



## Solving Problems at Work Policy

At the NHSBSA we understand that from time-to-time problems arise. We want to resolve problems and ensure that colleagues are supported through what can be a difficult time. Our Solving Problems at Work Policy and associated processes set out what to do and what to expect in the event of a grievance, discipline or bullying and harassment issue arising.

We will always aim, where appropriate to resolve problems at work informally. This may involve such remedies as mediation.

Where there is an allegation of misconduct and it is unclear whether an informal approach is appropriate a Case Manager will be assigned.

Where formal meetings are held, a notetaker will record what is discussed and you will be provided with copies. We do not allow meetings to be recorded electronically. Please do not record meetings as disciplinary action may be taken against you.

In applying this policy we, the NHSBSA, will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender including non-binary, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.

This policy doesn't form part of your contract of employment and can be amended at any time. We may also vary the processes within this policy, including any time limits, as appropriate in any case. Any review of this policy will be done in partnership with Trade Unions.



## Who Does This Policy Apply to?

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This policy, except for the Discipline section which deals with conduct issues, applies to all employees of the NHSBSA (referred to throughout as “colleagues”). If you are in your probationary period, conduct matters will be addressed as part of the Probationary Policy and associated process.

## Grievance

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If you have a complaint about your work or working conditions, it is important to let us know as soon as possible so we can try to resolve it as quickly as possible. Complaints may be in relation to such things as pay, working conditions, health and safety or relationships at work. We want to resolve complaints informally wherever possible however we understand some matters may be more serious.

## Informal Complaints

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If you have a complaint, please let your manager know. Your manager will meet with you to discuss the matter. Your manager will try to resolve things as quickly as possible in a supportive manner. Your complaint will remain as confidential as possible throughout the time it takes to resolve. There may be occasions where we may have to involve others to address your complaint. This will only be done when it is necessary to do so.

If you feel unable to talk to your manager or your complaint is about them, please speak to their immediate manager.

Where you feel the matter is too serious to be addressed informally or the informal process has not resolved the issue, you should follow the formal process.



## Raising a Formal Grievance

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You can raise a formal grievance when you feel the informal process hasn't worked or the matter is too serious to address informally. To make things easier and to help the manager who will handle your complaint please complete the Formal Grievance Form which can be found on the intranet.

Once your grievance has been received you will receive an acknowledgement and a panel will be appointed to investigate your complaint. The panel will be chaired by an appropriate manager who will be accompanied by another manager or in some cases a member of HR (Corporate Services) may attend instead of another manager. If you are not comfortable with the panel appointed to



investigate your grievance, please let us know by emailing [nhsbsa.corporatehr@nhs.net](mailto:nhsbsa.corporatehr@nhs.net), and we will consider whether any replacements need to be made.

## Grievance Meeting

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The investigating panel will write to you to invite you to a meeting to discuss your complaint. Ideally this should be within 5 working days after your Formal Grievance Form has been received. In exceptional circumstances this may not be possible. If this is the case the panel will inform you and let you know the reasons why. As this is a formal meeting you can be accompanied at the meeting by a trade union representative or an NHSBSA work colleague. If you or your chosen companion are unable to attend the meeting, the panel will contact you to arrange another date/time.

At the meeting the panel will ask you to give as much detail as you can about your complaint. The panel will look to establish the facts of your complaint. If you have any evidence to support your complaint that you would like the panel to consider, please bring it to the meeting with you.



## Investigating Your Grievance

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After the panel have met with you, they will adjourn to fully investigate your complaint. We aim to investigate and respond to all grievances within 10 working days of the meeting however it is important to ensure a full investigation takes place. Should the panel need more time to investigate the matter, they will let you know. Reasons the panel may need longer include such things as availability of witnesses, or volume of evidence to review. They will also let you know when they expect to have completed their investigation. The outcome of your grievance will not be delayed unless it is necessary to do so.

## Outcome of Your Grievance

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Once the panel have fully investigated and reached a decision about your grievance, they will write to you without delay to inform you of the outcome. There are 3 possible outcomes of your grievance. These are:

- Grievance upheld
- Grievance partially upheld
- Grievance not upheld



In addition to the outcome of your grievance, the panel may make recommendations. For example, mediation or further training. In some cases, the panel may also decide there may be a disciplinary case to answer. If this is the case the matter will be addressed using the discipline section of this policy and procedure. Please note that if the panel finds there may be a disciplinary case involving anyone involved in your complaint, this will be treated confidentially and will not be included in the outcome you receive.

If your grievance is partially or not upheld, you have the right to appeal the decision.

## Appealing the Outcome of a Grievance

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If you are not satisfied with the outcome of your grievance you can appeal the decision. Our Appeal Policy sets out what you need to do and how we will deal with your appeal. The Appeal Policy can be found on the intranet.

## Discipline

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Where an allegation that your conduct has fallen below the standards we expect of all colleagues, we will investigate the matter fairly and in a supportive manner. Where appropriate we will assess if the issue can be resolved informally. If your conduct has not improved sufficiently following informal resolution or the allegation is of a serious nature, the matter will be referred to the formal process.

If you are a Trade Union representative and you are facing allegations of misconduct, we will discuss the matter with the relevant full-time officer before any disciplinary action is taken

## What Happens When an Allegation is Made?

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If an allegation about your conduct has been made, your manager (or if they are unable another manager) will meet with you to discuss the matter. This is an informal fact find meeting and is to allow your manager to establish if a formal investigation needs to take place.

## Resolving the Allegations Informally

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Where your manager has decided the nature of the allegation isn't serious enough to warrant a formal process, they will meet with you informally to discuss their concerns. At the meeting you and your manager will discuss the conduct that is giving cause for concern and the actions to improve the situation. For example, mediation, training, or a referral to Occupational Health. In some cases, there may be no actions and simply discussing the matter is enough to address it.



Following the meeting your manager may complete a Record of Informal Discussion Form and provide you with a copy.

If after informal resolution your conduct does not improve or there are further allegations, your manager may refer the matter to the formal process. If this is the case, you will be invited to attend a Formal Fact Find Meeting.

## Formal Fact Find Meeting

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Where informal attempts to address concerns about your conduct have not been successful or the nature of the allegation against you is serious your manager will let you know that a formal investigation will take place. The Case Manager will appoint an Investigating Manager to investigate the allegations.

The Investigating Manager will be supported by another manager or in some cases a member of HR (Corporate Services) may attend instead of another manager. The Investigating Manager will write to you to invite you to the meeting. The letter will give you a brief description of the allegations against you. You will be given at least 2 working days' notice of the meeting and you can be accompanied at the meeting by a trade union representative or an NHSBSA work colleague. If you or your chosen companion are unable to attend the meeting, the Investigating Manager will contact you to arrange another date/time.

At the meeting the Investigating Manager will discuss the allegations with you and try to establish the facts. They may also have some evidence or information they want to refer to. This is a two-way discussion, and you will have plenty of opportunity to share your viewpoint and recollection of events. Depending on the nature of the investigation the Investigating Manager may feel they need to adjourn the meeting with you to carry out further investigations. If this is the case, they will let you know why they are adjourning. For example, to interview witnesses or to consider evidence you have presented. The Investigating Manager will give you an estimated time of how long they will need to carry out a thorough investigation.

Once the Investigating Manager has concluded their investigation, they will prepare an Investigation Report and pass the matter to the Case Manager. The Case Manager will decide if a disciplinary meeting is required. They will write to you to let you know. If the Case Manager considers further investigation is necessary, they will refer back to the Investigating Manager.

Where appropriate the Investigating Manager and/or Case Manager may also make some additional recommendations to help resolve the matter or prevent future occurrences. For example, mediation.



## Disciplinary Meeting

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Where the Investigating Manager has recommended the matter progresses to a disciplinary meeting a disciplinary panel will be convened. The panel will be chaired by an appropriate manager who will be accompanied by another manager or in some cases a member of HR (Corporate Services) may attend instead of another manager.

The disciplinary panel will write to you to invite you a disciplinary meeting giving you at least 5 working days' notice. They will also provide you with a copy of the investigation report and any relevant evidence. They will also confirm if the Investigating Manager/Case Manager intends to call any witnesses. If you wish to call any witnesses or provide further evidence, you must provide the panel with this information at least 2 working days before the meeting. This is so the panel can review any evidence you have provided and prepare any questions for witnesses. It will be your responsibility to arrange the attendance of any witnesses you wish to call. The disciplinary panel may also need to investigate further. This could be before, during or after the meeting.

As this is a formal meeting you can be accompanied by a trade union representative or NHSBSA colleague. If you or your chosen companion are unable to attend the meeting, the panel will contact you to arrange another date/time.

At the meeting the disciplinary panel will ask the Case Manager/Investigating Manager to present their case using the investigation report and any relevant evidence. You will then be asked to respond and to present your case. Your chosen companion can present your case for you, but they can't answer questions on your behalf. You can call your witnesses and present your evidence, should you have any. Adjournments can be requested by any attendees during the meeting.

When you and the disciplinary panel have no further questions, the disciplinary panel will adjourn the meeting to review all the evidence and come to a decision on what, if any, action to take.

Once the disciplinary panel has come to a decision, they will reconvene the meeting to let you know what they have decided. The meeting may be reconvened on the same day however it is important the disciplinary panel take the time to fully consider all the evidence therefore the meeting may be reconvened later. The meeting will not be delayed any longer than is necessary. Following the meeting the disciplinary panel will write to you confirming the outcome of the meeting. The outcome may be:

- There is no case to answer
- No formal action
- First written warning
- Final written warning
- Redeployment
- Dismissal (with or without notice)



## **First Written Warning**

If the issue is serious, you may be issued with a first written warning. This will remain live for 12 months and will be taken into consideration if there is further misconduct in this time.

## **Final Written Warning**

If the issue is more serious or you have a live first written warning in your file, you may be issued with a final written warning. This will remain live in your file for 12 months and will be taken into consideration if there is further misconduct in this time.

## **Dismissal – With Notice**

If you have a live final written warning in your file and there is further misconduct, you may be dismissed. You will be paid in lieu of your notice period.

## **Dismissal – Without Notice**

If the nature of the misconduct is deemed to have been gross misconduct the dismissal may be summary dismissal in which case, you will not receive any pay in lieu of notice.

## **Redeployment**

In some cases, as an alternative to dismissal and only where appropriate, we may look to redeploy you. As this would only be the case if there was a suitable vacant post, this may result in you being redeployed to a post in a lower band. Your pay may therefore be affected.

## **Appealing the Outcome of a Disciplinary Meeting**

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If you receive any disciplinary sanction, you have the right to appeal the decision. Our Appeal Policy sets out what you need to do and how we will deal with your appeal. The Appeal Policy can be found on the intranet.

## **Suspension**

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We will only suspend you if necessary. For example, if remaining at work would hamper the investigation or pose a risk to you, others, or the NHSBSA's business. The suspension will be for as short a time as possible and you will be given the reason(s) why you have been suspended. The suspension is not a sanction and we will keep in touch with you throughout your suspension and review the ongoing situation. Your pay will not be affected during the suspension.



## Bullying and Harassment

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It is important that you feel safe and supported at work and we take any allegation of bullying or harassment very seriously. We understand that if you experience bullying or harassment it is a very difficult time for you, and we will support you in any way possible.

Bullying is unwanted behaviour that makes you feel intimidated or offended. Examples of this are:

- Spreading malicious rumours
- Unfair treatment
- Picking on or regularly undermining someone
- Denying someone's training or promotion opportunities

If the unwanted behaviour is related to a protected characteristic as listed below, this is unlawful harassment under the Equality Act 2010.

Protected Characteristics:

- Age
- Sex
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sexual orientation

## Raising a Bullying or Harassment Complaint

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If you have a complaint, please let your manager know. Your manager will meet with you to discuss the matter. Your manager will try to resolve things as quickly as possible in a supportive manner. Your complaint will remain as confidential as possible throughout the time it takes to resolve. There may be occasions where we may have to involve others to address your complaint. This will only be done when it is necessary to do so.

If you feel unable to talk to your manager or your complaint is about them, please speak to their immediate manager or contact HR at ***nhsbsa.corporatehr@nhs.net***.

We will contact the colleague your complaint is about and let them know about your complaint and what is expected of them. Depending on the nature of your complaint we may temporarily move the colleague or suspend them.



Where it is appropriate to do so we may ask you to try to resolve the matter informally, for example through mediation.

Where you feel the matter is too serious to be addressed informally or the informal process has not resolved the issue, you should follow the formal process.

## Raising a Formal Complaint

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You can raise a formal complaint when you feel the informal process hasn't worked or the matter is too serious to address informally. To make things easier and to help the manager who will handle your complaint please complete the Formal Complaint Form which can be found on the intranet.

Once your complaint has been received you will receive an acknowledgement and a panel will be appointed to investigate your concerns. The panel will be chaired by an appropriate manager who will be accompanied by another manager or in some cases a member of HR (Corporate Services) may attend instead of another manager.

## Formal Complaint Meeting

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The investigating panel will write to you to invite you to a meeting to discuss your complaint. Ideally this should be within 5 working days after your complaint has been received. In exceptional circumstances this may not be possible. If this is the case the panel will inform you and let you know the reasons why. As this is a formal meeting you can be accompanied at the meeting by a trade union representative or an NHSBSA work colleague. If you or your chosen companion are unable to attend the meeting, the panel will contact you to arrange another date/time.

At the meeting the panel will ask you to give as much detail as you can about your complaint. The panel will look to establish the facts of the matter. If you have any evidence to support your complaint that you would like the panel to consider, please bring it to the meeting with you.



## Investigating Your Complaint

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After the panel have met with you, they will adjourn to fully investigate your complaint. We aim to investigate and respond to all complaints within 10 working days of the meeting however it is important to ensure a full investigation takes place. If your complaint is about another colleague or colleagues, we will make them aware and meet with them as part of the investigation. Should the panel need more time to investigate the matter, they will let you know. Reasons the panel may need longer include such things as availability of witnesses, or volume of evidence to review. They will also let you know when they expect to have completed their investigation. The outcome of your complaint will not be delayed unless it is necessary to do so.

## Outcome of Your Complaint

The panel will meet with you to discuss their findings and any follow-on actions. If the panel finds there is insufficient evidence to support your complaint, they may make recommendations to resolve the matter less formally. This may include:

- Mediation
- Training
- Relationship building

Where the panel believe there is a case to answer the matter will be referred to the disciplinary process within this policy. If your complaint is upheld at this stage, there are several possible outcomes. These include:

- Dismissal
- A formal warning
- A recommendation of redeployment (this can be temporary or permanent)

Following the meeting the panel will confirm the outcome of their investigation in writing. Please note that if the panel finds there may be a disciplinary case involving anyone involved in your complaint, this will be treated confidentially and will not be included in the outcome you receive.

## Appealing the Outcome of Your Complaint

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If you are not satisfied with the outcome of your complaint you can raise an appeal using the Appeals Policy.



## Employee Assistance Programme

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We understand that experiencing problems at work can be very difficult. The Employee Assistance Programme (or EAP) is a 24/7 helpline that offers both telephone and face to face support. This is a confidential service, and more information can be found on the intranet.

## Roles and Responsibilities

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### Case Manager

Where it is determined that a misconduct case may require a formal investigation, a Case Manager will be appointed. A Case Manager will be Band 7 or above, have line management responsibilities and will have completed investigation training. They will be responsible for deciding on what action should be taken as a result of an investigation. This could be:

- No further action is required
- Move to a disciplinary meeting
- Refer back to Investigating Manager for further investigation
- Alternative action

The Case Manager will also decide if suspension is required and will monitor this closely to ensure the length of a suspension is kept to a minimum.

Should a grievance be raised during an investigation the Case Manager will decide if it is connected to the investigation and can be investigated by the Investigating Manager, or if a separate concurrent investigation is required, or if it should form part of another ongoing process.

Where the Case Manager decides to move a matter to a disciplinary meeting, they will record the reason(s) and will present the management side case at the meeting. In some cases, both the Case Manager and Investigating Manager will attend the disciplinary meeting. This is most likely to be in more complex cases. In these instances, it may be more appropriate for the Investigating Manager to present the management case at the meeting.

The Case Manager is also responsible for appointing the Investigating Manager.

### Investigating Manager

The Investigating Manager will be appointed by the Case Manager and will have undergone investigation training. The role of the Investigating Manager is to gather evidence and establish the facts in a case. They will be supported by another manager or in some cases a member of the Corporate HR Team. Once their investigation is complete, they will present a report to the Case Manager. Should the Case Manager decide to move to a disciplinary meeting the Investigating



Manager may in more complex cases attend the disciplinary meeting and present the management side case at the disciplinary meeting.

## **Disciplinary Manager**

The Disciplinary Manager will be Band 7 or above, have line management responsibilities and have undergone investigation training. They will be supported by another manager or a member of the Corporate HR Team. They will decide on the outcome of a disciplinary meeting which can include:

- No formal action
- To issue a formal warning
  - First written warning – 52 weeks
  - Final written warning – 52 weeks
- To extend a current live warning
- To dismiss (with or without notice)
- Alternative action (including but not limited to, redeployment, re-training, mediation).

## **Corporate HR**

The role of the Corporate HR Advisor is to advise the Disciplinary Manager on process and to provide guidance and support. The HR Advisor is not responsible for deciding the outcome of a disciplinary meeting, this lies with Disciplinary Manager.

In some cases, Corporate HR may support the Investigating Manager. In such cases the roles will be made clear and another member of Corporate HR will provide advice to the Disciplinary Manager.

