

### Disciplinary Decision Making Tool

This tool supports a conversation between management about whether a staff member involved in an incident warrants formal investigation/action. The tool highlights the important principles that need to be considered before formal management action is taken, and allows management to make certain they are treating all staff equally, compassionately and fairly, ensuring that any decision taken is not based on unconscious bias.

This tool can be used at any stage of a disciplinary process, and it may need to be revisited if more information becomes available. The Tool should always be used to establish if an alleged incident involving an employee/worker should be formally investigated under the Trusts disciplinary procedure. This guide does not replace HR advice and should be used in conjunction with the Trusts policy and procedure on disciplinary matters

*Insert details on where to send the form and who to contact if require further assistance.*

<b>Name person completing Form:</b>	
<b>Supporting HR Representative:</b>	
<b>Name of Individual/s under review:</b>	
<b>Individual(s) Ethnicity</b>	BAME / NON BAME
<b>Date of alleged incident:</b>	
<b>Date form completed:</b>	
<b>Brief details of incident:</b>	

#### Deliberate Harm Test

1a. Did the member of staff intend to cause harm?  
NO



Yes

**Recommendation:** Investigation required, Consider suspension or deployment of staff, referral to police, contact relevant professional body

End

#### Health Test

2a. Did the staff member appear to be under the influence or was there any other indications of physical or mental ill health  
NO



Yes

**Recommendation:** Follow Employee wellbeing policies and procedures and fitness to practice reviews, which is likely to include occupational health referral. Need to review why concerns had not been recognised and addressed earlier.

End

#### Operating Systems Test

3a. Are there agreed protocols/policies/accepted practices in place?

#### Skills and Performance Test

3c. Did the individual know how to and can, but chose not to  
4a. Would you expect individuals in a similar role/position with similar experience to act in a similar manner?

YES



NO

**Recommendation:** Action singling out the individual is inappropriate where there are Trust wide issues with operating systems. A fact finding exercise should be undertaken to identify issues with operating systems with actions identified to address. Training/supervision support may need to be provided to the individual to improve practice.

END

4b. The individual has not had training relevant to the concerns?

4c. Has the individual failed to have had regular supervision/handover?

NO



YES

**Recommendation:** Action singling out the individual is inappropriate where there are Trust wide issues with supporting skills and performance. A fact finding exercise should be undertaken to identify issues with systems with actions identified to address. Training/supervision support may need to be provided to the individual to improve practice.

END

**Mitigating Circumstances**

5a. Was there any significant mitigating circumstances?

NO



YES

**Recommendation:** Formal action may not be appropriate, seek HR and relevant technical/clinical advice on what degree of mitigation applies and if informal action would address the concerns appropriately.

END

**OUTCOME**

**Matters to be reviewed prior to deciding outcome:**

- Is there sufficient understanding of the issues or concerns, and the circumstances relating to them, to justify the action recommended?
- Considering the circumstances would the application of this action recommended represent a proportionate and justifiable response?
- How will appropriate resources be allocated and maintained to ensure the action recommended is allocated and maintained to ensure it is conducted fairly and efficiently?
- How will you ensure that independence and objectivity is maintained at every stage of the action recommended?
- What will be the likely impact on the health safety and wellbeing of the individual(s) concerned in the action recommended and on their respective teams and services?
- What immediate and ongoing direct support will be provided?
- How will you ensure the dignity of the individual(s) concerned in the action recommended is respected at all times and in all communications and that your duty of care is not compromised in any way, at any stage, of the action recommended?

**Please detail below the action recommended (Please tick all relevant boxes)**

Informal Disciplinary Procedure or 'fast track' agreed outcome		Performance Management – CAPABILITY PROCEDURE	
Training Requirement		Increased Supervision/Mentoring	

Changes to procedures/policy/guidance/protocols/practices		Notification to professional lead – consideration of referral to professional body	
Suspension/Exclusion		Restricted Duties	
Health Concerns – Sickness and wellbeing procedures		Formal Investigation – DISCIPLINARY PROCEDURE	

**In taking the above action is this consistent with how other employees have been treated for the same or similar conduct or concerns? Yes/No**

**Please provide the rationale for course of action**

SAMPLE - DO NOT USE

**If Formal Investigation – DISCIPLINARY PROCEDURE is recommended please provide:**

**Reasons why informal action / learning procedure is not applicable:**

**Reasons why 'fast track' (agreed outcome) procedure is not applicable:**