

## Policy for Maintaining High Professional Standards in the Modern NHS

(Incorporating the Disciplinary Policy for Medical and Dental Staff)

<b>CATEGORY:</b>	Policy
<b>CLASSIFICATION:</b>	Human Resources
<b>PURPOSE</b>	To set out the Trust's policy for handling concerns about doctors and dentists' conduct and capability.
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## **1. Policy Statement**

- 1.1 The purpose of this policy and its associated documents is to encourage all doctors and dentists to achieve and maintain the standards of conduct and performance required within the University Hospitals Birmingham Foundation Trust (the Trust).
- 1.2 This policy is a commitment by the Trust to operate a fair, consistent and non-discriminatory procedure in relation to all its employees. The Trust's aim is to ensure that doctors feel valued and have a fair and equitable quality of working life.
- 1.3 This policy will ensure that the management of all concerns about a doctor's conduct and capability are addressed in a fair and consistent manner.
- 1.4 This policy replaces all previous disciplinary conduct and capability policies from the date of approval by the Trust Board. This includes any local or national policies and associated procedures.

## **2. Scope**

- 2.1 This policy applies to all doctors and dentists employed by the Trust (including those with honorary contracts) and must be read in conjunction with all appropriate codes of conduct/rules for professional bodies.
- 2.2 Wherever 'doctor' is used in this policy and accompanying procedure, it is intended to mean a doctor or dentist.
- 2.3 This policy covers primarily conduct and capability issues relating to doctors.
- 2.4 In respect of health issues, the health section of the policy and associated procedures will need to be followed in conjunction with the Trust's Sickness Absence and Attendance Procedure which outlines the processes involved in dealing with such matters.

## **3. Framework**

- 3.1 The broad framework of the policy includes:
  - Seeking a culture of openness and continuing development;
  - A positive approach to ensure attitudes, working practices, skills and knowledge are kept up to date;

- Supporting an open approach to reporting and tackling concerns about a doctors practice;
  - Tackling performance issues through training and remedial action where appropriate;
  - Taking formal action when required including as a necessary tool to secure an improvement to safety and accountability; and
  - A recognition that honest failure about a practice or developmental needs must not be responded to primarily by blame and retribution but by learning and a drive to reduce risk for future patients.
- 3.2 The Executive Medical Director shall approve all procedural documents associated with this policy, and any amendments to such documents, and is responsible for ensuring that such documents are compliant with this policy.
- 3.3 Clinical Service Leads and Divisional Directors must discuss with a doctor ways of achieving identified goals to address any concerns or developmental needs within a jointly agreed plan.
- 3.4 For many minor lapses of conduct or job performance, counselling may achieve the required improvement in performance or conduct.
- 3.5 No formal sanction for conduct or capability will normally be taken against a doctor until all the facts have been fully established or investigated.
- 3.6 When serious concerns are raised about a doctor, the Trust will urgently consider whether it is necessary to place temporary restrictions on their practice. This might be to amend or restrict their clinical duties, obtain undertakings or provide for the exclusion of the doctor from the workplace.
- 3.7 The doctor must be informed of any concerns or issues relating to them as soon as reasonably possible.
- 3.8 The doctor has the right to be accompanied to a formal meeting convened under this policy and associated procedure by a colleague or an official of a registered trade union/defence organisation. It is for the doctor to arrange to be accompanied if they choose to do so.
- 3.9 No legal representation or representation by a legally qualified individual is normally allowed (except if a trade union/defence body

official who are, in addition to their main role with that organisation, legally qualified).

- 3.10 If a formal hearing is warranted, due process will be followed with notification and disclosure by all parties to assure a fair hearing occurs.
- 3.11 All panel members at a formal hearing will act with independent thought based on the evidence presented at the hearing.
- 3.12 Where an individual is providing specialist advice to a panel, they must have the requisite knowledge and have no conflict of interest.
- 3.13 There is a right of appeal against all formal decisions if the doctor believes the process or the decision has been unfair or unjust.
- 3.14 A doctor who admits to misconduct or a failure of performance may agree an appropriate sanction without recourse to a formal hearing through a 'fast-track' process. The Trust is not obliged to offer a fast track process and the doctor is not required to accept a fast track process. Where a case to answer is identified for a formal process the doctor may elect to have their case heard through a formal hearing.
- 3.15 Detailed processes are outlined in the associated Procedure for Maintaining High Professional Standards in the Modern NHS.
- 3.16 The Executive Medical Director shall approve all procedural documents associated with this policy and any amendments to such documents and is also responsible for ensuring such documents are compliant with this policy.
- 3.17 Definition of Issues and Classification

3.17.1 **Conduct** can cover many areas but misconduct will generally fall into one (or more) of the following categories:

- A refusal to comply with reasonable requirements of the employer;
- An infringement of the employer's disciplinary rules including conduct that contravenes the standard of professional behaviour required by doctors and dentists by their respective regulatory body;
- The commission of criminal offences outside the place of work which may, in particular circumstances, amount to misconduct;

- Wilful, careless, inappropriate or unethical behaviour likely to compromise standards of care or patient safety, or create serious dysfunction to the effective running of a service; and/or
- Failure to fulfil contractual obligations such as regular non-attendance at clinics or ward rounds, not taking part in clinical governance activities and instances of failing to give proper support to other members of staff including doctors in training.

This is not an exhaustive list.

3.17.2 **Capability** is defined as a clear failure by an individual to deliver an adequate standard of care, or standard of management, through lack of knowledge, ability or consistently poor performance. Examples include:

- out of date clinical practice;
- inappropriate clinical practice arising from a lack of knowledge or skills that put patients at risk;
- incompetent clinical practice;
- inability to communicate effectively;
- inappropriate delegation of clinical responsibility;
- inadequate supervision of delegated clinical tasks; and
- ineffective clinical team working skills

This is not an exhaustive list.

3.17.3 Behavioural concerns or disruptive behaviour is a type of behaviour which occurs when the use of inappropriate words, actions or inactions by a doctor interferes with his/her ability to function well with others to the extent that the behaviour interferes with, or is likely to interfere with quality health care delivery. Such behaviour may fall within a conduct or capability heading dependent upon the issues.

3.17.4 Any examples given above are not an exhaustive list but examples of areas normally falling within the various headings.

## 4. Patient Care

4.1 If the concerns raised relate to patient harm appropriate steps must be taken to safeguard the patient. This may include but is not restricted to:

- Review the patient's plan of care to ensure they are supported and appropriate care provided.
- Consider whether it is necessary to remove the alleged individual from the care/treatment of the patient.
- Notify the appropriate Trust department through the Clinical Service Lead (CSL) and copy the Divisional Director and the Executive Medical Director of the incident; also notify the Safeguarding, Governance and Operational HR teams and complete an Incident Reporting Form if this has not been done.
- Notify the Clinical Director of Pharmacy as appropriate for incidents relating to medicine related issues e.g. theft of drugs.

## 5. Duties

### 5.1 Executive Medical Director

The Executive Medical Director is responsible for:

- The implementation of the policy; and
- Reporting any significant concerns with compliance to the Board of Directors.

### 5.2 Executive Director of Workforce and Innovation

The Executive Director of Workforce and Innovation will ensure all Senior Managers are aware of the policy and that appropriate training is available for all staff.

### 5.3 Head of Medical Resourcing

The Head of Medical Resourcing will:

- Provide advice, support and guidance to all staff on the policy and associated procedures;
- Ensure training is available to all staff who undertake managerial responsibilities under the policy; and,

- Monitor the application of the policy on an ongoing basis and report annually to the Executive Medical Director on compliance with the policy.

#### 5.4 **Human Resources (HR) Staff**

All HR Staff will ensure they have detailed knowledge of the policy and associated procedures to provide advice, guidance and support to all managers undertaking responsibilities in accordance with this policy.

#### 5.5 **Senior Managers**

All Senior Managers will ensure they are aware of the requirements of this policy and its associated procedures and will undertake any required training to follow the processes fairly and reasonably.

#### 5.6 **Medical and Dental Staff**

5.6.1 All medical and dental staff must be aware of their roles and responsibilities under this policy and its associated procedure.

5.6.2 All concerns must be raised with the appropriate clinical managers as soon as possible and serious concerns must be reported to the Executive Medical Director.

5.6.3 All staff must comply fully with any processes identified as required by the Trust under this policy including any investigations against them or any colleagues.

5.6.4 Clinical managers have specific responsibilities under the procedures and must undertake appropriate training to ensure they are fully aware of their roles and responsibilities.

## 6. **Implementation and Monitoring**

### Implementation

6.1 This policy will be available on the Trust's Intranet site. Information on the policy and its implementation will be disseminated through the management structure within the Trust.

6.2 Training workshops will be organised by the Head of Medical Resourcing and staff will be informed of dates by email.

## Monitoring

- 6.3 The Head of Medical Resourcing will monitor the application of the policy on an ongoing basis and report annually to the Medical Director on the compliance with the policy.
- 6.4 The Executive Medical Director will report any significant concerns with compliance to the Board of Directors.
- 6.5 Appendix A provides details on the monitoring of the policy.

## **7. References**

Maintaining High Professional Standards in the Modern NHS national framework for information purposes

National Clinical Assessment Service - <https://www.ncas.nhs.uk/>

## **8. Associated Policy and Procedural Documentation**

Procedure for Maintaining High Professional Standards in the Modern NHS

Sickness Absence and Attendance Procedure

## Appendix A

## Monitoring Matrix

<b>MONITORING OF IMPLEMENTATION</b>	<b>MONITORING LEAD</b>	<b>REPORTED TO PERSON/GROUP</b>	<b>MONITORING PROCESS</b>	<b>MONITORING FREQUENCY</b>
Policy and Procedural documents	Head of Medical Resourcing	Medical Director	Check intranet documents are up to date.	Annually
Compliance by staff	Head of Medical Resourcing	Medical Director	Ongoing reports from case workers and an annual report.	Ongoing and annually
Trained Managers	Head of Medical Resourcing	Medical Director	Updated list of trained managers sent to Medical Director and HR staff.	Following each training workshop
Serious Concerns	Medical Director	Board of Directors	Serious concerns over clinical performance and conduct.	Quarterly
Overall compliance	Medical Director	Board of Directors	Overall concerns with compliance.	Annual Report