

Grievance Procedure – Seeking a Resolution

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Version Control Sheet			
This must be completed and form part of the document appendices each time the document is updated and approved			
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Consultation / Acknowledgements with Stakeholders		
Name	Designation	Date Response Received

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1 Introduction / Purpose

The term grievance is used to cover a concern, problem or complaint that an employee's raises during their course of employment.

The purpose of this Procedure is to ensure that all grievances are dealt with fairly, consistently and as soon as practically possible to achieve a mutually effective conclusion.

At all stages of the process the intention is to seek clarity and remove any ambiguity from the issues in question. It is important that when entering into the grievance procedure an employee is clear about the outcome they seek from this process.

2 General Principles / Target Audience

This procedure applies to all staff employed by Blackpool Teaching Hospitals NHS Foundation Trust.

Disputes raised by individuals who are no longer in Trust employment will follow the procedure detailed in Section 3.6.

3 Definitions and Abbreviations

Trade Union Representative A member of a recognised negotiating body of the Trust.

4 Procedure

This procedure should not be used for any process that has its own right of appeal or review e.g. Disciplinary, Performance, Sickness, Flexible Working, Agenda for Change and Bullying and Harassment as these already afford employees similar rights to this procedure.

This procedure should not be used to raise frivolous issues or to raise concerns in a vexatious or malicious manner. Inappropriate use of the procedure may result in disciplinary action being taken.

The formal grievance procedure should be a last resort after all efforts to manage the issues informally have been exhausted.

Timescales for investigation and other stages of the grievance should be set appropriately for the scale of the grievance. It is anticipated that all grievances should aim to be completed within 12 weeks. Any agreement to extend the timescales must be done during the 12 week period and in consultation with the member of staff and staff side representatives.

4.1 What is a Grievance?

A grievance is an opportunity for a member of staff to raise a complaint about action that the Trust has taken or is contemplating taking, or which the Trust has some control of in relation to them self. The action is one that the employee believes is unjust or unfair, or

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should be brought to the attention of management. This can include any matter in relation to their work that is causing them concern such as:

- Conditions of service
- Duties
- Working practices, including the delivery of patient care
- Working relationships

This list is not exhaustive.

The following are excluded from this procedure and the appropriate policy should be used:

- Bullying and Harassment
- Disciplinary matters
- Whistleblowing
- Agenda for Change

Matters of concern about discipline should normally be taken up through the Disciplinary or Appeals procedures. However, if the issue relates not to conduct or capability but to discrimination on the grounds related to sex, sexual orientation, race, religion, age or disability, a grievance can be submitted.

4.2 Collective Grievance

When more than one staff member within one area is aggrieved about the same issue, this grievance procedure will still apply. If a group of staff are involved, they must nominate agreed representatives (up to a maximum of 3) to represent them at any stage during the procedure. This is in addition to a Trade Union Representative which they may choose to accompany them.

The group in question must have a common grievance.

Where a collective grievance relates to a decision sanctioned by the Executive Directors / Trust Board, the facility will be available to refer the case directly to a Stage Two Formal meeting.

4.3 Mediation

At any stage of the procedure the Trust or the staff member can propose Mediation. This is strongly encouraged at all stages to assist with early resolution but must be agreed as a way forward by all parties.

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4.4 Stages of the Procedure

The stages of the procedure are detailed below. At each stage the employee must decide if they are satisfied with the response or proposed solution. If not they should proceed to the next stage.

The employee should detail in writing a description of the grievance including any relevant facts, dates, names of individuals involved and identify what they would like to see as an outcome to their grievance. It is expected that the employee will be available for meetings.

At all stages of the procedure the member(s) of staff has the right to be accompanied by a Trade Union representative or a work colleague.

In the event that the member of staff, their companion or management are unable to attend a meeting on the scheduled date, a further date will be arranged with all parties as soon as possible. In the event that the member of staff or their companion are unable to attend the re-scheduled meeting, the case may be heard in their absence and a decision taken based on the information available, including written testimonials, to the manager / panel hearing the case at the time, subject to consideration of exceptional circumstances.

Responses at each stage should be in writing following the discussions or meetings between both parties.

Ideally, where a grievance is between two colleagues, the grievance should be raised directly with that colleague. Where the employee feels they cannot take the issue up directly, then the grievance can be raised with a line manager.

Where an issue relates directly to the line manager, the grievance can be raised with that line manager's manager.

4.4.1 Stage 1 - Informal

Employees are encouraged to share their concerns on an informal basis to try to resolve the issue without recourse to the formal grievance procedure. It is imperative that much effort is given to resolving the grievance at this stage in the interest of the employee, the Trust and the effective delivery of its services for patients. (Exceptionally a grievance can go straight to the formal stage).

After the discussion the employee may decide:

- No further action is required as being able to discuss concerns and feelings was all that was required to resolve the matter
- To seek mediation
- Individual action by the employee will be sufficient. For example, to tell another employee why their actions are causing problems
- More informal action by the manager will be sufficient. For example, for the manager to comment on inappropriate behaviour
- Go to the formal stage.

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4.4.2 Stage 2 – Formal

For cases that commence at Stage 2 of the procedure, an investigation may be necessary. Such an investigation will be conducted in accordance with the investigation guide for managers (See Section 7).

For cases that have progressed to Stage 2 from Stage 1 the member(s) of staff should be invited to attend a meeting, along with the chair from the Stage 1 meeting. The Stage 2 meeting will be chaired by a more senior manager than the manager involved in Stage 1 and who has had no previous involvement in the issue.

The member(s) of staff should be advised that they have the right to be accompanied by a Trade Union representative or a work colleague.

If the member of staff, their representative or management is unable to attend the meeting on the proposed date, another date maybe proposed so long as it is not more than 10 working days after the original date. This time limit can be extended by mutual agreement. In the event that the member(s) of staff or their representative is unable to attend the re-scheduled meeting, the case may be heard in their absence and a decision taken based on the information available to the manager / panel hearing the case at that time, subject to consideration of exceptional circumstances.

The process to be followed at the Stage 2 Formal meeting is:

- The manager hearing the case explains the purpose of the meeting and the process to be followed
- The member(s) of staff or their representative present a case to explain why they are dissatisfied with the Stage 1 Informal outcome. Witnesses may be called if appropriate
- Questions can be asked of the staff member's case and witnesses.
- The manager who made the decision at the Stage 1 Informal process explains the rationale for their decision. Witnesses may be called if appropriate
- Questions can be asked of the manager's case and witnesses
- The manager summarises their case
- The member(s) of staff or their representative summarises their case
- The meeting is adjourned for the manager hearing the case to consider their decision
- The meeting is reconvened and the member(s) of staff is informed of the outcome and their right of appeal if appropriate. On occasions the manager may request time to consider their decision and the outcome may be confirmed in writing to the complainant. Timescales around when the complainant can expect to be notified of the decision should be agreed at the time between the complainant and the hearing manager
- If further information or investigation is necessary, the manager hearing the case should adjourn the meeting

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- Written confirmation of the outcome will be provided to the member(s) of staff within seven days of the decision
- The member(s) of staff may appeal against the outcome of the Stage 2 Formal meeting. An appeal must be made in writing within 14 days of receipt of the letter detailing the outcome at Stage 2. The details of the person to whom the appeal should be lodged will be contained in the letter. In such cases, a Stage 3 Final meeting will be arranged.

4.4.3 Stage 3 – Final

The member(s) of staff should be invited to attend a meeting, which will be chaired by a more senior manager than the manager involved in Stage 2 and who has had no previous involvement in the issue.

The panel will be supported by a HR Representative.

The member(s) of staff should be invited to attend the meeting along with the Chair of the Stage 2 meeting, within 10 working days of receipt of appeal. The member of staff must be advised that they have the right to be accompanied by a Trade Union representative or work colleague. The meeting to take place within 15 days (3 weeks) of the invitation where possible.

If the member of staff, their representative or management is unable to attend the meeting on the proposed date, another date maybe proposed so long as it is not more than 10 working days after the original date. This time limit can be extended by mutual agreement. In the event that the member(s) of staff or their representative is unable to attend the re-scheduled meeting, the case may be heard in their absence and a decision taken based on the information available to the manager / panel hearing the case at that time, subject to consideration of exceptional circumstances.

The following information should be provided to the Stage 3 panel members at least one week prior to the Stage 3 hearing:

- The original grievance
- The outcome letter from the Stage 2 Grievance Meeting and any supporting information
- The letter of appeal against the decision at Stage 2

The process to be followed at the Stage 3 Final meeting is:

- The Chair of the panel hearing the case explains the purpose of the meeting and the process to be followed
- The member(s) of staff or their representative present a case. Witnesses may be called if appropriate
- Questions can be asked of the staff member’s case and witnesses

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- The manager who made the decision at the Stage 2 Formal meeting explains the rationale for their decision.
- Questions can be asked of the manager's case and witnesses
- The manager summarises their case
- The member(s) of staff or their representative summarises their case
- The meeting is adjourned for the panel hearing the case to consider their decision
- The meeting is reconvened and the member(s) of staff informed of the outcome

If further information or investigation is necessary, the manager hearing the grievance should adjourn the meeting, pending further investigation.

- Written confirmation of the outcome will be provided to the member(s) of staff within 5 working days of the decision. The letter must state that Stage 3 Final is binding and that no further consideration of the case will be made.
- There is no further right of appeal against the decision resulting from a Stage 3 Final meeting. Collective grievances/outstanding disputes may be referred by agreement, to ACAS for conciliation or where there is explicit prior agreement, to arbitration.

4.5 Overlapping Grievances and Disciplinary Cases

In accordance with Section 3.1 of this Procedure, Grievances cannot be submitted relating to the way in which Disciplinary investigations are conducted. .

In line with the ACAS Code of Practice, where an employee raises a grievance during a disciplinary process that does not relate to the disciplinary matter in hand the Trust may agree to temporarily suspended the disciplinary matter in order to deal with the grievance.

4.6 Grievances after Employment

If the employee leaves while a grievance is in progress the relevant stage of the process they are progressing should be completed and the relevant persons informed of the outcome.

If they raise it after departure they will be required to write to the Deputy Director of Workforce and OD and detail the nature of their grievance. The Trust will consider the grievance, where necessary investigate the circumstances under the Investigation Guide for managers, and write back to the ex-employee with the outcome. There will be no right of appeal after this review.

4.7 Status Quo

Once a grievance has been formally raised, the status quo (i.e. The working and management arrangements which applied before the grievance) should operate, unless mutually agreed otherwise, until the agreed procedure within the Trust has been exhausted, provided that this would not be prejudicial to patient care.

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4.8 Written Records

Written records of any complaints raised under this procedure must be held on the personal file and electronic records maintained within Human Resources.

5 References and Associated Documents

BTHFT - Procedure, 2018. *Attendance Management Policy*. [Online]
Available at: <http://fcsp.xfyldecoast.nhs.uk/trustdocuments/Documents/CORP-POL-011.docx>
[Accessed 13 01 2020].

BTHFT - Procedure, 2018. *Disciplinary and Appeal Procedure*. [Online]
Available at: <http://fcsp.xfyldecoast.nhs.uk/trustdocuments/Documents/CORP-PROC-636.docx>
[Accessed 13 01 2020].

BTHFT - Procedure, 2018. *Investigation Guide for Managers*. [Online]
Available at: <http://fcsp.xfyldecoast.nhs.uk/trustdocuments/Documents/CORP-GUID-201.docx>
[Accessed 15 01 2020].

BTHFT - Procedure, 2019. *Performance Management*. [Online]
Available at: <http://fcsp.xfyldecoast.nhs.uk/trustdocuments/Documents/CORP-POL-517.docx>
[Accessed 13 01 2020].

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Appendix 1: Equality Impact Assessment Form					
Department	Organisation Wide	Service or Policy	Procedure	Date Completed:	March 2017
GROUPS TO BE CONSIDERED					
Deprived communities, homeless, substance misusers, people who have a disability, learning disability, older people, children and families, young people, Lesbian Gay Bi-sexual or Transgender, minority ethnic communities, Gypsy/Roma/Travellers, women/men, parents, carers, staff, wider community, offenders.					
EQUALITY PROTECTED CHARACTERISTICS TO BE CONSIDERED					
Age, gender, disability, race, sexual orientation, gender identity (or reassignment), religion and belief, carers, Human Rights and social economic / deprivation.					
QUESTION	RESPONSE			IMPACT	
	Issue	Action	Positive	Negative	
What is the service, leaflet or policy development? What are its aims, who are the target audience?	The Procedural Document is to ensure that all members of staff have clear guidance on processes to be followed. The target audience is all staff across the Organisation who undertakes this process.	Raise awareness of the Organisations format and processes involved in relation to the procedural document.	Yes – Clear processes identified		
Does the service, leaflet or policy/ development impact on community safety	Not applicable to community safety or crime	N/A	N/A		
• Crime • Community cohesion					
Is there any evidence that groups who should benefit do not? i.e. equal opportunity monitoring of service users and/or staff. If none/insufficient local or national data available consider what information you need.	No	N/A	N/A		
Does the service, leaflet or development/ policy have a negative impact on any geographical or sub group of the population?	No	N/A	N/A		
How does the service, leaflet or policy/ development promote equality and diversity?	Ensures a cohesive approach across the Organisation in relation to the procedural document.	All policies and procedural documents include an EA to identify any positive or negative impacts.			
Does the service, leaflet or policy/ development explicitly include a commitment to equality and diversity and meeting needs? How does it demonstrate its impact?	The Procedure includes a completed EA which provides the opportunity to highlight any potential for a negative / adverse impact.				
Does the Organisation or service workforce reflect the local population? Do we employ people from disadvantaged groups	Our workforce is reflective of the local population.				
Will the service, leaflet or policy/ development	N/A				
i. Improve economic social conditions in deprived areas					
ii. Use brown field sites					
iii. Improve public spaces including creation of green spaces?					
Does the service, leaflet or policy/ development promote equity of lifelong learning?	N/A				
Does the service, leaflet or policy/ development encourage healthy lifestyles and reduce risks to health?	N/A				
Does the service, leaflet or policy/ development impact on transport? What are the implications of this?	N/A				
Does the service, leaflet or policy/development impact on housing, housing needs, homelessness, or a person's ability to remain at home?	N/A				
Are there any groups for whom this policy/ service/leaflet would have an impact? Is it an adverse/negative impact? Does it or could it (or is the perception that it could exclude disadvantaged or marginalised groups?	None identified				

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Does the policy/development promote access to services and facilities for any group in particular?	No			
Does the service, leaflet or policy/development impact on the environment	No			
<ul style="list-style-type: none"> • During development • At implementation? 				
ACTION:				
Please identify if you are now required to carry out a Full Equality Analysis		Yes	No	(Please delete as appropriate)
Name of Author:	Victoria Higgins	Date Signed:		March 2017
Signature of Author:				
Name of Lead Person:	Eleanor Palmer-Rigby	Date Signed:		March 2017
Signature of Lead Person:				
Name of Manager:	Cheryl Johnston	Date Signed:		March 2017
Signature of Manager				

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