.

2.3.2 Any acts of harassment or discriminating behaviour so as to prejudice the health, safety and well-being of colleagues or others.

2.3.3 Serious breach of the Dignity at Work Policy.

2.4 **Gross Carelessness**

2.4.1 Any actions, or failure to act, which threatens the health or safety of a patient, member of the public or another colleague on Trust premises or which may bring the Trust into disrepute.

2.5 **Malicious Damage**

2.5.1 To Trust property or to the property of patients visitors or colleagues.

2.6 **Being Unfit for Duty**

2.6.1 Through the effect of, for example, drink or drugs (subject to the recommendations within the Substance Misuse Policy) or by being asleep on duty when not appropriate.

2.6.2 Failure to report any contagious or infectious disease or any other hazard which may endanger the health of other colleague, patients or visitors.

2.7 **Breach of Contract**

2.7.1 Conduct or behaviour which may render continuation of employment impossible or undesirable.

2.7.2 Action which results in loss of trust and confidence in the colleague's capacity to continue to be employed by the Trust.

2.7.3 Breach of statutory requirements, e.g. Prevention of Illegal Working, Loss of Professional Registration, etc.

2.7.4 Conviction under court proceedings or cautions which in the opinion of the Trust renders the colleague unsuitable to continue the duties for which they are employed.

2.7.5 Unauthorised possession, custody or control of illegal drugs on the premises.

2.8 **Confidentiality/Unauthorised Disclosure of Information**

2.8.1 Failure to keep safe all personal information in relation to patients, their relatives or colleagues.

2.8.2 Breach of trust or misuse or unauthorised disclosure of any confidential information or data, documents or information relating to individual patients, colleagues, or affairs of the Trust.

2.9 **Intentionally Making False Statements**

2.9.1 Falsifying documents, for example when incidents or accidents are being investigated, or when applying for employment, transfer or promotion, or in connection with medical examinations relating to the Trust.

2.9.2 Failure to disclose a previous conviction under the Rehabilitation of Offenders Act in securing employment with the Trust.

2.9.3 False Qualifications, false identity or immigration documentation or right to work and reside documentation

2.10 Sexual Safety

2.10.1 Sexual harassment and abuse.

2.10.2 Unwanted, harmful and/or inappropriate sexual behaviours.

3 Special Rules

3.1 Breach of departmental rules/codes (e.g. concerning safe handling of dangerous substances, radiological safety or operation of machinery).

4 Statutory Registration

4.1 Certain colleagues are required by law to be registered with a particular body. If such registration or membership lapses or is cancelled the Trust will take immediate action to terminate the contract of employment of the colleagues concerned. See Professional Registration Policy.

5 Loss of Driving Licence

5.1 Colleagues employed in posts for which there is a contractual requirement for the possession of a valid driving licence must inform their supervisor/manager if that licence is withdrawn for any reason. Failure to do this may result in summary dismissal. Where a person who is employed in such a post loses his licence their contract of employment may be terminated. Alternative working arrangements or employment will be considered in such cases but will be offered in the following circumstances only:

5.1.1 When alternative work arrangements may be made without detriment to the Trust's purpose and its patients and other colleagues.
5.1.2 Where a suitable alternative vacancy exists at the material time.
5.1.3 When the circumstances of the case merit such an offer being made.

6 Fraud

6.1 Where there is a conduct issue that involves a matter of Fraud, Bribery or Corruption or financial impropriety, the Trust will notify the Trusts Counter Fraud Service and a counter fraud investigation may take place as outlined in the Trust's Anti-Fraud Bribery and Corruption Policy. If there are possible grounds for disciplinary action the Trust will carry out its own investigation and hearing under this disciplinary procedure. If a colleague commits fraud against the Trust, monies will be recouped by the Trust.

7 Professional Bodies

7.1 Colleagues who are subject to standards of performance/behaviour of professional bodies (e.g. NMC, GMC, HCPC, CSP) are reminded that the Trust has a duty to report instances of sub-standard performance or conduct to the appropriate body as well as carrying out its own investigation and taking disciplinary action in appropriate cases.

8 Independent Safeguarding Authority

8.1 Colleagues are reminded that the Trust has a duty to report safeguarding concerns in relation to children or vulnerable adults to the Independent Safeguarding Authority.

9 Criminal Offences Outside Employment

9.1 As part of the usual pre-employment checks all colleagues, where appropriate, will have had a Disclosure carried out by the Disclosure and Barring Scheme (DBS) prior to appointment. If a colleague fails to disclose a caution or conviction which appears on a DBS Disclosure, an investigation will be carried out by Trust Auditors which may result in disciplinary action being taken.

9.2 Any colleague who is arrested on any charge or served with a community resolution or served with a police caution or served with a summons on a criminal charge whilst employed by the Trust must inform their supervisor/manager in writing as soon as practicable.

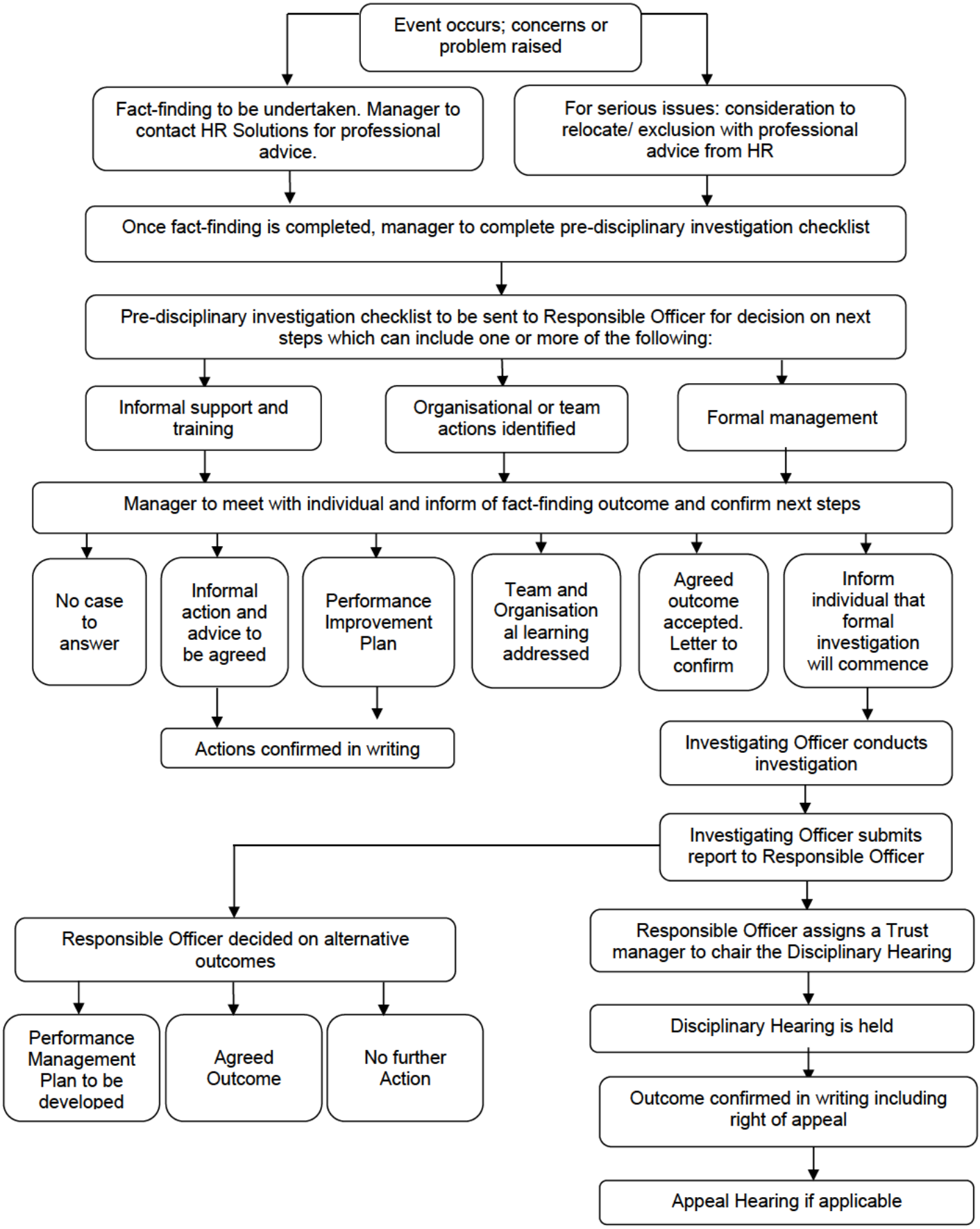
9.3 Criminal offences/alleged offences outside employment shall not be treated as automatic reasons for dismissal. The main consideration will be:

9.3.1 whether the offence brings into question the colleague's suitability for their work, or
9.3.2 whether it is unacceptable to other colleagues or patients or
9.3.3 whether the Trust's reputation could be brought into disrepute if the colleague were to remain employed by the Trust or
9.3.4 Whether the colleague did not declare the offence within a reasonable timescale of incurring it.

9.4 It is stressed, however, that each case will be considered on its merits and that there is no general rule that requires the automatic dismissal of a colleague who is alleged to have committed an offence outside of employment.

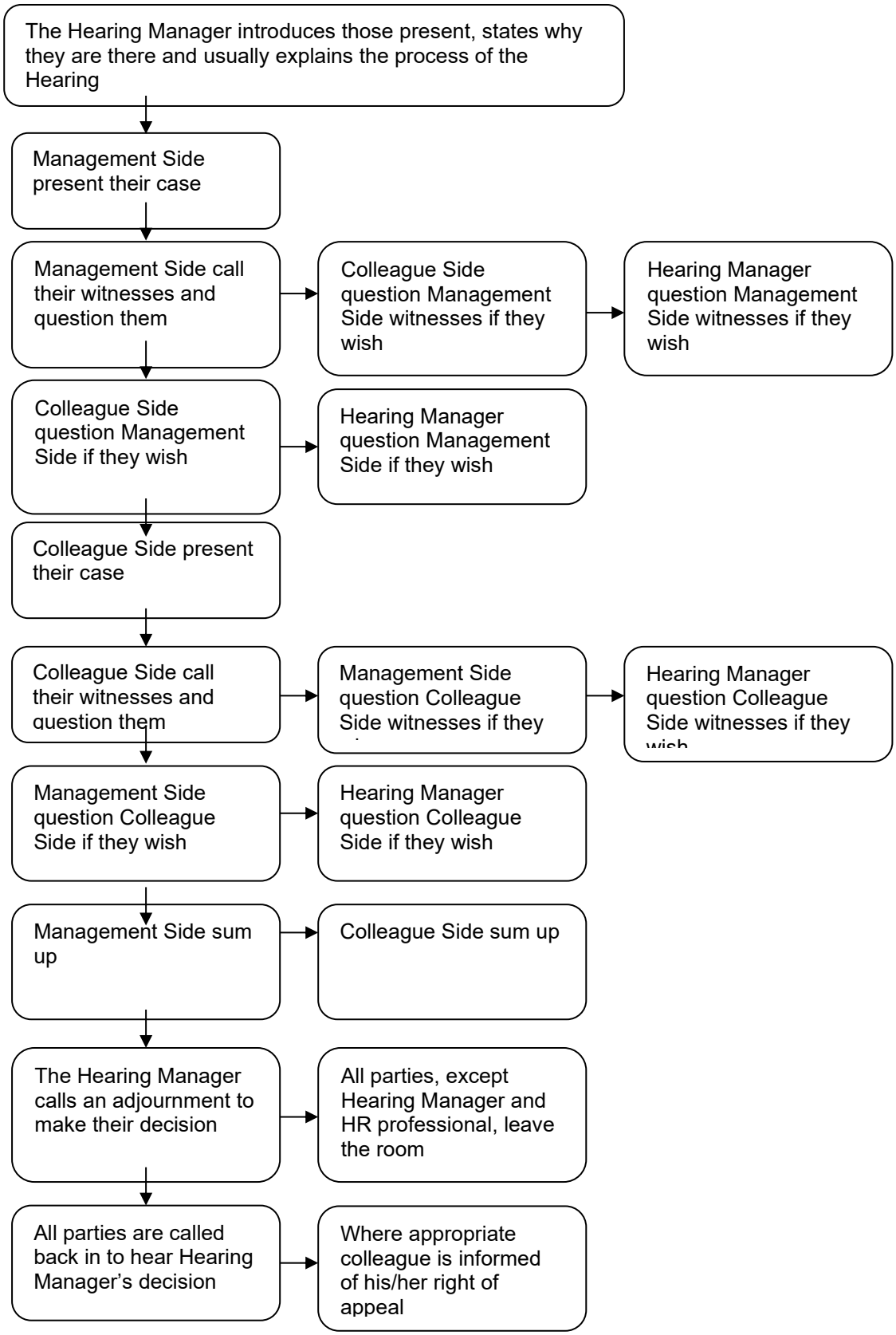
Appendix C

Disciplinary Flowchart



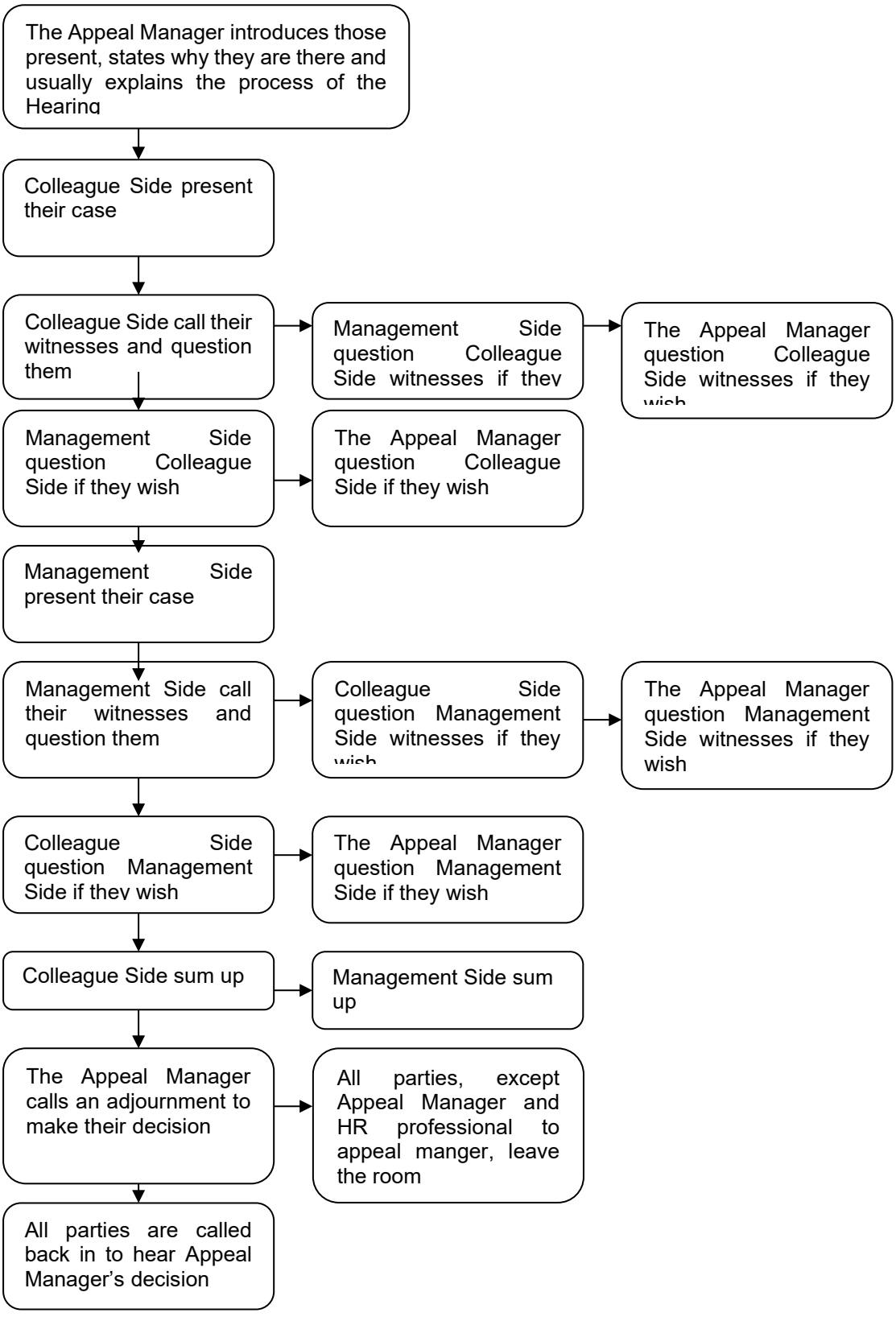
Appendix D

Process of a Disciplinary Hearing



Appendix E

Process of an Appeal Hearing



Appendix F

Pre - Disciplinary Investigation Checklist

As we seek to build on a 'Just Culture' in the organisation, a pre-disciplinary investigation checklist has been developed to mitigate against any 'rush to judgement' when entering colleagues into a formal process. This checklist is to be used by the investigating officer **BEFORE** a decision to formally investigate a colleague or worker and once complete must be sent to the HR representative supporting the investigation.

Colleague/Worker Name:	Click here to enter text.	**Role:**	Click here to enter text.
Line Manager Name:	Click here to enter text.	**Team/service:**	Click here to enter text.
Area of work:	Click here to enter text.	**Division:**	Click here to enter text.
Date of incident	Click here to enter text.	**Location:**	Click here to enter text.
Reason for possible investigation:	Click here to enter text.		

As a result of using the checklist, it is envisaged that issues are addressed appropriately prior to escalation which will improve overall colleague well-being, reduce cost of absence, improve employee relations, the reputation of the Trust and reduce the cost of management time.

Have you asked yourself the following questions before making a decision to formally investigate the individual concerned?

1: Deliberate Harm Test

1a. Was there any intention on the part of the colleague or worker to cause harm?

☐Yes ☐ No

** If yes, follow Trust guidance for appropriate management action. This could involve: contact relevant regulatory bodies, exclusion of colleagues, safeguarding and referral to police and investigation in accordance with disciplinary processes. Wider investigation is still needed to understand how and why patients/colleagues were not protected from the actions of the individual.*

Additional Comments: Click here to enter text.

2: Health Test

- 2a. Are there indications of substance abuse? ☐Yes ☐ No
- 2b. Are there indications of physical ill health? ☐Yes ☐No
- 2c. Are there indications of mental ill health? ☐Yes ☐No

**If yes, please follow appropriate Trust guidance including [redacted] / Occupational Health referral.*

Additional Comments: Click here to enter text.

3: Foresight Test

3a. Are there agreed protocols/accepted practice in place that apply to the action/omission in question? ☐Yes ☐No

3b. Were the protocols/accepted practice workable and in routine use? ☐Yes ☐ No

3c. Did the individual knowingly depart from these protocols? ☐Yes☐ No

**If no to any of above - Action singling out the individual for a conduct investigation is unlikely to be appropriate; the patient safety/ colleague incident investigation should indicate the wider actions needed to improve safety. These actions may include, but not be limited to, the individual.*

Additional Comments: Click here to enter text.

4: Peer Test

4a. Are there indications that other individuals from the same peer group, with comparable experience and qualifications, would behave in the same way in similar circumstances?
☐Yes ☐ No

4b. Was the individual missed out when relevant training was provided to their peer group?
☐Yes ☐ No

4c. Did senior members of the team fail to provide supervision that normally should be provided?
☐Yes ☐ No

**If yes to any of the above - Action singling out the individual for a conduct investigation is unlikely to be appropriate; the patient safety incident investigation should indicate the wider actions needed to improve safety for future patients. These actions may include, but not be limited to, the individual.*

Additional Comments: Click here to enter text.

5: Mitigating Circumstances

5a. Were there any significant mitigating circumstances? ☐Yes ☐ No

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

Additional Comments: Click here to enter text.

6: Vulnerable Adult/Child

6a. Does the incident that has occurred involve vulnerable adults/children? ☐Yes ☐No
**If yes, please ensure that the Safeguarding checklist is completed and that you have discussed with Safeguarding Team.*

Additional Comments: Click here to enter text.

7: How well do you think you have reacted to the situation?

- 7a. Do you feel that you have managed this situation in a fair and consistent manner? ☐ Yes ☐ No
- 7b. Did you make the colleague aware of the concern during your fact-finding meeting? ☐ Yes ☐ No
- 7c. Have you taken into account the answers to 2a, 2b or 2c applies?
- ☐ Yes ☐ No

8: How open have you been in taking an overview of the activities and Impact?

- 8a. Have you positioned praise or blame? ☐ Yes ☐ No ☐Neither -as far as I am aware
- 8b. Have next steps been discussed with the colleague? ☐ Yes ☐ No

9: Trust Values and Disciplinary Procedure

9a. Given that our Trust Values and Disciplinary Procedure emphasises improvement and learning, not punishment, have you taken reasonable informal steps to resolve your concerns regarding this issue or similar issues leading up to this one, prior to considering a disciplinary investigation? ☐Yes ☐ No

Issues Previously Discussed: Click here to enter text.

10: Outcome of fact-finding meeting

10a From the information gathered during the fact-finding exercise and based on the information above, what action should follow:

- ☐Formal investigation meeting
- ☐ Performance Improvement Plan to be implemented
- ☐Meeting of concern
- ☐No case to answer

If an Investigation is required please complete the following:

Investigating officer:	Click here to enter text.
HR Contact:	Click here to enter text.
Keeping in Touch/ Support:	Click here to enter text.

Have you got any pre-booked annual leave within the next 6 weeks?	☐Yes	☐No
Have you got capability to undertake this investigation within 6 weeks?	☐Yes	☐No
Have you informed your line manager of the need to undertake this investigation?	☐Yes	☐No

	SAFEGUARDING CHECKLIST	COMMENTS
1.	Is this a safeguarding issue?	
2.	Has the Service Director confirmed that this is a safeguarding issue?	
3.	Have the Safeguarding Team been informed?	
4.	Does a LADO referral need to be done?	
5.	Has the Service Director informed the police?	
6.	Has the patient/s and/or colleague, been allocated a named contact for support and follow up?	
7.	Do other patients and/or colleague need to be contacted? If so, who will lead on this process? How will colleague be notified?	
8.	Has the CQC been informed by the Service Director?	
9.	Has the issue been referred to ISA by the Service Director?	
10.	Is a [redacted] required? If so, who will complete the Datix?	
11.	Has the case been discussed with the professional lead and consideration given to referral to the NMC or other professional body?	

12.	Has an internal safeguarding lead been identified for the case?	

Once completed please send to your Human Resources Representative.

SAFEGUARDING CHECKLIST

Where a serious incident has occurred which involves patient/s and/or colleague, the checklist below must also be completed.

Appendix G

Violence and Aggression

1.1 Violence and Physical Assault is “The intentional application of force against a person or another without lawful justification, resulting in physical injury or personal discomfort”
Source: Physical Assault Definition contained within Directions to NHS Bodies November 2003.

1.2 Aggression (non-physical assault) is “The use of inappropriate words or behaviour causing distress and/or constituting harassment”
Source: Non-Physical Assault Definition contained within Directions to NHS Bodies November 2003.

In order to ascertain if a non-physical assault occurred, colleagues need to recognise what aggressive and assertive behaviours are and then make a judgement to determine what behaviour is being exhibited.

- Aggression - The person being aggressive will have a total disregard for the other person's interests or position. Aggressive behaviour has the result of the other person feeling hurt, belittled, controlled or humiliated. Source: Violence and Aggression Policy (including Red/Yellow card system).

- Assertiveness - A person is honest, direct and stands up for themselves in such a way that does not intimidate, belittle or leave the other person feeling violated. Source: Violence and Aggression Policy (including Red/Yellow card system).

For further information please refer to the Violence and Aggression Policy (including Red/Yellow card system).

APPENDIX H

Colleague Support Checklist

This checklist should be used to ensure that colleagues are provided with timely and appropriate support and that a record of actions taken is kept.

This form should be completed as appropriate (at the outset of the process and revisited on at least one further occasion) and retained by the manager until the matter is at an end. A copy of checklist should be forwarded to the HR Dept. so that it may be used for the annual audit process.

Colleague name	
Job title	
Manager name	
Date completed	

	SUPPORTING COLLEAGUES	**Initial support**	**Follow-up**
		Date	
1.	Has a 'Buddy/Mentor' been offered, identified and agreed?		
2.	Has the colleague been signposted [redacted]?		
3.	Was a referral to Occupational Health & Wellbeing discussed with the colleague? give details, dates etc		
4.	Has other support been offered to the colleague? Yes / No If yes, detail any support taken up. *Include any considerations given for colleagues with protected characteristics and the impact any action may have e.g. disability, race; where necessary seek advice from ESHT Workforce Human Rights & Equality lead.*		
5.	Has a copy of the procedure been provided to the colleague and the process explained?		

Manager Signature	**Date**
Colleague Signature	**Date**

ACTIONS
Copy of completed form given to colleague
Original Form to be filed in colleague's file
Copy of completed form sent to Human Resources

APPENDIX I

Agreed Outcomes

Note: It is not appropriate to use agreed outcomes in cases of gross misconduct where dismissal is a potential outcome.

When managers make Agreed Outcome agreements they must be able to make the decision without having it overridden by a more senior colleague.

If, at the end of an investigation into a potential disciplinary issue, the colleague accepts all the allegations made against them then there is no need to automatically proceed to a disciplinary hearing. The facts of the allegation are not in dispute and the colleague has accepted their fault. What needs to be determined therefore is the level of sanction to be applied.

Agreed outcomes are only appropriate where both parties are agreeable to the process. If either the colleague or their representative is unhappy with a proposal of an agreed outcome, then the normal disciplinary process must be followed.

Where there is agreement to an agreed outcome as being the acceptable way forward for both parties, the following principles should be followed:

Both parties must be in agreement to proceed in this way.
This decision is final and there should not be a later referral to a disciplinary hearing or appeal on this issue.

The relevant Responsible Officer with the authority to issue the disciplinary sanctions must be aware of and agree to the proposal for an agreed outcome.

Agreed outcomes can only be considered for cases where dismissal is not a likely outcome.

Cases must not interfere with, or compromise ‘due process’, e.g. audit.

A meeting should be held at which both parties (i.e. colleague and their representative and the Responsible Officer) will be present, together with an HR Representative. The line manager may or may not be present but must be aware of the fact that the meeting is taking place.

At the meeting, all information relevant to the allegation(s) or complaint(s) must be available and both parties must have a full opportunity to discuss all the issues, in accordance with the normal principles of natural justice that every colleague has the opportunity to freely state their case.

The meeting can be adjourned and reconvened at any time if, for example, there is a need to obtain further information.

The colleague will be required to sign a letter of acceptance within 7 calendar days; referred to as ‘the cooling off’ period. If the individual wishes to withdraw from the agreed outcome process the Responsible Officer will make the decision whether or not a full Disciplinary Hearing is necessary.

In the event that the colleague does change their mind, then the normal disciplinary process will be followed.

Following the meeting and ‘cooling off’ period the Responsible Officer will write to the colleague to confirm the disciplinary sanction and get their written agreement to the outcome (see standard letter Appendix I).
The disciplinary sanction issued, and accepted by the colleague, will have the same status as those obtained via a hearing, except that there will be no recourse to an appeal.

All relevant documentation, including a record of the meeting, must be retained in the usual manner on the personal file, with copies sent to Human Resources and the Trade Union/Professional Association representative.

East Sussex Healthcare NHS Trust

Drug, Alcohol and Substance Misuse Policy

Document ID Number	871
Version:	V4
Ratified by:	Clinical Documentation and Policy Ratification Group
Date ratified:	13 August 2024
Name of author and title:	[redacted], HR Advisor Sammi Foy, Occupational Health Manager
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Target audience:	All Staff
CQC Fundamental Standard:	Good Governance
Compliance with any other external requirements (e.g. Information Governance):	N/A
Associated Documents:	Sickness Management Procedure Performance Improvement Procedure Disciplinary Procedure

Did you print this yourself?
Please be advised the Trust discourages retention of hard copies of procedural documents and can only guarantee that the procedural document on the Trust website is the most up to date version

Version Control Table

Version number and issue number	Date	Author	Reason for Change	Description of Changes Made
V2	March 2017	[redacted]	Review and Update	Re-write
V3	October 2020	[redacted]	Review	Inclusion of data protection statement
V3.1	08 November 2023	Sammi Foy	Extension to review date as this now sits under Sammi Foy to update	Extended the review date from December 2023 to May 2024 to allow time to review the Policy
V4	May 2024	[redacted]	Review and update	Change of title, updated wording from Occupational Health and HR Solutions

Consultation Table

This document has been developed in consultation with the groups and/or individuals in this table:

Name of Individual or group	Title	Date
Sammi Foy	Occupational Health Manager	January 2024
Operational HR		May 2024
WPPG		June 2024

This information may be made available in alternative languages and formats, such as large print, upon request. Please contact the document author to discuss.

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1. Introduction

The Trust recognises that addiction to an intoxicating substance should be dealt with in the same way as other causes of ill health where employees can demonstrate that they are complying with a programme of treatment. This policy and procedure details what processes will be applied by the Trust in relation to the use and misuse of drugs, alcohol and other intoxicating substances by employees with or without any dependency.

Our People Strategy (People Strategy), which is based on the NHS People Plan, prioritises a culture that supports and grows our people.

Looking after our people means creating a positive, engaging working environment and keeping colleagues safe and healthy – both physically and psychologically. It is everyone's responsibility to contribute to an inclusive culture where all colleagues feel that they are treated according to trust values and demonstrate those values in our own compassionate behaviour, to inspire each one of us to thrive and develop to our full potential.

2. Purpose

2.1. Rationale

The aim of the policy is to ensure that both the rules on the consumption of intoxicating substances and the procedures for dealing with breaches of the rules are clear, and to encourage those with an addiction to an intoxicating substance to seek help.

2.2. Principles

This policy aims to:

- provide an understanding of the effects of the misuse of intoxicating substances in the workplace.
- provide clear guidance on expectations regarding consumption of intoxicating substances by employees.
- provide clear guidelines for managers and staff about the approach that will be taken when problems arise.
- achieve a balance between support of staff experiencing a crisis and ensuring overriding responsibility for the safety of staff, patients, members of public and the reputation of the service.
- provide a means for intervention at an early stage and to encourage staff who are misusing intoxicating substances to declare this and seek help.
- to clarify the responsibilities of all parties.

2.3. Scope

This policy applies in its entirety to all employees within the organisation. However, for those not directly employed by the Trust but who are carrying out work on Trust premises, such as honorary staff, agency workers, those on work placements and contractors, only the rules regarding the consumption of intoxicating substances apply. (See section 5.2)

Where concerns about performance and health issues linked to this policy arise for agency staff, contractors and secondees into the Trust, their employing organisation should be contacted by Temporary Workforce, contract supervisor or line manager.

The policy covers the use and misuse of alcohol, legal and illegal drugs and substances, and misuse of prescription medicines and over the counter medicines.

3. Definitions

3.1 **Addiction**

The continued use of a substance or behaviour, despite experiencing adverse dependency consequences, or a neurological impairment leading to such behaviours.

Some authorities now prefer to use the term substance dependence to cover addiction to a substance as opposed to a behaviour (e.g. gambling).

The Equality Act 2010 (Disability) Regulations 2010 (SI 2010/2128) specifically state that addiction to alcohol, nicotine or any other substance (except where the addiction originally resulted from the administration of medically prescribed drugs) is to be treated as not amounting to an impairment for the purposes of the Equality Act 2010. Alcohol or substance addiction is not, therefore, covered by the Act.

However, an employee may have a physical or mental impairment that does amount to a disability within the meaning of the Act but which was caused by or was the result of alcohol or substance addiction. For example, a serious liver condition or a depressive illness. The employee would in this case be disabled, notwithstanding that the disability was caused to a large extent by the addiction. The cause of the disability is not relevant. Conversely, the alcohol addiction could be a symptom or side effect of some other medical condition from which the employee is suffering, which itself amounts to a disability.

Therefore, where an employee is or appears to be suffering from alcohol or substance addiction, the Trust will make further medical enquiries to ascertain whether there is an underlying medical condition, either caused by or the trigger of the addiction, which may then indicate that their condition is likely to be considered a disability.

3.2 **Substance Dependence**

Substance dependence, commonly called addiction, is a user's compulsive need to use substances (often controlled or illegal substances) to function normally. When such substances are unobtainable, the user suffers withdrawal symptoms which result in a reduced capacity, or inability to function normally.

3.3 **Harmful or Problematic Use**

The use of a substance or substances which are usually but not exclusively intoxicating; which harms physical or psychological health or has a detrimental effect on social or work performance but without dependency necessarily being present.

3.4 **Intoxicating Substances**

Intoxicating substances change the way the user feels mentally or physically. They include alcohol, illegal drugs, legal drugs, and solvents. Substance intoxication is a state in which a person's normal capacity to act or reason is inhibited by such a substance.

3.5 **Illegal Substances**

Illegal substances are those for which there are criminal sanctions for possession because the substance may not lawfully be possessed in certain circumstances, e.g. morphine without a valid prescription, cannabis, ecstasy etc. Tobacco and alcohol are not illegal substances.

3.6 **Controlled Substances**

A substance that is tightly controlled by the government because it may be abused or cause addiction; including opiates, stimulants, depressants, hallucinogens and anabolic steroids.

4. Accountabilities and Responsibilities

4.1 **Directors, Senior Managers and Heads of Department**

Are responsible for:

- the effective implementation of this policy within their directorates

4.2 **All Managers**

Are responsible for:

- ensuring the safety of staff, patients and members of the public.
- ensuring staff are aware of this policy and the support available to them.
- monitoring performance and behaviour which may indicate misuse of substances.
- intervening at the earliest sign of a problem.
- supporting substance dependent staff while they seek help.

4.3 **HR Solutions**

Is responsible for:

- providing advice on the implementation of the policy.
- advising on the use of the Disciplinary Policy Procedure and the Sickness Management and Performance Improvement Procedures in relation to disciplinary and capability issues.
- regularly reviewing the effectiveness of the policy and for drafting any amendments that may be required.

4.4 **Occupational Health**

Is responsible for:

- responding to referrals from staff and managers.
- providing a confidential service to staff.

4.4 **Employees**

Staff are responsible for:

- complying with this policy and ensuring the health and safety of themselves, patients, colleagues and members of the public.
- being aware of the safe/sensible use of alcohol.
- where appropriate, assisting colleagues with a possible dependency problem by urging them to seek help and notifying the relevant manager if necessary.

- Raising with the relevant line manager if there are genuine concerns about a colleague regarding a possible dependency problem and any impact on the staff member concerned, colleagues or patient safety because of this.
- seeking help as identified in this policy if they have concerns about their own consumption of alcohol or other dependency problem.

4.5 **Trade Union Representatives**

Are responsible for:
- encouraging affected staff to seek help.
- providing support to staff.

5. Procedures and Actions to Follow

Alcohol and Substance Misuse

Managers need to be alert to the possibility of their staff misusing alcohol or substances both for the protection of the Trust and its patients/service users, and for the benefit of employees themselves.

The information set out in Section 5.1 below may be of assistance in detecting a potential problem. Further support for staff can be obtained from the Trust's Employee Assistance Programme. Details of this are available from the extranet or Occupational Health or HR Solutions.

The need to implement this policy may also arise because of an investigation into an incident or alleged misconduct under the Disciplinary Procedure or because of following the Sickness Management Procedure.

Action under the Sickness Management or Disciplinary Procedure may need to be adjourned pending the results of actions taken under this policy but should be concluded within a reasonable timeframe.

In serious cases, consideration may need to be given to the possibility of exclusion under the Disciplinary Procedure, to ensure the safety of the Trust's other employees and/or its service users.

5.1 **Signs of Misuse of Intoxicating Substances**

One, or a combination, of the following factors may indicate that an individual is misusing alcohol or substances. Sudden changes or deterioration in a staff member should be particularly noted.

These factors may indicate a variety of problems other than alcohol or substance misuse or dependency, e.g. stress, depression or other mental or physical health problems. It is essential that any general concerns and/or the reasons for any issues are investigated and discussed with the employee and appropriate support offered.

Absence and patterns of absence
- Frequent leave requests at short notice
- Frequent unexplained short absences from the work area
- High absence level or patterns at beginning/end of the working week
- Poor punctuality

Work Performance
- Difficulty in concentrating
- High level of errors
- Increased time to complete tasks
- Poor memory
- Relationship difficulties

Increased accidents
- At home
- At work
- While driving

Mood
- Aggressive or inappropriate behaviour
- Withdrawing or distancing from colleagues
- Confusion
- Depression
- Euphoria
- Irritability
- Mood swings
- Unusual and/or unpredictable behaviour

Physical
- Abnormally dilated or constricted pupils or glazed stare
- Evidence of injuries
- Needle marks
- Poor physical appearance
- Slowed reaction rate
- Slurred speech
- Tiredness/fluctuations in energy levels
- Weight loss

Evidence of consumption on premises
- Cans/bottles of alcohol/solvents
- Scorched spoons, tinfoil
- Smell of alcohol from the worker or in a room
- Syringes etc.
- Twists of papers

Other
- Borrowing money from colleagues
- Fraudulent expenses claims
- Increased incidence of petty theft

Where there are concerns that the employee may have committed fraud within the workplace because of their misuse of alcohol or substances, this should be reported in line with the Anti-Fraud, Bribery & Corruption Policy.

Any identified thefts of cash or goods from the Trust premises should be reported to the Security Management Team.

The misuse of alcohol or substances may itself be a symptom of other conditions such as depression or anxiety.

It is recognised that it can be very difficult to clearly identify whether the misuse of alcohol or substances is the cause of such behaviours. Concerns that such a problem may exist should be sufficient to address the issues with an individual in the first instance.

This may mean approaching an individual who may not have displayed direct signs of alcohol or substance misuse but for where there is genuine and/or reasonable cause to suspect this.

Appendix B is a guide for managers in how to address concerns with staff in an appropriate manner.

5.2 **Rules Regarding the Consumption of Alcohol or Substances**

All staff are responsible for being able to deliver their contractual duties in a fit state to provide a completely safe and fully competent service, including working from home. The Trust is responsible for ensuring the safety of patients, staff and members of the public.

5.2.1 **Whilst undertaking contractual duties within work hours**

The consumption of alcohol or substances by an employee during their working hours or during break periods, whilst working within or outside of Trust premises is strictly prohibited. Staff are reminded that the consumption of alcohol or substances on Trust premises outside of working hours is also prohibited unless an exemption where alcohol may be consumed as stated in section 5.3. This includes any premises accessed by reason of employment on Trust business e.g. patients' homes and buildings owned by other agencies in which Trust services are based. It also includes when staff are present at training and development events.

A failure to comply with this will lead to disciplinary action under the Disciplinary Procedure with sanctions up to, and including, dismissal. Exceptions apply to drugs prescribed for the employee or over-the counter medications, used for their intended purpose as advised by the prescriber or pharmacist, if safety for others including colleagues and patients is not compromised.

The storage, selling or otherwise trading of alcohol and substances for use outside of work in Trust premises is strictly prohibited. Alcohol and substances must not be consumed by staff when accompanying clients and patients in social settings.

5.2.2 **Outside Working Hours**

It is noted that the smell of alcohol, even where there is no evidence of intoxication, may be worrying to patients, visitors, and colleagues. It also presents an unprofessional image which is contrary to Trust values. Staff should not consume substances (including both drugs and alcohol) prior to work or during breaks from work.

Staff should note that alcohol and substances may remain in the system for some time and that even a small amount may impair their work performance. Staff are responsible for allowing sufficient time for any alcohol or substance to have been metabolised out of their system before they are due to report for work to prevent any impairment to performance. For more details see Appendix C.

Any evidence of alcohol or drug consumption, including a smell of alcohol or substances, which is then considered as potentially impacting on the staff member's ability to work or detrimental to the work environment, may lead to disciplinary action under the Disciplinary Procedure.

Managers are required to carry out an investigation into such cases and will make a reasonable judgement regarding the correct course of action depending on all the facts of the case.

Managers should contact HR Solutions immediately for further advice.

Alcohol or substances should not be consumed when a member of staff is off duty but knows that they may be required to report for work at short notice e.g. when working on-call. The consumption of alcohol or substances preventing an employee to be able to satisfy an on-call commitment may lead to action under the Disciplinary Procedure.

If staff or staff via temporary workforce are requested to report for work unexpectedly, they should only do so if they can confirm that they are fit to undertake their contractual duties and if there is any question regarding this, they must discuss with their manager any concerns they may have about fitness to work prior to accepting the shift.

5.3 **Exceptions**

On very rare occasions exceptions may be made, e.g. retirement functions held on Trust premises outside working hours. Permission to serve alcohol may only be granted by the appropriate director or a nominated deputy. Only those who have finished work for the day may consume alcohol at such functions, whilst being mindful of their onward travel from the function.

5.4 **Prescription Medicines**

It is known that misuse of prescription medicines and over-the-counter drugs can occur and lead to dependency. The misuse of such drugs should be dealt with in the same way as the misuse of alcohol or any substance.

Some medicines may be used for the purposes they are prescribed but may have effects and side effects which have an impact on work performance. Where this is the case the member of staff is responsible for informing their manager of the possible impact and should be referred to Occupational Health so that further advice can sought.

In such cases the employee will be supported in accordance with the Trust Sickness Management Policy.

Where there are concerns that the employee may have committed fraud within the workplace in order to obtain prescription medication then this should be reported in line with the Anti-Fraud, Bribery & Corruption Policy.

Any identified thefts of prescription medication from the Trust premises should be reported to the Security Management Team.

5.5 **Support**

It is essential to balance the need for supporting the individual with the needs of the service.

Guidance on alcohol or substance misuse health issues can be obtained from Occupational Health.

Dependency problems identified through routes such as supervision, a return-to-work interview or self-disclosure will be treated as a health problem. Advice and support from Occupational Health will be sought. This may include;

- an initial assessment
- sign posting to counselling and support from appropriate specialist agencies
- advice to management in relation to adaptations within the work place to support the employee to remain in work if appropriate or an indication on likely duration of absence whilst external support and/or treatment is accessed by the member of staff
- in exceptional circumstances it may be necessary to convene a case conference, which would include all relevant parties including the member of staff, the member of staff's representative, if appropriate, a representative from their specialist service, the line manager, Human Resources and Occupational Health with the aim to plan the best possible line of action for the individual and department

5.6 **Breach of the Rules Linked to an Alcohol or Substance Misuse Problem**

Where a dependency problem is identified through a disciplinary incident, consideration will be given to suspending the disciplinary process while the employee seeks support. This decision should be taken following advice from a Responsible Officer and Human Resources. The decision will depend on many factors, particularly the attitude of the member of staff and their commitment to seeking help. However, if the member of staff declines the opportunity to follow a supportive process the investigation will continue to completion and the disciplinary process will be recommenced.

5.7 **Staff and Trust Responsibilities when an Alcohol or Substance Misuse Problem Is Identified**

Staff should be encouraged to share their treatment plan with their manager, so support to attend appointments can be considered. Where required managers can refer to Occupational Health for support.

Appropriate guidance in relation to supporting the employee to return to or remain in work will then be assessed by Occupational Health and pending consent from the employee will be conveyed to the manager.

A supportive environment will be maintained where possible, where it is necessary for the member of staff to follow a suitable treatment or support programme. In severe cases, e.g. where detoxification treatment is required, sick leave will be granted. Sick leave may also be granted to attend other programmes or treatment.

In all cases a mutually agreeable system of regular communication will be established with the member of staff and their line manager or nominated other if need be. The purpose of this is to offer support, ensure progress is ongoing and identify work-related problems that may need to be resolved. In addition to the supportive role, the aim is to ensure that a manager close at hand to the member of staff is aware of the issues.

It is also intended that this approach will maintain confidentiality by limiting the number of people who are aware of the situation. Ensuring the confidentiality of any employee undergoing detoxification treatment or support whilst addressing an addiction will be essential. By creating this culture of transparency and safety, employees will be more inclined to declare issues and seek support in a timely manner.

Employees should be aware however that where relevant, professional bodies may need to be informed of their current health status.

During a period of treatment, duties and responsibilities may need to be adjusted to ensure safety and reduce excess stress. Where this is not possible a period of sick leave may need to be agreed in accordance with the Sickness Management Policy.

5.8 **Following a Period of Sick Leave**

Following absence for treatment or support, a period of rehabilitation may be necessary in accordance with the Sickness Management Policy.

Following a period of treatment for dependency of alcohol or a substance, it may not be appropriate for the employee to return to their usual workplace. For example, recovery may not be helped by work related factors such as where there may be anxiety on the part of the member of staff in returning to their substantive environment or where relationships with colleagues and/or patients may have been irreparably damaged. While every effort will be made to reach agreement with the member of staff about the best place for them to return to work, permanent redeployment options may need to be explored, though the Trust must reserve the right to make the final decision where risk issues have been identified.

The Trust will require evidence from the member of staff that they are attending appointments and fully complying with treatment and/or support as recommended to sustain support from their line manager. Detailed information will need to be shared with Occupational Health which will be obtained on receipt of the employee's written consent.

5.9 **Relapse**

Relapse is often a feature for individuals experiencing dependency to alcohol or substances. The system of ongoing support as outlined throughout this policy should enable early identification of this. However, the situation may also be considered as a capability issue, particularly where relapse is frequent, or recovery periods are short. Managers should liaise with HR Solutions for further advice as to when this would be appropriate.

Continued support is more likely to be achieved when staff are open and honest with their line manager should they relapse.

5.10 **Use of Disciplinary Measures under the Disciplinary Procedure**

For an individual to overcome an alcohol or substance issue there needs to be acceptance of their part and acknowledgement of this. The member of staff also needs to be willing to seek help. If this is not the case, performance, attendance and conduct issues that relate to the use of alcohol or substances will be dealt with through the appropriate normal procedures.

Set out below are examples of occasions where disciplinary action will normally be taken. They will generally be considered incidents of gross misconduct where the employee or others have or may have been placed at risk.

- Incidents relating to the consumption of alcohol and/or substances in prohibited circumstances as outlined in section 5.2 of this document.
- Incidents of misconduct while under the influence of alcohol or substances
- Signs of reporting to work under the influence of or appearing to be under the influence of alcohol or substance at any time during working hours e.g. smelling of alcohol or behaviours leading to the appearance of being unfit for work
- Other breaches of the rules relating to the consumption of alcohol or substances.

The above list is not exhaustive.

Individual factors such as seeking help with a dependency problem, open acknowledgement and co-operation with the disciplinary process, personal circumstances etc. will, as in any disciplinary case, be considered as potential mitigation.

Similarly, where staff decline the offer of treatment, consistently deny the existence of experiencing any problems or, after a period of compliance, revert to former patterns of behaviour, the disciplinary process will be invoked.

5.11 **Legal Issues**

The possession, consumption and trade of illegal drugs and substances are a criminal offence. It is also illegal to permit the consumption of certain drugs on Trust premises.

Possession, consumption, or trade of illegal drugs on Trust premises, or any activity or behaviour over which there are concerns as to legality, will lead to disciplinary action and the involvement of the police.

It is illegal to drive while under the influence of alcohol or substances. Concerned employees are advised to notify the police and their manager if they suspect a member of staff to be driving under the influence. Employees have a duty to inform their manager should they have incurred any driving restrictions because of intoxication.

If a member of staff is required to hold a full driving licence to undertake the duties of their post and during their employment their licence is removed as a result of driving offences' the line manager must report the matter in strict confidence to HR Solutions who will provide support on any appropriate action.

6. Equality and Human Rights Statement

An Equality and Human Rights Impact Assessment has been carried out as per Appendix A.

7. Training

Managers will be provided with training, support and advice in line with the Trust's training needs analysis.

8. Data protection

When managing employees under the Drug, Alcohol and Substance Misuse Policy, the Trust processes personal data collected in accordance with its Data Protection policy. Data collected from the point at which the Trust commences action under the procedure is held securely and accessed by, and disclosed to, individuals only for the purposes of managing their performance. Inappropriate access or disclosure of employee data constitutes a data

breach and should be reported in accordance with the organisation's Data Protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the Trust's Disciplinary procedure.

9. Monitoring Compliance with the Document

Monitoring Table

Element to be Monitored	Lead	Tool for Monitoring	Frequency	Responsible Individual/Group/ Committee for review of results/report	Responsible individual/ group/ committee for acting on recommendations/action plan	Responsible individual/group/ committee for ensuring action plan/lessons learnt are Implemented
Number of staff being supported	Head of Employee Relations	Triangulated with eOPAS report from OH	Bi-annually	Deputy HR Director	Deputy HR Director	Deputy HR Director

Equality and Health Inequalities Impact Assessment (EHIA) template

Undertaking EHIA helps us to make sure that our services and polices do not inadvertently benefit some groups more than others, ensuring that we meet everyone's needs, and our legal and professional duties.

This is important because:

- Assessing the potential for services and policies to impact differently on some groups compared with others is a legal requirement.
- People who find it harder to access healthcare services are more likely to present later when their disease may be more progressed, have poorer outcomes from treatment, and need more services than other groups who have better access.

The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. It is against the law to discriminate against anyone because of:

- age
- gender reassignment
- being married or in a civil partnership
- being pregnant or on maternity leave
- disability
- race including colour, nationality, ethnic or national origin
- religion or belief
- sex
- sexual orientation.

These are called 'protected characteristics'. The Act requires that public sector organisations meet specific equality duties in respect of these protected characteristics. This is known as the public sector equality duty.

Public Sector Equality Duty

Public bodies have to consider all individuals when carrying out their day-to-day work – in shaping policy, in delivering services and in relation to their own employees.

Public bodies must have due regard to the need to:

- eliminate discrimination
- advance equality of opportunity
- foster good relations.

Armed Forces Covenant Duty

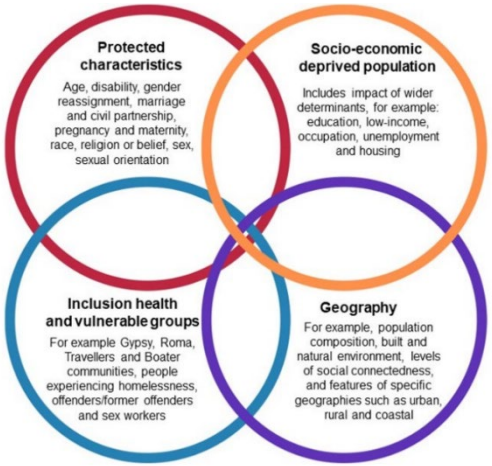
The new Covenant Duty raises awareness of how Service life can impact on the Armed Forces community, and how disadvantages can arise due to Service when members of that community seek to access key local services. The Duty requires organisations to pay due regard to the Covenant principles when exercising functions in healthcare. "Due regard" means that we need to consciously consider the unique obligations and sacrifices made by the Armed Forces; that it is desirable to remove disadvantages faced by the Armed Forces community; and that special provision may be justified in some circumstances.

Health Inequalities Duties- Equity for all

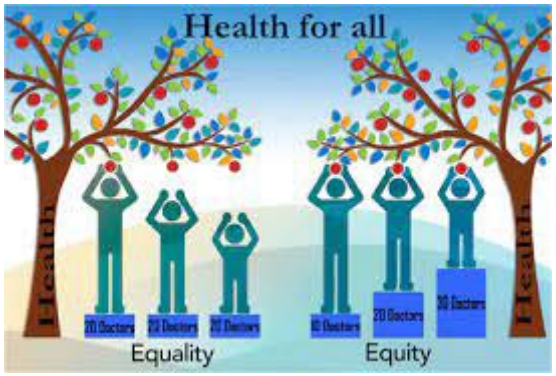
In addition to our legal duties in relation to Protected Characteristics, the Health and Social Care Act and other legislation, NHS Planning Guidance and sector specific recommendations require the NHS to have regard to the need to address health inequalities (or differences in access to or outcomes from healthcare) and take specific action to address them.

Figure 1 shows the different population groups, factors associated with where we live, or our individual circumstances, which separately, or when combined, influence access to and outcomes from health care.

Getting equal outcomes may require different inputs (or services). In completing an EHIA its important to think about whether a one size fits all approach will generate the same good outcomes for everyone, or whether we might need to make some tweaks or adjustments to enable everyone to benefit equally. The health tree diagram shows that unless we think about the needs of different people, equal services might generate unequal outcomes.



The Health Tree[1]



The following principles, drawn from case law, explain what we must do to fulfil our duties under the Equality Act:

- **Knowledge:** everyone working for the Trust must be aware of our equality duties and apply them appropriately in their work.
- **Timeliness:** the duty applies at the time of considering policy options and/or before a final decision is taken – not afterwards.

[1] https://www.researchgate.net/figure/Equality-and-equity-of-medical-resources-distribution_fig2_323266914

- **Real Consideration:** the duty must be an integral and rigorous part of your decision-making and influence the process.
- **Sufficient Information:** you must assess what information you have and what is needed to give proper consideration.
- **No delegation:** the Trust is responsible for ensuring that any contracted services which provide services on our behalf can comply with the duty, are required in contracts to comply with it, and do comply in practice. It is a duty that cannot be delegated.
- **Review:** the equality duty is a continuing duty. It applies when a policy/process is developed/agreed, and when it is implemented/reviewed.
- **Proper Record Keeping:** to show that we have fulfilled our duties we must keep records of the process and the impacts identified.

NB: Filling out this EHIA in itself does not meet the requirements of the equality and health inequalities duties. All the requirements above must be fulfilled or the EHIA (and any decision based on it) may be open to challenge. Properly used, an EHIA can be a tool to help us comply with our equality and health inequalities duty and as a record that to demonstrate that we have done so. It is advised that you complete the short EHIA training session on MyLearn before completing this EHIA.

SECTION A ADMINISTRATIVE INFORMATION

This form is a central part of how the Trust makes sure and can demonstrate to others that we are meeting our legal duties; and how we can assure ourselves that all patients will get the best outcome for them from our services.

A completed copy of this form must be provided to the decision-makers in relation to your proposal. The decision-makers must consider the results of this assessment when they make their decision about your proposal. **Function/policy/service name and number:**			
Main aims and intended outcomes of the function/policy/service and summary of the changes you are making (if existing policy/service):	The aim of the policy is to ensure that both the rules on the consumption of intoxicating substances and the procedures for dealing with breaches of the rules are clear, and to encourage those with an addiction to an intoxicating substance to seek help.		
How will the function/policy/service change be put into practice?	Through dissemination to all staff and implementation by managers		
Who will be affected/benefit from the policy?	All staff		
State type of policy/service	Policy: Drug, Alcohol and Substance Misuse Policy	Service	
	Business Case	Function	Existing
Is an EHIA required? NB :Most policies/functions will require an EA with few exceptions such as routine procedures	Yes		
Accountable Director: (Job Title)	Chief People Officer		
Assessment Carried out by:	Name: [redacted]		
Contact Details:	[redacted]		
Date Completed:	16 July 2024		

SECTION B ANALYSIS AND EVIDENCE

Analysis of the potential impact – Equality and Health Inequalities Duties
For this section you will need to think about all the different groups of people who are more likely to experience poorer access or have poorer outcomes from health and care services. For each group please describe in the first column the potential impact you have identified, in the second column explain how you have arrived at this conclusion and what information you used to identify the potential impact, and in the third column say what you are going to do to prevent it from happening, or which elements of a service or policy specifically address the potential impact. Key things to remember.

- Everyone has protected characteristics but some groups who share one or more protected characteristics may be more likely to have poorer outcomes or access compared with others – and it is this potential that the EHIA process seeks to identify and address.
- The information included here should be proportionate to the type and size of the policy/service/change.
- An update to a policy should demonstrate that you have considered the potential for the policy to impact differently on different groups and taken steps to address that.
- A minor policy update is likely to need to be much less comprehensive than an EHIA for a major service change.
- You will need to know information about who uses or could use your service/policy will apply to (the population). You can use information about current patients or staff, and about the general population the Trust serves.

3. PROTECTED CHARACTERISTICS - Main potential positive or negative impact of the proposal for protected characteristic groups summarised

Please write in the box below a brief summary of the main potential impact (positive or negative) Please state **N/A if your proposal will not impact adversely or positively on the protected characteristic groups listed below, but make sure you include information on how you know there will be no impact.**

The main potential positive impact of this policy is that the rules on the consumption of intoxicating substances and the procedures for dealing with breaches of the rules are clear, and to encourage those with an addiction to an intoxicating substance to seek help.

Protected characteristic groups	Summary explanation of the *potential* positive or adverse impact of your proposal	How do you know this? (include here a brief explanation of what information you have used to identify potential adverse impact e.g. NICE guidance, local data, evidence reviews, stakeholder or patient feedback	Action that will be taken to address the potential for negative impact.
Age: older people; middle years; early years; children and young people.	The rules on the consumption of intoxicating substances and the procedures for dealing with breaches of the rules are clear, and to encourage those with an addiction to an intoxicating substance to seek help.	Stakeholder engagement	N/A
Disability: physical, sensory and learning impairment; mental health condition; long-term conditions.	The rules on the consumption of intoxicating substances and the procedures for dealing with breaches of the rules are clear, and to encourage those with an addiction to an intoxicating substance to seek help.	Stakeholder engagement	N/A
Gender Reassignment and/or people who identify as Transgender	The rules on the consumption of intoxicating substances and the procedures for dealing with breaches of the rules are clear, and to encourage those with an addiction to an intoxicating substance to seek help.	Stakeholder engagement	N/A
Marriage & Civil Partnership: people married or in a civil partnership.	The rules on the consumption of intoxicating substances and the procedures for dealing with breaches of the rules are clear, and to encourage those with an addiction to an intoxicating substance to seek help.	Stakeholder engagement	N/A

Protected characteristic groups	Summary explanation of the *potential* positive or adverse impact of your proposal	How do you know this? (include here a brief explanation of what information you have used to identify potential adverse impact e.g. NICE guidance, local data, evidence reviews, stakeholder or patient feedback	Action that will be taken to address the potential for negative impact.
Pregnancy and Maternity: before and after childbirth and who are breastfeeding.	The rules on the consumption of intoxicating substances and the procedures for dealing with breaches of the rules are clear, and to encourage those with an addiction to an intoxicating substance to seek help.	Stakeholder engagement	N/A
Race:	The rules on the consumption of intoxicating substances and the procedures for dealing with breaches of the rules are clear, and to encourage those with an addiction to an intoxicating substance to seek help.	Stakeholder engagement	N/A
Religion and belief: people with different religions/faiths or beliefs, or none.	The rules on the consumption of intoxicating substances and the procedures for dealing with breaches of the rules are clear, and to encourage those with an addiction to an intoxicating substance to seek help.	Stakeholder engagement	N/A
Sex:	The rules on the consumption of intoxicating substances and the procedures for dealing with breaches of the rules are clear, and to encourage those with an addiction to an intoxicating substance to seek help.	Stakeholder engagement	N/A

Protected characteristic groups	Summary explanation of the *potential* positive or adverse impact of your proposal	How do you know this? (include here a brief explanation of what information you have used to identify potential adverse impact e.g. NICE guidance, local data, evidence reviews, stakeholder or patient feedback	Action that will be taken to address the potential for negative impact.
Sexual orientation	The rules on the consumption of intoxicating substances and the procedures for dealing with breaches of the rules are clear, and to encourage those with an addiction to an intoxicating substance to seek help.	Stakeholder engagement	N/A
Veterans/Armed Forces Communities	The rules on the consumption of intoxicating substances and the procedures for dealing with breaches of the rules are clear, and to encourage those with an addiction to an intoxicating substance to seek help.	Stakeholder engagement	N/A

4. HEALTH INEQUALITIES -Potential positive or adverse impact for people who experience health inequalities summarised

Please briefly summarise the main potential impact (positive or negative) on people at particular risk of health inequalities (as listed below). **If the policy/procedure is unrelated to patients, this sections does not require completion.**

Please state none if you have assessed that there is not an impact, but please make sure you complete the 'how do you know this' column to demonstrate that you have considered the potential for impact. **If you identify the potential for impact for one or more of these groups please complete the full assessment in Appendix A**

Groups who face health inequalities[2]	Summary explanation of the potential positive or adverse impact of your proposal	How do you know this? (include here a brief explanation of what information you have used to identify potential adverse impact e.g. NICE guidance, local data, evidence reviews, stakeholder or patient feedback	Action that will be taken to address the potential for negative impact.
This includes all groups of people who may have poorer access to or outcomes from healthcare services. It includes: People who have experienced the care system; carers; homeless people; people involved in the criminal justice system; people who experience substance misuse or addiction; people who experience income or other deprivation; people with poor health literacy; people living in rural areas with limited access to services; refugees or asylum seekers; people in or who have been in the armed force; other groups who you identify as potentially having poorer access and outcomes.	N/A	N/A	N/A

SECTION C ENGAGEMENT

5. Engagement and consultation

a. Talking to patients, families and local communities can be a rich source of information to inform health care services. If you are making substantial changes it's likely that you'll have to undertake specific engagement with patients. For smaller changes and policies your may have undertaken some engagement with patient groups, gained insight from routine sources e.g. patient surveys, PALS or Complaints information or information from Healthwatch, you may also have looked at relevant engagement that others have undertaken in the Trust, or locally
Have any engagement or consultative activities been undertaken that considered how to address equalities issues or reduce health inequalities? Please place an x in the appropriate box below.

Yes X	**No**

b. If yes, please ensure all stakeholders are listed in the consultation table at the beginning of the policy.

SECTION D SUMMARY OF FINDINGS

Reflecting on all of the information included in your review-

6. EQUALITY DUTIES: Is your assessment that your proposal will support compliance with the Public Sector Equality Duty?
Please **add an x** to the relevant box below.

	Tackling discrimination	Advancing equality of opportunity	Fostering good relations
The proposal will support?	X	X	X
The proposal may support?			
Uncertain whether the proposal will support?			

7. HEALTH INEQUALITIES: Is your assessment that your proposal will support reducing health inequalities faced by patients?
Please add an x to the relevant box below.

	Reducing inequalities in access to health care	Reducing inequalities in health outcomes
The proposal will support?	N/A	N/A
The proposal may support?	N/A	N/A
Uncertain if the proposal will support?	N/A	N/A

8. Outstanding key issues/questions that may require further consultation, research or additional evidence. Please list your top 3 in order of priority or state N/A

Key issue or question to be answered		Type of consultation, research or other evidence that would address the issue and/or answer the question
1	N/A	
2	N/A	
3	N/A	

9. EHIA sign-off: (this section must be signed)

Person completing the EHIA:	[redacted]	**Date: 16/07/2024**
Line Manager of person completing:	[redacted]	**Date: 16/07/2024**

Appendix 1

Breakdown of Groups who are more likely to experience health inequalities:

Groups who face health inequalities[3]	Summary explanation of the potential positive or adverse impact of your proposal	How do you know this? (include here a brief explanation of what information you have used to identify potential adverse impact e.g. NICE guidance, local data, evidence reviews, stakeholder or patient feedback	Action that will be taken to address the potential for negative impact.
Looked after children and young people	The rules on the consumption of intoxicating substances and the procedures for dealing with breaches of the rules are clear, and to encourage those with an addiction to an intoxicating substance to seek help.	Stakeholder engagement	
Carers of patients	The rules on the consumption of intoxicating substances and the procedures for dealing with breaches of the rules are clear, and to encourage those with an addiction to an intoxicating substance to seek help.	Stakeholder engagement	

Groups who face health inequalities[3]	Summary explanation of the potential positive or adverse impact of your proposal	How do you know this? (include here a brief explanation of what information you have used to identify potential adverse impact e.g. NICE guidance, local data, evidence reviews, stakeholder or patient feedback	Action that will be taken to address the potential for negative impact.
Homeless people. People on the street; staying temporarily with friends /family; in hostels or B&Bs.	The rules on the consumption of intoxicating substances and the procedures for dealing with breaches of the rules are clear, and to encourage those with an addiction to an intoxicating substance to seek help.	Stakeholder engagement	
People involved in the criminal justice system: offenders in prison/on probation, ex-offenders.	The rules on the consumption of intoxicating substances and the procedures for dealing with breaches of the rules are clear, and to encourage those with an addiction to an intoxicating substance to seek help.	Stakeholder engagement	
People with addictions and/or substance misuse issues	The rules on the consumption of intoxicating substances and the procedures for dealing with breaches of the rules are clear, and to encourage those with an addiction to an intoxicating substance to seek help.	Stakeholder engagement	

Groups who face health inequalities[3]	Summary explanation of the potential positive or adverse impact of your proposal	How do you know this? (include here a brief explanation of what information you have used to identify potential adverse impact e.g. NICE guidance, local data, evidence reviews, stakeholder or patient feedback	Action that will be taken to address the potential for negative impact.
People or families on a low income	The rules on the consumption of intoxicating substances and the procedures for dealing with breaches of the rules are clear, and to encourage those with an addiction to an intoxicating substance to seek help.	Stakeholder engagement	
People with poor literacy or health Literacy: (e.g. poor understanding of health services poor language skills).	The rules on the consumption of intoxicating substances and the procedures for dealing with breaches of the rules are clear, and to encourage those with an addiction to an intoxicating substance to seek help.	Stakeholder engagement	
People living in deprived areas	The rules on the consumption of intoxicating substances and the procedures for dealing with breaches of the rules are clear, and to encourage those with an addiction to an intoxicating substance to seek help.	Stakeholder engagement	

Groups who face health inequalities[3]	Summary explanation of the potential positive or adverse impact of your proposal	How do you know this? (include here a brief explanation of what information you have used to identify potential adverse impact e.g. NICE guidance, local data, evidence reviews, stakeholder or patient feedback	Action that will be taken to address the potential for negative impact.
People living in remote, rural and island locations	The rules on the consumption of intoxicating substances and the procedures for dealing with breaches of the rules are clear, and to encourage those with an addiction to an intoxicating substance to seek help.	Stakeholder engagement	
Refugees, asylum seekers or those experiencing modern slavery	The rules on the consumption of intoxicating substances and the procedures for dealing with breaches of the rules are clear, and to encourage those with an addiction to an intoxicating substance to seek help.	Stakeholder engagement	
People who have served in the Armed Forces	The rules on the consumption of intoxicating substances and the procedures for dealing with breaches of the rules are clear, and to encourage those with an addiction to an intoxicating substance to seek help.	Stakeholder engagement	

Groups who face health inequalities[3]	Summary explanation of the potential positive or adverse impact of your proposal	How do you know this? (include here a brief explanation of what information you have used to identify potential adverse impact e.g. NICE guidance, local data, evidence reviews, stakeholder or patient feedback	Action that will be taken to address the potential for negative impact.
Other groups experiencing health inequalities (please describe)	The rules on the consumption of intoxicating substances and the procedures for dealing with breaches of the rules are clear, and to encourage those with an addiction to an intoxicating substance to seek help.	Stakeholder engagement	

Appendix 2 – EHIA Resources
Sources of Information on the East Sussex population and sources of community or patient insight.

Population Data

State of the County 2021 Focus on East Sussex

East Sussex JSNA

Community Insight

Further Reading on Equality and Health Inequalities

Training

Appendix B: Guidance for Managers

The Alcohol and Substance Misuse Policy sets out the commitment of the Trust to support and help employees who may be suffering from an alcohol, substance or drug dependency. Managers should adopt a constructive and sensitive approach to identification of the issue and offer help in a supportive and confidential environment.

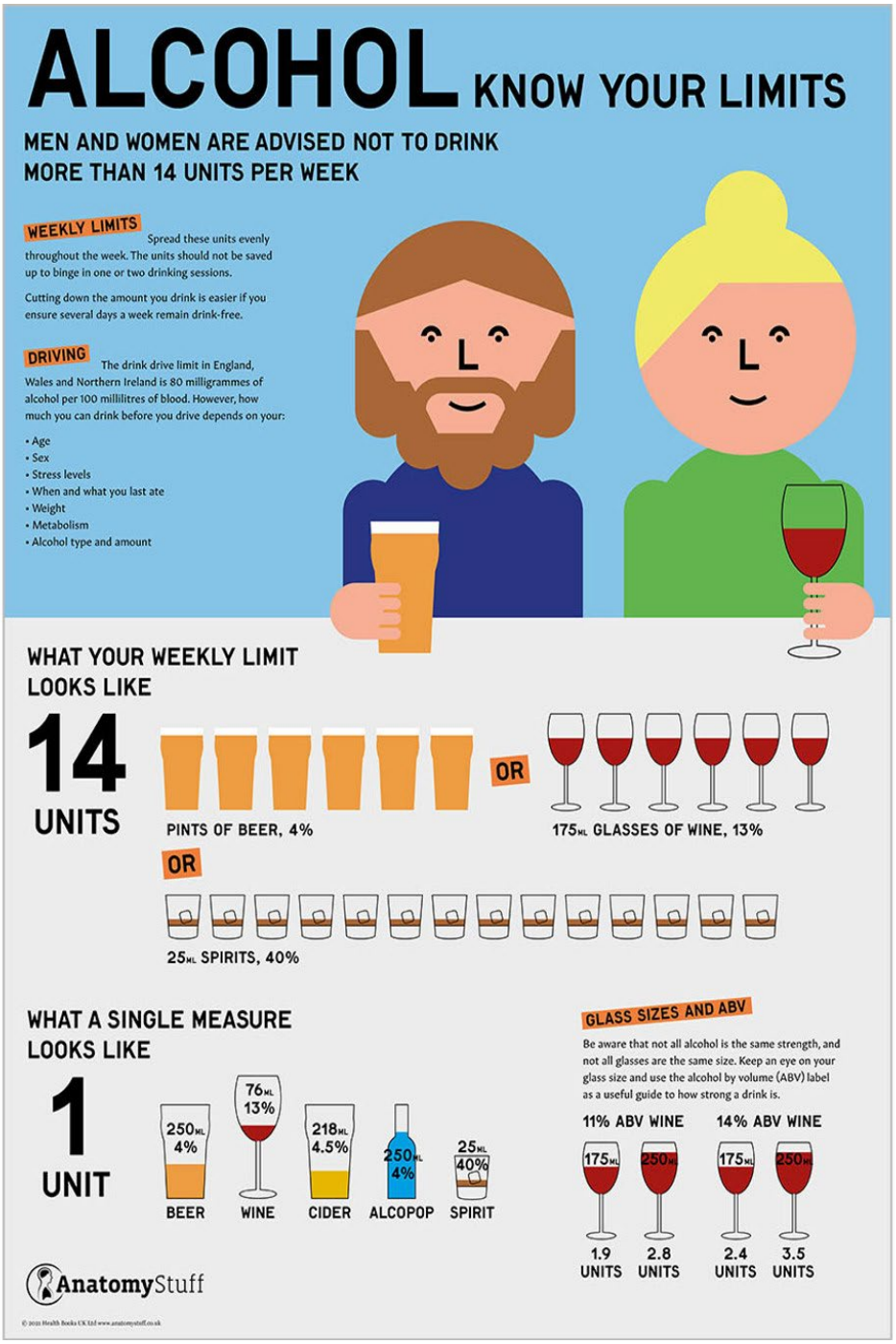
Managers need to be aware that there may be a range of contributing factors to alcohol and substance misuse, including stress, mental health problems and disability.

It may be helpful to consider the following in preparing for meetings with employees with suspected alcohol or substance related problems. Further advice may be sought from HR Solutions in determining the sequence of events and the relationship with other Human Resources procedures.

- Concentrate on the instances of poor performance and/or conduct that have been identified and give the employee the opportunity to explain their behaviour.
- If appropriate, inform the employee of the seriousness of the misconduct/poor performance. It is important that employees are made aware that in cases of misconduct or continued poor performance it may be necessary to instigate the Disciplinary or Performance Improvement Procedure.
- Otherwise, make the employee aware of the Trust's concern over their behaviour and the need to explore the reasons behind it.
- Confirm to the employee that an acknowledged alcohol or substance dependency problem will be treated by the Trust as a health issue with the support that this entails, including, where appropriate, sick leave in accordance with the Sickness Management Procedure.
- Where appropriate, discuss a referral to Occupational Health. Referral to Occupational Health is to provide professional support and advice to managers. At the same time Occupational Health may advise employees regarding their health and encourage them to access support through their GP or other specialist agencies.
- Agree future action and specify a timescale for review.
- Arrange regular meetings to monitor progress and discuss any further problems if they arise.
- Take notes during the meeting and confirm the outcome of the meeting in writing to the employee.

Appendix C: HOW MUCH ALCOHOL IS IN YOUR DRINK?

The most important thing you need to know is the amount of alcohol in your drink and how the different drinks compare. Below is a useful visual reference:



ALCOHOL BY VOLUME: (ABV) (ABV) can be shown as ‘alcohol % vol’ or ‘% vol’ Different drinks have different strengths and you should always read the label to be aware of how strong the alcohol content is. Some extra strong lagers can contain 3 times as much alcohol, as ordinary beers.

LOW ALCOHOL DRINKS Low alcohol drinks, beer, larger, cider and wine can vary enormously. Some can be as low as 0.5% volume – virtually alcohol free, but some low alcohol beers / lagers and ciders can have an alcohol content of 1/3rd of ordinary strength beer. Some table wines although marked low alcohol are ½ the strength of ordinary table wine

HOW QUICKLY DO THE EFFECTS OF DRINKING ALCOHOL WEAR OFF? It is recognised, that the risk of accidents at work, is increased when breath alcohol is above 20 micrograms of alcohol per 100 millilitres of breath, or 50 milligrams of alcohol per 100 millilitres of blood.

When alcohol is consumed, on average, it takes one hour for the body to get rid of the alcohol in one unit. However, the rate that alcohol is absorbed into the body and eliminated from the body, can vary due to many factors. (See below)

Nearly 2/3rds of the human body weight is water. In the body the alcohol mixes evenly through this water. The larger the body, the more water it contains to dilute the alcohol consumed. However, people with a lot of body fat, will contain less water than a muscular person of the same body weight. Since alcohol is far less soluble in fat than it is in water, its concentration will reach a higher level in the body of a fatty person than of the muscular person who has consumed the same quantity of alcohol, all other factors being equal.

Women have lower proportional body water content than men, so will have higher concentrated levels of alcohol, in comparison to a man with a similar body weight.

The rate, at which the alcohol is absorbed also depends upon stomach contents and what has been eaten. If the stomach is empty alcohol can be absorbed into the body quickly. Fatty food, milk or a plate of mashed potatoes can impede absorption the absorption of alcohol and so lessen the maximum blood alcohol level reached.

Types and potency of drinks vary, and it is difficult to say how many units of alcohol they contain without looking at the bottle, also pub measures of spirit are very small against a ‘home’ measure.

Strong drinks are able to irritate the stomach wall and delay the valve opening into duodenum, this can delay absorption and alcohol levels can rise higher, much later, than normal. This often happens when a person has been sitting and drinking and then stand up.