

APPEAL POLICY

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POLICY SUMMARY

The Appeal Policy sets out the framework for the Trust's approach to the management of appeals in the following circumstances:

- Against dismissal on the grounds of conduct, capability (performance and / or health), redundancy, statutory restriction, fixed term or for some other substantial reason.
- Against formal action that has a sanction taken in accordance with the disciplinary (conduct) and / or capability (performance) procedures.
- Appeals against decisions made under the Trust's Flexible Working Policy and Procedure and Grievance Policy and Procedure are not covered by this policy.

The Trust aims to set out and maintain high standards of conduct, behaviour and practice by its employees and the principles to ensure any issues that may arise are dealt with in a timely, fair, reasonable and consistent manner within the legislative framework and in accordance with the ACAS Code of Practice and Guidance.

<p>The management of appeal matters within the Trust will be built on and demonstrate the Trust’s corporate values and behaviours of being open, compassionate and empowering.</p> <p>This policy should be read in conjunction with the Appeal Procedure.</p>
<p>The Trust monitors the implementation of and compliance with this policy in the following ways;</p>
<p>This policy is subject to the monitoring and review in accordance with the agreed review schedule of Trust HR policies and as agreed by the Trust’s Partnership Committee.</p> <p>Compliance with this policy 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 Department.</p>

Services	Applicable	Comments
Trustwide	✓	
Essex MH&LD		
CHS		

The Director responsible for monitoring and reviewing this policy is the Executive Director of People and Culture

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APPEAL POLICY

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APPEAL POLICY

Assurance Statement

ASSURANCE STATEMENT

This policy aims to ensure that Essex Partnership University NHS Foundation Trust [‘the Trust’] maintains high standards of employee relations with its employees and allows staff to appeal against outcomes that they believe are not fair and / or have not been arrived at in a reasonable and / or proportionate way.

The management of appeal procedures within the Trust will be built on and demonstrate the Trust’s corporate values and behaviours. These values being;

- Open
- Compassionate
- Empowering

In doing so support the achievement of its strategic priorities to:

- To continuously improve service user experience and outcomes through the delivery of high quality, safe and innovative services.
- To be a high performing health and care organisation and in the top 25% of community and mental health Foundation Trusts.
- To be a valued system leader focused on integrated solutions that are shaped by the communities we serve.

1.0 INTRODUCTION

1.1 The ACAS Code of Practice on Disciplinary and Grievance Procedures (March 2015) confirms that “employers should allow an employee to appeal against any formal decision made”.

1.2 This procedure will be used to appeal in the following circumstances:

- Against dismissal on the grounds of conduct, capability (performance, including probation, and / or health), redundancy, statutory restriction, fixed term or for some other substantial reason.
- Against formal action that has resulted in a sanction taken in accordance with the disciplinary (conduct) and / or capability (performance) procedures.

- 1.3 This Policy applies to all employees of the Trust with the following provision:
- a. Medical and Dental staff – this policy does not apply to issues concerning professional conduct and / or competence of Medical and Dental staff who are subject to the provisions of the Maintaining High Professional Standards Policy.
 - b. Bank workers are required to maintain the Trust’s expected standards of conduct, behaviour and practice. Any issues of conduct will be addressed under the Trusts Managing Temporary Workers Conduct and Complaints Policy and Procedure (HRPG59).

2.0 DUTIES

- 2.1 The Trust has delegated authority to its managers to take action as appropriate under the terms of this policy and associated procedure.
- 2.2 Anyone included in the decision to dismiss or issue a formal sanction cannot be included on any Appeal Panel to re-hear or review action.

2.3 Appeal Officers

Appeal Officers may:

- Uphold the appeal, or part thereof
- Reject the appeal and confirm the original decision
- Where the appeal takes the form of a re-hearing they may confirm, amend or reject the original decision and substitute a new decision

2.4 Human Resources Service

The HR role is to ensure fairness and consistency in approach and application and includes provision of advice and assistance to managers on disciplinary and performance matters. Managers should consult the HR service in all cases where formal disciplinary or performance action may be contemplated.

2.5 Trade Unions

The role of the accredited Trade Union representative is to represent and support their members in order to ensure a fair and due process is followed.

3.0 DEFINITIONS

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

- 3.1 Respondent – the person responsible for instigating the action (decision) that is being appealed against.
- 3.2 Appellant – the person appealing the decision that has been taken, and is being questioned.

4.0 PRINCIPLES

- 4.1 Appeal procedures will be used when a decision is made to dismiss or take formal action resulting in a sanction and the employee does not agree with the decision made.
- 4.2 The Trust's policy, and associated procedure, is written in accordance with the Employment Act 2008 and is compliant with the ACAS Code of Practice on Disciplinary and Grievance Procedures (2015), namely:
- Employers and employees should raise and deal with issues **promptly** and should not unreasonably delay meetings, decisions or confirmation of those decisions.
 - Employers and employees should act **consistently**.
 - Employers should carry out any necessary **investigations**, to establish the facts of the case.
 - Employers should **inform** employees of the basis of the problem and give them an opportunity to **put their case** in response before any decisions are made.
 - Employers should allow employees to be **accompanied** at any formal disciplinary or grievance meeting.
 - Employers should allow an employee to **appeal** against any formal decision made.

5.0 MONITORING OF IMPLEMENTATION AND COMPLIANCE

- 5.1 Compliance with this policy will be against the Trust's agreed minimum requirements / as detailed within the Auditable Standards and Monitoring Arrangements.
- 5.2 The Executive Director of People and Culture Strategy is responsible for ensuring there is a system in place to monitor, record and report on outcomes from disciplinary investigations, hearings and / or appeals that are conducted by the Trust. This will be shared with the Trust's Joint Partnership Committee.
- 5.3 This policy is subject to review in accordance with the Trust HR policy review schedule and as agreed by the Trust's Joint Partnership Committee.

6.0 POLICY REFERENCES / ASSOCIATED DOCUMENTATION

- ACAS Code of Practice on Disciplinary & Grievance Procedures 2015

7.0 REFERENCE TO OTHER TRUST POLICIES/PROCEDURES

- Disciplinary (Conduct) Policy and Procedures
- Capability (Performance) Policy and Procedures

- Probation Policy and Procedures
- Sickness Absence Management Policy and Procedures
- Equality & Diversity Policy

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