

Guidelines for the Management of Medical Clinical Academics between University of Leicester (UoL) and University Hospitals of Leicester NHS Trust (UHL)

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1.0 Introduction

In accordance with the Follett report and Maintaining High Professional Standards in the Modern NHS this protocol provides for a good practice way of working, with reference to capability, conduct, performance and health and redundancy / redeployment matters for Clinical Academics.

1.1 The protocol has been agreed between the University of Leicester (UoL) and University Hospitals of Leicester NHS Trust (UHL) and Provider Units (hereafter called “the Trust”) in which University clinical academic staff may hold honorary NHS contracts and substantive academic contracts with the University of Leicester. This protocol is intended to provide a framework for co-operation between University and Trust as employers of the clinical academic staff.

2.0 Guideline Standards and Procedures

The general principles and agreements reached between the University of Leicester and the Trust are set out in below:

2.1 The substantive academic contract and the NHS honorary contract are both contracts of employment. The clinical academic will therefore have two employers, each of whom will have obligations to the employee under its respective contract of employment and arising (for example under statute) from the employment relationship generally.

2.2 However, the University and the Trust recognise that as far as possible those separate employment relationships should be regarded as a whole, reflecting the fact that the performance of the clinical duties under the honorary NHS contract is essential for the full and proper performance of the duties under the substantive academic contract.

2.3 The University and the Trust will therefore seek to ensure joint co-operation in their dealings with the member of clinical academic staff, in particular with regard to issues of appraisal, review, dismissal and discipline.

2.4 The University and the Trust acknowledge that as employers of the clinical academic member of staff, each may wish, during the employment of the clinical academic concerned, to take action (whether in terms of dismissal or action falling short of dismissal) in respect of matters such as:

- a) misconduct or alleged misconduct

- b) performance of the duties of employment to a satisfactory standard
- c) assessing medical fitness to undertake all or part of the duties of employment (including consideration of the making of reasonable adjustments under the Equality Act 2010 / Disability Discrimination Act 1995 where the obligation to make such adjustments applies)
- d) attendance
- e) redundancy or other re-organisation

2.5 The University and the Trust acknowledge that each has the following procedures for determining such issues in respect of its relationship with the member of clinical academic staff:- [list the relevant procedures]

- a) Disciplinary / Conduct
- b) Management of Performance / Capability
- c) Dignity at Work / Bullying and Harassment
- d) Grievance and Disputes
- e) Sickness Management / Maximising Attendance
- f) Management of Change (including redundancy and redeployment)
- g) Whistleblowing

2.6 The University and the Trust acknowledge that:

- a) there may be occasions on which the University has grounds for considering such action under its appropriate procedure(s), and the Trust does not (and vice versa);
- b) there may be occasions on which the University has grounds for considering such action under its appropriate procedure(s) and the Trust also has grounds for considering action against the employee under its own appropriate procedure(s); and
- c) that if the University or the Trust terminates the substantive or honorary contract (as the case may be), the other will need to consider whether, in the light of that termination, the remaining contract can be continued should or ought to be terminated and that, while each case will need to be considered on its own facts, it is appropriate for the University and the Trust to agree in general terms a framework for the handling of such matters which complies with 'Follett'.

2.7 The University and the Trust therefore agree that:

- a) the following issues of conduct are matters which would ordinarily fall to be dealt with under the University's disciplinary procedure(s);
 - Alleged misconduct arising during the course of Academic / University duties and/or time
 - Alleged misconduct having a direct / indirect impact on the University or Clinical Academic's employment with the University
- b) the following issues of conduct are matters which would ordinarily fall to be dealt with under the Trust's disciplinary procedure(s); and
 - Alleged misconduct arising during the course of the Honorary employees NHS duties and / or time
 - Alleged misconduct in breach of (or potentially in breach of) the Trust Disciplinary rules
- c) in cases where an issue of misconduct arises under both (a) and (b) above, the University and the Trust will need to determine on the facts of each case and which procedure will take priority.

Potential Dismissal on the Grounds of Misconduct

2.8 Where either the University or the Trust has grounds for considering the dismissal of a member of clinical academic staff on the grounds of misconduct:

- a) the party considering the instigation of disciplinary procedures which may result in dismissal shall notify the other of that fact through the Trust and University Human Resources Directors, University Head of College and / or Dean of Medicine and Trust Medical Director (or nominated deputies) and shall discuss with the other the circumstances which have led it to contemplate initiating proceedings.
- b) the University and the Trust will co-operate with each other to facilitate any investigation into the alleged misconduct.
- c) the University and the Trust shall consider whether the case is such that both parties would have grounds for instituting disciplinary proceedings and, if that is the case, agree whether action is to be taken under each of their appropriate disciplinary procedures and the sequence in which those procedures shall be operated.
- d) any party considering restriction of practice or exclusion from work of the clinical academic shall advise the other of its proposal to restrict or suspend and discuss this prior to the clinical academic staff member being so restricted or suspended, where it is practical to do so.

- e) the University and the Trust shall liaise with each other on the steps to be taken under the applicable disciplinary procedure or procedures, in particular as regards representation by both employers on any disciplinary panel established under any of their applicable procedures and the facilitation of the calling of witnesses and/or the production of documentary evidence necessary for the purpose of determining whether misconduct has occurred.
- f) the University and the Trust (as the case may be) shall keep the other informed of the progress and outcome of their respective procedures, including of any appeal.

2.9 While the University and the Trust shall co-operate with each other as described above, each acknowledges that the other has the ultimate right to determine whether or not disciplinary proceedings should be instigated, to determine whether misconduct has occurred and, if so, whether dismissal is the appropriate sanction to be applied on the facts of the case. Representation of the Trust on the University's disciplinary panels (and vice versa) does not mean that the Trust's representative is deciding whether the Trust's contract with the member of staff concerned is to be terminated (and vice versa).

Joint Appraisal

2.10 The University and the Trust shall agree procedures for the joint appraisal of members of clinical academic staff and ensure that such arrangements and revalidation are referred to in the terms of the substantive and honorary contracts issued to the member of staff.

The employment of Clinical Academics is determined by the principles of the Follett review. Duties of a Clinical Academic should be set out in a single integrated job plan which covers the whole of the Clinical Academic's professional duties for both the substantive and honorary employer. A nominated representative of both the substantive employer and honorary employer should be present with the Clinical Academic at the job planning meeting. The job plan must be jointly agreed by all parties and must include the Clinical Academic's management and accountability arrangements to both employers.

Dismissal on Performance, Absence or Ill-Health Grounds

2.11 In the event that either the Trust or the University considers that there are grounds for considering the dismissal of a member of clinical academic staff on the grounds of performance, absence or health grounds, each will advise the other of that fact through the Trust and University Human Resources Directors, University Head of College and / or Dean of Medicine and Trust Medical Director (or nominated deputies) and shall discuss:

- a) whether the action is to be taken under the procedures of the University or the Trust or both (and if both, which procedure shall take priority);

- b) whether it is appropriate to consider the restriction of practice or exclusion from work of the member of staff concerned in relation to either the academic or clinical duties or both. Any party considering restriction of practice or exclusion from work of the clinical academic member of staff shall advise the other if its proposal to restrict or exclude and discuss this prior to the clinical academic member of staff being restricted or excluded where it is practical to do so; and
- c) in cases of sickness absence, or medical incapacity, whether it is necessary to obtain a medical report from an Occupational Health adviser or from an independent medical expert on the ability of the employee to perform the duties of his/her employment. The University and the Trust shall discuss the questions/issues arising under the Equality Act 2010, including any duty to make reasonable adjustments.

2.12 The University and the Trust shall keep each other advised of the actions taken under their applicable procedures, including the outcome of any appeal.

2.13 While the University and the Trust shall co-operate with each other as described above, each acknowledges that the other has the ultimate right, in relation to any matter being dealt with under its procedures, to determine whether or not to dismiss the member of staff concerned. Representation of the Trust on the University panel (and vice versa) does not mean that that representative is deciding whether the Trust's contract with the member of staff concerned is to be terminated (and vice versa).

Dismissal on the grounds of redundancy or re-organisation

2.14 In the event that either the Trust or the University is contemplating the dismissal for redundancy or other re-organisational reasons of any member of clinical academic staff it shall advise the other of this fact and shall keep the other regularly informed of the action being taken in this respect.

Other general provisions regarding co-operation

2.15 The University and Trust shall ensure that:

- a) their respective procedures provide that, while either the University's or the Trust's disciplinary procedure is being applied to a member of clinical academic staff, that individual may not bring any complaint relating to those proceedings under the grievance procedure of the other employer (i.e. of the Trust or the University, as the case may be).
- b) rights of appeal will be confined solely to the procedure which is being implemented and individual employees may not appeal across procedures to the other party (i.e. the University or Trust as the case may be).
- c) their contracts of employment and procedures are as far as possible sufficient to allow the disclosure of information from one to the other (in

particular of personal data or sensitive personal data) under the Data Protection Legislation, whether with or without the consent of the member of staff concerned. The Trust and the University will also discuss and agree guidelines for the disclosure of data regarding third parties, in particular data relating to patients.

3.0 Education and Training

3.1 There are no specific training requirements for the implementation of this guideline. Staff can seek further information and advice from the HR Team.

4.0 Monitoring and Audit Criteria

The key performance indicators listed below will be used as criteria when auditing compliance at the Trust.

What will be measured to monitor compliance	How will compliance be monitored	Frequency	Monitoring Lead
Review adherence to the Protocol	Medical Conduct Committee	Monthly	Medical Director

4.1 The University and the Trust shall meet on a regular basis to review this Agreement and its operation.

5.0 Supporting Documents and Key References

- Consultant Honorary Contract of Employment http://www.nhsemployers.org/-/media/Employers/Documents/Pay-and-reward/Honorary_contract_version_5_010308_aw.pdf?la=en&hash=EE1B5DDD24F05BC4C04DB6CE274E35B35880B96C
- Maintaining High Professional Standards in the Modern NHS http://webarchive.nationalarchives.gov.uk/20130124065523/http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_410334_4.pdf

UHL Policies and Procedures

- Conduct, Capability, Ill Health and Appeals Policies and Procedures for Medical Practitioners (Trust Reference A2/2005)
- UHL Framework for Medical Job Planning
- Senior Medical Staff Annual Leave Policy and Procedure (Trust Reference B35/2004)
- UHL Disciplinary Policy and Procedure (Trust Reference A6/2004)
- UHL Sickness Absence Management Policy and Procedure (Trust Reference B29/2006)
- UHL Staff Grievance and Disputes Policy and Procedure (Trust Reference A7/2004)
- Management of Change Policy (Trust Reference A1/2009)

UoL Policies and Procedures

- Disciplinary Policy and Procedure Maximising Attendance Policy and Procedure
- Ill Health Capability Ordinance Policy and Procedure
- Grievance Ordinance Policy and Procedure
- Performance Management Ordinance Policy
- Redundancy Ordinance Policy and Procedure

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6.0 Key Words

Maintaining High Professional Standards (MHPS)
Clinical Academics

This table is used to track the development and approval and dissemination of the document and any changes made on revised / reviewed versions

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