

Roles and Responsibilities in the Investigation Process

1. Commissioning Manager

1.1 Purpose of the Role

The Commissioning Manager is responsible for commissioning an Investigating Manager to undertake the investigation process. They can also hear the case should it proceed to a disciplinary hearing or alternatively they can commission another manager of an appropriate level to hear this.

The Investigating Manager role will normally be line manager level, therefore the Commissioning Manager will be at a more senior level.

Additional guidance should be sought with Medical staff, given there are some differences under the professional review process.

1.2. Responsibilities

Initial Notification

- On notification of the allegation identify whether any other organisations need to be notified e.g. professional body, CFS, Police Scotland. Consider any advice or guidance provided prior to commissioning the investigation;
- Where appropriate, undertake or arrange to undertake any initial fact finding early resolution meeting with the Staff Member to establish whether a formal investigation is required;
- Request statements from any witnesses identified through the initial fact finding;
- If a formal investigation is required notify the Staff Member of the allegations to be investigated, along with any supporting information available at that point.

Suspension

- Place the Staff Member on alternative duties or suspend if deemed necessary or arrange for this to be done by, for example, the line manager;
- Continue to review the appropriateness of any suspension during the period of investigation, no less than once every four weeks;
- Where the Staff Member has been suspended, commission an appropriate person to maintain regular welfare contact who is not undertaking the role of Investigating Manager (the Designated Contact Person). If the Line Manager will not be involved in the investigation process, consider if they will be appropriate to carry out this role.

Investigation Initiation

- Notify the Staff Member in writing of the allegations made against them;
- Where it is identified by either the Designated Contact Person, or another party that the individual is unfit to participate in the investigation before this process commences,

- arrange a referral to Occupational Health through normal management channels and link with HR around the appropriate timescales to commence the investigation;
- Complete a request for HR Support document for the formal investigation process;
- Commission an Investigating Manager to undertake the formal investigation process. This can be the Commissioning Manager if no conflict of interest;
- Prepare the Terms of Reference for the Investigating Manager. This will include the date, time and place of the incident(s); a description of the incident / allegations; details of any previous history; names of those involved; details of policy to be used; details of what is to be investigated; details of any other relevant documentation; timescales for completion;
- Provide the Investigating Manager with any statements gathered or any other relevant information;
- Discuss and agree any admin support required by the Investigating Manager to support investigatory meetings;
- Should the Investigating Manager identify any new information during the investigation, revisit the Terms of Reference and amend where necessary.

Identify the Investigating Manager

The suitability of an Investigation Manager should be based on the following:

- The independence of the investigation manager;
- The necessary skills, training and experience in carrying out an investigation;
- Specialist knowledge required;
- Sensitivity of the situation;
- Time available to undertake the investigation.

During Investigation

- Arrange regular liaison with the Investigating Manager around the progress of the investigation and arrange for feedback to be given to the staff member. This should happen no less than once every four weeks;
- If there are concerns raised by the Investigating Manager at any point regarding the process, these should be addressed immediately. Where there are concerns around the HR advice, these should be raised with the HR Manager;
- On receipt of the report from the Investigating Manager ensure that it complies with the Terms of Reference.

Conclusion of Investigation

- On receipt of the investigation report findings:
- Inform the Staff Member concerned of the outcome of the investigation and any subsequent action to be taken in line with the appropriate policy, ensuring this takes account of any differences identified in the initial allegations compared to the outcome of the investigation report;

- If the decision is to deal with the matter informally, speak to the Staff Member about what they need to do to improve and in what timescale, or arrange for this to be done by, for example, the line manager. A note of the informal outcome should be recorded and placed in the Staff Member's file;
- Consider any wider recommendations made within the report;
- Hear the case at a formal hearing or alternatively commission a Hearing Manager;
- Refer Staff Members to their professional registered bodies if appropriate, and also if they have harmed or pose a risk of harm to children and/or vulnerable adults to Disclosure Scotland;
- Retain a copy of all relevant information until conclusion of all internal and any external processes.

2 Suspending Manager

1.3. Purpose of the role

The Suspending Manager is responsible for meeting with the Staff Member and advising them of any decision taken to suspend them from duty.

Where a decision to suspend has been taken, an early resolution meeting is not appropriate and the staff member should instead be advised that the matter will be immediately proceeding to a formal investigation.

Full details of the steps that should be followed during a suspension are contained in the [Suspension Checklist](#)

In the majority of circumstances, suspension will be carried out by the staff member's line manager or a more senior manager within their management structure. There may however be occasions where the suspension is carried out by a duty manager who does not have management responsibilities for the staff member, e.g. out of hours/weekend working. In these situations, the duty manager who carries out the suspension is responsible for the suspension process and associated paperwork, after which time they should handover all information and details to an appropriate manager within the staff member's management structure.

It should be noted that suspension of Medical staff can only be considered by the Medical Director in conjunction with the Director of Human Resources.

2.2 Responsibilities

The Suspending Manager will be responsible for:

- Explaining the reasons for the suspension to the Staff Member;
- Informing the Staff Member they should be informed that they will continue to receive full pay during this period subject to complying with the investigation process with the

conditions of the suspension and remaining available and fully participating in the investigation process. This will be confirmed in writing to the Staff Member;

- The Staff Member should be advised of who will be the Designated Contact Person to maintain regular welfare contact. Where this is not known immediately, the Suspending Manager will maintain contact;
- If known at this stage the Staff Member will be advised of the assigned Investigating Manager;
- If required, restrictions should be made to accessing email and / or electronic diary information;
- If required, laptop, mobile phone, access passes, keys, and parking permits should be returned;
- The Staff Member should be advised of what they could expect to be the possible outcomes from the investigation and that they will be kept informed of the progress of the investigation;
- The Staff Member should be assisted to leave their current working environment with the maximum discretion allowing dignity to be maintained;
- Confidentiality should be maintained with workplace colleagues and teams being advised on a need to know basis that the Staff Member concerned will not be in work. For instance, they should not be advised of the circumstances for the absence or provided with any details of the allegations unless called to give evidence at a witness interview;
- The suspension checklist should be completed and an outcome letter should be issued to the staff member;
- Where the Suspending Manager is not within the staff member's management structure, all information relating to the matter should be handed over to the Commissioning Manager within one week.

3. Investigating Manager

3.1. Purpose of the Role

The Investigating Manager is commissioned by the Commissioning Manager to ascertain the facts relating to a situation by undertaking an investigation in a fair and thorough manner. The Investigating Manager should have sufficient experience to take on this role and to take a balanced and fair view during the investigation so that the facts of the case can be established. The Investigating Manager should have had no previous involvement in the case, including no involvement in the early resolution process. Further detail of the role is contained in [The NHSS Guide for Investigators](#).

The Investigating Manager will normally be at the level of the staff member's line manager, however depending on the seriousness of the matter, the Commissioning Manager may identify someone more senior than line manager level to carry out the investigation.

3.2. Responsibilities

- Undertake an investigation in accordance with the Terms of Reference provided by the Commissioning Manager;

- Review any materials provided by the Commissioning Manager, collate and review any additional relevant documentation, records and supporting evidence to assist with establishing the facts to the allegations;
- Arrange an investigation planning meeting with the HR Rep and complete the [planning document](#);
- Ensure that all materials gathered are shared with the staff member being investigated: in advance of investigatory meeting with the staff member, they should be provided with all witness statements, policies alleged to have been breached, supporting evidence. If additional information is gathered, a decision should be made around the appropriate point to share this information, in line with the Information Sharing Protocol;
- Identify any additional relevant witnesses and request statements;
- Make interview arrangements;
- Prepare questions in readiness for any interview;
- Interview all witnesses concerned;
- Ensure the witness is briefed as to the purpose of the interview, what will happen with the information disclosed and what to expect in the future process;
- Following the interview provide the witness with a copy of the notes taken within one week of the meeting(s);
- Invite Staff Member to the formal investigation interview providing sufficient notice to enable them to arrange to be accompanied by a representative who will be from the trade union or a colleague;
- Where it is identified during the investigation process that the Staff Member is unfit to participate liaise with their line manager around fitness to participate;
- Following the interview provide the Staff Member with a copy of the notes taken, ensuring a signed copy is returned;
- If during the investigation additional information comes to light discuss this with the Commissioning Manager to enable any relevant amendments to be made to the Terms of Reference;
- Provide regular updates no less than once every four weeks to the Commissioning Manager and the Designated Contact Person, where this role is required;
- If there are concerns around the investigation process at any point, including the validity of the advice given by the HR Rep, these should be escalated immediately to the Commissioning Manager;
- At any stage of the investigation should additional information need to be ascertained invite witnesses / the Staff Member concerned to a further interview;
- On completion of the investigation interviews collate all evidence and produce a [report](#) on the factual information obtained;
- Provide the Commissioning Manager with the report within three weeks of completing the investigation with recommendations on how to proceed;
- The Investigating Manager will respond to questions and be constructively challenged by the Hearing Manager and Staff Member / their representative at the disciplinary hearing;
- Retain a copy of all relevant information until conclusion of all internal and any external processes.

4. Designated Contact Person

4.1 Purpose of the Role

The Designated Contact Person's role is to support the member of staff during suspension.

The Designated Contact Person should be impartial to the matter and therefore should not have any other involvement in the conduct process.

Regular contact should be maintained between the Staff Member and the Designated Contact Person.

Both the Designated Contact Person and member of staff should be comfortable with the arrangements put in place. The Designated Contact Person will be available for the staff member to discuss any concerns they may have.

The Designated Contact Person should be kept updated by the Commissioning Manager about the staff member's suspension, the ongoing reasons for it, and how much longer it is likely to last.

The Designated Contact Person should make contact fortnightly, or as agreed between them and Staff Member. A brief record of contact should be kept by the Designated Contact Person.

The Designated Contact Person checklist must also be completed by the Designated Contact Person. This can be found in the OfS policies: [NHSS Designated Contact Person Checklist](#).

4.2 Responsibilities

It is the responsibility of the Designated Contact Person to:

- Make initial contact with the Staff Member to introduce themselves and arrange appropriate contact going forward;
- Keep the suspended Staff Member updated on the progress of the investigation;
- Act as a neutral person within the investigation process;
- Act as a recognised point of contact for any issues raised by the suspended Staff Member;
- Keep accurate records of discussions and provide updates to the Investigating Manager on a fortnightly basis.

5. HR Representation

5.1 Purpose of the Role

The role of HR is to provide information about questions of HR policy, procedure and process relating to staff issues. HR will ensure that any processes undertaken comply with the policy and procedure, so that there is fairness and consistency. The HR representative will work with the Investigating Manager to support and guide them.

5.2 Responsibilities

The HR rep involved in the investigation will ensure:

- That the correct timescales set out within the policy are being adhered to;
- The policy being followed is the same policy identified in the Terms of Reference set out by the Commissioning Manager;

- Where the policies initially identified as being appropriate for the investigation have been deviated from, ensure that clear rationale is provided for this;
- Where the Investigating Manager identifies that additional considerations outwith the scope of the ToR are identified, no further action is taken in relation to these until the Commissioning Manager has confirmed this is appropriate
- The questions identified by the Investigating Manager are appropriate to the scope of the investigation;
- The content of the Investigation Report, as written by the Investigating Manager, fulfils the remit of the ToR and provides appropriate clarity to each point made;
- Where appropriate, guide on precedent within the organisation;
- Regular updates are provided to the HR Manager on progress with the investigation, this should be no less than once every four weeks;
- If there are concerns around the investigation process at any point, including actions being taken by the Investigating Manager, these should be escalated to the HR Manager immediately and a decision will be made around taking this to the Commissioning Manager;
- Ensure a copy of information relating to the case is filed in the ER case file for the appropriate retention period.