

Grievance Policy

1 Introduction

- 1.1 During normal working relationships there will be times when employees raise concerns, problems or complaints with their managers. Most of the time, such problems can be dealt with informally through discussion with the manager or supervisor.
- 1.2 However, some grievances have to be dealt with formally and this Policy is aimed at ensuring that they are addressed in a fair, efficient and consistent manner.

2 Scope

- 2.1 This Policy applies to all employees, and has been designed to provide a fast and effective mechanism for dealing with employee grievances.
- 2.2 It does not apply to:
- Dismissal, or any disciplinary matters (except in certain clearly defined circumstances);
 - Situations covered by policies and procedures where there are already decision review or appeal mechanisms in place;
 - Raising concerns under the Public Interest Disclosure Act – these should be addressed through the Trust’s Whistleblowing Policy;
 - When the grievance applies to one or more members of staff, and it is jointly agreed that the matter is such that it is more appropriate to deal with it through collective discussions;
 - And, where separate policies and procedures exist for addressing an issue e.g. Bullying and harassment.

3 Legal/statutory considerations

- 3.1 This Policy reflects the Employment Act 2002 (Dispute Resolution) Regulations 2004 and the related statutory ACAS Code of Practice and guidance.

4 General

- 4.1 The aim of this Policy is to settle any grievance effectively within reasonable timescales, and at a level that is as close as possible to its origin.
- 4.2 Registration of a grievance under this procedure should not prevent or postpone disciplinary action being taken against the employee.

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4.3 It is recognised that dealing with grievances can be difficult for all concerned. This Policy is aimed at ensuring that all parties feel that they have had their views properly considered.

5 Informally raising concerns

5.1 In the first instance, employees are encouraged to resolve grievances informally, and as soon possible, with their line manager/person who has made them aggrieved. Members of staff should be as clear as possible both about the nature of their concern(s) and what it would take to resolve the issue(s).

5.2 If an employee has a grievance then it might be helpful for him or her to write down the issue(s) of concern. This needn't be shared with anyone, but putting it in writing may help the employee to clarify their own thinking and help them to verbally express any concerns to their manager.

5.3 Members of staff may wish to speak confidentially to a Human Resources advisor, Trade Union representative or other sources of help such as a LINC (Listening, Informal, Non-judgemental, Confidential) worker when considering whether to pursue a grievance matter.

5.4 Managers should do all they can to ensure that the issue is properly considered on an informal basis. A room should be used that allows confidentiality and an uninterrupted time period to allow effective discussion of the issue. If there are difficulties in resolving issues at this meeting then it may be adjourned to allow time for further consideration/investigation etc.

5.5 If the grievance cannot be settled informally then the employee may raise it formally (see Section 7).

6 Investigation

6.1 At any point within the procedure, it may be appropriate to carry out some investigation of the issues involved. This may include interviewing any parties individually prior to the meeting at the informal stage or any hearing/appeal at the formal stage.

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7 Formal Grievance Procedure

7.1 Guidelines on hearings and appeals

7.2 Appendix 1 sets out guidelines on carrying out grievance and appeal hearings.

7.3 Resolving issues

7.4 Whilst the Formal Grievance Procedure has three stages, every effort should be made by all persons involved to try to resolve the issues as promptly, and as close as possible to their origin, as possible.

7.5 Referral of the grievance to an earlier stage

7.6 Managers on receiving a grievance at the Second or Third stage, should satisfy themselves that reasonable efforts have been made to resolve the issue at the stage immediately prior to that stage that they are due to hear. To establish this, it may involve a review of the paperwork or contacting those involved for further information.

7.7 If there does not appear to have been adequate consideration of the matter on either side, then, in exceptional circumstances, the manager may refer the matter back with the instruction to the relevant line manager that further consideration of the grievance takes place.

7.8 Any re-consideration of the matters should be carried out promptly and a record made of any outcome. If the issue is resolved then the decision should be confirmed in a letter to the employee.

7.9 If those parties are still unable to resolve the matter then it will be considered at the next stage of the procedure (i.e. the stage at which the grievance would have been considered, had the matter not been referred back for further consideration).

7.10 Formal Grievance Procedure First Stage - raising a grievance

7.11 Employees may have previously raised their grievance in a format other than on an official form e.g. verbally or by email. However to assist the formal consideration of the issue then employees should be encouraged to complete the Formal Grievance Form (appendix 2). All relevant parts of the Form should be completed including details of the redress that the employee is seeking. If, for whatever reason, an employee has difficulty putting a grievance down in writing then they are encouraged to seek help from a colleague or trades union representative.

7.12 The employee should normally raise a grievance with their supervisor or line manager. If the complaint is about the manager, then it should be raised with the next-in-line manager. The formal grievance should

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be raised by giving the manager the completed Formal Grievance Form. A copy of this form should also be sent to Human Resources by the employee.

7.13 The Grievance hearing

7.14 On receiving the formal grievance, the chairperson, who will usually be the manager who received the Formal Grievance Form, should write to the employee and any other relevant persons, inviting them to the grievance hearing. This letter should be sent within seven working days of receipt of the grievance. The employee should be informed that they have the right to be accompanied by a trades union representative or work colleague. Legal representation is not allowed.

7.15 If an employee's companion cannot attend on a proposed date, the employee can suggest another date so long as it is reasonable and is not more than five working days after the date originally proposed by the manager. This five day time limit may be extended by mutual agreement.

7.16 When possible all parties should be informed of the decision at the end of the hearing.

7.17 Letter following First Stage hearing

7.18 Following the hearing, the chairperson will write to the employee outlining the decision.

7.19 This decision letter should be sent within five working days. If it is not possible to respond within five working days then the employee should be given an explanation for the delay and told when a response can be expected.

7.20 The letter will inform the employee that they have the right to appeal against the decision if they are not satisfied with it. It will state to whom any appeal letter should be sent – this will usually be the next-in-line manager, and the time limits i.e. that any appeal letter should be sent within five working days of receipt. The employee should also be informed that if he/she wishes to appeal then a copy of the letter should be sent to Human Resources.

7.21 **Formal Grievance Procedure Second Stage – Appeal**

7.22 On receipt of an appeal, a letter should be sent by the receiving manager to the employee and other relevant persons. This letter should be sent within seven working days of receipt of the appeal. The letter should inform them of the arrangements for the Second Stage hearing. This letter should also inform the employee of their right to be accompanied by a trade union representative or work colleague.

7.23 The purpose of the hearing will be to review the previous decisions.

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- 7.24 If an employee's companion cannot attend on a proposed date, the employee can suggest another date so long as it is reasonable and is not more than five working days after the date originally proposed by the manager. This five day time limit may be extended by mutual agreement.
- 7.25 When possible, all parties should be informed of the decision at the end of the hearing.
- 7.26 Letter following Second Stage Hearing
- 7.27 Following the hearing the chairperson will write to the employee outlining the decision regarding the appeal.
- 7.28 This decision letter should be sent within five working days. If it is not possible to respond within five working days, then the employee should be given an explanation for the delay and told when a response can be expected.
- 7.29 The letter will inform the employee that they have the right to a final appeal against the decision if they are not satisfied with it. It will state to whom any appeal letter should be sent, and the time limits i.e. that any appeal letter should be sent within five working days of receipt. The employee should also be informed that if he/she wishes to appeal then a copy of the letter should be sent to Human Resources.
- 7.30 **Formal Grievance Procedure Third Stage - Final appeal**
- 7.31 If the employee remains dissatisfied with the decision following the Second Stage hearing then they are able to make one further appeal to a higher level of management.
- 7.32 On receipt of an appeal, a letter should be sent by the receiving manager to the employee and other relevant persons. This letter should be sent within seven working days of receipt of the appeal. This letter should inform them of the arrangements for the Third Stage hearing. It should also inform the employee of their right to be accompanied by a trades union representative or work colleague.
- 7.33 If an employee's companion cannot attend on a proposed date, the employee can suggest another date so long as it is reasonable and is not more than five working days after the date originally proposed by the manager. This five day time limit may be extended by mutual agreement.
- 7.34 The purpose of the final appeal hearing will be to review the previous decisions.

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7.35 When possible all parties should be informed of the decision at the end of the hearing.

7.36 Letter following Third Stage hearing

7.37 The decision letter should be sent within five working days. If it is not possible to respond within five working days, the employee should be given an explanation for the delay and told when a response can be expected.

7.38 This decision will be final and will have exhausted the Trust's Grievance Procedure.

8 Other matters

8.1 Keeping records

8.2 It is important, and in the interests of everyone involved, that written records are kept of the grievance process. Records should include:

- The nature of the grievance raised;
- A copy of the written grievance;
- Any responses by the manager;
- Actions taken;
- Reasons for action taken;
- Whether the member of staff made an appeal(s), and, if so, the outcome; and
- Subsequent developments/recommendations.

8.3 Grievances relating to disciplinary matters

8.4 There are a limited set of circumstances when grievances can be raised in relation to the Trust's Disciplinary process, these are:

- The employee believes that he/she is being unlawfully discriminated against,
- The employee believes that the true reason for the disciplinary process is not the reason given by the manager.

8.5 In cases when the employee raises such a grievance then the manager may wish to consider suspending the disciplinary process for a short period whilst the grievance is dealt with. It is, however, expected that in the vast majority of cases the grievance should be dealt with at hearings and/or appeals within the disciplinary process. When such 'dual purpose' meetings take place, then particular care should be taken to properly hear and consider the grievance, and to document the discussions and any outcome.

8.6 When addressing grievances in these circumstances either within or separate to a disciplinary hearing, then it is essential that the following statutory stages are followed: (a) That the member of staff provides

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management with a copy of the grievance in writing; (b) That the member of staff is invited to the hearing to discuss the grievance where the right to be accompanied will apply and be notified of the decision; and (c) that the member of staff is given the right to an appeal hearing if they feel that the grievance has not been satisfactorily resolved and be notified of the final decision. As stated above, it is expected that in the vast majority of cases the grievance should be dealt with at hearings and/or appeals within the disciplinary process. For further information, please consult a Human Resources advisor.

- 8.7 Grievances are not allowed in relation to the Disciplinary Policy when the action taken or contemplated is dismissal. Any such concerns should be addressed at the disciplinary hearing and any subsequent appeal.
- 8.8 Attendance at grievance hearings
- 8.9 At the Second and Third stage of this Procedure it will be the chairperson's decision, in consultation with HR, as to who should be involved in the hearing. The person who has raised the grievance should attend and consideration may be given to involving others from the earlier hearings.
- 8.10 Two or more persons raising a grievance
- 8.11 In circumstances when 2 or more members of staff raise a grievance, then one may be nominated to pursue the grievance at hearing. This should be done in consultation with their TU or other representative.
- 8.12 Human Resources
- 8.13 An HR advisor should attend all hearings under the formal stages of the grievance procedure. Their role is to advise the chairperson.
- 8.14 Circumstances when an employee has left employment
- 8.15 If an employee raises a written grievance having already left employment then the Trust must write to the employee setting out a response to the issues raised. This letter should be sent within 14 days of receipt of the written grievance. Managers should seek the advice of a Human Resources advisor in these circumstances.
- 8.16 Timeliness
- 8.17 It is essential that grievances are responded to in a timely manner, if there is a delay at any stage then employees should be notified as to the reason(s).
- 8.18 Confidentiality
- 8.19 All those involved in a grievance matter should maintain confidentiality at all times. Those breaking confidentiality may be subject to disciplinary action.

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Appendix 1

The Grievance Hearing

The purpose of the Grievance Policy is to deal with issues in a fair, efficient and consistent manner. The points below provide guidance on how the grievance hearing or appeal should operate.

It is helpful to approach a grievance hearing differently to a disciplinary hearing. The procedure, as set out below, should be followed to ensure that everyone has the opportunity to put forward their concerns, views etc. however the focus should be on trying to resolve the grievance and as such dialogue and discussion should be encouraged between those involved.

Terminology

Note that for the purposes of this appendix, the word 'aggrieved' is the person who has raised the grievance and the word 'manager' is the person against whom the grievance has been taken.

1. A confidential room should be put aside for the hearing it is essential that there are no interruptions.
2. When letters are sent inviting participants to grievance hearings then those involved should be asked to circulate any relevant paperwork in advance of the hearing.
3. An HR advisor should attend at all formal stages of the grievance procedure in order to offer advice to the chairperson in considering the matter.
4. The chairperson will introduce the parties and explain briefly how the hearing will be conducted.
5. The chairperson will establish details of any witness to be called by either side.
6. The aggrieved or their representative should be allowed to explain their grievance and say how he/she feels it should be settled.
7. The manager may ask questions on what the employee/representative has said.
8. The chairperson and HR advisor may ask questions on what the employee/representative has said.
9. The aggrieved or representative may call witnesses.
10. The manager may ask questions of the witnesses.

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11. The chairperson and HR advisor may ask questions of the witnesses
12. The manager will respond to the aggrieved's grievance.
13. The aggrieved or representative may ask questions on the manager's response.
14. The chairperson and HR advisor may ask questions on the manager's response.
15. The manager may call witnesses.
16. The aggrieved or representative may ask questions of the witnesses.
17. The chairperson and HR advisor may ask questions of the witnesses.
18. The manager will have an opportunity to sum-up.
19. The aggrieved will have the opportunity to sum-up last.
20. A short break in the grievance hearing may be held at any time.
21. In exceptional circumstances, the chairperson may decide that there is a need for matters to be investigated in more detail. In such cases the hearing may be adjourned in order to enable this investigation to take place.
22. Both parties will withdraw to enable the chairperson to make his/her decision in consultation with the HR advisor.
23. If there is a decision during the course of the grievance hearing on which all parties are agreed, then the 'Remarks' section of the Formal Grievance Form may be completed by setting out the agreed outcome. The Form should be signed by all present. It should be noted that a formal letter should still be sent confirming the decision of the hearing.
24. The chairperson will recall all parties and inform them of the outcome of her/his deliberations, and, if possible, announce the decision. In any event, the chairperson will write with the decision within five working days. If it is not possible to respond within five working days then the employee should be given an explanation of the delay and told when the response can be expected.

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Appendix 2

LAS – Formal Grievance Form

To.....
Cc Human Resources

I wish to formally register a grievance with you against:

.....

The reason for the grievance is:

.....
.....
.....
.....

I have/have not (*delete as appropriate*) spoken to the above named in regards to this grievance. His/her response was as follows:

.....
.....
.....

I remain aggrieved because:

.....

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The redress I am seeking is:

.....

.....

I have/have not (*delete as appropriate*) discussed the matter with my trade union representative. He/she is.....

My name.....

Job title.....

Work location.....

Signed.....

Date.....

This form should be given to your manager, or, if the grievance is with your manager, to the next-in-line manager. If you would like further advice then please contact Human Resources.

Remarks

This section may be used at the grievance hearing to record any agreed outcomes. It should be signed by those present.

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Appendix 3

Grievance invite letter – amend as appropriate

Dear.....

Grievance Hearing

I am writing to confirm the details of the grievance hearing.

It is planned for:

Date

Time

Location

The hearing will be your opportunity to explain your grievance regarding...It will also give... an opportunity to respond, and for all parties to discuss the issue.

I will chair the hearing and will be advised by ... of the Human Resources Directorate.

You may be accompanied by a colleague or trades union representative.

If you have any paperwork that you wish to be considered at the hearing then I would be grateful if you could let ... have this as soon as possible in order that it may be circulated to all concerned in advance of the hearing.

I enclose a copy of the Trust's Grievance Policy.

Please confirm attendance by contacting ...

Yours sincerely,

cc. ...Human Resources/others involved in the grievance hearing.

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