

GRIEVANCE PROCEDURE

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PROCEDURE SUMMARY
This procedure sets out formal and informal frameworks within which an employee's complaints under the Trust's Grievance Policy may be dealt with quickly, sensitively and as discreetly as possible.
The Trust monitors the implementation of and compliance with this procedure in the following ways:
<p>This procedure will be subject to review as per the agreed review schedule of Trust HR policies and as agreed by the Trust's Partnership Committee.</p> <p>Compliance with this procedure will be against the Trust's agreed minimum requirements/standards as detailed within its Auditable Standards and Monitoring Arrangements, as well as the use of internal reporting and recording within the Human Resources Directorate.</p>

Services	Applicable	Comments
Trust wide	✓	

**The Director responsible for monitoring and reviewing this procedure is
Executive Director of People & Culture**

ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST

GRIEVANCE PROCEDURE

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ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST

GRIEVANCE PROCEDURE

1. ASSURANCE STATEMENT

- 1.1 This procedure sets out the framework for the Trust to the management of all employee grievances in relation to their employment and ensures that they are resolved in a timely, fair, reasonable and consistent way.

This procedure ensures that the Trust complies with ACAS Code of Practice 1 – Disciplinary and Grievance Procedures.

- 1.2 The management of grievances within the Trust will be built on and demonstrate the Trust's corporate values and behaviours. These values are in being:

- Compassionate
- Empowering
- Open

In demonstrating these behaviours and values, supporting the achievement of its strategic priorities to:

- Continuously improve service user experiences and outcomes
- Achieve top 25% performance
- Valued system leader focused on integrated solutions

2. INTRODUCTION

- 2.1 This procedure sets out a framework within which an employee's complaints under the Trust's Dignity, Respect & Grievance Policy may be dealt with quickly, sensitively and as discreetly as possible.

- 2.2 Employees should refer to the Dignity, Respect & Grievance Policy to ensure that this is the appropriate policy and procedure under which to raise This procedure is to be used in the case of an employee raising a grievance.

- 2.3 The Trust recognises that grievances can be sensitive and difficult to manage and acknowledges that both parties are entitled to receive support and assistance when a complaint has been made. The complainant and, where appropriate, an employee against whom a grievance has been raised will be treated fairly and with respect. As appropriate, employees can get support and guidance, from line managers/supervisors, Human Resources (HR), a trade union representative and the confidential in house counselling programme.

- 2.4 All complaints whether informal or formal will be taken seriously.

- 2.5 Managers should consult with the Human Resources Department throughout all formal stages of the procedure. An HR representative must also be present at all formal meetings/hearings within the procedure. All records stored within the HR department will be stored in confidence and separately from employees' personal files.
- 2.6 The complainant has the right to be accompanied at any formal meetings/hearings, by an accredited Trade Union representative or a fellow Trust worker.
- 2.7 All timescales within this procedure refer to working days. These timescales are used as a guideline and will be adhered to wherever possible. In exceptional circumstances, where it is not possible to conform to timescales, an explanation should be provided to the employee and their representative (if applicable) in writing, which must include expected dates of response.
- 2.8 Where the Grievance Procedure is invoked the status quo will apply, i.e. there will be no change to the working/management arrangements in place prior to the grievance being raised, unless mutually agreed between the employee and their line manager/senior manager, until the grievance has been resolved.
- 2.9 At all stages of this procedure the employee should be asked to submit the grounds of their grievance and their desired outcome. Managers should ensure that any resolutions are realistic and that outcomes of the process are balanced where this is necessary. Where an employee's desired outcome is unrealistic managers should ensure that the reasons for this are fully explained and confirmed in writing.
- 2.10 For those involved in the Grievance Procedure, reasonable adjustments, where applicable, must be made to meet individual needs in line with the Equality, Diversity and Human Rights Policy. This may impact on the timescales in this procedure.
- 2.11 The Dignity, Respect & Grievance Policy and this Procedure should not be used by employees who are aggrieved with their line manager for their work being managed in line with Trust standards and expectations.

3. DUTIES**3.1 Executive Director of People & Culture**

The Executive Director of People & Culture is responsible for ensuring that the Procedure is communicated to all staff via Trust communication processes

3.2 Executive Directors/Service and Operational Directors

Trust Directors/Service Operational Directors are responsible for ensuring that the procedure is distributed to all staff.

It is the Directors' corporate responsibility to ensure that staff are provided with welfare facilities and to safeguard the health and safety of staff.

3.3 Managers

Managers are responsible for ensuring all staff are aware of and have read and understood the procedure and they themselves apply it where appropriate.

Managers must ensure that no staff are discriminated or disadvantaged as a result of a 'protected characteristic' when applying this procedure.

3.4 Staff

Staff are expected to ensure that they have read and understood this procedure and engage with it when appropriate.

3.5 Human Resources (HR)

The HR Service will provide advice and support to managers in the management of these processes, with due regard to the employment legislation framework.

3.6 Trade Unions

Accredited Trades Union representatives may accompany their members during the formal aspects of these processes. Although not a statutory obligation a member may request a Trade Union representative/work colleague to attend informal meetings. It will be a management decision to allow representation at informal meetings.

Accredited Trade Unions will be expected to support their members at formal meetings and, where possible, to be flexible with dates to support the Trust in meeting the times scales outlined in this procedure.

4. SCOPE

4.1 The procedure applies to staff directly employed by the Trust

5. DEFINITIONS

For the purposes of applying the provisions contained in this document a glossary of terms that are used within the procedure are as follows:

Protected Characteristics	Characteristics as defined by the Equality Act 2010. These are ethnic origin, nationality, race, disability, gender, marital or partnership status, age, religion or belief, sexual orientation or transgender status.
Grievance	A grievance is defined in law as “a complaint by an employee about action which his employer has taken or is contemplating taking in relation to him”. For the purposes of this Policy and Procedure, a grievance is a complaint by an employee regarding a matter connected with their terms and conditions of employment, Trust policies and procedures or working arrangements that affect them directly or affect their personal dealings or relationships with other employees or workers including allegations of harassment and bullying. Please note complaints of Harassment, bullying and/or discrimination will be dealt with separately under the Respect and Dignity at Work Procedure.

6 PRINCIPLES

6.1 The Trust will adhere to the appropriate legislation and other frameworks such as Agenda for Change, local agreements and ACAS code of practice. ACAS is the Advisory, Conciliation and Arbitration Service.

6.2 The Trust seeks to promote fair, reasonable and consistent employment practices referring to relevant policies such as the Equality, Diversity and Human Rights Procedure.

In drawing up this procedure, aspects of discrimination have been considered so that particular groups are not disadvantaged.

6.3 All employees have a responsibility to comply with the provisions set out in this procedure.

7 WHEN A GRIEVANCE IS RAISED

7.1 A grievance is a concern, problem or complaint that an employee wishes to raise with the Trust. It may come to the attention of management in a variety of different ways, for example:

- i. Verbal complaint by a member of staff
- ii. Written complaint by a member of staff or his/her representative
- iii. Written complaint from an external source on behalf of a member of staff e.g. Equality and Human Rights Commission or an accredited representative of their Trade Union

A grievance may be about an employee's working conditions, the application of terms and conditions of employment or policy/procedure or the failure of a process.

7.2 It is the Trust's intention to ensure that a variety of avenues are open to all employees to seek advice and support when they feel they have been subjected to inappropriate behaviour by another employee. A list of external organisations is supplied at **Appendix 1 to the Dignity, Respect & Grievance Policy**

7.3 If a concern is raised against an employee, it is important that the employee carefully considers whether their behaviour has been consistent with the Trust's Code of Conduct for Members of the Board Policy, the Disciplinary Rules as outlined in appendix 2 of the Trust's Disciplinary Procedure and appendix 1 of this procedure. If an employee believes that their behaviour was inappropriate when considered against these standards and this policy/procedure, the appropriate action is to apologise to the individual concerned and to not repeat the inappropriate behaviour. This should normally resolve the matter and would be considered as informal resolution.

Employees raising a grievance about another employee should read the Dignity, Respect & Grievance Policy to determine which procedure is applicable to their concerns

7.4 If an employee is uncertain as to whether the behaviour was inappropriate, they should seek advice from their line manager, from HR or a trade union representative.

7.5 The complainant and those against whom the grievance is raised will be treated fairly and with respect. As appropriate, employees can get support and guidance, for example from line managers/supervisors, the Human Resources department and/or a union representative.

7.6 The appropriate employee/manager will be notified of the allegations against them in writing during the formal stages of this procedure.

8 MEDIATION

- 8.1 Formal Mediation is a process by which a trained HR Representative/Manager deemed suitable by the Trust acts as an impartial third person and meets with both parties and attempts, in an informal setting, to find common ground and assist the individuals in resolving the issues.
- 8.2 Mediation can be successful in many situations and is a process which may be discussed with an HR Representative or manager at any point. Mediation or a facilitated meeting should be explored prior to considering any formal action under this policy.
- 8.3 Before the mediation meeting a trained individual from Human Resources or an appropriate senior manager will meet with both parties individually to explain the process and ensure that both parties are willing to proceed. If either party do not wish to proceed and/or the mediator feels the situation cannot be mediated the process will cease and the grievance procedure will proceed and section 11 of this procedure should be referred to.
- 8.4 The employee and those against whose actions a grievance is raised are expected to give serious consideration to the use of mediation and the benefits of pursuing this route.
- 8.5 Where an employee remains dissatisfied with the outcome of mediation, Section 11 of the procedure should be referred to.

9 WITNESSES

- 9.1 Some grievances may require the input of witnesses. Employees who are asked to attend interviews/hearings as witnesses will be allowed time without loss of pay to attend. When attending a meeting or appeal hearing witnesses will be overseen to prevent collusion.
- 9.2 Each witness will be required to ask his or her manager for time off to attend. Witnesses should normally give 5 working days' notice, in line with provisions set aside throughout this procedure for the setting of meeting/hearing dates.
- 9.3 Witnesses may exceptionally be accompanied at meetings/hearings by a representative of a trade union or fellow Trust worker but not at the expense of any delays to proceedings as there is no legal right for them to be accompanied. Once evidence has been provided and the witness has been released they are asked to leave the premises.
- 9.4 If there are any concerns relating to attending interviews/hearings as a witness, the HR department can be contacted for advice.

- 9.5 It is a reasonable management request to require witnesses to attend meetings and/or hearings. A failure to comply with such a request without good reason may be regarded as grounds for disciplinary action.
- 9.6 If a client/service user is involved in the grievance, information or a statement may be obtained from them. This information / statement must be obtained from them by a neutral representative, or advocate, not otherwise involved. The responsible clinician or care co-ordinator must establish the service user's mental capacity to give verbal/written evidence at the point and time that the allegation is made.

10 STAGE 1: INFORMAL RESOLUTION

- 10.1 When an employee feels aggrieved they must in the first instance, try to resolve it informally through normal working relationships, before invoking the formal stages of this Grievance Procedure. In exceptional circumstances, it may be necessary to invoke the formal procedure without attempting to resolve the matter informally. Where this is anticipated, advice should be sought from an HR representative.
- 10.2 The grievance should be raised informally within 3 months of the alleged act(s) that lead to it, in order that the issues can be dealt with quickly and efficiently. However, individual cases will be reviewed by the appropriate manager if submitted outside of this time scale.
- 10.3 Where the grievance concerns the employee's line manager, the matter should be raised informally with the next level of line management.
- 10.4 An employee may request direct or indirect intervention on an informal basis to resolve the situation. This can include:
- 10.4.1 A nominated manager speaking with anyone implicated in the grievance – managers should ensure that an informal discussion does not turn into a formal meeting.
- 10.4.2 Management taking general action e.g. discussion in team meetings. Any action taken must be agreed with the employee prior to implementation, should be carried out with the guidance of the HR Department and should be undertaken as quickly and sensitively as possible.
- 10.5 In conjunction with the HR Department, the manager should consider the following aspects when deciding how to proceed:
- Facilitating attempts at informal resolution e.g. mediation (please see Section 8), facilitated meetings
 - Assigning and independent worker as a mentor to both parties (this could be a clinical supervisor, but must be over and above existing clinical supervision arrangements)

- Internal support mechanisms e.g. counselling, HR
 - External support mechanisms e.g. Equality and Human Rights Commission
- 10.6 Employees can seek advice and support from a line manager/supervisor, Human Resources, and a Trade Union representative.
- 10.7 A confidential Counselling Service is available to provide support to all staff. Telephone numbers for these services are available on the Trust intranet.
- 10.8 Employees and managers should gather evidence to support any decisions that are agreed during this informal process. This information may be required if the formal stages of the Grievance Procedure are invoked by the employee.
- 10.9 Managers and employees must keep notes of any discussions. The manager of the individual concerned should meet with them and confirm any agreed action in writing as soon as possible afterwards; this should include an agreed timescale for completion and review of any action taken.
- 10.10 If the employee is dissatisfied with the outcome of the informal resolution, they should invoke the formal Grievance Procedure within 10 working days of the written confirmation of the outcome.
- 10.11 Nothing within the procedure will prejudice the right of the Trust to raise issues formally e.g. there may be issues which a complainant.
- 10.11.1 may wish to raise informally, or
- 10.11.2 may not wish to raise at all, but which the Trust may believe are sufficiently serious to warrant the issue(s) being treated as a formal conduct and/or capability matter. If formal action is deemed necessary, the complainant will receive prior notification.

11 STAGE 2: FORMAL MEETING

- 11.1 Concerns that remain unresolved through informal resolution must be raised in writing by the employee (or their representative, if applicable).
- 11.2 The written grievance submission must clearly state the employee's full grounds for raising a grievance and their desired outcome. The employee must also provide any documentation that supports their grievance, the outcome of attempts at informal resolution and details of anyone else involved or present during incidents who could be a potential witness.
- 11.3 The grievance should normally be raised with the immediate line manager. Where the grievance concerns the line manager the matter should be raised with the next level of line management. If appropriate,

arrangements can be made for an employee to discuss complaints with a line manager or member of HR who is acceptable to the individual and the Trust.

11.4 The Trust will provide a response within 10 days acknowledging receipt of the grievance and, where possible:

11.4.1 finding that there is no case to answer and outlining their rationale for this;

11.4.2 upholding the grievance and recommending a course of action; Or

11.4.3 issuing a written invitation to a grievance meeting; with a time, date, venue and supporting documentation / evidence. Employees will be reminded of their right to be accompanied by an accredited representative of a Trade Union or a fellow Trust colleague. The manager should liaise with staff representatives to agree a date within 10 working days upon receipt of the formal written grievance. The employee has the right to defer the meeting for up to 5 days in order to be accompanied by a representative of their choice.

11.5 The purpose of the meeting is for the documentation/evidence to be discussed. Only the employee and their appropriate support, the meeting manager and a member of the HR department will be in attendance. The procedure for the meeting is detailed in **Appendix 1**.

11.6 The manager can consider temporary redeployment whilst the investigation is being carried out.

11.7 A response to the grievance will aim to be agreed at the conclusion of the meeting. The outcome of the meeting could be either to:

11.7.1 Uphold the grievance and suggest a course of resolution;

11.7.2 Dismiss the grievance with a suggested course of action;

11.7.3 Dismiss the grievance without any course of action;

11.7.4 Uphold/dismiss separate sections of a grievance with multiple issues,

or

11.7.5 Defer a decision, to seek further advice or to conduct further enquiries/investigation. This may consist of collecting statements from or holding investigation meetings with any persons who may have information relevant to the grievance.

- 11.8 Where the grievance related to the alleged inappropriate behaviour of another employee (as opposed to the application of terms and conditions of service of policies/procedures) that employee has the right to be represented by a work colleague or trade union representative at any formal investigation meetings.
- 11.9 The manager must provide written confirmation of the outcome of the grievance, having sought appropriate advice, to the employee (and their representative, if applicable) within 5 working days of the meeting. If further investigation is required, this should be confirmed in writing along with an anticipated date of completion. Following this investigation, the manager will confirm in writing an outcome in accordance with paragraph 11.7 above.
- 11.10 This letter must include the name of the person to whom the employee may appeal should they be dissatisfied with the outcome of the meeting. This manager will act as the hearing manager and will be a Trust senior manager.
- 11.11 If the employee is dissatisfied with the outcome of the formal meeting, they must appeal within 10 working days of receipt of written notification of the stage two outcomes.

12 STAGE 3: APPEAL HEARING

- 12.1 If agreement is not reached at stage two, the employee and/or their representative must write to the previously identified hearing manager stating their grounds for being dissatisfied with the outcome at stage two. The procedure for the Appeal Hearing is detailed in **Appendix 2**.
- 12.2 The hearing manager will acknowledge receipt within 10 working days.
- 12.3 Ideally, a hearing should be convened within one month of receipt of the appeal. A written invitation to a hearing will be forwarded to the employee and the stage two manager; with a time, date and venue. Employees will be reminded of their right to be accompanied by an accredited representative of a Trade Union or a fellow Trust worker.
- 12.4 The hearing manager will request all supporting information/documentation, which must be received no later than 10 working days prior to the meeting, including any new information/evidence, from each side. Upon receipt of this information, the hearing manager will then exchange it at least 5 working days before the scheduled hearing.
- 12.5 The hearing manager will be supported by a member of the HR department not involved in previous stages of the grievance.
- 12.6 The employee will state their case first. The stage two manager will then present their case to the hearing manager.

- 12.7 The hearing manager must provide written confirmation of the outcome to the hearing, having sought appropriate advice, to the employee (and their representative if appropriate) within 10 working days of the hearing (subject to paragraph 2.7).
- 12.8 The employee will be reminded that this concludes the grievance procedure and that there is no further right of appeal.

13 MODIFIED GRIEVANCE PROCEDURE FOR STAFF LEAVING THE TRUST

- 13.1 Wherever possible a grievance should be dealt with before an employee leaves employment.
- 13.2 The modified grievance procedure, however applies where an employee has already left employment, the standard procedure has not been commenced or completed before the employee left employment and both parties agree in writing that it should be used instead of the standard statutory procedure stated above.
- 13.3 Under the modified procedure the employee should write to the employer setting out the grievance as soon as possible after leaving employment and within 3 months of the alleged act(s) that lead to the grievance. The employer must write back setting out its response.
- 13.4 The modified process has two steps which are as follows;
- Step 1 - Statement of grievance**
The employee must set out in writing to the employer:
i) the grievance; and
ii) the basis for it.
- The employee must send the statement or a copy of it to the employer.
- Step 2 - Response**
The employer must set out their response in writing and send the statement or a copy of it to the employee.
- 13.5 There is no right to appeal the decision made under the modified grievance process as the individual is no longer a Trust employee.

14 MONITORING OF IMPLEMENTATION AND GOVERNANCE

- 14.1 This procedure is subject to review as per the Trust HR review schedule and as agreed by the Trust's Partnership Committee.
- 14.2 Compliance with this procedure will be against the Trust's agreed minimum requirements /standards as detailed within its Auditable Standards and Monitoring Arrangements

15 PROCEDURE REFERENCES /ASSOCIATE DOCUMENTATION

- Employment Rights Act 1996
- Equality Act 2010
- Professional Codes of Conduct

16 REFERENCE TO OTHER TRUST POLICIES & PROCEDURES

16.1 This policy should be read in conjunction with other policies in place that may be relevant. These include

- Dignity, Respect and Grievance Policy
- Respect and Dignity at Work Procedure
- Disciplinary Procedure
- Conduct for Members of the Board Policy

End