Appendix B

RESTRICTION OF PRACTICE AND EXCLUSION FROM WORK - MANAGEMENT INSTRUCTIONS AND GUIDANCE

1.0 Exclusion from Premises

1.1 The practitioner will not be automatically barred from the premises upon exclusion from work. The Case Managers must always consider whether a bar from the premises is absolutely necessary. There are certain circumstances, however, where the practitioner will be excluded from the premises. This could be, for example, where there may be a danger of tampering with evidence, or where a practitioner may be a serious potential danger to patients or other staff. In other circumstances, however, there may be no good reason to exclude the practitioner from the premises. Keeping the practitioner in the workplace will allow them to retain contact with colleagues, take part in clinical audit and to remain up to date with developments in their field of practice or to undertake research or training.

2.0 Keeping in Contact and Availability for Work

2.1 As exclusion under this Policy will usually be on full pay, the practitioner must remain available for work with the Trust during their normal contracted hours. The practitioner must inform the Case Manager of any other organisation(s) with whom they undertake either voluntary or paid work and seek the Case Manager's consent to continuing to undertake such work, or to take annual leave or study leave. The practitioner should be reminded of these contractual obligations but wherever practicable, must be given 24 hours notice to return to work. In exceptional circumstances, the Case Manager may decide that payment is not justified because the practitioner is no longer available for work (e.g. abroad without agreement). Authority not to pay rests with the HR Director.

2.3 The Case Manager should make arrangements to ensure that the practitioner is able to keep in contact with colleagues on professional developments, and take part in Continuing Professional Development (CPD) and clinical audit activities with the same level of support as other doctors or dentists. A mentor could be appointed for this purpose, if a colleague is willing to undertake this role.

3.0 Informing other Organisations

3.1 In cases where there is concern that the practitioner may be a danger to patients, the Trust has an obligation to inform such other organisations including the private sector, of any restriction on practice or exclusion and provide a summary of the reasons for it. Details of other employers (NHS and non-NHS) may be readily available from the practitioner's job plan, but where it is not, the practitioner should supply them, upon request. Failure to do so may result in further disciplinary action or referral to the relevant regulatory body, as the paramount interest is the safety of patients. Where the Trust has placed restrictions on practice, the practitioner should agree not to undertake any work in that area of practice with any other employer.

3.2 Where the Case Manager believes the practitioner is practicing in other parts of the NHS, or in the private sector, in breach or defiance of an undertaking not to do so, they should contact the professional regulatory body and the Director of Public Health or Medical Director of the Strategic Health Authority to consider the issue of an Alert Letter.

4.0 The Role of the SHA in Monitoring Exclusions

4.1 When the SHA is notified of an exclusion, it should ensure that the NCAS has also been notified. When an exclusion decision has been extended twice, the HR Director (on behalf of the Chief Executive) must inform the SHA of what action is proposed to resolve the situation. This should include dates for hearings and/or give reasons for the delay. Where retraining or other rehabilitation action is proposed, the reason for continued exclusion must be given. The SHA will receive the monthly statistical summary given to Boards and collate them into a single report for the Department of Health.

5.0 The Role of the Board and Designated Board Member

5.1 The Board has a responsibility for ensuring that procedures under this Policy are correctly followed. The Board is also responsible for ensuring the proper corporate governance of the Trust, and for this purpose reports must be made to the Board under these procedures.

5.2 The Board is responsible for designating one of its non-executive members as a **'Designated Board Member'** under these procedures. The Designated Board Member is the person who takes an overview of the actions of the Case Manager and Case Investigator during the investigation process, and who ensures the momentum of the process is maintained. The Designated Board Member's responsibilities include:

- receiving reports and reviewing the continued exclusion from work of the practitioner;
- considering any representations from the practitioner about their exclusion;
- considering any representations about the investigation;

N.B: Board members may be required to sit as members of a disciplinary or appeal panel: Therefore, information given to the Board should only be sufficient to enable the Board to satisfy itself that these procedures are being followed. Only the Designated Board Member should be involved to any significant degree in each review.

6.0 Return to Work

6.1 Where it is decided that the exclusion should come to an end, formal arrangements for the return to work of the practitioner will be followed. The Case Manager and relevant HR Manager, or their nominated representatives, working in close partnership will manage these arrangements. Part of the return to work process must be to ascertain whether clinical and other responsibilities are to remain unchanged or, where restrictions are to apply, what these will be, and any monitoring arrangements to be established to ensure patient safety. Likewise, sufficient support should be made available to enable the practitioner to resume their clinical practice, and this may include a period of retraining and/or supervised practice.