

# Standard Operational Procedure



<b>Title:</b>	Pre-action Review Meeting Procedure
<b>SOP reference:</b>	SOP14
<b>Version number:</b>	1.0
<b>Owners:</b>	Workforce Directorate
<b>Approved by:</b>	Workforce Directorate Team
<b>Date issued:</b>	June 2021
<b>Review date:</b>	June 2022
<b>Applicable to:</b>	HR Operations Team – Workforce Directorate
<b>Distribution:</b>	Workforce Directorate
<b>Linked documents:</b>	Disciplinary Policy

<b>Contents</b>		<b>Page</b>
1.	Introduction	3
2.	Objectives	3
3.	Decision to proceed to a disciplinary action	4
4.	Pre-Action Review process	6
5.	Procedure to initiate a Pre-Action Review Meeting	7
6.	Roles and Responsibility	7
7.	References	9
<b>Appendices</b>		
Appendix A	P-ARM Process Flowchart	10
Appendix B	NHS Confederation Incident Decision Tree	11
Appendix C	Disciplinary Decision Tree	12
Appendix D	P-ARM Pro-forma	13

## 1. Introduction Pre-Action Review Meeting (P-Arm)

The Trust has introduced a new “**Pause and Review**” process, prior to any ER cases (Disciplinary, Dignity at Work, Grievance, Performance & Capability), where allegations may indicate gross misconduct. This process is to take place before any formal investigation commences.

To reduce inequalities, the Trust needs to ensure that there is no differential experience for any staff working at EEAST and that regardless of age, race, disability, or any other protected characteristic, no staff member is treated less favourably than another.

A **pre-action review meeting** has been developed in order to mitigate any risk of ‘rush to judgement’ in entering staff into the formal process.

## 2. Objectives

The objective of this standard operating procedure (SOP) is to ensure a fair and consistent ‘Pause & Review’ process, when considering formal disciplinary action against an employee. It outlines the key responsibilities placed on the Employee, Manager, and HR Team within the Organisation and includes the process the manager should follow when formal disciplinary actions are being considered.

- The aim of this SOP is to provide a standard framework to identify an appropriate course of action resulting in the requirement for a formal disciplinary action and to support managers with the application of this SOP.
- It is recognised that in some circumstances, due to the nature of the allegations raised against an individual and the evidence gathered the appropriate process of a formal disciplinary action may be considered appropriate. Where this is applicable, this SOP should be used.

### **3. Decision to proceed to a formal disciplinary action.**

A decision to proceed to a formal process will be based on concerns raised and/or initial evidence gathered and presented to the P-ARM panel. This decision is made after basic fact-finding has been concluded, on cases that may require formal investigation. The fact-finding exercise should be completed within 7 calendar days. This will usually include (but not limited to) the following allegations of misconduct or gross misconduct:

#### **Examples of Misconduct**

The following non exhaustive list sets out examples of misconduct:

- Unauthorised Absence.
- Poor or erratic time keeping.
- Failure to follow a reasonable management instruction.
- Minor breaches of procedure likely to undermine efficient management or jeopardise the safety of other employees, patients or members of the public.
- Failure to comply with requirements to declare interests, gifts and hospitality received.
- Minor occurrences of, misuse of, or failure to safeguard confidential information and/or patient data.
- Failure to follow Trust policies and/or procedures.

This list is neither exclusive nor exhaustive. Whether or not a particular action constitutes a breach of the Trust's disciplinary procedure, which falls into this category, will depend upon a number of factors including the degree of seriousness and the responsibilities of the employee. Management action following an offence will take into account any extenuating circumstances together with the employee's previous record.

#### **Examples of Gross Misconduct**

The following non exhaustive list sets out examples of gross misconduct:

- theft, fraud and deliberate falsification of records
- inappropriate behaviour including physical violence or sexual misconduct.
- distribution of materials of a sexual or gore nature
- serious bullying, harassment or unlawful discrimination
- deliberate and/or serious misuse or damage to Trust property or its name.
- bringing the Trust into serious disrepute
- incapability whilst on duty brought on by alcohol or illegal drugs.
- serious negligence which causes or might cause unacceptable loss, damage or injury.
- serious infringement of health and safety rules
- serious breach of confidence (subject to the Public Interest (Disclosure) Act 1998)
- serious act of insubordination
- criminal conviction outside work which could affect employee/patient relations or amount to a breach of trust.
- misuse of Trust IT and/or communications equipment and systems for example deliberately accessing pornographic, offensive or obscene material liable to cause offence.
- the distribution or sharing of pornographic, offensive or obscene material liable to cause offence.
- serious breach of confidentiality
- breach of contract of employment – any fundamental breach of contract or conduct which renders impracticable continuation of effective employment.
- misuse of or failure to safeguard confidential information and/or patient data.
- Serious or repeated breaches of Trust policies and procedures

This list is neither exclusive nor exhaustive. Whether or not a particular action constitutes an offence, which falls into this category, will depend upon a number of factors including the degree of seriousness and the responsibilities of the employee.

## 4. P-ARM Process

The Line Manager will initiate a request for a P-ARM review meeting, in cases where they think the case may go to formal.

. At the meeting they will present initial evidence gathered and allegations for the review panel to make a decision on appropriate next steps.

The manager is responsible for contacting the relevant HR Business Partner for support during the process.

The Line Manager will complete the Pro-forma section 1 only (Appendix D) and submit it to the P-ARM panel 48 hours before the meeting is scheduled to allow for consideration & review.

At the P-ARM meeting a checklist (Appendix D) is to be completed by the Executive Director (or Sector Head, if Executive Director is not available), before a decision to formally investigate an employee is made. As a result of using the checklist, it allows issues to be addressed appropriately prior to escalation which will improve overall employee wellbeing, reduce cost of absence, improve employee relations, the reputation of the Trust and reduce Management costs and time.

The outcome of the Pre-Action Review Meeting, should be fed back to the employee by the Line Manager and will include one of the following:

- It is informal in nature and can be best resolved via a management instruction as detailed in the Disciplinary Policy.
- An alternative to a disciplinary sanction is more appropriate based on the initial fact finding.
- To progress to the Formal Stage and be investigated further.

Line Managers should advise staff member in person of the decision of the P-ARM review detailing the allegations raised. Where it is not possible to meet the staff member in person, they should be contacted by telephone/Teams. A formal allegation letter should be issued by the manager.

Staff will be informed of the likely time period of the investigation and be provided with an explanation of the process & next steps for the employee (as detailed in the Disciplinary Policy).

Depending on the nature of the allegations, staff may be excluded or suspended from some or all of their clinical and/ or non-clinical duties. Please refer to Suspension SOP for further information if required.

## 5. Procedure to initiate a Pre-Action Review Meeting

It is the Line Manager's responsibility to initiate a request for a pre-action review meeting to discuss the allegations against the staff member. If the staff member is from a BAME background a Cultural Ambassador should be included in the P-ARM meeting as part of the review panel. Safeguarding may also be required at the review meeting.

A regular time period will be held for the P-Arm calls with the exec panel and appropriate Cultural Ambassadors and Safeguarding support where required.

Afternoon Pre-Action review meeting call:

- A review session for cases is held between 16:00 – 17:00.
- The P-ARM pro-forma section 1 is required at least 48 hours prior to the action review meeting. If it is not received at least 48 hours prior, it will be escalated.

Please email completed Pro-forma to [ERCaseregistration@eastamb.nhs.uk](mailto:ERCaseregistration@eastamb.nhs.uk)

## 6. Roles and Responsibility

### Managers

Before a decision is made to process an ER case to a formal disciplinary process the Line Manager is responsible for:

- Considering the decision trees in appendix 1 & 2
- Completing P-ARM pro-forma section 1
- Booking the P-ARM call via email
- Notifying the employee in writing the outcome of the P-ARM review meeting
- Issuing formal allegation letter if required
- Maintaining appropriate contact with the employee during the period of their investigation
- Informing the employee of the likely time period of the process
- Ensuring that Trust policies and procedures are complied with.
- Regularly reviewing the application of this policy in line with new evidence
- Ensure all timescales are adhered to.
- Maintain confidentiality during and after the application of this procedure.

### Human Resources

The Human Resources department is responsible for:

- Providing appropriate advice and support to managers in the application of this procedure
- Including relevant training and coaching
- Ensuring the procedure is followed in a fair and equitable manner.
- Ensuring the procedure is adhered to and timescales are met.

### Employees

The Employee is responsible for:

- Maintaining professional conduct throughout process
- Ensuring they comply with all reasonable management instructions in line with Trust policies and procedures.
- Attending meetings as requested in a timely manner.



- Notifying the manager conducting a meeting who their appropriate representative/ companion will be prior to any relevant meeting.
- Arranging the attendance of their staff side representative or companion at meetings
- Maintaining confidentiality during and after the application of the Disciplinary policy and this SOP

#### Welfare Officer:

A Welfare officer is nominated to maintain regular contact with an employee during the disciplinary process.

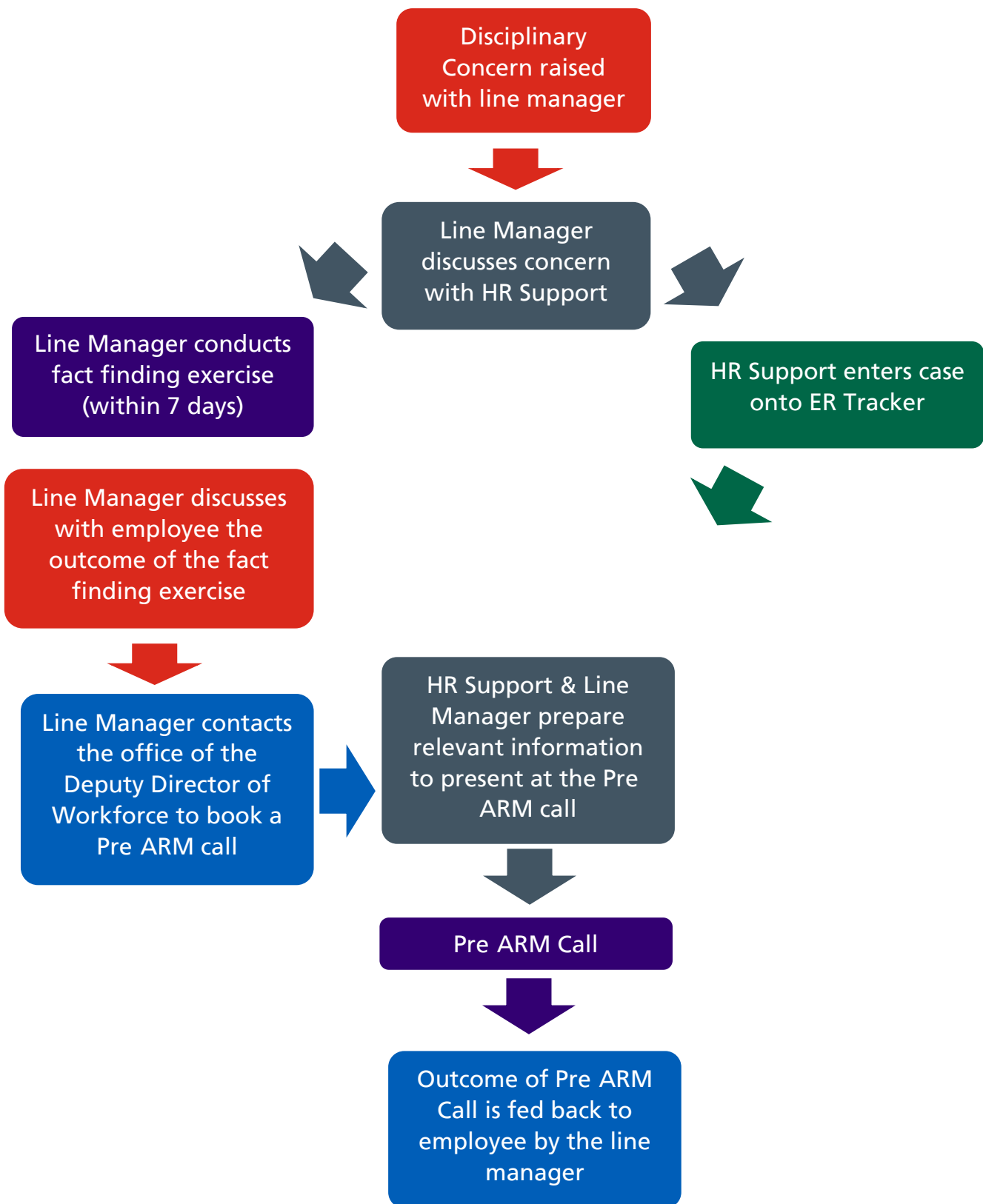
- The Welfare officer will not be involved in the details of the disciplinary process but is available to signpost employees to available support, if required during the process.

## 7. References

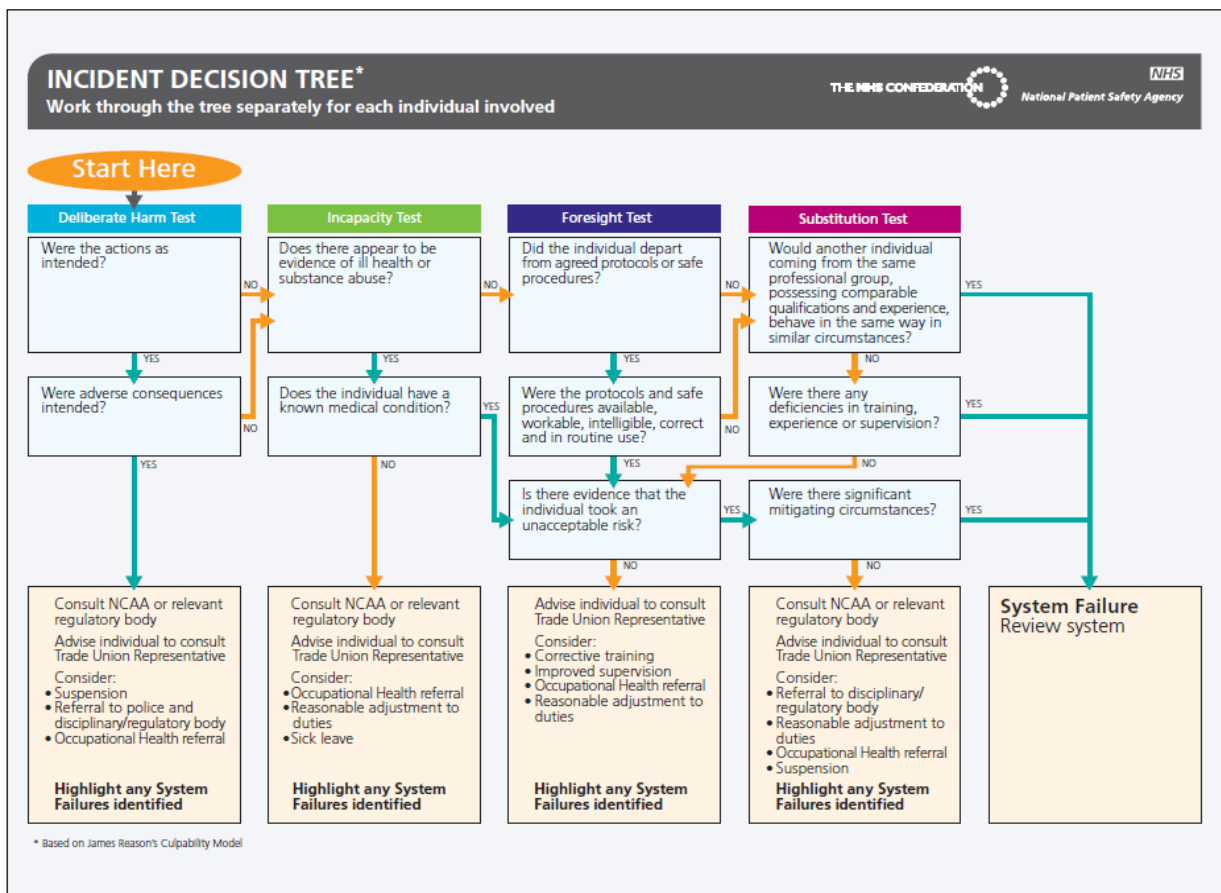
#### Reference:

- Disciplinary Policy
- Safeguarding Policy
- Alcohol and Drug Policy

## Appendix A - Process flow chart:

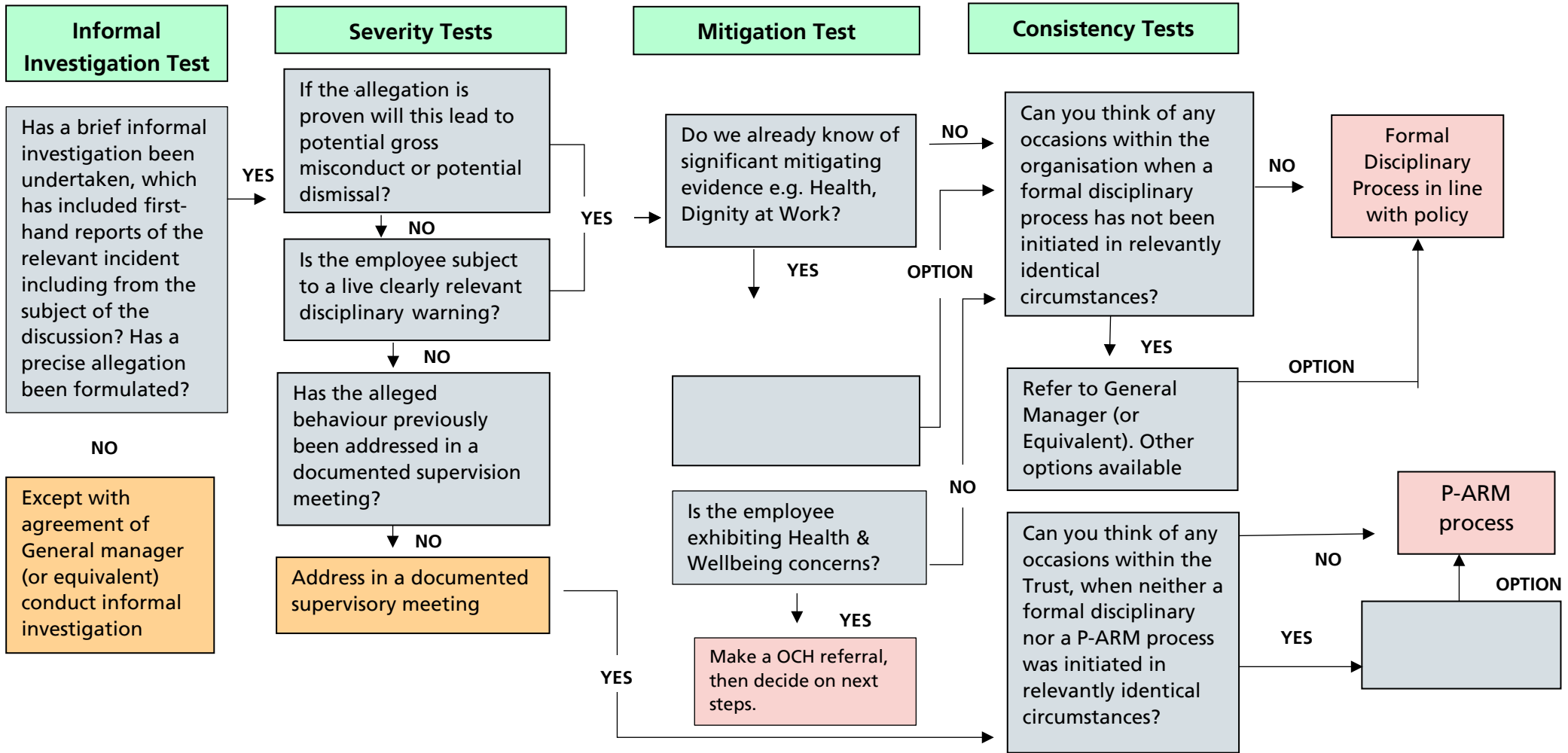


# Appendix B NHS confederation Incident Decision Tree



# Appendix C

**Disciplinary Decision Tree** - To be used in the P-ARM meeting, by the Line Manager or Commissioning Manager, HR and CA (where applicable)



## Appendix D

### Pre-Action Review Meeting - Pro-forma V0.1

**Line Manager to complete section 1 only** (to be used in ER cases (Disciplinary, Dignity at Work, Grievance, Performance & Capability), where allegations may indicate gross misconduct).

Email to [ERCaseRegistration@eastamb.nhs.uk](mailto:ERCaseRegistration@eastamb.nhs.uk) at least 48 hours before P-ARM call is to be held. Subject title in email to include ER Tracker number & employee initials

#### Section 1 - P-ARM Pro-forma

<b>Requested date of P-ARM meeting:</b>	
ER Tracker no:	
Line Manager or CM presenting at review meeting:	
HR Support:	
<b>Staff Member name:</b>	
Job Title:	
Department:	
Continuous service start date:	
Banding:	
Professional registration escalation:	<b>Yes/No</b> <b>Please specify</b>

Welfare Officer name: Frequency of welfare contact:	
Union Representative/colleague name:	
Manager:	
Reason for possible investigation:	
Date of incident/issue:	

Is the staff member from a BAME background	Yes/No
Is Safeguarding an issue	Yes/No

**Have you asked yourself the following questions before seeking P-ARM call?**

Question	Answer
a. Did the employee intend to cause harm?	Yes/No/Unsure
b. Are there indications of substance misuse including alcohol?	Yes/No/Unsure
c. Are there indications of physical ill health?	Yes/No/Unsure
d. Are there indications of mental ill health?	Yes/No/Unsure

Question	Answer
e. Is the employee aware of the relevant safe operating procedures (where applicable)?	Yes/No/Unsure
f. Were the protocols/accepted practice workable and in routine use?	Yes/No/Unsure
g. Has the employee had the relevant training to perform their roles and responsibilities?	Yes/No/Unsure
h. Would another similar trained and skilled employee in the same situation act in a similar manner?	Yes/No/Unsure
i. Any cultural points to consider? <i>(be prepared to expand)</i>	Yes/No/Unsure
j. Informal discussions with the employee about this issue/incident under review?	Yes/No/Unsure
k. Similar issues discussed in the past, formally or informally which add to the consideration of a formal disciplinary investigation?	Yes/No/Unsure

Question	Answer
Comments:	



## Pre-Action Review Checklist (review panel)

### Section 2

#### To be completed by review panel

The panel will use Pro-Forma section 1 - submitted by the Line Manager.

Complete the following sections:

<b>P-ARM review date:</b>	
<b>Name:</b>	<b>Job role:</b>
	Executive Director (or Sector Head if Executive Director is not available)
	SMG
	ER Lead
	Safeguarding (If applicable)
	Cultural Ambassador (If applicable)

Ensure conflict of interest and unconscious bias has been considered.

**The following questions should be considered before making a decision to formally investigate the individual concerned. (Check & challenge)**

Question	Answer
l. Did the employee intend to cause harm?	Yes/No/Unsure
m. Are there indications of substance misuse including alcohol?	Yes/No/Unsure
n. Are there indications of physical ill health?	Yes/No/Unsure

Question	Answer
o. Are there indications of mental ill health?	Yes/No/Unsure
p. Is the employee aware of the relevant safe operating procedures (where applicable)?	Yes/No/Unsure
q. Were the protocols/accepted practice workable and in routine use?	Yes/No/Unsure
r. Has the employee had the relevant training to perform their roles and responsibilities?	Yes/No/Unsure
s. Would another similar trained and skilled employee in the same situation act in a similar manner?	Yes/No/Unsure
t. Any cultural points to consider?	
Comments:	

**Given that the Trust emphasises improvement and learning and not blame, has there been:**

Informal discussions with the employee about this issue/incident under review?	Yes/No
Similar issues discussed in the past, formally or informally which add to the consideration of a formal disciplinary investigation?	Yes/No

<b>Issues previously discussed:</b>	
-------------------------------------	--

**OUTCOME MEASURES:**

	<p>a. If, based on the above, it is clear that there is a training or learning deficiency, is a period of supervision or more training required rather than formal disciplinary action?</p>	Yes/No
<b>Comments:</b>		
<b>Outcome agreed additional Training/Development (go to section 5)</b>		
	<p>b. Based on the above, is an informal sanction required (e.g. informal verbal warning) and followed up with a management letter/file note/1:1</p> <p>Support to be looked at could include:</p> <ul style="list-style-type: none"> <li>- Line management support/supervision</li> <li>- Coaching / development plan</li> <li>- Review of department practice</li> <li>- Health Issues</li> <li>- OH/Health Assured</li> <li>- Other (please specify)</li> </ul>	Yes/No
<b>Comments:</b>		
<b>Outcome agreed - Informal Management (go to section 5)</b>		

c. If based on the review, the issue has reached the threshold for a formal investigation what are the reasons for this?	
Comments:	
<b>Outcome agreed - Formal Investigation (go to section 4)</b>	

**Section 4 – Formal Investigation:**

Does the above action require discussion/advice from the relevant professional body, safeguarding?	Yes/No
Comments:	
Does the information known at this time require discussion in regard to potential suspension?  <i>*Involve the Workforce Directorate</i>	Yes/No
Comments:	

Is the decision consistent with how other employees have been treated for the same or similar misconduct/action?	Yes/No
Comments:	

Discussion who maybe suitable as an Investigating Officer, ensuring conflict of interest and unconscious bias is considered		Yes/No
Comments:		
Ensure employee has support and contact details been shared for example, OH, Health Assured, Chaplaincy, Union etc.		
Comments:		

**Section 5 – Sign Off:**

<b>Divisional Board representative</b>	
<b>(Name):</b>	
<b>Signed:</b>	
<b>Date:</b>	
<b>Comments/Action:</b>	

**If required:**

<b>Cultural Ambassador:</b>	
<b>Signed:</b>	
<b>Date:</b>	
<b>Comments/Action:</b>	

<b>Action</b>	<b>By whom</b>
Outcome of pre-action tool review meeting and next steps communicated to relevant line manager.	
Outcome of pre-action review meeting and next steps communicated to member of staff who is the subject of the review.	

<b>FOR ADMIN USE ONLY:</b>	
Employee Relations representative to log and file	Actioned by:
Date case logged:	