

**CONTROLLED DOCUMENT**

## Grievance and Disputes Procedure

<b>CATEGORY:</b>	Procedure
<b>CLASSIFICATION:</b>	Human Resources
<b>PURPOSE</b>	To ensure all staff understand how to raise a grievance and to provide a process for staff and managers to resolve grievances in line with best practice and employment legislation
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## Version Control

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## **1. Introduction**

- 1.1. University Hospitals Birmingham NHS Foundation Trust (the 'Trust') sets out to create and promote a supportive, harmonious workplace for all.
- 1.2. Occasionally misunderstandings or problems at work may arise which cause staff concern. The Trust aims for a culture of good communication, openness, cooperation and a willingness to listen. Most concerns will be capable of being resolved informally.
- 1.3. A grievance may relate to a wide range of issues including, but not limited to, terms and conditions of employment (or their perceived unfair or inconsistent application, but not issues with nationally agreed terms and conditions or national negotiations), health and safety, working practices, working environment, duties, work relations, equal opportunities or organisational change (with the exception of redundancy situations).
- 1.4. A dispute is a collective grievance in relation to a staff group's employment. National Pay negotiations are excluded from this procedure.
- 1.5. The aim is to resolve a grievance as fairly, simply and promptly as possible to avoid minor issues escalating in to major disputes.
- 1.6. Records of informal and formal grievances and resolutions will be kept on the member of staff's personal file as they are a record of an event over the course of the member of staff's employment.
- 1.7. A digital recording is made and retained of all meetings during the formal stage of the procedure, including any investigatory interviews. A CD copy can be provided to the member of staff, upon request.
- 1.8. Staff will not be subject to any detrimental or less favourable treatment as a result of raising concerns.

## **2. Informal Approach**

- 2.1 Most grievances can be resolved informally. Concerns will only be escalated for formal action when informal attempts have been exhausted and failed. An informal approach is best for positive staff wellbeing and morale as parties work together on a resolution.
- 2.2 The member of staff must raise their complaint or concern verbally or in writing with their immediate Line Manager. Where a member of staff's line manager is the subject of the grievance, they should approach that person's manager.

- 2.3 The manager will meet the member of staff within 14 calendar days of the matter being raised to listen to the grievance, establish the issues and facts before identifying a solution.
- 2.4 The manager will write to the member of staff within 7 calendar days of the meeting outlining the facts, the outcome and any action to be taken.
- 2.5 If resolved, the matter ends. If no resolution is achieved, the member of staff may choose to raise a formal grievance; this must be done within 14 calendar days of receipt of the informal outcome letter, otherwise the matter will be considered closed.

### **3. Formal Stage**

#### **3.1 Raising a Formal Grievance**

- 3.1.1 If it has not been possible to resolve a grievance informally, the member of staff will, using the form in Appendix A, submit a formal grievance to the Line Manager. This must clearly state who the matter was raised with informally and the outcome of that, why they remain aggrieved, and what outcome they are looking for. Where a member of staff's Line Manager is the subject of the grievance, they should write to that person's manager.
- 3.1.2 The grievance will be acknowledged by the manager, in writing, within 7 calendar days of receipt. Managers must inform the Human Resources First Contact Team of the formal grievance as soon as they become aware of it.
- 3.1.3 If the grievance has been raised without attempts to resolve informally, it will be redirected back for informal resolution.
- 3.1.4 How the matter will be dealt with, and by whom, will depend on the nature of the grievance. Staff must cooperate to ensure fair and thorough consideration of their grievance. All parties will seek to resolve the issue, focusing on facts, and acting with honesty, understanding and flexibility.

#### **3.2 Grievance Meeting**

- 3.2.1 The manager considering the grievance must arrange a meeting with the member of staff within a reasonable timescale, typically 21 calendar days, and providing at least 7 calendar days' notice to attend. A Human Resources representative must be present at the grievance meeting, and the member of staff will be advised of their right to be accompanied (see Section 3.4). In some cases, the grievance meeting can be undertaken by an HR representative alone.
- 3.2.2 The member of staff must take active steps to be available for the meeting. Cancellations on two or more occasions by a member of staff

without reasonable explanation will result in a decision being made in their absence based on the available evidence.

- 3.2.3 The purpose of the meeting will be to discuss the reason for the grievance, and to find a reasonable and workable solution.
- 3.2.4 After the meeting, the Investigating Manager will take any steps deemed appropriate to investigate further. Sometimes this will involve looking at documents, or interviewing or taking statements from other people, or the member of staff may be asked to provide more information or to attend a further meeting. Sometimes it may be concluded that there is no need for any further investigation.
- 3.2.5 The Investigating Manager will make every effort to resolve the issue, taking in to account all available information. For fairness and consistency, Human Resources will advise the Investigating Manager on whether similar grievances have been raised before, how they have been resolved and any follow-up action that was taken.
- 3.2.6 Following the meeting and any subsequent investigation, the member of staff will be fully informed of the outcome in writing within 7 calendar days, outlining what if any action will be taken to address the grievance and the rationale for that conclusion.

### 3.3 Appeal

- 3.3.1 The member of staff will be advised of their right to appeal against the decision. If they are dissatisfied with the outcome they must write to the Deputy Director of Human Resources within 14 calendar days of the written outcome, using the form in Appendix B. The reasons for the appeal must be clearly explained, and any evidence to be relied upon must be provided. The appeal will be acknowledged in writing within 7 calendar days of receipt.
- 3.3.2 An appropriate and impartial senior manager will be appointed to hear the appeal, supported by a Human Resources representative who has not previously been involved in the matter.
- 3.3.3 The appeal hearing will be organised by Human Resources to take place within one calendar month. If this is not possible the delay will be explained, with a proposed timescale for the hearing.
- 3.3.4 At least 14 calendar days' notice of the appeal date will be given. The member of staff must take active steps to be available for the hearing. Cancellations on two or more occasions by a member of staff without reasonable explanation will result in a decision being made in their absence based on the available evidence.
- 3.3.5 A written statement of appeal from the member of staff and a written statement of case from the grievance manager will be distributed at least 7 calendar days before the appeal hearing.

- 3.3.6 The appeal hearing will be held as set out in Appendix C. It will consider whether the grievance procedure has been adhered to, whether a proper and fair investigation has been undertaken as necessary, and whether the outcome was reasonable and fair.
- 3.3.7 The member of staff will be advised of their right to be accompanied (see Section 3.4).
- 3.3.8 The outcome will be confirmed in writing within 7 calendar days of the meeting. The decision is final, with no further right of appeal.

#### 3.4 Representation

- 3.4.1 A member of staff may be accompanied at formal stages by a trade union representative/ defence body (for medical and dental staff) or a workplace colleague, or a defence body representative in the case of medical and dental staff.
- 3.4.2 If unable to attend on a proposed date, an alternative date must be provided which is within 7 calendar days of the original date.
- 3.4.3 A representative/work colleague will be allowed, if the member of staff so directs, to explain the key points of the grievance, to respond on their behalf and to confer during the meeting. They cannot answer questions put directly to the member of staff or try to stop management asking relevant questions or outlining its views.
- 3.4.4 Trade Union/ defence body representatives/work colleagues will not be allowed to attend the meeting if there is a conflict of interest which may prejudice the meeting.

### **4. Time Limits**

- 4.1 Matters on which a grievance is based should have occurred within 3 months or less of it being raised with management. If a series of events/incidents, the most recent must have been within 3 months. Grievances raised outside this timescale may be exceptionally considered if the member of staff provides a reasonable explanation of why it could not be raised sooner.
- 4.2 Timescales in this procedure will be met whenever reasonably practicable. There may be extenuating circumstances (e.g. a key witness is unavailable or extensive investigation is need), in which case an extension to timelines will be set out in writing.

### **5. Absence or Non-Attendance**

- 5.1 Grievances can be stressful. This stress is often best alleviated, and working relationships maintained, by addressing the grievance quickly and concluding the case as soon as is practicable so that there is timely

closure and finality for all concerned. Staff must take active steps to be available for any meeting. Protracted delays are to be avoided.

- 5.2 Where a member of staff is unfit for work or absent for other reasons, this does not necessarily mean a meeting or hearing cannot be attended. They will need to provide medical evidence from their GP that they are unfit to participate in the grievance process, and must consent to a referral to Occupational Health. Reasonable adjustments will be identified if necessary to enable the case to progress (e.g. allowing written submissions, by attendance of a representative in place of the member of staff, or holding the meeting at a different venue).
- 5.3 If a member of staff has cancelled a meeting/hearing on two or more occasions without reasonable explanation, or it can be reasonably believed that they are unlikely to attend a meeting in the near future, and in the view of the manager there is no further material information or evidence which the member of staff could offer, decisions may be taken in the absence of the member of staff based on the evidence and information available. The meeting manager will write to the member of staff to advise of their intention to proceed in their absence before making any decisions.

## **6. Facilitated Discussions and Mediation**

- 6.1 Facilitated discussions and mediation may be used at informal or formal stages as a confidential and voluntary process which brings together people who are experiencing problems with a work relationship. It empowers those involved to decide on the terms of the resolution. Human Resources will determine if facilitated discussion/mediation is appropriate.
- 6.2 A facilitated discussion will be the preferred option in most cases. The facilitator will be an appropriately skilled individual or Human Resources representative who acts neutrally to achieve a mutually acceptable outcome.
- 6.3 Mediation may be appropriate where a facilitated discussion has not achieved the desired outcome or where attitudes are entrenched and the matter is complex or contentious. A trained mediator will be appointed.

## **7. Overlapping Grievance and Disciplinary Matters**

- 7.1 Where a grievance is raised by a member of staff subject to an ongoing disciplinary process, Human Resources will determine the appropriate action. If the issues relate to the content of the disciplinary or the process itself, the matter will generally be dealt with as part of the disciplinary process. Two processes may run concurrently unless the grievance is so significant in relation to the disciplinary case that disciplinary proceedings should be deferred.

## **8. Grievances Raised When Leaving the Trust or Post-Employment**

- 8.1 Any grievance by a member of staff who is leaving the Trust but received before the last date of employment will be dealt with under this procedure.
- 8.2 When a grievance is raised within 3 months of the employment ending, the matter will be investigated and a written response provided.

## **9. Repeat Grievances**

- 9.1 The member of staff will also be advised that it is unacceptable to:
- Persistently pursue a grievance where the Trust's Grievance process has been fully and properly implemented and exhausted to the final stage appeal hearing and outcome given.
  - Seek to prolong the matter by continually raising further concerns or questions upon receipt of an appeal outcome at the final stage of the procedure. Care will, however be taken not to discard new legitimate concerns which are significantly different from the original grievance as these might need to be addressed separately.
  - Be unwilling to accept documented evidence as being factual or not accepting that facts can sometimes be difficult to verify when a long period of time has elapsed.
  - Focus on a trivial matter to an extent which is out of proportion to its significance and continuing to focus on this point.
- 9.2 The member of staff will be advised that should their behaviour be considered as meeting the criteria above, their conduct in this respect will be deemed as unacceptable and should it continue may result in action under the Disciplinary Procedure.

## **10. Collective Disputes**

- 10.1 This procedure applies when a group of staff raise a collective dispute. A representative from the group must be appointed as spokesperson to speak on behalf of all, and can themselves be accompanied by a trade union representative or workplace colleague, or defence body representative in the case of medical and dental staff. It is the group's responsibility to agree the decision-making process for acceptance or rejection of the outcome at each stage. Management will only accept a group response and will not consider subsequent requests on the same issue from individual members of the group.



## **11. Status Quo**

11.1 Until all stages of the procedure have been exhausted, the status quo should be maintained. The status quo is defined as the working condition/s prior to the raising of the grievance. The status quo will not apply where it would be detrimental to the health, safety and welfare of patients, staff or members of the public, where there are over-riding statutory obligations or where there is a breach of terms and conditions of service.

## **12. Support for staff**

12.1. It is vital that all the members of staff involved have their health and wellbeing maintained and protected as far as possible. Staff can seek support from their manager. Trade Union/ defence body (for medical and dental staff) Representative Human Resources, the Freedom to Speak Up Guardian, Confidential Contacts or through Occupational Health who can provide access to counselling services.

## **13. References**

ACAS: Disciplinary and Grievances at Work Guide and Code of Conduct

## **14. Associated Policy and Procedural Documentation**

Disciplinary Procedure

Employee Relations Policy

Raising Concerns at Work (Whistleblowing) Policy and Procedure

## NOTIFICATION OF GRIEVANCE FORM

If informal attempts have failed to resolve your grievance this form should be completed and sent to your line manager with a copy sent to Human Resources – First Contact – [firstcontact@uhb.nhs.uk](mailto:firstcontact@uhb.nhs.uk)

<b>Personal Details</b>	
Name:	Job Title:
Department and Site:	CDG:
Contact Number:	Name of Representative/Work Colleague (if applicable):
Please specify a home/work address for any correspondence related to the grievance to be sent to:	
Please provide an email address:	

<b>Formal Grievance</b>
Details of grievance and informal approach taken:
Date raised and with whom:
Outcome:
Reason for raising a formal grievance:
Proposed solution:

Signed .....

Date .....

**NOTIFICATION OF GRIEVANCE APPEAL FORM**

Where a staff member is unhappy with the outcome of a Grievance Meeting this form should be completed and sent to the Deputy Director of Human Resources.

<b>Personal Details</b>	
Name:	Job Title:
Department and Site:	CDG:
Contact Number:	Name of Representative/Work Colleague (if applicable):
Please specify a home/work address for any correspondence related to the grievance to be sent to:	
Please provide an email address:	

<b>Grievance Appeal</b>
Details of grievance and attempts to resolve:
Date raised and with whom:
Outcome:
Reason for appeal:
Proposed solution:

Signed .....

Date .....

**PROCEDURE TO BE FOLLOWED AT A GRIEVANCE APPEAL HEARING**

1. Chair of Panel to introduce all present and confirm the role each will play in the proceedings.
2. Chair to ensure that any Appellant who appears at the hearing unrepresented or unaccompanied is happy to proceed with the hearing alone (this needs to be minuted).
3. Chair to confirm the reason for the Hearing i.e. "this is an Appeal Hearing convened at the request of xxxxx in response to the grounds of their appeal following the outcome of their Grievance complaint".
4. Chair to clarify if either party intends to call any witnesses in support of their case.
5. Chair to confirm that this is not a re-run of the previous Hearing.

**\*NB No new evidence can be tabled at the hearing unless agreed by all parties**

6. Chair to explain the process to be followed, conducted in accordance with the Trust Grievance Procedure.

The Appellant

7. The Appellant/ Trade Union/ defence body (for medical and dental staff) representative will state their case and call any witnesses.
8. The Grievance Manager can question the Appellant and their Trade Union/ defence body representative and any witnesses called.
9. The Chair of Panel can question the Appellant and their Trade Union/ defence body representative and any witnesses called.
10. The Appellant or Trade Union/ defence body representative may re-examine their witnesses on any matters raised in questioning by the Chair of Panel or Grievance Manager.

Management

11. The Grievance Manager will state their case and call any witnesses.
12. The Appellant or Trade Union medical defence body representative can question any witnesses called.
13. The Chair of Panel can question any witnesses called.

14. The Grievance Manager may re-examine their witnesses on any matters raised in questioning by the Chair of Panel or the Appellant or Trade Union/ defence body representative.

#### Closing Statements

15. The Appellant or Trade Union/ defence body representative and the Grievance Manager will summarise their respective cases.

#### Decision

16. All parties will adjourn, leaving the Chair of Panel to reach a decision. The Chair of Panel will give an indication of the time needed to make the decision. If it is unlikely that a decision can be made on that day, the parties can reconvene or the decision can be confirmed in writing within the relevant timescale.
11. If a decision is made on the day of the hearing, all parties will be invited back into the room for the Chair of Panel to announce the decision. The decision at this stage will be final.

#### Additional Points

12. At any point during the hearing an adjournment may be called by the Chair to seek points of clarity, or as a comfort break.
13. Management or the Appellant may request a short adjournment for a variety of reasons, and this should not be unreasonably withheld.
14. Any other party present at the hearing must be identified and an explanation given as to the reason for their presence e.g. note taker.
15. Witnesses are only present whilst giving their evidence.