

# **NHSScotland 'Once for Scotland' Workforce Policies - Core Policies**

## **Consultation**

**Open: 17 April 2019**  
**Closes: 17 May 2019**

## **Introduction**

### **Vision**

The 'Once for Scotland' Workforce Policies Programme is designed to review and transform existing workforce policies (previously known as Partnership Information Network (PIN) Policies) in line with our vision:-

'Once for Scotland Workforce policies will promote NHSScotland as a modern, exemplar employer; showcasing our core values, and promoting consistent employment policy and practice that supports the implementation of the Staff Governance Standard and effective recruitment and retention.'

### **Principles**

The Scottish Workforce and Staff Governance (SWAG) Committee agreed that the following principles would govern the development work and future model:-

1. The overriding purpose of future policy review exercises will be to create single, standardised policies that will be used consistently and seamlessly across NHSScotland.
2. Policies will be presented in a refreshed and reinvigorated format on a digital platform in a more user friendly and meaningful way, with staff and managers at the centre, whilst still being accessible to all groups of staff in alternative formats.
3. Policies will be developed and reviewed more quickly and efficiently, with accountability for delivery shared between employers, staffside and professional organisations and the Scottish Government.
4. There will be collective responsibility for each PIN Policy in terms of providing governance and leadership around future policy development or review.
5. Existing national PIN policies set good practice standards that have been negotiated and agreed in partnership and the starting presumption should be that these standards will apply at the core of future Once for Scotland policies.
6. Where a national PIN policy has been recently reviewed and is legally compliant, the expectation is that there should be minimal changes in relation to policy standards and therefore the focus is adopting that version to the Once for Scotland policy style.
7. Policies should be developed with robust engagement and take account of good practice locally and within other employers.
8. A new model for PIN policy review will be developed that improves the timeframe and efficiency of PIN policy review.
9. Once policies are agreed, they will be implemented consistently and fully across NHSScotland.

10. In future policies will be more focused on key standards and information and implemented across NHSScotland. The implementation will be supported by processes and procedures that will be nationally or locally agreed as appropriate.

## **Policies**

The first phase of the programme addresses the 'Core Policies' i.e.

- Bullying & Harassment
- Capability
- Conduct
- Grievance
- Attendance, AND a
- Workforce Policy Investigation Process

## **Engagement Model**

The emphasis is on moving to more dynamic and interactive engagement within a quicker process and with more direct feedback.

The one month consultation period will run from 17 April to 17 May 2019 inclusive with necessary flexibility to ensure maximum feedback.

The consultation follows the regional engagement events pre-policy (January 2019) and mid-policy development (March 2019). The approach, agreed by the Scottish Workforce and Staff Governance (SWAG) Committee, minimises the need for the traditional 2-3 month formal consultation process.

With this new model of engagement, and recognising that these policies have already been agreed in partnership, this consultation will look different from previous consultations.

## **What is included within the consultation?**

The consultation focuses on the policies for Grievance, Conduct, Capability, Bullying & Harassment, Attendance and the Investigatory Process for Workforce Policies. This includes the following sections:-

- Aims
- Scope (Who it applies to and What can be raised under the policy)
- Definitions
- Roles and Responsibilities
- Procedure

The questions set out in the consultation seek to understand if the refreshed policies reflect the vision and principles of 'Once for Scotland' Workforce Policies. Fundamentally, do the policies contained within the consultation provide single and standardised policies that are user-friendly and place staff and managers at the centre.

## What is not included within the consultation?

The consultation does not include the standard headings that apply to all policies and can be written once and accessible through the digital solution. For example, Ministerial Forward, Preface, Principles and Values, Legislative Framework, Recording and Retaining Records (GDPR), Equality & Diversity (Wellbeing & Equality Policies will be addressed in Phase 2), Confidentiality, Right to be Represented, Training, Staff Governance Standards (direct link), Monitoring & Evaluation, Support and Review.

Each policy includes reference to links that will be made available through the digital solution to supporting materials. At this stage, this is simply referenced as a link.

Note that generic roles and responsibilities have been removed from the individual policies and will be included under the standard headings which apply to **all** policies.

For information, these are detailed below:-

Group	Roles & Responsibilities
HR	<ul style="list-style-type: none"><li>• Support managers and employees by providing advice on policy and process</li><li>• Ensure any processes undertaken comply with the policy and procedure and that there is fairness and consistency</li></ul>
Trade Union	<ul style="list-style-type: none"><li>• Support their members, ensuring they are aware of their rights and responsibilities under this policy</li><li>• Encourage members to participate in early resolution in appropriate cases</li><li>• Work in partnership with the organisation to raise awareness on the benefits of and approach to the policy, including development and delivery of joint training</li></ul>
Occupational Health	<ul style="list-style-type: none"><li>• Provide expert, impartial and timely advice to managers and support to employees following any referral which requires to be made in the course of managing issues identified within Workforce Policies.</li></ul>

## Digital Solution

A key component of the 'Once for Scotland' Workforce Policies is to design and develop the digital solution to host the policies that will deliver the vision to promote NHSScotland as a modern employer, showcase our core values and facilitate recruitment and retention.

The digital solution will be developed in an iterative-incremental manner in collaboration with users. It will evolve over time in response to continuous feedback. It is anticipated that a Minimal Viable Product (MVP) will be in place for the completion of the first phase of core policies in the summer of 2019.

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## **1. Responding to this Consultation**

We are inviting responses to this consultation by Friday 17 May 2019.

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). Access and respond to this consultation online at <https://consult.gov.scot/health-workforce/once-for-scotland-workforce-policies>.

You can save and return to your responses while the consultation is still open.

Please ensure that consultation responses are submitted before the closing date of Friday 17 May 2019.

If you are unable to respond using our consultation hub, please complete the Respondent Information Form and send to:-

'Once for Scotland' Workforce Policies Programme  
Scottish Government  
GR, Workforce Practice Unit, Health Workforce, Leadership and Service Reform  
Directorate  
St Andrew's House  
Regent Road  
Edinburgh EH1 3DG

### **1.1 Handling your response**

1.1.1 If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

1.1.2 All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

1.1.3 If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

1.1.4 To find out how we handle your personal data, please see our privacy policy:- <https://beta.gov.scot/privacy/>

### **1.2 Next steps in the process**

1.2.1 Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

1.2.2 Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so.

### **1.3 Comments and complaints**

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or at [Lynn.Hunter@gov.scot](mailto:Lynn.Hunter@gov.scot)

### **1.4 Scottish Government Consultation process**

1.4.1 Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

1.4.2 You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

1.4.3 Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. This will enable us to finalise the 'Once for Scotland' Workforce Policies for Scottish Workforce & Staff Governance (SWAG) Committee approval and Cabinet Secretary agreement.

1.4.4 While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

## **2. Bullying & Harassment**

### **2.1 Aim**

2.1.1 To provide:-

- A supportive environment to seek early resolution to bullying and/or harassment concerns.
- A formal mechanism to address unresolved or significant and/or persistent bullying and/or harassment.

### **2.2 Scope**

2.2.1 This policy applies to all employees and workers such as bank, agency and sessional workers.

2.2.2 It covers bullying and/or harassing behaviours < Link to the descriptions of bullying and harassing behaviours > from other employees and from patients, relatives, carers and employees of other organisations where these relate to the working environment. The behaviour can be by an individual or a group (mobbing). It can be face to face, written or via electronic methods (cyber-bullying/cyber-harassment)

### **2.3 Definitions**

2.3.1 Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.

2.3.2 Harassment is unwanted conduct related to a relevant protected characteristic (age, disability, gender reassignment, race, religion or belief, sex, or sexual orientation), which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual. It may also relate to other personal characteristics such as trans identities including non-binary.

2.3.3 Mediation is a voluntary confidential method in which the parties are brought together in a neutral setting for up to a day, to try to achieve a mutually acceptable outcome, with the help of trained mediators, who are independent and have no involvement in a case, either before or after the mediation. <Link to more detailed information>

2.3.4 Significant and/or persistent bullying and/or harassment – the Conduct supporting documents give examples of what is gross misconduct i.e. has the potential for dismissal. This includes “significant and/or persistent bullying and/or harassment”. This means a single, serious incident and/or an ongoing pattern of bullying can be considered gross misconduct.

2.3.5 Supported Conversation is an informal discussion between two or more employees facilitated by a manager or other third party. This is conducted in a fair and consistent manner to facilitate equal participation with the view of seeking resolution. < Link to more detailed information >

## **2.4 Roles and Responsibilities**

### **2.4.1 Line Manager**

- Create an environment where employees are clear that bullying and/or harassment is unacceptable.
- Respond constructively and supportively where an employee raises a concern regarding bullying and/or harassing behaviours or is accused of such behaviours.
- Assess the seriousness of the complaint and determine whether the matter can be addressed under early resolution.
- Assess the risk of the parties continuing to work together while the concern is being addressed and consider alterations that would support this<Link to Guide to Maintaining Relationships>.
- Identify suitable alternative placement(s) and appropriate support mechanisms to prevent isolation where it is not possible to keep the parties together.

### **2.4.2 Employee**

- Contribute to a dignified working environment in which bullying and/or harassment is considered unacceptable and consider personal behaviours that might be seen as such.
- Take time to consider whether the behaviours demonstrated are bullying and/or harassing in nature<Link to Self-reflection tools> and if so, what their expectations are of any process.
- Raise the issue with a manager where personally unable to manage such behaviours as the employee subject to the behaviours, as a witness or as the employee demonstrating such behaviours.
- Actively participate in the process in an attempt to manage the issue without delay.
- Consider accessing any support mechanisms to maintain health and wellbeing during the process.

2.4.3 Anyone involved in the process is required to maintain confidentiality throughout the process.

2.4.4 There are a range of standard expectations on all parties and on HR, Trade Union representatives and Occupational Health which underpin all policies<Link to standard roles and responsibilities>.

## **2.5 Procedure**

### **2.5.1 Procedure in cases involving other employees**

2.5.1.1 The procedure for bullying and/or harassment cases involving other employees is shown in the flowchart. < Link to flowchart >. Other resources are also available to support employees consider whether their experiences fall within these categories < Link to Self-reflection Tools> and what support is available to assist< Link to standard Sources of Support>.

## 2.5.2 Early Resolution

2.5.2.1 Addressing bullying and/or harassing behaviours is challenging. The best way to resolve the issue at the earliest opportunity is by ensuring the other party is aware of the impact of their behaviour. The following approaches are recognised ways of achieving early resolution:-

- Speaking to the other party direct - the complainant approaches the other party to tell them that they find their behaviour offensive, why this is the case, and to ask them to stop.
- Writing to the other party - the complainant can write directly detailing the offensive behaviour and advising the requirement to stop any further bullying or harassing behaviours.
- Supported approach - If the complainant finds speaking to the other party too difficult, but still wishes to seek early resolution, they can ask their manager to relay their concerns to the individual.
- Supported conversation - If the individuals involved agree that early resolution is possible this can be supported through a structured informal discussion. Such meetings can be offered by a third party, e.g. a manager or HR representative, and involve supporting the employees to have a face to face conversation to start rebuilding relationships. During this process employees can be supported by their Trade Union representative or a work colleague. A record of the agreed outcomes will be provided by the third party to all participants.
- Mediation - The manager may recommend this to the parties involved to actively support early resolution. Mediation is a more formal type of resolution which involves impartial, qualified individuals helping employees reach a solution that's acceptable to everyone. What is said in mediation is privileged and cannot be disclosed or used in any subsequent procedure.

2.5.2.2 Where the employee has attempted early resolution without support from their manager, they should keep a record of the behaviours causing concern, action taken, along with a note of the date and what was said by those involved. This will help if the bullying or harassment continues or happens again.

## 2.5.3 Formal Procedure

2.5.3.1 If early resolution is unsuccessful or significant or persistent in nature, the employee may initiate the formal procedure. In such cases the manager will assess the risk to determine what supports can be put in place to maintain continued working together during this period <Link to the Guide to maintaining relationships>. Where this is deemed inappropriate the employee alleged to have demonstrated bullying and/or harassing behaviours will be moved to an alternate placement unless the complainant requests a move or there is a legitimate service need which dictates the other employee cannot be moved.

2.5.3.2 If the employee has chosen to go straight to the formal stage of the procedure, a manager will discuss with the employee their reasons why early resolution is not appropriate and offer every support to allow this to take place.

2.5.3.3 To initiate the formal procedure the employee should be write to their manager or the manager of the employee demonstrating bullying and/or harassing behaviours. This should detail the employee(s) alleged to be demonstrating these behaviours and the nature of these <Link to Guide for Employees>. The employee may access a confidential contact < Link to Guide to confidential contacts>or HR for advice, or a Trade Union representative for support and assistance.

2.5.3.4 The manager must acknowledge the complaint in writing within 7 calendar days outlining the process for either revisiting the scope for early resolution <Link to standard acknowledgement letter inviting for further discussion> or the process of investigation to be undertaken in line with the NHSScotland Workforce Policy Investigation Process <Link to Investigation Process document> <Link to standard acknowledgement letter outlining first step in investigation>.

## 2.5.4 Outcomes from Investigation Process

2.5.4.1 There are three potential outcomes following the investigation:-

- The complaint is not upheld.
- The complaint is upheld and justifies learning outcomes.
- The complaint is upheld and justifies referral to a formal conduct Hearing <Link to conduct policy>.

2.5.4.2 In serious circumstances, if relocation proves necessary, every effort will be made to relocate the employee alleged to have demonstrated bullying and/or harassing behaviours and not the complainant, unless the complainant specifically asks to be moved or legitimate service needs dictate the other employee cannot be moved.

## 2.5.5 Feedback

### 2.5.5.1 To the Complainant

2.5.5.2 The manager and/or the investigation team will meet with the employee who raised the concern to feed back the findings of the investigation. This will be undertaken with a view to clarifying the reasons for their decisions but with all due regard for the confidentiality of the employee alleged to have demonstrated the bullying and/or harassing behaviours and any witnesses <Link to information sharing document>. Where the complaint is not upheld, the employee should be reassured of the appropriateness of raising concerns and a recognition that notwithstanding the findings it is acknowledged that is how the employee feels unless there has been clear evidence to show the complaint has been raised in bad faith.

2.5.5.3 The outcome will be confirmed in writing <Link to standard outcome letter> to the employee within 7 calendar days of the feedback meeting. The letter will confirm the scope and process to request a Review.

### 2.5.5.4 To the employee under investigation

The manager and/or the investigation team will meet with the employee to feedback the findings of the investigation and any proposed action. This will be undertaken with a view to clarifying the reasons for their decisions but with all due regard for the confidentiality of the employee who raised the concerns and any witnesses <Link to information sharing document>. Where the complaint is not upheld, the employee should be reassured that their behaviour has not been deemed inappropriate. They should be supported to recognise that the complainant may still perceive behaviours were inappropriate and therefore they were not acting unreasonably in raising a concern unless there is evidence to suggest it was raised in bad faith. Where the complaint is upheld, the employee should be advised of any learning outcomes and whether these will be managed under the NHSScotland Capability Policy <Link to capability policy>. If it is determined that the behaviours constituted misconduct, the employee should be advised that a hearing will be arranged in line with the NHSScotland Conduct Policy <Link to conduct policy>.

2.5.5.5 The outcome will be confirmed in writing <Link to standard outcome letter> to the employee within 7 calendar days of the feedback meeting.

## 2.5.6 **Review**

2.5.6.1 If the complainant remains dissatisfied following the feedback from the formal investigation, they may request a review of the process. The request should be in writing within 14 calendar days to the designated manager indicated in the feedback confirmation letter.

2.5.6.2 A Hearing will be held <Link to Hearing format guidance> to consider the process undertaken by the Investigation Team and the employee's case that the process was flawed.

2.5.6.3 The Chair will write to all parties giving at least 14 calendar days' notice of the review hearing, requesting written statements to be shared 7 calendar days before.

2.5.6.4 Statements of case should have sufficient information to demonstrate the process issues to be considered but with due regard for the confidentiality of the employee subject to the investigation and witnesses. Witnesses would not normally be called to the Hearing unless they have specific evidence regarding flaws in the process.

2.5.6.5 The outcome of the review will be communicated to the complainant in writing within 7 calendar days. There is no further right of review.

## 2.5.7 **Maintaining Relationships**

2.5.7.1 In a large number of cases where bullying and/or harassing behaviours have been alleged, there is an ongoing need for the parties to work together whether that is as a result of successful early resolution or the outcome of the formal procedure does not require a move of the employee. It is important to recognise the potential impact on both parties of working together against this backdrop. On that basis, the manager needs to take an active role to support both parties including the following:-

- Individual meetings with both parties to discuss how they feel about the outcome and how they envisage working with the other employee going forward.
- How the employees can feel safe, e.g. agreed process for raising future concerns direct with each other or with a manager where this is not possible.
- A joint meeting to ease first contact on return where one of the parties has been working out of the department.
- Consider the impact on witnesses particularly where they have given evidence and offer them support and details of any return date of the employees involved.
- Review any follow up action to ensure this has been completed to ensure learning is embedded to minimise the potential for further conflict.
- Agree a timescale for check-ins to ensure employees feel supported.

## 2.5.8 **Bullying and Harassment by Contractors and Staff from other Organisations**

2.5.8.1 The procedure for bullying and/or harassment cases by contractors or staff from other organisations is shown in a flowchart. < Link to 2nd flowchart >. Support is available to employees who are subject to such behaviours <Link to standard Sources of support section>.

## 2.5.9 **Early Resolution**

2.5.9.1 In cases where the bullying or harassment involves contractors or staff from other organisations and the working relationship between the parties needs to be maintained, the employee should consider the same early resolution options as described under the section for other employees. However, due to the specific nature of the relationship between the employer and these individuals/organisations, the following additional steps may be considered at the early resolution stage:-

- The manager will contact the appropriate senior person within that company/organisation to advise them that this type of behaviour is unacceptable and that, if it is repeated, the individual concerned may be refused entry to the organisation's premises.

## 2.5.10 **Formal Procedure**

2.5.10.1 If early resolution is unsuccessful, the behaviours start again or the behaviours are of a serious nature, the manager should initiate the formal procedure. This would require the appropriate senior manager to write to the appropriate senior person within the company/organisation concerned to advise them again that this type of behaviour is unacceptable and that if it is repeated, then the individual concerned may be refused entry to the organisation's premises or continued contact with staff of the organisation. Where the individual has already been advised that any repetition of such behaviour may lead to such action, the company/organisation should be advised that the individual's access to the premises/working with NHS staff has been removed.

## 2.6 Supporting Documentation

- Flowcharts – there will be two/three flowcharts which show visually the key steps in the process when raising a concern regarding bullying and/or harassing behaviours. The flowcharts will relate to: concerns regarding another employee's behaviours; concerns regarding a contractor or employee of another organisation; and concerns regarding patients, relatives, carers, visitors and advocates.
- Standard letters – standard letters will be developed to ensure all the required content is included in letters for each stage of the process including invite/ review/outcome and appeal letters.
- Guide for Managers – more detailed guidance to support managers through the process with good practice highlighted.
- Guide for Employees – more detailed guidance for staff to support them through the process whether as the complainant or as the person who has been complained about.
- Self-reflection Tools – tools such as questionnaires which support staff to assess whether the behaviours they are experiencing or displaying may be considered bullying or harassment. Also examples of what would reasonably be assumed to be firm and fair management.
- Examples of what might be considered bullying and harassing behaviours with specific reference to behaviours related to protected (under the law) or personal characteristics
- Guide to confidential contacts – detailed guidance to explain the role of confidential contacts and when it might be appropriate to contact someone
- Guide to maintaining relationships throughout the process including issues to consider when assessing the risk for the need to separate the parties and alternatives that can be considered.
- Guide to Supported Conversations and Mediation – more detailed guidance to support staff and managers in understanding the differences and benefits of early resolution mechanisms.

## 2.7 Consultation Questions

### Bullying & Harassment: Section 2

(6 Questions)

Question 1:

Is the policy easy to read and clear to all parties?

Yes

No

Question 2:

Is the policy fit for purpose?

Yes

No

Question 3:

Does the language reflect our vision for policies to be user-friendly and supportive reflecting NHSScotland core values?

Yes

No

Question 4:

Are there any additions required to the supporting documents listed?

Yes

No

If yes, please specify

Question 5:

Does the greater emphasis on early resolution, feedback and maintaining relationships offer the scope to encourage employees to raise concerns and respond constructively?

Yes

No

If no, please specify

Question 6:

Please provide any other comments you have in relation to the policy.

### **3. Capability**

#### **3.1 Aim**

3.1.1 To provide a clear process to support and manage employees, in a fair, consistent and timely manner when they are required to improve their knowledge, skill and/or ability to undertake their role.

#### **3.2 Scope**

3.2.1 This policy applies to all employees and workers such as bank, agency and sessional workers. It does not apply for matters concerning the professional competence of medical and dental staff.

3.2.2 It relates to concerns regarding an employee's knowledge, skills or ability to perform their role. This may arise from complaints or criticisms of the employee's work from colleagues, patients or visitors, factual evidence, the manager's own observations or the employee asking for help to overcome the problem. It also relates to ill health which impacts on performance.

3.2.3 Concerns relating to regulatory standards can only be determined by the relevant regulator <Link to Guide to Referral to External Agencies>. The employer may be unable to determine the outcome of a capability process in advance of the regulator concluding the referral. Where the concern applies to both the regulatory body and the contract of employment, the employer may determine an outcome based on the contract of employment.

3.2.4 This policy will also be used to consider cases of employees' loss of registration, or other required qualifications such as a driving licence, where this is not considered a conduct matter or relates to matters out with the employer's scope to investigate. This would not apply to lapses of registration which will be covered by existing policies. <Link to Safer Pre and Post Employment checks PIN>.

#### **3.3 Definitions**

3.3.1 Capability – the knowledge, skill or ability required to carry out the required duties of the role to an acceptable standard.

3.3.2 Supported Improvement Plan - A document which outlines areas for improvement with agreed timescales and support to achieve the required standard of performance.

#### **3.4 Roles and Responsibilities**

##### **3.4.1 Line Manager**

- Communicate with the employee to ensure they are aware of the performance standards expected of them in their role;
- Assess the seriousness of the capability issue and determine whether the matter can be addressed under early resolution;
- Monitor employee performance on an ongoing basis;
- Effectively support the appropriate personal development planning and review/appraisal process in respect of such employees to ensure that performance standards are met;
- Ensure that good performance, and special effort by individuals and teams, is acknowledged, encouraged and reinforced.

### 3.4.2 Employee

- Be aware of the standards of performance expected of them, and discuss with their line manager if unclear;
- Actively participate in the process in an attempt to address the issue without delay;
- Try, to the best of their ability, to meet the expected standards and raise at the earliest opportunity if they are having difficulties meeting the expected standards of performance;
- Work with managers on any agreed supported improvement plan;
- Comply with any support/monitoring mechanisms put in place; and
- Raise concerns with the appropriate manager where they perceive others not to be performing to the expected standards.

### 3.4.3 Occupational Health

#### In cases where the performance issues are related to health

- Provide expert, impartial and timely advice in relation to how an employee's health issues impact on their performance at work.
- Consider information provided from a variety of sources e.g. GP's, other agencies, job role to make sure that all relevant information is available concerning an employee's circumstances to advise managers accordingly.
- Advise on whether an employee may be considered as having a disability under the Equality Act 2010.

3.4.4 Whether suitable alternative employment should be considered and, if so, any restrictions as to the type of role or reasonable adjustments to ensure suitability.

3.4.5 Anyone involved in the process is required to maintain confidentiality throughout the process.

3.4.6 There are a range of standard expectations on all parties and on HR, Trade Union representatives and Occupational Health which underpin all policies <Link to standard roles and responsibilities>.

## 3.5 Procedure

### 3.5.1 Initial Assessment

It may be necessary, due to the nature of the issues of concern, to remove an employee from certain duties or to put in place additional supervision in order to mitigate risk. In exceptional circumstances it may be necessary to place an employee on a short period of paid leave until such times as a supported improvement plan can be agreed and implemented.

3.5.2 The expectation is that in the majority of cases, the employee would progress through each stage of the process. However there will be exceptional circumstances where due to the nature of the capability issue and/or the seriousness of the performance deficiency, that it is deemed necessary to move straight to a more appropriate stage of the formal procedure. Matters should not however, be progressed to the formal stages if it is established that the employee has not had the necessary training, guidance and support required to undertake the job.

3.5.2.1 In capability cases involving Workers <link to scope definition of Worker>, consideration should be given to whether a supported improvement approach is possible

and appropriate. Where this is not possible the case should be progressed to Stage 3 of the process.

### **3.5.3 Early Resolution**

3.5.3.1 The route for capability is shown in flowchart <insert link to flowchart> and outlines the procedure through both the early resolution and formal stages.

3.5.3.2 Managers and employees are encouraged to deal with performance concerns with early resolution in the first instance. In many instances, conversations between the manager and an employee will be sufficient to ensure that performance improves.

3.5.3.3 However a formal approach will be appropriate where the early resolution has not led to the necessary improvement in performance. In more serious cases, a formal approach may need to be adopted from the outset.

3.5.3.4 The manager is expected to take action in a prompt and timely manner when the issue is initially raised.

### **3.5.4 Initial Meeting**

3.5.4.1 The aim of the initial meeting is to have a two way open and honest discussion to seek ways to achieve the required improvements.

3.5.4.2 Employees must be encouraged to describe the situation from their perspective. It is crucial that as many aspects of the problem as possible, as perceived by the employee and the manager, are established.

3.5.4.3 Both managers and employees are responsible for ensuring that such discussions take place promptly when issues arise and that they are managed confidentially. A supported improvement plan should be completed and updated at each stage of the process<Link to Supported Improvement Plan>.

3.5.4.4 The timescales for any follow up/review meetings will be by agreement by both parties.

3.4.3.5 There may be circumstances where it is unclear what the causes of the performance issue are or whether it is a conduct matter and an investigation is required <Link to Workforce Policies Investigation Process>. If so, this must be in advance of any formal process.

### **3.5.5 Review Meeting(s)**

3.5.5.1 The follow up/final review meeting(s) will involve the manager meeting with the employee and reviewing any supported improvement plan and timescales.

3.5.5.2 Consideration will be given to any further support or training that would be required to meet the performance standards.

3.5.5.3 At the end of the agreed timescales, if the required performance standard has been met, the manager will confirm that no further action will be taken. Where the required improvements are not met, the manager will advise the employee that the formal procedure will be initiated.

3.5.5.4 The outcome of these meeting will be confirmed by the manager in writing to the employee within 7 calendar days. <Link to standard letter>.

### 3.5.6 **Formal Procedure**

3.5.6.1 Where early resolution has not been successful or in more serious cases, a more formal approach will be initiated.

### 3.5.7 **Stage 1**

3.5.7.1 A formal Stage 1 meeting will be arranged, comprising of the employee's manager, an HR representative, the employee and their representative (if known).

### 3.5.8 **Process**

3.5.8.1 The manager will be responsible for writing to the employee and their representative, no later than 14 calendar days in advance of the meeting providing all relevant supporting documentation from the early resolution stage. <Link to standard letter>.

3.5.8.2 The purpose of the meeting at Stage 1 will be to discuss and agree the following:-

- The nature, extent and supporting evidence of the performance concerns and whether the employee accepts that there is a problem;
- Possible contributing factors;
- A review of action taken to date;
- Possible solutions;
- The supported improvement plan;
- The date on which the employee's performance will be reviewed again; and
- Action which may follow if the required improvement in performance is not achieved and maintained.

### 3.5.9 **Outcome**

3.5.9.1 The outcome of the meeting will be confirmed in writing to the employee within 7 calendar days. <Link to standard letter>.

3.5.9.2 The manager will thereafter continue to be responsible for implementation of the agreed supported improvement plan and ensuring regular interim reviews, prior to the Final Review meeting being convened to examine progress to date and the appropriate next steps.

### 3.5.10 **Final Review Meeting**

3.5.10.1 The manager will be responsible for writing to the employee and their representative, no later than 14 calendar days in advance of the meeting providing all relevant supporting documentation from Stage 1.

3.5.10.2 The outcome of the reconvened meeting will fall into one of the following categories:-

- The employee has met the required performance standards set and no further action will be taken;
- The employee has not met the performance standards set due to extenuating circumstances and improved performance is anticipated or would be achieved through the introduction of further support measures not previously identified, and the review period is extended;

- The employee has not met the performance standards set, therefore the matter is progressed to Stage 2.

3.5.10.3 At the final review meeting the outcome and next steps will be discussed. Where the required improvement has not been achieved during the agreed timescale and the line manager has concluded that there is a need to progress to the next stage, the evidence and rationale for this decision will be discussed with the employee.

3.5.10.4 The outcome of the final review meeting will be confirmed to the employee in writing within 7 calendar days, informing of the right of appeal. <Link to standard letter>.

### 3.5.11 **Stage 2**

3.5.11.1 A formal Stage 2 meeting will be arranged comprising a Chair who has had no previous involvement, the manager, the HR representative the employee and their representative.

### 3.5.12 **Process**

3.5.12.1 The Chair will be responsible for writing to the employee, their representative and the employee's manager, no later than 14 calendar days in advance of the meeting providing all relevant documentation from Stage 1.

3.5.12.2 The format of the meeting will be as at Stage 1, with the support measures previously identified being reviewed and discussion as to whether they should continue or if additional support measures may be helpful.

3.5.12.3 However, at Stage 2 it may be appropriate to discuss other options, for example career counselling or permanent redeployment if possible and/or appropriate and agreeable to the employee.

3.5.12.4 In the case of redeployment, the Redeployment Policy will apply. Redeployment should only be considered where there is a likelihood of a suitable alternative role where the employee can meet the performance requirements arising within a reasonable time period. Redeployment to another post will only be an option where such a post exists.

### 3.5.13 **Outcome**

3.5.13.1 The outcome must be confirmed by the Chair in writing to the employee within 7 calendar days. <Link to standard letter>.

3.5.13.2 Where the outcome of the meeting is to continue to utilise a supported improvement plan, the letter will be as per Stage 1, but will additionally note that, should the necessary improvement not be achieved, the matter may be escalated to Stage 3. This may result in consideration being given to redeployment, or if not appropriate, termination of contract on grounds of capability.

3.5.13.3 Where the outcome of the meeting is to pursue redeployment, this should be confirmed in writing to the employee and their representative, advising that if suitable alternative employment is not secured within an agreed timescale, the matter will be escalated to Stage 3, which may result in consideration of termination of contract on grounds of capability.

3.5.13.4 The employee's manager will thereafter be responsible for implementation of the agreed supported improvement plan, and ensuring regular interim reviews, prior to the Final Review meeting being convened.

### 3.5.14 **Final Review Meeting**

3.5.14.1 The Chair at Stage 2 will be responsible for writing to the employee, their representative and the employee's manager, no later than 14 calendar days in advance of the meeting and providing all relevant documentation from Stage 2.

3.5.14.2 The outcome of the convened meeting will fall into one of the following categories:-

- The employee has met the required performance standards set or has secured redeployment and no further action will be taken;
- The employee has not met the performance standards set due to extenuating circumstances and improved performance is anticipated or would be achieved through the introduction of further support measures not previously identified, and the review period is extended;
- The employee has not met the performance standards set, therefore the matter is progressed to Stage 3;
- The employee has been unsuccessful in securing suitable alternative employment through the Redeployment Process, therefore the matter is now being progressed to Stage 3.

3.5.14.3 At the final review meeting the outcome and next steps will be discussed. Where the required improvement has not been achieved during the agreed timescale and the Chair has concluded that there is a need to progress to the next stage, the evidence and rationale for this decision will be discussed with the employee.

3.5.14.4 The outcome of the final review meeting will be confirmed to the employee in writing within 7 calendar days informing of the right of appeal. <Link to standard letter>.

### 3.5.15 **Stage 3**

3.5.15.1 If despite all the measures outlined above, the desired improvement has still not been achieved (or redeployment has already been exhausted or dismissed by one of the parties as a reasonable option), a Stage 3 hearing will be convened by a manager with the authority to dismiss, upon being advised that the matter is being escalated to this stage of the process.

3.5.15.2 The Formal Stage 3 hearing will comprise of a new Chair, according to the scheme of delegation and two other panel members one of whom will be an HR representative. All panel members will have had no prior involvement in the case.

### 3.5.16 **Process**

3.5.16.1 The new Chair will be responsible for writing to the employee, their representative and the Chair from Stage 2, no later than 14 calendar days in advance of the hearing, providing all relevant documentation from Stage 2. Should the employee wish to provide a written statement of case, this should be submitted no later than 7 calendar days in advance of the hearing.

3.5.16.2 Persons in attendance may include:-

- The employee
- Accredited Trade Union Representative and/or work colleague not acting in a legal capacity
- The Chair of Stage 2
- HR support to the Chair at Stage 2

3.5.16.3 Any witnesses called by either party who will have the right to be accompanied. Witnesses will only be present when giving their own evidence. It is anticipated that the employee's manager will attend as a witness for the management case.

3.5.16.4 The purpose of the Hearing will be to discuss the following:-

- The nature, extent and evidence of the performance concerns and whether such concerns are well-founded;
- Possible contributing factors;
- What action has been taken by the manager and the individual with regard to the agreed supported improvement plan; and
- Whether there are any further considerations not previously explored which might result in the required improvement being achieved and an extension is appropriate.
- Clear consideration of the employer's duties under the Equality Act 2010 with regard to employees who may be considered to have a disability.

### 3.5.17 **Outcome**

3.5.17.1 The outcome will be confirmed by the Chair in writing to the employee within 7 calendar days, informing of the right of appeal.

3.5.17.2 Potential outcomes at Stage 3 are:-

- It is considered that the employee will be able to achieve and maintain the required standard of performance within their current role within a reasonable period of time. In which case a supported improvement plan should be agreed and implemented as per the earlier stages, with the Stage 3 Hearing being adjourned until an agreed date for review <Link to standard letter>;
- Where it is considered that such improvement is not likely to be achieved and maintained, it may be considered that permanent redeployment (at the same or lower pay level) would be appropriate. Redeployment should only be considered where there is a likelihood of a suitable alternative role <Link to standard letter>. Redeployment to another post will only be an option where such a post exists. If such a decision is reached, the provisions of the Redeployment Policy should be used, with the Stage 3 Hearing being reconvened should there be a failure to secure suitable alternative employment within a reasonable timescale <Link to standard letter>; or
- It may be that, having considered both of the above options, termination of contract on the grounds of capability is the only remaining option <Link to standard letter>.

3.5.17.3 In capability cases involving Workers <link to scope definition of Worker>, if the required standard of performance is not met and continued engagement with the organisation is not appropriate the individual will be offered no further shifts / work.

### 3.5.18 **Appeal Hearing Process**

3.5.18.1 Guidance on Appeal Hearings can be found at < Link to guidance>.

3.5.18.2 All employees have a right to appeal against any decision taken during the formal review meetings. When exercising this right the employee must specify the reason for their appeal.

3.5.18.3 The appeal panel Chair, in accordance with the scheme of delegation, will be responsible for identifying membership of the appeal hearing panel.

3.5.18.4 The Chair will also be responsible for ensuring that the panel, employee and their representative are advised in writing of the arrangements, no later than 14 calendar days prior to the hearing. <Link to standard letter>.

3.5.18.5 The employee and Chair of relevant stage, are required to provide a written statement of their case. These should be submitted no later than 7 calendar days before the hearing and will be shared with all parties.

3.5.18.6 It is the responsibility of the party calling any witnesses to inform them of the arrangements for the appeal hearing.

### 3.5.19 **Outcome**

3.5.19.1 Following the hearing the Chair will write with the outcome of the appeal hearing to the employee and their representative. This will include the rationale behind any decisions taken in response to the employee's grounds for appeal. The letter will be issued within 7 calendar days following the appeal hearing.

3.5.19.2 The outcome of the appeal will be final, with no further internal right of recourse.

### 3.5.20 **Grievances/Bullying and Harassment Complaints**

3.5.20.1 Where an employee raises a grievance or bullying and complaint during implementation of the formal capability process, the capability process may be temporarily suspended in order to deal with the grievance/complaint. Where the grievance/complaint and capability case are related, however, it may be appropriate to deal with both issues concurrently.

### 3.6 Supporting Documentation

- Flowcharts – there will be two/three flowcharts which show visually the key steps in the process at each stage when concerns have been raised about capability.
- Standard letters – standard letters will be developed to ensure all the required content is included in letters for each stage of the process including invite/ review/outcome and appeal letters.
- Supported Improvement Plans – an updated template will be developed to support all stages of the process which ensures clarity of the concerns and timescales for improvement. Examples of a completed plan will also be incorporated.
- Guide for Managers – more detailed guidance to support managers through the process with good practice highlighted.
- Guide for Employees – more detailed guidance for staff to support them through the process.
- Guide to Supportive and/or difficult conversations – guidance for managers and staff in how to have more honest conversations with a view to providing support and improvement.

### 3.7 Consultation Questions

#### Capability: Section 3 (7 Questions)

Question 1:  
Is the policy easy to read and clear to all parties?

Yes  No

Question 2:  
Is the policy fit for purpose?

Yes  No

Question 3:  
Does the language reflect our vision for policies to be user-friendly and supportive reflecting NHSScotland core values?

Yes  No

Question 4:  
Are there any additions required to the supporting documents listed?

Yes  No

If yes, please specify

Question 5:  
Does the addition of the process for addressing loss of registration cover a current gap?

Yes  No

Question 6:

Where redeployment is the outcome at Stage 3, should notice of termination run concurrently with the 12 week redeployment period?

Yes

No

Please indicate the reason for your response

Question 7:

Please provide any other comments you have in relation to the policy.

## **4. Conduct**

### **4.1 Aim**

4.1.1 To provide a process to ensure that concerns about standards of conduct, inappropriate behaviour or wilful misconduct are managed in a fair, consistent and timely manner.

### **4.2 Scope**

4.2.1 This policy applies to all employees and workers such as bank, agency and sessional workers.

4.2.2 It relates to any type of behaviour or conduct that falls below the standard required by the employer, or is in breach of organisational policy. <Link to Guide to expected standards of behaviour >

4.2.3 Concerns relating to regulatory standards can only be determined by the relevant regulator <Link to Guide to Referral to External Agencies>. The employer may be unable to determine the outcome of a conduct process in advance of the regulator concluding the referral. Where the concern applies to both the regulatory body and the contract of employment, the employer may determine an outcome based on the contract of employment.

### **4.3 Definitions**

4.3.1 Final Written Warning – a conduct sanction where there are existing conduct warnings in place and there has been a further breach of the policy.

4.3.2 First and Final Written Warning – a conduct sanction where the matter is so serious that the actions have had or are liable to have a serious or harmful impact on the organisation and there are no current conduct warnings in place.

4.3.3 Gross Misconduct – either deliberate wrongdoing or gross negligence by the employee which is so serious that it fundamentally undermines the employment relationship. Gross misconduct entitles the employer to dismiss the employee without notice (known as a summary dismissal). <Link to Guide to expected standards of behaviour>

4.3.4 Misconduct – unacceptable or improper behaviour, which can include an employee acting in an intentional or premeditated manner. <Link to Guide to expected standards of behaviour>

### **4.4 Roles and Responsibilities**

#### **4.4.1 Line Manager**

- Communicate with the employees for whom they are responsible and make them aware of the standards of conduct required.
- Assess the seriousness of the conduct issue and determine whether the matter can be addressed under early resolution.
- Ensure that good standards of conduct and special effort by individuals and teams is acknowledged, encouraged and reinforced.
- Keep employees fully informed on progress relating to the conduct process.

## 4.4.2 Employee

- Be aware of the standards of conduct expected of them, and discuss with their line manager if unclear.
- Adhere to the expected standards of conduct.
- Actively participate in the process in an attempt to address the issue without delay.
- Comply with any support/monitoring mechanisms put in place; and
- Raise concerns with the appropriate manager where they perceive others not to be adhering to expected standards of conduct.

4.4.3 Anyone involved in the process is required to maintain confidentiality throughout the process.

4.4.4 There are a range of standard expectations on all parties and on HR, Trade Union representatives and Occupational Health which underpin all policies <Link to standard roles and responsibilities>.

## 4.5 Procedure

4.5.1.1 The route for conduct is shown in flowchart <insert link to flowchart> and outlines the procedure through both the Early Resolution and Formal Stages.

4.5.1.2 The manager is expected to take action in a prompt and timely manner when alleged misconduct is initially raised.

### 4.5.2 Early Resolution

4.5.2.1 Managers should assess whether there are ways of addressing the alleged misconduct in a more supportive way prior to progressing to formal procedure.

### 4.5.3 Initial Meeting

4.5.3.1 The aim of the initial meeting is to provide a supportive environment for employees which seeks to achieve continuous improvement.

4.5.3.2 The manager should have a two-way open and honest discussion with the employee which may determine any underlying issue(s) and identify potential solutions.

4.5.3.3 Both managers and employees are responsible for ensuring that such discussions take place promptly when issues arise and that they are managed confidentially.

4.5.3.4 The timescales for any follow up/ review meetings will be by agreement by both parties.

### 4.5.4 Review Meeting(s)

4.5.4.1 The follow up/review meeting(s) will involve the manager meeting with the employee as required, providing guidance on what is unacceptable, reinforcing what is acceptable and setting targets and timescales for improvement. The outcome of these meetings should be documented and a copy kept by both parties, in order to ensure clarity of expectations and commitments.

4.5.4.2 At the end of the agreed timescales, where the required improvement has been met, the manager will confirm that no further action will be taken. Where the required

improvement(s) are not met, the manager will advise the employee that the formal procedure will be initiated.

4.5.4.3 Prior to any formal conduct process starting, a full and thorough investigation must be carried out in a timely manner to establish the facts of the case. <Link to Workforce Policy Investigation Process>

4.5.4.4 The outcome of these meeting(s) must be confirmed by the manager in writing to the employee within 7 calendar days, <Link to standard letter>.

#### 4.5.5 **Suspension**

<Link to Guide to Suspension>

4.5.5.1 The use of suspension is not in itself disciplinary action but does form part of this policy. Careful consideration needs to be given to appropriate circumstances for its use in situations where the allegation or employee poses an unmanageable risk to clinical, financial or staff governance, or a risk to self, others, patients or the organisation. In all cases suspension should be deemed a last resort. Consideration will be given to alternatives to suspension, including temporarily moving the employee to another work area, or considering other duties, where such an alternative removes the identified risk.

4.5.5.2 Suspension during investigations and formal processes will be on full pay and for as short a time as possible. However, where an individual is suspended and subsequently reports as being sick, whilst the terms of the suspension will remain in place, the employee will receive occupational sick pay (according to their entitlement) during the sickness absence period.

4.5.5.3 Where workers are removed from duty under this policy they will be entitled to reasonable payment for any pre-arranged shifts / work but will receive no further payment for the duration of the investigation / conduct process.

4.5.5.3 The manager will maintain regular contact with the employee during suspension to offer support and keep the employee advised of progress with the investigation. Where suspension is extended this will be confirmed in writing.

#### 4.5.6 **Formal Approach**

4.5.6.1 Where early resolution has not been successful, or in more serious cases, a formal approach will be required.

#### 4.5.7 **Conduct Hearing**

< Link to Guide Conduct Hearings>

4.5.7.1 Once an investigation has been concluded and it is determined that the matter should be referred to a conduct hearing, written notification will be sent to the employee within 7 calendar days of the manager receiving the final investigation report.

4.5.7.2 The conduct hearing will comprise of a Chair, according to the scheme of delegation, and two other panel members one of whom will be an HR representative. In matters of technical/clinical misconduct it may be necessary to have a relevant advisor as one of the three panel members. To ensure impartiality, panel members, including the Chair, must have had no prior involvement in the case.

#### 4.5.7.3 Persons in attendance may include:-

- The employee.
- Accredited Trade Union Representative and/or work colleague not acting in a legal capacity.
- The investigating officer.
- HR support to the investigating officer.
- Any witnesses called by either party who will have the right to be accompanied. Witnesses will only be present when giving their own evidence.

#### 4.5.8 **Process**

4.5.8.1 The nominated Chair will be responsible for identifying the membership of the conduct hearing panel.

4.5.8.2 The Chair will also be responsible for ensuring that the panel, employee and their representative (if known) are advised in writing of the arrangements, and provided with the investigation report, no later than 14 calendar days prior to the hearing.

4.5.8.3 Should the employee wish to provide a written statement of case, this should be submitted no later than 7 calendar days before the hearing and will be shared with all other parties.

4.5.8.4 It is the responsibility of any party calling witnesses to inform them of the arrangements for the hearing.

#### 4.5.9 **Outcome**

4.5.9.1 Following the hearing, the panel will adjourn to consider the case.

4.5.9.2 There are three potential outcomes:-

- No case to answer.
- Informal action required; and/or
- Formal disciplinary sanction required.

4.5.9.3 The formal disciplinary sanctions available to the panel are as follows:-

- First Written Warning – 6 months.
- Final Written Warning – 12 months.
- First and Final Written Warning – 12 months.
- Alternatives to Dismissal.
- Dismissal.

4.5.9.4 The sanction applied by the conduct panel should take into account the seriousness of the allegations against the employee, the evidence presented and any mitigation which is offered.

4.5.9.5 Previously issued warnings which have expired must be disregarded. However, consideration may be given to circumstances where the background to such warnings demonstrates a repeated pattern of behaviour taking account the time that has lapsed.

4.5.9.6 Where the outcome of the conduct hearing is such that dismissal would be an appropriate action, it may be that because of mitigating circumstances, some form of conduct action other than dismissal may be deemed appropriate. Any such alternatives should be based on the general principles of equity and consistency, and will be in conjunction with an appropriate level of warning.

4.5.9.7 Alternatives to dismissal may include:-

- A period of re-training.
- A permanent or temporary demotion (protection of earnings will not apply in such cases).
- Redeployment/relocation to another suitable post/location.
- A warning with an extended timeframe.

4.5.9.8 Movement into another post (including demotion) will only be an option where it is identified that such a post exists. A post will not be created to facilitate such a move.

4.5.9.9 Dismissal as a result of repeated misconduct will be with notice. In the case of summary dismissal i.e. on grounds of gross misconduct there is no entitlement to notice.

4.5.9.10 In misconduct cases involving Workers <link to scope definition of Worker>, if the behaviours / actions are considered so serious that continued engagement with the organisation is not appropriate the individual will be offered no further shifts / work.

4.5.9.11 All disciplinary hearing outcomes will be confirmed in writing to the employee and their representative within 7 calendar days following the hearing.

4.5.9.12 Outcome letters should be copied to the employee's manager to ensure they are aware of the outcome and any matters that may need to be taken forward or implemented.

4.5.9.13 If the conduct issue(s) relates to a regulated professional it may be necessary to refer them to a regulatory body. Employees in regulated work will also be referred to Disclosure Scotland where they have been removed from regulated work. Employees should be informed in advance that a referral will be made. In the case of Workers appropriate referrals will also be made.

4.5.10 **Appeal Hearing Process** <Link to Guide to Appeal Hearings>

4.5.10.1 All employees have a right to appeal against any decision taken during the formal process. When exercising this right the employee must identify the reason for their appeal.

4.5.10.2 The appeal panel Chair, in accordance with the scheme of delegation <link to Guide to Appeal Hearings>, will be responsible for identifying membership of the appeal hearing panel.

4.5.10.3 The Chair will also be responsible for ensuring that the panel, employee and their representative are advised in writing of the arrangements, no later than 14 calendar days prior to the hearing <Link to standard letter>.

4.5.10.4 The employee and the Chair of the conduct hearing are required to provide a written statement of their case. These should be submitted no later than 7 calendar days before the hearing and will be shared with all other parties.

4.5.10.5 It is the responsibility of any party calling witnesses to inform them of the arrangements for the hearing.

4.5.10.6 An appeal cannot result in any increase in penalty as this may deter individuals from appealing.

#### 4.5.11 **Outcome**

4.5.11.1 Following the hearing the Chair will write with the outcome of the appeal hearing to the employee and their representative. This should include the rationale behind any decisions taken in response to the employee's grounds for appeal. The letter will be issued within 7 calendar days following the appeal hearing <Link to standard letter>.

4.5.11.2 The outcome of the appeal will be final.

#### 4.5.12 **Criminal Offences/Police Involvement**

4.5.12.1 Disciplinary action should not be taken automatically against an employee because they have been charged with or convicted of a criminal offence committed outwith the course of employment. Each situation should be considered individually on the basis of whether the employee's conduct warrants action because of its employment implications or because it is unacceptable to other employees. The manager should also consider information regarding any previous convictions. In a situation where the employee refuses to co-operate s/he should be advised in writing that unless further information is provided a decision will be taken, up to and including dismissal, on the basis of the information available. In some cases the nature of the offence may have no bearing on the employee's employment but the employee may not be available for work because they are in custody or on remand. In these circumstances, the employer will need to decide whether, considering the needs of the service, the employee's job can be kept open. <Link to Guidance on Police Involvement><Link to Guidance on Counter Fraud Service Involvement>

#### 4.5.13 **Grievances/Bullying and Harassment Complaints**

4.5.13.1 Where an employee raises a grievance or bullying and harassment complaint during a conduct process, the process may be temporarily suspended in order to deal with the grievance/complaint. Where the grievance/complaint and conduct case are related, it may be appropriate to deal with both issues concurrently.

## 4.6 Supporting Documentation

- Flowcharts – there will be two/three flowcharts which show visually the key steps in the process at each stage when concerns have been raised about conduct.
- Standard letters – standard letters will be developed to ensure all the required content is included in letters for each stage of the process including suspension confirmation and invite/ review/outcome and appeal letters.
- Guide to expected standards of behaviour – this document will outline the types of behaviour or actions that might be deemed misconduct and gross misconduct (breaches which might lead to dismissal).
- Guide to Suspension – this document will outline the situations in which suspension might be appropriate and alternatives that should be considered to assist in assessing the risk. A checklist will be provided to ensure that the key steps are taken when suspension is being considered.
- Guide to Hearings – this document will outline the procedure which will apply during the hearing, the expectations of the parties and the key individuals who will be involved.
- Guide for Appeal Hearings – this document will outline the procedure which will apply during the hearing, the expectations of the parties and the key individuals who will be involved.
- Guide to Supportive and/or difficult conversations – guidance for managers and staff in how to have more honest conversations with a view to providing support and improvement.

## 4.7 Consultation Questions

### Conduct: Section 4

(6 Questions)

Question 1:

Is the policy easy to read and clear to all parties?

Yes

No

Question 2:

Is the policy fit for purpose?

Yes

No

Question 3:

Does the language reflect our vision for policies to be user-friendly and supportive reflecting NHSScotland core values?

Yes

No

Question 4:

Are there any additions required to the supporting documents listed?

Yes

No

If yes, please specify

Question 5:  
Does 'early resolution' fit with the conduct policy?

Yes  No

Please indicate the reason for your response

Question 6:  
Please provide any other comments you have in relation to the policy.

## **5. Grievance**

### **5.1 Aim**

5.1.1 To offer a clear process for all parties to air their differences and seek resolution.

### **5.2 Scope**

5.2.1 This policy applies to all employees and workers such as bank, agency and sessional workers.

5.2.2 A grievance is a complaint from an employee or group of employees (collective grievance) regarding their employment situation.

5.2.3 Potential areas of grievance include but are not limited to:-

- Terms & conditions of employment
- Health & Safety
- New working practices
- Organisational Change

5.2.4 If the complaint is about working relationships please refer to the NHSScotland Bullying & Harassment Policy <Link to Bullying and Harassment Policy>.

### **5.3 Definitions**

#### **5.3.1 Collective Grievance**

This occurs when a group of employees have a shared grievance related to their employment situation.

#### **5.3.2 Grievance**

A grievance is a complaint from an individual or group (collective grievance) regarding their employment situation.

#### **5.3.3 Individual Grievance**

This occurs when one employee raises a grievance with their employer.

#### **5.3.4 Status Quo**

Status quo is defined as the working arrangements in place at the time that the grievance is raised, or where necessary consultation has not taken place, the working arrangements in place prior to the change.

### **5.4 Roles and Responsibilities**

#### **5.4.1 Line Manager**

- Attempt to resolve issues raised by employees fairly, consistently and in a timely manner.
- Discuss concerns at the earliest opportunity, utilising early resolution to manage the issue without delay.
- Be approachable and take time to make themselves available for those who they manage.
- Keep employees fully informed on progress relating to the grievance.

## 5.4.2 Employee

- Participate and co-operate with others in ways aimed at resolving issues.
- Actively participate in the process in an attempt to address the issue without delay.
- State what would be seen as a suitable outcomes.

5.4.3 There are a range of standard expectations on all parties and on HR, Trade Union representatives and Occupational Health which underpin all policies <Link to standard roles and responsibilities>.

## 5.5 Procedure

### 5.5.1 Early Resolution

5.5.1.1 The route for grievance is shown in the flowchart which outlines the procedure through both the early resolution and formal stages <Link to Flowchart>.

5.5.1.2 When one or more employees feel aggrieved about an issue it should be raised in the first instance with their manager. Where this is not possible, the issue can be raised informally with the next level of management.

5.5.1.3 The manager must acknowledge the grievance in writing inviting the employee to meet to discuss the grievance within 14 calendar days, from notification <Link to standard letter>.

5.5.1.4 Managers and employees are encouraged to deal with the grievance at the early resolution stage. In many instances, conversations between the manager and an employee will be sufficient to ensure that the grievance matter is resolved.

5.5.1.5 The outcome of this meeting will be confirmed in writing to the employee within 7 calendar days. <Link to standard letter>

5.5.1.6 Consideration can be given to use of a third party to assist with early resolution, if agreed by both parties.

### 5.5.2 Formal Procedure

5.5.2.1 If no resolution is achieved from the meeting, the employee may choose to initiate the formal procedure. They should complete the Grievance Notification Form and submit this to the manager identified in the early resolution outcome letter within 14 calendar days of receiving the written outcome <Link to Grievance Notification Form>.

5.5.2.2 Dependent on the complexity of the case, the requirement for an investigation can be agreed by both parties or commissioned by the Grievance Hearing panel at Stage 1 or 2. <Link to Workforce Policy Investigation Process>

5.5.2.3 The Chair of any panel must have the authority to determine an appropriate outcome e.g. financial implications.

### 5.5.3 Stage 1

5.5.3.1 The Grievance will be acknowledged in writing and provisional timescales advised. The letter will be sent within 7 calendar days from receipt of the grievance being raised/progressed <Link to standard template letter>.

5.5.3.2 The Stage 1 panel will comprise of a manager, according to the scheme of delegation, as Chair and an HR representative. To ensure impartiality all panel members, must have had no prior involvement in the case.

5.5.3.3 Other persons in attendance may include:-

- The employee.
- Accredited Trade Union Representative (if known) and/or work colleague not acting in a legal capacity.
- The decision-making manager.
- HR representative supporting the manager.
- Any witnesses called by either party who will have the right to be accompanied. Witnesses will only be present when giving their own evidence.

5.5.3.4 The Chair will be responsible for writing to all parties no later than 14 calendar days in advance of the hearing and requesting written statements to be shared 7 calendar days before.

5.5.3.5 All grievance hearing outcomes will be confirmed in writing to the employee and their representative within 7 calendar days of the hearing <Link to standard template letter>.

#### 5.5.4 **Stage 2**

5.5.4.1 In the event that the employee(s) remains dissatisfied the matter should be referred to the second and final formal stage.

5.5.4.2 The employee should complete Part 2 of the Grievance Notification Form and submit this to the manager identified in the Stage 1 outcome letter within 14 calendar days of receiving the written outcome <Link to Grievance Notification Form>.

5.5.4.3 The Stage 2 panel will comprise of a manager, according to the scheme of delegation, as Chair and an HR representative. To ensure impartiality all panel members, must have had no prior involvement in the case.

5.5.4.4 Other persons in attendance may include:-

- The employee;
- Accredited Trade Union Representative and/or work colleague not acting in a legal capacity.
- The Stage 1 Chair.
- HR representative from the Stage 1 panel.
- Any witnesses called by either party who will have the right to be accompanied. Witnesses will only be present when giving their own evidence.

5.5.4.5 The Chair will be responsible for writing to all parties no later than 14 calendar days' in advance of the hearing and requesting written statements to be shared 7 calendar days before.

5.5.4.6 All grievance hearing outcomes will be confirmed in writing to the employee and their representative within 7 calendar days of the hearing <Link to standard template letter>.

5.5.4.7 Unless wider organisational issues are identified this concludes the internal process.

### **5.5.5 Collective Grievances**

5.5.5.1 The process to be followed for collective grievances is as detailed for individual grievances, with the exception that all correspondence will be sent to the nominated employee representing the group and their representative.

5.5.5.2 At each stage of the process the group will be represented by a maximum of three people, including the Trade Union representative.

### **5.5.6 Grievances with Wider Organisational Consequences**

5.5.6.1 Where the grievance relates to an issue where the outcome might affect more than one individual and the issue cannot be resolved at Stage 2, it may be referred to the Director of Human Resources and Employee Director. They will be responsible for determining whether the grievance raised has wider organisational consequences beyond the aggrieved party.

5.5.6.2 Examples of issues with wider organisational consequences include: the application of terms and conditions of service, the implementation of a Board-wide policy or matters which could become litigious, or the focus of an industrial dispute.

5.5.6.2 If agreed as having wider organisational consequences, the Director of Human Resources will organise a formal hearing, which will normally be heard by one non-executive and one executive member, supported by a senior member of the HR department not previously involved.

5.5.6.3 This concludes the internal process for cases which fall into this category.

### **5.5.7 Grievances not concluded at the time of Employment Terminating**

5.5.7.1 If a grievance has been raised but not concluded by the time the employment terminates then whatever stage the grievance is at will be concluded with a paper review of the position and a written response given to the former employee within 28 calendar days.

### **5.5.8 Post-Employment Grievances**

5.5.8.1 Should a former employee raise a grievance within 28 calendar days of the employment ending, the matter will be investigated and a response will be given in writing.

### **5.5.9 Maintaining Relationships**

5.5.9.1 The use of status quo provides stand still arrangements to allow the organisation to work normally while attempts are made to resolve the grievance.

5.5.9.2 It is recognised that working relationships can become strained during a grievance procedure. These can be improved by accessing a supported conversation and/or mediation <Link to Guide to Supported Conversations/Mediation>.

5.5.9.3 Wherever possible, the status quo should remain in place until the grievance process has concluded.

5.5.9.4 The status quo may be set aside where:-

- A continuation of status quo will result in a breach of statutory or other mandatory regulations.
- An agreement is reached by all parties to do so.
- The grievance is about a change or action already agreed by all parties.

## 5.6 Supporting Documentation

- Flowcharts – there will be a flowchart which shows visually the key steps in the process at each stage when concerns have been raised about the employment situation.
- Standard letters – standard letters will be developed to ensure all the required content is included in letters for each stage of the process including invite/ review/outcome and appeal letters.
- Grievance notification form – a standard form to support employees in formulating their grievance for all stages in the process.
- Guide to Hearings – this document will outline the procedure which will apply during the hearing, the expectations of the parties and the key individuals who will be involved.
- Links to: The Advisory Conciliation and Arbitration Service (ACAS) code of practice – disciplinary and grievance procedures; Discipline and grievances at work: the ACAS Guide and Mediation: an Employer’s guide (ACAS).

## 5.7 Consultation Questions

### Grievance: Section 5

(6 Questions)

Question 1:

Is the policy easy to read and clear to all parties?

Yes  No

Question 2:

Is the policy fit for purpose?

Yes  No

Question 3:

Does the language reflect our vision for policies to be user-friendly and supportive reflecting NHSScotland core values?

Yes  No

Question 4:

Are there any additions required to the supporting documents listed?

Yes  No

If yes, please specify

Question 5:

Is the definition of status quo sufficiently clear?

Yes

No

If no, indicate the reasons for your response

Question 6:

Please provide any other comments you have in relation to the policy.

## **6. Attendance**

### **6.1 Aim**

6.1.1 To encourage and support employee attendance where health impacts their ability to be at work.

### **6.2 Scope**

6.2.1 This policy applies to all employees and workers such as bank, agency and sessional workers where health is impacting on attendance.

6.2.2 Where health is impacting on performance please refer to the Capability Policy <Link to the Capability Policy>.

6.2.3 Where the employee needs time off for other reasons there are a range of other policies available. <Link to Supporting Work-life Balance policies>

### **6.3 Definitions**

6.3.1 Disability - The Equality Act 2010 defines disability as a physical or mental impairment which has a substantial and long-term adverse effect on an individual's ability to carry out normal day-to-day activities.

6.3.2 Industrial Injury - Where an employee is injured or contracts a disease in the course of their work as detailed in Section 22 of the Agenda for Change Terms and Conditions of Employment Handbook.

6.3.3 Long-term Absence - A period of sickness absence which lasts for 28 calendar days or more.

6.3.4 Medical Exclusion - Where an employee is excluded from work because they may be at particular risk of ill-health or may be a risk to others e.g. a pregnant employee may be exposed to an infectious illness; or an employee has recovered from illness but is still considered to be infectious.

6.3.5 Medical Suspension - Where an employee is suspended from work due to concerns about their fitness to work due to a health issue.

6.3.6 Phased Return to Work - Where an employee returns on reduced hours or alternate duties to facilitate an earlier return to work following sickness absence. This will also enable an assessment of readiness to commence normal working hours and duties.

6.3.7 Sickness Absence - Where ill-health renders an employee unable to attend for work.

6.3.8 Short-term Absence - A period of sickness absence which lasts for less than 28 calendar days.

6.3.9 Triggers - Prompts to initiate supportive intervention at either 4 separate episodes of absence or short term absences totalling 8 or more working days within a rolling 12 month period or for longer term absence 28 calendar days.

6.3.10 Unauthorised Absence - Where the agreed absence notification or certification procedure has not been followed.

## **6.4 Roles and Responsibilities**

### **6.4.1 Line Manager**

- Take action to identify and reduce, where possible, underlying causes of sickness absence with a view to preventing ill-health.
- Ensure appropriate early intervention where ill-health arises to prevent the escalation of healthcare needs.
- Support the health, safety and wellbeing of employees recognising their duty of care.
- Seek, consider and implement OHS and health professional advice where appropriate to support employee attendance.
- Update/record absences in a timely manner across relevant systems.

### **6.4.2 Employee**

- Recognise personal responsibility to take reasonable care of their own health and wellbeing and ensure they are fit to work without detriment to themselves or others.
- Actively participate in the process in an attempt to manage the issue without delay.
- Communicate at the earliest opportunity any underlying health issues or other contributing factors which may impact on their attendance at work.

### **6.4.3 Occupational Health**

- Provide expert, impartial and timely advice in relation to how an employee's health issues impact on their attendance at work.
- Consider information provided from a variety of sources e.g. GP's, other agencies, job role to make sure that all relevant information is available concerning an employee's circumstances to advise managers accordingly.
- Advise on whether an employee may be considered as having a disability under the Equality Act 2010.
- Seek, identify and advise on appropriate solutions including reasonable adjustments based on information available and individual circumstances to enable employees to remain in work, return to work and maintain attendance.

6.4.4 There are a range of standard expectations on all parties and on HR, Trade Union representatives and Occupational Health which underpin all policies<Link to standard roles and responsibilities>.

## **6.5 Procedure**

### **6.5.1 Absence Reporting**

6.5.1.1 Where an employee is unable to attend work due to sickness they must:-

- Advise their manager (or agreed alternative contact) before their normal start-time.
- Make contact by telephone unless other contact arrangements have been agreed.
- Only use a third party to report their absence in exceptional circumstances where it is not practicably possible for them to do so themselves.

6.5.1.2 Where an employee becomes unwell during the working day, they must:-

- Contact the manager (or agreed alternative contact) before leaving work.
- If they are unable to do so, they should leave a message and make contact as soon as possible to ensure that the message has been received.

6.5.1.3 For either of the circumstances above, the manager (or agreed alternative contact) and employee should discuss the nature of the illness, likely duration of absence, expected return to work date and arrangements for keeping in contact during the absence.

## 6.5.2 Supportive contact during Sickness Absence

6.5.2.1 The manager must agree arrangements with the employee for contact during sickness absence including the method and frequency of contact.

6.5.2.2 This is intended to facilitate supportive conversations that may include:-

- Keeping the manager up-to-date with progress in relation to the employee's illness.
- Planning for their return to work and identifying any support which might aid the employee in their recovery and return.
- Ensuring up to date information regarding the workplace is shared with the employee.
- Depending on the length of absence, include information regarding the employee's pay status.
- Highlighting sickness absence triggers that may involve use of the formal stages of this policy.

6.5.2.3 When an absence has continued beyond 28 calendar days, the manager will normally arrange to meet with the employee. Where this is not possible or appropriate the discussion can be by telephone and a record of the discussion and any return to work plan agreed should be confirmed to the employee in writing within 7 calendar days<Link to standard letter>.

## 6.5.3 Absence Certification

6.5.3.1 Where the absence lasts 7 calendar days or less an employee can self-certify.

6.5.3.2 Where an absence period lasts more than 7 calendar days, a medical certificate (e.g. a Fit Note/Med 3 or Med 10 certificate) issued by a General Practitioner or other Medical Practitioner is required. This must be provided to the manager in advance of return to work and in cases where there are multiple Fit Notes these should cover the whole period of the absence and be submitted to the manager in a timely manner for service delivery and pay purposes.

## 6.5.4 Injury at Work

6.5.4.1 Where it has been determined that an employee's absence from work is due to an injury, disease or other health condition which are wholly or mainly attributable to their NHS employment the manager must ensure the appropriate documentation including an incident report and where necessary Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) is completed. The manager must record for payroll purposes that the absences related to injury at work. Absences related to injury at work will not be counted towards calculation of paid sick leave the employee is entitled to within the 12 month period. The employee should also be advised of the potential entitlement to NHS Injury Allowance. <Link to NHS Injury Allowance provisions>

6.5.4.2 The employee will be supported under the return to work provisions of this policy including the potential introduction of reasonable adjustments and consideration of any revisions to the absence triggers.

#### **6.5.5 Arrangements for Medical Exclusion following Infectious/Notifiable Disease**

6.5.5.1 While the employee is experiencing symptoms this should be recorded as sickness absence.

6.5.5.2 Where the control of infection advice requires the employee to remain off work for a period after expiry of symptoms, this period will be regarded as medical exclusion with full pay. The manager must record for payroll purposes that the absence is a medical exclusion/control of infection leave.

6.5.5.3 Alternatives to medical exclusion should always be considered.

#### **6.5.6 Pregnancy Related Illness**

6.5.6.1 Sickness absence attributable to pregnancy will be managed in accordance with the attendance policy to facilitate a return to work as soon as possible with any necessary support or adjustment to duties during the pregnancy.

6.5.6.2 These absences are recorded in the normal way but will not be considered for the purposes of absence management triggers.

6.5.6.3 The employee will still be supported under the provisions of this policy in terms of returning to work including any consideration of reasonable adjustments.

6.5.6.4 Where a pregnant employee is absent from work due to sickness related to the pregnancy during the last 4 weeks before the expected week of childbirth maternity leave will normally commence.

#### **6.5.7 Planned Long Term Sickness Absence**

6.5.7.1 Sickness absence can be planned where it is known that an employee will be undertaking a programme of clinical treatment that will be debilitating for a recognised period of time, for example, surgery or chemotherapy.

6.5.7.2 The manager and employee will meet prior to the absence to discuss the following:-

- Agreed dates and times for maintaining regular contact, to update each other on work and progress of recovery.

#### **6.5.8 Pay during Sickness Absence**

6.5.8.1 Pay during sickness absence is dependent on length of service. For all information on pay during sickness absence, including variation in exceptional circumstances, please refer to Section 14 of the Agenda for Change Terms and Conditions Handbook <Link to section in AfC Handbook> and the relevant Medical and Dental terms and conditions <Link to MSG>. Workers have no entitlement to occupational sick pay but may have to entitlement to statutory sick pay <insert link [www.gov.uk/statutory-sick-pay](http://www.gov.uk/statutory-sick-pay) >.

6.5.8.2 In cases involving Workers <link to scope definition of Worker>, if the required standard of performance is not met and continued engagement with the organisation is not appropriate the individual will be offered no further shifts / work.

## 6.5.9 **Secondary Employment** <link to Safer Pre and Post Employment PIN>

6.5.9.1 Employees have a duty to facilitate their recovery and return to work as soon as possible.

6.5.9.2 Where an employee undertakes additional paid or unpaid work they must consider how continuing this work during their sickness absence would impact on their recovery and ability to return to work. Should an employee wish to consider undertaking other work during sickness absence they should seek advice from their manager prior to commencement.

6.5.9.3 Employees should be aware that undertaking secondary employment, during sickness absence may be considered fraudulent and such cases may be referred to NHSScotland Counter Fraud Services (CFS) and result in criminal proceedings.

## 6.5.10 **Sickness during Annual Leave**

When an employee becomes unwell during a period of previously arranged annual leave they can choose whether their period of illness is to be treated as sickness absence or as annual leave. If they wish the period of illness to be treated as sickness absence they are required to report this in line with normal notification and certification procedures. The employee will be deemed to have been on sickness absence rather than annual leave from the date of notification.

## 6.5.11 **Time away from home during Sickness Absence**

An employee who is absent from work due to sickness may decide to take time away from home for the purposes of recuperation. Time away from home will continue to be regarded and recorded as sickness absence where appropriately certificated. The agreed keeping in contact arrangements will continue to apply. Employees should be available to attend any meetings required under this policy including Occupational Health appointments. In exceptional circumstances alternative arrangements can be agreed.

## 6.5.12 **Annual Leave accrued during Long Term Sickness Absence**

Employees who are unable to use up their annual leave entitlement within a given leave year because of long term sickness absence will be entitled to carry over the remaining balance of their statutory holiday entitlement into the following leave year. The entitlement is based on the statutory holiday entitlement of 28 days (pro-rata) as defined by the Working Time Directive minus any annual leave and/or public holidays taken before sick leave began. <Link to CEL 17(2009)>

## 6.5.13 **Return to Work**

6.5.13.1 When an employee returns to work following any sickness absence the manager and employee must have a return to work discussion as soon as possible and within 2 working days of the employees normal/rostered days back in the workplace.

6.5.13.2 The return to work discussion will take place with the manager or designated deputy. The expectation is that this is a face-to-face discussion and telephone or video-conference facilities would only be used where the employee and manager are content that all other options have been fully explored.

6.5.13.3 The aim of the return to work discussion is to ensure that the employee is ready to return to work with any necessary revisions, amendments or support in place. It is also an opportunity to have a meaningful conversation about how the employee can be supported to maintain and improve their attendance. Other policies related to health and

wellbeing are available to inform and guide managers in this process e.g. dependency issues, stress, work-related impacts.

6.5.13.4 The Return to Work Discussion Form will be used to inform and record the discussion <Link to Return to Work Discussion Form>.

6.5.13.5 The manager and employee should discuss and agree arrangements with any professional advice e.g. from the employee's GP or from OHS. Arrangements may include a phased return to work and/or other adjustments that should where possible, be considered and discussed prior to an employee's return to work date. Subsequent meetings may take place following the employee's return to review the effectiveness of any support mechanisms.

NB. The arrangements for the terms and conditions, including pay for a phased return to work have been referred to Scottish Terms And Conditions Committee (STAC) for consideration.

#### **6.5.14 Referrals to OHS**

##### **6.5.14.1 Self-Referral**

6.5.14.2 Employees can self-refer to OHS for any health matters relating to or affecting their work. Any report resulting from a self-referral is confidential unless the employee consents to it being shared with their manager.

##### **6.5.14.3 Management Referral**

6.5.14.4 Managers can refer employees to OHS in order to support the employee with health matters relating to or affecting their work and to enable OHS to provide advice to the manager. Managers must use a template management referral form if this is provided by their OHS provider.

6.5.14.5 The content and reasons for the referral must be shared and discussed with the employee prior to this being progressed to OHS. In exceptional circumstances where this is not possible, the manager must advise the employee that the referral is being progressed and the reason for this.

6.5.14.6 The employee should be advised that failure to engage with the management referral process and Occupational Health contact may result in the manager making decisions based on limited information.

#### **6.5.15 Formal Procedure**

6.5.15.1 Absences can be frequent short term absence, long term absence or a combination of both. Supportive discussions will already have taken place through contact during the absence period, at the return to work meeting and/or at any subsequent meetings.

6.5.15.2 The formal process should be considered where support mechanisms have been unsuccessful in improving attendance, there is a continued pattern of absence and/or the absence management triggers indicate.

6.5.15.3 The focus of the formal process will be to give an employee further support to help them to achieve the expected attendance level. The formal process involves three stages and the key steps are shown in the flowchart <Link to the Flowchart>.

6.5.15.4 The discussion and actions taken during the formal stages will depend on the employee's individual circumstances. Whilst it would normally be the case that each stage of the process would be followed sequentially, there may be circumstances where it is appropriate to enter the process at Stage 2 or 3. Where it has been agreed that there is no possible return to work for an individual, it may be appropriate to enter the process at Stage 3. This would require all parties to agree.

6.5.15.5 In attendance cases involving Workers <link to scope definition of Worker>, consideration should be given as to whether any support mechanism are possible and appropriate. Where this is not possible the case should be progressed to Stage 3 of the process.

6.5.15.6 The employee must be advised of all formal stage meetings and review meetings in writing <Link to standard letter>. A minimum of 7 calendar days' notice will be given. If the employee is unable to attend and the rationale offered is considered reasonable, another date will be given with a minimum of 7 calendar days' notice. If an employee is absent from work, this does not prevent them from attending any meetings, unless advised otherwise by Occupational Health.

6.5.15.7 Where expected attendance levels are not achieved this may result in dismissal.

#### 6.5.16 **Stage 1**

6.5.16.1 At the Stage 1 Absence Management meeting, the manager will meet with the employee to:-

- Discuss how the employee can be supported to improve their attendance
- Advise the employee of the impact of their attendance on the organisation and service delivery
- Discuss and consider any health professional advice already received or whether to seek advice including any proposed reasonable adjustments and/or support initiatives in line with OHS advice and The Equality Act 2010
- Discuss and set an appropriate standard of attendance on the basis of absence management triggers taking account of the need to make any adjustment to the standard e.g. to comply with the provisions of the Equality Act 2010
- Discuss the potential impact of the employee working overtime, additional hours or additional employment and whether a period of working basic hours would support the employee to maintain good health. Further advice from HR and Occupational Health should be sought.
- Discuss and agree the monitoring and review arrangements for the agreed standard of attendance.
- Advise the employee that if the required improvement is not achieved, there will be further progression through the formal procedure and this could ultimately lead to dismissal.

6.5.16.2 Reasonable adjustments must be explored. These might include:-

- Adjustments to the workplace and/or workstation.
- Reduction in working hours – temporarily or permanently.
- Redesign or modification of duties.

6.5.16.3 The manager must confirm the agreed standards of attendance, timescale for review and any supportive actions agreed to the employee in writing within 7 calendar days of the meeting. <Link to standard letter>

6.5.16.4 It may be agreed that there will be one or more review meetings to discuss progress and agree any further support required. The date(s) of this/these meetings may be brought forward in the event that the employee's absences have exceeded the required standard of attendance prior to the date of the review meeting.

6.5.16.5 The outcome of the stage 1 final review meeting will be one of the following:-

- The employee has met the required attendance levels set and no further action will be taken.
- The employee has not met the attendance levels set due to extenuating circumstances and improved attendance is anticipated therefore the review period is extended.
- The employee has not met the attendance levels set and the matter is progressed to Stage 2.

6.5.16.6 At the final review meeting the outcome and next steps will be discussed. Where the required improvement has not been achieved during the agreed timescale and the manager has concluded that there is a need to progress to the next stage, the evidence and rationale for this decision will be discussed with the employee.

6.5.16.7 The outcome of all Stage 1 review meetings will be confirmed to the employee in writing within 7 calendar days<Link to standard letters>.

## 6.5.17 **Stage 2**

6.5.17.1 Stage 2 meetings will follow the same format as Stage 1 meetings, with any updated or new documentation/information. There will be a review of previously identified support measures including any proposed reasonable adjustments and/or support initiatives in line with OHS advice and The Equality Act 2010. This will involve a review of ongoing supports and whether alternative and/or additional adjustments including redeployment are appropriate. Account will be taken of any further OHS advice received.

6.5.17.2 Reasonable adjustments must be explored. These might include:-

- Adjustments to the workplace and/or workstation.
- Reduction in working hours – temporarily or permanently.
- Redesign or modification of duties.
- Redeployment in line with the NHSScotland Redeployment Policy <insert link>.

6.5.17.3 Following any interim reviews, a final review meeting will be arranged. The outcome of the Stage 2 final review meeting will be one of the following:-

- The employee has met the required attendance levels set and no further action will be taken.
- The employee has not met the attendance levels set due to extenuating circumstances and improved attendance is anticipated therefore the review period is extended. If the required improvement is not achieved after the extended timeframe, the matter will be progressed to Stage 3.
- The employee has not met the attendance levels set and the matter is progressed to Stage 3.

6.5.17.4 At the final review meeting the outcome and next steps will be discussed. Where the required improvement has not been achieved during the agreed timescale and the

manager has concluded that there is a need to progress to the next stage, the evidence and rationale for this decision will be discussed with the employee.

6.5.17.5 The outcome of all Stage 2 review meetings will be confirmed to the employee in writing within 7 calendar days <Link to standard letters>.

### 6.5.18 **Stage 3**

6.5.18.1 Where the required level of improvement is not achieved, a Stage 3 hearing will be convened.

6.5.18.2 The Stage 3 hearing will comprise of a Chair with the authority to dismiss in line with the scheme of delegation and an HR Representative. To ensure impartiality, panel members must have had no prior involvement in the case. Persons in attendance may include:-

- The employee.
- Accredited Trade Union representative/and or work colleague, not acting in a legal capacity.
- The manager.
- HR support to manager.

6.5.18.3 The Chair will be responsible for ensuring that the panel, employee and their representative are advised in writing of the arrangements and provided with the management statement of case no later than 14 calendar days prior to the hearing. The letter must advise that the hearing may result in termination of employment <Link to standard letters>.

6.5.18.4 Should the employee wish to provide a written statement of case, this should be submitted no later than 7 calendar days before the hearing and will be shared with all other parties.

6.5.18.5 In reaching a decision about the appropriate outcome of the hearing the following matters will be taken into consideration:-

- The attendance record of the employee.
- The content and outcome of the supportive discussions and formal management of the employee's absence(s).
- Current Occupational Health reports including any health professional advice.
- Whether there is a diagnosis of an underlying medical condition.
- What adjustments have been considered and put in place and if any requested adjustments were not supported, the rationale for this.
- What opportunity has been given to improve.
- The likelihood of improvement in the foreseeable future.
- The needs of the service and work difficulties created by the absence.

6.5.18.6 Before termination of employment is considered all reasonable adjustments should have been made and all other options must be explored and exhausted.

6.5.18.7 Any decision to terminate employment should not be based on sick pay status.

6.5.18.8 In attendance cases involving Workers <link to scope definition of Worker>, if the required standard of attendance is not met and continued engagement with the organisation is not appropriate the individual will be offered no further shifts / work.

6.5.18.9 The outcome of the hearing and the rationale for the decision which has been made will be confirmed in writing by the Chair within 7 calendar days. <Link to standard letter> If the decision has been based on limited medical information, due to an employee not consenting to or attending Occupational Health appointments, this will be documented in the outcome letter. Contractual notice of termination will be stated and accrued annual leave paid in line with CEL 2009(17). The right to appeal within 14 calendar days will also be advised.

#### **6.5.19 Long Term Absence – Case Review**

6.5.19.1 Where there is a single period or recurrent periods of long term absence and there is no indication of a return to work within a reasonable time period it may be appropriate to arrange an absence case review meeting with Occupational Health to ensure that all possible support mechanisms have been considered to facilitate a return to work.

6.5.19.2 Persons in attendance may include:-

- The employee.
- Accredited trade union representative/and or work colleague.
- The manager.
- HR support to manager.

#### **6.5.20 Early Access to Pension**

6.5.20.1 In cases where the employee is a member of the NHS pension scheme, they may be eligible to apply for retirement on the grounds of ill health. This should be discussed with the employee and it is the employee's responsibility to apply for ill-health retirement pension benefits. This will usually follow a discussion with Occupational Health.

6.5.20.2 The employee must be made aware that the decision to terminate employment is not linked to or subject to ill health retirement. The decision to support retirement on ill health grounds lies with the Scottish Public Pensions Agency and not the employer.

6.5.20.3 The ending of employment will not necessarily be delayed in order for a pension application to be made and processed. It is therefore important that employees do not delay making a pension application once appropriate medical advice has been received and/or the decision to terminate employment is made.

6.5.20.4 Details are available from Scottish Public Pensions Agency (SPPA) <Link to SPPA website>.

#### **6.5.21 Appeal Hearing Process**

<Link to Guide to Appeal Hearings>

6.5.21.1 All employees will have the right to appeal on the basis of process not being followed, and this exists at all formal stages. However, an appeal at the first formal stage will be paper-based and should not involve attendance at a hearing.

6.5.21.2 The appeal panel Chair, in accordance with the scheme of delegation, will be responsible for identifying membership of the appeal hearing panel.

6.5.21.3 The Chair will also be responsible for ensuring that the panel, employee and their representative are advised in writing of the arrangements, no later than 14 calendar days prior to the hearing<Link to standard letter>.

6.5.21.4 The employee and the Chair of the attendance hearing are required to provide a written statement of their case. These should be submitted no later than 7 calendar days before the hearing and will be shared with all other parties.

6.5.21.5 It is the responsibility of any party calling witnesses to inform them of the arrangements for the hearing.

6.5.21.7 There will not be a delay in implementing management decisions pending an appeal, but they may subsequently be amended or reversed as a result of an appeal meeting.

## 6.5.22 **Outcome**

6.5.22.1 Following the hearing the Chair will write with the outcome of the appeal hearing to the employee and their representative. This should include the rationale behind any decisions taken in response to the employee's grounds for appeal. The letter will be issued within 7 calendar days following the appeal hearing <Link to standard letter>.

6.5.22.2 The outcome of the appeal will be final.

## 6.6 Supporting Documentation

- Flowcharts – there will be a flowchart which shows visually the key steps in the process at each stage when concerns have been raised about attendance.
- Standard letters – standard letters will be developed to ensure all the required content is included in letters for each stage of the process including invite/ review/outcome and appeal letters.
- Guide for Managers – More detailed guidance which advises managers what to do when an employee: reports a sickness absence; does not notify you of their absence; returns to work from sickness absence; is absent from work due to illness or injury caused at work; is absent from work due to long-term sickness; appeals an outcome, supporting staff in terminal illness cases.
- Guide for Employees – advises employees of what to do when they are unable to attend work because of illness; the support they can expect; how to appeal an outcome, accessing pension in terminal illness cases.
- Return to Work Meeting Form – a checklist and record for managers for return to work discussions.
- Managers Checklist before moving to Formal Stage 1 – a checklist of steps a manager should take before moving to Formal Stage 1.
- OHS Referral Checklist – a checklist for Occupational Health Service Self and Management Referrals.
- Stage 1 Appeal Form – an Appeal Form for paper-based appeal at Formal Stage

## 6.7 Consultation Questions

### Attendance: Section 6

(6 Questions)

Question 1:

Is the policy easy to read and clear to all parties?

Yes

No

Question 2:

Is the policy fit for purpose?

Yes

No

Question 3:

Does the language reflect our vision for policies to be user-friendly and supportive reflecting NHSScotland core values?

Yes

No

Question 4:

Are there any additions required to the supporting documents listed?

Yes

No

If yes, please specify

Question 5:

Does the context within which the “triggers” have been placed reflect the supportive aim of the policy?

Yes

No

If no, please indicate the reasons for your response

Question 6:

Please provide any other comments you have in relation to the policy.

## **7. Workforce Policy Investigation Process**

### **7.1 Aim**

7.1.1 To provide a clear process to undertake full and thorough investigations in a timely manner to establish facts.

7.1.2 To support informed and transparent decision-making for cases being considered under NHSScotland Workforce Policies.

### **7.2 Scope**

7.2.1 This policy applies to all employees and workers such as bank, agency and sessional workers involved in investigations. In terms of medical and dental staff it does not apply to investigations relating to professional conduct or competence.

7.2.2 It applies where an investigation is required under NHS Scotland employers' Conduct, Bullying and Harassment and Grievance Policies and the Capability Policy where it is not clear if conduct or capability is the appropriate route.

### **7.3 Definitions**

7.3.1 Investigation Team – the individuals who have been commissioned to undertake the investigation.

7.3.2 Manager – the manager will normally be the direct line manager of the employee.

7.3.3 Physical evidence – this includes items such as case notes, log books, invoices or computer equipment.

### **7.4 Roles and Responsibilities**

#### **7.4.1 Manager**

- Advise employee at the earliest opportunity when they are subject to investigation;
- Be approachable and take time to make themselves available for those who they manage;
- Keep employees fully informed on progress relating to the investigation.
- Feedback the outcome of the investigation to the employee and offer appropriate support.

#### **7.4.2 Employee**

- Actively participate in the process in an attempt to address the issue without delay;
- Be open and honest with the investigation team to ensure facts are established;
- Consider the position of any complainants and witnesses as well as their own.

7.4.3 Anyone involved in the process is required to maintain confidentiality throughout the process.

7.4.4 There are a range of standard expectations on all parties and on HR, Trade Union representatives and Occupational Health which underpin all policies <Link to standard roles and responsibilities>.

## **7.5 Procedure**

7.5.1 The procedure for undertaking workforce policy investigations is shown in the flowchart <Link to flowchart>.

7.5.2 Other resources are also available to support employees participating in investigations <Link to Guide for Employees>, witnesses <Link to Guide for witnesses > and what support is available to assist <Link to standard support section>.

### **7.5.3 Pre-Investigation Stage**

7.5.3.1 When the manager identifies a concern or incident they must take immediate action to ensure safety of persons, the environment and physical evidence.

7.5.3.2 The manager should assess the risk to determine whether alteration to duties or suspension is required <Link to suspension guidance in the conduct policy>. They should also consider the requirement for referral to external agencies such as the Counter Fraud Service, Regulatory Bodies, Child Protection or Adult Support and Protection networks, Disclosure Scotland etc <Link to referral to other agencies guidance>.

7.5.3.3 The manager should meet with the employee to advise that a concern has been raised, an investigation is being arranged and offer support. Where it has been determined that alteration to duties or suspension is required this will be undertaken in line with the guidance contained in the conduct policy <Link to suspension guidance in the conduct policy>. The outcome of the meeting will be confirmed in writing within 7 calendar days and where possible this communication should advise who will be undertaking the investigation <Link to standard investigation initiation letter or confirmation of suspension letter>.

### **7.5.4 Initial Investigation Stage**

7.5.4.1 The manager will inform witnesses that they may be required to participate in an investigation and will request statements <Link to Guide for Witnesses/statement template>.

7.5.4.2 An investigation team will be identified comprising an investigation manager and HR representative. In cases where there are clinical or technical issues out with the investigation manager's area of expertise, an appropriate professional or technical adviser should be appointed to the team. If the investigation relates to an employee in training, an educational/Deanery adviser should be considered.

7.5.4.3 In identifying the team to undertake the investigation, the manager should consider the complexity, nature and scale of the case. This will determine the level of training and skill required of the investigating manager and the time commitment to undertake the investigation in a timely manner <Link to guidance on expected training for complex or bullying & harassment cases>.

### **7.5.5 Investigation Planning**

7.5.5.1 The investigation team will meet to formally plan the investigation <Link to investigation planning document>.

7.5.5.2 In Bullying and Harassment or Grievance investigations, the investigation manager will write formally to the complainant to confirm who the investigation team are and arrange a mutually agreeable date to meet <Link to standard notification letter>. At the same time they will write to the employee who is subject to the complaint to confirm they have been appointed to undertake the investigation and offer to meet with the

individual to hear their initial response to the allegations making clear full allegations and information will not be available at this stage. On this basis, a further investigation meeting will be necessary. There is no requirement for the employee under investigation to participate in a meeting at this stage.

7.5.5.3 In cases where the outcome potentially falls within conduct or capability, the investigation manager will write to the individual under investigation to confirm who the investigation team are and arrange a mutually agreeable date to meet for an initial meeting regarding the allegations <Link to standard notification letter>. Following the meeting, the investigation manager will provide a provisional timescale for completion of the investigation dependent on the need for witness meetings and any further meeting with the employee to allow them to respond to the full documentation relating to the investigation.

7.5.5.4 The investigation manager will write formally to any witnesses to confirm who the investigation team are and arrange a mutually agreeable date to meet <Link to standard witness letter>.

## 7.5.6 Investigation

7.5.6.1 The investigation team will collate and consider relevant documentation including policies, procedures and protocols. Any patient and/or other confidential data to be used should be anonymised.

7.5.7 Witness investigation meetings should be held. Notes of the meetings should be prepared and sent to the witnesses for confirmation of the content.\* Unless otherwise agreed due to leave, notes should be returned within 7 calendar days.\*\* Notes not returned within this period will be deemed to be a correct record <Link to a standard covering letter for notes of meetings>.

7.5.8 A formal investigation meeting will be held with the employee under investigation. The employee will be written to outlining the allegations under investigation and will be provided with all documentation and statements which apply to the allegations. The correspondence will be issued at least 7 calendar days in advance of the meeting. Notes of the meeting should be prepared and sent to the employee for confirmation of the content.\* New evidence or further explanation not given at the meeting cannot be added to the notes at this stage. Where the note cannot be agreed, the employee's version will be appended to the investigation team's record for any further process. Unless otherwise agreed due to leave, notes should be returned within 7 calendar days. \*\* Notes not returned within this period will be deemed to be a correct record <Link to a standard covering letter for notes of meetings>.

7.5.8.1 Following the investigation meetings, the investigation team will assess whether further witness meetings are required. If so, the further evidence will then be shared with the employee under investigation for comment. Where there is extensive additional information this will be in a reconvened investigation meeting.

\* Meetings can be recorded to support the preparation of notes where all parties have agreed in advance.

\*\* Notes should be signed or attached to the covering email where they have been returned electronically.

### 7.5.9 **Conclusion of Investigation**

7.5.10 The investigation team will meet to consider the evidence and prepare the investigation report for the manager <Link to investigation report template>. Consideration should be given to:-

- Conflicting evidence.
- Why the investigating manager has accepted a particular line of evidence.
- Reasons for the conclusion and recommendations<Link to Decision-making guidance>.

7.5.10.1 There are 3 potential outcomes following the investigation:-

- The allegation is not upheld.
- The evidence and/or nature of the complaint justifies learning outcomes which may fall within the NHSScotland Capability Policy.
- The evidence justifies referral to a formal panel.

7.5.10.2 The investigation report should be completed within 21 calendar days of the completion of the investigation. The investigation team should submit their report to the manager stating their recommendations for any further consideration under NHSScotland Workforce Policies. The manager will meet with the employee to confirm the outcome of the investigation, any further action to be taken under NHSScotland Workforce Policies and offering support. This feedback will be confirmed in writing within 7 calendar days and will reflect the requirements of the relevant policy:

- Bullying and Harassment< Link to bullying and harassment policy>
- Conduct< Link to conduct policy>.
- Capability< Link to capability policy>.
- Grievance< Link to grievance policy>.

## 7.6 Supporting Documentation

- Flowcharts – there will be a flowchart which shows visually the key steps in the process at each stage when concerns have been raised about attendance.
- Standard letters – standard letters will be developed to ensure all the required content is included in letters for each stage of the process including invite/ review/outcome and appeal letters.
- Guide for Managers – more detailed guidance to support managers through the process with good practice highlighted.
- Guide for Employees – more detailed guidance for staff to support them through the process of investigation.
- Guide for Witnesses – more detailed guidance for staff who are required to participate in an investigation as a witness.
- Guide for investigators – more detailed guidance for investigators reflecting ACAS guidance for workplace investigations and including interviewing skills for investigators, decision-making tools such as fair blame/just culture and levels of training to be undertaken.
- Guide to the referral to other agencies – guidance to support assessment of the need to referral to other agencies including regulatory bodies, CFS and Adult/Child protection agencies.
- Guidance to Counter Fraud Service Involvement – more detailed guidance on when referral to CFS is appropriate and the links between internal investigation and that undertaken by CFS.
- Guidance to Police Involvement – more detailed guidance on when referral to the Police is appropriate and the links between internal investigation and that undertaken by the Police.
- Guidance on investigation of complaints from vulnerable individuals – outline process of the things to consider when investigating complaints from vulnerable individuals.
- Information Sharing Protocol – guidance on what information is to be shared and with whom balancing natural justice and data protection requirements.
- Standard Investigation Report Template – a standardised approach to investigation reports to support transparency of decision-making.
- Scheme of Delegation principles – guidance on how to assess the appropriate members of panels under workforce policies.

## 7.7 Consultation Questions

### Workforce Policy Investigation Process: Section 7 (7 Questions)

Question 1:  
Is the policy easy to read and clear to all parties?

Yes  No

Question 2:  
Is the policy fit for purpose?

Yes  No

Question 3:  
Does the language reflect our vision for policies to be user-friendly and supportive reflecting NHSScotland core values?

Yes  No

Question 4:  
Are there any additions required to the supporting documents listed?

Yes  No

If yes, please specify

Question 5:  
Are the stages in the process appropriate?

Yes  No

If no, please indicate the reasons for your response

Question 6:  
Should the Investigation Team make the decision on what the next stage is following an investigation under this policy?

Yes  No

If no, please indicate who should make this decision

Question 7:  
Please provide any other comments you have in relation to the policy.

## 7.8 General Comments

(3 Questions)

Question 1:

Collectively, do the refreshed policies provide single, standardised policies that are user-friendly and place staff and managers at the centre?

Yes

No

Question 2:

Do you think that the refreshed policies will assist in supporting the working lives of NHSScotland employees?

Yes

No

Question 3:

Please provide any other comments you have in relation to these policies.



## ANNEX A

### RESPONDENT INFORMATION FORM

#### A Consultation on the 'Once for Scotland' Workforce Policies – Core Policies

**Please Note** this form **must** be completed and returned with your response.  
To find out how we handle your personal data, please see our privacy policy:  
<https://beta.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- Individual  
 Organisation

Full name or organisation's name

Phone number  
Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name  
 Publish response only (without name)  
 Do not publish response

**Information for organisations:**

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes  
 No

## ANNEX B:

### CONSULTATION QUESTIONS

Respondents should take into consideration the information provided in this document alongside any other knowledge or personal experiences that could be relevant. All opinions are welcome.

You are invited to answer all the questions. However, if you are unable to answer any question then please feel free to move on to the next.

If you intend to email or post your consultation response please ensure you complete a Respondent Information Form ([Annex A](#)). This will ensure that if you ask for your response not to be published that we regard it as confidential and will treat it accordingly.

### Bullying & Harassment: Section 2

(6 Questions)

Question 1:

Is the policy easy to read and clear to all parties?

Yes  No

Question 2:

Is the policy fit for purpose?

Yes  No

Question 3:

Does the language reflect our vision for policies to be user-friendly and supportive reflecting NHSScotland core values?

Yes  No

Question 4:

Are there any additions required to the supporting documents listed?

Yes  No

If yes, please specify

Question 5:

Does the greater emphasis on early resolution, feedback and maintaining relationships offer the scope to encourage employees to raise concerns and respond constructively?

Yes

If no, please specify

Question 6:

Please provide any other comments you have in relation to the policy.

**Capability: Section 3**

(7 Questions)

Question 1:

Is the policy easy to read and clear to all parties?

Yes

No

Question 2:

Is the policy fit for purpose?

Yes

No

Question 3:

Does the language reflect our vision for policies to be user-friendly and supportive reflecting NHSScotland core values?

Yes

No

Question 4:

Are there any additions required to the supporting documents listed?

Yes

No

If yes, please specify

Question 5:

Does the addition of the process for addressing loss of registration cover a current gap?

Yes

No

Question 6:

Where redeployment is the outcome at Stage 3, should notice of termination run concurrently with the 12 week redeployment period?

Yes

No

Please indicate the reason for your response

Question 7:

Please provide any other comments you have in relation to the policy.

**Conduct: Section 4**

(6 Questions)

Question 1:

Is the policy easy to read and clear to all parties?

Yes

No

Question 2:

Is the policy fit for purpose?

Yes

No

Question 3:

Does the language reflect our vision for policies to be user-friendly and supportive reflecting NHSScotland core values?

Yes

No

Question 4:

Are there any additions required to the supporting documents listed?

Yes

No

If yes, please specify

Question 5:  
Does 'early resolution' fit with the conduct policy?

Yes  No

Please indicate the reason for your response

Question 6:  
Please provide any other comments you have in relation to the policy.

**Grievance: Section 5**

(6 Questions)

Question 1:  
Is the policy easy to read and clear to all parties?

Yes  No

Question 2:  
Is the policy fit for purpose?

Yes  No

Question 3:  
Does the language reflect our vision for policies to be user-friendly and supportive reflecting NHSScotland core values?

Yes  No

Question 4:

Are there any additions required to the supporting documents listed?

Yes

No

If yes, please specify

Question 5:

Is the definition of status quo sufficiently clear?

Yes

No

If no, indicate the reasons for your response

Question 6:

Please provide any other comments you have in relation to the policy.

**Attendance: Section 6**

(6 Questions)

Question 1:

Is the policy easy to read and clear to all parties?

Yes

No

Question 2:

Is the policy fit for purpose?

Yes

No

Question 3:

Does the language reflect our vision for policies to be user-friendly and supportive reflecting NHSScotland core values?

Yes

No

Question 4:

Are there any additions required to the supporting documents listed?

Yes

No

If yes, please specify

Question 5:

Does the context within which the “triggers” have been placed reflect the supportive aim of the policy?

Yes

No

If no, please indicate the reasons for your response

Question 6:

Please provide any other comments you have in relation to the policy.

**Workforce Policy Investigation Process: Section 7**

(7 Questions)

Question 1:

Is the policy easy to read and clear to all parties?

Yes

No

Question 2:

Is the policy fit for purpose?

Yes

No

Question 3:

Does the language reflect our vision for policies to be user-friendly and supportive reflecting NHSScotland core values?

Yes

No

Question 4:

Are there any additions required to the supporting documents listed?

Yes

No

If yes, please specify

Question 5:

Are the stages in the process appropriate?

Yes

No

If no, please indicate the reasons for your response

Question 6:

Should the Investigation Team make the decision on what the next stage is following an investigation under this policy?

Yes

No

If no, please indicate who should make this decision

Question 7:

Please provide any other comments you have in relation to the policy.

**General Comments**

Question 1:

Collectively, do the refreshed policies provide single, standardised policies that are user-friendly and place staff and managers at the centre?

Yes

No

Question 2:

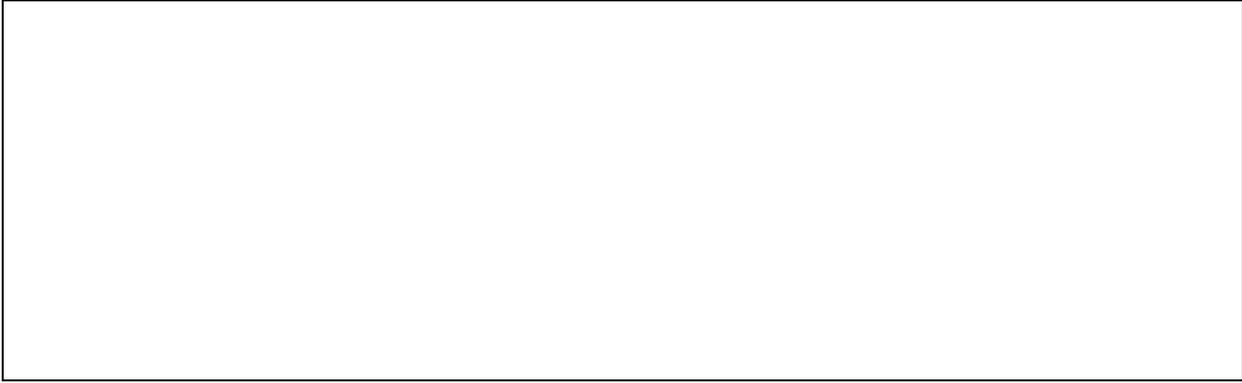
Do you think that the refreshed policies will assist in supporting the working lives of NHSScotland employees?

Yes

No

Question 3:

Please provide any other comments you have in relation to these policies.

A large, empty rectangular box with a thin black border, intended for the user to provide comments on the policies mentioned in the question above.



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