

Managing Temporary Worker Conduct and Complaints Procedure

(Complaints/concerns raised against Temporary Workers and Complaints/concerns raised by Temporary Workers)

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PROCEDURE SUMMARY

The Trust aims to ensure that high standards of performance are maintained by all Trust Temporary Workers and that high standards of care are provided to patients/clients and service users in line with any relevant Trust policy and procedures. The Trust supports the rights of all workers to obtain and hold engagement without discrimination. The purpose of this procedure is to ensure that all workers complaints (be it against or from temporary workers) are resolved in a timely, fair, reasonable and consistent manner.

This procedure applies to bank workers that have a bank contract of engagement only with the organisation and will also apply to agency staff. For avoidance of doubt this does not apply to substantive employees.

The Trust monitors the implementation of and compliance with this procedure in the following ways;

This procedure will be subject to review as per agreed review schedule of Trust HR policies and as agreed by the Workforce Transformation Committee.

Services	Applicable	Comments
Trustwide	✓	
Essex MH&LD		
CHS		

**The Director responsible for monitoring and reviewing this procedure is
Director of Corporate Governance & Strategy**

ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST

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Assurance Statement

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1.0 INTRODUCTION

- 1.1 The Trust places great importance on dealing with any complaints that are made in an effective and timely manner, thus ensuring a high quality service is provided.
- 1.2 The purpose of this procedure is to ensure that there is a set process for how complaints in relation to temporary workers (both raised against and raised by) will be handled.
- 1.3 Complaints may be received from temporary workers (bank/agency) in connection with events or situations that have occurred whilst they have been engaged on a temporary basis.
- 1.4 Alternatively concerns may be raised regarding the conduct, performance, manner or breach of terms of engagement of a temporary worker (bank/agency). The Trust recognises that concerns may be raised through a variety of different avenues which may include management, staff members/workers, patients/service users, carers, stakeholder or other external bodies e.g. police (this list is not exhaustive).

2.0 SCOPE

- 2.1 This procedure applies to all Trust temporary workers (Bank and agency) during the course of any assignment only and not otherwise. For avoidance of doubt this does not apply to substantive employees. Bank workers who also hold a substantive contract will be subject to the Trust's capability, conduct and grievance policy and procedures.

- 2.2 Where concerns are raised due to suspected fraud, corruption, or bribery the Director of Finance should be informed in line with the Fraud, Theft and Corruption Policy.
- 2.3 Where appropriate, the Trust will refer cases identified in 2.2 to the Local Counter Fraud Specialist (LCFS) prior to the Trust investigating or taking action. Allegations of theft should be referred to the Trust's Local Security Management Specialist (LSMS).
- 2.4 Where a complaint against a temporary worker involves Safeguarding issues for a service user it is important that a coordinated approach takes place to ensure the Safeguarding investigation and the complaint process run parallel:
- A safeguarding case may be concluded whilst the complaint process continues.
 - The Safeguarding Team must be informed by a member of the Human Resources team of the outcome of the complaint
 - The relevant adult and children safeguarding policies and procedures should be adhered to.
- 2.5 All new bank workers will be made aware of the Policies and Procedures as part of the temporary workers induction programme.

3.0 PROCEDURE ON HANDLING OF COMPLAINTS/CONCERNS RAISED ABOUT A TEMPORARY WORKER (BANK AND AGENCY)

- 3.1 Where a concern arises regarding a temporary worker, the relevant manager will liaise with the HR department to discuss the appropriate management process to be instigated. A decision will be taken to either:-
- Deal with the matter informally
 - Deal with the matter formally
 - No further action required

If the concerns reported relate to an agency worker the appropriate manager should report the concerns to the Temporary Staffing Office, who will raise the concerns with the Agency. The Agency will carry out any investigation/process required and report any findings to the Trust. The Trust will participate/support in any investigation/review carried out by the agency. The agency workers assignment may be ceased and the agency worker precluded from working within the Trust until an outcome has been communicated to the Trust.

- 3.2 If the concerns reported relate to a bank worker and the decision is taken to deal with the matter informally the relevant manager will discuss the matter with the bank worker in an attempt to deal with the matter informally and give the bank worker the opportunity to improve. The manager will write to the bank worker informing them of the improvement needed and over what timescale and what support will be given if appropriate.

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If informal action does not bring about an improvement, or the misconduct or unsatisfactory performance is considered to be too serious to be classified as minor, formal action will be taken.

3.3 If a formal process is required to be instigated as the concerns cannot be dealt with informally the bank worker will be informed in writing of any process under this procedure being instigated against them. The letter will set out the following:-

- The nature of the concerns being raised
- Their right to state case in relation to the concerns
- The date, time and venue of any outcome meeting
- Their right to be represented at the outcome hearing by an accredited Trade union representative or Trust worker
- Their right to call any witnesses (if a bank worker wishes to call witnesses it will be their responsibility for arranging this)
- That the outcome could result in removal of engagement on staff bank or disciplinary action.

This letter will be sent by the relevant manager in the area in which the temporary worker was engaged in at the time of the concern taking place. A copy of the letter should also be provided to the Temporary Staffing office.

3.4 The bank worker will have the opportunity to respond to the concerns made to them in writing to the Manager prior to the outcome meeting and any formal decision being made. Alternatively the bank worker will have the opportunity to respond to the concerns during the outcome meeting. The worker will be sent any correspondence from witnesses or documentation being considered as part of process.

3.5 The bank worker must take all reasonable steps to attend any meetings arranged by management. If the bank worker and/or representative cannot attend the hearing the bank worker should inform the Trust immediately to arrange an alternative time. It is anticipated that any outcome meeting should be held within 10 working days of the bank worker being advised of the concerns; however this timescale may be extended due to diary availability. If the bank worker fails to attend the outcome meeting and/or fails to provide a response to the concerns raised without good reason or is persistently unavailable to do so (e.g. ill health) then a decision may be made based on the evidence available in the absence of the bank worker.

3.6 The outcome meeting will consist of a Trust manager and a Human Resources Representative.

3.7 The outcome meeting will be conducted as follows:-

- The Manager will present the case regarding the concerns
- The Bank worker and /or their representative will be given the opportunity to respond
- Any witnesses called will be called to provide their evidence. Both management and the bank worker/representative will have the opportunity to question the witness(es).

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- The bank worker/representative will then be given the opportunity to present any further statement/mitigation
- The meeting will be adjourned for management to consider the information presented and consider the outcome
- The meeting will then be reconvened and the outcome will be communicated verbally. This will then be confirmed in writing to the bank worker within 5 working days of the meeting or an agreed timescale. A copy of the outcome letter will be provided to the Temporary Staffing Office and retained on the individual's engagement record.
- A record of the outcome meeting will be retained either via electronic recording or note taking.

3.8 The outcome of the meeting will generally fall into one of the below categories:-

- No further action/case dismissed
- Informal action/recommendations (may include counselling / remediation / training)
- First Written Warning – This will be issued for time concerns and/or cases deemed less serious for a period of 12 months.
- Final Written Warning – This will be issued where cases are deemed serious and/or where there is a first written warning in place or where there has been insufficient improvement made or further concerns for a period of 18 months.
- Removal of engagement on Staff Bank – Will be taken where concerns constitute gross misconduct and/or where there is a final written warning in place

Examples of standards of conduct can be found in Appendix A of this procedure

3.9 The Bank worker can request clarification or reconsideration of the outcome. A letter setting out the grounds for this request should be sent to the Head of Resourcing within 5 working days of receipt of the outcome letter. An independent review of the case will be conducted by a different manager and the outcome communicated to the Bank worker, in writing, within 5 working days, a copy of the outcome letter should be sent to the Temporary staffing office.

3.10 Whilst a formal process is ongoing the bank worker may be precluded or restricted from working on the bank until the outcome has been decided. This will only occur where the concerns raised are of a serious nature, are of a matter of patient safety and/or if it is deemed that attendance could hamper any process. An appropriate manager along with advice from HR representation will make the decision on any temporary preclusion/restriction. Any decision will be communicated in writing to the bank worker and the Temporary Staffing office will be informed. The bank worker will not receive any pay during this period. The Trust will aim to deliver a conclusion to these matters within 10 working days however these timescales may be extended depending on complexity of issues, availability of key personnel and input from internal or external bodies e.g. police, counter fraud and safeguarding.

- 3.11 If a concern arises whilst a bank worker is not engaged on an assignment with the Trust, the Trust has the discretion to implement a modified procedure to deal with any concerns, HR advice should be sought before exercising this discretion. This procedure is as follows:-
- The Temporary Staffing office or an appropriate manager within the Trust will write to the bank worker detailing:-
 - The nature of the concerns raised
 - Right to provide a statement of case in response to the concerns being raised detailing any representations or mitigation. Deadline for response will be detailed in the letter
 - Provision of any supporting evidence e.g. witness statements, documentation etc.
 - That the outcome could result in removal of engagement on staff bank or disciplinary action
 - Upon receipt of the written representation from the bank worker and review of any evidence a decision will be made by the appropriate manager on the outcome/conclusion.
 - The outcome will be communicated in writing to the bank worker and retained on engagement file.
 - If the outcome results in removal of the bank worker from engagement on staff bank then the individual will be given the right to request clarification or reconsideration of the outcome as detailed in section 4.11 of this procedure
- 3.12 In circumstances where a bank worker is removed from the bank, concerns relate to professional code of conduct (if registered professional) or resigned prior to the conclusion of any process then consideration will be made if the nature of the concerns warrants a referral to a professional body (NMC, HPC, GMC etc.) or to the Disclosure and Barring service (DBS). If a referral is made then the individual will be informed where able to do so.

4.0 PROCEDURE ON HANDLING COMPLAINTS RAISED BY A TEMPORARY WORKER (BANK AND AGENCY)
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- 4.1 Bank and agency workers are bound to the duties and expectations set out within the NHS constitution and NHS Duty of Candour and therefore are expected to raise any genuine concern of risk or wrongdoing. This extends to patients and service users that the worker comes across or knows about during the course of their duties, and not just to those to whom they deliver specific care. Professionally qualified staff have a further professional duty as set out by their professional code of conduct.
- 4.2 Complaints raised by bank workers in line with this may include the following (list not exhaustive):-
- Issues in relation to terms of engagement
 - Bullying and Harassment
 - Discrimination
 - Unfair Treatment
 - Concerns regarding other staff/workers
 - Concerns regarding patient care

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- Fraud
- Negligence

Before raising any concerns/complaints temporary workers may also want to refer to the Trust Whistleblowing Policy and Procedure

- 4.3 Should a Bank or Agency worker have concerns, they must immediately raise their concerns with either the senior member of Trust staff on duty/shift/assignment that they have worked on or, via the Temporary Staffing Office or via the Agency.
- 4.4 Where concerns are raised by an agency worker to a Trust Manager these should be communicated to the Temporary Staffing Office. The Temporary Staffing Office will share these concerns with the agency and a decision will be made on how to handle to the complaint raised. This will be communicated to the agency worker and the process along with timescales detailed.
- 4.5 Where concerns are raised by a bank worker with a manager they will be responsible for acknowledging receipt of the concern within 5 working days and seek advice from HR. The Temporary Staffing Office should also be informed of the complaint raised. The manager will be responsible for collation of the necessary information as part of a fact finding exercise, with the support from a HR representative. Information from the fact finding exercise may include obtaining signed and dated witness statements. The manager may also decide that it is appropriate to meet with the Bank worker in order to gather further information regarding their complaint. All information should be gathered ready for review within 10 working days of acknowledging the concern. If there is any delay in these timescales, this should be communicated to the individual.
- 4.6 The Bank worker has a right to representation by an accredited Trade Union Representative or fellow Trust worker at any meetings held under this process. Any record of any formal meetings held under this process may be taken via digital recording or note taking as appropriate.
- 4.7 If the concerns are raised by a bank worker with the Temporary Staffing Office a decision will be taken as to whom the most appropriate manager should be to undertake fact finding exercise, this appointment will be based on the concerns raised. Once an appropriate manager has been appointed the process as detailed in 4.5 will be undertaken.
- 4.8 The appropriate manager will be responsible for reviewing the information and complaint and decide on appropriate action which may include referral to other Trust policies and procedures.
- 4.9 The appropriate manager will be responsible for providing updates to the bank worker who raised the complaint, with the support of HR if there are any delays identified. The manager must remember that confidentiality must apply, especially if internal processes are applied.
- 4.10 Following review of all the information the manager will provide a written response to the bank worker on the outcome of their findings and will set out

what action is to be taken to resolve the complaint (if applicable). The Trust will seek to respond to all complaints raised by Temporary Staff within 20 working days. A copy of the outcome should be provided to the Temporary Staffing Office for retention on the workers engagement file.

- 4.11 Upon notification of the outcome the Bank worker can request clarification or reconsideration of the outcome. A letter setting out the grounds for this request should be sent to the Head of Resourcing within 5 working days of receipt of the outcome letter. An independent review of the case will be conducted by a different manager and the outcome communicated to the Bank worker, in writing, within 5 working days, a copy of the outcome letter should be sent to the Temporary staffing office.

5.0 MAINTAINING RECORDS

- 5.1 The temporary staffing office is responsible for ensuring that all documentation including outcome letters is retained on bank workers engagement files

Any record held or information shared is done so in accordance with the requirements of the General Data Protection Regulations (2016) as laid out in the Trust's Employee Privacy Notice

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