

SCHEDULE 8 – Joint HR Protocol for the Management of s75 staff



Document	BHCC SPFT S75 Joint HR protocol for the management of s75 staff
Audience	BHCC SPFT Management, Human Resources,
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1. Introduction

- 1.1 This protocol sets out the principles relating to the co-location of staff to be deployed in connection with the Services. It aims to ensure that all staff are treated fairly and that the principles of equality and diversity are upheld. Where there are any problems or difficulties relating to the employment or management of staff working within integrated services, the aim will be to resolve these at a local management level wherever possible.
- 1.2 It has been agreed that the Joint HR protocol will be reviewed during 2023/2024.

2. Arrangements and position of co-located staff

- 2.1 The co-located staff will have been informed of the Agreement for co-located staff (Schedule 7).
- 2.2 Staff co-located under this agreement remain employed by the Employing Organisation throughout the period of co-location. The Employing Organisation will ensure that they are paid as normal.
- 2.3 Staff co-located under this Agreement will be those in permanent positions and will also include any temporary staff, trainees or locums assigned to the Services.
- 2.4 Where teams of staff are co-located, responsibility will be with the line managers from the Employing Organisation.
- 2.5 All staff within integrated services will retain their Employing Organisation's terms and conditions of employment as set down in their contract of employment. However, these may be subject to any modifications made in the normal way through national or local agreements and consultation affecting their staff group. Any variation in terms and conditions arising as a result of the arrangements set out in this Agreement will be the subject of specific negotiation with recognised trade unions representing the employees concerned.

3. Policies and Procedures

- 3.1 The Human Resources policies and procedures of the Employing Organisations will apply to the co-located staff, with the exception of the procedures noted in paragraph 3.6 below.
- 3.2 Where staff from both Parties are jointly involved in an issue, the individual members of staff will be covered by the appropriate procedures operated by their Employing Organisation. However, it is recognised that this may on occasion be impracticable due to anomalies that may exist between procedures and working practices operated by the two Parties. In each case and in a timely way the Parties shall agree the procedure to follow, with full involvement from staff representatives.
- 3.3 The Host Organisation will follow the Employing Organisation's HR policies and procedures for all co-located Staff. HR staff from the Employing Organisation will provide support as necessary to execute these policies and the process of HR management.
- 3.4 The Host Organisation will seek agreement with the Employing Organisation where it wishes to introduce measures outside the Employing Organisation's policies or Terms and Conditions or where the application of policies may result in risk or liabilities for the Employing Organisation as employer of the co-located staff.
- 3.5 The relevant policies and procedures for the Employing Organisations are available via their intranets and Human Resource Departments.
- 3.6 The following procedures have been agreed as joint policies and procedures by the Partners and shall apply to all staff delivering the Services, regardless of employer:
 - Joint Management of Change and Redundancy Policy for s75 staff (Schedule 9)
- 3.7 The applicable Whistleblowing Policy will be that of the Employing Organisation of the member of staff raising the concern. Where concerns are raised that involve staff from the other organisation, then concerns will be appropriately shared with relevant managers in that other organisation.
- 3.8 In order to ensure that the Employing Organisation's policies and processes are fully supported in the integrated care services the Joint Management Group will ensure that robust HR support is available to both Parties.
- 3.9 The Host Organisation will use its best endeavours to ensure that all managers of co-located staff attend management training and updates provided by the Employing Organisation especially in relation to the Employing Organisation's policies & procedures, including management of complaints procedures.
- 3.10 The Employing Organisation will ensure all co-located staff are kept informed and up-to-date with policies and procedures applicable to them.
- 3.11 Policies and procedures of each Party not mentioned specifically in this Agreement will continue to apply to employees of each respective Party and it is agreed that the managers for designated integrated services will have the authority to act in accordance with the policy requirements.

4. Roles and Duties of staff

- 4.1 Staff of the Council will undertake Council Functions and Staff of the Trust will undertake NHS Functions. These will operate together within an integrated service design.
- 4.2 The Joint Management Group (JMG) may agree that for some staff posts the Staff may undertake the duties of both Partners in the course of their work. This will be subject to appropriate competency and training and will need to comply with the intentions set out in any local workforce plan for the longer-term delivery design for services.
- 4.3 Staff will not be asked to undertake duties traditionally beyond the scope of their appointment except where agreed by the JMG.
- 4.4 All managers will be developed to undertake their role to ensure safe and effective care.

5. Management of staff

- 5.1 Staff co-located will be managed and directed in their duties by their Employing Organisation (please see appendix 1).

6. Managing performance

- 6.1 The Employing Organisation will be responsible for undertaking any disciplinary, performance, capability and matters.
- 6.2 All formal warnings up to and including final written warning and dismissals can only be undertaken by authorised managers within the member of staff's Employing Organisation. All appeals against dismissal will be conducted within the member of staff's Employing Organisation in accordance with usual procedures.
- 6.3 Suspension from duty can only be authorised by a senior manager within the member of staff's Employing Organisation.
- 6.4 The manager undertaking any disciplinary, performance or capability matters will be supported by Human Resource staff from the member of staff's Employing Organisation.
- 6.5 The day to day management of attendance at work will be the responsibility of the immediate line manager in the normal way. Any issues or concerns about absence will be dealt with through the policy of the Employing Organisation, with support from a member of the Human Resources team from the Employing Organisation.

7. Managing employee concerns/disputes.

- 7.1 Staff will be covered by the grievance procedures and policies of their Employing Organisation. The Employing Organisation will deal with all informal action and any formal grievance hearings at stage 1. Any formal hearings required at stage 2 or 3 will be conducted by senior managers within the member of staff's Employing Organisation. Any involvement of ACAS will involve managers from the member of staff's Employing Organisation.
- 7.2 Collective disputes/grievances will be managed by the Employing Organisation at stage 1 or 2, and will be dealt with by senior managers or councillors within the member of staff's Employing Organisation at any stage above this. If any dispute is likely to affect employees from both organisations then both Partners will be involved in the resolution and will agree with staff side representatives which policy(ies) will be used.
- 7.3 The member of staff has some flexibility about who to report to any allegations of harassment, bullying or discrimination to. Where such allegations are reported to a line manager employed in the other organisation than the complainant, that line manager will have the authority to conduct the investigation supported by a member of the Human Resources team from the same organisation as the complainant. This does not prevent an independent manager being appointed to investigate and this person may be from either organisation. Any resulting disciplinary action will be conducted in accordance with the above protocol on disciplinary procedures.

8. Managing Change

- 8.1 Neither Party shall materially alter the number of staff carrying out the Functions covered by this Agreement without the prior consultation and written consent of the other Party.
- 8.2 Any significant change proposed by either Partner to the delivery of Services is subject to the authorisation of the Joint Management Group.
- 8.3 The Parties agree to comply with the management of change and redundancy policy set out below.

9. Payroll

- 9.1 The line manager will be responsible for ensuring that appropriate salary returns and timesheets are returned to the Employing Organisation's payroll department by the agreed date each month. This protocol gives the authority to line managers to discuss payroll issues with either payroll department as appropriate. When a member of staff is recruited to the Services they will be placed on the payroll of the Employing Organisation.

10. Professional Development

- 10.1 The Employing Organisation will ensure that all co-located staff receive appropriate training and development to meet professional registration requirements, continuing professional development requirements and shall provide training, development and support in circumstances where mediation has been identified as a requirement.

- 10.2 The Employing Organisation will ensure annual appraisal and development reviews are undertaken by management for all co-located Staff and that this information is used jointly by Council and Trust managers for the co-located Staff as appropriate for the purposes of individual development activities.
- 10.3 Supervision policies, supported by training, exist in both organisations.
- 10.4 The Employing Organisation will ensure regular professional supervision is provided to all co-located staff.

11. Recruitment

- 11.1 Staff of the Council will undertake Council Functions and Staff of the Trust will undertake NHS Functions.
- 11.2 The recruitment procedures of the Employing Organisation will be used to administer the process. Short listing and interview panels will include a representative from each organisation wherever possible.
- 11.3 Authorisation to recruit to posts relating to the Services will rest with the respective Employing Organisation.
- 11.4 The Parties have agreed the Joint Appointment Process (paragraph 13 below) for making joint appointments to designated key posts connected with the Arrangements.
- 11.5 The Council shall appoint and employ all new or replacement Social Workers (including Approved Mental Health Professionals) in connection with the Arrangements. For the avoidance of doubt, Approved Mental Health Professionals shall not be co-located to the Trust for the purpose of performing functions excluded under the Regulations.
- 11.6 The Employing Organisation will issue paperwork to the appointee ensuring they are cleared to commence in post. The Host Organisation is responsible for checking the employee is cleared to carry out their full duties, compliance with health and safety regulations and organising induction for the co-located member of staff.

Management of Staff

This is a guide to assist managers and staff within the Council and the Trust in handling people management and health and safety issues.

Purpose

This guide signposts managers and staff to enable them to use the appropriate organisation's policy/procedure when dealing with people management and health and safety issues between the partner organisations.

The aim of this guide is to:

- Provide an overview of how to apply the procedures in practice,
- Reduce the risk of cases being mishandled due to managers either using the wrong procedure or failing to apply the right procedure correctly because they are unfamiliar with it
- Reduce the risk to staff's health and safety due to following the wrong procedure or failing to apply the right procedure correctly.

Scope

Guidance for managers and staff within integrated services on managing the following key HR and health and safety issues:

Human Resources

- Discipline
- Performance
- Grievances/collective disputes
- Sickness absence
- Recruitment
- Managing organisational change
- Bullying, harassment or discrimination
- Whistleblowing / Freedom to Speak Up.

Health & Safety

- Health and safety policies, standards and guidance documents and training
- Incident reporting
- Health and safety building premises issues (e.g. first aid, fire safety, asbestos, legionella, contractor management etc.)

1. *Human Resources* *Which procedure should be used and when*

When dealing with people management issues, the Council and Trust managers should use the appropriate policy/procedure operated by the employer (see table below). Normally the same principle will also apply where staff from the Council and Trust are jointly involved in an issue. However, where this is impracticable due to anomalies between the two organisations' policies or procedures, the parties should agree at the outset the procedure to follow. Any formal processes can only be implemented by an officer from the employing organisation. Trade union representatives must be involved fully in these discussions.

All policies/procedures relevant to Council employees can be accessed through the organisation intranet - *Wave* . All policies/procedures relevant to Trust employees can be accessed through 'Key Documents, Workforce Policies' on the Trust Intranet pages

Managers are strongly advised to seek advice and support from the relevant HR team when dealing with people management issues, particularly where they are unfamiliar with the policy or procedure they need to use or if they are unclear as to who can carry out formal action.

Top tips when applying HR policies/procedures in practice

Line managers should always:

- Use the correct organisation's procedure
- Make sure they follow the procedure as the case can fail due to procedural errors irrespective of the merits of the case
- Always check who has the authority to suspend, hear cases and dismiss employees as these differ between the two organisations
- Always check and adhere to the timescales set out in the procedures as these differ
- Seek advice from the appropriate organisation's HR team if unsure on what to do.

How to apply individual key HR policies and procedures

Disciplinary matters

Name of Policy:

Trust: Disciplinary Policy & Procedures
Managing Concerns about Medical Staff Policy
Suspension Policy
Investigation Policy and Procedure

Council: Disciplinary Procedure and Guidance

Informal action: will be dealt with by the line manager from the employing organisation.

Disciplinary investigations: will be dealt with by the line manager from the employing organisation.

Suspension from duty: can only be authorised by a senior representative in accordance with the policy and procedure of the employing organisation.

Formal warnings: can only be issued by appropriate levels of management in accordance with the policy and procedure of the employing organisation (as long as management is from the same employer as the employee).

Dismissal: can only be undertaken by authorised managers within the employing organisation

Appeals against dismissal: Will be heard by a Corporate Director or Director and who is senior to, and outside of the directorate of, the manager who made the dismissal decision.

(Council) or a panel chaired by an Executive Director (Trust) in accordance with the procedure of the employee's employing organisation.

Performance matters

Name of Policy:

Trust: Managing Performance & Capability Policy

Managing Concerns about Medical Staff Policy Investigation Policy & Procedure

Council: Capability Procedure and Guidance
Disciplinary Procedure

Informal action: will be dealt with by the line manager of the employing organisation.

Formal Action under Stage 1: will be dealt with by the line manager of the employing organisation.

Formal Action under Stage 2: will be carried out by a senior manager from the employee's employing organisation.

Formal Action under Stage 3: will be carried out by a senior manager from the employee's employing organisation.

Suspension from duty: will be carried out by a senior manager from the employee's employing organisation.

Dismissal: can only be undertaken by authorised managers within the employee's employing organisation.

Appeals against dismissal: Will be heard by a Corporate Director or Director and who is senior to, and outside of the directorate of, the manager who made the dismissal decision.
(Council) or a panel chaired by an Executive Directory (Trust).

Managers are strongly advised to always refer to the full procedure for more details.

Grievances/collective disputes

Name of Policy:

Trust – Individual and Collective Grievances Policy
Investigation Policy & Procedure

Council – Grievance Procedure and Guidance and/or Disputes Procedure

Staff will be covered by the procedure of their employing organisation. There are significant differences between the Trust and Council procedures and therefore managers are strongly advised to seek HR advice from the relevant HR team to avoid procedural errors.

Sickness Absence

Name of Policy:

Trust - Sickness Absence & Attendance Management Policy
Council - Attendance Management Policy and Procedure

Reporting and recording arrangements: will be dealt with by the line manager of the employing organisation.

Day-to-day management of attendance at work: will be dealt with by the line manager of the employing organisation.

Dealing with concerns: any issues or concerns about absence should be dealt with under the policy of the employing organisation with support from the HR team of the employer.

Occupational health referrals: line managers within the integrated service are given authority through this Protocol to liaise with, refer to, and receive advice from the occupational health service of the employing organisation.

Recruitment

Shortlisting/interview panels: should include a representative of each organisation wherever possible.

Managing organisational change and redundancy:

The Trust and Council have a jointly agreed policy 'Management of Change and Redundancy' for the management of change within the integrated service. Where it is agreed by HR that this policy does not apply, the policy of both individual organisations will continue to be applied.

The Council's Organisation Change Management Framework specifically states that in situations where a post is broadly similar, except that the grade of the post in the new structure is higher, the post will be regarded as a new post.

Once the job match exercise has been completed all affected employees (including those on sick leave or maternity leave) must be notified of the proposed automatic slots and the arrangements for ring-fenced recruitment, including details of those individuals included in the ring-fence. As soon as any appeals concerning the proposals for slotting and ring-fences have been dealt with, the ring-fenced recruitment process may commence and automatic slots confirmed.

Employees offered an appointment through the automatic slot process or ring-fenced recruitment will have seven calendar days in which to confirm their acceptance. Employees must be advised of the consequences of unreasonably refusing an offer. If an employee unreasonably refuses an offer of appointment he/she will lose the right to further consideration under this procedure and the re-deployment policy.

Employees will be given the opportunity to appeal where they consider a possible match concerning the proposals for slotting and ring-fences has been overlooked. Written representations must be received by the nominated person within seven calendar days of the proposals being issued to the staff. Any employee who remains unplaced at the end of the recruitment exercise and is subsequently dismissed will have the right to appeal against their dismissal.

Bullying, harassment or discrimination at work

Name of Policy:

Council: Anti-bullying Harassment and Victimisation Policy
Disciplinary Policy & Procedures

Trust: Dignity & Respect at Work Policy and Guidance
Disciplinary Procedure

Whistleblowing

The policy to be used will be that of the whistle blower's employing organisation. Where the concerns raised involve staff from the other organisation, then the concerns will be shared with relevant managers in that other organisation on a strictly "need to know basis" only.

Trust: Raising Concerns Policy (prev. titled Whistleblowing - Freedom to Speak Up)
Council: Whistle Blowing Policy – raising concerns in the public interest

Currently we are aware that there are some managers who do not have access to the Wave/the Pulse. In these cases, please contact your employer's HR team who will provide you with the relevant policy as required.

Health & Safety

Both organisations have a Health and Safety (H&S) Policy in place which sets out clear roles and responsibilities of both organisations.

Staff should make themselves aware of the relevant policies from the Host Organisation and any working procedures developed by the team they work in. H&S policies will be available on the Wave or Pulse intranet systems and are likely to include the following:

COSHH (Chemical Safety)	Display Screen Equipment
Driving at work	First Aid
Food Hygiene	Fire safety
Incident/Accident Reporting	Infection Control
Management Standard	New & Expectant Mothers Risk Assessment
Noise	Personal Safety & Lone Working
Risk Assessment	Safer Handling (loads and people)
Stress/Team Resilience	Working at Heights

Healthy and Safe Workplaces

The following health and safety issues relate to the management of premises and ensuring the workplace is safe. For these issues you must follow the policy of the organisation that your workplace is based in.

Incident Reporting

Staff must report incidents immediately to their manager. Staff who are co-located to work in a host organisation should report incidents to their manager in the host organisation. An incident form must be filled in following the host organisation's incident reporting procedure and the line manager should then complete an appropriate investigation. The incident report should then be copied to both the host organisations' Health & Safety department (who will report the incident, where required, to the HSE in accordance with RIDDOR (the Reporting of Injuries, Disease and Dangerous Occurrences Regulations) and carry out an investigation where appropriate) and the employee's organisation. In relation to incident forms relating to staff members then the employee's organisation will need to be notified by the host organisations by using the notification section at the end of the incident form by sending it to the following email address:

Council – HealthAndSafety@brighton-hove.gov.uk

Training

Co-located staff must have the appropriate health and safety training to ensure they can undertake their work safely and in a way that will prevent injury to themselves, other staff and service users.

The Council will ensure that all co-located staff receive appropriate training and development to enable safe and effective practice.

The Host Organisation should provide suitable training courses to help staff fulfil the job role and should not rely on the employing organisation. Where supplementary training is only provided at either the Trust or the Council then the respective workforce development team needs to be contacted to discuss the training need, likely numbers of attendees and any associated costs.

