



**Workforce**

# **Workforce Policies Investigation Process**

**Guide for managers**

The following guide forms part of the standard for workforce policies that apply to all staff within NHSScotland regardless of which Board they are employed by.

The NHSScotland [Workforce Policies Investigation Process](#) <sup>1</sup> ensures that a thorough investigation into an incident or concern is undertaken, before any formal process is considered under the following NHS Scotland Workforce Policies:

- [NHSScotland Workforce Bullying and harassment Policy](#) <sup>2</sup>
- [NHSScotland Workforce Capability Policy](#) <sup>3</sup>
- [NHSScotland Workforce Conduct Policy](#) <sup>4</sup>
- [NHSScotland Workforce Grievance Policy](#) <sup>5</sup>

The first part of the process is called the Pre-Investigation Stage. At this stage you must determine the risk of the concern or incident, and take immediate action to ensure the safety of the employee investigation or others, the environment and any physical evidence that would be required to assist the investigation.

When you have assessed risk, it may be necessary to alter the employee's duties or place of work for a period of time, provide additional supervision or to [suspend](#) <sup>6</sup> them from their duties, depending on the nature of the risk.

If an employee is unsure of the process, you should discuss this with them and see if you can answer their queries. Where you are able to resolve this easily, every effort should be made to do so at this discussion. Additionally, you can signpost them to seek confidential advice and support from:

- Trade Union Representatives
- Human Resources
- [Confidential contacts](#) <sup>7</sup>

In all circumstances you will meet with the employee to advise that a concern has been raised, an investigation is being arranged and to offer support. The employee should be advised that they may provide a statement of their understanding of what took place should they wish. A summary of the discussion from this meeting will be confirmed by you in writing to the employee within 7 calendar days.

If witnesses are part of the investigation, you will inform them that:

- they may be required to participate in an investigation and statements will be required
- advise them that statements and / or notes will be shared with the member of staff subject to the investigation and may be used as evidence at a hearing
- if the issue proceeds to a disciplinary hearing they may be required to attend.

You must assess the complexity, nature and scale of the case and any possible conflict of interest to determine if you are able to carry out the investigation yourself. Advice can be sought from the HR Team in this regard. Where you do not have the necessary skills, time or there is an identified conflict of interest an alternate investigating manager should be appointed.

As the manager of an employee under investigation you should:

- make yourself available for those who are involved in an investigation
- advise employee at the earliest opportunity when they are subject to investigation and why this is the case
- keep employee fully informed on progress relating to the investigation
- feedback the outcome of the investigation to the employee and offer appropriate support

If you are going to take forward the investigation, you should write to the employee to confirm who the investigation team are and agree a date for an initial meeting. After this meeting, you will provide a provisional timescale for completion of the investigation.

## **Resignation of an employee**

Investigations should normally be concluded even in the event that the employee under investigation resigns. This approach provides assurance that due process has been followed and enables the employer to fulfil their duty of care to other employees, patients and the public.

## **Factual findings and recommendations of investigation**

The investigation manager will submit their report to you within 21 calendar days of the completion of the investigation.

You are then required to meet with the employee as soon as possible to confirm the findings of the investigation(s), any further action to be taken under NHS Scotland Workforce Policies and to offer appropriate support. A summary of this meeting will be confirmed to the employee in writing within 7 calendar days.

The 3 potential findings following the investigation are:

- the allegation is not upheld
- the evidence and / or nature of the concern / incident justifies learning outcomes which may fall within the [NHSScotland Workforce Capability Policy](#)<sup>3</sup>
- the evidence justifies referral to a formal panel under the relevant NHSScotland workforce policy.

## **Maintaining relationships**

There is an expectation that people will continue to work together during an investigation wherever possible. As a manager you should offer appropriate support to all parties to enable this to happen.

## **Failure to engage**

There may be occasions where the employee feels unable to attend an investigation meeting. Where this is for health reasons, Occupational Health advice should be obtained to consider when they will be in a position to do so or if there are alterations to the process which can be made to support their attendance. If the employee intends to be supported or represented then the availability of all parties should be sought to agree a suitable date. If their representative is unavailable, further dates will be agreed to allow the meeting(s) to happen. Where the employee decides not to attend and there is no reasonable explanation for this, you should offer a second meeting and if they fail to participate, the investigation will be concluded based on the information available.

## **Grievances / Bullying and Harassment Complaints / Counter-complaints**

Where an employee raises a grievance, bullying and harassment complaint or counter-complaint during the investigation process, the investigation may be temporarily suspended in order to deal with the grievance or complaint. Where the grievance or complaint and matters under investigation are related, it may be appropriate to deal with both issues concurrently.

# References

<sup>1</sup> NHSScotland Workforce Policies Investigation Process

<https://workforce.nhs.scot/policies/workforce-policies-investigation-process-overview/>

<sup>2</sup> NHSScotland Workforce Bullying and Harassment Policy

<https://workforce.nhs.scot/policies/bullying-and-harassment-policy-overview/>

<sup>3</sup> NHSScotland Workforce Capability Policy

<https://workforce.nhs.scot/policies/capability-policy-overview/>

<sup>4</sup> NHSScotland Workforce Conduct Policy

<https://workforce.nhs.scot/policies/conduct-policy-overview/>

<sup>5</sup> NHSScotland Workforce Grievance Policy

<https://workforce.nhs.scot/policies/grievance-policy-overview/>

<sup>6</sup> Conduct Policy : guide to suspension

<https://workforce.nhs.scot/supporting-documents/guides/conduct-policy-guide-to-suspension/>

<sup>7</sup> Guide to confidential contacts

<https://workforce.nhs.scot/supporting-documents/guides/bullying-and-harassment-policy-guide-to-confidential-contacts/>