

Disciplinary and Appeal Procedure

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Version Control Sheet			
This must be completed and form part of the document appendices each time the document is updated and approved			
Date dd/mm/yy	Version	Author	Reason for changes
19/05/21	3		Review date extended by six months

Consultation / Acknowledgements with Stakeholders		
Name	Designation	Date Response Received

CONTENTS

Version Control Sheet.....	1
Consultation / Acknowledgements with Stakeholders.....	1
1 Introduction / Purpose	3
2 General Principles / Target Audience	3
3 Definitions and Abbreviations	3
4 Procedure.....	3
4.1 Disciplinary Hearing	3
4.2 Appeal Hearing	5
5 References and Associated Documents.....	6
Appendix 1: Disciplinary Procedure Flowchart.....	8
Appendix 2: Appeal Procedure Flowchart : The Appeal Process.....	9
Appendix 3: Equality Impact Assessment Form.....	10

Blackpool Teaching Hospitals NHS Foundation Trust		ID No. CORP/PROC/636
Revision No: 3	Next Review Date: 19/11/2021	Title: Disciplinary and Appeal Procedure
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1 Introduction / Purpose

This document is intended to show the process involved once a case has been referred to a formal disciplinary hearing.

This guideline must be read in conjunction with the Disciplinary Policy (1).

2 General Principles / Target Audience

This Guidance is to be used when applying the Disciplinary Policy (1). The Disciplinary Policy applies to all staff employed by Blackpool Teaching Hospital NHS Foundation Trust.

The procedure to be applied in cases of professional misconduct or professional competence of medical and dental staff is set out in the Trust's Disciplinary Procedure for Hospital Medical and Dental Staff (2).

Staff employed in a training capacity are entitled to be dealt with under the terms of the disciplinary procedure in respect of the termination of training or of student, trainee or pupil status; but if there is a national statutory body responsible for the conduct of professional training the requirements of that body will be complied with.

In the case of Doctors in training, the Postgraduate Dean will be notified/involved as required through the Postgraduate Tutor of Foundation Programme Director.

The Procedure does not cover situations in which performance is unsatisfactory because of inadequate knowledge or skills. These situations are dealt with under the Performance Management Policy of the Trust.

3 Definitions and Abbreviations

Trade Union Representative A representative of a recognised negotiating body of the Trust.

Management Statement of Case (MSOC) A pack of evidence to explain the case

4 Procedure

4.1 Disciplinary Hearing

At the hearing convened in accordance with the Trust Disciplinary Policy the following procedure shall be observed:

- Introduction by the manager chairing the hearing:
 - Introduce those present
 - Confirm the purpose of the hearing is to consider whether disciplinary action should be taken in accordance with the Disciplinary Policy
 - Confirm that all parties have received the necessary paperwork
 - Outline the procedure for the hearing

Blackpool Teaching Hospitals NHS Foundation Trust		ID No. CORP/PROC/636
Revision No: 3	Next Review Date: 19/11/2021	Title: Disciplinary and Appeal Procedure
UNCONTROLLED COPY WHEN PRINTED Current Version held on the Intranet		

- Investigating manager presents case
 - Investigating manager outlines findings
 - Investigating manager calls any witnesses
 - Employee/Representative and chair/member of the panel may question the witnesses
 - Investigating manager may re-examine the witnesses
 - Employee/representative and chair/member of the panel may ask questions about the case in order to clarify facts
- Employee/representative responds to the management case
 - Employee/representative responds to the allegations, offers an explanation for the alleged misconduct and / or raises any special or mitigating circumstances to be taken into account
 - Employee/representative calls any additional witnesses
 - Investigating manager and chair/member of the panel may question the witnesses
 - Employee/representative may re-examine the witnesses
 - Investigating manager and chair/member of the panel may ask questions of the employee in order to clarify facts
- Summing up – no new evidence presented at this stage
 - Investigating manager sums up
 - Employee/representative sums up
- Adjournment for the Chair/members of the panel to consider the case
 - Agree with all parties how and when the decision will be notified to the employee/representative if time does not permit the decision to be given in person following the adjournment (Where the conduct of more than one member of staff is being considered in relation to the same incident, the adjournment between the Disciplinary Hearing and the Decision meeting may be a few days, until all of the Disciplinary Hearings have been completed.
- Reconvene for decision – Chair verbally informs employee/representative of:
 - The outcome of the hearing / disciplinary action
 - The right of appeal
 - The outcome of the hearing to be confirmed in writing with 7 days of the date of the hearing

Blackpool Teaching Hospitals NHS Foundation Trust		ID No. CORP/PROC/636
Revision No: 3	Next Review Date: 19/11/2021	Title: Disciplinary and Appeal Procedure
UNCONTROLLED COPY WHEN PRINTED		
Current Version held on the Intranet		

4.2 Appeal Hearing

The purpose of the Appeal is to consider the decision made by the manager who heard the case at the disciplinary hearing. An appeal hearing is not a re-hearing of the original case. The member of staff must submit their appeal in writing within 14 days of receipt of the outcome letter. This letter must clearly state the grounds upon which the appeal is based.

The date of the appeal will be set within 28 days of receipt of the letter of appeal, where possible and practical and will be heard at the earliest possible convenience.

The member of staff has the right to appear personally at the appeal hearing either alone or accompanied by a Trade Union Representative or a Work Colleague.

If the member of staff or his/her representative fails to attend the appeal hearing the appeal will be considered in their absence except where an adjournment is agreed by the chair of the panel.

An appeal against dismissal will be heard by a panel of two members of the Trust Board at least one of who must be a Non-Executive Director.

An appeal against continued exclusion will be heard by the Chief Executive.

In all cases the manager hearing the appeal must not have been directly involved in taking disciplinary action, which is being appealed against.

The manager who took the disciplinary decision will prepare an Appeal Pack which should include the following:

- The letter of appeal
- The outcome letter from the Disciplinary Hearing
- Key evidence from the MSOC that the manager feels is applicable to support the decision made and in response to the grounds of appeal

This pack will be provided to the Appeal Panel members and the member of staff as soon as possible, but no later than 48 hours before the appeal hearing.

- Introduction by the manager chairing the appeal:
 - Introduce those present
 - Confirm the purpose of the appeal is to review those aspects which the employee believes gave rise to an incorrect or unfair conclusion
 - Confirm that the meeting is being held under the Appeal Procedure in accordance with the Trusts Disciplinary Policy
 - Check that everyone present has the relevant documentation
 - Check whether either the manager (responding to the grounds of appeal) or the employee, wish to submit further documentation

Blackpool Teaching Hospitals NHS Foundation Trust		ID No. CORP/PROC/636
Revision No: 3	Next Review Date: 19/11/2021	Title: Disciplinary and Appeal Procedure
UNCONTROLLED COPY WHEN PRINTED Current Version held on the Intranet		

- Summarise the grounds of appeal. Check with the employee that the summary is accurate
- Outline the procedure for the hearing
- Employee/Representative states the grounds for appeal
 - Employee states reasons why the procedure was felt to be unfair, the sanction too severe, the decision was unreasonable or give details of any new evidence that needs to be considered
 - The manager can ask questions to clarify points
 - The Chair/panel members can ask questions to clarify points
- Manager responds to grounds for appeal
 - The manager responds
 - The employee can ask questions to clarify points
 - The chair/panel members can ask questions to clarify points
- Summing up – no new evidence presented at this stage
 - Manager sums up
 - Employee sums up
- Adjournment for the Chair/members of the panel to consider the case
- (If practical) Reconvene and inform the employee of the decision
- Confirm the decision in writing within 7 days of the appeal hearing
- The decision of an appeal panel is final

5 References and Associated Documents

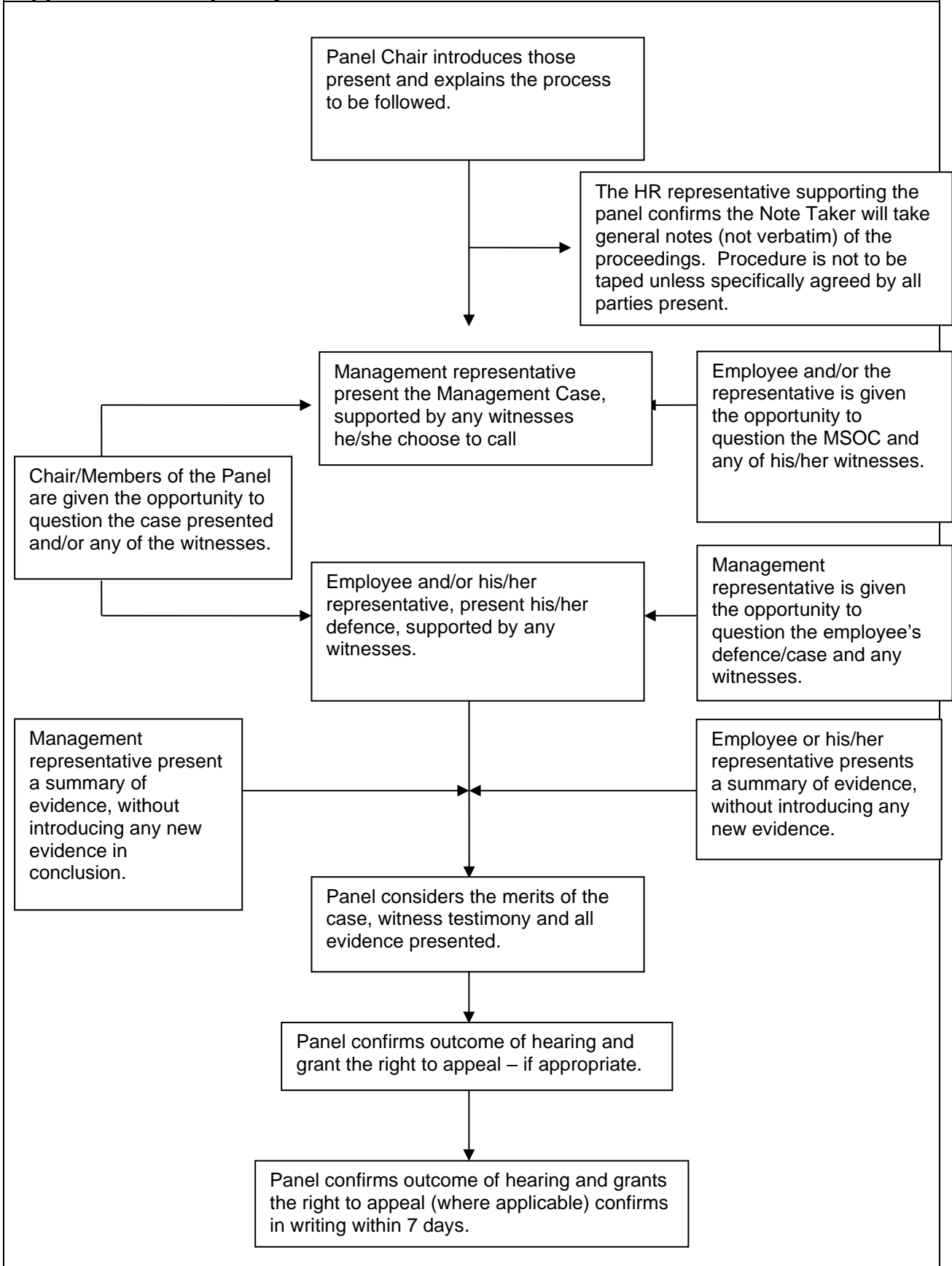
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Blackpool Teaching Hospitals NHS Foundation Trust		ID No. CORP/PROC/636
Revision No: 3	Next Review Date: 19/11/2021	Title: Disciplinary and Appeal Procedure
UNCONTROLLED COPY WHEN PRINTED <i>Current Version held on the Intranet</i>		

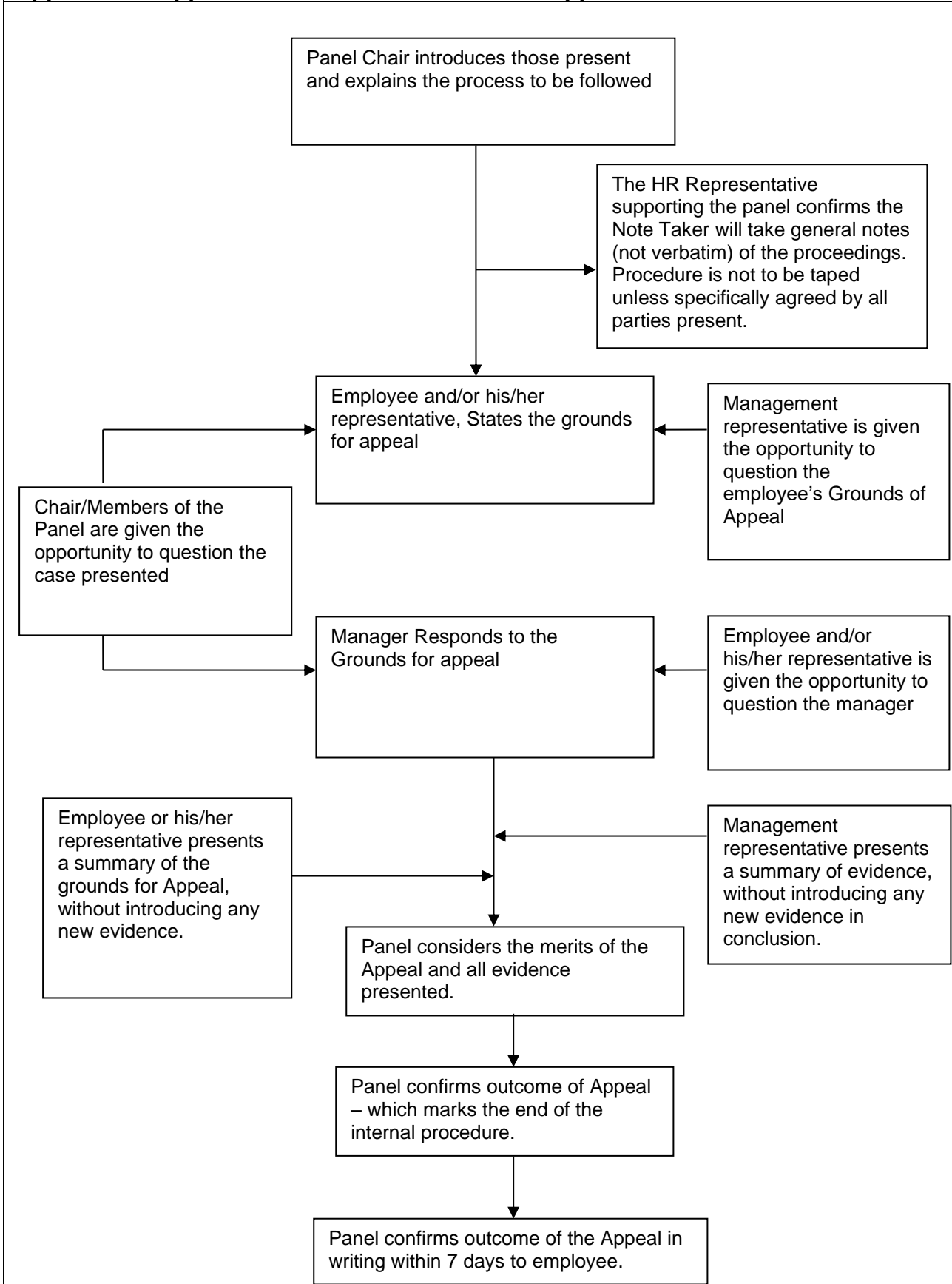
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Blackpool Teaching Hospitals NHS Foundation Trust		ID No. CORP/PROC/636
Revision No: 3	Next Review Date: 19/11/2021	Title: Disciplinary and Appeal Procedure
UNCONTROLLED COPY WHEN PRINTED Current Version held on the Intranet		

Appendix 1: Disciplinary Procedure Flowchart



Appendix 2: Appeal Procedure Flowchart : The Appeal Process



Appendix 3: Equality Impact Assessment Form					
Department	Organisation Wide	Service or Policy	Procedure	Date Completed:	September 17
GROUPS TO BE CONSIDERED Deprived communities, homeless, substance misusers, people who have a disability, learning disability, older people, children and families, young people, Lesbian Gay Bi-sexual or Transgender, minority ethnic communities, Gypsy/Roma/Travellers, women/men, parents, carers, staff, wider community, offenders.					
EQUALITY PROTECTED CHARACTERISTICS TO BE CONSIDERED Age, gender, disability, race, sexual orientation, gender identity (or reassignment), religion and belief, carers, Human Rights and social economic / deprivation.					
QUESTION	RESPONSE		IMPACT		
	Issue	Action	Positive	Negative	
What is the service, leaflet or policy development? What are its aims, who are the target audience?	The Procedural Document is to ensure that all members of staff have clear guidance on processes to be followed. The target audience is all staff across the Organisation who undertakes this process.	Raise awareness of the Organisations format and processes involved in relation to the procedural document.	Yes – Clear processes identified		
Does the service, leaflet or policy/ development impact on community safety • Crime • Community cohesion	Not applicable to community safety or crime	N/A	N/A		
Is there any evidence that groups who should benefit do not? i.e. equal opportunity monitoring of service users and/or staff. If none/insufficient local or national data available consider what information you need.	No	N/A	N/A		
Does the service, leaflet or development/ policy have a negative impact on any geographical or sub group of the population?	No	N/A	N/A		
How does the service, leaflet or policy/ development promote equality and diversity?	Ensures a cohesive approach across the Organisation in relation to the procedural document.	All policies and procedural documents include an EA to identify any positive or negative impacts.			
Does the service, leaflet or policy/ development explicitly include a commitment to equality and diversity and meeting needs? How does it demonstrate its impact?	The Procedure includes a completed EA which provides the opportunity to highlight any potential for a negative / adverse impact.				
Does the Organisation or service workforce reflect the local population? Do we employ people from disadvantaged groups	Our workforce is reflective of the local population.				
Will the service, leaflet or policy/ development i. Improve economic social conditions in deprived areas ii. Use brown field sites iii. Improve public spaces including creation of green spaces?	N/A				
Does the service, leaflet or policy/ development promote equity of lifelong learning?	N/A				
Does the service, leaflet or policy/ development encourage healthy lifestyles and reduce risks to health?	N/A				
Does the service, leaflet or policy/ development impact on transport? What are the implications of this?	N/A				
Does the service, leaflet or policy/development impact on housing, housing needs, homelessness, or a person's ability to remain at home?	N/A				
Are there any groups for whom this policy/ service/leaflet would have an impact? Is it an adverse/negative impact? Does it or could it (or is the perception that it could exclude disadvantaged or marginalised groups?	None identified				

Blackpool Teaching Hospitals NHS Foundation Trust		ID No. CORP/PROC/636
Revision No: 3	Next Review Date: 19/11/2021	Title: Disciplinary and Appeal Procedure
UNCONTROLLED COPY WHEN PRINTED Current Version held on the Intranet		

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Does the policy/development promote access to services and facilities for any group in particular?	No			
Does the service, leaflet or policy/development impact on the environment	No			
<ul style="list-style-type: none"> • During development • At implementation? 				
ACTION:				
Please identify if you are now required to carry out a Full Equality Analysis		Yes	No	(Please delete as appropriate)
Name of Author:	Eleanor Palmer-Rigby		Date Signed:	September 2017
Signature of Author:				
Name of Lead Person:	Eleanor Palmer-Rigby		Date Signed:	September 2017
Signature of Lead Person:				
Name of Manager:	Lesley Smith-Payne		Date Signed:	September 2017
Signature of Manager				