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## Suspension, Exclusion or Transfer Policy

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<b>Purpose of Agreement</b>	This policy provides managers with guidance on the process to follow when suspending or excluding staff
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## Amendment Summary

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2	22/03/16		Policy re write	

## Review Log

Include details of when the document was last reviewed.

Version Number	Review Date	Name of reviewer	Ratification Process	Reason for amendments
1	22/03/16	S Martin	Joint Consultation Committee Workforce Group	New policy
2				

## **SUMMARY OF POLICY**

In order to ensure a fair and consistent process, this policy gives the circumstances when a suspension or exclusion from work should be considered (section 3). In this section there is provision for managers to transfer individuals to alternative roles in certain circumstances (paragraph 3.6).

It reminds managers that they must consider removing Trust equipment from staff suspended as appropriate (paragraph 3.4).

It outlines the key responsibilities placed on the Employee, Manager, and HR Team (Section 4) within the Organisation and includes the process the manager should follow when an employee is suspended or excluded.

Section 5 gives the procedures that manager must follow when suspending an employee and gives information that the employee must be advised of (Paragraph 5.9).

Appendix A to C gives draft suspension letters for managers to use as appropriate.

## Suspension, Exclusion or Transfer Policy

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## SOLENT NHS TRUST

### SUSPENSION, EXCLUSION OR TRANSFER POLICY

#### 1. INTRODUCTION, AIM AND PURPOSE OF POLICY

- 1.1 The aim of this policy is to provide a standard framework to suspend, exclude or transfer individuals when allegations have been raised against them and to support managers with the application of the policy.
- 1.2 It is recognised that in some circumstances, due to the nature of the allegations raised against an individual, that they should be suspended, excluded or transferred from their role during the course of an investigation. Where this is applicable, this policy should be used.
- 1.3 The purpose of policy is to be just and equitable and to help promote fairness, order and consistency when it is necessary to suspend, exclude or transfer individuals from their role due to allegations which have been raised against them.
- 1.4 Depending on the nature of the allegations, staff may be excluded or suspended from some or all of their clinical and/ or non-clinical duties.

#### 2. SCOPE

- 2.1 This policy applies to all directly employed staff within Solent NHS Trust and other persons working within the organisation in line with the Trust's Equal Opportunities Policy, but shall not override the specific provisions within Medical and Dental staff terms and conditions of service.

#### 3. DEFINITIONS

- 3.1 A decision to suspend/exclude an individual is not indicative that a decision has been made, but is taken when:
  - there is a risk to patients, staff or the public
  - the progress of the investigation could be impeded if the person were on duty
  - it is necessary to protect the employee
  - they are a Director and there is a question on if they are a Fit and Proper person under Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 as amended, is in question.
- 3.2 Individuals, including Directors of the Trust, who are suspended or excluded from all of their duties, will not be allowed to work or enter Trust premises unless it is to receive emergency medical treatment or other outpatient or medical appointments, for the period of an investigation and until an outcome is reached.
- 3.3 Anyone suspended/excluded from some or all of their clinical work, will not be allowed to perform these clinical duties from the date the decision to suspend/exclude is made until an outcome is reached.
- 3.4 In all cases where an employee is suspended, the manager should consider whether it is appropriate to remove ID cards, Computer Access, Laptop, keys, parking permits, prescription pads, etc. for the duration of the suspension.
- 3.5 If a Director is suspended because there is a question on whether they are a Fit and Proper person, they will not be able to work as a Director during the course of the investigation

- 3.6 Individuals may be transferred to an alternative role within the Trust on the terms and conditions of their current role if there is no risk to:
- patients, staff or the public
  - the progress of the investigation would not be impeded if the person were on duty

#### **4. KEY RESPONSIBILITIES**

##### *4.1 Employees*

###### 4.1.1 The Employee is responsible for:

- Maintaining professional conduct during their suspension, exclusion or transfer
- Maintaining professional conduct, with staff and patients, where applicable
- Ensuring they treat colleagues and patients fairly and equitably
- Ensuring they comply with all Trust policies and procedures
- Attending meetings as requested
- Arranging the attendance of their staff side representative or companion at meetings
- Notifying the manager conducting the meeting who their representative/ companion and any witnesses will be prior to the meeting
- Maintaining confidentiality during and after the application of this policy

##### *4.2 Managers*

###### 4.2.1 The Manager is responsible for:

- Maintaining weekly contact with the employee during the period of their suspension, exclusion or transfer
- Informing the employee of the likely time period of their suspension, exclusion or transfer
- Ensuring staff and patients are treated fairly and equitably
- Ensuring that Trust policies and procedures are complied with
- Informing the Human Resources department
- Regularly reviewing the application of this policy in line with new evidence
- Ensuring all timescales in the policy are adhered to
- Maintaining confidentiality during and after the application of this policy

##### *4.3 Human Resources*

###### 4.3.1 The Human Resources department is responsible for:

- Providing appropriate advice and support to managers in the application of this procedure including relevant training and coaching
- Ensuring the policy is followed in a fair and equitable manner
- Ensuring the policy is adhered to and timescales are met
- Identifying any trends and bringing them to the attention of the manager

#### **5. PROCEDURE**

5.1. There may be occasions when the allegations being considered are of a serious nature to warrant the suspension or exclusion of the employee involved or a temporary transfer to another service 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.

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

- 5.3. Managers should advise staff in person of the decision to suspend, exclude or transfer them, detailing the allegations made against the employee. Where it is not possible to meet the employee in person, they should be contacted by telephone.
- 5.4. Staff will be informed that they will receive full pay during this period of suspension or exclusion, or will transfer under the terms and conditions of their current post.
- 5.5. Staff will be informed of the likely time period of their suspension, exclusion or transfer and that if following an investigation there is evidence to support the allegation, it may constitute gross misconduct in line with the Disciplinary Policy.
- 5.6. The suspension, exclusion or transfer will be confirmed in writing to the employee. Template letters are provided in the Appendix A, B, or C.
- 5.7. During the period of suspension or exclusion from all duties, the employee should not:
  - make contact with members of staff or patients without the expressed permission from their manager prior to doing so
  - access any Trust premises without permission of their manager unless it is for the purpose of receiving emergency medical attention
  - discuss the suspension with members of staff or patients
- 5.8. During the period of suspension or exclusion from clinical duties the employee should not perform any clinical duties.
- 5.9. During the transfer, the employee should not:
  - make contact with members of staff or patients in the service of their substantive post without the expressed permission from their manager prior to doing so
  - access any Trust premises connected with the service of their substantive post without permission from their manager, unless it is for the purpose of receiving emergency medical attention
- 5.10. Employees will be contacted on a weekly basis by their manager or nominated individual to provide them with an update on the progress of the investigation in terms of time scales and to ensure they do not feel excluded from the organisation.

## **6. TRAINING**

- 6.1. Whilst there is no specific training identified in relation to this policy, the Trust recognises the importance of appropriate training for staff. For training requirements and refresher frequencies, please refer to the Training Needs Analysis (TNA) on the intranet.

## **7. EQUALITY IMPACT ASSESSMENT and MENTAL CAPACITY**

- 7.1. In line with Trust policy, an Equality Impact Assessment has been completed. It is understood that no employee will receive less favourable treatment on the grounds of disability, age, sex, race, religion or belief, gender reassignment, pregnancy or maternity, marriage or civil partnership, working patterns or Trade Union membership or non-membership in relation to the application of this policy. The Equality Impact Assessment is included in Appendix D

## **8. SUCCESS CRITERIA and MONITORING OF THE EFFECTIVENESS**

- 8.1 The effectiveness of this policy will be monitored by the HR Team by checking each suspension, exclusion or transfer to ensure the correct procedures have been followed and time scales met. Any learning points and trends will be considered during any review of this policy.
- 8.2 Managers should report the suspension via the Major Incident Procedure.
- 8.3 All suspensions are reported to the Trust Board on an annual basis.

## **9. REVIEW OF POLICY**

- 9.1 The policy may be reviewed at any time at the request of either Staff Side or the Trust but will be reviewed automatically every three years from the date of initial approval unless organisational changes, legislation, guidance or non-compliance prompt an earlier review.

## **10. LINKS TO OTHER POLICIES**

- 10.1 This policy should be read in conjunction with the following policies:
- Investigation (HR) Policy
  - Incident, Complaints and Claims Investigation, Analysis and Learning from Lessons Policy
  - Major Incidents Procedure
  - Incident Investigation Procedure
  - Equal Opportunities Policy
  - Disciplinary Policy
  - Dignity at Work (Bullying and Harassment) Policy
  - Grievance Policy
  - Complaints Procedure
  - Freedom to Speak Up Policy
  - Recruitment of Ex Offenders and Continuing Employment of Offenders Policy
  - Drug and Alcohol Misuse Policy
  - Maintaining High Standards of Performance Policy
  - Managing Performance of Medical and Dental Staff
  - Managing Absence and Wellbeing Policy
  - Retention and Disposal of Records Policy
  - Flexibility in Employment Policy
  - Retirement Policy
  - Safeguarding Adults at Risk Policy
  - Safeguarding Children and Young People Policy
  - Claims Management Policy
  - Social Media Policy

Letter informing individual that they are suspended

**Sent by Special Delivery**

**Private and Confidential**

[Name]

[Address]

[Date]

Dear [Name]

**Re: Suspension**

I am writing to confirm the outcome of our meeting held on [date]. [Insert name], HR Business Partner was present to advise on any procedural matters. We offered you the opportunity to be accompanied [and you chose to be accompanied by] or [but you declined. It is acknowledged that you did not have sufficient time to arrange for a union representative to accompany you at the meeting, however, the nature of the allegations were serious enough to warrant immediate action to be taken]. I can confirm that you were not asked to respond to the concerns raised until such time as you attend an investigatory meeting.

I detailed in our meeting that the following allegations had arisen:

- [State each allegation in summary including dates the allegations took place]

It was explained that where allegations are reported of a serious nature and to enable a full and thorough investigation to take place, you would be suspended on full pay until further notice. This suspension is in order to allow us to conduct the investigation impartially and fairly and is in no way a form of disciplinary action against you or indicative that a decision has been made.

During the period of suspension you should not:

- make contact with members of staff or patients without the express permission from me prior to doing so
- discuss the suspension with members of staff or patients
- access any Trust premises without permission from me unless it is for the purpose of receiving emergency medical attention or other outpatient or medical appointments

It is appropriate to advise you that if these allegations are upheld, they may constitute gross misconduct and any subsequent disciplinary hearing would consider a disciplinary sanction up to and including dismissal.

During the course of this suspension you may wish to contact the Employee Assistance Programme on 0800 243 458 to obtain confidential support.

Yours sincerely

**[Name]**

[Title]

Cc. [Insert Name] HR Business Partner

Enc. Investigation and Disciplinary Policy

Letter informing individual that they are suspended from clinical duties

**Sent by Special Delivery**

**Private and Confidential**

[Name]

[Address]

[Date]

Dear [Name]

**Re: Suspension from Clinical Duties**

I am writing to confirm the outcome of our meeting held on [date]. [Insert name], HR Business Partner was present to advise on any procedural matters. We offered you the opportunity to be accompanied [and you chose to be accompanied by] or [but you declined. It is acknowledged that you did not have sufficient time to arrange for a union representative to accompany you at the meeting, however, the nature of the allegations were serious enough to warrant immediate action to be taken]. I can confirm that you were not asked to respond to the concerns raised until such time as you attend an investigatory meeting.

I detailed in our meeting that the following allegations had arisen:

- [State each allegation in summary including dates the allegations took place]

It was explained that where allegations are reported of a serious nature and to enable a full and thorough investigation to take place, you would be suspended from your clinical duties, on full pay until further notice. This suspension is in order to allow us to conduct the investigation impartially and fairly and is in no way a form of disciplinary action against you or indicative that a decision has been made.

During the period of suspension you should not:

- Perform any clinical duties
- discuss the suspension with members of staff or patients
- make contact with members of staff or patients without the expressed permission from me
- access any Trust premises without permission from me unless it is for the purpose of receiving emergency medical attention

It is appropriate to advise you that if these allegations are upheld, they may constitute gross misconduct and any subsequent disciplinary hearing would consider a disciplinary sanction up to and including dismissal.

During the course of this suspension you may wish to contact the Employee Assistance Programme on 0800 243 458 to obtain confidential support.

Yours sincerely

**[Name]**

[Title]

Cc. [Insert Name] HR Business Partner

Enc. Investigation and Disciplinary Policy

Letter informing individual that they are excluded

**Sent by Special Delivery**

**Private and Confidential**

[Name]

[Address]

[Date]

Dear [Name]

**Re: Exclusion**

I am writing to confirm the outcome of our meeting held on [date]. [Insert name], HR Business Partner was present to advise on any procedural matters. We offered you the opportunity to be accompanied [and you chose to be accompanied by] or [but you declined. It is acknowledged that you did not have sufficient time to arrange for a union representative to accompany you at the meeting, however, the nature of the allegations were serious enough to warrant immediate action to be taken]. I can confirm that you were not asked to respond to the concerns raised until such time as you attend an investigatory meeting.

I detailed in our meeting that the following allegations had arisen:

- [State each allegation in summary including dates the allegations took place]

It was explained that where allegations are reported of a serious nature and to enable a full and thorough investigation to take place, you would be excluded on full pay until further notice. This exclusion is in order to allow us to conduct the investigation impartially and fairly and is in no way a form of disciplinary action against you or indicative that a decision has been made.

During the period of exclusion you should not:

- make contact with members of staff or patients without the expressed permission from me prior to doing so
- discuss the exclusion with members of staff or patients
- access any Trust premises without permission from me unless it is for the purpose of receiving emergency medical attention

It is appropriate to advise you that if these allegations are upheld, they may constitute gross misconduct and any subsequent disciplinary hearing would consider a disciplinary sanction up to and including dismissal.

During the course of this exclusion you may wish to contact the Employee Assistance Programme on 0800 243 458 to obtain confidential support.

Yours sincerely

**[Name]**

[Title]

Cc. [Insert Name] HR Business Partner

Enc. Investigation and Disciplinary Policy

Letter informing individual that they are excluded from clinical duties

**Sent by Special Delivery**

**Private and Confidential**

[Name]

[Address]

[Date]

Dear [Name]

**Re: Exclusion from Clinical Duties**

I am writing to confirm the outcome of our meeting held on [date]. [Insert name], HR Business Partner was present to advise on any procedural matters. We offered you the opportunity to be accompanied [and you chose to be accompanied by] or [but you declined. It is acknowledged that you did not have sufficient time to arrange for a union representative to accompany you at the meeting, however, the nature of the allegations were serious enough to warrant immediate action to be taken]. I can confirm that you were not asked to respond to the concerns raised until such time as you attend an investigatory meeting.

I detailed in our meeting that the following allegations had arisen:

- [State each allegation in summary including dates the allegations took place]

It was explained that where allegations are reported of a serious nature and to enable a full and thorough investigation to take place, you would be excluded from your clinical duties, on full pay until further notice. This exclusion is in order to allow us to conduct the investigation impartially and fairly and is in no way a form of disciplinary action against you or indicative that a decision has been made.

During the period of exclusion you should not:

- Perform any clinical duties
- discuss the exclusion with members of staff or patients
- make contact with members of staff or patients without the expressed permission from me
- access any Trust premises without permission from me unless it is for the purpose of receiving emergency medical attention

It is appropriate to advise you that if these allegations are upheld, they may constitute gross misconduct and any subsequent disciplinary hearing would consider a disciplinary sanction up to and including dismissal.

During the course of this exclusion you may wish to contact the Employee Assistance Programme on 0800 243 458 to obtain confidential support.

Yours sincerely

**[Name]**

[Title]

Cc. [Insert Name] HR Business Partner

Enc. Investigation and Disciplinary Policy

Letter informing individual that they are to be transferred

**Sent by Special Delivery**

**Private and Confidential**

[Name]

[Address]

[Date]

Dear [Name]

**Re: Temporary Transfer**

I am writing to confirm the outcome of our meeting held on [date]. [Insert name], HR Business Partner was present to advise on any procedural matters. We offered you the opportunity to be accompanied [and you chose to be accompanied by] or [but you declined. It is acknowledged that you did not have sufficient time to arrange for a union representative to accompany you at the meeting, however, the nature of the allegations were serious enough to warrant immediate action to be taken]. I can confirm that you were not asked to respond to the concerns raised until such time as you attend an investigatory meeting.

I detailed in our meeting that the following allegations had arisen:

- [State each allegation in summary including dates the allegations took place]

It was explained that where allegations are reported of a serious nature and to enable a full and thorough investigation to take place, you would be transferred from your current role to [insert position and location], under the terms and conditions of your current position, until further notice. During your transfer you will report on a day to day basis to [insert name] including in line with the Annual Leave and Sickness Absence policies.

This transfer is in order to allow us to conduct the investigation impartially and fairly and is in no way a form of disciplinary action against you or indicative that a decision has been made.

During the period of transfer you should not:

- make contact with members of staff or patients in the service of your substantive post without the expressed permission from me prior to doing so
- discuss the suspension with members of staff or patients
- access any Trust premises connected with the service of your substantive post without permission from me unless it is for the purpose of receiving emergency medical attention

It is appropriate to advise you that if these allegations are upheld, they could constitute gross misconduct and any subsequent disciplinary hearing would consider a disciplinary sanction up to and including dismissal.

During the course of this transfer you may wish to contact the Employee Assistance Programme on 0800 243 458 to obtain confidential support.

Yours sincerely

**[Name]**

[Title]

Cc. [Insert Name] HR Business Partner

Enc. Investigation and Disciplinary Policy

## EQUALITY IMPACT ASSESSMENT and MENTAL CAPACITY

## Impact Assessment Template

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 suspensions, exclusions or transfers 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 is currently no standard guidance within the Trust
4. What information do you already have on the equality impact of this policy?	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

Step 2 - Assessing the Impact; consider the data and research	Yes	No	Answer (Evidence)
1. Could the policy discriminate unlawfully against any group?		x	The policy ensures all staff are treated in a consistent manner
2. Can any group benefit or be excluded?		x	The policy ensures all staff are treated in a consistent manner
3. Can any group be denied fair & equal access to or treatment as a result of this policy?		x	The policy ensures all staff are treated in a consistent manner
4. Can this actively promote good relations with and between different groups?	x		Due to the consistency 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 document require a decision to be made by or about a service user? ( <i>Refer to the Mental Capacity Act document for further information</i> )		x	

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