


## TRUST POLICY FOR DEALING WITH CONCERNS RELATING TO MEDICAL AND DENTAL DOCTORS

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<b>Version / Amendment History</b>	<b>Version</b>	<b>Date</b>	<b>Author</b>	<b>Reason</b>
	2	January 2023	Caroline Forman, Responsible Officer Support Manager / Mortality Review Assurance Support Manager	Updated Policy.
<b>Intended Recipients:</b> Medical and Dental Doctors, People Services Managers and Advisors, Divisional Medical Directors, Clinical Directors, Divisional / Business Unit Managers, Medical Appraisers, Medical Responsible Officer's Forum, Medical Appraisal and Revalidation Group.				
<b>Training and Dissemination:</b> Communication via NET-i, Briefings at: Appraisers' Forum, People Service Managers Meeting, Medical Responsible Officer's Forum, Appraisal and Revalidation Group.				
<b>To be Read in Conjunction with:</b>				
<ul style="list-style-type: none"> <li>• GMC - Good Medical Practice</li> <li>• GDC – Standards for the Dental Team</li> <li>• Department of Health – Maintaining High Professional Standards in the Modern NHS</li> <li>• NHS Just Culture Guide</li> <li>• NHR Back on Track: A Good Practice Guide</li> <li>• Policy and Procedure for Health, Wellbeing and Attendance</li> <li>• Maintaining a Safe Environment (Incorporating the Management of Threatening Behaviours in the Workplace) Policy</li> <li>• Disciplinary Policy – Overarching Policy</li> <li>• Inclusion Policy - Overarching Policy for University Hospitals of Derby and Burton NHS Foundation Trust</li> <li>• Medical Appraisal Policy to Support Revalidation for Non-Training Grade Doctors</li> <li>• Equality Act 2010</li> <li>• Policy and Procedure for the Remediation of Medical and Dental Doctors (Capability and Conduct)</li> </ul>				
<b>In Consultation:</b>				
<ul style="list-style-type: none"> <li>• Medical Responsible Officer's Forum – 18/10/2022</li> <li>• Joint Local Negotiation Committee - 12/01/2023</li> </ul>				
<b>EIRA Stage One</b>		Completed Yes		
<b>Stage Two</b>		Completed No		
<b>Approving Body and Date Approved</b>			Trust Delivery Group - February 2023	
<b>Date of Issue</b>			February 2023	

<b>Review Date and Frequency</b>	February 2026 (and then every three years)
<b>Contact for Review</b>	Responsible Officer Support Manager / Mortality Review Assurance Support Manager
<b>Executive Lead Signature</b>	 James Crampton, Executive Medical Director

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# **TRUST POLICY FOR DEALING WITH CONCERNS RELATING TO MEDICAL AND DENTAL DOCTORS**

## **1. SCOPE**

This Policy covers all non-training grade medical and dental doctors (hereafter referred to as doctors) employed by the Trust and for whom the Trust is the Designated Body (DB) and in addition those on honorary contracts, whether employed on National or Trust Terms and Conditions, irrespective of their place of work ie includes locally employed doctors.

The Policy has been developed to support the management of concerns about medical and dental doctors across the Trust with a focus on early intervention and prevention and effective use of the low-level concerns process with the expected outcome of the potential for restriction or exclusion from practice avoided. The Policy ensures adherence with the requirements of MHPS. and identifies the support that is available for colleagues who are involved in this process and ensures that the process remains fair, proportionate and that doctors feel supported and engaged throughout. This policy aligns to the Trust values, so that people affected are treated with respect and compassion. Clearly defined roles and responsibilities are outlined as well as the need for appropriate support for those involved at any stage of the process.

In order to support consistent, constructive and fair evaluation of the actions of staff involved in patient safety incidents the NHS Just Culture guide should be referred to. (Appendix 5)

Where there are concerns about a doctor in training, these should initially be discussed with the Educational Supervisor and may need to be escalated to the Medical Director Medical Education who will contact the appropriate Postgraduate Dean at Health Education England for the East or West Midlands where necessary. Some aspects of this policy will apply to doctors in training and the principles of this policy will be followed unless the issues is agreed to be a training matter.

Please refer to MHPS and the Trust's Policy and Procedure for Health, Wellbeing and Attendance for guidance in respect of health issues.

## **2. EQUALITY AND DIVERSTIY**

The Trust is committed to preventing discrimination, valuing diversity and achieving equality of opportunity. No person (staff, patient or public) will receive less favourable treatment on the grounds of the nine protected characteristics (as governed by the Equality Act 2010): sexual orientation; gender; age; gender re-assignment; pregnancy and maternity; disability; religion or belief; race; marriage and civil partnership. In addition to these nine, the Trust will not discriminate on the grounds of domestic circumstances, social-economic status, political affiliation or trade union membership.

The Trust is committed to ensuring all services, policies, projects and strategies undergo equality analysis.

## **3. PURPOSE AND OBJECTIVES**

The purpose of this Policy is to provide a framework and processes to follow when considering assessing and managing identified concerns that affect doctors including matters of conduct and capability.

Through implementation of this Policy, the Trust aims to:

- To provide guidance and support to all involved in assessing and managing or subject to low level concerns
- To ensure relevant matters are dealt with according to the statutory framework set out in "Maintaining High Professional Standards in the Modern NHS" (MHPS).

#### 4. DEFINITIONS

Term	Definition
<b>Capability</b>	<p>A doctor's ability to perform their work to the required standard.</p> <p>Examples of concerns relating to capability may include:</p> <ul style="list-style-type: none"> <li>• Out of date clinical practice</li> <li>• Inappropriate clinical practice arising from a lack of knowledge or skills that puts patients at risk</li> <li>• Incompetent clinical practice</li> <li>• Repeated inability to communicate effectively</li> <li>• Inappropriate delegation of clinical responsibility</li> <li>• Inadequate supervision of delegated clinical tasks</li> <li>• Repeated ineffective clinical team working skills.</li> </ul>
<b>Concerns</b>	<p>A concern about a doctor's practice can be said to have arisen where an incident causes, or has the potential to cause, harm to a patient, staff or the Trust: or where the doctor develops a pattern of repeating mistakes or appears to behave persistently in a manner inconsistent with the standards described in Medical Good Practice (GMC 2006) or GDC Standards for the Dental Team.</p> <p>Minor concerns may be:</p> <ul style="list-style-type: none"> <li>• Inability to communicate effectively</li> <li>• Poor timekeeping</li> <li>• Unauthorised absence from duty</li> <li>• Ineffective team working skills.</li> </ul> <p>Significant concerns may be:</p> <ul style="list-style-type: none"> <li>• A critical incident when serious allegations have been made</li> <li>• A break down in relationships between a doctor and all or a significant proportion of the medical team.</li> </ul>
<b>Conduct</b>	The way doctors behave their actions and their attitudes.
<b>Misconduct</b>	Conduct which is unacceptable, and which may result in disciplinary action being taken. This will initially be a warning. However, if there is insufficient improvement, misconduct could ultimately result in dismissal.
<b>Gross Misconduct</b>	Conduct which indicates that the doctor no longer intends to be bound by their duties or destroys the trust and confidence the Trust must have in a doctor. Gross misconduct will normally result in dismissal.
<b>Exclusion</b>	Exclusion from duties, either formal or immediate, with the employment

	relationship continuing, pending an investigation / outcome.  NHSR and the Designated Board Member (DBM) should also be advised of any exclusion. The Trust Policy for the Remediation of Medical and Dental Staff (Capability and Conduct) should also be referred to.
<b>Informal Action</b>	Advice, support, and guidance which should precede formal action in order to rectify minor faults in conduct, other than in cases of gross misconduct, or failure to perform at the required standard.
<b>Rehabilitation</b>	The supervised period and activities for restoring a doctor to independent practice, by overcoming or accommodating physical or mental health problems.
<b>Remediation</b>	The process of addressing performance concerns pertaining to a doctor's knowledge, skills and behaviours, that have been recognised through assessment, investigation, review or appraisal, in order that the doctor has the opportunity to return to safe practice. It is an umbrella term for all activities which provide help, from the simplest advice, through formal mentoring, further training, reskilling and rehabilitation. See Trust's Remediation of Medical and Dental Doctors (Capability and Conduct) Policy.
<b>Restriction of Practice</b>	Where it is necessary to temporarily amend or restrict the doctor's clinical duties.
<b>Reskilling</b>	Reskilling is the provision of training and education to address an identified lack of knowledge, skills, and application, so that the doctor can demonstrate their competence in those specific areas.

## 5. KEY RESPONSIBILITIES

<b>Role</b>	<b>Responsibility</b>
<b>The Trust</b>	<ul style="list-style-type: none"> <li>• Ensure patient safety and the provision of the highest quality of patient care</li> <li>• Enable its employees to meet the standard of performance expected of them. This includes identifying concerns and the provision of structures and processes to enable effective remediation and rehabilitation to occur in line with local and national guidance</li> <li>• Ensure that all doctors have the opportunity to revalidate and will therefore support doctors in following the appropriate remediation process and programmes where there are concerns that the standards required for revalidation may not be met</li> <li>• Offer early intervention when justifiable concerns emerge over the capability, conduct or health of a doctor, with the aim wherever possible of remediation, re-skilling or rehabilitation. All concerns should be dealt with quickly and appropriately. In all circumstances the safety of patients will be paramount and underpin any remediation programme</li> <li>• Always maintain confidentiality and ensure fairness for the individual except for when necessary to protect the public or report to the police.</li> </ul>
<b>Chief Executive Officer (CEO)</b>	The CEO has delegated authority to the Responsible Officer (RO) and the Medical Responsible Officer's Forum (ROF) on a day-to-day basis to

	consider and determine the most appropriate course of action to be taken when concerns are raised about the conduct or capability of a doctor within the Trust.
<b>Designated Board Member (DBM)</b>	<ul style="list-style-type: none"> <li>• A Non-Executive Director (NED) of the Trust appointed by the CEO in consultation with the Chairman to ensure that the processes set out in this policy are followed accordingly adhering to MHPS and overseeing exclusions and ensuring that follow up action is taken</li> <li>• The NED does not make decisions on any of the issues, such as whether or not to restrict or exclude a doctor from work. The NED will be the point of contact for the doctor under investigation</li> </ul>
<b>RO / Executive Medical Director (EMD)</b>	<ul style="list-style-type: none"> <li>• Is accountable for the quality assurance of the appraisal and clinical governance systems in the organisation.</li> <li>• Responsible for investigating, monitoring and responding to concerns about a doctor's practice.</li> <li>• Ensuring any follow-up action is taken, that comprehensive records are kept of all appraisals and for making recommendations for revalidation to the GMC.</li> </ul>
<b>Director of People Services Projects</b>	<ul style="list-style-type: none"> <li>• Ensure disciplinary appeal outcomes are monitored to ensure there is no bias in accordance with the Trust's Inclusion Policy and will provide support and advice to the RO when necessary.</li> </ul>
<b>Medical Appraisal Lead (MAL)</b>	<ul style="list-style-type: none"> <li>• Support the RO in the quality assurance and reporting arrangements for the medical appraisal system.</li> </ul>
<b>Medical Appraiser</b>	<ul style="list-style-type: none"> <li>• Responsible for ensuring they are adequately trained and supported to undertake their role</li> <li>• In circumstances when an appraiser has concerns relating to patient safety or performance which has arisen within the appraisal discussion, the appraisal must be halted and the matter reported to the RO via the MAL.</li> </ul>
<b>Divisional Medical Directors / Clinical Directors (DMDs / CDs)</b>	<ul style="list-style-type: none"> <li>• Utilise a range of support mechanisms and tools to assist the doctor.</li> </ul>
<b>Medical Responsible Officer's Form</b>	<ul style="list-style-type: none"> <li>• An advisory group of both clinical and non-clinical membership which will meet to consider any concerns raised involving doctors informed by the aforementioned individuals, in order to establish the level of concern and recommend appropriate intervention and resolution to include whether or not more serious investigation, restriction to / exclusion from practice, is required</li> <li>• Provide assurance that measures are in place to effectively manage and resolve all known performance concerns for medical staff and demonstrate that any on-going concerns are being appropriately monitored and reviewed on a regular basis</li> <li>• Provide consistent advice and guidance to Case Managers (CMs).</li> </ul> <p>The ROF takes place on alternate weeks. However, where a decision to restrict or exclude the doctor has been reached an extraordinary ROF will be convened within 48 hours.</p>

	<ul style="list-style-type: none"> <li>• See Appendix 1 for Terms of Reference for ROF.</li> </ul>
<b>NHS Resolution (NHSR)</b>	<ul style="list-style-type: none"> <li>• An arm's-length body of the Department of Health and Social Care. They provide expertise to the NHS on resolving concerns and disputes fairly, sharing learning for improvement and preserving resources for patient care.</li> </ul>
<b>General Medical Council (GMC) - Medical Doctors Only</b>	<p>The role of the GMC in Revalidation is closely linked to the output of the appraisal process. A recommendation will be made to the GMC by the RO about the doctor's suitability for Revalidation. If the concern identified, whether relating to clinical performance, health or conduct, is so serious as to call into question the doctor's license to practice then the GMC's advice must be taken.</p>
<b>General Dental Council (GDC)</b>	<p>The GDC can look into serious concerns about the ability, health or behaviour of a dental professional that suggest the professional could:</p> <ul style="list-style-type: none"> <li>• Cause significant harm to patients</li> <li>• Cause significant harm to colleagues or the general public</li> <li>• Undermine public confidence in the dental profession.</li> </ul>
<b>Case Managers (CM)</b>	<p>A suitably appointed medical doctor, who has responsibility for overseeing investigations into concerns about a doctor.</p>
<b>Case Investigators (CI)</b>	<p>Appointed by the CM who holds responsibility for carrying out a formal investigation of the facts into concerns about a doctor. The CI must carry out appropriate and thorough investigation of the concerns as specified in the Terms of Reference issued by the CM.</p>
<b>Doctors</b>	<ul style="list-style-type: none"> <li>• Ensure that they are able to demonstrate, through the appraisal process, that they meet the GMC'S Good Medical Practice Standards / GDC'S Standards for the Dental Team</li> </ul> <p>If remediation is necessary doctors will actively engage with the Trust in identifying and accepting support and working collaboratively to take the necessary steps to ensure resolution of any issues.</p>
<b>Well Online (CiC) Confidential Care</b>	<p>The Trust works in partnership with CiC to provide the Confidential Care Programme - a confidential service offering counselling, coaching, advice and support twenty-four hours a day, seven days a week which is accessible for all Trust employees and their family members over the age of 18 and living in the same household.</p> <p>The service includes:</p> <ul style="list-style-type: none"> <li>• Telephone counselling</li> <li>• Face-to-face counselling (six sessions)</li> <li>• Legal advice</li> <li>• Financial advice</li> <li>• Consumer information</li> <li>• Family and matrimonial advice</li> <li>• Management guidance</li> <li>• Online Employee Assistance Programme</li> <li>• Access for dependents and partners.</li> </ul> <ul style="list-style-type: none"> <li>• Contact details are available through the Trust's intranet site or People Services (PS).</li> </ul>
<i>Coaching</i>	<ul style="list-style-type: none"> <li>• Coaching is available to any staff member and provides a confidential safe environment where individuals can explore</li> </ul>



	<p>issues, enabling them to discover strengths, explore areas for development and learn from mistakes. The Trust has qualified coaches who are trained to listen and use questioning to facilitate thought and discussion</p> <ul style="list-style-type: none"> <li>• There are many benefits to coaching, including increased motivation and commitment, improved decision making, greater self-awareness, and improved ability to deal with change, increased confidence and self-reliance</li> <li>• Information is available on the Trust’s intranet site or from Learning and Development.</li> </ul>
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## 6. IDENTIFYING A CONCERN

Concerns about a doctor’s performance may be raised at any time and should be dealt with promptly and feedback given to those raising the concern to assure them that the issues are being addressed. These may be of a varied nature (see Appendix 1- although this list is not exhaustive).

Where concerns do arise through the appraisal process, both the appraiser and the appraisee need to recognise that as registered medical doctors they must protect patients if they believe that a colleague’s health, conduct or performance is a potential risk to patient safety. If, as a result of the appraisal process, the appraiser believes that the activities of the appraisee are such as to put patients at risk, then the appraisal should be stopped and the matter referred to the MAL. This would happen only on the rarest of occasions. However, a doctor’s appraisal for revalidation has to take place annually, arrangements should therefore be made as quickly as possible for the appraisal to be re-scheduled.

A concern about a doctor’s practice can arise where a known issue or an incident causes or has the potential to cause harm to either a service user, staff member or the organisation; or where a doctor develops patterns of repeating mistakes in a manner inconsistent with Good Medical Practice. There will be different levels of the concerns identified and not all will need or require formal investigation, restriction to / exclusion from practice or lead to a disciplinary sanction. In fact, the vast majority of concerns will be low level in nature and will be dealt with in a supportive manner, using reflective practice. Please consider that some concerns will have to be managed in line with this and other relevant Trust policies and procedures.

A situation may arise from a doctor having significant career / organisational break or other absence from practice. For example, this might have arisen through suspension / exclusion, a change in career path, ill health, maternity leave, carer’s leave or other types of statutory leave, or a period working outside the NHS or the UK. Whether a break is significant will be a matter for judgement by the RO (absence from practice for 6 months or more is a reasonable guide).

To ensure fairness and equality it is very important when considering this Policy that consideration is given to the potential impact of any health-related issues or protected characteristic:

- Race (including Gypsy and Traveller)
- Disability (includes physical, learning, mental health, sensory and medical disabilities)
- Sex
- Gender reassignment (Transgender and gender identity)
- Sexual Orientation (Lesbian, Gay, Bisexual and Heterosexual etc.)

- Age (includes, young people, older people – people of all ages)
- Religion or Belief (includes faith groups, atheism and philosophical belief's)
- Pregnancy and Maternity (includes pregnancy, women who are breastfeeding and women on maternity leave)
- Marriage and Civil Partnership (includes opposite and same sex couples who are married or civil partners)

Cultural issues, health related matters and the above protected characteristics can have a significant influence on the conduct, behaviour, and performance of staff. Therefore, it is important that regular assessments are made with staff involved at any stage of this policy in order to identify potential relevant factors and if necessary put in place adjustments or take action to ensure that individuals are effectively supported in maintaining the standards of conduct outlined and to enable full participation. For any advice or guidance on issues of equality or diversity contact members of the Equality, Diversity and Inclusion Team.

The Trust will work with universities to ensure that jointly agreed procedures are in place for dealing with any concerns about clinical academics / consultants with honorary contracts.

## **7. DECIDING A COURSE OF ACTION**

A stop the clock moment should be undertaken by the CD and ACD prior to cases being discussed at ROF using the Just Culture decision making process (Appendix 5).

The ROF will consider the concern(s), determine the seriousness and the applicable response. The response will be one of the following:

- No action required
- Informal action for minor concerns will be addressed immediately and then recorded in the annual appraisal - for conduct / capability issues
- Remedial action – following the Trust's Policy for Remediation of Medical and Dental Staff (Capability and Conduct) Policy where, for example, there has been a clear failure by an individual to deliver an acceptable standard of care, or standard of clinical management, through lack of knowledge, ability or consistently poor performance
- Commission an investigation for significant misconduct or gross misconduct concerns
- Consideration of immediate restricted practice - for significant conduct and / or capability concerns
- Refer any health issues to the relevant clinical manager for management in accordance with the Trust's Policy and Procedure for Health, Wellbeing and Attendance and MHPS.

The DMD will ensure that the doctor is updated on any recommendations and actions being taken.

The RO will contact NHSR:

- If there are general concerns about a doctor's performance, conduct or competence
- If there are concerns that might require exclusion or restricted practice
- In any other situation where the RO and / or ROF is unsure how to proceed.

### **Minor Concern – Capability / Conduct - Informal Action through Appraisal**

Please refer to stop the clock moment undertaken by ACD and CD.

### **Significant Concern – Capability**

In respect of a significant clinical capability concern being identified and confirmed by the ROF, the doctor will be managed under the Trust's Policy for Remediation of Medical and Dental Staff (Capability and Conduct) and action will include the development of an agreed remediation action plan.

### **Significant Concern - Conduct**

For misconduct and / or gross misconduct an investigation will be undertaken and the Trust's Disciplinary Policy will be followed. In the event a remediation need is identified following the conclusion of a formal disciplinary or fitness to practice investigation, the Trust's Policy for Remediation of Medical and Dental Staff (Capability and Conduct) will be enacted and the doctor informed.

### **Referral to the GMC / GDC**

In all cases, the ROF will determine if a concern is sufficient to warrant referral to the GMC or GDC as a potential Fitness to Practice issue. If referral is deemed necessary this will be undertaken by the RO following consultation with the GMC ELA and the doctor informed.

## **8. DEALING WITH IMMEDIATE CONCERNS**

Where there are immediate concerns ie a potential risk to staff and / or patients, or the concerns are serious enough to warrant an immediate decision regarding the action required, the RO should be made aware as soon as possible.

The RO will determine whether there is a need to restrict the doctor's practice and / or exclude from the workplace until such time as the ROF have met and agreed a course of action following discussion with NHSR.

## **9. RESTRICTING THE PRACTICE OF A DOCTOR**

When significant issues are identified which may affect patient safety, the RO will consider whether it is necessary to place temporary restrictions on an individual's practice. Where the RO is considering restriction from practice this should be discussed with NHSR prior to the exclusion being made.

Restriction of practice may include:

- Introducing appropriate medical supervision of normal contractual clinical duties
- Restricting the doctor to certain forms of clinical duties
- Restricting activity to administrative, research / audit, teaching and other educational duties. By mutual agreement between the parties the latter may include some formal retraining or re-skilling
- Working in an alternative, possibly non-clinical role by mutual agreement

- Re-distributing the team's clinical and non-clinical duties by agreement with the relevant parties
- Sick leave / medical exclusion for the investigation of specific health concern.

## **10. EXCLUSION FROM WORK (See Appendix 1)**

Exclusion is a neutral act and not a presumption of guilt.

The purpose of exclusion is to protect the interests of patients or other staff. Exclusion should be considered when there is a clear risk the doctor's presence would impede the gathering of evidence or where there has been a breakdown in relationships within a team which has the potential to significantly endanger patient care.

The procedures for exclusion should be followed as set out in the Trust's Disciplinary Policy and MHPS.

NHSR must be notified in cases where the Trust is considering exclusion or restriction from practice. In addition, at any point where the RO / ROF have reached a judgment that a doctor is to be the subject of exclusion, the regulatory body will also be notified.

The appropriate DBM should also be advised of any exclusion.

Exclusions process to ensure compliance with good practice

[Exclusions process to ensure compliance with good practice \(resolution.nhs.uk\)](https://resolution.nhs.uk)

NB All meetings with Practitioners should be attended by EMD or Deputy and HR representation. Letters to practitioners will be drafted by HR and signed by EMD. The MDO will monitor the review of exclusions.



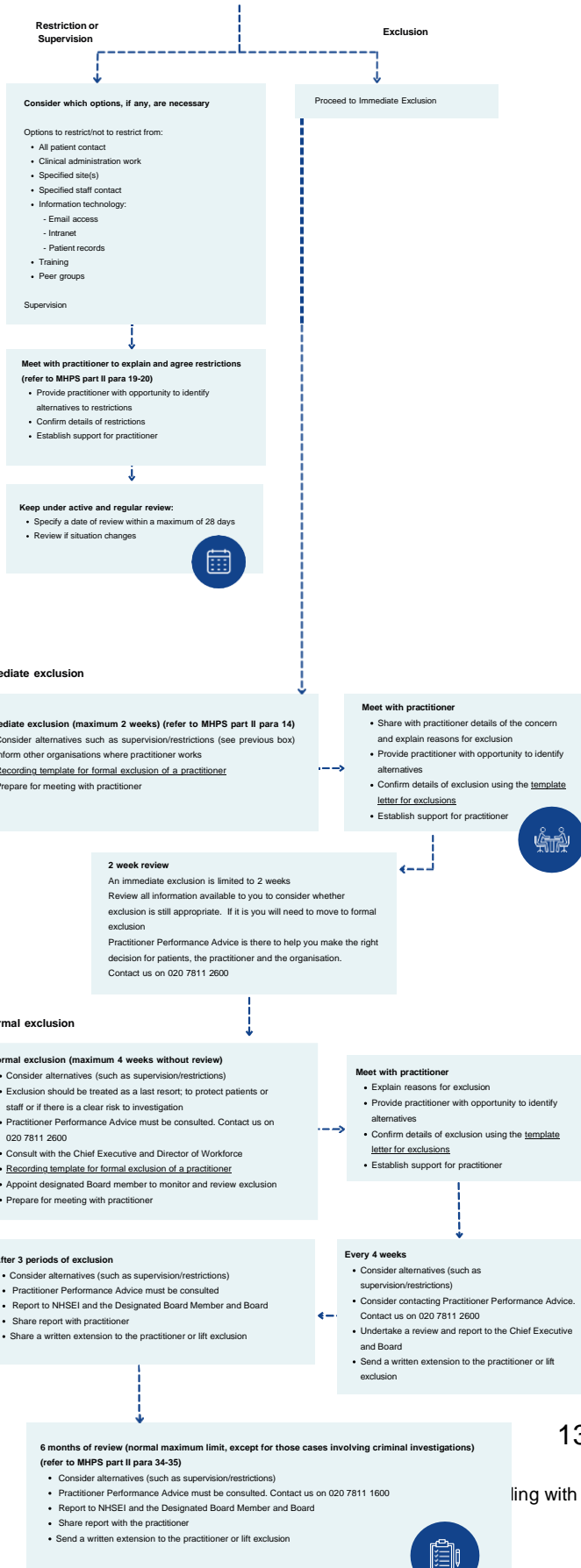
**Consider restriction or exclusion (refer to MHPS part II para 1-4)**

- Does the practitioner present a risk to patients or staff?
- Is there a risk that the practitioner's presence would impede the gathering of evidence?

**If the answer to both the above is "no" you should not be considering exclusion**

- Can the risk be mitigated by restrictions or supervision (see box below)?
- Is the practitioner unwell (refer to MHPS para II para 7)?

Practitioner Performance Advice is there to help you make the right decision for patients, the practitioner and the organisation. Contact us on 020 7811 2600



**ISSUES AFFECTING A DOCTOR'S PERFORMANCE**

<b>Skills and Knowledge Deficit</b>	<ul style="list-style-type: none"> <li>• A lack of training and education</li> <li>• A lack of engagement with PDP and / or maintenance of performance</li> <li>• A doctor trying to take on clinical work that is beyond their current level of skill and experience.</li> </ul>
<b>Conduct</b>	<ul style="list-style-type: none"> <li>• Poor / inappropriate communication with patients</li> <li>• Poor / inappropriate communication with colleagues</li> <li>• Poor / inappropriate communication with management</li> <li>• Conflicting / inappropriate management styles</li> <li>• Failure of / unresponsive to collaborative working</li> <li>• Antagonistic leadership style</li> <li>• Deliberate disruptive behaviour eg inappropriate actions / inactions particularly those that have the potential to impact upon the overall delivery of patient care.</li> </ul>
<b>Concerns relating to Capability</b>	<ul style="list-style-type: none"> <li>• Lack of clinical knowledge, competence</li> <li>• Hesitance in / poor clinical decision making (including making a diagnosis)</li> <li>• Prescribing errors</li> <li>• Poor record keeping, not following guidelines, failing to work to policies and procedures.</li> <li>• Doctor's own concerns</li> <li>• A doctor raises issues of concern about themselves, a colleague or an organisational matter.</li> </ul>
<b>Environment</b>	<ul style="list-style-type: none"> <li>• Organisational issues, including systems or process failures, lack of resources, such as poorly maintained equipment, inadequate secretarial support, computer equipment etc. unrealistic work demands, poor clinical management, poor support and substandard working environments.</li> </ul>
<b>Health Concerns including Capacity and / or Capability</b>	<ul style="list-style-type: none"> <li>• Physical and mental health concerns eg depression, hypomania, anxiety, stress and exhaustion / burnout</li> <li>• Substance, alcohol misuse</li> <li>• Indicators of cognitive impairment</li> <li>• Decrease in manual dexterity</li> <li>• Sight or speech impediment</li> <li>• Long term health conditions</li> <li>• Disability</li> <li>• Illness during pregnancy</li> </ul>
<b>Probity</b>	<ul style="list-style-type: none"> <li>• Boundary issues</li> <li>• Altering clinical records</li> <li>• Conflicts of interest.</li> </ul>
<b>Criminal Behaviour</b>	<ul style="list-style-type: none"> <li>• Falsifying expenses</li> <li>• Theft</li> <li>• Assault.</li> </ul>

**RESPONSIBLE OFFICER’S FORUM**

**TERMS OF REFERENCE**

<b>AUTHORITY &amp; ACCOUNTABILITY:</b>	People and Culture Committee
<b>PURPOSE:</b>	The Executive Medical Director (EMD) has agreed to form a Group that will report to the People and Culture Committee. The Group will discuss, advise and agree on actions required in response to concerns raised about or support required for an individual doctor or group of doctors howsoever the issue is raised to the EMD.
<b>CHAIR &amp; MEMBERSHIP:</b>	Key Membership <ul style="list-style-type: none"> <li>• Executive Medical Director (Responsible Officer and Chair)</li> <li>• Chief People Officer</li> <li>• Director of People Services Operation</li> <li>• Divisional Medical Directors</li> <li>• Medical Director Quality and Safety</li> <li>• Medical Director Medical Education</li> <li>• Lay Consultant / Specialty Doctor (3 year tenure).</li> </ul>
<b>ADMINISTRATION:</b>	Medical Director’s Office
<b>QUORUM:</b>	<ul style="list-style-type: none"> <li>• Executive Medical Director (or Nominated Deputy eg DMD or Medical Director for Quality and Safety)</li> <li>• Chief People Officer (or Deputy)</li> <li>• Two Divisional Medical Directors</li> </ul>
<b>FREQUENCY OF MEETINGS:</b>	Fortnightly
<b>REPORTING ARRANGEMENTS:</b>	People and Culture Committee
<b>DUTIES:</b>	<p>The agenda will comprise:</p> <ul style="list-style-type: none"> <li>• New and current cases</li> <li>• Cases for information purposes only</li> <li>• MPIT and appraisal issues</li> <li>• Discuss long term sickness cases that require escalation to this forum</li> <li>• New Never Events and Serious Incidents involving doctors.</li> </ul> <p>A pen portrait will be constructed and will describe the date when the concern was raised, the issues, the actions required and</p>

	<p>updates as relevant, and date when case closed.</p> <p>This action log will be stored electronically on a secure server not on a computer hard drive.</p> <p>Due to the very sensitive nature of issues discussed, confidentially will always be maintained and all documents password protected.</p>
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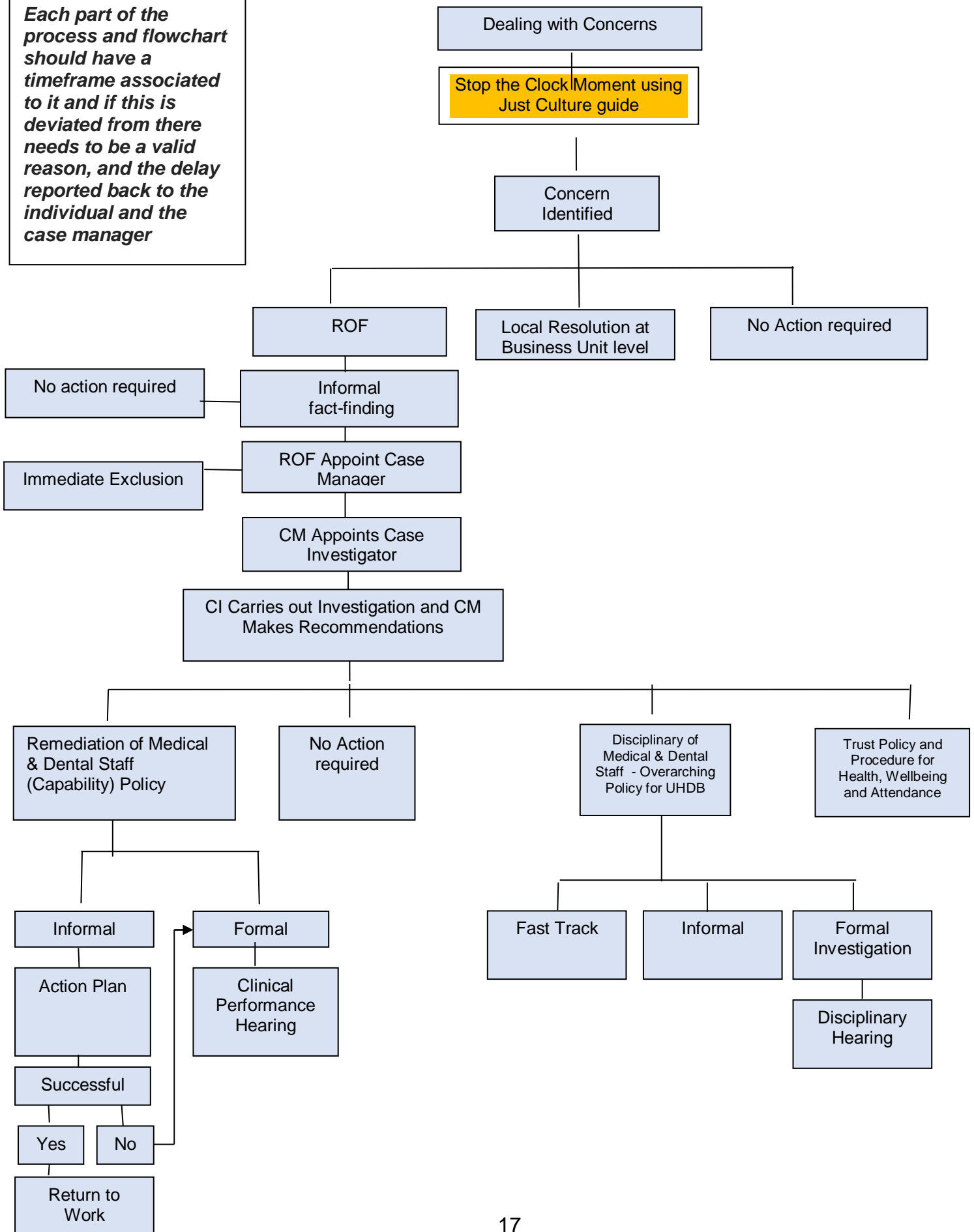
**Document Control:**

Approved by Committee:	
Approved by Trust Board:	
Date for Review:	



**APPENDIX 4**

*Each part of the process and flowchart should have a timeframe associated to it and if this is deviated from there needs to be a valid reason, and the delay reported back to the individual and the case manager*



# APPENDIX 5

## NHS Just Culture Guide ([NHS 0932 JC Guide A3 \(england.nhs.uk\)](https://www.nhs.uk/0932-jc-guide-a3/))



### A just culture guide

Supporting consistent, constructive and fair evaluation of the actions of staff involved in patient safety incidents

The guide supports a conversation between managers about whether a staff member involved in a patient safety incident requires specific individual support or intervention to work safely. Action singling out an individual is rarely appropriate - most patient safety issues have deeper causes and require wider action. The actions of staff involved in an incident should not automatically be examined using this just culture guide, but it can be useful if the investigation of an incident begins to suggest a concern about an individual actor. The guide highlights important principles that need to be considered before formal management action is directed at an individual staff member.

An important part of a just culture is being able to explain the approach that will be taken if an incident occurs. A just culture guide can be used by all parties to explain how they will respond to incidents, as a reference point for organisational HR and incident reporting policies, and as a communication tool to help staff, patients and families understand how the appropriate response to a member of staff involved in an incident can and should differ according to the circumstances in which an error was made. As well as protecting staff from unfair targeting, using the guide helps protect patients by removing the tendency to treat wider patient safety issues as individual issues.

**Please note:**

- A just culture guide is not a replacement for an investigation of a patient safety incident. Only a full investigation can identify the underlying causes that need to be acted on to reduce the risk of future incidents.
- A just culture guide can be used at any point of an investigation, but the guide may need to be reviewed as more information becomes available.
- A just culture guide does not replace HR advice and should be used in conjunction with organisational policy.
- The guide can only be used to take one action (or failure to act) through the guide at a time. If multiple actions are involved in an incident they must be considered separately.

#### Start here - Q1. deliberate harm test

1a. Was there any intention to cause harm?



Yes

**Recommendation:** Follow organisational guidance for appropriate management action. This could involve: contact relevant regulatory bodies, suspension of staff, and referral to police and disciplinary processes. Wider investigation is still needed to understand how and why patients were not protected from the actions of the individual.

END HERE

#### No go to next question - Q2. health test

2a. Are there indications of substance abuse?



Yes

**Recommendation:** Follow organisational substance abuse at work guidance. Wider investigation is still needed to understand if substance abuse could have been recognised and addressed earlier.

END HERE

2b. Are there indications of physical ill health?



Yes

**Recommendation:** Follow organisational guidance for health issues affecting work, which is likely to include occupational health referral. Wider investigation is still needed to understand if health issues could have been recognised and addressed earlier.

END HERE

2c. Are there indications of mental ill health?



Yes

**Recommendation:** Follow organisational guidance for health issues affecting work, which is likely to include occupational health referral. Wider investigation is still needed to understand if health issues could have been recognised and addressed earlier.

END HERE

#### If No to all go to next question - Q3. foresight test

3a. Are there agreed protocols/accepted practice in place that apply to the action/omission in question?



If No to any

**Recommendation:** Action singling out the individual is unlikely to be appropriate; the patient safety incident investigation should indicate the wider actions needed to improve safety for future patients. These actions may include, but not be limited to, the individual.

END HERE

3b. Were the protocols/accepted practice workable and in routine use?



If No to any

**Recommendation:** Action singling out the individual is unlikely to be appropriate; the patient safety incident investigation should indicate the wider actions needed to improve safety for future patients. These actions may include, but not be limited to, the individual.

END HERE

3c. Did the individual knowingly depart from these protocols?



If Yes to any

**Recommendation:** Action singling out the individual is unlikely to be appropriate; the patient safety incident investigation should indicate the wider actions needed to improve safety for future patients. These actions may include, but not be limited to, the individual.

END HERE

#### If Yes to all go to next question - Q4. substitution test

4a. Are there indications that other individuals from the same peer group, with comparable experience and qualifications, would behave in the same way in similar circumstances?



If Yes to any

**Recommendation:** Action singling out the individual is unlikely to be appropriate; the patient safety incident investigation should indicate the wider actions needed to improve safety for future patients. These actions may include, but not be limited to, the individual.

END HERE

4b. Was the individual missed out when relevant training was provided to their peer group?



If Yes to any

**Recommendation:** Action singling out the individual is unlikely to be appropriate; the patient safety incident investigation should indicate the wider actions needed to improve safety for future patients. These actions may include, but not be limited to, the individual.

END HERE

4c. Did more senior members of the team fail to provide supervision that normally should be provided?



If Yes to any

**Recommendation:** Action singling out the individual is unlikely to be appropriate; the patient safety incident investigation should indicate the wider actions needed to improve safety for future patients. These actions may include, but not be limited to, the individual.

END HERE

#### If No to all go to next question - Q5. mitigating circumstances

5a. Were there any significant mitigating circumstances?



Yes

**Recommendation:** Action directed at the individual may not be appropriate; follow organisational guidance, which is likely to include senior HR advice on what degree of mitigation applies. The patient safety incident investigation should indicate the wider actions needed to improve safety for future patients.

END HERE

#### If No

**Recommendation:** Follow organisational guidance for appropriate management action. This could involve individual training, performance management, competency assessments, changes to role or increased supervision, and may require relevant regulatory bodies to be contacted, staff suspension and disciplinary processes. The patient safety incident investigation should indicate the wider actions needed to improve safety for future patients.

END HERE

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Based on the work of Professor James Reason and the National Patient Safety Agency's Incident Decision Tree

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