
Investigation Policy (HR)

Please be aware that this printed version of the Policy may NOT be the latest version. Staff are reminded that they should always refer to the Intranet for the latest version.

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| Purpose of Agreement | To provide guidance to managers on the procedure to be followed when carrying out internal investigations. |
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Amendment Summary

| Amend number | Issued | Page | Subject | Action Date |
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Review Log

| Version Number | Review date | Name of reviewer | Ratification process | Reason for amendments |
|----------------|-------------|-----------------------|---|-----------------------|
| 2 | August 2013 | Associate Director HR | Provisional review undertaken. Extension granted for six months as agreed by the Policy and NHSLA Group | Minor changes only |
| 3 | April 2016 | Associate Director HR | | Policy re-write |

Summary of Policy

The purpose of this policy is to be just and equitable and to help promote fairness, order and consistency in the investigation of allegations made by and against staff.

It provides a standard HR framework to investigate allegations and support managers to establish all the facts of the particular case before any decision is reached.

It defines the responsibilities of the commissioning manager, the investigating officer, HR Team and Staff side representative or companions (Section 4). Between paragraphs 4.5 and 4.8 guidance is given on investigations involving Counter Fraud, the Policy, Safeguarding children and Young People, Safeguarding Vulnerable Adults, Joint Appointments and other Trust policies.

Section 6 explains the process requirements to be followed, including:

- the underpinning principles (Paragraph 6.1),
- confidentiality (Paragraph 6.2),
- suspension or transfer of employees (Paragraph 6.3),
- an explanation of the difference between an internal investigation and a criminal investigation (Paragraph 6.4),
- the extent of the investigation required (Paragraph 6.5),
- information on when someone fails to attend meetings (Paragraph 6.6),
- the investigation (Paragraph 6.7),
- the requirements for witnesses (Paragraph 6.8),
- special cases including language barriers, and what happens when someone raises a grievance during the investigation process (Paragraphs 6.9 and 6.10)

Appendix 1 provides a flow chart for formal investigations, a draft investigation officers brief is included at appendix 3 and template letters necessary during the investigation process are included in Appendices 3 to 8.

SOLENT NHS TRUST INVESTIGATION POLICY

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1. Introduction and Purpose

- 1.1 The purpose of the Investigation Policy is to be just and equitable and to help promote fairness, order and consistency in the investigation of allegations made by and against staff.
- 1.2 This policy provides a standard framework to investigate allegations and support managers to establish all the facts of the particular case before any decision is reached.

2. Scope

- 2.1 This document applies to all directly employed staff within the Trust in line with the Trust's Equal Opportunities Policy.
- 2.2 This policy will be invoked when:
- An allegation has been made against an employee which may constitute misconduct or gross misconduct under the Disciplinary Policy
 - An allegation has been made under the Grievance Policy or the Dignity at Work Policy (Policy for the Management of Bullying and Harassment)
 - An allegation has been made under the Freedom to Speak Up policy

3. Definitions

- 3.1 The Commissioning Manager – the Service Manager, Operations Director or Associate Director within the relevant service who commissions the investigation.
- 3.2 The Investigating Officer – the manager who plans and conducts the investigation in order to establish the facts of the case.

4. Roles and Responsibilities

4.1 The Commissioning Manager

- 4.1.1 Should it be deemed appropriate that an extended investigation is required the line Manager accountable, now referred to as the Commissioning Manager, will commission a further investigation. The Commissioning Manager will be responsible for:
- Identifying an Investigating Officer, appropriate for the task in hand (i.e. one with the necessary knowledge, skills and impartiality) with assistance from the HR team.
 - Making contact with the Investigating Officer's line manager as a matter of urgency to ensure the availability of the Investigating Officer and that he/she will be freed up from normal duties and given the time needed to complete the investigation.
 - Providing a clear brief to the Investigating Officer in advance of him/her embarking upon the investigation (sample of information to be provided at Appendix 2).
 - Provide on-going guidance and direction to the Investigating Officer to answer any

questions that may arise and to ensure that the investigation is carried out in a timely manner as indicated by the brief.

- Ensure that Services provide information requested by the Investigating officer in a timely manner.
- If the outcome of the investigation establishes that no action is to be taken, the information will not be used against the employee, but is retained for record keeping purposes only in line with the Retention and Disposal of Records Policy.

4.2 The Investigating Officer

4.2.1 The Investigating Officer will be responsible for:

- Planning and conducting the investigation in order to establish the facts of the case
- Obtaining relevant professional advice in relation to specific aspects of the case where the Investigating Officer does not possess the necessary professional knowledge
- Identifying and gathering relevant documents that provide facts concerning the alleged incident
- Ensuring relevant and comprehensive statements are taken that provide facts concerning the alleged incident
- Producing the investigation report and ensuring that this is given to the Commissioning Manager in accordance with the brief provided.
- Ensure Policy is adhered to and followed in a fair, timely and equitable manner.

4.2.2 The Investigating Officer will need to treat everyone with courtesy and, with regard to those from whom statements are required, ensure they are made to feel as comfortable as possible.

NB: It is not the responsibility of the Investigating Officer to determine what action should be taken following the investigation; this is the remit of the Commissioning Manager.

4.3 Human Resources Team

4.3.1 The role of the Human Resources Team is to work in partnership with the Commissioning Manager and Investigating Officer:

- Provide appropriate advice, guidance and support to the Commissioning Manager and Investigation Officer
- Support managers as appropriate at formal meetings under this policy
- Ensure the policy is adhered to and followed in a fair, timely and equitable manner
- Identify any trends and bring these to the attention a senior manager

4.3.2 Both immediate and ongoing support is available to all staff regardless of the situation or issues through our Employee Assistance Programme which can be sourced through the HR teams.

4.4 Staff Side Representatives or Companions

- 4.4.1 Employees are entitled to be accompanied by a staff-side representative or workplace friend or colleague, at any formal meetings held under this Policy. It is the employee's responsibility to make arrangements to be accompanied. The employee must be informed of this right at the commencement and all subsequent stages of this procedure.
- 4.4.2 The employee's choice of companion must be reasonable, depending on the circumstances of each individual case, however, it would not normally be reasonable for someone to attend whose presence would prejudice the meeting.
- 4.4.3 Staff Side Representatives may be from another Trust or a lay official or full time officer as long as they are certified by their union as being competent to accompany an employee. Any other companion (a workplace friend or colleague) should always be a member of the Trust. Reasonable time off should be afforded to the workplace friend or colleague, in discussion with their Line Manager.
- 4.4.4 The companion may address the meeting and confer with the employee, during the meeting, put forward the employee's case, summarise the employee's case and/or respond on the employee's behalf to any view expressed at the hearing.
- 4.4.5 The representative or workplace colleague or companion may not answer questions on behalf of the employee or prevent the employer from explaining their case.
- 4.4.6 Any companion must maintain confidentiality during and after the application of this policy.
- 4.4.7 If the reason given for failing to attend a meeting is due to the non-availability of a trade union representative or workplace friend/colleague and there have been no earlier adjournments in the process for this reason, on only one occasion the meeting will be postponed and a new meeting will be arranged within reasonable time; normally 5 working days. Exceptional circumstances will always be considered.

4.5 Counter Fraud and the Police

- 4.5.1 Depending on the nature of the allegations, it may be necessary to notify the counter fraud team, who may in turn refer the matter to the Police.
- 4.5.2 Where there is a need for an investigation to be carried out by an organisation external to the Trust, (e.g. Local Counter Fraud Specialist, Police etc), wherever possible this will run in parallel with the internal investigation. However, consideration should be given as to whether it is appropriate for an internal investigation to be suspended whilst the allegations are investigated by the relevant agency and where criminal proceedings may be appropriate, it may be necessary for external investigations to take priority over the internal investigation.
- 4.5.3 A decision will be taken at the start of the investigation which may also result in the suspension or transfer of the employee during the course of the investigation. If this is applicable, managers should refer to the Suspension, Exclusion or Transfer Policy for details on how to proceed.

4.5.4 All relevant parties may be required to participate in separate interviews as part of the Counter Fraud investigation.

4.6 **Investigations into Safeguarding Children and Young People, or Safeguarding Vulnerable Adults**

4.6.1 Reference should be made to the Allegations Management Policy.

4.7 **Investigations whilst working in joint appointments**

4.7.1 The Investigation of an employee who works across two organisations will be determined by the employing organisation and in some cases a joint investigation may be appropriate.

4.8 **Investigations carried out under other Trust policies**

4.8.1 Where an investigation is carried out under other Trust policies, and there is a concern around staff competence or conduct, findings from that investigation may also be used to inform any resulting Human Resources process. This can therefore sometimes preclude the need for a further investigation interview under this HR Policy. In these cases there will be Human Resources presence at investigation interviews carried out under other policies, and staff members will have the right to be accompanied by a Staff Side representative or companion as defined in Section 4.4 of this document.

5. **References and Links to other documents**

5.1 This policy should be read in conjunction with the following policies:

- Policy on Investigation, Analysis and Learning from Incidents, Complaints and Claims
- Serious Incidents Requiring Investigation (SIRI) Policy
- Equality & Human Rights Strategy
- Disciplinary Policy
- Dignity at Work (Bullying and Harassment) Policy
- Grievance Policy
- Complaints Policy
- Freedom to Speak Up Policy
- Performance Management Policy
- Managing Attendance and Wellbeing Policy
- Policy for Managing Performance of Medical and Dental Staff
- Retention and Disposal of Records Policy
- Safeguarding Children & Young People Policy
- Safeguarding Adults at Risk Policy
- Claims Management Policy and Procedures
- Allegations Management Policy
- Suspension, Exclusion and Transfer Policy

6. Process/Requirements

6.1 Underpinning Principles

6.1.1 Principles of good practice should be applied to each and every investigation, ensuring that all investigations:

Provide a logical and legal rationale for any subsequent action that may be taken

- Are carried out without unreasonable delay
- Are conducted in a fair and transparent manner.
- Are conducted using techniques that are sensitive to the individual situation and staff involved
- Are undertaken in a logical and rigorous manner
- Seek to explore and not to pre-judge
- Seek to establish facts.
- Be based on a process that is respectful to everybody involved
- Be seen as a learning process where appropriate feedback is given and harnessed for the good of the service
- Be recorded in full and comply with the principles of the Data Protection Act
- Provide a debriefing/closure for all whether or not a formal hearing ensues

6.2 Confidentiality

6.2.1 During the course of an investigation, questions of confidentiality and sharing information with interviewees, for example, may arise. Three principles are useful in determining whether information should be released concerning an employee, client or allegation, etc.

- Does the individual need to know (i.e. in order to be able to fully cooperate with the investigation)
- Will it enable important facts to be gathered which could not have been otherwise.
- An individual, who has an allegation made against them, has the right to have a written copy of these allegations.

6.2.2 Boundaries for the release and disclosure of information and the level of sensitivity of the investigation should be discussed between the Commissioning Manager and the Investigating Officer, and advice sought where necessary from the HR Business Partner team and, if appropriate, the Information Governance Team. Where appropriate the principals of the Whistle blowing Policy need to be adhered to.

6.2.3 Employees, Managers, Investigating Officers and representatives must ensure confidentiality throughout the procedure and thereafter when the resolution has been reached. Failure to do this could result in disciplinary action being taken against the person responsible for the information breach.

6.3 Suspension (Exclusion) or Transfer of the Employee

6.3.1 There may be occasions when the allegations being considered are of a serious nature to

warrant the suspension of the employee involved or a temporary transfer whilst the investigation is being conducted. Managers should consider before taking this decision, whether or not it is appropriate for an employee to do their normal duties during the course of the investigation.

6.3.2 The manager should refer to the Suspension, Exclusion or Transfer Policy, for details on how to suspend an individual.

6.3.3 The manager is responsible for contacting the relevant HR Business Partner for support during the suspension, exclusion or transfer.

6.4 The Balance of Probabilities

6.4.1 The purpose of an internal investigation is to establish whether there is a reasonable belief that the allegations occurred. This is significantly different to a criminal investigation whereby the onus is to prove an occurrence 'beyond reasonable doubt.'

6.5 The extent of investigation required

6.5.1 At the initial stages, the line manager should make contact with their HR Business Partner for advice and guidance as to the approach to be taken as different allegations will warrant different levels and types of investigations.

6.5.2 In some cases, a modified approach is required as the circumstances may not warrant the commissioning of a formal investigation and therefore the investigatory stage may be limited to the collation of evidence to establish the facts of a case. In these cases, the line manager will be responsible for the investigation stage. In other cases, it may be deemed more appropriate to appoint an independent Investigating Officer to investigate the allegations.

6.6 Failure to Attend Investigation Meeting

6.6.1 All employees of the organisation are expected to attend investigatory meetings as deemed necessary by the investigating officer.

6.6.2 On the rare occasion that an employee finds themselves unable or unwilling to attend an investigation they will need to contact the investigating officer in advance to disclose their reasoning. The investigating officer will determine if the reason given is acceptable and determine the next course of action.

6.6.3 If the individual maintains that they are unfit to attend due to their medical condition, an immediate referral will be made to the Occupational Health team to determine if they are fit to attend. On receipt of the Occupational Health guidance the Investigating Officer will determine how to proceed.

6.6.4 If the reason given for failing to attend is due to the non-availability of a trade union representative or workplace friend/colleague and there have been no earlier adjournments in the process for this reason, on only one occasion a new meeting will be arranged within reasonable time; normally 5 working days. Exceptional circumstances will always be considered.

- 6.6.5 If the reason given is not related to the availability of a representative or fitness to attend the investigation meeting, the Investigating Officer will determine whether they wish to delay the interview for a further week or proceed on the basis of the information available. If they decide to proceed, the individual should be invited to make written representations as an alternative.
- 6.6.6 In instances where the investigation meeting has already been adjourned on one occasion, then it should proceed. In these cases the individual should be advised of the decision to proceed, and that they may, if they wish, make written representations.
- 6.6.7 If an individual fails to attend without good reason the manager should consider action under the disciplinary procedures.
- 6.6.8 Repeated failure to attend Occupational Health appointments without notifying the department, or without good reason, will be considered under the organisation's disciplinary procedure. Note: under the individual's terms of employment, it is for the organisation to determine which Occupational Health Practitioner the individual sees, not the employee and therefore this cannot be used as a reason for non- attendance.

6.7 The Investigation

- 6.7.1 If it is decided that a modified approach is appropriate, the line manager should collate all relevant information.
- 6.7.2 If it is decided that a formal extended investigation should be commissioned a flow chart of the investigation process to be followed has been attached (Appendix 1)
- 6.7.3 A commissioning brief is attached as Appendix 2
- 6.7.4 The Investigating Officer/line manager is responsible for ensuring that all necessary steps are taken promptly and without any unreasonable delays.
- 6.7.5 The employee will be invited to the investigatory meeting by letter which should be hand delivered to the employee, or sent recorded delivery should it not be possible to give it to them in person. This should be given to the employee at least one week prior to the meeting. Template letters are contained in Appendix 3 and 4.
- 6.7.6 A suggested meeting format is attached (Appendix 5). It is vital that during this meeting the Investigating Officer does not lead those present to respond in a certain way, but asks a combination of open and closed/clarifying questions in order to obtain clear and factual information.
- 6.7.7 Following a discussion into the allegations presented by the Investigating Officer, the meeting will be adjourned for further investigation. The Investigating Officer will be responsible for ensuring individuals will be provided with a copy of the notes made from their meetings. Where there is a dispute regarding their inaccuracy, which cannot be resolved, both the original notes and the amended version will be retained on file.

6.7.8 Following the meeting with the employee, the Investigation Officer will then carry out an investigation within their terms of reference and information governance guidelines, which may involve one or more of the following:

- gathering statements from staff, patients or the public who were witness to the allegations.
- collating documentary evidence such as staff meeting notes, supervision notes, time sheets, accident/ incident reports
- reviewing CCTV footage
- checking telephone records
- checking electronic records
- checking personal records

This list is not exhaustive.

6.7.9 Records will be retained in accordance with the Department of Health's NHS Code of Practice: Records Management Policy.

6.7.10 The Investigating Officer will then prepare a report of the investigation. The purpose of the report is to provide a factual summary of the allegations and the evidence gathered. This should draw attention to key points and draw conclusions on what actually occurred (or the balance of probability of what it is considered to have occurred). The investigation report should also include, where appropriate, reference to relevant policies and any potential breaches for consideration. A template report is attached (Appendix 6).

6.7.11 A commissioned investigating Officer is not responsible for deciding the outcome of the investigation but will provide factual summary of evidence only to the Commissioning Manager.

6.7.12 In the modified approach, the Trust reserves the right for the line manager to make a decision on the findings, and proceed from an investigation directly to a formal hearing.

6.7.13A copy of the investigation report will be sent to the employee for their records. In some circumstances it may be appropriate to withhold some information from the individual, for example in order to protect a witness.

6.7.14In the case of an extended investigation, the Investigating Officer will ensure that the Commissioning Manager receives a copy of the report as soon as it is completed. The Commissioning Manager will make a decision as to:

Where there is sufficient evidence, the following action may be taken:

- For disciplinary matters, please refer to the Disciplinary Policy for the next stage of this process. Template letter attached (Appendix 7).
- For matters identified by the employee, a formal response will be made. Please refer to the Grievance Policy and Dignity at Work (Bullying and Harassment) Policy for the next stage of this process.
- For matters identified as being a performance issue, reference should be made to the Performance Management Policy.

- For matters involving medical or dental professionals please refer to the appropriate performance medical policy.

Where there is insufficient evidence, the following action may be taken:

- For disciplinary matters, the individual will be advised in writing that there is no case to answer and, where applicable, the employee will return to their normal place of work. Template letter attached (Appendix 8).
- For matters identified by the employee, a formal response will be made. Please refer to the Grievance Policy and Dignity at Work (Bullying and Harassment) Policy for the next stage of this process
- For matters identified as being a performance issue, reference should be made to the Performance Management Policy.

6.7.15 Please note that, in conjunction with the Disciplinary Policy, the Trust reserves the right to hold a disciplinary hearing on the same day as the investigation meeting and conducted by the Line Manager. This decision will be made following an adjournment to consider the evidence presented. Please refer to the Disciplinary Policy for details on how to proceed.

6.8 Witnesses

6.8.1 Witnesses are expected to co-operate with the investigating officer and attend any meetings/hearings as required. Reasonable time off should be afforded, to the witness, in discussion with their Line Manager.

6.8.2 The hearing manager will assess the relevance of witnesses called to attend at a hearing and reserves the right to deny the presence of a witness if it is not deemed appropriate.

6.8.3 The Individual who is alleged to have committed an act of misconduct or gross misconduct will be able to call witnesses who may support their case in consultation with the hearing manager.

6.8.4 Consideration should be given to provide anonymity to witnesses in line with the Whistleblowing policy.

6.9 Special Cases

6.9.1 Proceedings against a Staff Side Representative

- In all cases where the Manager is investigating an issue against a Trade Union Official the case will be discussed with a branch or full time officer.

6.9.2 Language Barriers

- If there are likely to be understanding or language difficulties during the meeting, it may be necessary for an interpreter or friend to be made available. The employee will be responsible for making arrangements for this, or where appropriate, Access to Communications will be contacted with the support of the relevant HR Business Partner.

6.10 Raising a Grievance during an Investigation Process

6.10.1 In exceptional circumstances, where an employee raises a grievance at any stage of the investigation, a decision will be made as to whether the investigation proceedings should be suspended until such time as the grievance is resolved.

6.10.2 A decision will be made based on the seriousness of the allegations presented which make it clear that it would be inappropriate for the investigation to continue.

6.10.3 In most cases, the two procedures will run parallel.

6.10.4 It is not sufficient to raise a grievance with regards to the investigation action itself.

7. Training

7.1 Managers are responsible for ensuring that awareness of this policy is raised through their local induction processes and where appropriate, identified as a training need. This should be aimed at all new starters and refresher training should be offered as appropriate as agreed with the Line Manager. Training should then be documented and kept on employees personnel file within the service.

7.2 This policy is also available to all staff via their line manager and through the intranet.

8. Equality and Diversity and Mental Capacity Act

8.1 An impact Needs/Requirements Assessment has been completed for this policy and no significant equality or diversity issues were identified. (Appendix 9)

8.2 Where English is not the first language or there are difficulties in reading this policy, employees should contact their line/other appropriate manager or senior officer of the PCT, an HR Representative or a staff representative for advice and guidance.

8.3 The policy is based on the following principles:

- all staff are treated equally and fairly,
- employees hold the same rights in relation to the resolution of a grievance regardless of their position in the Trust,
- appropriate time off will be granted to the individual for all hearings undertaken.

9. Success Criteria/ Monitoring the effectiveness of the document

9.1 The effectiveness of this policy will be monitored by reviewing investigations completed to ensure the correct procedures have been followed. Any learning points and trends will be identified by the HR Team who will make recommendations to the HR Director about changes which need to be made.

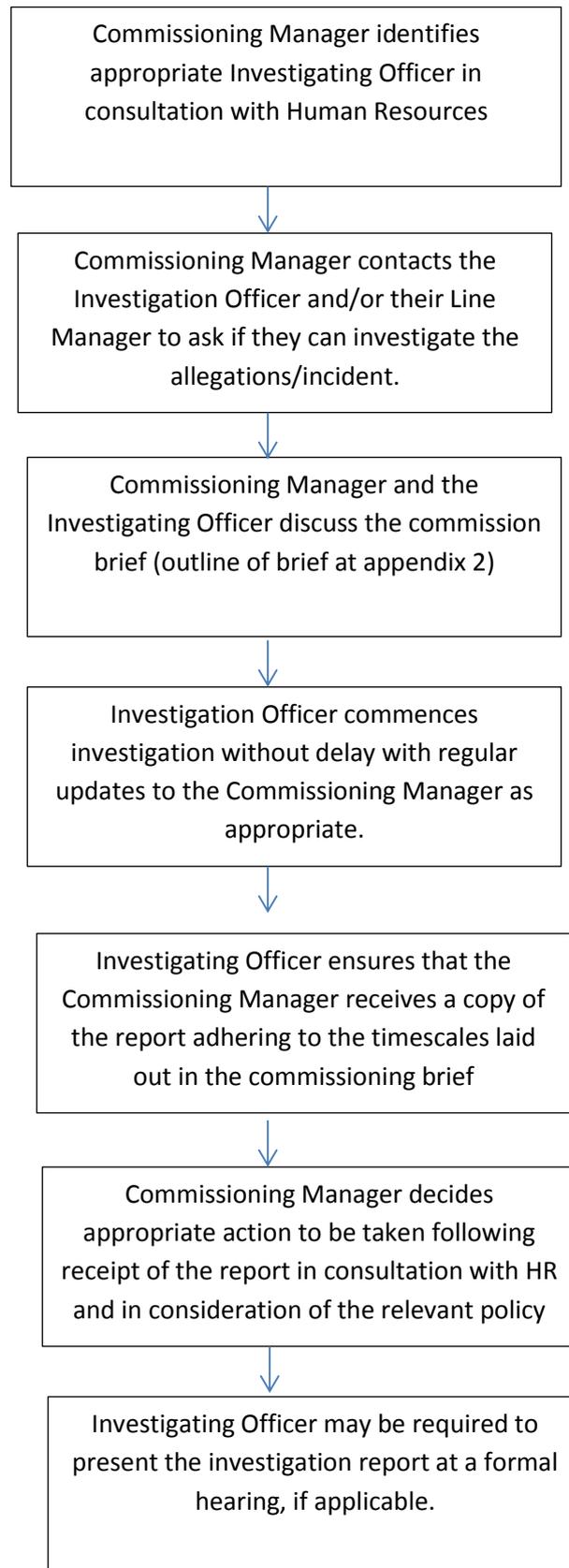
9.2 The nominated sub-committee of the Assurance Committee, the Workforce Development Group, will have an overview of the workforce statistics collated.

10. Review

- 10.1 This document may be reviewed at any time at the request of either at staff side or management, but will automatically be reviewed every three years or as required following any amendments to national guidance.

Appendix 1

Formal Investigation Process (Extended)



Appendix 2

COMMISSIONING MANAGER'S INVESTIGATION BRIEF

Please note – this document can be adapted dependant on circumstances

Date/Investigation Commissioned

Date :-

I am commissioning an investigation into an allegation(s)/concerns of

Allegations/Concerns

Details of how the allegation/concerns have been made, who is involved, what happened, when did it happen, attaching any supporting documentation e.g. complaint letter, etc

Additional Information

Details of what information the individual has received e.g. complaint letter, policies etc., whether the individual has been suspended, transferred their workplace etc and the reasons for doing so. Their working hours to include shift pattern. Provide details of any individuals who may be on leave e.g. sickness absence, annual leave, maternity leave etc who may be required to be interviewed as part of the investigation.
(Attach any supporting documentation e.g. rotas, procedures etc)

Remit

You are to investigate the alleged incident/concerns to ascertain whether there is evidence to substantiate the allegations and detail the issues to be investigated

Contacting Staff

The staff/witnesses you need to contact initially as part of the investigation are as follows :-
(list the possible staff or witnesses)

Timescales

You must aim to conclude your investigation and submit your report within specify time and provide regular updates at timely intervals of your progress.

It is important that the investigation is completed in a timely manner to ensure that business continuity is maintained as well as the wellbeing of employees involved.

Support

HR Business Partner to support.

Appendix 3

[Note: Solent NHS Trust reserves the right for investigators to amend this letter as appropriate to fit individual circumstances].

Letter inviting individual to an investigation meeting

Hand delivered/ sent recorded delivery

Private and Confidential

[Name]

[Address]

[Date]

Dear [Name]

Investigatory Meeting

I am writing to advise you that you are required to attend a meeting in accordance with the Trust's [Insert Policy Title], a copy of which I enclose for your information. Your investigatory meeting will take place at [time and date] at [location]. I shall be conducting the meeting accompanied by [Insert Name] HR Business Partner, to advise on any procedural matters.

At the investigatory meeting I will spend time discussing the following allegations which have been raised [against/by] you:

- [state allegations in summary including dates of occurrences]
- [state any breaches in policy/ contract if applicable]

[For potential misconduct investigations only:]

[It is appropriate to inform you the Trust takes these allegations very seriously and, whilst no outcome has yet been reached, it is necessary to make you aware that if found to be misconduct or gross misconduct, it could result in a sanction in line with the Trust's Disciplinary Policy. [For matters of gross misconduct, I must advise you that, if found, it may lead to your dismissal].]

You have the right to be accompanied at this meeting by a Staff Side representative or by a workplace friend or colleague. If you wish to be accompanied, you will need to make arrangements for this. Please refer to the Investigation Policy for further detail in relation to staff representatives and companions.

I would also like to advise you of our Employee Assistance Programme, Workplace Options, who can be contacted on 0800 243 458, should you require further support during this process,

Yours sincerely

[Name]

[Title]

Cc. [Insert Name], HR Business Partner

Enc. [Insert Policy Title]

Appendix 4

[Note: Solent NHS Trust reserves the right for investigators to amend this letter as appropriate to fit individual circumstances].

Letter inviting a witness to an investigation meeting

Hand delivered/ sent recorded delivery

Private and Confidential

[Name]

[Address]

[Date]

Dear [Name]

Investigatory Meeting

I am writing to advise you that you are required to attend a meeting in accordance with the Trust's [Insert Policy Title], a copy of which I enclose for your information. Your investigatory meeting will take place at [time and date] at [location]. I shall be conducting the meeting accompanied by [Insert Name] who will act as note taker.

Please be assured that you are not under investigation yourself, but you have a duty to provide assistance in the investigation.

At the investigatory meeting I will spend time discussing the following allegations which have been raised:

[state allegations in summary including dates of occurrences] [state any breaches in policy/ contract if applicable]

You have the right to be accompanied at this meeting by a Staff Side representative or by a workplace friend or colleague. If you wish to be accompanied, you will need to make arrangements for this. Please refer to the Investigation Policy for further detail in relation to staff representatives and companions.

I would also like to advise you of our Employee Assistance Programme, Workplace Options, who can be contacted on 0800 243 458, should you require further support during this process,

For the purposes of confidentiality you are requested to maintain confidentiality over this matter. You should not discuss the content of this letter or the content of the meeting either before or after the meeting with anyone other than your Staff Side or Trade Union representative or workplace friend or colleague, manager, or HR Business Partner. This ensures that no distress is caused and the reliability of the investigation is not affected. This applies to all parties involved in this process.

Yours sincerely

[Name]

[Title]

cc. [Insert Name], HR Business Partner

Appendix 5

Suggested Meeting Format

Completed (tick)

The Investigating Officer introduces the people in attendance and their roles at the meeting

The Investigating Officer reminds the employee of their right to be accompanied (if no companion present). This must be recorded in the notes of the meeting.

The Investigating Officer outlines the intended procedure for the meeting. The

Investigating Officer asks if there are any initial questions.

The Investigating Officer details the allegations made which are then discussed further

Each party has the opportunity to provide relevant information or names of witnesses to support their statement

Once all the evidence is gathered, the meeting is adjourned

For matters of conduct the meeting may be resumed and a disciplinary hearing conducted. Please refer to the Disciplinary Policy, where applicable

Signed: **Date:**

Appendix 6

Investigation Report template

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| <p>CONFIDENTIAL INVESTIGATION REPORT</p> <p>Solent  NHS Trust</p> |
|--|

Investigation within the: [insert policy name]

Employee: Employee Job

Title: Job Location:

Investigating Officer:

Investigating Officer Job Title:

Date investigation commenced:

Date of completion:

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1. INTRODUCTION

1.1 INCIDENT / ALLEGATIONS:

Basic details of the allegation(s), what happened, when, where, who was involved. The wording from the investigation letter can be used. Detail any breaches in Trust policy, if applicable.

1.2 COMMISSIONING INFORMATION / REMIT:

What were you asked to investigate e.g. bullet points of specific areas:

-
-
-

Attach Commissioning Brief as an Appendix

1.3 BACKGROUND

Specific and factual Employee information e.g. how long has the employee been employed by the Trust and what role were they undertaking at the time of the investigation and details of their role and responsibilities.

Provide brief details of the service the employee works in and how their role fits into the service.

1.4 METHODOLOGY

1.4.1 Staff Interviews

The formal investigation commenced on [date]

The following people were interviewed as part of this investigation:

- *Name, Job Title, Organisation – Interview date...*
Purpose: Explain purpose of interviewing this person...
- *Name, Job Title, Organisation – Interviewed date...*
Purpose: Explain purpose of interviewing this person...

1.4.2 Procedures

Explain whether any additional information was used and purpose.....

1.4.3 Transfer of Workplace/Suspension

Was the implicated individual suspended or their workplace transferred if so record details and purpose...

2. FINDINGS

Explain the allegations being investigated and the facts/information obtained to either substantiate or unsubstantiated the claims, e.g. witness name confirmed this/there were no witnesses/there are discrepancies with what the witnesses saw, etc.

3. CONCLUSIONS

Conclude your findings based on the evidence gathered, e.g. the evidence substantiates the allegations of..... There is insufficient evidence to support the allegations of.....Ensure opinion has been based on factual evidence or the 'balance of probabilities'.

4. APPENDICES

Include commissioning brief and meeting notes. Attach appendices, ensuring all appendices are numbered for ease of reference.

Appendix 7

Investigatory to possible disciplinary hearing

[Note: Solent NHS Trust reserves the right for managers to amend this letter as appropriate to fit individual circumstances].

Private and Confidential

By hand

Date

Dear

I write further to [add detail, eg previous discussions, an incident on.....]. [As you are aware, we have previously had conversations around similar incidences] [expand introduction as necessary].

I am writing to advise you that you are required to attend an investigatory meeting on athours in I shall be conducting the meeting accompanied by [Insert Name] HR Business Partner, to advise on any procedural matters.

At the meeting we will discuss and explore the following concerns:

- o Specify each concern that you need to raise, including dates of occurrences [Nb – these need to be current issues] Refer to any supporting information that you will be attaching to the letter that you will be drawing on in the meeting].
- o State any potential breach in policy/contract if applicable

Whilst emphasising that no conclusion has yet been reached, I feel it appropriate to advise you this meeting may, after adjournment, proceed directly to a disciplinary hearing. I must tell you that the Trust takes these allegations very seriously and, if found to be misconduct or gross misconduct could result in a sanction in line with the Trust's Disciplinary Policy. [If current warning for issues of a similar nature relating to conduct have been given, insert:- May I take this opportunity to remind you that you currently have a [insert level of warning] on file.]

For the purposes of confidentiality you are requested to maintain confidentiality over this matter.

If you wish to bring a witness to this meeting or provide further evidence in your support, please provide details of these to me no more than 2 days before the meeting is due to be held.

You have the right to be accompanied at this meeting by a Staff Side representative or by a workplace friend or colleague. If you wish to be accompanied you will need to make arrangements for this.

Please confirm to me that you will be attending the meeting, and let me know if you have any concerns or queries in the meantime.

I would also like to advise you of our Employee Assistance Programme, Workplace Options, who can be contacted on 0800 243 458, should you require further support during this process.

Yours sincerely

Name]

[Title]

cc. [Insert Name], HR Business Partner

Appendix 8

[Note: Solent NHS Trust reserves the right for managers to amend this letter as appropriate to fit individual circumstances].

Letter confirming investigation outcome- no further action

Hand delivered/ sent recorded delivery

Private and Confidential

[Name]

[Address]

[Date]

Dear [Name]

Outcome of Investigation- No Further Action

I am writing to confirm the outcome of your Investigation Meeting held on [date]. You were present at the meeting accompanied by [insert name]. [Insert name], HR Business Partner was present to advise on any procedural matters.

I would like to summarise my findings as follows:

- [state allegations in summary including dates of occurrences]
- [state any breaches in policy/ contract if applicable]

In reaching a conclusion, I considered your comments carefully along with all aspects of Trust policy and practice. Based on the evidence presented, I can confirm that I am satisfied with the information provided and no further action will be taken.

I can also confirm that no record of this investigation will be retained on your personal file.

If you have any queries regarding the contents of this letter, then please do not hesitate to contact me.

I would like to thank you for your patience and continued commitment to your role during this investigation.

Yours sincerely

[Name]

[Title]

cc. [Insert name], HR Business Partner

Appendix 9

Equality Impact Assessment

| Step 1 – Scoping; identify the policies aims | Answer | | |
|---|---|-----------|---|
| 1. What are the main aims and objectives of the policy? | To ensure that there is a fair and consistent approach to investigations within the Trust | | |
| 2. Who will be affected by it? | All staff | | |
| 3. What are the existing performance indicators/measures for this? What are the outcomes you want to achieve? | There are currently no standard investigations templates within the Trust for HR matters | | |
| 4. What information do you already have on the equality impact of this document? | This policy standardises the current procedures in place. | | |
| 5. Are there demographic changes or trends locally to be considered? | No | | |
| 6. What other information do you need? | None | | |
| <u>Step 2 - Assessing the Impact; consider the data and research</u> | Yes | No | Answer (Evidence) |
| 1. Could the policy discriminate unlawfully against any group? | | x | This policy is designed to treat all staff in a consistent manner. |
| 2. Can any group benefit or be excluded? | | x | There will be consistency of treatment. |
| 3. Can any group be denied fair & equal access to or treatment as a result of this policy? | | x | Everyone will be treated in a consistent manner. |
| 4. Can this actively promote good relations with and between different groups? | x | | Due to the consistent of approach everyone will be treated equally. |
| 5. Have you carried out any consultation internally/externally with relevant individual groups? | | x | None required |
| 6. Have you used a variety of different methods of consultation/involvement? | | x | None required |
| Mental Capacity Act implications | | | |
| 7. Will this policy require a decision to be made by or about a service user? (Refer to the Mental Capacity Act policy for further information) | | x | Does not impact upon patients directly. |

If there is no negative impact – end the Impact Assessment here.