

**Grievance and Dispute Policy**

Date	Version	
February 2013	8	
<b>Purpose</b>		
The purpose of this policy is to provide a framework within which Trust staff can raise their grievances in confidence and with an overall aim of reaching resolution.		
<b>Who should read this document?</b>		
All Trust employees		
<b>Key messages</b>		
The Trust is committed to providing a fair and effective mechanism for handling all grievance and dispute issues raised by staff.		
<b>Accountabilities</b>		
<b>Production</b>	Lisa White, HR Business Partner	
<b>Review and approval</b>	Director of Human Resources and Organisational Development	
<b>Ratification</b>	Director of Human Resources and Organisational Development	
<b>Dissemination</b>	Deputy Director of HR	
<b>Compliance</b>	Director of Human Resources and Organisational Development	
<b>Links to other policies and procedures</b>		
N/A		
<b>Version History</b>		
V2.1	28/11/02	JSNC
V3.1	28/11/02	Updated in agreement with JSNC
V4.1	06/05/10	Amended in line with the Equality Act 2010
V4.2	24/11/10	Review date extended
V5	03/06/11	Review date extended
6	February 2013	Full review
7	January 2019	Extended to April 2019
8	August 2019	Extended to February 2020 by Richard Maguire & Lisa White
<b>Last Approval</b>		<b>Due for Review</b>
February 2013		Extended to February 2020

*PHNT is committed to creating a fully inclusive and accessible service.*

*Making equality and diversity an integral part of the business will enable us to enhance the services we deliver and better meet the needs of patients and staff.*

*We will treat people with dignity and respect, actively promote equality and diversity, and eliminate all forms of discrimination regardless of (but not limited to) age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage/civil partnership and pregnancy/ maternity.*

**An electronic version of this document is available on the Trust Documents Network Share Folder (G:\TrustDocuments). Larger text, Braille and Audio versions can be made available upon request.**

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## 1 Introduction

1.1 The Trust recognises the need for addressing staff concerns with colleagues and/or managers/clinicians, and will endeavour to resolve them. This policy applies to all individuals employed by the Trust. It is intended to deal with individual employee grievances or a grievance shared by a group of employees (Dispute) as fairly, speedily and systematically as possible.

## 2 Purpose, including legal or regulatory background

2.1 The purpose of this policy is to provide a framework within which Trust staff can raise their grievances. It lays down the appropriate steps to be taken by employees wishing to seek redress in respect of any issues which gives rise to a grievance, as well as outlining the Trust and line management responsibilities in dealing with such grievances.

2.2 This policy does not apply to settling grievances/disputes relating to:

- Dismissal or warnings issued under any formal process.
- Matters where specific Agenda for Change and/or other Trust policies are applicable.
- Harassment and Bullying (see Harassment and Bullying Procedure).
- Raising Concerns (See Raising Concerns Policy).
- Grading decisions.
- Matters over which the Trust has no control, e.g. income tax and national insurance payments etc.
- Private grievances between employees which are not related to the working environment and are outside the scope of the employment relationship and authority of the Trust to resolve.
- Issues that have already been raised and dealt with as part of this Policy.

2.3 This policy observes current employee law, including the Equality Act 2010 and the ACAS Code of Practice.

## 3 Definitions

- **Grievance** - A grievance is a complaint that has been presented to a manager by a staff member (this would normally be the line manager).
- **Dispute** - A dispute refers to a grievance held by two or more staff members.
- **Bullying** – the unwanted behaviour, one to another, which is based upon the unwarranted use of authority of power. Bullying includes persistent criticism and personal abuse and/or ridicule, either in public

or private, which is humiliating or demeaning. Bullying behaviour can also include berating or belittling employees, unreasonably changing an employee's workload, hours or place of work without their knowledge/agreement, or misuse of capability or disciplinary procedures.

- **Harassment** – The Equality Act (2010) defines harassment as: “unwanted conduct related to a relevant protected characteristic which has the purpose or effect of violating an individual's dignity or creating an intimidating, humiliating or offensive environment for that individual”. Harassment can involve a single incident or be persistent, it may be directed at one or more individuals.

## **4 Organisational Responsibilities**

### **4.1 Trust Board and Executive Directors**

4.1.1 The Trust Board is responsible for seeking assurance that the Trust maintains a satisfactory and robust process for dealing with staff grievances.

4.1.2 The Director of HR and OD is responsible for ensuring that the policy is working effectively and any breaches are addressed promptly.

### **4.2 The HR and OD Directorate**

4.2.1 The HR and OD Directorate will:

- Provide advice and guidance on the grievance process and attend formal grievance meetings, where required.
- Advise line managers that they must be accompanied by an appropriate peer where HR are not present at formal grievance meetings.
- Attend all formal Appeal meetings and provide appropriate HR support.

### **4.3 Employee's Manager**

4.3.1 The employee's manager will:

- Make every effort to resolve any issues informally.
- Treat the matter confidentially at all times.
- Ensure that meetings are promptly arranged.
- Advise the employee of their right to be accompanied through the formal process.
- Provide the employee with an opportunity to outline their complaint.
- Maintain appropriate file notes and correspond in a timely manner with the employee(s).

- Ensure compliance with this policy.

#### **4.4 Employee**

4.4.1 The employee will:

- Raise any grievance/dispute with their line manager and engage in attempts to resolve the issue informally.
- Where the issue has not been resolved informally or the matter is too serious to raise informally, raise a grievance/dispute in writing.
- Take all reasonable steps to attend meetings.
- Present any written evidence in support of their grievance/dispute at the formal meeting.
- Treat the matter confidentially at all times.

#### **4.5 Trade Union Representative/Workplace Colleague**

4.5.1 The Trade Union Representative/Workplace Colleague will:

- Represent and support employees (workplace colleague) through the formal process.
- Where possible, hand over cases during periods of leave to avoid unnecessary delays.
- Assist and represent the employee in stating their case.
- Treat the matter confidentially at all times.

#### **4.6 Staff Health and Wellbeing Department**

4.6.1 The Staff Health and Wellbeing Department provides an independent, impartial and confidential source of advice on all aspects of the relationship between work and health.

4.6.2 All employees may seek advice, self refer or managers can make formal referral requests for occupational, medical or psychological assessment in relation to the fitness for work of individual members of staff for whom they are responsible.

## **5 General Principles**

5.1 All grievances/disputes should be actioned by the appropriate manager as near to their source as possible.

5.2 Every effort should be made to resolve grievances/disputes informally and as quickly as possible without recourse to the formal grievance process.

- 5.3 A grievance/dispute should be lodged no later than one month from when the incident took place or when the employee became aware of it.
- 5.4 The advice of the Human Resources Department should be sought upon application of the formal process.
- 5.5 In circumstances where an employee has difficulty in expressing their grievance in writing, they should be encouraged to seek help (e.g. from a work colleague or trade union representative).
- 5.6 The time limits specified in this policy upon receipt of a grievance/dispute will normally be observed. However, in some instances this may not be practical and the timescale may be extended. In such circumstances an explanation should be provided to the employee for such delay.
- 5.7 The status quo (i.e. the working and management arrangements which applied prior to the change which precipitated the grievance/dispute), shall continue to operate until it is resolved or until the procedure has been exhausted, unless operational practicalities prevail.
- 5.8 Failure to follow or comply with this policy could lead to action being taken under the Trust's Performance and Conduct Policy.

## **6 Stage 1 Informal Procedure**

- 6.1 Where an employee has a grievance about a work-related problem this should be raised in the first instance with his/her immediate manager. Most grievances will be resolved by having an informal and constructive discussion.
- 6.2 The manager will arrange to meet with employee to hear details of the grievance/dispute and agree how the issues raised can be resolved. A written record of the discussion will be kept. The staff member can choose to be accompanied at this stage by a trade union representative or a workplace colleague although all parties should recognise the informal nature of this part of the process.
- 6.3 Where a grievance/dispute is not resolved through informal discussion with their manager, the staff member may take up the grievance formally.
- 6.4 Where an employee has a grievance that they consider to be inappropriate to raise with their manager, advice should be sought via the next level of management or the HR Department.

**7****Stage 2 Formal Procedure**

- 7.1 The employee should give written notification of their grievance, using the Notification of a Grievance/Dispute Form (Appendix 1) to the next level of management not previously involved.
- 7.2 This notification should be received from the employee within 10 working days following the completion of the informal process, or where it has not been appropriate to deal with the matter informally, in line with the timescale as per paragraph 5.3.
- 7.3 On receipt of a formal grievance/dispute, the manager should contact the HR Directorate for guidance and support.
- 7.4 The manager will write to the employee to acknowledge the grievance/dispute and will arrange a meeting with the employee to hear the employee's grievance/dispute, normally within 10 working days of receipt of the notification of grievance/dispute, informing them of their right to be accompanied by a trade union representative or workplace colleague at the meeting. (Appendix 2).
- 7.5 An HR representative will attend formal grievance meetings, where required. However, line managers must be accompanied by an appropriate peer (with no previous involvement with the case) where HR are not present at the formal grievance meeting.
- 7.6 The employee must take all reasonable steps to attend this meeting. If an employee or their representative cannot attend the meeting on the proposed date, a further date within 5 working days after the date originally proposed by the manager will be arranged.
- 7.7 Following appropriate discussion and any further investigation required by the manager, the manager will confirm the outcome decision in writing to the employee, using the template letter (Appendix 3). The employee should be advised that they can appeal against the decision if they are not satisfied with the outcome.
- 7.8 This process aims for grievances/disputes to be resolved promptly and within a reasonable timescale. Normally this will be within one month from the complaint being received to resolution unless an appeal is lodged. In this case it may take up to 3 months. In some cases timescales may be extended in line with Paragraph 5.6.

**8****Stage 3 Appeal Procedure**

- 8.1 If the employee does not feel that the grievance/dispute has been satisfactorily resolved they have the right to appeal.
- 8.2 To exercise the right to appeal, the employee should do so by writing to the Director of HR and OD within 10 working days of the date of the grievance/dispute outcome letter, fully stating the grounds for appeal.
- 8.3 On receipt of the appeal letter the Director of HR and OD will acknowledge the appeal and the HR Department will organise an appeal meeting, normally within one month of receipt of the appeal (Appendix 4).
- 8.4 The employee must take all reasonable steps to attend this meeting. If an employee or their representative cannot attend the meeting on the proposed date, a further date within 10 working days after the date originally proposed by the manager will be arranged.
- 8.5 The appeal will be heard by two Senior Managers, (including one Director where appropriate), not previously involved in the matter. They will be supported by a senior member of the HR Department
- 8.6 Where the issue concerns professional or technical matters, the panel hearing the appeal may seek additional advice from an appropriate person. This person will form part of the panel and will have had no direct involvement in the case previously.
- 8.7 The manager who heard and responded to the grievance at Stage 2 should prepare a management case which should outline the findings of the grievance and the reason for the decision. This should be sent to the manager chairing the appeal panel at least 5 working days before the appeal hearing, together with details of any witnesses the manager intends to call to the hearing.
- 8.8 The employee appealing against the decision should provide to the HR representative any statements or documents which they intend to rely on at the hearing, a list of witnesses they intend to call and details of their trade union representative/workplace colleague, at least 5 working days before the appeal hearing. The HR representative will ensure that this information is made available to the panel and manager presenting the case.
- 8.9 The appeal hearing will be conducted according to the process outlined in Appendix 5).
- 8.10 The appeal chair will confirm the outcome decision in writing to the employee using the template letter (Appendix 6).

- 8.11 The appeal stage represents the final stage of the policy and there are no further internal appeal stages.

## **9 Overall Responsibility for the document**

- 9.1 The Director of HR & OD has overall responsibility for the dissemination, implementation and review of this policy.

## **10 Consultation and ratification**

- 10.1 The design and process of review and revision of this policy will comply with The Development and Management of Trust Wide Documents.
- 10.2 The review period for this document is set as five years from the date it was last ratified, or earlier if developments within or external to the Trust indicate the need for a significant revision to the procedures described.
- 10.3 This document will be subject to consultation with the Joint Staff Negotiating Committee and will be ratified by the Director of HR & OD.
- 10.4 Non-significant amendments to this document may be made, under delegated authority from the Director of HR & OD, by the nominated author. These must be ratified by the Director of HR & OD and should be reported, retrospectively, to the Policy Sub Group of the Joint Staff Negotiating Committee and HR and OD Committee.

## **11 Dissemination and Implementation**

- 11.1 Following approval and ratification, this policy will be published in the Trust's formal documents library and all staff will be notified through the Trust's normal notification process, currently the 'Vital Signs' electronic newsletter.
- 11.2 Document control arrangements will be in accordance with The Development and Management of Trust Wide Documents.
- 11.3 The document author(s) will be responsible for agreeing the training requirements associated with the newly ratified document with the Director of HR & OD and for working with the Trust's training function, if required, to arrange for the required training to be delivered.

Monitoring of the policy and procedure will be undertaken by the Deputy Director of Human Resources, through feedback from the HR Business Partner Team and Staff Side. This Policy will be reviewed regularly by the HR Directorate, management and staff side through the JSNC and MSP mechanism.

The standards and Key Performance Indicators identified with the implementation of this policy are the NHSLA and Standards as determined by the Care Quality Commission.

The Trust will undertake an annual review of this policy. It should be noted that the responsibilities in this policy are legally enforceable and that managers (and employees where applicable) failing to uphold their responsibilities may find themselves in breach of internal disciplinary policies and legislation.

Information for equality monitoring will be recorded as required to ensure equality regulations are met in respect of any formal process commenced under this policy.

<b>Core Information</b>				
<b>Document Title</b>	Grievance and Dispute Policy and Procedure			
<b>Date Finalised</b>				
<b>Dissemination Lead</b>	HR Business Partner			
<b>Previous Documents</b>				
<b>Previous document in use?</b>	Yes			
<b>Action to retrieve old copies.</b>	By Document Controller			
<b>Dissemination Plan</b>				
<b>Recipient(s)</b>	<b>When</b>	<b>How</b>	<b>Responsibility</b>	<b>Progress update</b>
All Staff	March 2013	Vital Signs	Document Controller	

**Review and Approval Checklist****Appendix 8**

<b>Review</b>		
<b>Title</b>	Is the title clear and unambiguous?	Yes
	Is it clear whether the document is a policy, procedure, protocol, framework, APN or SOP?	Yes
	Does the style & format comply?	Yes
<b>Rationale</b>	Are reasons for development of the document stated?	Yes
<b>Development Process</b>	Is the method described in brief?	Yes
	Are people involved in the development identified?	Yes
	Has a reasonable attempt has been made to ensure relevant expertise has been used?	Yes
	Is there evidence of consultation with stakeholders and users?	Yes
<b>Content</b>	Is the objective of the document clear?	Yes
	Is the target population clear and unambiguous?	Yes
	Are the intended outcomes described?	Yes
	Are the statements clear and unambiguous?	Yes
<b>Evidence Base</b>	Is the type of evidence to support the document identified explicitly?	Yes
	Are key references cited and in full?	Yes
	Are supporting documents referenced?	Yes
<b>Approval</b>	Does the document identify which committee/group will review it?	Yes
	If appropriate have the joint Human Resources/staff side committee (or equivalent) approved the document?	Yes
	Does the document identify which Executive Director will ratify it?	Yes
<b>Dissemination &amp; Implementation</b>	Is there an outline/plan to identify how this will be done?	Yes
	Does the plan include the necessary training/support to ensure compliance?	Yes
<b>Document Control</b>	Does the document identify where it will be held?	Yes
	Have archiving arrangements for superseded documents been addressed?	Yes
<b>Monitoring Compliance &amp; Effectiveness</b>	Are there measurable standards or KPIs to support the monitoring of compliance with and effectiveness of the document?	Yes
	Is there a plan to review or audit compliance with the document?	Yes
<b>Review Date</b>	Is the review date identified?	Yes
	Is the frequency of review identified? If so is it acceptable?	Yes
<b>Overall Responsibility</b>	Is it clear who will be responsible for co-ordinating the dissemination, implementation and review of the document?	Yes

<b>Core Information</b>	
<b>Manager</b>	<b>Lisa White, HR Business Partner</b>
<b>Directorate</b>	HR & OD
<b>Date</b>	February 2013
<b>Title</b>	Grievance and Dispute Policy and Procedure
<b>What are the aims, objectives &amp; projected outcomes?</b>	The purpose of this policy is to provide a framework within which Trust staff can raise their grievances in confidence and with an overall aim of reaching resolution.
<b>Scope of the assessment</b>	
<b>Collecting data</b>	
<b>Race</b>	There could potentially be an impact on staff whose first language isn't English, so this policy can be made available in alternative formats.  Data will be monitored through workforce data reporting and analysis of all data will be undertaken as appropriate
<b>Religion</b>	There is no evidence to show an impact in this area, however data will be monitored through workforce data reporting and analysis of all data will be undertaken as appropriate
<b>Disability</b>	There is no evidence to show an impact in this area, however data will be monitored through workforce data reporting and analysis of all data will be undertaken as appropriate. The policy can be made available in alternative formats
<b>Sex</b>	There is no evidence to show an impact in this area, however data will be monitored through workforce data reporting and analysis of all data will be undertaken as appropriate
<b>Gender Identity</b>	There is currently no data collected to show the impact in this area.
<b>Sexual Orientation</b>	There is no evidence to show an impact in this area, however data will be monitored through workforce data reporting and analysis of all data will be undertaken as appropriate
<b>Age</b>	There is no evidence to show an impact in this area, however data will be monitored through workforce data reporting and analysis of all data will be undertaken as appropriate

<b>Socio-Economic</b>	There is currently no data collected to show the impact in this area.			
<b>Human Rights</b>	There is currently no data collected to show the impact in this area.			
<b>What are the overall trends/patterns in the above data?</b>	No trends or patterns identified at this stage. However, data will be monitored and any trends or patterns will be identified and appropriate actions will be put in place.			
<b>Specific issues and data gaps that may need to be addressed through consultation or further research</b>	There is currently no data to monitor the impact on gender identity, socio-economic and human rights.			
<b>Involving and consulting stakeholders</b>				
<b>Internal involvement and consultation</b>	Business Partners, Senior Management and JSNC.			
<b>External involvement and consultation</b>	No external consultation undertaken			
<b>Impact Assessment</b>				
<b>Overall assessment and analysis of the evidence</b>	<p>There could potentially be an impact on staff whose first language isn't English, so this policy can be made available in alternative formats.</p> <p>There is potentially an impact on people with a disability. Those who are disabled in any way should be supported through the process and reasonable adjustments should be put in place as appropriate.</p>			
<b>Action Plan</b>				
<b>Action</b>	<b>Owner</b>	<b>Risks</b>	<b>Completion Date</b>	<b>Progress update</b>
Provide document in alternative formats and languages if requested	Healthcare Clinical Governance Office	Potential cost impact	ongoing	This action will be addressed as and when the need occurs.
Monitoring of workforce data on a regular basis	HR Business Partner		On-going	Action will be taken as and when required.