

TRUST POLICY

GRIEVANCE AND DISPUTES

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FAST FIND:

To look up processes related to informal grievances, see section 6 of this document and action card [GRE1](#)

To look up processes related to formal grievances, see section 7 of this document and action card [GRE2](#)

For grievance hearing and appeal processes, go to action card [GRE 3](#)

DOCUMENT OVERVIEW:

- This document is for use in all situations where informal or formal grievances are raised, and sets out all associated processes related to resolving them. It details certain exclusions which are detailed in the introduction (section 1)
- This document may be used for both individual and collective grievances, i.e. those which are raised by a group of employees.
- This document applies to all Trust staff directly employed by the Trust, including bank staff

1. INTRODUCTION / RATIONALE

The Trust acknowledges the importance of maintaining good employment relations and encourages full and free communication between managers and employees. It recognises that from time to time, disputes and grievances may arise, and seeks to use this policy to resolve those differences as quickly and effectively as possible.

This policy has been agreed with the Trust's staff side organisations and embodies the principles set out in the relevant NHS Staff Council Agreements and ACAS Code of Practice April 2009. It is produced in line with ACAS Code of Practice 1 – Disciplinary and Grievance Procedures.

This policy may be used when an individual or group of employees wishes to raise concerns about the actions of a manager or colleague, or about their working conditions, or changes to local terms and conditions.

This policy does not apply in the following cases:

- Issues involving information which could be treated as whistleblowing; refer to the Trust's [Raising Concerns \(Whistleblowing\) Policy](#)
- Issues relating to Agenda for Change (AFC) job matching outcomes; refer to [RD1, Arrangements for AFC Pay Banding Reviews](#).
- Issues relating to employment conditions negotiated on a national level.

This policy may be used in conjunction with the Trust's [Dignity at Work Policy](#) in issues relating to bullying and harassment with Human Resources advice.

2. DEFINITIONS

Word/Term	Descriptor
Grievance	A complaint by an employee (or employees) about an action which their employer has taken, or is contemplating taking in relation to him/her (them). Grievances may also apply to matters of equal opportunities, new working practices and organisational change.
Collective Grievance	A common grievance shared by a group of employees.
Dispute	If a collective grievance is not resolved at stage 3, then the grievance, being taken outside the organisation, becomes a dispute.
Status Quo	The working and/or management arrangements which applied before the grievance, will apply until the grievance process has been exhausted. The aggrieved party may invoke the Status Quo, if appropriate. However, Status Quo may not apply in cases where health and safety rules could be breached or in appropriate patient care may result.

3. POLICY STATEMENT

This document applies to all staff directly employed by the Trust (including bank staff) and specifies how individual and collective grievances will be handled within the Trust. It also outlines how matters of dispute may be progressed beyond the Trust.

It aims to resolve individual and collective grievances at the lowest appropriate operational level in a timely and effective manner.

4. ROLES AND RESPONSIBILITIES

Post/Group	Details
Director of People & OD	<ul style="list-style-type: none"> Overall responsibility Ensuring best practice Ensuring dissemination and awareness Ensuring appropriate consultation on this policy
Trust Board	<ul style="list-style-type: none"> creation of open culture where reporting is enabled and staff have a right for their concerns to be addressed and responded to in an appropriate fashion
HR Business Partner's / Advisors	<ul style="list-style-type: none"> provision of advice and support to line managers and employees during informal and formal grievances Ensuring grievances/disputes are dealt with in a timely and appropriate way
Line managers	<ul style="list-style-type: none"> To handle informal and formal grievances confidentially and sensitively and take timely action as appropriate Commitment to resolution of issues raised by employees
Employees	<ul style="list-style-type: none"> Clearly stating grievance issues when raised Commitment to resolution of issues
Union and staff association representatives	<ul style="list-style-type: none"> Support and represent employees Maintaining confidentiality Supporting informal and formal resolution of grievances
HR Policy Group	<ul style="list-style-type: none"> Review and monitoring of this policy
Staff Side Committee	<ul style="list-style-type: none"> Stakeholder in this document Participating in consultation and review processes

5. PRINCIPLES

5.1 Equality Requirements

The Trust recognises that there is a need to ensure that any individual with a grievance is not discriminated against or treated unfairly. There is also a need to protect those whom grievances are taken out against, and for this reason, anonymous or third party grievances will not be accepted.

If grievances are raised implying that discrimination is a factor, these may, if upheld, lead to other actions under the Trust's [Dignity at Work Policy](#) or the Trust's [Disciplinary Procedure](#)

The Trust will also ensure that reasonable adjustments are made for workers with issues that fall under the remit of the Equality Act 2010 when made aware of them, e.g. specialist equipment, flexible working agreements etc.

5.2 Confidentiality

All records of grievances will be treated as confidential and will be retained in accordance with the Trust's information governance requirements.

5.3 Representation

Employees are entitled to be accompanied to grievance meetings and hearings by a union/staff association representative or a colleague from within the Trust acting in a non-legal capacity.

Representatives are entitled (and encouraged) to engage with managers and HR advisors to achieve informal resolutions of grievances.

If a union/staff association representative raises a grievance on their own behalf, they are entitled to support from a full-time officer.

5.4 Grievance Handling – Appropriate Managers

If an employee has been unable to informally resolve their grievance the Trust will expect an employee to formally raise their grievance with a manager who is not the subject of their grievance. In usual circumstances it will be appropriate to direct grievances to the next most senior manager, but advice can be sought from HR if the employee does not feel this is possible due to the nature of the grievance

Formal grievances will be dealt with by the appropriate manager in receipt of them, with support from a HR Advisor.

Appeals will be directed to the manager named in the course of the grievance outcome, and this will normally be a manager at the next level above, e.g. Modern Matron or General Manager. In the case of a senior manager wishing to pursue a grievance appeal, the named manager will be of an appropriate level to deal with the issue.

In the case of an employee who must lodge a formal grievance with the Chief Executive, the appeal would be heard by a Non-Executive Director of the Trust, or the Chair.

5.5 Status Quo Working

The "status quo" (i.e. the working and management arrangements which were in force prior to the grievance) will apply until the formal processes have been completed, or the dispute resolved. Any decision favourable to the employee will take effect from the time the complaint was made (where reasonably practicable)

Maintaining the status quo may be overruled in instances where to continue a working practice would constitute a breach of health and safety laws, or where inappropriate patient care could result. There may be a need to reach an interim agreement when status quo working is not reasonably practicable. This may be negotiated between management in the area and a representative.

5.6 Collective Grievances

Collective grievances will apply when the grievance is raised by a number of staff. To aid a dignified and timely resolution of the grievance, the group in question should be represented at meetings and hearings by no more than three people from the group (agreed amongst them, and include a union/staff association representative if one is assisting the group).

Resolutions to collective grievances will need to be agreed by a majority decision within the group.

5.7 Mediation

Mediation may be used to resolve informal and formal grievances and is strongly encouraged by the Trust.

Mediation should be fully explored prior to a formal grievance being progressed if deemed suitable; such as in cases of dignity and respect issues.

Mediation sessions will be arranged through the HR department, and may be used at any stage of the grievance process. If mediation is opted for, the grievance process will be suspended until it is concluded and a grievance may be halted if mediation is successful.

5.8 Vexatious grievances

If an investigation confirms that an employee has lodged a grievance in malicious or vexatious circumstances, this could lead to disciplinary action. An allegation of vexatious grievance would be discussed between the staff and the employee(s) representative before proceeding.

5.9 Grievances in relation to other procedures

Where a grievance is raised during a formal process and is directly related to the issues which are being managed, Human Resources advice should be sought when deciding whether the formal process should be suspended.

It would normally be expected that grievances raised while staff are subject to formal proceedings will only be heard when the formal process has been completed.

However the process may be suspended in the following circumstances:

- If the grievance relates to discrimination, or bullying/harassment allegations
- If the grievance relates directly to deviations from the formal procedure

Complaints that staff may have about the formal action taken against them should be dealt with as an appeal under the appropriate formal procedure.

See also the Trust's [Disciplinary](#), [Managing Performance \(Capability\)](#) and [Sickness Management](#) policies and procedures.

Where a grievance is raised as an appeal against the outcome of other procedures such as refusal of annual leave/ flexible working requests, or denied injury allowance claims the grievance will be heard at the Grievance Appeal Stage.

See also Trust [Leave](#) Policy, [Flexible Working](#) Guideline and the [Injury Allowance](#) Guideline.

5.10 Timescales

Grievances and disputes should be resolved as promptly as possible and without unreasonable delay caused by any party involved to ensure that a spirit of resolving the grievance is fostered.

Notifications of formal grievances should be acknowledged by the receiving manager within 10 working days of receipt. Formal grievances should ideally be heard within four weeks of receipt where possible. Where this is not possible then any delays must be discussed with the member of staff to keep them informed of the progress of their grievance.

5.11 Exceptions

If an employee lodges a grievance prior to leaving the Trust or after they have left the Trust it will be reviewed by an appropriate Manager and they will be provided with a written response. No appeal process will be pursued.

5.12 Investigation

The manager in receipt of the grievance will consider the facts necessary to address the issue raised in the grievance, and whether a full investigation is required.

Where an investigation is required reference should be made to the **Trust's [Investigation Guidance Notes](#)**. The person commissioned to undertake the investigation should be given a timeline in which to complete the investigation.

6. GRIEVANCE STAGES

The Trust expects that in most cases, attempts should be made to resolve grievances informally before moving to the formal part of the process.

6.1 INFORMAL GRIEVANCES

In the first instance an individual should raise any concerns with their immediate manager. Often an informal discussion may be all that is required to clarify and resolve the grievance issue.

If this is not possible due to the nature of the grievance, HR advisors and staff side representatives will provide support and help to progress the matter, and it may be appropriate to direct the grievance to the next most senior manager.

The following sources of support are available to employees with individual or collective grievances:

- Trade unions/professional organisations
- Human Resources department
- Trust mediators (contact via the HR department)

An informal grievance may be considered by the manager in receipt of the grievance and a written response provided. If this does not satisfactorily resolve the issue the employee should progress the matter through the formal grievance process.

The informal grievance process is detailed in Action Card [GRE1](#). It is recommended that informal grievances are dealt with quickly and ideally not more than two weeks after being raised.

6.2 FORMAL GRIEVANCES

Note: Always consult HR before issuing any written communications.

The employee may raise a formal grievance if informal action has failed to resolve the matter.

The formal grievance process is set out in Action Card [GRE2](#) and the formal grievance must be forwarded to the manager directly above the one that the informal grievance was discussed with.

The formal process consists of three stages:

- Stage One - Submitting the grievance
- Stage Two – Grievance Hearing
- Stage Three - Appeal Process

If the employee feels it is not possible or appropriate to lodge the formal grievance with the next most senior manager advice should be sought from Human Resources. It is the responsibility of the receiving manager to respond to the grievance.

7. Stage One – Submitting the Grievance

Employees must submit their grievance using the Grievance and Disputes form on Action Card [GRE2](#)

When stating their grievance employees should be mindful of the language used and ensure that any submission is in-line with the Trust Kindness and Respect Standards of behaviour.

The manager in receipt of the grievance must consider the informal action already taken. If insufficient or no consideration has been given to informal resolution of the grievance issues the matter will be referred back to section 6.1 of this policy.

Managers receiving grievances will ensure that they provide the employee with a written acknowledgement of their grievance within 10 working days of receipt.

8. Stage Two – Grievance Hearing

The manager receiving the grievance is responsible for convening the grievance hearing, which is detailed in action card [GRE3](#).

The HR advisor for the area will arrange the grievance hearing and will in most cases ensure that this is heard ideally within four weeks of receipt of the grievance. If a delay is anticipated, the employee must be kept informed.

9. Stage Three - Appeal Process

Grievance appeals must be directed to the manager named in the outcome letter, using the Grievance Appeal form. This manager will be at least a Divisional Lead or of equivalent seniority, and will have the authority to uphold the result of the grievance hearing, or overturn it and find in the employee's favour.

The HR advisor for the area will arrange the appeal hearing and will in most cases ensure that this is heard within four weeks of receipt of the appeal. If a delay is anticipated, the employee must be kept informed.

In the case of the failure of an individual grievance following an appeal, if the employee is not satisfied they must be informed that the Trust's internal processes are now exhausted. If the employee is a member of a trade union or professional staff association, they may be able to take the matter up outside the Trust following appropriate advice from a representative.

In the case of the failure of a collective grievance following an appeal, if the employees are not satisfied with the outcome, the matter must now be regarded as a dispute and reference should be made to section 10 of this policy.

Details of the grievance appeal process are detailed in action card [GRE3](#).

10. DISPUTES

If a collective grievance is not resolved following appeal and the group of employees or representatives wishes to go into dispute, the following shall apply:

- neither side will engage in appropriate action, which may include stoppage of work, non-cooperation, change of conditions, lockout or other unconstitutional action
- the status quo will be observed unless it would cause a breach of health and safety laws, or affect appropriate patient care
- employees must be allowed appropriate time off to consult with staff side representatives
- the full time officer of the union involved must be informed of the dispute in writing
- ACAS will be engaged to provide conciliation services, which will include meeting with both sides, finding common ground and seeking acceptable solutions.

11. SUPPORT

Employees engaged in grievances or disputes processes are encouraged to seek support from staff side representatives, HR or (where appropriate) Staff Support, as it is recognised that issues causing grievances can be stressful and affect wellbeing.

12. TRAINING

All details of training relating to this policy are recorded in the Training Needs Analysis, which is produced in conjunction with the Trust [Mandatory Training Policy](#).

13. MONITORING OF COMPLIANCE

Do the systems or processes in this document have to be monitored in line with national, regional or Trust requirements?	YES
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Monitoring requirements and methodology	Frequency	Further actions
<ul style="list-style-type: none">Consistency review of grievancesReview of grievance appealsReview of casework and outcomes against HR metrics	<ul style="list-style-type: none">AnnuallyAnnuallyAnnually	<ul style="list-style-type: none">To enable HR to review and update in line with any employment law developments

12. REFERENCES

[ACAS Guidance on Collective Conciliation](#)

The Trust is not responsible for the content of external websites.

GRIEVANCE AND DISPUTES POLICY

DOCUMENT PROFILE	
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RELATED TRUST DOCUMENTS	Action cards GRE1 , GRE2 , GRE3 B0295 RD1
OTHER RELEVANT DOCUMENTS	Whistleblowing Policy ; Dignity and Respect at Work Policy ; Disciplinary Policy ; Capability Policy ; Investigation Guidance Notes
EXTERNAL COMPLIANCE STANDARDS AND/OR LEGISLATION	<ul style="list-style-type: none"> • ACAS Guidance on Collective Conciliation