



Workforce

Conduct Policy : 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. In cases of professional conduct or competence of medical and dental staff the provisions of the extant circulars must be implemented as appropriate. These are: [1990 \(PCS\) 8](#)¹ amended by [1990 \(PCS\) 32](#)², [PCS \(DD\) 1994/11](#)³, [PCS \(DD\) 1999/7](#)⁴, [PCS \(DD\) 2001/9](#)⁵ and [SGHD/CMO \(2013\) 22](#)⁶.

As a Manager you need to consider any type of behaviours or conduct which fall below the standard required by the employer, or are in breach of organisational policies.

A conduct issue may be identified by you or another individual recognising and reporting an incident or concern. The route for conduct is detailed in the policy and shown in the [flowchart](#)⁷. This outlines the procedure through both the Early Resolution and Formal Stages.

If you are aware of a potential conduct issue, you must determine whether early resolution is appropriate. For conduct issues which cannot be resolved through early resolution an investigation will be organised by following the [NHSScotland Workforce Policies Investigation Process](#)⁸ (WPIP).

If it is determined that the incident or concern presents a significant risk to the organisation such as clinical care, the safety of the employee under investigation and / or others, suspension should be considered. Where these risks can be managed alternatives to suspension should be used.

Medical suspension is defined as where an employee is suspended from work as they are experiencing health-related concerns which may mean they are a risk to themselves or others. Medical suspension requires a medical opinion and should be managed under the [Attendance policy](#)⁹.

Early Resolution

The first part of the process is called early resolution, which may have been called the informal stage in the past.

Where early resolution is appropriate you will need to:

- Hold an initial meeting with the employee
- Discuss any underlying issues and potential solutions
- Provide guidance on acceptable standards of conduct and behaviour
- Set targets and timescales for improvement where appropriate
- Arrange review meetings

The outcome of these meeting(s) must be confirmed by you in writing to the employee within 7 calendar days, using the [early resolution outcome letter](#)¹⁰ template.

At the end of the agreed timescales, where the required improvement has been met, you should confirm that no further action will be taken. Where the required improvement(s) are not met, you should advise the employee that the formal procedure will be initiated. An investigation should be organised using the [NHSScotland Workforce Policies Investigation Process](#)⁸ and concluded before beginning the formal approach.

Formal Approach

In cases where the concern is more serious and cannot be managed under early resolution, or where early resolution has not worked, you should arrange an investigation under the Workforce Policies Investigation Process.

Upon completion of the investigation an Investigation Report will be submitted to you or completed by you. The report will recommend one of the following outcomes:

- No further action as the allegation is not upheld
- Referral to formal conduct hearing
- Referral to another Workforce policy (e.g. capability policy)

Written notification of the next steps must be sent to the employee within 7 calendar days of you receiving the final investigation report, using the [standard letter template](#)¹¹.

Formal Hearings

If the outcome from the investigation indicates that a formal hearing is to be held, you will be invited to attend and present the management case to a hearing if you have undertaken the investigation. If you arranged for a separate investigation team, they will take this forward. The hearing should be set up with an independent panel to consider the alleged conduct issue which has been raised, so they can make a decision about the issue from the evidence presented. Read the [Formal hearings guide](#)¹² for more information.

After the hearing, the outcome will be confirmed in writing, with one of the following outcomes:

- No case to answer
- Learning outcomes and / or
- A formal conduct sanction

Maintaining relationships

There is an expectation that people will continue to work together at all stages wherever possible. You should offer appropriate support to all parties involved to enable this to happen.

Failure to Engage

There may be occasions where the employee feels unable to attend a hearing. Where this is for health reasons, you should refer the employee to the Occupational Health Service to obtain advice as to when the employee 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's representative is unavailable, you should offer further dates to allow the hearing to happen. Where the employee decides not to attend and there is no reasonable explanation for this, a second hearing date should be offered. If the employee fails to participate, the panel will consider any reasons for this and whether to progress the hearing in their absence.

Concurrent Policy Issues

If further concerns arise during the formal process you should consider whether the issues are related. If so, these may be dealt with as part of the same process.

Grievances / Bullying and Harassment Complaints

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

References

- ¹ Disciplinary procedures for hospital medical and dental staff, community medicine staff and doctors in public health medicine: 1990 (PCS) 8
[http://www.sehd.scot.nhs.uk/pcs/PCS\(1990\)08.pdf](http://www.sehd.scot.nhs.uk/pcs/PCS(1990)08.pdf)
- ² Disciplinary procedures for hospital medical and dental staff, community medicine staff and doctors in public health medicine: 1990 (PCS) 32
[http://www.sehd.scot.nhs.uk/pcs/PCS\(1990\)32.pdf](http://www.sehd.scot.nhs.uk/pcs/PCS(1990)32.pdf)
- ³ Disciplinary procedures for hospital medical and dental and community medical staff: PCS (DD) 1994/11
[http://www.sehd.scot.nhs.uk/pcs/PCS1994\(DD\)11.pdf](http://www.sehd.scot.nhs.uk/pcs/PCS1994(DD)11.pdf)
- ⁴ Report of the short-life working group on suspension of medical and dental staff: PCS (DD) 1999/7
[http://www.sehd.scot.nhs.uk/pcs/PCS1999\(DD\)07.pdf](http://www.sehd.scot.nhs.uk/pcs/PCS1999(DD)07.pdf)
- ⁵ Discipline procedures: classification of conduct: PCS (DD) 2001/9
[http://www.sehd.scot.nhs.uk/pcs/pcs2001\(dd\)9.pdf](http://www.sehd.scot.nhs.uk/pcs/pcs2001(dd)9.pdf)
- ⁶ Suspension of Medical and Dental Staff : SGHD/CMO (2013) 22
[https://www.sehd.scot.nhs.uk/cmo/CMO\(2013\)22.pdf](https://www.sehd.scot.nhs.uk/cmo/CMO(2013)22.pdf)
- ⁷ Conduct Policy : flowchart
<https://workforce.nhs.scot/supporting-documents/flowchart/conduct-policy-flowchart/>
- ⁸ NHSScotland Workforce Policies Investigation Process
<https://workforce.nhs.scot/policies/workforce-policies-investigation-process-overview/>
- ⁹ Attendance Policy
<https://workforce.nhs.scot/policies/attendance-policy-overview/attendance-policy/>
- ¹⁰ Conduct Policy : Early Resolution outcome – initial meeting letter
<https://workforce.nhs.scot/supporting-documents/letter-template/conduct-policy-early-resolution-outcome-initial-meeting-letter/>
- ¹¹ Conduct Policy : supporting documents
<https://workforce.nhs.scot/policies/conduct-policy-overview/conduct-policy/#supporting-documents>

¹² Formal Hearing Guide

<https://workforce.nhs.scot/supporting-documents/guides/formal-hearing-guide/>