

Disciplinary Policy & Procedure

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1. Introduction

BrisDoc recognises that from time to time employees may fall short of the standards required by the service or may fail to behave in an appropriate manner, either within or outside of the workplace. This policy and procedure is designed to ensure that all employees are aware of and understand their rights and responsibilities relating to discipline. It aims to facilitate satisfactory standards of conduct and performance, to encourage improvements where appropriate and to ensure that cases of alleged misconduct, unacceptable performance or other acts or omissions considered by BrisDoc to warrant consideration of disciplinary action are dealt with consistently and fairly within a reasonable timescale.

This policy will be applied firmly but sensitively, with a true sense of natural justice, equality and consistency.

In line with our 4 focus areas, we are committed to:



PATIENT CARE	WORKFORCE CARE
Ensuring that patient care is not compromised during any informal or formal disciplinary proceedings.	Providing a fair and objective procedure for handling all matters of concern during disciplinary proceedings. Ensuring that no discrimination takes place during disciplinary proceedings. Training all managers in the process of handling investigations and disciplinary proceedings. Promptly handling matters of concern so as not to cause unnecessary delays for the employee.
QUALITY CARE	RESOURCE CARE
Ensuring we comply with the ACAS Code of Practice on Disciplinary proceedings. Ensuring that we comply with the relevant employment legislation e.g. Equality Act 2010.	Ensuring legal compliance in order to avoid claims such as unfair, wrongful or constructive dismissal.

2. Who does this policy apply to?

2.1 This policy applies to all employees of BrisDoc i.e. those employed on a permanent or fixed-term contract who have more than 12 months service. For employees with less than 12 months service we reserve the right to follow a reduced procedure.

2.2 In the interests of the service and patients, all casual workers and self-employed contractors are also subject to this policy. However, in the event of an incident which results in an

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adverse finding, as there is no obligation to offer engagement to these groups of workers, the result may be no future offers of engagement.

2.3 The procedure does not apply to termination of employment:

- arising from the conclusion of the employment for which an employee was specifically appointed where the term or need for such an appointment has expired or is about to expire;
- within the first 12 months of employment (see section 7);
- by reason of redundancy;
- arising from ill-health.

3. Key Principles

3.1 All line managers are responsible for identifying promptly any deficiencies in conduct or performance, discussing the matter with the individual employee and assisting him/her to improve.

3.2 Minor matters will normally be dealt with informally. A quiet word is often all that is required to resolve a problem. However, where informality does not work, or the matter of concern is of a more serious nature, the matter may be pursued formally.

3.3 Whenever a formal process is being followed, it is important to deal with issues fairly. There are a number of elements to this:

- Issues should be dealt with **promptly**. Meetings and decisions should not be unduly delayed.
- BrisDoc should act **consistently** and ensure that like cases are treated alike.
- Appropriate **investigations** should be made, to establish the facts of the case. No formal disciplinary action will be taken unless there is sufficient evidence to warrant such action and until the case has been carefully investigated.
- Any disciplinary meeting, so far as possible, will be conducted by a manager who was **not involved** in the matter giving rise to the dispute.
- Each case will be considered on its own merits in order that any decision should be reasonable in all the circumstances.
- Dismissal is always the last resort. If disciplinary action is necessary, the emphasis, wherever possible, will be giving the employees, via suitable warnings, the chance to achieve the changes or improvements that will meet the required standards.

3.4 In all cases managers will receive guidance and support throughout all stages of this procedure from the HR Manager/Advisor. Disciplinary decisions will be recorded and monitored by the HR Department to ensure that the procedure is operated fairly and consistently to all employees.

3.5 An assessment should be made as to whether the person is safe to practice/work. In the case of clinical staff they should be referred for discussion at the Performance Advisory Group (PAG – see terms of reference in appendix 12 for the purpose and remit of the PAG), and/or with their Clinical Lead. If the clinician is deemed not to be safe to practice they should be suspended (see section 5.2).

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4. Informal Procedure

- 4.1 The updated ACAS Code of Practice on Disciplinary and Grievance Procedures which came into force on 11 March 2015 provide informal mechanisms with which an employer can commence disciplinary action, giving more flexibility when handling discipline issues and allowing for informal discipline action to take place to help resolve workplace problems.
- 4.2 The aim of informal disciplinary action is to hold informal discussions with an employee to help resolve and informally address minor conduct, behavioural or poor performance issues, before they become a major problem.
- 4.3 Typically informal discussions are normally held between an employee and their supervisor or manager and even though such discussions are informal, it is a good idea to keep documentary evidence of informal meetings held with an employee. Informal meetings do not attract the right to be accompanied.
- 4.4 In the case of minor failings, the employee's line manager will normally deal with the matter quickly and informally, through discussion and advice to the individual concerned. The primary aim will be to correct the position without the need for any more formal steps.
- 4.5 Only informal warnings can be issued at this stage with a record kept on the employee's personnel file. Written confirmation of an informal caution is not a formal written warning.
- 4.6 An informal warning merely documents that an informal discussion has been held with the employee, what advice has been given to the employee about where they are going wrong, what assistance will be provided to help them improve and any agreed actions going forward.

5. Investigation

5.1 Investigatory meeting

- 5.1.1 If it is thought necessary to hold an investigatory meeting, this will be carried out promptly in order to establish the facts of the case, before memories of events fade. This investigatory meeting does not constitute disciplinary action; it is purely to establish the facts behind the allegation. The investigatory meeting will be held by an Investigatory Manager. This person may or may not be the direct line manager.
- 5.1.2 Where any witnesses are mentioned or involved, the investigatory manager will obtain written statements promptly. At times, it may be necessary to also interview witnesses. If this is the case, the individual under investigation will not be informed of the details from witnesses unless the case is referred to a disciplinary hearing. All individuals interviewed will see and sign their interview transcript knowing that it could form part of the management case should the case be referred to a hearing. The witnesses will not be informed of the full allegations, unless it is essential that they know them. The anonymity of a witness will only be protected in extreme circumstances where there is a real risk to their safety.
- 5.1.3 You may be accompanied at the meeting by a work colleague or trade union representative (see section 6.4).

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- 5.1.4 Employees will be made aware that the investigation may lead to disciplinary charges being raised.
- 5.1.5 If, during the investigation into a clinician's performance/practice potential clinical implications are identified, they should be referred to their clinical lead and/or PAG. Consideration will be given as to whether they are referred to their profession's Regulator or the Responsible Officer (RO).
- 5.1.6 If the employee fails to attend the investigatory meeting without good reason, the manager will write to the employee inviting them to attend a further meeting. The letter will state that if they fail to attend this meeting, the meeting will be held and a decision will be made in their absence. The employee will be informed of the decision, in writing, after the meeting.
- 5.1.7 After the investigatory meeting, the Investigatory Manager will meet with the HR Manager/Advisor to decide which of the following outcomes is appropriate:
 - Case closed – no further action
 - Informal verbal advice
 - Refer to a disciplinary hearing.

5.2 Involvement of additional parties

- 5.2.1 On occasions it may be necessary to inform additional parties that an investigation is being undertaken and the details thereof. These may include, but are not limited to: relevant professional bodies, the Police or the Disclosure and Barring Service as appropriate. Where this is the case the employee will be informed. Clinicians may also be referred to PAG.

5.3 Suspending employees from duty

- 5.3.1 On occasions it may be necessary to consider suspending an employee (on full pay) from duty, for example if there is reason to believe that there is a risk to patients, staff or to the employee, or if there is a possibility of the investigation being compromised if the employee remained in the workplace, or if the allegation is one of potential gross misconduct. The decision to suspend an employee may only be made by two of the following: the employee's line manager, the HR Manager, the Departmental Manager or a Director.
- 5.3.2 This is a neutral act which does not constitute disciplinary action and which does not imply guilt. All other options such as moving the employee to another role on a temporary basis will be considered before suspending the employee.
- 5.3.3 This suspension will be for as short a period as possible. The employee should be informed that whilst suspended they must be available during normal working hours (shift patterns) where possible to attend meetings as requested by management and their contact telephone number and address must be confirmed.

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6. Formal Procedure

This section applies to all employees with more than 12 months service at BrisDoc (or its predecessors in the cases of TUPE) and is in line with the 2015 ACAS Code of Practice on Disciplinary & Grievance Procedures.

6.1 Informing the employee of the allegation

- 6.1.1 If, in light of the investigation, it is decided that there is a case to answer that warrants disciplinary action, the employee will be informed of this decision in writing and invited to attend a Disciplinary Hearing. The employee will be made aware of the alleged problem and the possible consequences of this problem.

6.2 Disciplinary Hearing

- 6.2.1 The employee will be informed in writing – see Appendix 7 – of the date of the disciplinary hearing, giving reasonable notice (normally at least 4 days), to give them enough notice to prepare. The employee will also be sent copies of all documented supporting evidence and witness statements, gathered at the investigatory meeting(s). The employee should make all necessary arrangements to attend the Hearing.
- 6.2.2 If the employee wishes to present additional evidence in support of their case they must send this to the disciplining manager no less than 3 working days before the Hearing.
- 6.2.3 Both the employee and the Investigatory Manager can invite witnesses to attend the Hearing but they must inform the Disciplining Manager (and the other party) no less than 3 working days before the Hearing.
- 6.2.4 The employee will be made aware that they have the right to be accompanied (see section 6.4) at the disciplinary hearing by either a work colleague or a Trade Union Representative.
- 6.2.5 The Disciplining Manager, will conduct the hearing in accordance with the key principles (above). The disciplining manager may be an Executive Director, a Non-Executive Director or a Departmental Manager; this is subject to the seniority of the employee involved and the seriousness of the issue. An independent person will attend the hearing to make notes.
- 6.2.6 The employee will be given the chance to state their case and answer all allegations that have been made.
- 6.2.7 The employee will also have a chance to cross-examine witnesses and query statements if a witness cannot be present.
- 6.2.8 Minutes of the Disciplinary Hearing will be taken and issued to all parties after the meeting.

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6.3 The decision

- 6.3.1 Once both parties have had the opportunity to present and summarise their case, the Disciplining Manager will call for an adjournment to make his/her decision as to whether the case is proved or not and reconvene the meeting once their decision is made.
- 6.3.2 At times, the Disciplining Manager may wish to suspend the employee on full pay while considering the findings and deciding on what to do next. If this happens, the employee will be provided with a copy of the minutes from the original Hearing before the next Hearing meeting.
- 6.3.3 The disciplining manager will make their decision based on the evidence presented to them at the disciplinary hearing. They will also take account of the employee's past record, length of service, how other employees have been treated in similar circumstances (to ensure fairness and consistency), any mitigating circumstances and all other factors relevant in the particular case – see Appendix 3. They may also make their decision based on the “balance of probability”.
- 6.3.4 For clinicians, in conjunction with PAG, consideration will be given as to whether they should be referred to their profession's Regulator or the RO.
- 6.3.5 A letter will be issued to the employee immediately after the Hearing confirming the decision, the reasons why the decision was reached and the right of appeal.
- 6.3.6 The disciplinary hearing may result in one of the following decisions – see Appendix 4:
- **Case closed** – no further action will be taken and no entry will be made on a Disciplinary record.
 - **Informal verbal advice**
It may be suggested that the employee attend training courses to improve performance, or coaching sessions with their manager or another identified individual. Records of any informal verbal advice will be kept, in writing, on the employees personnel file. The employee cannot appeal against informal verbal advice.
 - **Formal verbal warning**
If the employee is found guilty of minor misconduct, a verbal warning will be recorded in writing and held on the employee's personal file for 6 months, subject to satisfactory conduct or performance, as appropriate.
 - **Written warning**
If the employee is found guilty of misconduct or to be performing poorly they will be issued with a written warning. The written warning will remain active on the employee's personnel file for 12 months. If the employee commits further acts of misconduct or fails to improve their performance within the agreed time frame whilst this written warning remains active, they will receive a final written warning.
 - **Final written warning**
If an employee commits a sufficiently serious act of misconduct or seriously under-performs, it may be more appropriate to issue a final written warning. Alternatively, if the employee currently has an active written warning on their file, they will be issued with a final written warning. The final written warning will remain active on the employee's personnel file for 12 months. The warning will

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state that failure to improve performance or conduct, or committing a further act of misconduct may lead to dismissal.

- **Dismissal with appropriate notice (or payment in lieu)**

It is very unlikely that an employee will be dismissed for a first offence, unless it is considered serious or gross misconduct. If an employee currently has an active final written warning and fails to improve their performance or conduct, or commits a further act of misconduct, the disciplinary hearing may result in dismissal. They will be informed of this decision in writing and will be given appropriate notice or will receive payment in lieu of their notice period. The power to dismiss rests with members of the Board.

- **Summary dismissal**

Some acts of misconduct, termed gross misconduct – see Appendix 3 - are so serious that they may result in instant dismissal (without notice) for a first offence. Employees must understand that a fair disciplinary procedure will always be followed before deciding whether gross misconduct has occurred. The power to dismiss rests with members of the Board.

- **Alternative disciplinary actions short of dismissal may be considered, these include (but are not limited to):**

- Demotion to a suitable job, if one is available, and the employee is in agreement
- Transfer to another department or site (if possible)

6.3.7 Where a formal verbal or written warning has been issued, the Disciplinary Manager will inform the employee of the following:

- What is wrong
- What must be done by the employee to put matters right and what help will be given.
- How long the employee has to improve. This must be a realistic time.
- What will happen if the employee does not improve, e.g. dismissal.

Also refer to Appendix 5.

6.3.7 Where applicable the disciplinary outcome may be shared with third parties such as a relevant professional body or the Disclosure and Barring Service. Employees will be informed if this is to be the case.

6.4 Right to be accompanied

6.4.1 Employees have the statutory right to be accompanied by a companion where the disciplinary meeting could result in:

- a formal warning being issued; or
- the taking of some other disciplinary action; or,
- the confirmation of a warning or some other disciplinary action (appeal hearings)

6.4.2 A companion can be a work colleague of their choice, a trade union representative, who is certified by their trade union as being competent to accompany a worker at a disciplinary hearing, or an official employed by their trade union representative.

6.4.3 If an employee wishes to be accompanied by a work colleague they must first make a reasonable request to the HR Department.

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- 6.4.4 The employee's companion will also be sent all recorded documentation prior to any formal hearings.
- 6.4.5 If an employee wishes to be accompanied by a work colleague, that colleague is under no pressure to act in this capacity nor will they be adversely treated for doing so.
- 6.4.6 Should an employee wish to be accompanied by a work colleague, BrisDoc will allow this colleague to take time off during working hours to accompany the employee to a disciplinary/appeal meeting.
- 6.4.7 It is the employee's responsibility to secure the attendance of their companion. If their companion is not available at the time scheduled, BrisDoc may, if requested, agree to reschedule provided that the request is reasonable and the hearing takes place no more than 5 working days after the original time scheduled.
- 6.4.8 The person accompanying the employee may address the hearing and confer with the employee but should not answer questions on behalf of the employee.

6.5 Right to appeal

- 6.5.1 The employee has the right to appeal against any formal warning made as a consequence of the disciplinary hearing. The disciplining manager will inform the employee to whom they should address their appeal. The appeal should be made, in writing, stating the grounds of the appeal, e.g. why the employee believes that the disciplinary procedure was conducted unfairly or why they believe that the penalty should be reviewed, within 5 working days of receipt of the warning.
- 6.5.2 The Appeal Hearing will be held without unreasonable delay; this is expected to be within 14 days of receipt of the appeal.
- 6.5.3 The employee will be informed of the time and date of the appeal hearing and will be informed that they have the right to be accompanied.
- 6.5.4 Employees should note that an appeal hearing is not intended to repeat the detailed investigation of the disciplinary hearing, but will focus on the specific factors which the employee feels that been dealt with unfairly or which have received insufficient consideration, such as:
 - An inconsistent, inappropriate or excessively harsh penalty
 - Extenuating circumstances
 - Bias of the disciplining manager
 - Unfairness in the conduct of the hearing
 - New evidence subsequently coming to light
- 6.5.5 A member of the Board (another Executive/Non-Executive Director), who was not involved in the disciplinary hearing, will chair the appeal and will make their decision based on the evidence presented to them at the appeal hearing. The employee will be given full opportunity to state their case for the appeal and the disciplining manager will state the reasons for his/her decision to impose the given penalty.
- 6.5.6 The meeting will adjourn for the chair to carefully consider the merits of the appeal, in private, before reaching a decision whether to uphold the previous sanction issued or not. (The chair may also consider it necessary to adjourn reaching a decision in order to investigate matters further.)
- 6.5.7 The employee will then be informed of the decision (which may happen in a second meeting if additional, yet reasonable, time was given for further investigation). This

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decision will also be confirmed in writing within 5 working days of the appeal hearing. This decision is final.

- 6.5.8 When an appeal against dismissal fails, the effective date of termination of contract of employment will be the date on which the employee was originally dismissed.
- 6.5.9 If an appeal is on the grounds that the disciplinary action constitutes potentially unlawful discrimination, or that it was not genuinely on grounds of conduct or capability, then the appeal will be heard as a grievance under BrisDoc's Grievance Policy.

7. Procedure for staff with less than 12 months service

With effect from 1st January 2012, BrisDoc reserves the right not to follow this disciplinary procedure for staff with less than 12 months service. In the event of a disciplinary issue (as defined in Appendices 2 and 3) arising during that period, an immediate termination of employment may apply.

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Appendix 1: Glossary of terms

TERM	DEFINITION
Investigatory Manager	<p>This is the person who will lead the investigation and decide whether “there is a case to answer”. If there is, they will refer the case to a Disciplinary Hearing.</p> <p>This person may be the employee’s direct line manager, another line manager, the employee’s line manager’s manager or a Department Manager. This is subject to the seniority of the employee.</p>
Investigatory meeting	<p>This is a fact-finding meeting, not a disciplinary meeting. Depending on the nature of the concern, it may be necessary to hold an investigatory meeting with the person (or persons) in question as well as other individuals (witnesses).</p> <p>Once all the investigatory meetings have been conducted, if the Investigatory Manager feels that “there is a case to answer” i.e. they think disciplinary action may be warranted, a Disciplinary Hearing will be set up.</p>
The management case	<p>The case that the management has against the employee, which includes all evidence gathered from the investigation, e.g. witness statements, allegations etc.</p> <p>This is sent to the employee in advance of the Disciplinary Hearing.</p>
Disciplinary Hearing	<p>This is a meeting in which the Disciplining Manager will “hear” both sides of the case i.e. from the employee and the Investigatory Manager.</p> <p>During this meeting, the Disciplining Manager will make a decision as to what disciplinary action (if any) is appropriate – this includes issuing formal warnings.</p>
Appeal Hearing	<p>This is a meeting at which a new manager (usually an Executive and Non-Executive Director) listens to the nature of the appeal by the employee. They will also listen to the reasons for the penalty imposed by the Disciplinary Manager during the Disciplinary Hearing. Based on what is said at the Appeal meeting, the manager(s) listening to this case will make a decision whether to uphold the original decision from the Disciplinary Hearing or not.</p>
PAG (Performance Advisory Group)	<p>The purpose of the PAG is to provide leadership, oversight and co-ordination of all clinician performance issues within BrisDoc services in order to assure patient safety and uphold the centrality of providing high quality patient care across BrisDoc’s services, in accordance with the organisation’s core values for patient and quality care. The Group’s function is purely <i>advisory</i>. Any subsequent course of action will be determined by the Medical Director and others as appropriate.</p>

Appendix 2: Examples of misconduct that will normally lead to disciplinary action – excluding dismissal

Initial Minor Misconduct:

- An initial minor infringement of BrisDoc's rules, regulation, policies or procedures.
- For example:
 - Persistent lateness
 - Abuse of privileges.

Minor Misconduct

- An infringement of BrisDoc's rules, regulations, policies or procedure.
- Persistent infringement of BrisDoc's rules, regulations, policies or procedures when a verbal warning has already been received or other informal mechanisms have previously been put in place.

Serious Misconduct:

- Any failure to meet the required standards of behaviour, conduct, performance or attendance which may be set out locally, or in BrisDoc's general Code of Expectations and Standards of Behaviour, or other BrisDoc policies.
- For example:
 - Failure to respond to previous written warnings.
 - Prolonged or repeated acts of misconduct.
 - Email/Internet misuse.
 - Insubordination. (Definition: Insubordination is the act of a subordinate deliberately disobeying a manager without a justifiable reason)

Appendix 3: Examples of gross misconduct that will normally lead to dismissal without notice

Gross Misconduct is behaviour of such a nature that BrisDoc is justified in no longer tolerating the continued presence at the place of work. These acts seriously breach contractual terms.

Examples include:

- Serious discriminatory behaviour and other forms of indecency or harassment.
- Theft, fraud (including attempts to commit theft or fraud) or other criminal activities.
- Deception.
- Serious breaches of confidentiality.
- Gross professional negligence or misconduct or misrepresentation.
- Serious misuse of or malicious damage to BrisDoc's property or equipment.
- Social media activity causing serious damage to BrisDoc
- Physical violence or bullying.
- Deliberately accessing internet sites containing pornographic, offensive or obscene material.
- Serious insubordination.
- Bringing the organisation into disrepute.
- Serious breach of Health and Safety rules.
- Serious breach of confidence.
- Fraudulent activity such as deliberately claiming hours not worked
- Refusing reasonable requests from management

This is not an exhaustive list and there may be other acts of misconduct of similar gravity that would constitute gross misconduct.

Appendix 4: Issues to be considered when deciding on a disciplinary outcome

The panel may wish to consider the issues in the following list when deciding upon a suitable disciplinary outcome. Please note this list is not exhaustive.

- What evidence is there to support the allegation?
- Given the evidence available, how likely is it that the allegation / incident as described actually occurred?
- Are there any other issues that have come to light that should be taken into consideration (e.g. existing live warning on file)?
- What level of misconduct is believed to have occurred (minor, serious or gross)?
- If no disciplinary action is taken, how likely is it that there would be a repetition?
- Is this a first offence?
- Have similar circumstances occurred within BrisDoc previously and if so what action was taken then?
- Were there any mitigating circumstances?

Appendix 5: Example of what information will be included in a warning

Warnings will include the following information:

1. The date, time and venue of the disciplinary hearing and who was present
2. Adequate detail of the allegation(s) made against the employee
3. The level of warning being given and the reasons behind this decision – including any reference to previous warnings, if relevant
4. The length of time that this warning will remain active on the employee's personnel file – for disciplinary purposes
5. What improvements are required and/or what needs to change
6. The time frame for review of performance improvements/changes (if applicable)
7. Any support measures that will be put in place to assist achievement of the required improvements/changes
8. The consequences of failure to achieve these improvements/changes
9. Confirmation of the right to appeal against the decision made, and who this appeal should be addressed to

Appendix 6: Record keeping

All communications regarding the allegations – e.g. the initial complaint, notes taken at the investigatory meeting, copies of witness statements/interviews, notes from the disciplinary hearing and all other related correspondence – should be kept in strict confidence in the HR Department. These documents will be regarded as 'spent' when the effective period of the disciplinary warning expires.

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Appendix 7: Example of notification of disciplinary hearing – letter

DATE

Dear **NAME**,

I am writing to tell you that you are required to attend a Disciplinary Hearing on **DATE** at **TIME**, which is to be held in **VENUE**.

At this meeting the question of disciplinary action against you, in accordance with BrisDoc's Disciplinary Policy, will be considered with regard to:

I enclose the following documents:

LIST OF DOCUMENTS INCLUDED – including a copy of BrisDoc's Disciplinary Policy

The possible consequences arising from this meeting might be:

LIST POSSIBLE PENALTIES

You are entitled, if you wish, to be accompanied by a work colleague or a trade union representative, at a disciplinary hearing.

Yours sincerely

SIGNED BY THE INVESTIGATORY MANAGER

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Appendix 8: Example of disciplinary decision – letter

DATE

Dear NAME,

You attended a disciplinary hearing on DATE. I am writing to inform you of your written warning/final written warning.

This warning will be placed on your personnel file but will be disregarded for disciplinary purposes after a period of NUMBER months, provided your conduct improves/performance reaches a satisfactory level.

The nature of the unsatisfactory conduct or performance was:

The conduct or performance improvement expected is:

The timescale within which the improvement is required is:

The likely consequence of further misconduct or insufficient improvement is:

You have the right to appeal against this decision (in writing) to NAME within 5 days of receiving this disciplinary decision.

Yours sincerely

SIGNED BY THE DISCIPLING MANAGER

Cc. Employee's Representative
Personnel File

Appendix 9: Example of notification of appeal hearing - letter

DATE

Dear NAME,

You have appealed against the written warning/final written warning confirmed to you in writing on DATE OF DISCIPLINARY DECISION LETTER.

Your appeal will be heard by NAME in VENUE on DATE at TIME.

You are entitled to be accompanied by a work colleague or trade union representative.

The decision of this appeal hearing is final and there is no further right of review.

Yours sincerely

SIGNED BY THE DISCIPLING MANAGER

CC. Employee's Representative

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Appendix 10: Example of result of appeal against warning – letter

DATE

Dear NAME,

You appealed against the decision of the disciplinary hearing that you be given a written warning/final written warning in accordance with BrisDoc's Disciplinary Policy. The appeal hearing was held on DATE.

I am now writing to inform you of the decision taken by the Manager who conducted the appeal hearing, namely that the decision to AS ABOVE stands/be revoked – SPECIFY IF NO DISCIPLINARY ACTION IS BEING TAKEN OR WHAT THE NEW DISCIPLINARY ACTION IS.

You have now exercised your right of appeal under BrisDoc's Disciplinary Policy and this decision is final.

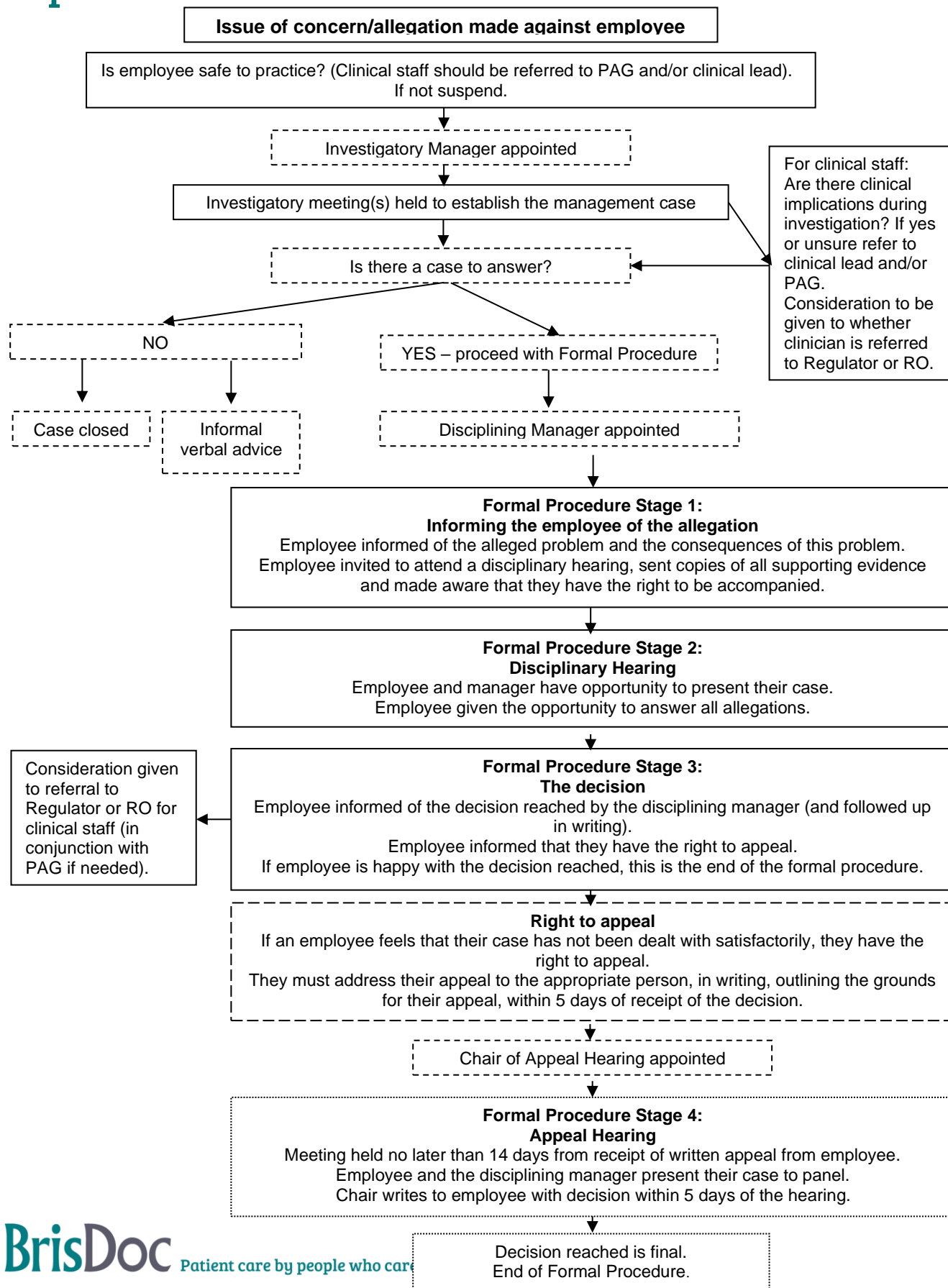
Yours sincerely

SIGNED BY THE DISCIPLING MANAGER

CC. Employee's Representative
Personnel File

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Appendix 11: Flow chart of disciplinary procedure



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Appendix 12 PAG Terms of Reference

Performance Advisory Group

Terms of Reference

Purpose

The purpose of the Performance Advisory Group (PAG) is to provide leadership, oversight and co-ordination of all clinician performance issues within BrisDoc services in order to assure patient safety and uphold the centrality of providing high quality patient care across BrisDoc's services, in accordance with the organisation's core values for patient and quality care.

The Group's function is purely *advisory*. Any subsequent course of action will be determined by the Medical Director and others as appropriate.

The Group will advise on performance management in a way that recognises the individual's welfare needs and best interests for the future whilst assuring BrisDoc's ability to provide safe and high quality care to patients. Clinicians will be advised, and if requested, supported to seek pastoral support.



Objectives

- To receive and review cases where clinical performance is of concern
- To consider and advise on the standards of performance that cause concern for patient safety, taking into account all metrics available for the clinician,
- To collectively agree and advise on recommended remedial actions, learning, and experiences for individuals, professional groups or a BrisDoc service that would improve patient safety
- To source and/or provide specialist advice where required to:
 - understand a performance issue,
 - provide advice on appropriate standards/best practice,
 - make recommendations for change at individual/profession/service level,
- To define and agree new clinical standards/protocols for BrisDoc that deliver best evidenced based practice, care and treatment, and improve patient safety,
- To agree where clinicians need referring to their professional body (GMC, NMC, HPC),
- To agree where GPs need referring to NHS England,
- To receive the confidential findings of investigations where recommendations from the Group are required to agree next investigatory steps, or identify and implement remedial actions that would improve patient safety,

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Metrics

The Group will review performance and monitor the effectiveness of individual's care and processes, and their effect on patient safety through the receipt and review of data and audit results. Performance data could include for example (this list is not exhaustive):

- Clinical Guardian performance
- Peer review audit performance
- Complaints/incidents/compliments relating to individuals
- Patient experience reports on individuals.

Arrangements for Chairing the Board

The Group will be chaired by the Medical Director. A Clinical Lead will deputise in the absence of the Medical Director.

Membership

The core membership of the board will be comprised of:

- Medical Director
 - OOHs Clinical Lead GPs
 - Frontline OOH GPs
 - Frontline OOH Nurse
 - Head of Nursing
 - Head of Governance
 - HR Manager
 - Head of Out of Hours
 - External professional leads
 - LMC
 - Independent Nurse
 - Service/Practice Manager
 - Nurse
 - GP
 - ECP
 - Pharmacist
- } Relevant to the service of the clinician(s) being reviewed.

In addition members will be co-opted onto the Group if particular issues arise that require clinical expertise from individuals other than substantive members.

Sub-groups of the Group may be formed to undertake discrete projects.

The Group will consult with external experts if necessary in the process of developing, reviewing and auditing standards of clinical practice and performance.

Roles and Responsibilities

Individual members of the Group are *not* intended to hold any particular expertise in clinical performance assessment. The individual members are expected to read each case carefully and weigh up, according to their own experience and usual practice, whether there are any causes for concern (in the action taken, the record-keeping, the prescribing or any other aspect of the medical/nursing care), and, if so, the degree of concern.

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Role	Responsibility held on the PAG
Medical Director	To set the standards for clinical performance across BrisDoc and, on behalf of the BrisDoc Board, hold employed clinicians to account for their clinical practice and performance.
Clinical Lead GP	Deputise for the Medical Director. Set and uphold the standards of clinical practice and performance for GPs employed in their service. Provide advice to the Group with respect to medical practice and standards.
Head of Nursing	Set and uphold the standards of clinical practice and performance for nurses and ECPs employed in their service. Provide advice to the Group with respect to nursing, ECP and Pharmacist practice and standards.
Head of Governance	Service the Group, support the Medical Director and provide/support the provision of performance data
HR Manager	To advise on performance management processes and policy.
External Professionals	To provide expert independent and impartial advice and guidance to BrisDoc group members.
Individual Clinicians	To share appropriate working practices for their profession and service, and provide advice on performance and improvement needs.
Service/Practice Managers	To enable group members to understand the impact of performance that is of concern, and any recommendations on their service.

Quoracy for Decision Making

A meeting will be considered to be quorate when four individuals of the membership are present and there is present at least the chair or her appointed deputy, a professional lead relevant to the clinicians being reviewed and an external representative.

Agenda and Action Points

The agenda will be circulated, along with relevant papers, in the standard format five working days before each meeting, unless the meeting is urgent, in which case the agenda and papers will be tabled. Action Points will be circulated within two working weeks of each meeting.

Anonymity

Clinicians discussed will be made anonymous where possible and referred to by a number. It will be the norm that the clinician will be made aware that their performance is being discussed at a PAG unless by exception at the Medical Director's discretion.

Frequency of Meetings

Meetings will be held quarterly for the first year at Osprey Court and last no more than 1½hrs.

Exceptional Business

The Chair may convene a short notice meeting in the event of a serious clinical incident or other serious concern.

Accountability, Reporting and Relationships

The Group is accountable to the Clinical & Services Governance Board and will report to each meeting. BrisDoc's Medical Director will be responsible for keeping the Executive Team and

Disciplinary Policy & Procedure

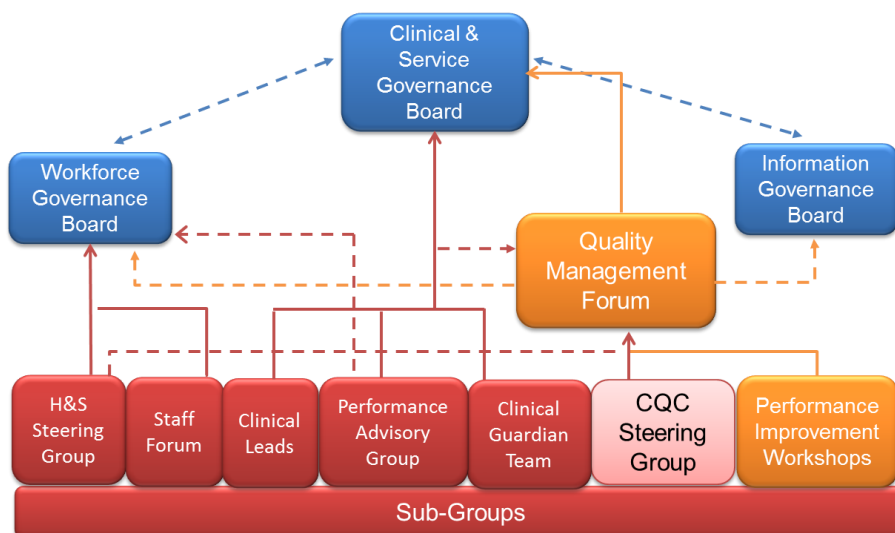
BrisDoc Board informed of high risk issues and key outcomes/decisions arising from the work of the Group.

This Group will work closely with the Workforce Governance Board with respect to an employed workforce that is clinically competent, skilled and knowledgeable to deliver appropriate high quality, evidenced based care, treatment and advice.

BrisDoc Governance Reporting Structure



BrisDoc Governance Subgroups Reporting Structure



Remuneration

GPs on the Group who are not salaried to BrisDoc will be remunerated at the standard bank daytime GP rate.

Review

These terms of reference will be reviewed annually. The next review will be held in April 2017.

Disciplinary Policy & Procedure

Document Control

Document Status: Approved

Date	Version	Author	Comments
21.4.16	1.2	CLN	Approved by PAG 20.4.16

Disciplinary Policy & Procedure

Related policies

- Managing Performance Policy
- Sickness Absence Policy
- Grievance Policy and Procedure
- Code of Expectations and Standards of Behaviour
- Equality & Diversity Policy and Procedure
- Religious and Cultural Policy
- Whistle-blowing Policy and Procedure
- Bullying and Harassment Policy and Procedure
- Health & Safety Policy
- Social Media Policy

Disciplinary Policy & Procedure

Change Register

Date	Version	Author	Change Details

The following changes have been made between the January 2012 (v4) Disciplinary Policy, the November 2015 (v5) Disciplinary policy, and the May 2017 (v5.1) Disciplinary policy.

Section	Change
Various	Replaced the phrases 'members of staff' or 'staff' with 'employees' as this policy applies to employees only.
2.1	Added the sentence 'For employees with less than 12 months service we reserve the right to follow a reduced procedure.'
3.3	Added the following text: <ul style="list-style-type: none"> No formal disciplinary action will be taken unless there is sufficient evidence to warrant such action and until the case has been carefully investigated. Each case will be considered on its own merits in order that any decision should be reasonable in all the circumstances. Dismissal is always the last resort. If disciplinary action is necessary, the emphasis, wherever possible, will be giving the employees, via suitable warnings, the chance to achieve the changes or improvements that will meet the required standards.
3.5	Section added with respect to being safe to practice and reference to PAG.
4.1 and 6 (intro)	Replaced the previous 2009 ACAS Disciplinary Code of Practice with 'ACAS Code of Practice on Disciplinary and Grievance Procedures 2015'.
5.1.3	Replaced the sentence 'You may be accompanied at the meeting by a work colleague who is not a family member...' with 'You may be accompanied at the meeting by a work colleague or trade union representative...'
5.1.5	Section added to reference referral of clinicians to the Regulator or RO.
5.2	Additional section added to provide for involvement of additional parties.
6.2.1	Replaced "at least 72 hours prior to this date," with "giving reasonable notice (normally at least 4 days)"
6.2.2	Replaced the phrase 'The employee must send their case notes...' with 'If the employee wishes to present additional evidence in support of their case they must send this...'
6.2.4	Added the text 'by either a work colleague or a Trade Union Representative'
6.2.5	Deleted the text in bold: 'The Disciplining Manager, who will not have previously been involved in the case , will conduct the hearing...'
6.3.4	Section added to include scope for referral to the Regulator or RO.
6.3.8	Section added

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6.4.2	Deleted the text in bold: 'A companion can be a work colleague of their choice (who is not a family member) , a trade union...'
6.5.1	Reduced the number of days that an individual can appeal a decision from 14 days to 5 working days.
7	Rephrased this section to (new text in bold): 'With effect from 1 st January 2012, BrisDoc reserves the right not to follow this disciplinary procedure for staff with less than 12 months service. '
Appendix 1	Description of PAG added.
Appendix 3	Added the bullet point: 'Social media activity causing serious damage to BrisDoc'
Appendix 11	Updated to include processes to involve PAG and referral to the Regulator or RO.
Appendix 12	PAG terms of reference included.
Related policies	Added 'Social Media Policy'