

# TITLE: Handling Concerns Procedure for Medical and Dental Staff

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## Amendments from previous version(s)

Version	Issue Date	Section(s) involved (author to record section number/ page)	Amendment (author to summarise)
5	October 2024	Covid section removed	Generally tidied up other sections.

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## **1 INTRODUCTION/ BACKGROUND**

The Trust has put in place this procedure to handle concerns relating to Medical and Dental staff, which complies with the Department of Health Maintaining High Professional Standards in the NHS (HSC 2003/12),

This procedure supersedes all previous disciplinary procedures for hospital Medical and Dental staff.

This procedure may be amended to reflect any future national advice or guidance following discussion and agreement with the Joint Local Negotiating Committee. Where there is any conflict or lack of clarity 'Maintaining High Professional Standards in the Modern NHS' ("MHPS") will take precedence.

## **2 AIMS/ OBJECTIVES/ PURPOSE (including Related Trust Documents)**

This procedure puts into practice the Department of Health Maintaining High Professional Standards in the NHS (HSC 2003/12) and assures compliance to these standards.

It applies to all doctors and dentists (referred to as the "Practitioners") employed by the Trust, covering the various processes for dealing with concerns raised about a Practitioner and should be read in conjunction with the Maintaining High Professional Standards in the Modern NHS (MHPS) Document.

Whilst the Trust's disciplinary procedure may ultimately be used to resolve certain conduct related issues, it is imperative that this 'Handling Concerns' procedure is used initially to determine the appropriate course of action.

The management of performance is a continuous process which is intended to identify problems. Numerous ways now exist in which concerns about a practitioner's performance can be identified through which remedial and supportive action can be quickly taken before problems become serious or patients harmed and which need not necessarily require formal investigation or the resort to disciplinary procedures.

Concerns about a doctor or dentist's conduct or capability can come to light in a variety of ways. For example:-

- Concerns expressed by other NHS professionals
- Review of performance against job plans, annual appraisal, revalidation
- Monitoring of data on performance and quality of care
- Clinical governance, clinical audit and other quality improvement activities
- Complaints about care by patients or relatives of patients
- Information from the regulatory bodies
- Litigation following allegations of negligence
- Information from the police or coroner
- Court judgements

Unfounded and malicious allegations can cause lasting damage to a doctor's reputation and career prospects. Therefore, all allegations including those made by relatives of patients, or concerns raised by colleagues, must be properly investigated to verify these facts so that the allegations can be shown to be true or false.

This procedure applies to all Medical and Dental staff at Sherwood Forest Hospitals NHS Foundation Trust (SFHFT). The procedure covers: -

- Action to be taken when a concern about a doctor or dentist first arises.
- Procedures for considering whether there needs to be restrictions placed on a doctor or dentist's practice or exclusion is considered necessary.
- Guidance on conduct hearings and disciplinary procedures.
- Procedures for dealing with issues of capability.
- Arrangements for handling concerns about a practitioners' health

### **3 ROLES AND RESPONSIBILITIES**

Chief Executive - all serious concerns relating to Medical or Dental staff must be raised with the Chief Executive. It is the Chief Executive's responsibility to ensure that a Case Manager is appointed for each case.

Chairman of the Trust Board - It is the Chairman's responsibility to ensure that a non-executive Director is appointed to oversee each case and ensure that momentum is maintained as all concerns must be investigated quickly and appropriately.

Medical Director - The Medical Director will act as the Case Manager in cases involving Divisional Chairs and consultants, however, they may delegate this role to another Senior Manager or Senior Medical Manager to oversee on their behalf in other cases. Where the concern relates to the Medical Director, the Chief Executive would be the Case Manager or they may delegate this role as appropriate.

Director of People - will work with the Medical Director to decide the appropriate course of action in each case and provide on-going HR advice and guidance, however they may delegate this to a senior member of the People Directorate team.

Clinical Manager - is responsible for notifying the Medical Director or Chief Executive of any concerns relating to a practitioner.

Director of Postgraduate Medical Education - is responsible for dealing with any concerns raised relating to doctors and dentists in a training grade based at SFHT, or on rotation to SFHT, and making the Postgraduate Dean aware of those concerns.

Practitioner - Doctors and Dentists should familiarise themselves with this procedure. If they require any clarification regarding the application of this procedure they should contact a member of the People Directorate team who will be able to advise them.

## **Just Culture**

The fair treatment of staff supports a culture of fairness, openness and learning in the NHS by making staff feel confident to speak up when things go wrong, rather than fearing blame. Supporting staff to be open about mistakes allows valuable lessons to be learnt so the same errors can be prevented from being repeated.

The Just Culture guide supports a conversation between managers about whether a staff member involved in incidents, errors or a conduct issue requires specific individual support or intervention to work safely.

The Just Culture Guide asks a series of questions that help clarify whether there is something specific about an individual that needs support or management versus whether the issue is wider, in which case singling out the individual is often unfair and counter-productive.

The Just culture Guide helps reduce the role of unconscious bias when making decisions and will help ensure all individuals are consistently treated equally and fairly no matter what their staff group, profession or background.

Where a concern has been raised regarding an incident, error or conduct issue, prior to making a decision to conduct a process via this procedure, the Just Culture Guide should be used to aid the decision. A copy of the Just Culture Guide can be found via the following link [NHS England » A just culture guide](#)

## **SECTION A - ACTION WHEN A CONCERN ARISES**

### **4.1 Initial Steps when a Concern is raised**

#### **4.1.1 Raising concerns about a Practitioner**

If an employee, patient or relative has a concern about the conduct or capability of a Practitioner, he/she should immediately report it to the Practitioner's Clinical Manager. It is for that Clinical Manager to make an initial assessment and urgently notify any serious concern to the Medical Director or Chief Executive with as much detail as possible. All serious concerns must ultimately be registered with the Chief Executive, in line with the requirements of this procedure and MHPS.

Concerns about the capability of doctors and dentists in training, including those employed under Lead Employer arrangements, should be considered initially as training issues. The Trust's Director of Postgraduate Medical Education and the Postgraduate Dean should be involved from the outset. Where concerns are to be pursued under the Trust procedures (or those relating to Lead Employer Trusts) the Postgraduate Dean should be informed and involved as appropriate at each stage.

#### 4.1.2 Restrictions on practice or exclusions

When a serious concern is raised, the possibility of restrictions on practice or exclusion must be considered. This decision will depend upon the nature and severity of the concern in question. A decision to exclude is the last resort, and in implementing any decision on restrictions or exclusions, the provisions of the section entitled exclusions or restrictions in practice on page 9 in section B will need to be followed.

#### 4.1.3 Appointment of a Case Manager

Once a concern of substance has been raised with the Chief Executive, they must ensure that a Case Manager is appointed in accordance with the framework below.

- The Case Manager must be the Medical Director where the concern relates to a Clinical Chair, where the concern relates to a consultant this can be the Medical Director/Deputy Medical Director or a Clinical Chair.
- Where the concern relates to the Medical Director, The Trust Chief Executive would be the Case Manager, or they may delegate this role as appropriate.
- Where the concern relates to a Practitioner who is not a consultant, the Medical Director may designate an appropriate Clinical Manager as Case Manager.
- An appointed Case Manager must not have had any prior substantive involvement in the issue or issues of concern that have arisen.

Contact with the Practitioner Performance Advice Service (PPA) formally NCAS can provide an independent sounding board and the first approach should be by the Medical Director or Chief Executive. Further discussion may be by either of these parties or the case manager.

#### 4.1.4 The Case Manager's initial assessment

The first task of the Case Manager is to identify the nature of the problem or concern and to assess the seriousness of the issue on the information available and the likelihood that it can be resolved without resort to formal procedures.

This decision should not be taken alone but in consultation with the Director of People or a Senior member of the People Directorate, the Director of Postgraduate Medical Education for doctors in training only, the Medical Director and the PPA.

The Case Manager should explore the potential problem with the PPA to consider different ways of tackling it, possibly recognise the problem as being more to do with work systems than doctor performance or see a wider problem needing the involvement of an outside body other than the PPA. Having discussed the case with the PPA, the Case Manager must decide whether an informal approach can be taken to address the problem, or whether a formal investigation will be needed. Where an informal route is chosen the PPA should still be involved until the problem is resolved.

Where it is decided that a formal route needs to be followed, the Case Manager will notify the Chairman in order for a designated Non-Executive Board Member to be assigned to oversee the process.

#### 4.1.5 Appointment of a Case Investigator

Where it is decided that a formal route needs to be followed the Case Manager must, after discussion with the Chief Executive and Director of People, appoint an appropriately experienced and trained person as Case Investigator. The seniority of the Case Investigator will differ depending on the grade of Practitioner involved in the allegation. (Several Clinical Managers have been appropriately trained, to enable them to carry out this role when required).

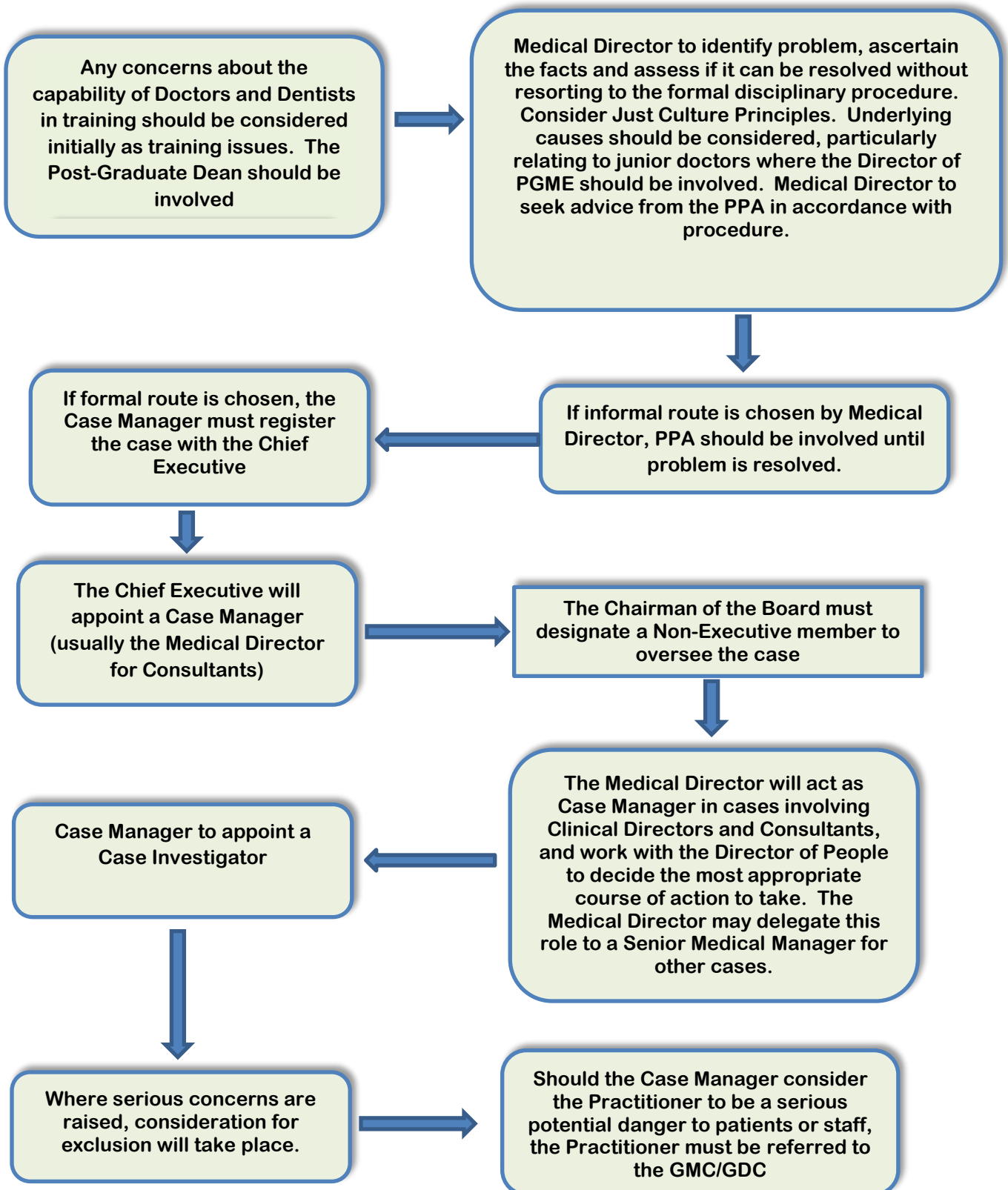
When a Case Investigator is appointed, the terms of reference for the investigation should be determined by the Case Manager, usually in consultation with the Director of People or a Senior member of the People Directorate.

As promptly as possible after the decision to carry out a formal investigation is taken, the Practitioner should be notified in writing of:

- The fact that an investigation is to be carried out.
- The specific allegations or concerns.
- The name of the Case Investigator and, where relevant any clinical advisor.
- A list of people to be interviewed by the Case Investigator.
- The practitioner has the right to see correspondence relating to the case and to meet the Case Investigator to put their views forward.

At any stage of this process – or subsequent disciplinary action, the practitioner may be accompanied in any interview, meeting or hearing by a companion. In addition to statutory rights under the Employment Act 1999 the companion may be another employee of the Trust, an official or lay representative of the BMA or defence organisation; or a friend, partner or spouse. The companion may be legally qualified, but they will not be acting in a legal capacity. At hearings, the representative will be entitled to present a case on behalf of the Practitioner, address the panel and question the management case and any witness evidence.

## Actions to be taken when concerns about performance arise





## 4.2 Carrying out an investigation

The Case Investigator is responsible for undertaking the investigation into any allegations or concerns about a Practitioner, establishing the facts and reporting the findings. The Case Investigator should complete their investigation within 4 weeks of their appointment and submit the report to the Case Manager within a further 14 calendar days, unless an alternative timescale has been agreed with the Case Manager.

In circumstances where a Case Investigator is not able to meet the 4-week deadline, they should, as soon as possible, notify in writing BOTH the Case Manager and the Practitioner in question explaining the reasons why. A revised timetable should be provided in addition to an explanation.

The Case Manager must keep the designated Board member informed and assist them in reviewing the progress of the case and ensuring momentum is maintained.

The Case Investigator has a wide discretion in how they carry out the investigation so long as they establish the facts in an unbiased way and adhere to the terms of reference. The Case Investigator should seek assistance with the investigation from a senior member of the People Directorate. The Case Investigator will approach the Practitioner concerned to seek views on the witnesses identified and the information that should be collected.

If the Case Investigator is not a clinician, a Clinical Adviser should be involved where clinical issues arise. The Clinical Adviser should not have been previously involved in the issue being investigated. If during the investigation it transpires that the case involves more complex clinical issues than first anticipated, the Case Manager should arrange for a Practitioner in the same specialty and same or higher grade from another NHS body to assist where necessary.

Where concerns about a Practitioner arise from the Trust's Serious Untoward Incidents Procedure (SUI), the Case Investigator should liaise with the SUI team to share relevant information.

The Case Investigator does not make the decision on what action should be taken nor whether the employee should be excluded from work or restrictions to practice applied and may not be a member of any disciplinary or appeal panel relating to the case.

The report of the investigation should give the Case Manager sufficient information to make a decision whether:

- There is a case of misconduct that should be put to a conduct panel;
- There are concerns about the Practitioner's health that should be considered by the NHS body's occupational health service;
- There are concerns about the Practitioner's performance that should be further explored by the PPA;
- Restrictions on practice or exclusion from work should be considered;
- There are serious concerns that should be referred to the GMC or GDC;
- No further action is needed.

#### 4.2.1 The right of the Practitioner to comment on the factual parts of the report.

Before a final report into concerns is provided to the Case Manager, the Case Investigator must provide their report to the Practitioner for comment.

The Practitioner has 14 calendar days in which to comment in writing on the report unless an alternative timescale is agreed in writing with the Case Manager.

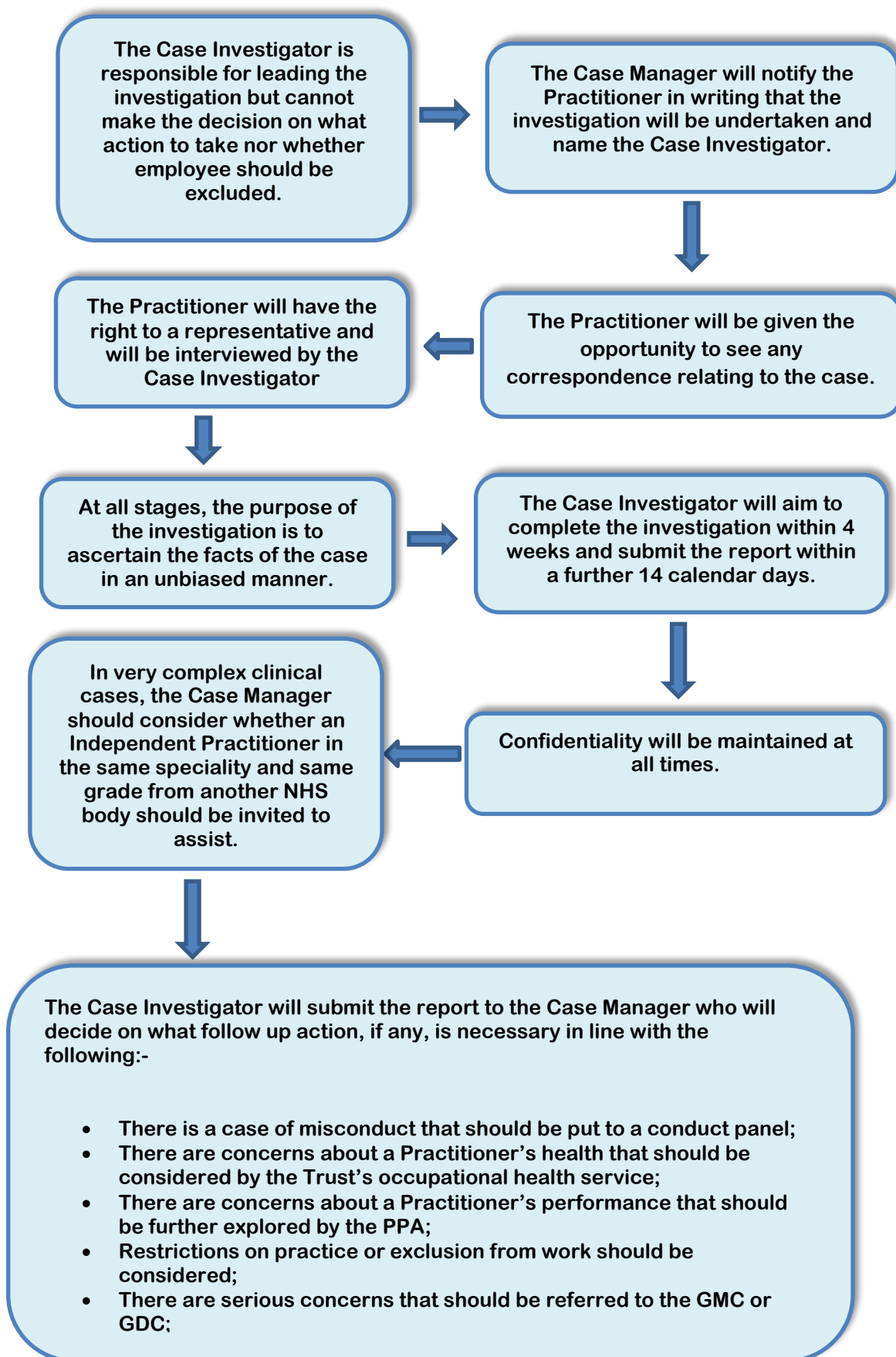
If the Practitioner (or their representative) fails to provide comments within the 14 calendar day time limit or such other time limit as may be agreed with them, the Case Investigator will finalise their report, recording the fact that no comments have been received from the Practitioner.

#### 4.2.2 Decision of the Case Manager

Once the report is completed it must be provided to the Case Manager who will then decide the course of action that needs to be taken. The Case Manager should discuss the report with the Director of People or nominated deputy, as well as with the PPA.

The Case Manager will write to the Practitioner enclosing a copy of the report together with the statements and other evidence gathered during the investigation. The letter must set out the Case Manager's decision and the reasons for it.

## The Investigation



## **SECTION B - RESTRICTIONS OF PRACTICE AND EXCLUSION FROM WORK**

### **4.3 Roles of Officers**

#### **4.3.1 Excluding or restricting a Practitioner**

Under this procedure the term “excluded from work” is used to replace the word “suspended”. The word “suspension should not be used when dealing with a Medical Practitioner as it can be confused with suspension from the register by the GMC or GDC. Exclusion is a last resort and can only be justified on the grounds set out below. Before the decision is taken to exclude any Practitioner, all other options must have been thoroughly explored, for example restricting a Practitioner’s duties and discussing the case with the PPA and other interested parties.

The authority to exclude a member of staff is vested in the Chief Executive, Deputy Chief Executive, Medical Director or Deputy Medical Director and, for staff below the grade of consultant, Clinical Chairs.

#### **4.3.2 Responsibilities of individual officers in the event of a restriction or exclusion**

##### **The Case Manager**

Where the case manager has the authority to exclude or restrict a member of staff they will make the decision, subject to the process described in 4.3.1. If the Case Manager does not have the authority to exclude or restrict, then this decision must be made by those with the relevant authority and following the discussions detailed in 4.3.1.

A decision to exclude a Practitioner will only be made once it has been decided that there are significant concerns about the Practitioner’s conduct or capability and the conditions set out in paragraph 4.3.1 have been satisfied.

The Case Manager will review the exclusion or restriction with the Designated Board Member and Chief Executive as set out below, taking into consideration any information that may be provided by the Case Investigator.

##### **The Designated Board Member**

The designated Board Member shall oversee the exclusion or restriction process. This role will include ensuring that the applicable time limits are complied with in article 6 on the European Convention on Human Rights, as well as receiving representations on the process or procedure leading to the exclusion or restriction.

### **4.4 Restrictions that can be imposed on the Practitioner**

If a serious concern is raised about a Practitioner, the Case Manager must consider at the outset if temporary restrictions on the Practitioner’s practice are necessary.

Alternative ways to manage risks, avoiding exclusion, includes:

- Medical Director or Clinical Chair supervision of normal contractual clinical duties.
- Restricting the practitioner to certain forms of clinical duties.
- Restricting activities to administrative, research/audit, teaching and other educational duties. By mutual agreement the latter might include some formal retraining or re-

- skilling.
- Sick leave for the investigation of specific health problems.

If there is evidence that concerns are related to the Practitioner's health, the Occupational Health Department should become involved at an early stage to help with the investigation of specific health problems and to advise the Case Investigator accordingly (see section E).

#### 4.4.1 Where immediate exclusion may be justified

Exclusion is a temporary measure reserved for specific circumstances. Alternatives to exclusion must always be considered in the first instance as identified above the key factors in any decision to exclude are the protection of staff or patient interests or potential impact on the investigation.

An immediate time limited exclusion may be necessary for the following purposes:

- A critical incident when serious allegations have been made.
- Where there has been a breakdown in relationships between a colleague and the rest of the team.
- The presence of the practitioner is likely to hinder the investigation.

#### 4.4.2 The process for deciding whether to exclude or restrict

There are two types of exclusion: immediate exclusion and formal exclusion. As an alternative to exclusion, restrictions to practice may be imposed.

Before reaching the decision to exclude, it is important to discuss with the PPA, it may also be necessary to discuss the matter with other interested parties, such as the Police for example. However, ultimately the decision on restriction(s) or exclusion rests with the Trust's authorised officers.

Any decision to exclude formally should be discussed between the Chief Executive, the Medical Director and the Director of People.

The Designated Board Member should be informed of any such decision. A decision to exclude immediately should, where practicable, follow the same procedure, although, in the event that this is not practicable, the officer designated under paragraph 4.3.2 shall discuss the decision as soon as practicable with the Chief Executive and Director of People and confirm that decision to the Designated Board Member.

#### 4.4.3 Immediate exclusion

##### The right to exclude immediately

In a circumstance where no alternative is deemed appropriate the Practitioner may be excluded immediately to allow preliminary consideration of the concern by the Case Manager and Case Investigator.

##### The initial period of immediate exclusion

An immediate exclusion can be for a maximum of two weeks following which a decision whether to exclude formally must be made in accordance with the procedure set out in the

paragraph below. If the decision is to restrict a Practitioner's practice, this should also be reviewed, though it is recommended this happens when the Case Investigator has completed his/her report.

#### Meeting with the Practitioner

The Practitioner should be informed at a meeting that they are being excluded immediately together with the broad reasons for the exclusion. A date should be agreed to meet again within the two weeks following the date of the exclusion. The Case Manager must advise the Practitioner of their rights, including rights of representation. The meeting should be immediately followed by a letter confirming the outcome of that meeting.

#### 4.4.4 Formal decisions to exclude or restrict practice

##### The right to exclude formally

A formal exclusion can only take place after the Case Manager assesses there is a case to answer at a case conference with the Director of People to discuss whether there is a reasonable and proper cause to exclude.

- A preliminary report has been prepared by the Case Investigator which indicates there is misconduct/capability concern or further investigation is warranted.
- A meeting has been held with the Practitioner as described above.
- The PPA has been consulted.

##### Justification of the decision to exclude formally

Formal exclusion can only be justified where there is a need to protect patient or staff interests pending the full investigation of:

- Allegations of misconduct.
- Concerns about serious dysfunction in the operation of clinical services.
- Concerns about lack of capability or poor performance of sufficient seriousness that it is warranted to protect patients.
- Where the Practitioner's presence is likely to hinder ongoing investigations.

Other options such as restrictions to practice must be considered. Exclusion is to be used only where it is strictly necessary for the reasons set out above.

#### Meeting with the Practitioner

The Practitioner should be informed of the exclusion in a meeting with the Medical Director and/or the Case Manager. A senior member of the Human Resource Department should be present at this meeting where possible. The individual has the right to be accompanied in the meeting. The reasons for the exclusion must be explained and the Practitioner shall have an opportunity to respond and suggest alternatives to exclusion.

##### Confirming formal exclusion in writing

Formal exclusion must be confirmed in writing to the Practitioner within seven calendar days, where practicable, of the decision being taken. This letter must state:

- the duration of the exclusion and date;

- the nature of the allegations being made;
- the terms of the exclusion and the need to remain available for work;
- a full investigation or other action will follow; and
- that the designated Board Member may receive any representation on the exclusion;

A formal exclusion can last for a maximum of four weeks at which point the exclusion must be reviewed and a decision taken to renew it, terminate it or modify it.

#### Exclusion from Trust property/premises

A Case Manager must decide if exclusion from Trust property is necessary. An exclusion from Trust property is necessary where there is a risk the Practitioner will tamper with evidence or seek to influence colleagues. Patient safety must come first; if there is a risk of disruption to clinical services by the Practitioner's presence, they should not be allowed onto Trust property. Where possible, an excluded Practitioner should be allowed on Trust property for continuing professional development purposes. They should always be allowed on Trust property as a patient.

As an alternative to complete exclusion from Trust property, the Case Manager may consider a limited exclusion from certain parts of Trust property. In the event that such exclusion is put in place but then breached by the Practitioner, a full exclusion may be substituted.

#### Keeping in Contact and availability for work

An excluded Practitioner must be ready, willing and able to carry out some or all of their duties during contractual hours. They must be available to assist the Case Investigator during these hours. They must obtain permission, in writing, to take annual or study leave from the Case Manager, unless previously approved.

#### Obligations on the Practitioner in the event exclusion is considered

A Practitioner should co-operate with the Trust in finding alternatives to exclusion by:

- Agreeing to restrictions on his/her practice, including a restriction to non-clinical duties;
- Agreeing not to interfere with investigations involving them;
- Agreeing to give undertakings not to carry out certain work. The PPA may recommend such undertakings extend beyond the Trust to the public and private sector;
- Agreeing to work under supervision.

An excluded Practitioner must also notify the Case Manager of any other organisations for which they undertake voluntary or paid work during the period of exclusion. The Practitioner must seek prior consent from the Case Manager to undertake such work.

In cases where there is concern that the practitioner may be a danger to patients, the Trust has an obligation to inform such other organisations including the private sector of any restriction on practice or exclusion and provide a summary of the reasons for it. Details of other employers (NHS and non-NHS) may be readily available from job plans, but where it is not the practitioner should supply them. Failure to do so may result in further disciplinary action or referral to the relevant regulatory body, as the paramount interest is the safety of patients. Where the Trust has placed restrictions on practice, the practitioner should agree not to undertake any work in that area of practice with any other employer.

### Informal exclusion

No Practitioner will be excluded from work other than through this procedure. The Trust will not use "gardening leave" or other informal arrangements as a means of resolving a problem covered by this procedure.

The Case Manager must review the exclusion before the end of each four week period and report the outcome to the Chief Executive and the Board. This report is advisory and it would be for the case manager to decide on the next steps as appropriate. The exclusion should usually be lifted and the practitioner allowed back to work, with or without conditions placed upon the employment, at any time the original reasons for exclusion no longer apply and there are no other reasons for exclusion.

It is important to recognise that Board members might be required to sit as members of a future disciplinary or appeal panel. Therefore, information to the Board should only be sufficient to enable the Board to satisfy itself that the procedures are being followed. Only the designated Board member should be involved to any significant degree in each review. Careful consideration must be given as to whether the interests of patients, other staff, the practitioner, and/or the needs of the investigative process continue to necessitate exclusion and give full consideration to the option of the practitioner returning to limited or alternative duties.

#### 4.4.5 Reviewing exclusions and the role of the Trust Board

##### First Review

The Case Manager must review the Practitioner's formal exclusion within four weeks of the decision to exclude and:

- Submit a written advisory report of the outcome of that review to the Chief Executive;
- Document the renewal;
- Send written notification of the renewal to the Practitioner, if required

Any change of circumstances since the original decision to exclude must be addressed by the Case Manager in the written review report. This review report should be provided to the Practitioner under investigation, the Chief Executive and the Trust Board Member.

##### Second Review (and reviews after the Third Review)

Before expiry of a further four weeks from the date of the previous review, the Case Manager must review the exclusion and follow the steps detailed under the First Review above. The exclusion will lapse and the practitioner will be entitled to return to work at the end of the four-week period if the exclusion is not actively reviewed.

If exclusion continues for a further four weeks from the Second Review, a Third Review should be carried out and the PPA must be contacted to discuss the position.

If a Practitioner has been excluded for three periods and the investigation has not been completed, the Case Manager must submit a written report to the Chief Executive AND designated Board Member which includes the reasons for the continued exclusion, why restrictions on practice are not appropriate, the timetable for completing the investigation and reasons for delay.

##### Six Month Review



Exclusions should not normally last for more than six months unless a criminal investigation is ongoing. The Trust and the PPA should actively review those cases every 6 months.

### Role of the Board of Directors and Designated Member

The Board of Directors responsibility, having been informed via the designated Board Member, is to ensure the procedures set out above are followed. It is also responsible for ensuring the proper corporate governance of the organisation and for this purpose reports must be made to the Board under these procedures.

Board members may be required to sit as members of a disciplinary or appeal panel. Therefore, information given to the Board should only be sufficient to enable the Board to satisfy itself that the procedures are being followed. Only the designated Board member should be involved to any significant degree in each review.

The Board is responsible for designating one of its non-executive members as a “designated Board member” under these procedures. The designated Board member is the person who oversees the case manager and investigating manager during the investigation process and maintains momentum of the process.

This member’s responsibilities include:

- Receiving reports and reviewing the continued exclusion from work of the practitioner.
- Considering any representations from the practitioner about his or her exclusion.
- Considering any representations about the investigation.

### Return to work

If it is decided by the Case Manager that the exclusion should come to an end, there must be formal arrangements for the return to work of the Practitioner made with the involvement of the Clinical Chair and Clinical Manager. It must be clear whether clinical and other responsibilities are to remain unchanged or what the duties and restrictions are to be as well as any monitoring arrangements to ensure patient safety.

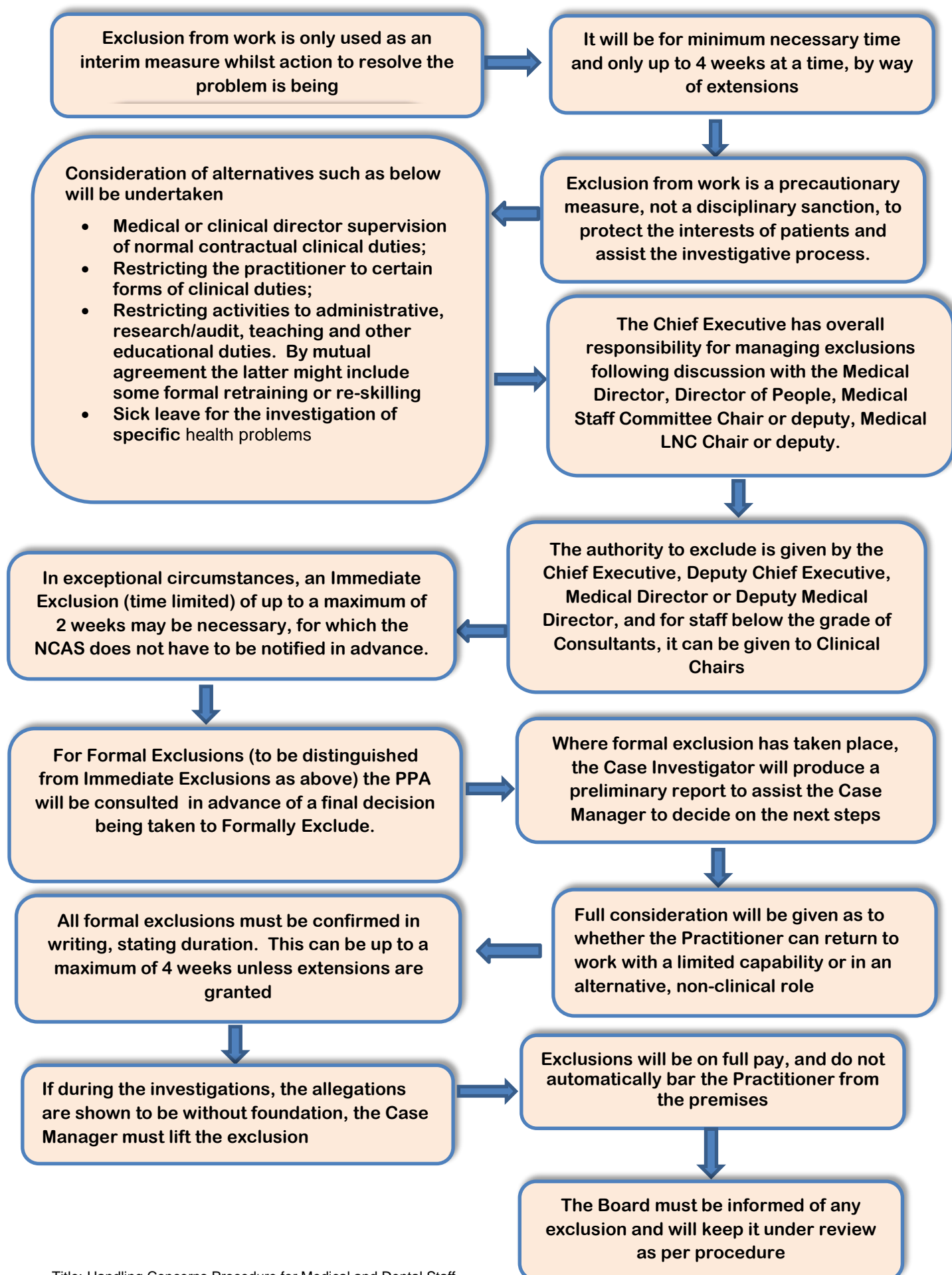
### Breach of a restriction

Where a restriction has been placed on the Practitioner's practice, they shall agree not to undertake any work in that area of practice with any other organisation whether on an employed basis or otherwise and whether in the private or public sectors. If a Practitioner breaches an undertaking they have been given, the case manager should consult with the GMC/GDC and PPA on whether an alert letter should be issued. This breach of an undertaking may also give rise to separate disciplinary action against the Practitioner.

### Reporting to the GMC

At the point where serious allegations affecting patient safety arise, the case manager has a duty to consider reporting the matter to the GMC/GDC. This could be at the stage of immediate exclusion or when the Case Investigator's report has been provided.

## Restriction of Practice and Exclusion from Work



## SECTION C - CONDUCT HEARINGS AND DISCIPLINARY HEARINGS

### 4.5 Conduct and Disciplinary Matters

#### 4.5.1 Introduction

At the initial stage of the investigation, the Case Manager should consider whether the concern may amount to an issue of conduct. This may not be a final decision and the Case Manager should review this decision on receipt of the Case Investigator's report.

Any concerns relating to Practitioners in training grades must be discussed with the relevant educational supervisor and college or clinical tutor, together with the Post-graduate Dean at the outset.

#### 4.5.2 Investigation of allegations

Every allegation must be fully investigated. Where the alleged misconduct involves matters of a professional nature, the Case Investigator should obtain independent advice from a senior clinician in the same speciality as the Practitioner.

#### 4.5.3 Classification of the concern

The Case Manager will, on receipt of the Case Investigator's report and having consulted with the PPA the Director of People, and the Chief Executive, consider the classification of the concerns about the Practitioner.

If the Case Manager concludes that the concern is one of conduct this section of the procedure will be followed. If the concern is one of capability, Section D of the procedure should be followed. If the concern is one of health, section E should be followed.

The classification will be confirmed to the Practitioner in writing in the letter confirming the outcome of the investigation along with the Case Manager's conclusions.

#### 4.5.4 Criminal Proceedings

##### Action when investigations or a criminal investigation identifies possible criminal acts

Where there are allegations of, or a Trust's investigation finds, a suspected fraud, this must be reported immediately, and prior to any action being taken, to the local Counter Fraud Officer. Where other criminal action is suspected, this must be reported to the police. Where the police are conducting the enquiry, the employer must consult the police to establish whether an investigation into any other matters would impede their investigation.

##### Action by the Trust in the event that criminal charges are successful

In a circumstance where criminal charges have been successfully brought against the Practitioner, the Trust will need to carefully consider whether they render the Practitioner unsuitable for further employment. The Trust will need to consider the overall circumstances of the conviction and in particular the safety of patients, staff and members of the public and whether exclusion and further investigation is necessary.

##### Action in the event of acquittal or insufficient evidence

When the Trust has refrained from taking action pending the outcome of a court case, if the practitioner is acquitted but the Trust feels there is enough evidence to suggest a potential danger to patients, then the Trust has a public duty to take action to ensure that the individual concerned does not pose a risk to patient safety. Similarly, where there are insufficient grounds for bringing charges or the court case is withdrawn there may be grounds for considering police evidence where the allegations would, if proven constitute misconduct, bearing in mind that the evidence has not been tested in court. It must be made clear to the police that any evidence they provide and is used in the Trust's case will have to be made available to the doctor concerned. Where charges are dropped, the Trust will assess if the employee can continue in their present job during any investigation, should be allocated to other duties or should be excluded from work. This will depend on the nature of the offence and advice will be sought from the Trust's legal adviser. The Trust will explain the reasons for taking any such action to the Practitioner concerned.

#### Cases where criminal charges brought are not connected with an investigation by the Trust

There are some criminal offences that, if proven, could render a doctor or dentist unsuitable for employment. In all cases, the Trust, having considered the facts, will need to consider whether the employee poses a risk to patients or colleagues and whether their conduct warrants an investigation and the exclusion of the Practitioner. The Trust will have to give serious consideration to whether the employee can continue in their job once criminal charges have been made.

The Trust will consider whether the offence, if proven, is one that makes the doctor or dentist unsuitable for their type of work and whether, pending the trial, the employee can continue in their present job, should be allocated to other duties or should be excluded from work. This will depend on the nature of the offence and advice will be sought from the Trust's legal adviser. The Trust will explain the reasons for taking any such action to the Practitioner concerned.

#### 4.5.5 Preparation for Conduct Hearing

##### Invitation to meeting

Where the Case Manager concludes that the alleged concern or issue is a conduct matter, this will be dealt with under the Trust's disciplinary procedure (except for those doctors employed under the Lead Employer arrangements).

Where the Case Manager concludes that the alleged misconduct matter is of a professional nature, the process outlined below will be followed with reference to the Trust's disciplinary procedure.

The Case Manager should invite the Practitioner to a meeting informing them that the matter will be heard by a professional conduct panel. At the meeting, the Practitioner will be informed of the following;

- Clear and complete details of the allegations, including (if not already received) a copy of the investigatory report and any supporting evidence (including witness statements);
- Details of who is attending to present the management case;
- Details of members of the panel;

Details of any witnesses to be called in support of the management case;

- Confirmation of the Practitioner's right to be accompanied.
- Confirmation that disciplinary action may be taken as a result of the meeting.

This will be confirmed in writing to the Practitioner at least 28 calendar days before the date of the hearing (unless there are exceptional circumstances) to allow sufficient time for them to consider their case.

### Professional Conduct Panel arrangements

Where a case involving issues of professional conduct proceeds to hearing, the case should be heard by a panel consisting of:

- Trust Executive Director
- Designated member of the Board of Directors (Non-Executive Director)
- Medically or dentally qualified member external to the Trust (at least at Consultant level)

### Documents and Witnesses

Any documents to which the Practitioner and their representative intend to refer at the hearing (including any statement of case) should be circulated to the Case Manager no later than 14 calendar days prior to the hearing, unless there are exceptional circumstances.

The Practitioner and their representative will also be provided with copies of all the documents on which the management case will rely at the hearing at least 14 calendar days before the hearing including any statement of case if one is prepared).

The Practitioner or their representative and the individual presenting the management case must also confirm the names of any witnesses they intend to call at least 7 calendar days before the hearing.

Any witness statements to be relied upon by the Practitioner must be provided to the Case Manager no less than 7 calendar days before the hearing. If the Practitioner does not intend to rely upon witness evidence but does intend to call a witness in support of his or her case, the Practitioner must provide a written synopsis of the relevant evidence the witness will provide. This synopsis must be provided no later than 7 calendar days before the hearing to the Case Manager.

It is the responsibility of the person calling the witnesses to arrange for their attendance at the hearing. Witnesses will not be required to attend all the hearing, only the period for which they are required to give evidence.

Where witnesses are employees of the Trust, they will be remunerated as normal in accordance with their terms and conditions of employment for attendance at the hearing. Where a synopsis has been provided of a witness' evidence by the Practitioner, the Practitioner must ensure that witness attends the hearing to provide their evidence unless that evidence has been explicitly agreed by the Case Manager.

### Postponement Requests

The Practitioner must take all reasonable steps to attend the hearing. Requests for postponements will be considered by the Chairman of the panel and will be dealt with reasonably considering all of the circumstances of the case, including:

- the reason for the request;
- the period that the allegations have been outstanding;
- in cases of sickness absence, the period it is anticipated that the Practitioner will remain off sick;
- the future availability of the panel and witnesses;

A Practitioner's ill health will be dealt with in accordance with the procedures at Section F.

### Failure to attend the hearing by the Practitioner

A failure to attend a disciplinary hearing by the Practitioner without valid reason may result in the Chair of the panel deciding that the process is carried out in the Practitioner's absence.

### Appeals

Appeals against any disciplinary sanction administered under this disciplinary procedure will be heard as set out in the provisions of the Trust's Appeals policy for all staff, except in cases which involve matters of professional misconduct.

For such appeals, the case should be heard by a panel, whose members have had no previous involvement in the case, consisting of:

- Trust Executive Director
- Trust Board member
- Medically or dentally qualified member external to the Trust (at least at Consultant level)

## **Procedure for dealing with Conduct and Disciplinary Matters**

Misconduct matters for Doctors and Dentists are dealt with under the Trust Disciplinary Rules and Procedure; however, the PPA will be contacted by the Medical Director for advice before proceeding. However, the investigation is undertaken in accordance with this procedure.



Where the alleged misconduct relates to matters of a professional nature, the Case Investigator will seek independent professional advice. Any disciplinary panel must include a member who is either medically or dentally qualified and not employed by the Trust.



Where an investigation establishes a suspected criminal activity in the UK or abroad, this will be reported to the police.



In suspected cases of fraud the NHS Counter Fraud and Security Management Service will be contacted

## SECTION D - CAPABILITY

### 4.6 Introduction

Initial consideration must be given as to whether any failure or concern in relation to a Practitioner was due to broader systems or organisational failure. If so, appropriate investigation and remedial action should be taken.

Wherever possible, issues of capability shall be resolved through on-going assessment, retraining and support. If the concerns cannot be resolved routinely by management, the PPA must be contacted for support and guidance before the matter can be referred to a capability panel.

Any concerns about capability relating to Practitioners in training grades must be discussed with the relevant educational supervisor and college or clinical tutor, with close involvement of the postgraduate dean from the outset.

#### 4.6.1 Issues of Capability

The following are examples of matters which the Trust may regard as being concerns about capability (this is a non-exhaustive list):

- Out of date or incompetent clinical practice (unless this is contrary to clear management requests made previously in which case the issue may be one of misconduct);
- Inappropriate clinical practice arising from a lack of knowledge or skills that puts patients at risk;
- Inability to communicate effectively;
- Inappropriate delegation of clinical responsibility;
- Inadequate supervision of delegated clinical tasks; and
- Ineffective clinical team working skills.

In the event that the capability issue has arisen due to the Practitioner's ill health, then the Ill Health section of the procedure must be considered.

It is inevitable that some cases will cover conduct and capability issues. It is recognised that these cases can be complex and difficult to manage.

If a case covers more than one category of problem, they should usually be combined under a capability hearing although there may be occasions where it is necessary to pursue a conduct issue separately. It is for the Trust to decide on the most appropriate way forward having sought legal advice and consulted with a PPA adviser.

#### 4.6.2 Pre-Capability Hearing Process

Once the Case Investigator has concluded their investigation the report will be sent to the Case Manager. The Case Investigator will already have provided the Practitioner with the opportunity to comment on the factual sections of the report.

The Case Manager will decide on the action that needs to be taken, they will consult with the PPA and within 14 calendar days notify the Practitioner in writing on how the issue is to be dealt with.



If it is decided to apply the capability process, the options available to the Case Manager for dealing with the matter are:

- No action is required;
- Retraining or counselling should be undertaken;
- Referred to the PPA for their consideration; or
- Referral to a capability hearing

#### 4.7 Preparation for Capability Hearings

##### 4.7.1 Time Limits and Procedure to be followed

Where a Case Manager has decided to refer the matter to a capability panel, the following preparatory steps must take place:

- The case manager must notify the practitioner in writing of the decision to arrange a capability hearing. This notification should be made at least 28 calendar days before the hearing and include details of the allegations and the arrangements for proceedings including the practitioner's rights to be accompanied and any copies of documentation and evidence that will be made available to the capability panel. This period will give the practitioner sufficient notice to allow them to arrange for a companion to accompany them to the hearing if they so choose.
- All parties must exchange any documentation, including witness statements on which they wish to rely in the proceedings no later than 7 calendar days before the hearing. In the event of late evidence being presented, the employer should consider whether a new date should be set for the hearing.
- Should either party request a postponement to the hearing the case manager is responsible for ensuring that a reasonable response is made and that time extensions to the process are kept to a minimum. Employers retain the right, after a reasonable period (not normally less than 30 calendar days) to proceed with the hearing in the practitioner's absence, although the employer should act reasonably in deciding to do so.
- Should the practitioner's ill health prevent the hearing taking place the Trust should implement their usual absence procedures and involve the Occupational Health Department as necessary.
- Witnesses who have made written statements at the inquiry stage may but will not necessarily be required to attend the capability hearing. Following representations from either side contesting a witness statement which is to be relied upon in the hearing, the Chairman should invite the witness to attend. The chairman cannot require anyone other than an employee to attend. A final list of witnesses to be called must be given to both parties not less than 7 calendar days in advance of the hearing.

If witnesses required to attend the hearing choose to be accompanied, the person accompanying them will not be able to participate in the hearing.

#### 4.7.2 Postponement Requests

In the event of a postponement request, the Case Manager shall deal with the response and may agree time extensions. If the Practitioner requires a postponement of over 30 working days, the Chairman of the capability panel should consider the grounds for the request and if reasonable to do so may refuse the request and decide to proceed with the hearing in the Practitioner's absence if they refuse to attend.

#### 4.7.3 Panel Members

The panel for the capability hearing shall consist of at least three people including:

- An Executive Director of the Trust;
- A medical or dental Practitioner not employed by the Trust (following discussions with the Local Negotiating Committee (LNC) / Medical Staff Committee);
- A Trust Board Member

The Executive Director will normally act as Chairman of the panel.

If the Practitioner is a clinical academic, a further panel member may be appointed in accordance with any agreed protocol between the Trust and the relevant University.

The panel must be advised by:

- A senior member of staff from the People Directorate.
- A senior clinician from the same speciality as the Practitioner from another NHS employer. In the event this clinician cannot advise on the appropriate level of competence then a Practitioner from another NHS employer of the same grade as the Practitioner in question should be asked to advise.

It is for the Trust to decide on the membership of the panel. A practitioner may raise an objection to the choice of any panel member within 7 calendar days of notification. The employer should review the situation and take reasonable measures to ensure the membership of the panel is acceptable to the practitioner. It may be necessary to postpone the hearing while this matter is resolved. The Trust must provide the practitioner with the reasons for reaching its decision in writing before the hearing can take place.

#### 4.7.4 The Capability Hearing

The Chairman of the panel is responsible for ensuring the hearing is conducted properly and in accordance with the Trust's procedure.

The hearing is not a court of law. Whilst the practitioner should be given every reasonable opportunity to present their case, the hearing should not be conducted in a legalistic manner.

The Practitioner has the right to be accompanied at the hearing. The Case Manager may be assisted by the Case Investigator(s) (where they are not appearing as a witness) or a senior member of the People Directorate..

At all times during the hearing the panel, its advisers, the Practitioner, their representative and the Case Manager must be present. Once a witness has given evidence they shall leave the hearing.

### The procedure for the hearing

- The Case Manager presents the management case (which may be by reference to the Case Investigator's report or a separate statement of case); the management witnesses will be called in turn. Each will confirm their witness statement and provide any additional information. The Case Manager may ask additional questions. The Practitioner's representative may ask questions of the witnesses (if unrepresented the Practitioner may ask questions). The panel may question the witness. The Case Manager may then ask further questions to clarify any point but will not be able to raise new evidence;
- The Chairman may ask the Case Manager to clarify any issues arising from the management case;
- The Practitioner and/or their representative shall present their case and call any witnesses. The above procedure used for the management's witnesses shall be followed;
- The Chairman can request any points of clarification on the Practitioner's case;
- The Chairman shall invite the Case Manager to make a short closing statement summarising the key points of the management's case;
- The Chairman shall invite the Practitioner and/or his/her representative to make a short closing statement summarising the key points of their case. Where appropriate, this should include any grounds of mitigation; The panel shall retire to consider its decision.

### The Decision

The panel has the discretion to make a range of decisions. A non-exhaustive list of possible decisions includes:

- No action required;
- Verbal agreement by the Practitioner that there will be an improvement in clinical performance within a specified timescale confirmed in a written statement as to what is required and how it is to be achieved; Stays on the employees record for 6 months
- Written warning to improve clinical performance within a specified timescale with a statement which is required and how this can be achieved; stays on the employees record for one year.
- A final written warning that there must be improved clinical performance within a specified timescale and how this can be achieved; stays on the employees record for one year.
- Termination of employment.

It is also reasonable for the panel to make comments and recommendations on issues other than the competence of the practitioner, where these issues are relevant to the case. For example, there may be matters around the systems and procedures operated by the Trust that the panel wishes to comment upon.

The decision must be confirmed in writing to the Practitioner within 14 calendar days of the hearing and communicated to the Case Manager within the same timescale. The letter to the Practitioner must include reasons for the decision, confirmation of the right of appeal and notification of any intention to make a referral to the GMC/GDC or any other external professional body.

#### 4.7.5 Capability Appeals Procedure

##### Remit of the Appeal Panel

This appeal procedure shall relate to decisions of a capability panel. The remit of the appeal panel is to review the findings and procedure followed by the capability panel, and consider any new evidence. A full re-hearing of all evidence should not take place unless the Chairman of the appeal panel considers that proper procedures have not been followed at an earlier stage in the process and a full re-hearing is required in the interests of a fair process.

The appeal panel can hear any new evidence submitted by the Practitioner to consider whether this might have significantly altered the capability panel's decision. The Case Manager may call new evidence that is relevant to the new evidence called by the Practitioner and/or his or her representative.

##### The Appeal Panel

The appeal panel should consist of:

- An independent person (trained in legal aspects of appeals) from an approved pool appointed by the NHS Appointments Commission. This person will act as the Chairman of the appeal panel;
- The Trust's Chairman or another Non-Executive Director (other than the Designated Board Member);
- A medically/dentally qualified member who is not employed by the Trust (following discussions with the LNC/Medical Staff Committee). Where the Practitioner is a clinical academic, a further panel member may be appointed in accordance with any agreed protocol between the Trust and the relevant University.

The appeal panel may be advised by:

- A Consultant from the same speciality or sub-speciality of the Practitioner who is not employed by the Trust; and
- A senior Human Resource specialist.

The panel will be established by the Trust and advice should be sought from the Director of People.

The Practitioner shall be notified of the composition of the panel, where possible, 28 calendar days prior to the hearing. If the Practitioner objects to a panel member, the Director of People shall liaise with them or their representative to seek to reach agreement. In the event agreement cannot be reached, the objections will be noted.

##### Procedure and Time Limits in Preparation for the Appeal Hearing

The following steps shall be taken:

- Within 28 calendar days of the Practitioner receiving the capability panel's decision they must register their request to appeal with the Director of People, giving full grounds for the appeal;
- Within 28 calendar days of the appeal being lodged, the appeal hearing shall take place;

- At least 14 calendar days before the appeal hearing, the appeal panel shall notify the parties if it considers it is necessary to hear evidence from any witness. In the event the panel requires a witness to be called, the Chairman Shall liaise with the People Directorate for the witness to supply a written statement to both parties at the same time.

#### Conduct of the Appeal Hearing

The procedure for the hearing will be as follows:

- The Practitioner or their representative shall present a full statement of their case to the appeal panel which shall include all the grounds of appeal;
- The Case Manager and the panel shall be entitled to question the Practitioner or their representative on the grounds of appeal;
- The Practitioner or their representative shall present any additional evidence/witnesses. If they do so, the Case Manager and panel may ask questions;
- The Case Manager shall present a statement of the management case to the appeal panel which shall include the response to the grounds of appeal;
- The Practitioner and the appeal panel shall be entitled to question the Case Manager;
- The Case Manager shall present any additional evidence/witnesses in relation to any new evidence from the Practitioner or their representative and the panel may ask questions;
- The Case Manager shall sum up the management's case;
- The Practitioner or their representative shall sum up their case. At this stage a mitigation statement may be made.
- The appeal panel shall retire to make a decision.

#### The Decision of the Appeal Panel

The appeal panel may:

- Confirm the original decision of the capability panel;
- Amend the decision of the capability panel; or
- Order the case to be reheard in its entirety.

The appeal panel's decision and the reasons for it must be confirmed in writing to the Practitioner within 7 calendar days of the appeal hearing. A record of the decision shall be kept on the Practitioner's personnel file including a statement of the capability issues, the action taken and the reasons for those actions.

Where the appeal was about the Practitioner's dismissal, they will not be paid from the date of termination as decided by the original capability panel. However, if the Practitioner is reinstated following the appeal their pay shall be backdated to the date of termination of employment.

If the appeal panel decided that the whole case is to be reheard, the Practitioner shall be reinstated and be paid backdated salary to the date of termination. In this situation any conditions/restrictions on practice in place at the time of the original capability hearing shall be applied.

#### 4.7.6 Other Issues

#### Termination of Employment Pre-completion of Process

If a Practitioner leaves the Trust's employment prior to the conclusion of the above processes, the capability proceedings must be completed wherever possible. This applies whatever the personal circumstances of the Practitioner.

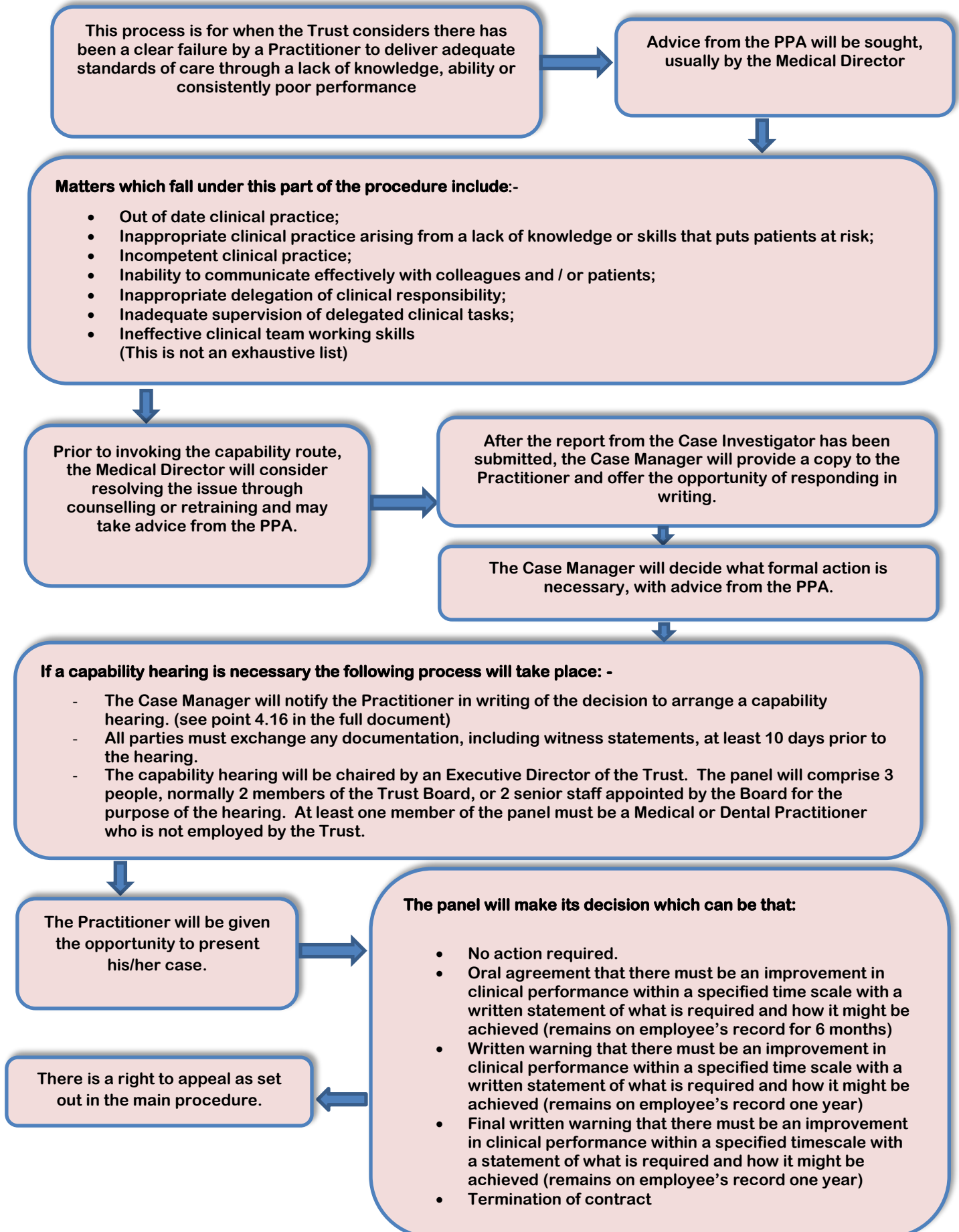
If the Practitioner cannot be contacted via their last known address/registered address, the Trust will need to decide on the capability issues raised based on the evidence it has and take appropriate action. This decision shall be made by the Chief Executive in conjunction with the Case Manager, Director of People and in consultation with the Designated Board Member. This action may include a referral to the GMC/GDC, the issue of an alert letter and/or referral to the police.

#### Sickness Absence of the Practitioner

Where during the capability process a Practitioner becomes ill, they shall be dealt with under the Trust's sickness absence procedure and Part 6 of this policy.

Where a Practitioner's employment is terminated on ill health grounds the Trust shall take the capability procedure to a conclusion.

## Procedure for dealing with issues of Capability



## SECTION E- HANDLING CONCERNS ABOUT A PRACTITIONER'S HEALTH

### 4.8 Introduction

This part applies to the following circumstances:

- where the Practitioner is absent from work due to ill health and no concerns have arisen about conduct or capability;
- where the issues of capability or conduct are decided by the Case Manager to have arisen solely as a result of ill health on the part of the Practitioner;
- where issues of ill health arise during the application of the procedures for addressing capability or conduct.

Separate procedures are set out below in respect of each of these eventualities.

This procedure should be read in conjunction with the Trust's Sickness Absence and Wellbeing Policy and Procedure.

A wide variety of health problems can have an impact on an individual's clinical performance. These conditions may arise spontaneously or be as a consequence of work place factors.

The principle for dealing with individuals with health problems is that, wherever possible and consistent with reasonable public protection, they should be treated, rehabilitated or re-trained (\*for example if they cannot undertake exposure prone procedures) and kept in employment rather than be lost from the NHS.

### 4.9 Retaining the services of individuals with health problems

Wherever possible the Trust should attempt to continue to employ the individual provided this does not place patients or colleagues at risk. These could include

- sick leave for the practitioner (the practitioner to be contacted frequently on a pastoral basis to stop them feeling isolated);
- remove the practitioner from certain duties
- re-assign them to a different area of work
- arrange re-training or adjustments to their working environment with appropriate advice from the PPA under reasonable adjustment provision in the Disability Discrimination Act 1995.

### 4.10 Reasonable adjustments

At all times the practitioner should be supported by the Trust and the Occupational Health Service who should ensure that the practitioner is offered every available resource to get back to practise where appropriate. Employers should consider what reasonable adjustments could be made to their workplace conditions or other arrangements.

In some cases, retirement due to ill health may be necessary. Ill health retirement should be approached in a reasonable and considerate manner, in line with NHS Pensions agency Advice. However, it is important that the issues relating to conduct or capability that have arisen are resolved using the agreed procedures where appropriate.



#### 4.11 Handling Health Issues

Where there is an incident that points to a problem with the practitioner's health, the incident may need to be investigated to determine a health problem. If the report recommends Occupational Health involvement the nominated manager must immediately refer the practitioner to a qualified, usually a consultant, occupational physician within the Occupational Health Service.

If a doctor's ill health makes them a danger to patients and they do not recognise that or are not prepared to co-operate with measures to protect patients, then exclusion from work must be considered and the professional regulatory body informed irrespective of whether or not they have retired on the grounds of ill health.

In cases where there is impairment of performance solely due to ill health, disciplinary procedures would only be considered in the most exceptional of circumstances, for example if the individual refuses to cooperate with the Trust to resolve the underlying situation e.g. by refusing a referral to the Occupational Health Service or to the PPA. In these circumstances the procedures in section D should be followed.

There will be circumstances where an employee who is subject to disciplinary proceedings puts forward a case, on health grounds, that the proceedings should be delayed, modified, or terminated. In such cases the Trust is expected to refer the doctor to the Occupational Health Service for assessment as soon as possible. Unreasonable refusal to accept a referral to or to co-operate with the Occupational Health Service under these circumstances may give separate grounds for pursuing disciplinary action.

## **Handling concerns about a Practitioner's health**

Wherever possible, the Trust will continue to employ individuals provided this does not place patients or colleagues at risk. In particular, the Trust will consider the following actions for staff with ill-health problems:-

- Sick leave for the practitioner (the practitioner to be contacted frequently on a pastoral basis to stop them feeling isolated);
- Remove the Practitioner from certain duties;
- Reassign them to a different area of work;
- Arrange re-training or adjustments to their working environment, with appropriate advice from the PPA and/or Deanery, under the reasonable adjustment provisions in the Disability Discrimination Act 1995 (DDA).

The above is not an exhaustive list.



At all times the Practitioner will be supported by the Trust and the Occupational Health Service which will ensure that the Practitioner is offered every available resource to get back to practice where appropriate. The Trust will consider what reasonable adjustments could be made to their workplace conditions or other arrangements, in line with the DDA. In particular, it will consider;

- Making adjustments to the premises;
- Re-allocating some of a disabled person's duties to another;
- Transferring an employee to an existing vacancy;
- Altering an employee's working hours or pattern of work;
- Assigning the employee to a different workplace;
- Allowing absence for rehabilitation, assessment or treatment;
- Providing additional training or re-training;
- Acquiring/modifying equipment;
- Modifying procedures for testing or assessment;
- Providing a reader or interpreter;
- Establishing mentoring arrangements.



In some cases retirement due to ill health may be necessary. Ill health retirement should be approached in a reasonable and considerate manner, in line with the NHS Pensions Agency advice. However, any issues relating to conduct or capability that have arisen will be resolved, using the appropriate agreed procedures.

## 5 EDUCATION AND TRAINING

To communicate the policy effectively the following strategy will be implemented:

- A training session to be delivered every two years to Case Investigators.
- A copy will be available for ease of access on the People Directorate website
- Raising awareness through induction of clinical staff

The PPA will be invited into the Trust to undertake case investigator/case manager training for Medical Managers.

## 6 MONITORING COMPLIANCE AND EFFECTIVENESS

The Trust board will be made aware of cases that are being managed using this procedure on a monthly basis.

## 7 EQUALITY IMPACT ASSESSMENT (please complete all sections of form)

Name of service/policy/procedure being reviewed: Handling Concerns Procedure for Medical and Dental Staff			
New or existing service/policy/procedure: Existing			
Date of Assessment: 14/10/2024			
<i>For the service/policy/procedure and its implementation answer the questions a – c below against each characteristic (if relevant consider breaking the policy or implementation down into areas)</i>			
Protected Characteristic	a) Using data and supporting information, what issues, needs or barriers could the protected characteristic groups' experience? For example, are there any known health inequality or access issues to consider?	b) What is already in place in the policy or its implementation to address any inequalities or barriers to access including under representation at clinics, screening?	c) Please state any barriers that still need to be addressed and any proposed actions to eliminate inequality
The area of policy or its implementation being assessed:			
Race and Ethnicity:	None	To treat all staff consistently and fairly hence monitoring at Performance Management meetings	None
Gender:	None	To treat all staff consistently and fairly hence monitoring at Performance Management meetings	None
Age:	None	To treat all staff consistently and fairly hence monitoring at	None

		Performance management meetings	
Religion / Belief:	None	To treat all staff consistently and fairly hence monitoring at Performance management meetings	None
Disability:	None	To treat all staff consistently and fairly hence monitoring at Performance management meetings	None
Sexuality:	None	To treat all staff consistently and fairly hence monitoring at Performance management meetings	None
Pregnancy and Maternity:	None	To treat all staff consistently and fairly hence monitoring at Performance management meetings	None
Gender Reassignment:	None	To treat all staff consistently and fairly hence monitoring at Performance management meetings	None
Marriage and Civil Partnership:	None	To treat all staff consistently and fairly hence monitoring at Performance management meetings	None
Socio-Economic Factors (i.e. living in a poorer neighbourhood / social deprivation):	None	To treat all staff consistently and fairly hence monitoring at Performance management meetings	None

What consultation with protected characteristic groups including patient groups have you carried out?  
Discussion with the LNC Sub Group and LNC.

What data or information did you use in support of this EqIA?

•

As far as you are aware are there any Human Rights issues be taken into account such as arising from surveys, questionnaires, comments, concerns, complaints or compliments? None

#### Level of impact

From the information provided above and following EqIA guidance document please indicate the perceived level of impact:


Low Level of Impact

For high or medium levels of impact, please forward a copy of this form to the HR Secretaries for inclusion at the next Diversity and Inclusivity meeting.

Name of Responsible Person undertaking this assessment:

**Head of Medical Workforce**

Signature:



Date: : **11/10/24**