

HR123 Disciplinary Policy

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October 2018

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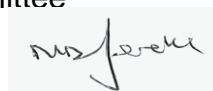
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November 2018

Final Approval

Finance, Fundraising & General Purposes Committee

**Date Approved**

27 November 2018

Next Review

November 2021

Date issued

12/12/2018

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IMPORTANT NOTES REGARDING THIS POLICY

- This policy and procedure has been issued as a mandatory read on The Loop.
- This policy does not form part of your Contract of Employment unless otherwise stated and is subject to change at the discretion of The Children's Trust. The Children's Trust reserves the right to modify, withdraw or initiate any rules or procedures it deems necessary, and will undertake to review the policy in the light of changing working practices or legislation. Any changes will be made available via The Loop.

1. INTRODUCTION

- 1.1. The Children's Trust will, through its job descriptions, induction and training processes, organisational policies and procedures, ensure that employees are made aware of the expected standards of conduct, work performance and behaviours. All employees should embrace the values of The Children's Trust which shape behaviour and conduct day to day. These values are:
- Child & family focused
 - Caring and supportive
 - Professional
 - Collaborative
 - Can do
 - Fun

2. POLICY STATEMENT

- 2.1. This policy is designed to ensure a fair and consistent approach to maintaining standards of conduct, behaviours and working relationships. It is used in cases where there is alleged misconduct. This policy applies to all those employees who have passed their probationary period (during probation employees will be managed under HR119 – Managing Probation Policy).
- 2.2. This policy outlines the rights and responsibilities of employees, Managers, the People Team and employee representatives.
- 2.3. Managers will, where appropriate, resolve minor disciplinary issues in an informal manner. This policy is intended for use where an informal approach fails or where the misconduct is considered to be serious or significant.
- 2.4. There are separate policies to manage poor performance (HR118) or for managing issues during a probationary period (HR 119). There is also a policy for managing Attendance and Wellbeing issues at work (HR 122).
- 2.5. There may be occasions when additional support is required from either Occupational Health, the People Team or the Employee Assistance Scheme (Workplace Options – Freephone tel: 0800 243458).
- 2.6. Reference to 'Manager' within this policy implies a Children's Trust employee with responsibility for managing other employees within the organisation e.g. Manager, Senior Manager, Director or CEO.
- 2.7. Requests for audio and/or visual recordings of the proceedings are not acceptable at any stage of the disciplinary procedure and are not admissible within this process, unless agreed as a reasonable adjustment for an employee with a disability or condition covered under the Equality Act.
- 2.8. Please note: Contemporaneous notes will be taken by a member of the People Team or their representative. These may be in handwritten or electronic form and will be available at the end of the disciplinary process if required. The People Team reserve the right to use audio recordings for the purpose of making contemporaneous notes in cases where it is not possible for them to be taken in a handwritten or electronic format. The audio recording will be destroyed as soon as the notes from the meeting are drafted.
- 2.9. All information will be retained on a confidential basis as per the Record Retention Policy and Procedure (SITG004).
- 2.10. The role of the People Team is to oversee the disciplinary process and it may also provide support and advice to all parties and seek external / legal guidance where required. They will support the investigation process and in addition will assist the Manager who chairs the disciplinary hearing/appeal. They will work to ensure that this policy is followed and that

misconduct issues are dealt with fairly and consistently.

3. DISCIPLINARY POLICY & PROCEDURE – INVESTIGATION STAGE

- 3.1. The People Team will be informed of all issues that could lead to a Disciplinary Investigation via the Manager. Issues should be raised via IRAR (Incident & Risk Assessment Reporting). A discussion between the People Team / Manager / IRAR review representative will then take place to agree whether the issue immediately falls within The Disciplinary Investigation process or would initially proceed via a Root Cause Analysis Investigation. The People Team / Manager / IRAR review representative will refer to Appendix 3 for guidelines regarding initial decision regarding whether a Disciplinary Investigation / Root Cause Analysis Investigation will apply.
- 3.2. A Root Cause Analysis Investigation is used to identify and resolve the root causes of systematic faults or problems arising within the organisation whereas a Disciplinary Investigation is suitable for allegations of misconduct e.g. safeguarding allegation or employee malpractice.
- 3.3. If during a Root Cause Analysis it becomes clear that there may likely be disciplinary action (e.g. obvious policy breach), the Root Cause Analysis will stop and a Disciplinary Investigation will commence. A new investigator may be appointed by the People Team to undertake the investigation. The formalities and guidelines related to a Disciplinary Investigation differ from those of a Root Cause Analysis Investigation therefore it is important that both the employee and The Children's Trust follow the correct process in regard to any disciplinary decisions. The Manager will inform the employee of any changes regarding the Investigation approach.
- 3.4. An investigator will be appointed by the Manager in consultation with the People Team. The appointed investigator will be independent of the issue. A list of investigators is available from the People Team.
- 3.5. All disciplinary issues will be investigated and dealt with as quickly as possible. The investigator will aim to complete the investigation within a reasonable time period and without undue delay, recognising that investigators have other duties within the organisation which also need to be accommodated. The employee will be regularly updated by a People Team HR Business Partner ('HRBP'), should the investigation become delayed or protracted.
- 3.6. Managers are responsible for informing the employee that a matter is being investigated at the outset and appointing a Pastoral Care Manager. A Pastoral Care Manager is a Manager who is separate from the investigation and is responsible for providing support and pastoral care to the employee.
- 3.7. In general where an allegation (in particular an allegation of a safeguarding nature) has been made that leads to a Disciplinary Investigation, the employee will not be informed of the detail until they are formally interviewed by the investigator. The employee must not discuss the details of the allegation with anyone at The Children's Trust other than those people outlined in this policy. The employment contract clause regarding confidentiality still applies whilst an employee is suspended or working whilst under investigation.
- 3.8. The Manager, under the guidance of a member of the People Team, should reference the Suspension Process (detailed in section 7 Suspension Process below) where it is deemed that suspension from work (with or without pay) is potentially the appropriate action to take in regard to an employee's status.
- 3.9. The investigator will review and collate the evidence and interview relevant witnesses (The witnesses must not discuss the details of the case with anyone at The Children's Trust other than those people outlined in this policy. The employment contract clause regarding confidentiality still applies whilst an employee is suspended or working whilst under investigation.) This includes the employee(s) against whom the allegations / issues have been raised) in an investigative meeting and take statements. These statements will be sent

to each interviewee to check, sign and return. Where there is disagreement regarding the content of the interview notes both copies will be included in the final pack for consideration.

- 3.10. The investigator will compile a report (the 'Investigation Report') and make recommendations regarding whether or not there is a disciplinary case to answer, or whether the matter can be dealt with informally/in another appropriate way. The report will then be reviewed by the Manager who, in consultation with the People Team, will make the decision as to whether or not to hold a disciplinary hearing. All documentation produced during the Disciplinary Investigation will be created using the guidelines and templates provided by the People Team. (These templates have been developed by the People Team under the guidance of an external employment law firm.)
- 3.11. Investigative interviews are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.
- 3.12. The employee does not normally have the right to bring a companion to an investigative interview. However, the investigator may at their discretion allow the employee to bring a companion (a workplace colleague or certified Trade Union official, a 'companion') if they are unable to support themselves and in particular where it helps them to overcome any disability, language difficulty or other substantive issue that would directly affect the fairness of the process. The request, and details of the proposed companion, should be passed to the HRBP a minimum of 24 hours before the meeting for confirmation.
- 3.13. All employees must co-operate fully and promptly in any investigation. This includes informing the investigator of the names of any relevant witnesses, disclosing any relevant documents and attending investigative interviews if required. Where an employee leaves the organisation prior to completion of the investigation / Disciplinary process, the process will conclude in their absence. The employee will be informed in writing of the conclusion.
- 3.14. Where an employee raises a grievance concerning the issues / allegations surrounding the disciplinary process, this may delay the Disciplinary Investigation and may be investigated by an alternative investigating officer and presented in the hearing as mitigating circumstances.
- 3.15. Where the employee raises a grievance during any disciplinary action and the grievance is considered to be of such significance by the Director of People (under the guidance of The Children's Trust's external employment law firm), the grievance will be investigated prior to any further disciplinary process (which will be placed on hold until the grievance is resolved). (Please see the People Team for further details.)

Disciplinary hearing

Notice of Meeting

- 3.16. When a disciplinary hearing is held, the employee will be given advance written notice by the Manager, stating the date, time, venue and reasons (allegations / issues) for the hearing and giving sufficient time to enable them to prepare. The employee will also receive a copy of the Investigation Report, together with all supporting documentation. The Manager will endeavour to give a minimum of seven days' notice of the hearing.
- 3.17. The employee will be informed of the right to be accompanied at the hearing by a companion (a workplace colleague or certified Trade Union official). For verification purposes the employee must provide details to the Manager of their chosen companion a minimum of 24 hours before the hearing. The Children's Trust will ask the employee to choose another companion where the original choice may give rise to a conflict of interests or is deemed inappropriate by The Children's Trust at its absolute discretion.

Witnesses

- 3.18. The Children's Trust and/or the employee may ask relevant witnesses (internal employees only) to appear at the hearing. (The employee will be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses where agreed.). Please note a

witness cannot be forced to attend a hearing. The Manager who will chair the hearing (the 'Chair') will have the final decision as to whether it is appropriate to request a witness' attendance at the hearing.

- 3.19. The employee should give sufficient advance notice to the organisation to arrange the witness' attendance, together with the questions they would like asked of the witness. Should any question seem inappropriate the purpose will be sought from the employee before the Manager acting as Chair decides in their absolute discretion whether or not to include the questions.
- 3.20. Where the witness is unable to attend the employee should highlight any questions they would like asked and the witness will respond formally in writing to the People Team. The People Team will review the questions and delete where appropriate any that are viewed as irrelevant or inappropriate. The witness will respond formally in writing to the People Team. It will not normally be permitted to cross-examine witnesses unless, in exceptional circumstances, the Chair decides that a fair hearing could not be held otherwise. The colleague / certified Trade Union representative will not be permitted to directly question the witness.

Attendance

- 3.21. The employee must take all reasonable steps to attend the hearing, which will be attended by the Chair, and may include another member of staff in order to take contemporaneous notes of the hearing. (Please note contemporaneous notes will be taken and NOT minutes.) It is the responsibility of the Manager to ensure that an accurate record of all discussions is maintained. The contemporaneous notes will be available to the employee after completion of the disciplinary hearing process. A People Team HRBP will also be present to provide procedural guidance and support.
- 3.22. No disciplinary action will be taken without the employee being given an opportunity to state their case, answer any allegations that have been put, ask questions, present evidence, and raise points about any information provided by witnesses. However in the event of the employee's failure to attend the disciplinary hearing, please see below.

Failure to attend

- 3.23. Employees should make every effort to attend disciplinary hearings. If the employee fails to attend a disciplinary hearing without a reasonable explanation or without suggesting a reasonable alternative date, then the hearing will be re-arranged to a later date. The employee will be informed that if they fail to attend on the second occasion, a decision will be taken in their absence.
- 3.24. If the employee is unable to attend the hearing, but gives a reasonable explanation (for example their companion cannot attend), the employee may offer an alternative date within 5 days of the original date. If the employee fails to attend through circumstances outside their control e.g. illness, the organisation may arrange another hearing within 5 days and advise the employee that, if they fail to attend the rearranged meeting, the organisation may make a decision on the evidence available. If the employee is absent due to ill health, they may still be asked to attend the rearranged hearing if they are deemed fit to be at the hearing (guidance will be taken in consultation with Occupational Health) and are able to follow the proceedings. External medical advice will be taken into consideration but the decision of The Children's Trust as to ability to attend is final.
- 3.25. If the employee and their companion are still unable to attend the rearranged hearing, the employee can make a written submission. The Chair will come to a reasonable decision by reviewing all of the relevant evidence. This will include, but may not be limited to, the employee's disciplinary record and general work record, the level of seriousness of the issue, medical opinion regarding the employee's fitness to attend the hearing and any written submission from the employee (if applicable). The Manager will then reach a decision in their absence. A letter will be sent to the employee's home address, confirming the decision and giving the right of appeal. For further information on the appeal process

see section 8 below.

Responsibilities of companion

- 3.26. During the meeting the companion may sum up the employee's case, ask questions to the Chair on behalf of the employee and confer with the employee. The companion will not be permitted to directly question any witness. The companion must not answer questions on behalf of the employee, speak when the employer/ee does not wish them to do so, or prevent others from fulfilling their roles in the meeting.

Adjournment

- 3.27. The Chair may adjourn the disciplinary hearing if s/he needs to carry out any further investigations such as re-interviewing witnesses in the light of any new points raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

Decision

- 3.28. The Chair will inform the employee in writing of their decision, usually within one week of the disciplinary hearing. Where possible this information will also be explained to the employee in person.

General

- 3.29. No employee will be dismissed for a first breach of discipline, except in cases of gross misconduct when the penalty will be dismissal without notice or pay in lieu of notice.
- 3.30. If the employee's first misconduct is sufficiently serious, it may be appropriate to move directly to a final written warning. This might occur when the employee's actions have had, or are liable to have, a serious or harmful impact on an individual or the organisation.
- 3.31. Confidential records of all disciplinary hearings will be held on the employee's personal file. Once 'spent' (expired), warnings will be disregarded for the purpose of escalating the disciplinary process (employees will be advised of the length of 'live' warnings when issued, as detailed in Section 4 Disciplinary Sanctions below), but will remain on the employee's personnel file. However if an employee's conduct deteriorates soon after a warning expires, the disciplinary record may be taken into consideration in further disciplinary hearings as evidence of general behaviour and standards when considering the duration of any new warnings.
- 3.32. It is expected that employees will act with the utmost honesty and integrity at all times. Each member of staff must report any acts of misconduct or dishonesty and any perceived breach of statutory requirements, whether that is their own misconduct or that of other employees. Failure to report acts of misconduct or co-operate with a reasonable investigation may in themselves constitute a matter for disciplinary action.

4. DISCIPLINARY SANCTIONS

Depending on the findings of the disciplinary hearing, the Manager has a number of disciplinary sanctions available to them. These are detailed below:

Stage 1 – first written warning

- 4.1. If an employee's conduct does not meet acceptable standards the employee will normally be given a formal first written warning. S/he will be advised of the reason for the warning, that it is the first stage of the disciplinary procedure and will be given details of the change in behaviour required, any support available and told of his or her right of appeal. A copy of the warning will be retained as 'live' on the employee's file (this is normally for a period of 6-12 months) but it may be disregarded for disciplinary purposes after a set period (the employee will be advised in writing of the disciplinary period), subject to satisfactory conduct throughout (i.e. where an employee has gathered multiple first written warnings, it will be at the discretion of The Children's Trust to consider whether to include these when

making a decision regarding the potential future sanction). The employee will also be advised that should the employee be found by a disciplinary hearing to have committed a further act of misconduct, this would normally result in a final written warning.

- 4.2. Warning letters must be signed by the employee and returned to the People Team within seven days of the date highlighted in the letter, to acknowledge receipt of the warning. (Failure to return the signed letter could lead to further disciplinary action.)

Stage 2 – final written warning

- 4.3. If there is still a failure to improve and conduct is still unsatisfactory, or if the misconduct is sufficiently serious to warrant only one written warning but insufficiently serious to justify dismissal, a formal final written warning will normally be issued to the employee. This will give details of the issue together with the change in behaviours required, any support available and will warn that dismissal or some other contractual penalty such as loss of seniority may result if there is no satisfactory improvement or if further misconduct occurs. It will also advise of the right of appeal.
- 4.4. A copy of the final written warning will be retained on the employee's file. It will be disregarded for disciplinary purposes after a set period (e.g. 6, 12 or 18 months; the employee will be advised in writing of their disciplinary period), subject to achieving and sustaining satisfactory conduct throughout (i.e. where an employee has gathered multiple first written / final written warnings, it will be at the discretion of The Children's Trust to consider whether to include these when making a decision regarding the potential future sanction).
- 4.5. Warning letters must be signed by the employee and returned to the People Team within seven days of the date highlighted in the letter to acknowledge receipt of the warning. (Failure to return the signed letter, could lead to further disciplinary action.)

Stage 3 – dismissal or other contractual penalty, such as loss of seniority

- 4.6. If conduct is still unsatisfactory and the employee still fails to reach the prescribed required standards, or if the misconduct is sufficiently serious, dismissal will normally result. The employee will be provided, as soon as reasonably practicable, with written reasons for the dismissal, the date on which the employment will terminate, the appropriate period of notice (or pay in lieu of notice) and the right of appeal.
- 4.7. If occasion warrants, an alternative to dismissal such as some other contractual penalty e.g. demotion, transfer (subject to a suitable post being available), loss of pay or increment and/or suspension without pay, may be applied.
- 4.8. If an alternative sanction to dismissal is applied, the employee will receive details of the complaint and will be warned that dismissal may result if there is no sustained improvement in conduct or if further misconduct occurs. S/he will be advised of the right of appeal. A copy of the written warning, including details of the sanction, will be placed on the employee's file but will be disregarded for disciplinary purposes after a set period (e.g. 12-18 months, the employee will be advised in writing of their disciplinary period), subject to achieving and sustaining improved standard of conduct.
- 4.9. Every employee will have the right to appeal against sanctions imposed at any of the stages 1, 2 and 3 of the procedure and will be informed how to do so. An independent Manager will hear the appeal (the 'Appeal Manager') (typically a more senior Manager, however, The organisation reserves the right to select the Manager). For the avoidance of doubt, the appeal should be chaired by an individual who has not been previously involved in the disciplinary process and has the authority to overrule the original decision (please note: this may include a lesser or greater sanction). The decision of the Appeal Manager will be final.

5. GROSS MISCONDUCT

5.1. The following list provides examples of offences which are normally regarded as gross misconduct, however this list is not exhaustive:

- Child abuse (as defined in The Children's Trust's Safeguarding Policy)
- Sexual offences and sexual misconduct
- Physical and verbal violence, including threats
- Theft, fraud, falsification of records, electronic timesheets or self-certification forms
- Breach of The Children's Trust financial regulations
- Serious breaches of The Children's Trust policies, rules or procedures
- Bullying or harassment, including sexual, religious or racial harassment or intimidation or discrimination (see the Bullying, Intimidation & Harassment at Work policy (HR106))
- Gross breaches of the organisation's IT policies or inappropriate use of mobile phones or social media in a way that harms The Children's Trust, its employees or its service users/stakeholders
- Deliberate damage to property including that belonging to The Children's Trust
- Being under the influence/using alcohol or non-prescribed drugs or smoking illegal substances whilst at work; smoking at work in non-prescribed areas of The Children's Trust sites
- Sleeping whilst on duty
- Use of personal electronic devices whilst on duty in roles where this is prohibited
- Negligence with regard to the health, safety and welfare of self or others
- Repeated failure to comply with reasonable management instructions
- Any serious act of insubordination
- Acceptance of any gifts, inducements or hospitality in return for placing of contracts for purchase of materials, equipment or supplies, or the supply of information without prior approval
- Gross inefficiency or neglect of duty
- Breach of confidentiality
- Wilful defiance of the organisation's policies, rules and procedures
- Repeated failure to maintain professional registration or to update/register for a Disclosure and Barring Service check
- Any conduct which in the reasonable opinion of The Children's Trust brings the employee or the organisation into disrepute, including outside of the employee's working hours

6. SUMMARY DISMISSAL

6.1. Summary dismissal shall only apply in cases where a disciplinary hearing makes a finding of gross misconduct. Examples of the type of offence that might lead to summary dismissal are shown above. This is not an exhaustive list, but is given as a guide to the level of seriousness. Employees dismissed for gross misconduct will not receive any notice or entitlement to pay in lieu of notice. They will however be paid for any other entitlements due under the contract of employment, for example any expenses or outstanding holiday pay.

7. SUSPENSION

7.1. In certain circumstances, suspension may be appropriate whilst a case is investigated. Please note: there is a clear difference between formal suspension and a Manager taking the decision to send a member of staff home in the immediate aftermath of an incident.

7.2. The Manager should complete a Suspension Risk Assessment (Appendix 2) to assess whether the employee should be suspended from their duties and review the outcome with the Director of People and the HRBP. If an employee is suspended, the reasons for the suspension will be explained by the person carrying out the suspension (or by the employee's Line Manager). Suspension of this kind is not a disciplinary penalty and does

not imply that any decision has been made regarding the allegations. An employee will be suspended on their normal rate of pay pending an investigation, unless they have reported absence due to ill health, in which case the conditions in the Attendance and Wellbeing Policy will prevail until the suspension is lifted.

- 7.3. Where an employee is suspended or where suspension is lifted, it will be confirmed in writing as soon as is reasonably practicable by the suspending Manager in liaison with the People Team.
- 7.4. Following the Suspension Risk Assessment, as an alternative to suspension, The Children's Trust reserves the right to insist that the employee is accompanied whilst performing their duties, or to temporarily redeploy the employee to alternative duties within The Children's Trust.
- 7.5. Sickness during suspension will count towards the sickness absence record, but the rules of suspension will apply and employees will be asked to attend investigation meetings and hearings if they are fit enough to follow proceedings (in consultation with Occupational Health). External medical advice will be taken into consideration but the decision of The Children's Trust as to ability to attend is final.
- 7.6. An employee will not be suspended without careful consideration and suspension will not be unnecessarily protracted. It will be reviewed regularly and if the period of suspension is likely to be longer than stipulated then this will be explained to the employee.
- 7.7. Whilst suspended from work, employees must make themselves available to answer questions about work related matters or to attend investigatory meetings and any hearing that might take place. Apart from these meetings, employees are asked not to attend work premises or contact other employees, services users or stakeholders, without prior permission from the Manager who carried out their suspension, the Director of People or the HRBP.
- 7.8. The employee must not discuss the details of their case with anyone at The Children's Trust other than those people outlined in this policy. The employment contract clause regarding confidentiality still applies whilst an employee is suspended or working whilst under investigation. This will not however prevent them from contacting their companion in order to prepare their case for a hearing. The Manager, in conjunction with the Director of People or the HRBP, will agree with the employee the statement to be issued regarding the employee's absence from work.
- 7.9. Support during any suspension period will normally be supplied internally by a Pastoral Care Manager. The nominated HRBP representative may also provide procedural advice about the disciplinary process and the investigation. External advice can also be obtained from The Children's Trust's Employee Assistance Scheme, Workplace Options, who are specialists in providing employment and emotional support. Workplace Options advice is provided completely confidentially. It is free for employees and volunteers to use.

8. APPEALS PROCEDURE

- 8.1. An employee who wishes to appeal against a disciplinary decision should do so in writing to the People Team HRBP, giving grounds for the appeal, within five working days of receipt of the written confirmation of the disciplinary decision.
- 8.2. If the employee is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful the employee will be reinstated with no loss of continuity or pay.
- 8.3. If the employee raises any new matters in their appeal notice The Children's Trust may decide, at its absolute discretion, it is appropriate to carry out further investigation. Both parties will be provided with a summary including, where appropriate, copies of additional relevant documents and witness statements. Both parties will have a reasonable opportunity to consider this information before the disciplinary hearing.

- 8.4. The employee will be given written notice of the date, time and place of the appeal hearing. This will normally be within 14 days following receipt of the written appeal notice.
- 8.5. The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. It will be at The Children's Trust's discretion depending upon the circumstances of the case. In any event the appeal will be dealt with as impartially as possible.
- 8.6. A more senior Manager who has not been previously involved in the case will hear the appeal (the Appeal Manager), although this is not essential, as long as the Appeal Manager has the authority to overrule the original decision. The Appeal Manager will be accompanied by another independent person in order to take notes and witness what is said. (Please note contemporaneous notes will be taken and NOT minutes.) The contemporaneous notes will be available to the employee after completion of the appeal process. It is the responsibility of the Appeal Manager to ensure that an accurate record of all discussions is maintained. A People Team HRBP will also be present to provide procedural guidance and support.
- 8.7. All employees will have the right to be accompanied to an appeal hearing. The employee may bring a companion (who is a workplace colleague or certified Trade Union official) with them to the appeal hearing. For verification purposes the employee must provide details to the Appeal Manager of their chosen companion, a minimum of 24 hours before the appeal hearing. The Children's Trust will ask the employee to choose another companion where the original choice may give rise to a conflict of interests or is deemed inappropriate at the absolute discretion of The Children's Trust.
- 8.8. During the appeal the employee or companion will be given the opportunity to present or comment on any new evidence arising before a decision is taken. The same rules of engagement in terms of the role of the companion will apply during the appeal as those of the original disciplinary hearing as set out in Clause 3.26 above.
- 8.9. The Children's Trust may adjourn the appeal hearing at its discretion if there is a need to undertake further investigations in the light of any new points raised by the employee or their companion at the appeal hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the appeal hearing is reconvened.
- 8.10. Following the appeal hearing the Appeal Manager may:
 - (a) confirm the original decision
 - (b) revoke and revise the original decision
 - (c) confirm the original decision but apply an alternative sanction.
- 8.11. The Appeal Manager has the discretion to apply an alternative sanction, which could include an increased sanction.
- 8.12. The employee will be notified in writing of the results of the appeal and the reasons for the decision as soon as possible. The decision of the Appeal Manager will be final. There is no further right of appeal.

9. SPECIAL CONSIDERATIONS

Criminal investigations

- 9.1. Where the employee's conduct is the subject of a criminal investigation, charge or conviction, The Children's Trust will investigate the facts before deciding whether to take formal disciplinary action.
- 9.2. The Children's Trust will not usually wait for the outcome of any prosecution before deciding what action, if any, to take (i.e. suspension with or without pay). Where the employee is unable or has been advised not to attend a disciplinary hearing, or say anything about a pending criminal matter, The Children's Trust may have to take a decision based on the

available evidence. However The Children's Trust will consider advice received (if any) from the Police or investigating authorities before proceeding so as not to prejudice any investigation or future trial.

- 9.3. Criminal offences outside employment will not be treated as automatic reasons for dismissal. Consideration will be given as to whether the offence is one that makes the employee unsuitable for the work, unacceptable for other employment within The Children's Trust, or whether for reasons of statute the employee is unable to carry on in the required role. Furthermore, if the nature of the offence committed is such that the fact the offence has been committed by the employee (albeit outside work) may cause damage to the reputation of The Children's Trust, then this may be deemed to be gross misconduct.

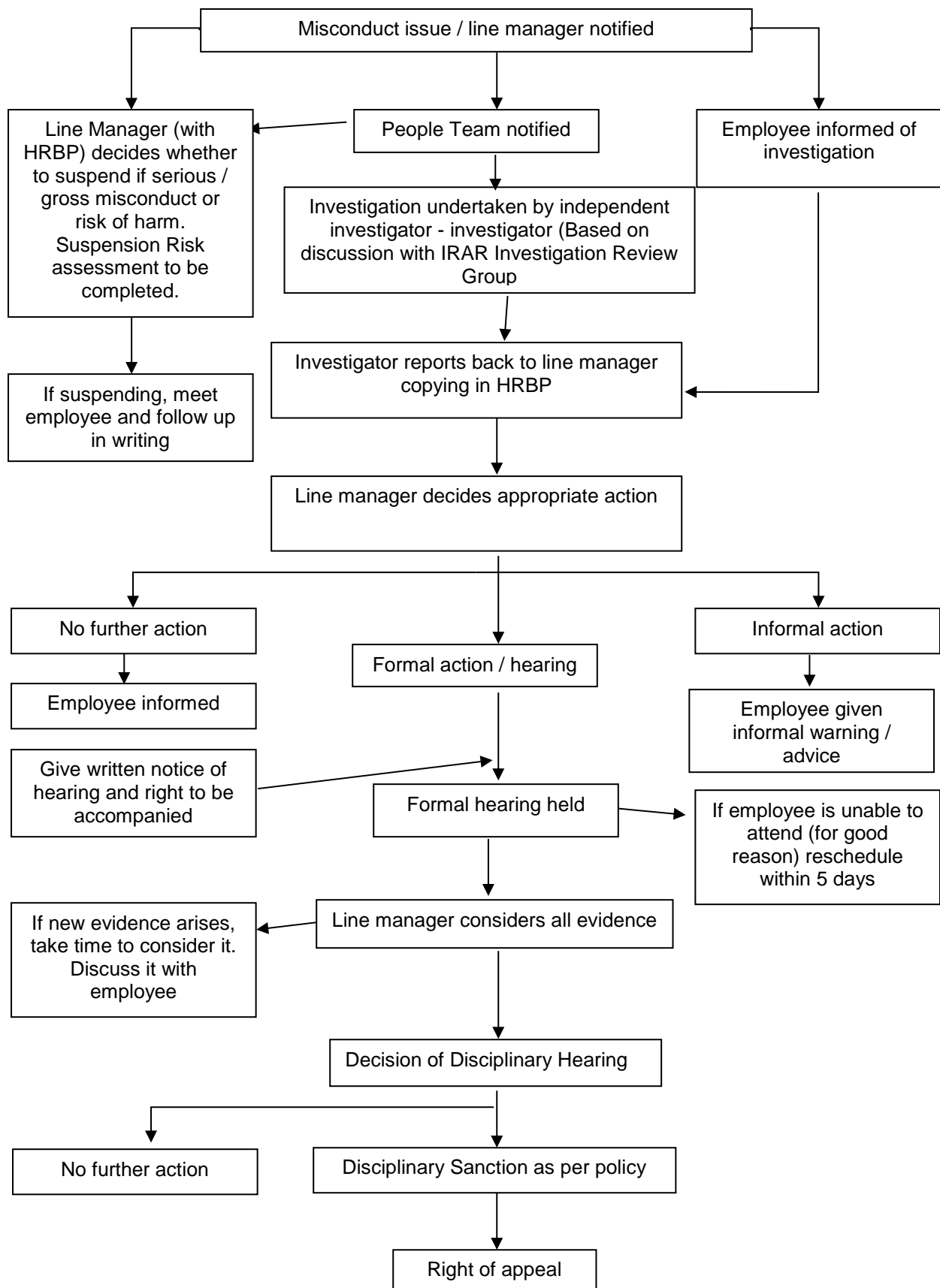
References

- 9.4. The Children's Trust is under no obligation to provide employees with a detailed reference for new posts but is obliged to provide minimal information around start and end date and the employee's final role. Where references are provided, The Children's Trust will ensure that these are fair and accurate.
- 9.5. In cases where the employee is the subject of disciplinary action, or where the employee has been dismissed, The Children's Trust reserves the right to provide only a factual reference including the details of policies the employee has been managed under. All such references will be provided under the guidance issued by Ofsted and The Children's Trust's external employment law firm. If a disciplinary warning is live (as advised in the disciplinary decision letter) on the employee's file, then this will be highlighted in any reference provided by the organisation.

10. THE DBS, PROFESSIONAL BODIES, PROFESSIONAL CODES OF CONDUCT AND REFERRAL TO EXTERNAL BODIES

- 10.1. The Disclosure and Barring Services (DBS) was set up by the UK Government to safeguard vulnerable adults and children. The DBS maintain lists of individuals who are barred from working with these groups.
- 10.2. In addition, professional bodies, e.g. The Nursing and Midwifery Council and The Health and Care Professionals Council, include their own professional codes of conduct and standards for maintaining professional standards of conduct and performance in order to safeguard and protect the interests of the public/service users. You may be referred to your professional body when it is felt their Code of Conduct has been breached.
- 10.3. In cases of alleged misconduct The Children's Trust retains the right to decide whether or not the employee member will need to be referred to these regulatory bodies at any point during the disciplinary process. It will be the responsibility of the Manager in consultation with the HRBPs, to make the referral. The employee will be informed of the referral. The Children's Trust also retains the right to provide evidence and assist any independent investigations carried out by such regulatory bodies and may take any findings by such regulatory bodies into account in the disciplinary process.
- 10.4. In addition, in any case that involves an alleged safeguarding issue, The Children's Trust is required to immediately contact the Local Authority Designated Officer (LADO) and / or the regulatory bodies CQC and Ofsted, and supply personal details of any employee suspected of putting children / vulnerable adults at risk. The Children's Trust is also required to provide regular updates (including Disciplinary documentation where requested) to the LADO regarding progress of the investigation / progress of the Disciplinary process. The LADO will provide guidance as to appropriate next steps following any disciplinary decision. The Children's Trust is obliged to follow this guidance in a timely manner. The Manager will be responsible for informing the employee of any referrals within a timely manner.

Disciplinary Procedure Flowchart



Risk Assessment

Suspension - Risk Assessment

(supports Managers responsible for dealing with staff who have been involved in an incident, based on NHS guidelines from NHS Incident Decision Tree.)

Please note: For use during suspension considerations e.g. during disciplinary investigation, alleged misconduct, grievance, harassment, bullying, discrimination cases etc.

For those cases relating to safeguarding allegations CS003 The Children's Trust Safeguarding Young People Policy & Protecting Vulnerable Adults Safeguarding – Risk Assessment Tool should be used.

Date	
Department / Manager	
HR BP	
IRAR Reference	

Complaint Details

Brief description of basis of misconduct, complaint and Manager Assessment of severity of misconduct/harassment/bullying/discrimination or other action complained of:

Employee Assessment

Brief assessment of employee's actions:

Intention of harm:

Health test (physical / mental ill health):

Procedure test (did the employee knowingly depart from policy / procedure):

Risk Assessment *(cont'd)*

Mitigation

Brief description of any mitigating circumstances:

Options

Option 1: e.g. Continue working

Option 2: e.g. Temporary transfer to other duties/department/shop etc.

Option 3: e.g. Suspension

Option 4 e.g. Other

Risk Assessment *(cont'd)*

Identify risks associated with each option

Assess as high medium or low, the probability of the risk occurring and the impact if it did.

Grade severity of each risk as high, medium or low.

Risks associated with option 1

Risk	Probability	Impact	Severity

Risks associated with option 2

Risk	Probability	Impact	Severity

Risks associated with option 3:

Risk	Probability	Impact	Severity

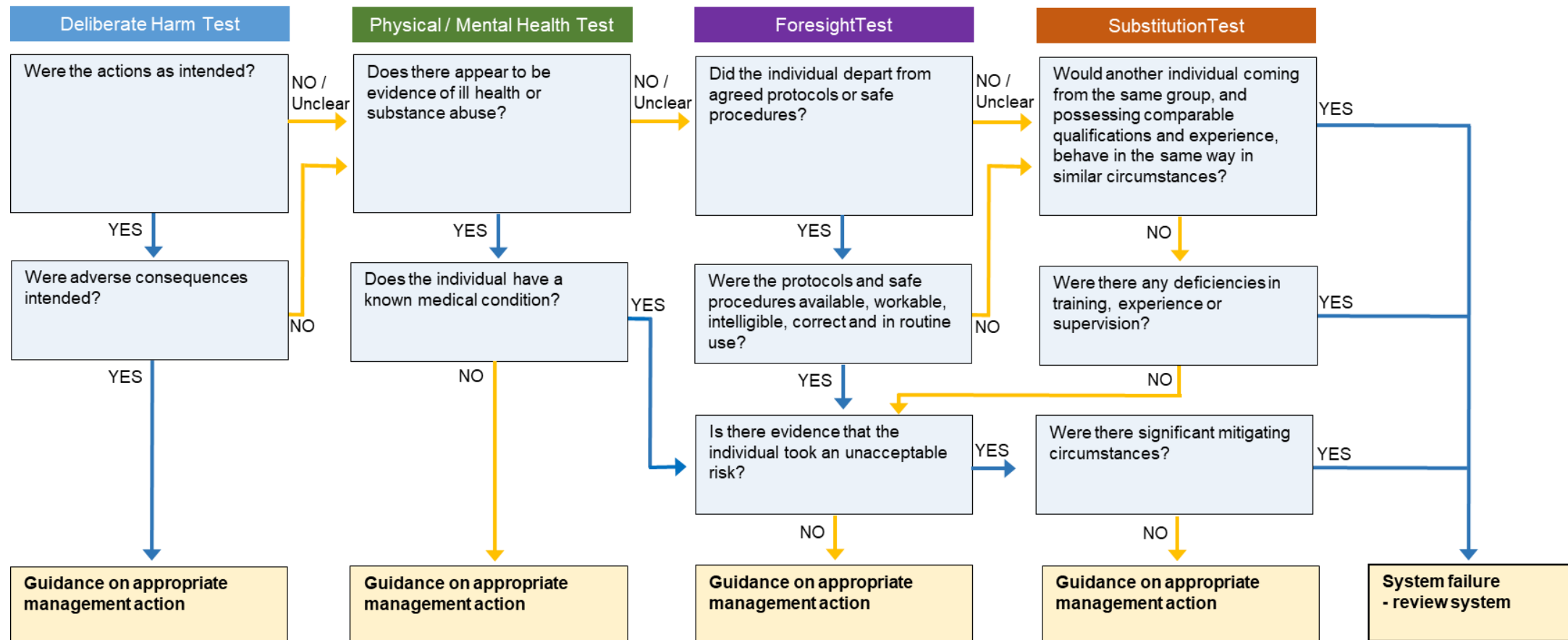
Recommended option is:

Reasoning:


Signature _____ Date _____
Director of People

Signature _____ Date _____
Director of People

Incident Decision Tree



Historical Policy Audit Trail

<h1>HR123 Disciplinary Policy</h1>	 <p>The Children's Trust For children with brain injury</p>
<p>Authors Jane Armstrong – Head of HR</p>	<p>Date Reviewed August 2014</p>
<p>Critical Readers Senior Leadership Team</p>	<p>Date Read September 2014</p>
<p>Final Approval Senior Leadership Team</p>	<p>Date Approved December 2014</p>
<p>Next Review September 2016</p>	<p>Date Approved December 2014</p>