

The Newcastle upon Tyne Hospitals NHS Foundation Trust

Grievance Procedure

Effective: October 2011

Review: September 2014

1. Policy Statement

The purpose of the policy and procedure is to encourage open communication between the Trust and its employees, and to ensure that concerns, problems or complaints which arise during the course of employment can be aired, and where possible resolved quickly to the satisfaction of those involved. The intention is to deal with issues promptly, and both the Trust and employee should act consistently.

This procedure has been drawn up in consultation with appropriate representatives, and all parties have agreed that there will be co-operation in reaching a fair and final determination of all matters raised under the terms of this procedure. This policy is compliant with the 2009 ACAS Code of Practice.

2. Scope and Purpose

- 2.1 This procedure applies to all employees
- 2.2 It is the intention of the procedure to diminish the likelihood of grievances leading to disputes. Management and staff representatives expect that the responsible use of the agreed procedure by management, employees, and representatives will prevent any disruption of services.
- 2.3 It is not intended that this procedure is used in relation to the application of any other Trust procedure or to seek redress of any issue raised under that procedure. The appeal mechanism attached to the relevant procedure should be used in those cases.
- 2.4 It does not apply to grievance concerning the grading of posts which are handled through a separate procedure.

3. Definitions

“Grievance” - means any matter arising from and concerning an individual’s employment. The procedure does not apply to grievances concerning grading of posts, which are handled through a separate procedure.

4. Informal Approach

Before considering use of this formal procedure, there is an expectation that all parties should first seek to resolve any concern, problem or complaint by informal discussion. This should be an open and frank discussion to identify the problem and identify potential solutions. The employee should seek to resolve this in the first instance with their Line Manager or immediate Supervisor. Advice may also be sought from the Human Resources Department.

5. Mediation

- 5.1 As an alternative to raising a complaint through the formal grievance procedure or at any stage of the procedure, an employee or the manager may request that the matter is dealt with through internal mediation. The mediator will be a trained employee of the Trust and will manage the process of seeking resolution to the problem but not the outcome. Mediation is voluntary and will only take place with the agreement of both parties. Mediation may be used:
- a) for resolving conflict involving colleagues of a similar job or grade, or between a line manager and their staff
 - b) to rebuild relationships after a formal dispute has been resolved
 - c) to address a range of issues, including relationship breakdown, personality clashes, communication problems, bullying and harassment.
- 5.2 Where mediation is used during any ongoing formal procedures, those procedures will be temporarily suspended until mediation has concluded. If mediation does not resolve the issue(s) the procedures will be reinstated.
- 5.3 Mediation will not be appropriate where the parties do not have the authority to settle the issue.

See Appendix D for terms of reference for mediation.

6. Key Principles

- 6.1 At all stages of the formal procedure, an employee is entitled to be accompanied by a companion. The chosen companion may be a work colleague, a trade union representative or an official employed by a trade union.
- 6.2 To exercise this right, the employee must make a reasonable request. However, it would not normally be reasonable for an employee to insist on being accompanied by a companion whose presence would prejudice the hearing.
- 6.3 Employees, their companion and the Manager/Supervisor should make every effort to attend any meeting. Where the chosen companion is unable to attend the meeting on the date proposed, then an alternative date and time may be offered as long as it is reasonable and falls within five working days of the originally proposed date. If the alternative date is not agreed then the meeting will go ahead without the attendance of either the employee or the representative
- 6.4 Decisions should be communicated to the employee in writing without unreasonable delay. Where appropriate, this should set out the action that is proposed to resolve the grievance at all stages. The employee must be informed that they can appeal if they are not content with the action taken.

(Appendix A [attached](#), shows the stages in illustrative form)

7. The Meeting

- 7.1 The employee should set out the nature of their grievance, in writing and send it to the Line Manager (reference Appendix B).

- 7.2 Where a grievance relates to the conduct of an immediate Supervisor or Line Manager and the employee does not feel able to discuss the matter formally with either of them they should send the grievance in writing to the level of management above the line manager.
- 7.3 The Receiving Manager should acknowledge receipt of the grievance, and arrange for a formal meeting to be held without unreasonable delay. A member of the Human Resources Department may also be present at the meeting in an advisory capacity.
- 7.4 At the meeting, the employee will be given the opportunity to restate their grievance, and state how they would like to see it resolved (an example procedure for the conduct of a grievance hearing is outlined in Appendix C).
- 7.5 The Receiving Manager will ask questions to ensure they understand the issue before calling for an adjournment to consider their decision or make further investigations if necessary.
- 7.6 Following the conclusion of the meeting the Receiving Manager will consider all the matters raised and will inform the employee of their decision at the earliest opportunity. The decision, where possible, should be given in person. This must be confirmed in writing by the manager concerned within 8 working days and a copy placed on the employee's personal file with the Human Resources Department. A copy should be sent to the staff representative involved (where applicable). The letter should contain:
- a) A summary of the nature of the grievance
 - b) What was decided and actions taken. If the grievance is not upheld the reasons should be explained
 - c) The reason for those actions
 - d) A copy of the notes of the meeting
 - e) Details of the right to appeal against the decision
- 7.7 A copy should also be forwarded to the Human Resources Department for retention on the employee's personal file.

8. The Appeal

- 8.1 Where the employee does not feel their grievance has been satisfactorily resolved, they may submit an appeal to the Director of Human Resources. Arrangements will then be made for the appropriate level of management above that which heard the original grievance, from a different/independent Directorate or Department, to hear the case. The intention is to enable the appeal to be dealt with impartially, and by a person who was not previously involved in the case. The employee should submit an appeal request in writing within eight calendar days of receiving the written response from the Receiving Manager. The employee will be required to provide a statement of case outlining the grounds of appeal no later than five working days after confirming in writing their request to appeal.
- 8.2 A meeting should be arranged without undue delay, and the employee will be notified in writing, of the time and place of the meeting. A member of the HR Department may be present at the meeting in an advisory capacity. Where the chosen companion is unable to attend the meeting on the date proposed, then an

alternative date and time may be offered as long as it is reasonable and falls within five working days of the originally proposed date. If the alternative date is not agreed then the meeting will go ahead without the attendance of either the employee or the representative.

- 8.3 No later than five working days prior to the meeting the employee will be provided with all documentation considered at the hearing stage, including;
- a) the minutes of the grievance hearing
 - b) the outcome letter
- 8.4 The employee should be given the opportunity to explain why they are not satisfied with the outcome of their original grievance, and how it might be resolved (an example procedure for the conduct of a grievance hearing, which also applies to an appeal, is outlined in Appendix C).
- 8.5 The outcome of the appeal should be communicated to the employee, in writing, without unreasonable delay. A copy should be forwarded to the Human Resources Department for retention on the individual's personal file.
- 8.6 The decision after the appeal will be final.

9. Collective Grievances

If a group of employees have a complaint or employment issue which affects them all, they should agree on a spokesperson who should raise the matter informally either with their immediate Supervisor or Departmental Head. In the cases where a collective grievance is invoked the Trust will require each individual to sign a letter indicating they are requesting this process and wish to be party to it. If, after raising the matter informally, the group remain aggrieved, then their spokesperson(s) should follow the next appropriate stage of the procedure.

10. General Considerations

10.1 Duress/Discrimination

An employee should not be victimized or discriminated against as a result of bringing a complaint under the Grievance Procedure. If someone is treated badly because they have made/supported a complaint or grievance under the Equality Act 2010 then this will be investigated under the terms of the Dignity and Respect at Work Policy. Treatment of a complainant does not need to be compared with that of a person who has not made or supported a complaint under the Act.

10.2 Status Quo

- a) Should a change in terms and conditions of employment be introduced without consultation and notice being given, status quo (i.e. the conditions prevailing prior to management action or lack of action which precipitated the grievance) should normally be applied by both management and employees and staff organisations.
- b) The spirit and intention of status quo provisions is to ensure that individual employees are neither exploited in some material way by their managers nor

that the outcome of their grievance is prejudiced by the alleged management action which precipitated the grievance. The management and staff sides subscribe to this spirit and intention.

- c) It is recognised however that situations may arise in which it is not possible to revert to a status quo. For example, where a manager feels s/he cannot apply status quo because of their obligation to meet their responsibilities, particularly in relation to legislation and Trust Terms and Conditions of Service.
- d) By consulting staff before any changes or new working arrangements are introduced, these situations should not normally occur. In such circumstances if there is failure to reach agreement then the failure should be referred (in addition to the grievance itself) to the next stage of the procedure. If a member of staff has undertaken the work about which they are aggrieved then this will not be taken as indicating an acceptance of a variation in terms of employment.

10.3 Overlapping Grievance and Disciplinary Cases

Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

11. Audit and Monitoring

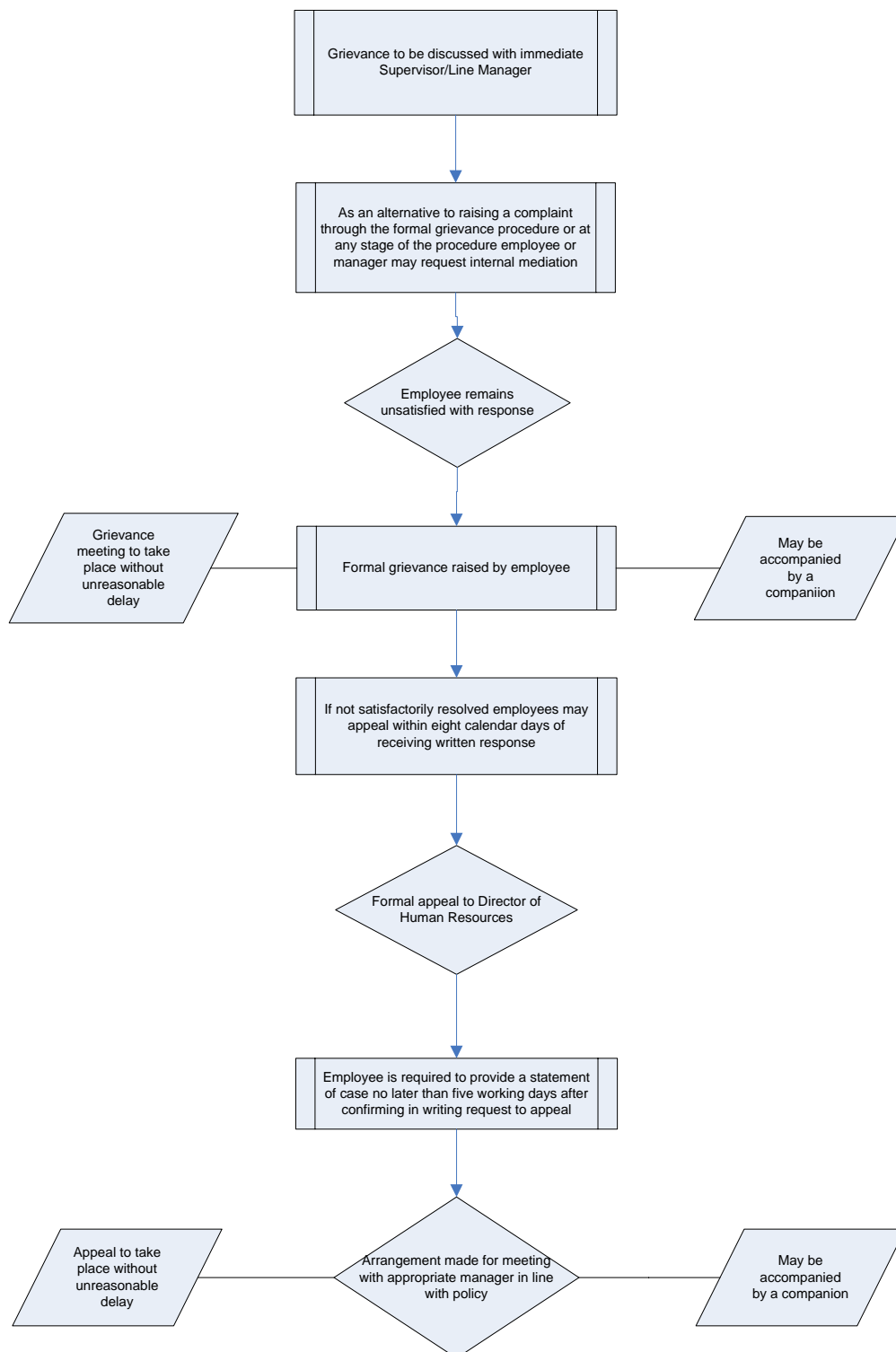
- 11.1 Operation of this policy will be monitored by the Director of Human Resources. The organisations' figures will be presented to the Heads of Human Resources Meeting on an annual basis, who will identify appropriate action plans to address any areas of concern and will continue to monitor the plan until its completion.
- 11.2 Monitoring will include reporting of information on ESR and file audits in respect of:
 - a) Categories of grievance
 - b) Number of appeals
 - c) Process start and end dates

12. Further Advice and Guidance

Please contact a Human Resources Officer in the Human Resources Department.

Author: The Director of Human Resources

GRIEVANCE PROCEDURE FLOW CHART



The Newcastle upon Tyne Hospitals NHS Foundation Trust

Grievance Form

This form should be completed and copies distributed in accordance with the Trust Grievance Procedure.

Employee's Full Name	
Job Title	
Department	
Hospital Base	

Please outline the nature of your grievance (please continue on separate sheet if necessary)

How do you think the grievance should be resolved?

Employee's Signature: Date:

N.B if your grievance is about your immediate Supervisor /Line Manager this form should be passed directly to the level of management above the Supervisor/Line manager .

**The Newcastle upon Tyne Hospitals NHS Foundation Trust
Grievance Hearing Procedure**

This is an example grievance hearing process

At the hearing of a grievance the following procedure shall be observed:

- a) The employee or his/her representative shall state their case in the presence of Management and may call witnesses.
- b) Management shall have the opportunity to ask questions of the employee, his/her representative and witnesses.
- c) The person(s) hearing the grievance shall have the opportunity to ask questions of the employee, his/her representative and witnesses.
- d) The employee or his/her representative shall have the opportunity to re-examine his/her witnesses on any matter referred to in their examination by the person(s) hearing the grievance and by Management.
- e) Management shall put their case in the presence of the employee and his/her representative and may call witnesses.
- f) The employee and his/her representative shall have the opportunity to ask questions of Management and their witnesses.
- g) The person(s) hearing the grievance shall have the opportunity to ask questions of Management and their witnesses.
- h) Management shall have the opportunity to re-examine their witnesses on any matter referred to in their examination by the person(s) hearing the grievance and by the employee or his/her representative.
- i) Management and the employee, or his/her representative shall have the opportunity to sum up their case if they so wish. The employee or his/her representative shall have the right to speak last. In summing up, neither party may introduce any new matters.
- j) Nothing in the foregoing procedure shall prevent the person or persons hearing the grievance from inviting either party to elucidate or amplify any statement he/she may have made; or from asking him/her such questions as may be necessary to ascertain whether or not he/she proposes to call any evidence in respect of any part of his/her statement, or alternatively whether he/she is in fact claiming that the matters are within his/her own knowledge, in which case he/she will be subject to examination as a witness under (b) or (f) above.
- k) The person or persons hearing the grievance may, at their discretion, adjourn the hearing in order that further evidence may be produced by either party to the dispute, or for any other reason.
- l) Management, the employee and his/her representative shall withdraw.

- m) The person(s) hearing the grievance, with the officer charged with providing secretarial and procedural assistance, shall deliberate in private, only recalling both parties to clear points of uncertainty on evidence already given. If recall is necessary, both parties shall return notwithstanding only one is concerned with the point giving rise to doubt.

IMPORTANT NOTE

Management in the context of this procedure may be a manager, or a representative from the Human Resources Department who may be accompanied by the manager, or who may call the manager as a witness at the hearing.

Internal Mediation

ACAS describes mediation as a 'completely voluntary and confidential form of alternative dispute resolution'. In the workplace, it may provide a more informal approach to resolve an issue. It involves an independent, impartial person helping two or more individuals or groups reach a solution that's acceptable to everyone. The mediator can talk to both sides separately or together.

Mediation is most effective before positions become entrenched. Ownership for the process rests with the staff being mediated. Mediation may be appropriate where a workplace relationship has broken down or become impaired, or there is interpersonal conflict and communication has become difficult. This may be as a result of perceived behaviours. Mediation may not be suitable in all situations. Mediation should not be an option of first resort. Staff should be encouraged to speak to each other or talk to their line manager before seeking a solution through mediation.

Accredited Trust Mediators have been identified and trained to provide a mediation service to any member of staff upon request. They are not Directorate or Specialty specific. Accredited Mediators are listed on the Trust internet.

Terms of Reference

If mediation is requested, the Mediator will seek to facilitate the following:

- Explain the mediation process
- Ask questions that help to uncover underlying problems, assist the parties to understand the issues and help them clarify the options for resolving their difference or dispute
- To restore and maintain the employment relationship wherever possible
- To focus on working together to go forward, **not** determining who was right or wrong in the past
- To ensure agreement comes from those in dispute, **not** from the mediator
- To take charge of the process of seeking to resolve the problem but not the outcome.
- The mediator is **not** there to judge, to say one person is right and the other is wrong, or to tell those involved in the mediation what they should do
- To ensure all parties are aware that confidentiality is essential during this process. The outcome and any agreement following a mediation may only be disclosed to colleagues or their managers, if all parties agree. The only exceptions are where, for example, a potentially unlawful act has been committed or there is a serious risk to patient care or health and safety

THE NEWCASTLE UPON TYNE HOSPITALS NHS FOUNDATION TRUST
IMPACT ASSESSMENT – SCREENING FORM A

This form must be completed and attached to any procedural document when submitted to the appropriate committee for consideration and approval.

Policy Title:	Grievance Procedure	Policy Author:	Ms K Pearce Senior HR Manager (Projects)
		Yes/No?	You must provide evidence to support your response:
1.	Does the policy/guidance affect one group less or more favourably than another on the basis of the following: (* denotes protected characteristics under the Equality Act 2010)		Policy applies to all employees of the Trust. It is underpinned by the Trust's overriding policy on equal opportunities
	• Race *)
	• Ethnic origins (including gypsies and travellers))
	• Nationality)
	• Gender *) see above
	• Culture)
	• Religion or belief *)
	• Sexual orientation including lesbian, gay and bisexual people *)
	• Age *)
	• Disability – learning difficulties, physical disability, sensory impairment and mental health problems *)
	• Gender reassignment *)
	• Marriage and civil partnership *)
2.	Is there any evidence that some groups are affected differently?		There is no evidence to support any group was affected differently
3.	If you have identified potential discrimination which can include associative discrimination i.e. direct discrimination against someone because they associate with another person who possesses a protected characteristic, are any exceptions valid, legal and/or justifiable?		n/a
4(a).	Is the impact of the policy/guidance likely to be negative? (If "yes", please answer sections 4(b) to 4(d)).		No
4(b).	If so can the impact be avoided?		n/a
4(c).	What alternatives are there to achieving the policy/guidance without the impact?		n/a
4(d).	Can we reduce the impact by taking different action?		n/a

Comments:	Action Plan due (or Not Applicable):
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Name and Designation of Person responsible for completion of this form: Ms K Pearce Senior HR Manager (Projects) Date: 2 September 2011

Names & Designations of those involved in the impact assessment screening process: Employment Polices and Procedures Consultation Group

(If any reader of this procedural document identifies a potential discriminatory impact that has not been identified on this form, please refer to the Policy Author identified above, together with any suggestions for the actions required to avoid/reduce this impact.)