

# Grievance Policy and Procedure

|                              |   |
|------------------------------|---|
| <b>Policy Number</b>         | <b>HR/Pol/004</b>                                   |
| <b>Target Audience</b>       | <b>All Bridgewater Staff including Bank Workers</b> |
| <b>Approving Committee</b>   | <b>Corporate Partnership Forum</b>                  |
| <b>Date First Approved</b>   | <b>May 2012</b>                                     |
| <b>Last Full Review Date</b> | <b>November 2021</b>                                |
| <b>Next Full Review Date</b> | <b>November 2024</b>                                |
| <b>Policy Author</b>         | <b>Human Resources Business Partner</b>             |
| <b>Version Number</b>        | <b>4.0</b>  |

|   |  |
|---|--|
| <b>Applicable Statutory, Legal or National Best Practice Requirements</b> | <p>Information Commissioners Office (2018) Guide General Data Protection Regulation GDPR<br/>         NHS Terms and Conditions of Service Handbook<br/>         Acas (2014) Managing conflict at work<br/>         Acas (2015) Code of practice on disciplinary and grievance procedures<br/>         Acas (2017) Discipline and grievances at work<br/>         Employment Act 2008<br/>         Equality Act 2010<br/>         Trade Union and Labour Relations (Consolidation) Act 1992<br/>         Trade Union Reforms and Employment Rights Act 1993</p> |
|---|--|

The Trust is committed to an environment that promotes equality, embraces diversity and respects human rights both within our workforce and in service delivery. This document should be implemented with due regard to this commitment.

This document can only be considered valid when viewed via the Trust's intranet. If this document is printed into hard copy or saved to another location, you must check that the version number on your copy matches that of the one online.

## Version Control Sheet

| Version | Date           | Reviewed By                | Comment  |
|---------|----------------|----------------------------|--|
| 1.0     | May 2012       | Policy Assurance Sub Group | Minor amendments to wording. Approved by Policy Assurance Sub Group.                                 |
| 2.0     | December 2015  | Linda Spooner              | Chair approval given   |
| 2.1     | September 2018 | S. Atherton                | Application made to extend the review date to November 2018 to allow the review and approval by CPF. |
| 2.2     | Sept 2018      | S. Arkwright               | Approved by chair action   |
| 2.3     | Sept 2018      | Jo Cohen                   | Full review. Minor amendments made.  |
| 2.4     | Oct 2018       | CPF                        | Approved   |
| 2.5     | October 2018   | Mary Corkery               | Amendments made and checked by Susan Atherton  |
| 2.6     | November 2018  | Policy Approval Group      | Approved subject to minor amendments and chair approval  |
| 2.7     | November 2018  | Susan Atherton             | Amendments completed   |
| 3       | Nov 2018       | S. Arkwright               | Approved by chair action   |
| 3.1     | Sept 2021      | Amanda Gregory             | Full review. Minor Amendments made. Submitted through consultation process                           |
| 3.2     | October 2021   |                            | Presented to HRPG for review and comment. Proposed amends reflected in to policy                     |
| 4.0     | November 2021  | JNCC                       | Submitted to November JNCC for final sign off  |

|                                      |                  |                     |
|--------------------------------------|------------------|---------------------|
| Equality Impact Assessment completed | By: Ruth Besford | Date: November 2021 |
|--------------------------------------|------------------|---------------------|

### Education & Professional Development Question

In order to ensure that any training requirements are discussed and resources planned and allocated to meet the needs of the service, you must consider whether this document has additional training requirements.

Please answer the following question by entering a cross in the box below:

|                              |              |   |                 |
|------------------------------|--------------|---|-----------------|
| Issue Date:<br>November 2021 | Page 2 of 29 | Document Name: Grievance Policy and Procedure | Version No: 4.0 |
|------------------------------|--------------|---|-----------------|

|   | Yes | No |
|---|-----|----|
| Does this document have any additional training requirements or implications? |     | X  |

## Contents

|           |  |    |
|-----------|--|----|
| <b>1</b>  | Introduction   | 5  |
| <b>2</b>  | Definitions  | 6  |
| <b>3</b>  | Abbreviations  | 6  |
| <b>4</b>  | Other Relevant Procedural Documents  | 7  |
| <b>5</b>  | Roles and Responsibilities   | 7  |
| <b>6</b>  | Equipment List   | 8  |
| <b>7</b>  | Grievances   | 8  |
| 7.1       | Right to be Accompanied  | 9  |
| 7.2       | Confidential Grievances  | 9  |
| 7.3       | Grievance about Co-Workers or Line Managers  | 10 |
| 7.4       | Resignation or Post Termination Grievances   | 10 |
| 7.5       | Levels of Management   | 11 |
| 7.6       | Keeping Records  | 11 |
| 7.7       | Advice and Confidentiality   | 12 |
| 7.8       | Status Quo   | 12 |
| 7.9       | Reasons for not following the Grievance Procedure                                  | 13 |
| 7.10      | Mediation  | 13 |
| 7.11      | Cases Unsuitable for Mediation   | 14 |
| 7.12      | Grievances and the Disciplinary Process  | 14 |
| <b>8</b>  | Grievance Procedure Guidance   | 15 |
| <b>9</b>  | Consultation   | 16 |
| <b>10</b> | Dissemination and Implementation   | 16 |
| <b>11</b> | Process for Monitoring Compliance and Effectiveness                                | 16 |
| <b>12</b> | Standards/Key Performance Indicators   | 17 |
| <b>13</b> | References   | 17 |
|           | Appendix A The Informal Procedure  | 16 |
|           | Appendix B The Formal Procedure  | 17 |
|           | Appendix C The Conduct of the Meeting  | 23 |
|           | Appendix D Grievance Report Form   | 24 |
|           | Appendix E Guidance on how to create a Grievance Report following an Investigation | 26 |

|                               |              |   |                 |
|-------------------------------|--------------|---|-----------------|
| Issue Date:<br>September 2021 | Page 4 of 29 | Document Name: Grievance Policy and Procedure | Version No: 3.1 |
|-------------------------------|--------------|---|-----------------|

# 1 Introduction

Bridgewater Community Healthcare NHS Foundation Trust (hereafter the Trust) accepts that, from time to time, employees may have concerns, problems or issues related to their work, the application of terms and conditions and management decisions, which they will wish to raise and have addressed.

The Trust recognises that an agreed and effective procedure for the settling of differences can contribute significantly to the creation and maintenance of a harmonious working environment. The Grievance Policy and Procedure is a mechanism for settling grievances in a prompt and fair manner without fear of recrimination.

The procedures in the appendices allow such issues to be dealt with in the most appropriate manner with the overall aim to resolve it fairly and quickly:

For informal procedure refer to Appendix A

For formal procedure refer to Appendix B.

In line with the General Duties of the Equality Act 2010 the Trust is committed to the elimination of discrimination on the grounds of age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex, sexual orientation and any other form of discrimination. The Trust actively promotes equality of opportunity for all and this policy and procedure will be applied equitably for all employees.

Grievances relating to bullying and harassment issues, including those related to bullying or harassment on the grounds of an individual's age, disability, gender reassignment, race, religion or belief, sex or sexual orientation will be managed in line with the Trust's Dignity & Respect at Work Policy and Procedure. Any other grievance relating to discrimination will be addressed through this Grievance Policy and Procedure.

It is recognised that there may be disputes which arise at national or regional level where it is not appropriate or possible for the dispute to be resolved within Trust. However, this should not prevent discussion taking place at local level, particularly where industrial action is contemplated.

## 1.1 Objective

The Grievance Policy and Procedure provides a framework through which individual Trust employees or a group of employees can resolve their grievances as quickly as possible.

## 1.2 Scope

This Grievance Policy and Procedure applies to all Trust employees. This policy also applies to all employees working under a contract of service and those working within the Trust under a Bank Agreement.

|                              |              |   |                 |
|------------------------------|--------------|---|-----------------|
| Issue Date:<br>November 2021 | Page 5 of 29 | Document Name: Grievance Policy and Procedure | Version No: 4.0 |
|------------------------------|--------------|---|-----------------|

## 2 Definitions

The definitions applicable to this document are as follows:

|                  |   |
|------------------|---|
| Grievance        | The Employment Rights Act 2008 provides a definition of a grievance as “a complaint by an employee about action which his/her employer has taken or is contemplating taking in relation to him/her”.  |
| Grievance Report | Sometimes referred to as a Bundle or Management Report. This is a report produced by an Investigating Officer where an Investigation has taken place and allows both parties the opportunity to provide further evidence/detail in relation to the initial grievance. This report forms the base for discussions at the hearing and is the employees final opportunity to submit information. |
| Status Quo       | The term “status quo” means that the practice, previously agreed or established, which is in operation at the time of the grievance being raised, should stand pending the completion of the grievance procedure.   |
| DPA 2018         | The Data Protection Act 2018 came into force on 23 May 2018 as the third generation of the UK’s data protection regime. This law covers a variety of policies, although at the heart of the legislation is the intent to empower individuals with rights and protections, giving them more tools to protect their personal information from being misused.                                    |
| UK GDPR          | The UK GDPR is the <a href="#">UK General Data Protection Regulation</a> . It is a UK law which came into effect on 01 January 2021. It sets out the key principles, rights and obligations for most processing of personal data in the UK, except for law enforcement and intelligence agencies.   |

## 3 Abbreviations

The abbreviations applicable to this document are as follows:

|         |   |
|---------|---|
| HR      | Human Resources                                   |
| ACAS    | Advisory, Conciliation and Arbitration Service    |
| KPIs    | Key Performance Indicators                        |
| DPA     | Data Protection Act 2018                          |
| UK GDPR | United Kingdom General Data Protection Regulation |

## 4 Other Relevant Procedural Documents

This document should be read in conjunction with the following documents:

- Health and Safety Policy
- Organisational Change Policy
- Equal Opportunities Policy.
- Data Protection and Confidentiality Policy

Many Human Resources policies contain their own process of appeal within them and therefore these should be referred to, when relevant, in order to ascertain if that process should be followed as opposed to a Grievance. Refer to section 7.

A key reference may also be the NHS Terms and Conditions of Service Handbook (Agenda for Change), available at: [www.nhsemployers.org/tchandbook](http://www.nhsemployers.org/tchandbook)

## 5 Roles and Responsibilities

### 5.1 Trust Board

The Trust Board will:

- Develop a culture and create a climate in which employees feel able to raise a grievance without fear of victimisation or detriment and, equally, are able to raise issues of concern with their line manager before feeling the need to raise a formal grievance.

### 5.2 Human Resources

The Human Resources (HR) department will:

- Ensure the provision of training, guidance and support to line managers and other staff on the operation of this policy
- Provide advice and support to employees and managers as and when required.

### 5.3 Managers

Managers will:

- Develop a culture and create a climate in their area in which employees feel able to raise a grievance without fear of victimisation or detriment and are able to raise issues of concern with them before feeling the need to raise a formal grievance
- Ensure that all managerial decisions are made fairly and effective communication underpins all line management actions.

|                              |              |   |                 |
|------------------------------|--------------|---|-----------------|
| Issue Date:<br>November 2021 | Page 7 of 29 | Document Name: Grievance Policy and Procedure | Version No: 4.0 |
|------------------------------|--------------|---|-----------------|

## 5.4 Staff

It is the responsibility of individuals to:

- Attempt to resolve issues informally with line management
- Where a grievance needs to be raised to raise it at the earliest opportunity
- Participate in the procedures and co-operate at all stages
- Be as clear as possible when submitting a grievance on what the specific areas of concern are and to clarify what they wish the outcome to be i.e. to complete the Grievance Report Form (Appendix D) thoroughly or write a fully comprehensive letter.

## 6 Equipment List

Not applicable to this policy.

## 7 Grievances

Grievances are official complaints by employees or groups of employees to their employer. It is expected that most issues will be discussed and dealt with satisfactorily within the course of normal working relationships where people should feel that their problems and opinions could be discussed frankly and freely with their line manager.

While it is not appropriate to provide an exhaustive list of all the issues that might give rise to a grievance, some examples include:

- Terms and conditions of employment
- Health and safety
- New working practices
- Working environment
- Organisational change
- Equal opportunities.

This procedure may not apply to issues covered by other policies such as:

- Discipline
- Capability
- Sickness and absence

- Redundancy
- Harassment and bullying
- Special leave
- Flexible working
- Job evaluation
- Dignity at work
- Whistleblowing.

With the exception of whistleblowing these policies contain their own agreed procedures and separate rights of appeal. Therefore, once any of these policies have been invoked, the use of the Grievance Policy and Procedure will usually be inappropriate.

Any genuine concerns staff may have about a risk, malpractice or wrongdoing at work (such as a risk to patient safety, fraud or breaches of patient confidentiality) which may affect patients, the public, other staff, or the Trust itself should be raised through the Trust's - Freedom to Speak Up: Raising Concerns policy. Other avenues are available such as reporting concerns to Counter Fraud or Information Governance for example.

### **7.1 Right to be Accompanied**

All staff have the right to be accompanied by a Trade Union Representative or work place colleague during all formal stages of the grievance procedure.

Where employees have difficulty in expressing themselves because of language or other difficulties, reasonable adjustments may be needed to ensure they are supported throughout the procedure.

### **7.2 Confidential Grievances**

If an employee makes a 'confidential' grievance and does not wish to make a written statement or have their name mentioned as the complainant, the manager may be unable to take any formal action. However, on occasions the manager has an obligation to deal with the issue despite the employees request for confidentiality. Advice should be sought from the HR department in these circumstances.

All employees are reminded they have obligations under health and safety regulations and Trust policies to report matters of concern.

### **7.3 Grievance about Co-Workers or Line Managers**

Where there is conflict at work, as well as support from HR, staff and managers can use other resources available such as the Advisory, Conciliation and Arbitration Service (ACAS) website [www.acas.org.uk](http://www.acas.org.uk).

Where a grievance is about the immediate line manager, the employee may raise the issue with the next line manager or another appropriate manager.

If a grievance is raised which concerns an employee's co-worker or line manager which indicates that the working relationship between parties has broken down, it may be necessary to temporarily transfer one or both of the parties to another place of work pending resolution of the issue. This must be given very careful consideration and must not take place without advice from the HR department.

Where a grievance is raised about an outside worker, the Trust will work in partnership with the other organisation to resolve the issues. The HR department should be contacted for further advice.

### **7.4 Resignation or Post Termination Grievances**

Occasionally, an employee may raise an issue upon resignation or during the exit interview process or after they have left employment with the Trust. Where an issue is raised in such circumstances, for example, during an exit interview, the manager will ask for confirmation as to whether or not the employee wishes the issues raised to be treated as a grievance. Employees are therefore encouraged to be clear when writing their resignation etc.

In these situations a grievance may be dealt with under the following two step process:

#### **Step 1 Statement of Grievance**

- The resigned employee / former employee must set out in writing the grievance and the basis for it
- A copy must be sent to the Trust - refer to Appendix D.

#### **Step 2 Response**

- The Trust must set out their response in writing and send this to the resigned employee / former employee
- The Trust will endeavour to respond within 28 calendar days of receipt of the statement of grievance.

There is no right of appeal. No further action will be taken unless the issues raised are of such a serious nature that they cannot be ignored.

At the discretion of the Trust an investigation may take place where the Trust deems that the information supplied warrants such action. An individual has no right to expect an investigation to take place or a hearing.

On rare occasions, depending upon the nature of the grievance, management in conjunction with HR and Staff Side may need to consider the impact upon the employee during their notice period e.g. grievance relates to a work concern and that it is significant enough to warrant a discussion as to whether changes need to take place during the notice period.

## **7.5 Levels of Management**

Informal grievances should normally be dealt with at the level of management closest to the employee raising the grievance. However, the manager addressing the issue needs to have the decision making authority to be able to resolve the grievance.

The purpose of the grievance procedure is to solve problems wherever possible so there must be flexibility to refer matters to the appropriate level. Advice should be taken from the HR department and more senior managers, as necessary.

## **7.6 Keeping Records**

It is important and in the interests of both employee and employer, to keep written records during the grievance process.

Records should include:

- The nature of the grievance raised
- A copy of the written grievance
- Notes of any investigation or inquiries
- The response
- Action taken
- Reasons for the action taken
- Where there was an appeal and if so the outcome, and
- Subsequent developments.

The grievance form (Appendix D) should assist in recording some of the information, but managers are expected to ensure that all the above points are covered during the course of the grievance being raised.

Records will be treated as confidential and kept in accordance with the General Data Protection Regulation 2018, which gives individuals the right to request and have access to certain personal data. A copy of all documentation will be kept on

a separate file, which will be held in the HR department. Where appropriate, copies of letters and notes will be kept on an employee's personal file.

## **7.7 Advice and Confidentiality**

At any stage an employee or manager may seek advice on the procedures from the HR department. The informal procedure is within Appendix A and the formal procedure within Appendix B.

When seeking advice the employee should request a confidential interview and refer to this provision of the Grievance Policy and Procedure. The HR representative who attends the interview may not then be involved in any further stages of the procedure if the issue is then progressed, unless there is no reason for this to be the case. This will be determined by the HR department.

Anything dealt with through the grievance procedure will be kept entirely confidential by those involved. However, in some instances this may not be possible, where in order to investigate the grievance, obtain action or make a decision, a manager may need to explain, discuss or describe the contents of the grievance.

Any grievance meetings should be arranged in a meeting room that should not be interrupted and where the employee feels that their grievance is being treated confidentially.

## **7.8 Status Quo**

In some circumstances, whilst the grievance procedure is being followed, it may be appropriate to maintain the "status quo". This will be most relevant where the reason for the grievance being submitted is in connection to a proposed change that would impact the individual concerned. Therefore, in cases such as these, it may be appropriate to maintain the status quo i.e. not enact the change until the grievance has been dealt with.

There are occasions when maintaining the status quo may not be appropriate as determined by the General Manager (or equivalent) with advice from HR. These examples are only examples and not an exhaustive list or an automatic reason not to maintain the status quo. Management must demonstrate that there is a strong and genuine case e.g. it would not be enough to state that it would cause financial pressures, management would need to provide clear information as to what the financial pressure would be and demonstrate that it would be as a direct consequence of maintaining the status quo.

Areas where management may submit a case in relation to changing the status quo could be:

- Where to maintain it would have a detrimental effect on patient care
- Where to maintain it would cause concerns regarding Health and Safety (either that of employee concerned or other employees)

- Where the detriment to other employees may be greater if the status quo is maintained then the detriment to the employee concerned if it was not maintained
- Where to maintain it would cause financial pressures
- Where to maintain it would cause difficulties in meeting Key Performance Indicators (KPIs), meeting the demands of commissioners etc. which could cause longer term problems for the Trust
- Where the status quo is not maintained the outcome of the grievance may result in the status quo being reinstated.

Reference to and application of the above status quo sections of the grievance procedure removes neither the employee's nor the Trust's legal or contractual rights, responsibilities, obligations or remedies.

### **7.9 Reasons for not following the Grievance Procedure**

If the employer or employee believes that they have reasonable grounds to believe that by submitting a grievance they may be exposed to a significant threat, such as violent, abusive or intimidating behaviour or harassment, advice should be sought from the Human Resources Department or their Staff Side / Trade Union Representative.

### **7.10 Mediation**

Mediation can be used at any stage of an individual Grievance Process and may be part of an outcome from a Grievance Hearing as recommended by the Chair.

Mediation is a voluntary process where the mediator helps two people or a group of people in dispute to attempt to reach an agreement. Any agreement comes from those in dispute, not from the mediator. The mediator is not there to judge, to say one person is right and the other wrong or to tell those involved in the mediation what they should do. The mediator facilitates the process of seeking to resolve the problem but not the outcome.

Mediators may be employees trained and accredited by an external mediation service who act as internal mediators in addition to their day jobs or they may be from an external provider. They can work individually or in teams as co-mediators.

There are no hard and fast rules for when mediation is appropriate but it can be used:

- For conflict involving colleagues or between a line manager and their staff
- At any stage in the conflict as long as any ongoing formal procedures are put on hold or where mediation is included as a stage in the procedure themselves

- To rebuild relationships after a formal dispute has been resolved
- To address a range of issues, including relationship breakdown, personality clashes, communication problems, bullying and harassment.

### **7.11 Cases Unsuitable for Mediation**

Mediation may not be suitable if:

- It is a collective grievance
- It is used by a manager to avoid their managerial responsibilities
- Used as a first resort – because people should be encouraged to speak to each other and talk to their manager before they seek a solution via mediation
- A decision about right or wrong is needed, e.g. where this is possible criminal activity
- The parties do not have the power to settle the issue
- One side is refusing to compromise and using mediation will only raise unrealistic expectations of a positive outcome.

Mediation can be sought at any time and information is available via the Trust's Intranet Site, available at:

<http://nww.bridgewater.nhs.uk/teams/hr/healthandwellbeing/Pages/Mediation.asp>  
[X](#)

### **7.12 Grievances and the Disciplinary Process**

Grievances around disciplinary matters may be dealt with as part of the disciplinary process.

Raising a grievance during the disciplinary process will not normally postpone any disciplinary investigation and procedures that are underway.

### **7.13 Fraud, Bribery and Corruption**

Grievances which either result from or lead to a fraud, bribery and corruption investigation will be dealt with as a separate matter to the fraud, bribery and corruption investigation and will have no impact on it.

Raising a grievance during the course of a fraud, bribery and corruption investigation will not normally postpone that investigation

## 8 Grievance Procedure Guidance

The procedures will be applied in such a way as to promote the best possible relations between management and staff, while respecting each other's dignity and point of view. Both parties are required to adopt a reasonable and responsible attitude in the operation of these procedures. Where a party is deemed as not doing so, this may impact the use of the procedures.

Employees should make every effort to resolve their grievances through informal discussions with their line manager - refer to Appendix A.

Where informal resolution is unsuccessful the formal procedure is contained within Appendix B.

A grievance must be settled as quickly as is reasonably practicable and as near to its source as possible. Staff should raise a grievance within 12 weeks of an incident/issue occurring.

A colleague, against whom a grievance has been raised, has the right to be told the specific nature of the grievance in order to be able to respond.

Decisions as to who needs to be updated and when will be made by Management but only after taking HR advice, as to whether it is appropriate in that case to do so.

All employees concerned will continue normal working arrangements and maintain normal working relationships throughout the use of this procedure, until either the individual or collective grievance procedure has been exhausted.

The operation of the grievance procedures shall be followed free from any threat of industrial action (involving a stoppage of work or any action short of a stoppage i.e. any form of variation to the normal working practice) of any type by either party.

Decisions made by the Trust at the last stage of the procedure will be final and no further appeal will be considered. To enable all employees to access a 3 stage Grievance process, the Chair of the Panel at the final stage of the process, may wish to escalate to a different equivalent level Senior Manager, more Senior Executives and/or External Consultants for consideration.

## 9 Consultation

Key individuals/groups involved in the development of the document to ensure it is fit for purpose once approved.

| Name          | Designation   |
|---------------|---|
|               | HR Policy Group and Bridgewater policy consultation members |
| Jackie McKay  | Senior Information Governance Officer                       |
| Phillip Leong | Local Counter Fraud Service                                 |
| Mary Corkery  | Policy Officer  |

## 10 Dissemination and Implementation

### 10.1 Dissemination

The Human Resources Business Partner will disseminate this document to Managers for disseminating to all staff. The document will be made available on the Trust intranet (the Hub) and published in the bulletin.

Managers are responsible for raising awareness of the fact that this and other HR policies are available on the Hub.

### 10.2 Implementation

Appropriate training, identified at Directorate level, will be provided to managers to support the implementation of the policy.

HR Business Partners/Managers will provide advice and support.

Managers are responsible for implementing the policy within their own areas

## 11 Process for Monitoring Compliance and Effectiveness

The effectiveness and compliance of this code of conduct will be monitored through ongoing analysis of informal and formal disciplinary action taken, as well as monitoring of grievances and dignity at work issues raised by the Human Resources Team and reported via the Workforce Committee

## 12 Standards/Key Performance Indicators

- Employee relations cases (disciplinary, grievance, bullying cases) – low in number and managed efficiently where they arise
- High levels of personal and professional conduct (as above), including low numbers of referrals to professional bodies.

## 13 References

Acas (Advisory, Conciliation and Arbitration Service) (2014) Managing conflict at work [online]. Available at: <http://www.acas.org.uk/index.aspx?articleid=1218>

Acas (Advisory, Conciliation and Arbitration Service) (2017) Discipline and grievances at work [online]. Available at: <http://www.acas.org.uk/index.aspx?articleid=2179>

Acas (Advisory, Conciliation and Arbitration Service) (2015) Code of practice on disciplinary and grievance procedures [online]. Available at: <http://www.acas.org.uk/index.aspx?articleid=2174>

Employment Act 2008, c.24 [online]. Available At: [http://www.legislation.gov.uk/ukpga/2008/24/pdfs/ukpga\\_20080024\\_en.pdf](http://www.legislation.gov.uk/ukpga/2008/24/pdfs/ukpga_20080024_en.pdf)

Equality Act 2010, c. 15 [online]. Available at: <http://www.legislation.gov.uk/ukpga/2010/15/contents>

Information Commissioners Office (2018) Guide to the General Data Protection Regulation GDPR [online]. Available At: <https://ico.org.uk/media/for-organisations/guide-to-the-general-data-protection-regulation-gdpr-1-0.pdf>

NHS Litigation Authority (2013) NHSLA Risk Management Standards 2013-14

NHS Terms and Conditions of Service. Available at <https://www.nhsemployers.org/publications/tchandbook>

Trade Union and Labour Relations (Consolidation) Act 1992, c.52[online]. Available At: <https://www.legislation.gov.uk/ukpga/1992/52/contents>

Trade Union Reforms and Employment Rights Act 1993. Available At: [www.legislation.gov.uk/ukpga/1993/19/contents](http://www.legislation.gov.uk/ukpga/1993/19/contents)

## **The Informal Procedure**

If an employee has a grievance or complaint to do with their work or the people they work with they should, wherever possible, start by talking it over informally with their immediate manager. The Trust hopes that the majority of concerns will be resolved at this stage.

The manager must endeavour to respond to the employee's concern within seven calendar days.

Upon conducting the informal meeting, the manager must endeavour to confirm their decision to the employee in writing within seven calendar days of the meeting.

Where the decision will not be confirmed within seven days the employee should be made aware of the fact that it is unlikely to meet this timescale due to for example pre-booked annual leave of the manager in question.

If matters cannot be resolved at this informal stage, it will then be appropriate to use the formal stages of the procedure.

The employee will then have 14 calendar days to submit their formal grievance either in writing or on the Grievance Report Form (Appendix D).

Grievances must be raised within 12 weeks (unless exceptional circumstances apply) of an incident occurring. If the incident is linked to a series of incidents, the 12 weeks is measured from the last incident.

## Appendix B

### The Formal Procedure

*Template Letters and support with drafting letters are available from HR*

There are three consecutive stages which an employee can use in order to resolve a grievance.

Normally issues will be dealt with through each stage outlined in the formal procedure. However, there may be occasions where the nature of the grievance and level of management involved, make it sensible for specific stages of the procedure to be omitted by mutual agreement. This may assist a speedier resolution of the matter.

**Table 1 Stages**

| Stage           | How an employee invokes & immediate actions for management  | Next Step  | Outcome  | Next Step  |
|-----------------|---|--|--|--|
| <b>Stage I</b>  | <p>In writing or by using the Grievance Form (Appendix D) to line manager (or where not appropriate to the next line manager in the structure or HR).</p> <p>The receiving manager will endeavour to acknowledge receipt of the grievance in writing within 7 calendar days.</p> <p>All parties will be informed of any formal grievance raised against them.</p> | <p>Receiving Manager considers how to best proceed.</p> <p>See Table 2 Options A-D.</p> <p>The manager will endeavour to arrange for a Stage I hearing within 28 calendar days<sup>1</sup>.</p>  | <p>The objective of the Grievance Meeting (see Appendix C for how to conduct a formal Grievance Meeting) is to attempt to resolve the issues by means of a proposed or agreed action plan that the manager and the employee will have responsibility for implementing<sup>2</sup>.</p> <p>An outcome is normally given on the day of the Grievance Meeting<sup>3</sup>.</p> <p>Following a Grievance Meeting the Chair of the panel will endeavour to write to the aggrieved employee within 7 calendar days to give their decision<sup>4</sup>.</p> | <p>An employee who is dissatisfied with the outcome should proceed to Stage II within 14 calendar days of the date on the outcome letter<sup>5</sup>.</p>  |
| <b>Stage II</b> | <p>In writing or by using the Grievance Form to the next level of management (or another manager with appropriate decision making authority) within 14 calendar days of the date of the written outcome of the Stage I Meeting.</p> <p>The Manager will acknowledge receipt of the grievance in</p>   | <p>The Manager will endeavour to arrange for a Stage II Meeting within 28 calendar days.</p> <p>Should further investigation be required the Manager may decide that a further investigation</p> | <p>At Stage II the situation will be reviewed and the reasons that the previous action plan from an earlier Stage has not been successfully implemented will be explored and where necessary a new action plan must be agreed<sup>2</sup>.</p> <p>Following a Grievance Meeting the chair of the panel will endeavour to write to the aggrieved employee within 7 calendar days to give their decision<sup>4</sup>.</p>  | <p>An employee who is dissatisfied with the outcome should proceed to Stage III within 14 calendar days of the date on the outcome letter<sup>5</sup>.</p> |

|                  |  |   |   |  |
|------------------|--|---|---|--|
|                  | writing within 7 calendar days.  | take place prior to the hearing.  |   |  |
| <b>Stage</b>     | <b>How an employee invokes &amp; immediate actions for management</b>  | <b>Next Step</b>  | <b>Outcome</b>  | <b>Next Step</b>                                       |
| <b>Stage III</b> | In writing or by using the Grievance Form to Director of Workforce and Organisational Development.<br><br>The Director of Workforce and Organisational Development will endeavour to acknowledge receipt of the grievance in writing within 7 calendar days. | HR will endeavour to arrange for a Stage III hearing within 28 calendar days.<br><br>The Chair of the Panel may decide that a further investigation takes place prior to the hearing. | At Stage III the situation will be reviewed and the reasons that the previous action plan from Stage II has not been successfully implemented will be explored and where necessary a new action plan must be agreed <sup>2</sup> .<br><br>Following a Grievance Meeting the chair of the panel will endeavour to write to the aggrieved employee within 7 calendar days to give their decision <sup>4</sup> . | The decision of the panel will be final <sup>6</sup> . |

<sup>1</sup> However this does depend on the options took forward. If this timescale will not be met the manager will communicate this, the reason why and the expected timeframe to the aggrieved employee.

<sup>2</sup> It is imperative to stress the responsibility on both management and the employee involved to attempt to implement actions agreed from grievance meetings. Specific action plans resulting from the discussions that take place will be proposed or agreed at the end of any stage in the grievance procedure and both the manager and the employee will have a responsibility to work towards the proposed agreed actions.

<sup>3</sup> In exceptional circumstances there may not be a decision made on the day of the Grievance Meeting. The outcome can be conveyed to the employee in writing after the hearing should further investigations be required. A further hearing may be required if the Chair of the panel requests that certain parties investigate further and feels a second hearing is required to hear the additional information.

<sup>4</sup> The outcome letter will be sent 1<sup>st</sup> class, recorded delivery and ideally also emailed to employee's trust email account. At any stage further letters may be required depending on the circumstances and whether an action plan is proposed etc.

<sup>5</sup> Where an employee has not received a letter by the end of timescale they must contact HR in case a problem with post can be identified. Once letters have been sent out there will be an assumption that the letters have reached the employee, unless the employee raises that this is not the case.

<sup>6</sup> In exceptional circumstances to allow all employees a three stage grievance process, the Chair of the grievance meeting may warrant a further appeal stage.

**Table 2 Options A-D (Supplementary Information linked to Table 1 Stage 1)**

|   | Detail of Option*  | Purpose / When it is most appropriate to use  |
|---|--|---|
| A | <p><b>Initial Exploratory Meeting</b><br/>In some instances an exploratory or initial meeting may be held with the employee. Who is involved:</p> <ul style="list-style-type: none"> <li>• Employee</li> <li>• Receiving Manager** (leads the meeting)</li> <li>• Staff side/workplace colleague</li> <li>• HR were deemed necessary.</li> </ul> <p>Nb. After this meeting the employee will not be able to submit any fundamentally new information. This meeting will be the employee's opportunity for the submission of information. This should be made clear to the employee prior to the meeting to allow them to prepare adequately.</p> <p>The employee will have an opportunity to present information at the Grievance Meeting but no new information is able to be considered at that stage***</p> | <p>The purpose of this meeting is to explore further the issues raised and to clarify or add detail.</p> <p>Examples include:</p> <p>Where the submitted grievance lacks detail or clarity.</p> <p>Where a formal investigation (Option B) is not necessary, however, more information from the employee is required.</p> <p>Where clarification could be sort as to whether the grievance could be best dealt with informally or by another process so an opportunity is required to advise the employee and discuss options / seek the views of the employee regarding the best way forward to seek resolution.</p> |

|                 |  |  |
|-----------------|--|--|
| <p><b>B</b></p> | <p><b>Formal Investigation</b></p> <p>It may be appropriate for the Trust to conduct investigation meetings so that a fuller understanding of the issues can be gained. A report would be produced which can then be used as the ‘bundle’ during a Grievance Meeting (refer to Appendix E).</p> <p>A formal investigation whilst helping management in terms of the report assisting the panel who will hear the grievance, it is a further opportunity for the aggrieved employee to supply more information and more detail and submit any further documentation. Therefore it is an opportunity for the employee to build on the original grievance documentation submitted and their opportunity to ensure that the panel will have everything that the employee considers relevant.</p> <p>Where there has been a formal investigation no party will be able to submit any further information once the investigation has been concluded as the investigation report will be the bundle for the panel. The investigation was the employees’ opportunity for the submission of information. This should be made clear to the employee before any investigation meeting in order for the employee to prepare appropriately.</p> | <p>Examples include:</p> <p>Where witness statements are required.</p> <p>Where investigation is required to establish some facts.</p> <p>Where it would be useful to formally interview the aggrieved employee due to the volume or complexity of the complaint.</p> <p>Where it would provide the aggrieved employee an opportunity to add detail or provide further documentation. This further information provided can be then further explored/verified etc.</p> |
|                 | <p>The employee will have an opportunity to present information at the Grievance Meeting but no new information is able to be considered at that stage***</p> <p>Where an investigation is required it will be normally the case that an investigating manager is appointed to carry it out and prepare the report.</p> <p>The receiving manager (i.e. who received the grievance) then receives the report and hears the grievance meeting. It can equally be the case that the receiving manager becomes the investigating manager and another manager is appointed to Chair the Grievance Meeting.</p>  |  |

|                 |   |  |
|-----------------|---|--|
| <p><b>C</b></p> | <p><b>Formal Grievance Meeting</b><br/>Can move straight to a Grievance Meeting (or after Option A) without the need for a formal investigation****</p> <p>The information contained in the submitted grievance is complete enough to move to a meeting. Moving straight to a meeting does mean that more information may be heard for the first time during the meeting and on occasion this may lead to an adjournment or postponement being required. However usually it should be able to be dealt with in the one meeting as it is expected the all significant and key information would have been submitted by the aggrieved employee in their original grievance.</p> | <p>The receiving manager may feel that the most useful next step would be to get the parties together and have full discussion of the issues in a Grievance Meeting.</p> <p>At a Hearing the Management Report will be taken as read and therefore will not be run through in detail during the hearing.</p>   |
| <p><b>D</b></p> | <p><b>Solutions Focused Meeting</b><br/>Employee to be met with and a proposed outcome(s) put forward.</p> <p>Where the employee is in agreement with the proposed outcome(s) the matter can be considered resolved and parties can agree that a hearing is not required.</p> <p>Who is involved:</p> <ul style="list-style-type: none"> <li>• Employee</li> <li>• Receiving Manager (leads the meeting)</li> <li>• Staff side/workplace colleague</li> <li>• HR where necessary.</li> </ul>  | <p>Examples:</p> <ul style="list-style-type: none"> <li>• Where on reading the grievance the receiving manager feels that there is substance to the grievance and an obvious solution to be discussed.</li> <li>• Where the grievance relates to very factual circumstances such as a straight forward claim that someone has not been paid correctly and HR/Payroll can clarify that the employee is correct.</li> <li>• Where the outcome is factual and supported by Payroll and HR it may not then be possible to escalate further.</li> </ul> |

\* NB. More than one Option can be used and in some cases options can be merged (i.e. A and D). The process must be as flexible as possible in order to provide speedy resolution but it must be stressed that the aggrieved employee has a right for a Grievance meeting to be held if that is their wish.

\*\* Leading this meeting does not mean that the receiving manager does not chair the Grievance Meeting.

\*\*\* In some circumstances new information may be accepted by the chair of the panel should it relate to a point raised by management that the employee would not have foreseen or employee needs to be given an opportunity to respond to in order to have a fair hearing. Where an employee brings new information up in the Grievance Meeting that is relevant and must be considered but they should have brought it up before then if they wish an adjournment to take place so that this new information can be considered this will be noted as an employee requested postponement.

\*\*\*\*Grievance Meeting to follow process laid out in Appendix C.

**Table 3 Who may be present at a Grievance Meeting (not exhaustive)**

| <b>Who</b>                                       | <b>Purpose</b>  |
|--|---|
| Chair of the Panel                               | To chair the Grievance Meeting and make the decision.   |
| HR representative                                | To support and assist the Chair of the Panel and ensure HR process is followed.   |
| Staff Side representative / work place colleague | To represent or accompany the employee who raised the grievance.  |
| The Employee who raised the grievance            | To go through the points raised in their grievance.   |
| Witnesses  | Witnesses may be invited to hearings by either of the parties involved. Each party must make their own arrangements, as appropriate, to ensure their witnesses can attend hearings. |
| A senior advisor                                 | A senior advisor (or equivalent) may be co-opted at any stages of the formal procedure to advise the panel, as circumstances require.   |
| Note Taker                                       | To take notes as a record of the hearing.   |

### **Procedure for collective grievances**

The collective grievance procedure follows the same 3-stage procedure as described previously.

Collective grievances arise where a work group or a number of employees (a minimum of two) express dissatisfaction in connection with their employment.

Staff should be aware that when they raise grievances collectively, information in relation to each of the staff members may be divulged during the investigation process should it be relevant to the case.

An appropriate staff side / trade union representative may raise the grievance on behalf of the collective employees and act on their behalf in all proceedings throughout the procedure. A representative of the collective employees may also attend formal stage meetings with the staff side / trade union representative.

In the Stage III (Final Appeal) hearing the panel will consist of a Chairperson acceptable to both sides and two further members, it is the intention of the Trust that these will normally be a Trust Board Representative and a member of staff side / trade union. Any person directly involved in the dispute may not be appointed to the panel.

Should the local panel be unable to achieve a settlement, the dispute may be referred to ACAS by:

- i) Either party to the dispute for conciliation; or
- ii) Joint agreement of the parties to the dispute for mediation or arbitration.

In the unfortunate situation where the grievance procedure and all avenues of appeal and conciliation have been exhausted without agreement and if, as a last resort, industrial action is considered necessary by the staff organisation involved; close links will be maintained between the two parties to ensure that undue harm to patients is avoided.

Trade Unions will be required to comply with the statutory requirements of the Trade Union and Labour Relations (Consolidated) Act 1992 and the Trade Union Reforms and Employment Rights Act 1993. Management will negotiate agreement with full time officers of unions to ensure that maintenance of supplies and services essential to the health and safety of patients throughout any period of industrial action.

## The Conduct of the Meeting

The following procedure should be followed at each meeting with all the parties present. Witnesses will only be present when giving their evidence. Panel members can intervene at any stage in the hearing in order to seek clarification on any points raised by the parties or witnesses.

1. Firstly the employee or their representative should present their case and may be questioned by the manager involved in the grievance. Members of the panel will also question the employee or their representative.
2. The employee may then call any witnesses, who can be questioned by the employee or their representative, followed by the manager and the members of the panel. All parties may re-examine a witness for further information or clarification.
3. Once the employee has presented their case, the line manager will be asked to present their case. This will follow the same process outlined in 1 and 2 above.
4. Once all the evidence has been presented, the manager will have the opportunity to sum up their case, if they wish, followed by the employee or their representative.
5. Neither party is permitted to present any further new evidence during summing up.
6. After summing up the panel will adjourn to consider the case in private. They may call the parties back in order to clear any points of uncertainty.
7. The panel may give their decision after the adjournment or, in more complex cases, where more time is needed to come to a decision, may write to the parties involved with the outcome. All decisions must be confirmed in writing within 7 calendar days of the hearing. Where this will not be possible the parties will be made aware of this at the end of the hearing including the reasons why the deadline will not be met.
8. In exceptional circumstances the panel has the discretion to adjourn the hearing in order for further evidence to be gathered by either party or for any other reason for example to consider the evidence from both sides produced at the hearing.

Appendix D

## Grievance Report Form

### Personal Details

|   |  |
|---|--|
| Employee Name   |  |
| Employee Preferred Contact Details  |  |
| Employees Department  |  |
| Employees Care Group/Directorate  |  |
| Individual / Collective Grievance (please state) If collective, please ensure all other complainant details are attached. |  |

### Staff Side / Trade Union Representative or Work Colleague Details (if applicable)

|  |  |
|--|--|
| Name of Representative                                 |  |
| Contact Details of Representative                      |  |
| If Staff Side / Trade Union please detail which union. |  |

### Managers Details

|                                 |  |
|---------------------------------|--|
| Managers Name                   |  |
| Managers Contact Details        |  |
| Managers Department             |  |
| Managers Care Group/Directorate |  |

|   |                              |                             |
|---|------------------------------|-----------------------------|
| Has an Informal Discussion taken place? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| If yes, please detail                   | Date of Discussion           |                             |
|   | Who with?                    |                             |
| Details of Outcome                      |                              |                             |

|   |  |
|---|--|
| Signature of Employee Complainant           |  |
| Date  |  |
|   |  |
| Signature of Representative (if applicable) |  |
| Date  |  |

|                  |  |
|------------------|--|
| Name of Employee |  |
|------------------|--|

**Grievance Report Form (continued)**

Nature of Grievance (please use as many of these continuation sheets as necessary)

**Please provide as much information as possible in order for a decision to be made as to how best to proceed with your Grievance.**

**This is your opportunity to provide all of the key and significant information. Failure to provide all key facts may cause delays in processes or for those missing facts not to be considered.**

**Please attach relevant supplementary documentation.**

|                                  |  |    |  |
|----------------------------------|--|----|--|
| Page<br>(insert number of pages) |  | of |  |
|----------------------------------|--|----|--|

## **Guidance on how to create a Grievance Report following an Investigation**

A Grievance Report (sometimes referred to as the bundle or management report) is to allow both parties the opportunity to provide further evidence / detail in relation to the initial grievance.

The standard layout would normally include the following:-

**Title Page:** Name of Employee (and who supported by)  
Completed by: name of individual  
Supported by: name of HR support where applicable  
Date report completed

**Section 1:** Introduction

The purpose of this statement of case is to.... (Insert summary of complaint or response)

**Section 2:** Statement of Case

Insert background information leading up to the submitting of the grievance, any action taken / agreed.

**Section 3:** Conclusion

Insert details of how you believe that the grievance should be upheld / not upheld.

**Section 4:** Appendices

Include any relevant information:

- Grievance submitted by employee
- Any further information supplied during the investigation
- Any information found by the investigating officer.