



## EAST of ENGLAND AMBULANCE SERVICE NHS TRUST

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Signed off by:  	

### VARIATIONS IN CLINICAL PRACTICE AND CLINICAL COMPETENCE POLICY

#### 1. POLICY STATEMENT

- 1.1 This document outlines the Variations in Clinical Practice and Clinical Competence Policy for the East of England Ambulance Trust (the Trust).
- 1.2 This policy aims to establish a clear pathway for dealing with issues of adequacy of performance and competency of clinical staff, and any variations relating to clinical practice. It will establish a clear separation between these issues and those that pertain to matters of personal misconduct and capability.
- 1.3 The purpose of the policy is to encourage employees to openly discuss patient care issues in a supportive environment without the threat of blame and to improve clinical practice for the future which will provide real benefits for patients.
- 1.4 In addition, the policy will deal with “near misses” and “adverse clinical incidents” so that measures can be taken to avoid reoccurrence, and any lessons learned can be shared with the organisation so that standards of care can be maintained and, where possible, improved.
- 1.5 The policy is not intended to prevent issues of staff conduct and performance being dealt with by other appropriate Trust policies. Whilst no disciplinary sanctions are to be considered as part of this policy, there may be occasions whereby during the investigation, interviews or clinical debrief, that issues come to light where it is deemed appropriate to invoke the Trust’s Disciplinary Policy (Managing Conduct and Performance) rather than continue with this process.
- 1.6 This policy will allow the Trust to manage clinical performance issues without always having the need to refer to professional/registration bodies. However, there may be cases, for example, those where poor patient care was deemed

to put the public at risk or the individual was deemed unfit to practice through lack of clinical competency. In these instances, the Trust would have a duty to refer the matter to the relevant professional/registration body.

## **2. SCOPE**

- 2.1 This policy applies to all employees of the Trust who are involved with clinical patient care.
- 2.2 This also includes any other staff who are involved in clinical patient care on behalf of the Trust e.g. bank workers or secondees.

## **3. ACCESS TO THE POLICY**

- 3.1 All employees are entitled to access this policy which is located in the HR Policies and Procedures Folders and/or on the Trust's Intranet. However, if you require this Policy in any other format please seek guidance from the Human Resources Department, your line management or trade union representative.
- 3.2 Employees and managers may also wish to consult related Trust policies such as Disciplinary Policy (Managing Conduct and Performance), Professional Registrations, local incident reporting procedures and information provided by their respective professional and/or body.

## **4. ROLES AND RESPONSIBILITIES**

- 4.1 The Human Resources Department is responsible for keeping the provision within this policy in line with employment legislation, best practice people management principles and NHS guidelines.
- 4.2 Managers, HR Staff and trade union representatives are responsible for providing advice and guidance to employees on the application of this policy and procedure.
- 4.3 Management and trade union representatives are responsible for bringing any mutually beneficial improvements to this policy to the attention of the Trust.

## **5. PROCEDURE**

- 5.1 This procedure is divided into 2 stages; Local Resolution and Clinical Performance Panel.
- 5.2 Upon assessment of the initial information provided, consideration should be given as to whether suspension or other form of clinical or operational restrictions may be required. Authority to suspend should follow the same process as set out within the Trust's Disciplinary Policy (Managing Conduct and Performance). Where clinical or operational restrictions to practice are to be instigated this will need to be authorised by a substantive Band 8c manager taking clinical advice in line with 5.4 below.
- 5.3 Having collected all the evidence the investigating manager should conduct a clinical review of the facts. This clinical review should seek to ascertain whether the incident can be dealt with at Stage 1 (Local Resolution) or whether there is a need to invoke Stage 2 (Clinical Performance Panel).

5.4 When reviewing the facts, the investigating manager is encouraged to seek expert clinical guidance from their Clinical General manager or equivalent, a senior member of the Clinical Directorate or the Clinical Performance Subgroup.

5.5 It is felt that any issue that will require the Trust to report to the relevant regulatory body should not usually be dealt with under Stage 1. This needs to be confirmed by a senior member of the Clinical Directorate or the Clinical Performance Subgroup.

#### **5.6 Stage 1 - Local resolution via a Clinical Debrief**

5.6.1 Having decided to seek a local resolution via a Clinical Debrief, the manager conducting it should consider incorporating additional expert assistance within the debrief if it is deemed necessary.

5.6.2 The Clinical Debrief should be conducted in an informal and relaxed atmosphere with the emphasis placed on learning lessons and improving clinical practice. Emphasis must be placed on confidentiality of the issues discussed.

5.6.3 Individuals must be advised that they can be accompanied by a Trade Union representative or fellow worker (i.e. another of Trust's workers).

5.6.4 If as a result of the Clinical Debrief it is decided that no further action is required this must be documented on the Clinical Debrief Form (Appendix A) which should be dated, signed by and copied to all relevant parties involved in the debrief

5.6.5 If needed an action plan should be agreed with the individual at the end of the debrief, and recorded in writing on the Clinical Debrief Form which should be dated, signed by and copied to all relevant parties involved in the debrief. An action plan may include:

- A period of mentoring (length of time to be mutually agreed);
- Additional training and education;
- Formal assessment, (simulation or 'live');
- Reviewing or recommending changes to equipment, guidelines or practice;
- Case study submission which is relevant to the incident(s) or area of poor practice/competence;
- Changes to working practices.

If necessary a review date will be agreed in order to assess progress and this should involve those present at the debrief. It may not be necessary to convene another meeting to review progress as this often can be done using other communication links.

5.6.6 A summary of the debrief should be forwarded to the Clinical General Manager and Senior Operational Manager for that area. This summary should be recorded on a Clinical Debrief Form. Anonymised summaries of Clinical Debriefs will be discussed at local clinical review groups.

- 5.6.7 If at any point during Stage 1 it is considered more appropriate to deal with the matter under either Stage 2 (Clinical Performance Panel) or the Trust's Disciplinary Policy (Managing Performance and Conduct) the Stage 1 process will stop. The employee will be informed in writing of the reason why and the more appropriate pathway to be followed.
- 5.6.8 If the manager conducting the Stage 1 clinical debrief feels it more appropriate to move the matter to either Stage 2 or the Trust's Disciplinary Policy then the relevant section of the Clinical Debrief Form (Appendix A) should be completed outlining the reasons for their decision and forwarded to the Clinical General Manager and Senior Operational Manager for that area.
- 5.6.9 Should there be an inconclusive outcome following the debrief, then the matter should move forward to Stage 2.

## **5.7 Stage 2 - Clinical Performance Panel**

- 5.7.1 For more serious clinical issues where the matter has been progressed from Stage 1, or multiple complaints, or those that cannot be resolved at stage 1, then Stage 2 will be invoked and a Clinical Performance Panel will be convened. This should occur within 28 calendar days of the investigating manager's clinical review of the facts or the date of the Stage 1 outcome. All paperwork should be shared immediately after the decision has been taken to progress to Stage 2. If the timescale cannot be adhered to due to legitimate reasons then the nominated chairperson should document the reasons and reassign another date which is agreeable to all parties.
- 5.7.2 The panel will be organised by the HR Department in conjunction with the Chair, and will comprise of the following:
- A Chairperson who would normally be the relevant clinical lead;
  - A staff peer whose skills level is representative of the employee attending the clinical review panel;
  - A staff representative nominated by UNISON who should have extensive clinical experience and credibility;
  - An appropriate manager from the domain the individual is employed in.
- 5.7.3 In special circumstances, the panel may invite an independent or an expert view, if this will help to improve the quality of the conclusion or decision of the panel.
- 5.7.4 Whilst the initial investigating manager should not be invited to sit on the panel they may be required to attend the panel hearing for clarity.
- 5.7.5 The member of staff will be invited to attend and be advised that they can be accompanied by a Trade Union representative or fellow worker (i.e. another of Trust's workers).
- 5.7.6 The panel members will have a meeting prior to the commencement of the panel hearing to discuss the case and formulate questions and an agenda of proceedings.

- 5.7.7 If as a result of the panels findings it is deemed that the issue is better dealt with under the Trust's Disciplinary Policy (Managing Conduct and Performance) the Chairperson will complete the relevant section of the Clinical Debrief Form (Appendix A) outlining the reasons for their decision and copy it to the Human Resources Department, who will then make arrangements for a disciplinary hearing to be convened. In these circumstances the individual must be informed of this decision either prior to, during or at the end of the meeting.
- 5.7.8 The panel should consider what the current clinical standards of the individual are along with any current or previous issues. If a deficit in clinical performance is identified, the panel must formulate a plan of action. This may include:
- Additional training, mentorship or personal learning plan;
  - Reviewing or recommending changes to equipment, guidelines or practice;
  - A programme of reviewing performance to ensure that high standards of clinical practice are maintained;
  - Changes to working practices;
  - Take no further action.
- 5.7.9 If the panel is reviewing a General Practitioner then a report from the panel should be sent to the PCT on whose provider list the doctor is registered.
- 5.7.10 Upon reaching their decision, the panel chair must communicate this to the individual. This should be done at the end of the panel hearing with written confirmation within 8 calendar days.
- 5.7.11 If required, the panel will set a review date in line with their recommendations which should normally be within 6 months of the hearing date.
- 5.7.12 The panel Chair will confidentially report its conclusions to the Trust's Medical Director, with a copy forwarded to the Human Resources Department for the employee's personnel file.
- 5.7.13 The HR department will keep a complete copy of all the documentation used by the Panel.
- 5.7.14 The Medical Director is responsible for the preparation of an anonymised report biannually to the Trust's Governance Committee summarising the incidents considered, and will undertake an annual review of the functionality of the panel composition in partnership with staffside.

## **6. Referral to Professional Body**

- 6.1 The Trust will meet its requirements with regards to reporting matters to Professional/ Registration bodies, as advised by, and in compliance with, the relevant professional body. Further advice or information is available from:
- The HR Department
  - Health Professions Council - 020 7582 0866  
- [www.hpc-uk.org](http://www.hpc-uk.org)

- General Medical Council - 0845 357 8001  
- [www.gmc-uk.org](http://www.gmc-uk.org)
- Nursing and Midwifery Council - 020 7333 9333  
- [www.nmc-uk.org](http://www.nmc-uk.org)

## **7. Appeals Procedure**

- 7.1 The individual may appeal against the outcome of the Clinical Performance Panel. The appeal must be sent in writing to the Director of Business Transformation within 8 calendar days of receipt of the written outcome of the meeting.
- 7.2 The appeal will be heard by a senior Trust management group comprising of the following:
- A Chairperson who would normally be the Medical or Associate Medical director;
  - A senior operational manager;
  - A senior Human Resources manager.
- 7.3 When lodging an appeal, the employee should state:
- a) the grounds of their appeal;
  - b) whether they are appealing against the finding that they have committed the alleged act(s) of unacceptable variation of clinical practice, or against the plan of action.
- 7.4 At the conclusion of the proceedings the individual will be informed of the decision of the group hearing the appeal (If the individual is a doctor then their PCT will be informed of the decision). In the event that a clinical outcome which had previously been reported is overturned at appeal, then the Chair of the appeal panel will write to the appropriate registration body.
- 7.5 There is no right of appeal against the decision to move from clinical review to the Disciplinary Policy (Managing Conduct and Performance).

## **8. POLICY REVIEW**

- 8.1 This policy will be reviewed on a two yearly basis or more frequently if significant changes to its effective operation are necessary.



**QA3 – Clinical Debrief**

**Appendix A**

<b>Date</b>	<b>Those Present at Debrief</b> ..... ..... .....
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**Description of Events/Issues**

**Debrief Findings**

**Recommendations/Conclusions (Provide Detailed Reasoning for Decision)**

**Lessons Learnt/Action Plan**

**Signatures**

Managers (Print Name) .....

Signature: .....

Crews Name (Print Name): .....

Signature: .....

Crews Name (Print Name): .....

Signature: .....

To be forwarded to General Manager Clinical Operations

Under Review