

Grievance and Fair Treatment Policy	
<b>Summary statement: How does the document support patient care?</b>	By providing a mechanism for employees to raise a grievance arising from their employment, and for it to be dealt with promptly, fairly at a local level.
<b>Staff/stakeholders involved in development</b>	Human Resources, Policy Discussion Group, Employee Partnership Forum
<b>Division:</b>	Organisational Development and Leadership
<b>Department:</b>	Human Resources
<b>Responsible Person:</b>	Director of HR
<b>Author:</b>	Head of Employee Relations
<b>For use by:</b>	All Staff
<b>Purpose:</b>	To provide a framework for employees to raise concerns about their employment.
<b>This document supports:</b> <i>Standards and legislation</i>	ACAS Guidance Employment Act 2008 Equality Act 2010
<b>Key related documents:</b>	Dignity at Work (Bullying and Harassment) Policy, Health and Wellbeing Policy, Investigation Policy, Staff Discipline Policy, Appeal Guidelines
<b>Approved by:</b> <i>Divisional Governance/Management Group</i>	Employee Partnership Forum
<b>Approval date:</b>	March 2019
<b>Ratified by Board of Directors/ Committee of the Board of Directors</b>	TEC
<b>Ratification Date:</b>	March 2019
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## **1. Purpose**

- 1.1 University Hospitals Sussex NHS Foundation Trust is striving to create a culture where everyone is passionate about delivering exceptional quality every time and “where better never stops”.
- 1.2 The Patient First programme is our approach to improving services, day in, day out. There is a commitment to always asking “how can this be better” and acting on the answers. This approach applies to identifying ways to improve staff experience and acting on concerns where they arise.
- 1.3 A key theme of the Patient First programme is empowering staff to lead change. Staff will be equipped with skills to identify improvement opportunities and supported to see those through. They will be empowered to raise issues, concerns and areas for improvement within the workplace and find solutions as part of a team. These issues will often be about changes to work practices and procedures but the same principles can be applied to issues that affect the working lives of staff.
- 1.4 This policy encourages communications between staff and their manager to ensure that issues and problems arising can be aired, dealt with fairly, and, where possible, resolved quickly, at the lowest possible level. In order to achieve this, managers should always be approachable and willing to find the time to listen and discuss staff concerns. Supporting staff to resolve issues will be regarded as a standard way of working for line managers.
- 1.5 However, it is recognised that there also needs to be a framework to support staff where a solution to concerns cannot be reached locally. This policy provides a framework within which a member of staff may bring a grievance arising from their employment and is aimed at resolving that grievance. It is designed to ensure that grievances are treated objectively, sensitively, consistently and fairly, and that an effective conclusion will be reached in a timely manner.
- 1.6 This policy and the procedure contained in Appendix A are designed to comply with best practice, the ACAS Code of Practice and current legislation, including the Employment Act 2008.
- 1.7 This policy should be read in conjunction with the Raising Concerns (Whistleblowing) Policy, the Investigation Policy and the Dignity at Work Policy.

## **2. Scope**

### **2.1 Who is covered by the Policy**

- 2.1.1 This policy covers all staff, including Medical and Dental Staff, regardless of role, location or contractual status.

### **2.2 When the Policy should be used**

- 2.2.1 If a member of staff has a complaint about an action which their manager or another member of staff has taken, or is contemplating taking, in relation to them.
- 2.2.2 If a member of staff wishes to complain about a personal issue, which is connected with their employment, which they believe is unfair, inappropriate or breaches their contract.
- 2.2.3 If two or more a members of staff has a complaint about an action which their manager or another member of staff has taken, or is contemplating taking, in relation to them (a collective dispute).
- 2.2.4 Examples of issues that may give rise to a grievance are (the list is not exhaustive):
- Terms and Conditions
  - Bullying and Harassment
  - Working Relationships
  - Health and Safety
  - New working practices
  - Organisational change
  - Equal Opportunities
- 2.2.5 An employee who has left the Trust may still raise a grievance after their employment has ended. This should be thoroughly reviewed, considered and answered. The principles of this policy should still be followed but an alternative procedure to deal with the grievance may be necessary. Advice should be sought from the Employee Relations Team.

### **2.3 The Policy should not be used in the following scenarios:**

- 2.3.1 To appeal against any process that has its own right of appeal, in this scenario, the appeal process must be used.
- 2.3.1 To deal with disciplinary sanctions imposed against other members of staff, as only the member of staff disciplined has the right to appeal the outcome of a disciplinary process.

- 2.3.2 To raise concerns that do not impact on the working life of the individual or group of staff. These should be dealt with through the Raising Concerns/Freedom to Speak Up Policy.
- 2.3.3 To raise frivolous issues or to raise concerns in a vexatious or malicious manner. Inappropriate use of the procedure may result in disciplinary action being taken.
- A frivolous complaint is one that has neither sense nor seriousness.
  - A vexatious complaint is one that is without merit and is purely raised to cause annoyance to the individual being complained about or to cause annoyance in the organisation.
  - A malicious complaint is one that is raised purely to cause harm to another person and that is vicious in motivation or purpose.

### **3.0 Principles**

#### **3.1 Right of Representation**

- 3.1.1 At all formal stages, the member of staff may be represented or accompanied by their Trade Union or Staff Side representative or a work colleague. It is the member of staff's responsibility to arrange this and confirm attendance with their line manager or case manager.
- 3.1.2 In the case of a collective grievance (two or more employees) the collective members of staff will be represented by a nominated member of staff, who is part of the collective grievance and who will represent the interests of all the concerned parties. Alternatively, at the formal stage of the procedure, they may be represented by a nominated Trade Union or Staff Side representative. Staff will be notified individually about the outcome of the grievance.
- 3.1.3 As grievances are a matter for internal resolution, the member of staff may not have legal representation at any stage of this process.
- 3.1.4 Family members often become emotionally involved and are therefore not permitted to attend any meetings with the member of staff. They can be available to support the member of staff before and after a meeting.

#### **3.2 Time Limits**

- 3.2.1 To assist with the speedy resolution of grievances, time limits are identified at each stage of the procedure in Appendix A. Wherever possible, every effort will be made to comply with these time limits. However, there may be circumstances where it is not possible to comply with them, in which case all reasonably practicable steps will be taken to ensure that the

relevant stage is completed as soon as possible after the expiry of the appropriate time limit. Where this happens, the manager must advise the member of staff and outline the likely completion date. Completion of each stage of the procedure must be taken without unreasonable delay on the part of either the member of staff or their manager. Time limits may, however, be extended through discussion, for example to take annual leave into account.

- 3.2.2 There are no specific time limits for bringing a grievance but the members of staff are encouraged to raise their concerns in a timely way. Historic concerns that are raised can be difficult to resolve and can limit the effectiveness of the grievance process.

### **3.3 Record Keeping**

- 3.3.1 Full and accurate written records will be kept. This may include:

- The nature of the concern or complaint raised and resolution sought
- A copy of the written grievance
- The manager's response
- Any agreed action plan and action taken
- Any matters relating to an appeal
- Subsequent developments

- 3.3.2 The member of staff is not normally permitted to record electronically any meetings held by the Trust as part of the grievance process, unless the member of staff has a disability and it is agreed as a reasonable adjustment, or if there is a specific reason. Requests will be considered by the chair of panel and a decision made prior to the meeting.

### **3.4 Grievances relating to a change**

- 3.4.1 Usually, when the complaint involves a change to just one individual, the manager will take no action to enforce the change until the grievance has been concluded. However, there may be occasions where it is not possible or it is unreasonable to delay changes e.g. in order to comply with statutory obligations or to fulfil urgent service delivery requirements.
- 3.4.2 Where the change affects a number of staff and only one individual has raised a grievance, the change will proceed while the grievance is progressed.
- 3.4.3 Where the change affects a number of staff and a collective grievance has been raised, consideration will be given as to whether the change should be enforced. This will be dependent on a number of factors, including the number of staff involved in the change and the collective grievance, compliance with statutory obligations and service delivery requirements. Human Resources advice should be sought and a full explanation of the decision given to all those affected.

### **3.5 Grievances relating to another HR process**

- 3.5.1 Where a grievance is related to another HR process (e.g. an investigation or capability process) consideration will be given to halting the existing process while the grievance is concluded. However, this will not be appropriate in every situation and will be decided on each individual case.

## **4.0 Resolution of Issues**

### **4.1 Informal Resolution**

- 4.1.1 All staff are encouraged to raise concerns as early as possible with their line manager and then work to seek a resolution. If a member of staff does not feel able to approach their line manager they should approach the next in line manager.
- 4.1.2 The Trust considers resolution of workplace issues of staff to be a key priority for line managers. It is the expectation that managers support staff to resolve issues informally in a timely way.
- 4.1.3 Often concerns are raised without making reference to the term grievance. During the informal stage of any complaint/concern/grievance managers may attempt various methods of informal resolution and there is no fixed process at this stage due to the varying nature of each issue.
- 4.1.4 There are a number of sources of support that can be accessed to help resolve an issue at an informal stage. Examples include:
- Facilitated meetings
  - Advice from Occupational Health
  - Advice from Human Resources
  - Mediation
  - Advice from Equality and Diversity Lead
  - Advice from Health and Safety department
- 4.1.5 Where a concern relates to working relationships, bullying or harassment further guidance on informal resolution can be found within the Dignity at Work Policy.

### **4.2 Investigations**

- 4.2.1 It may be necessary for further information to be gained in order to resolve a grievance. In the majority of cases this can be achieved through a fact finding exercise to collect the appropriate information, carried out by the manager hearing the grievance.



4.2.2 In instances where a fuller investigation is required this should be carried out in line with the Trust Investigation Policy or Maintaining High Professional Standards in the NHS Policy.

4.2.3 Following receipt of the investigation report the manager dealing with the grievance should be in a position to make decisions about appropriate next steps in line with the procedure outlined in Appendix A.

#### **4.3 Resolution of concerns raised regarding working relationships, bullying and/or harassment**

4.3.1 All staff are expected to adhere to the Trust's Values and Behaviours:

- Kind
- Friendly
- Respectful
- Compassionate
- Professional
- Working as a team

Where concerns are raised about working relationships, bullying or harassment, consideration should be given to whether more formal action is required to resolve the issue. This may include a formal investigation into behaviours and/or disciplinary action. Further information is available within the Dignity at Work (Bullying and Harassment) Policy.

#### **4.4 Formal Grievances**

4.4.1 Until all possible avenues of resolution have been extensively explored by informal discussion, the formal stages of the procedure should not be invoked. Matters should only proceed to the formal procedure as a last resort with every effort being made to resolve the issue at the informal stage. The procedure for a formal grievance is outlined in Appendix A.

#### **4.5 Support for staff**

The Trust recognises that participating in a grievance process in any capacity can be worrying and even distressing for members of staff. The issues that are the subject of the grievance may also have caused distress, sometimes for an ongoing period of time before the member of staff has raised a grievance. It is therefore important that all members of staff are appropriately supported. The confidential Staff Counselling service can be contacted for support and if the grievance process itself or the underlying issues are impacting on the member of staff's health and wellbeing, a referral to Occupational Health can be made. Should any other support be required, members of staff should contact the Human Resources department in the first instance to discuss requirements and to access contact details for the appropriate support mechanisms. Staff can also contact their trade union representative or a Freedom to Speak Up Guardian.

## **5. Monitoring, Review and Learning**

- 5.1 The Employee Relations team will be responsible for maintaining records of formal grievances. Themes of grievances will be reviewed on a bi-annual basis and outlined in an Employee Relations report to the Quality and Risk Committee, with appropriate action plans where required.
- 5.2 The Employee Relations team will maintain statistics of all formal grievances raised and monitor trends by disability, age, gender, race and sexual orientation. This will be reported on a regular basis through the Diversity Matters Group and appropriate action plans developed.
- 5.3 During the resolution of a grievance there will often be opportunities for organisational learning (e.g. changes to systems, processes or approaches). It is the responsibility of the line manager hearing the grievance to ensure that learning is appropriately disseminated in the organisation. The Employee Relations team will keep records of organisational learning identified through the grievance process and report this in the Employee Relations report.
- 5.4 Where the learning relates to the implementation of this or another Human Resources policy, the Employee Relations team will be responsible for carrying out a case review. The outcome of the case review may be used to inform management training, advice from Human Resources and any required changes to policies, procedures and guidance documents.
- 5.5 The Employee Partnership Forum will monitor the implementation of the policy.

## **Appendix A – Procedure for dealing with a grievance**

### **1.0 Informal Stage**

- 1.1 Should a member of staff wish to raise a complaint or matter of concern, they should do so verbally to their immediate line manager at the earliest opportunity. It will be beneficial to consider the resolution sought at this stage. Should the member of staff feel unable to discuss the matter with their line manager, or if the complaint relates to the line manager, then the member of staff should raise the concern or complaint with the next in line manager.
- 1.2 The line manager (or next in line manager where appropriate) should arrange to meet with the member of staff as soon as possible after the concern is raised with them, to discuss the nature of their grievance and how best it can be addressed.
- 1.3 On occasion it may be necessary for the manager to undertake a fact-finding exercise to ensure they have an accurate understanding of events. Where this is necessary, the manager should arrange to meet with the member of staff at the conclusion, to discuss their findings and explore options available with a view to resolving the issue.

### **2.0 Formal Stage**

- 2.1 Where it has not been possible to resolve an issue at the informal stage, the matter should be referred to the formal stage.
- 2.2 All formal grievances must be made in writing. If an employee wishes to lodge a grievance at this level they should complete the Grievance Form at Appendix B. This should be sent to the manager. Once again, should the member of staff feel unable to discuss the matter with their senior manager, or if the complaint relates to their senior manager, then they should send the form to the next in line manager.
- 2.3 It is recognised that setting out a grievance in writing is not easy. Assistance may be sought from a Trade Union or Staff Side representative, Freedom to Speak Up Guardian or work colleague if required.
- 2.4 The senior manager should provide written confirmation of receipt of the Grievance Form to the member of staff within 7 calendar days of receipt. The manager should then make arrangements to hold a meeting with the member of staff, their representative and any other relevant individuals within a further 14 calendar days. A representative from the Human Resources department will also be present at the meeting. The arrangements for this meeting will be confirmed in writing.  
The purpose of this meeting is to:

- Confirm that a grievance has been received
- Discuss the issues relating to the grievance and the resolution sought
- Confirm the steps to be taken in order to resolve the grievance, which may involve conducting a further investigation into the issues raised
- Where possible, provide an outcome to the grievance

- 2.5 The member of staff must ensure that they attend the meeting at the specified time. If they are unable to attend due to circumstances beyond their control, they should inform the relevant manager as soon as possible; and another time will be offered. If the member of staff fails to attend without explanation, or it appears that they have not made sufficient attempts to attend, or not attended on the second occasion, the meeting may take place in their absence. The decision will be made by the manager chairing the grievance meeting, with advice from Human Resources.
- 2.6 Where a decision is deferred, pending further fact finding or investigation, the manager will write to the member of staff indicating a timescale in which the fact finding or investigation will be completed. The time-scale will depend upon the nature and complexity of the investigation required, but where formal investigation is required; this should normally aim to be completed within 4 weeks from commencement in line with the Trust Investigation Policy. If the investigation time-scale needs to be extended, this should be notified to the member of staff in writing.
- 2.7 If an investigation is undertaken the terms of reference for the investigation should cover the issues laid out within the grievance and, where possible, seek to explore potential resolutions to the issues.
- 2.8 If an investigation into a grievance includes concerns raised about individual members of staff they should be notified in line with the Trust Investigation Policy.
- 2.9 On receipt of the investigation report the manager hearing the grievance should review whether the investigation provides sufficient information to make a decision on next steps. If they do not feel the report provides sufficient information they can ask for additional enquiries to be carried out and the report resubmitted.
- 2.10 A further meeting to confirm the outcome of the investigation and to give a final decision regarding the issues raised will be arranged. There should be an opportunity for the member of staff to hear a summary of the findings of the investigation but the full report itself will not usually be shared.
- 2.11 The outcome of a grievance will usually consist of two key elements. The first element is whether the concern raised has been upheld, partially upheld or not upheld. The second element is the proposed resolution for the concern. It is not possible to provide an

exhaustive list of resolutions as these will be specific in nature to the concern raised but some examples may include:

- Reasons why the grievance was not upheld
- A change to an element of terms and conditions
- A change to a working practice
- Action taken in relation to another member of staff (this may be informal or formal and the details will not be shared with the member of staff raising the grievance due to confidentiality)
- An apology from the Trust for poor treatment or behaviour not in line with Trust standards
- A change to a Trust policy or process
- Mediation or facilitation to resolve a workplace issue

2.12 In some cases the decision may be made up of a number of elements across the various issues raised.

2.13 The decision will be confirmed in writing to the member of staff within 7 calendar days of the meeting. The right of appeal against the decision will also be notified in that letter. If the manager is not able to respond within this time scale, the member of staff will be given an explanation for the delay and told when a response can be expected.

### **3.0 Appeal**

3.1 Staff have the right to appeal the outcome of a formal grievance and should do so if they:

- Believe the outcome is unfair or unjust and can demonstrate this; or
- Believe that the principles of the policy have not been applied and can evidence this

3.2 In some cases, the outcome of a grievance could be that appropriate action has been taken but as this involves other individuals, it is not possible to inform the complainant of the detail of that action, due to confidentiality. In these cases, even if the complainant is unhappy, it is not possible to appeal on the basis that they do not know the detail of the action taken (or on any grounds that, if upheld, the outcome would breach the confidentiality of others).

3.3 Appeals should be submitted within 14 calendar days of the date of the outcome letter and should clearly state the reasons for the appeal. A proforma is available in the Appeal Guidance Notes.

3.4 The appeal will be conducted in line with the process outlined in the Appeal Guidance Notes.

## APPENDIX B

### GRIEVANCE FORM

This form should be completed by the employee submitting a formal grievance. Assistance should be obtained where necessary from a Trade Union/Staff Side representative, Freedom to Speak Up Guardian or work colleague. The form should then be given to the line manager or other appropriate manager, with a copy being retained by the individual concerned.

Surname:	First Name:
Job Title:	Grade:
Department:	Base:
Name of nominated representative – if appropriate:	
Base/Address:	

#### **Nature of Grievance**

i. Background to the case (the issue and the people involved)

ii. The essential elements of the grievance (with supporting documents as appropriate)

iii. Steps taken to resolve the grievance to date.

iv. Please explain what you feel would be a satisfactory resolution to your grievance.

Signature: .....

Date: .....

## EQUALITY IMPACT ASSESSMENT (EIA)

### PURPOSE OF EQUALITY IMPACT ASSESSMENT

The EIA should:

- Inform the Trust if any groups are, or could be, disadvantaged by a policy, service change or reconfiguration and if so clarify / propose action to mitigate that impact
- Enable the Trust to identify where policy changes may be needed to actively promote equality / inclusivity and eliminate inequality
- Remind all involved in delivering services of the determination to promote equality
- If advice is required in completing the EIA please contact an HR Advisor

### Section 1 – About the Policy, Service, Function, Proposal, Strategy or Consultation

<b>1.1 Name of Policy, Service, Function, Proposal, Strategy or Consultation</b>	<b>Grievance and Fair Treatment Policy</b>
<b>1.2 Name of person completing this assessment (and role / department)</b>	<b>██████████ Head of Employee Relations</b>
<b>1.3 Brief description of the aims of the policy, service, function, proposal, strategy or consultation? (Include details of who is affected by, involved in and / or benefits from it)</b>	<b>To provide a framework for employees to raise concerns about their employment.</b>
<b>1.4 Which department owns the policy, service, function, proposal, strategy or consultation?</b>	<b>Human Resources</b>
<b>1.5 Is responsibility for implementation of this policy, service, function, proposal, strategy or consultation shared with another agency / department?</b>	<b>Yes, policy applies to all staff</b>
<b>1.6 Does the policy, service, function, proposal, strategy or consultation have direct consequences or implications for service users and / or staff?</b>	<b>Yes</b>

## Section 2 – Equality Impacts

**2.1 Have you made sure that the views of stakeholders, including key people likely to face exclusion have been influential in the development of the policy, service, function, proposal, strategy? (please indicate which)**

<b>External</b>	<b>Partners</b>	<b>Internal</b>
Service user interviews	Care Quality Commission	Staff event
Focus Groups	Multi Agency event	Staff interviews
Public events	Joint Working group	Staff workshop/focus groups
Patient experience surveys	Regional Minority network	Management Board
Voluntary organizations	Regional equality forum	Trust Executive Committee ✓
Minority group events/forums	GP Practice groups	Diversity Matters Group
Carer Forum	Local/County Council	Staff side reps ✓
LINKs	Equality and Human Rights Commission (EHRC)	Staff minority forums (e.g disability, BME, sexual orientation, religion/beliefs) (please state)
HOSC	Other NHS Trust (please identify below)	Trust Board
On line forums		Staff survey results ✓
Local media		Annual General Meeting
Published research into minority needs		Other (please state)
Census data or other external demographic reports		

**Comments:**



### Section 3 – Equality Analysis Template

To be used to analyse the effect of your policy or service on the protected groups in equality law, resulting in either:

1. removing or minimizing disadvantages suffered by people due to their protected group characteristics (i.e. age, race/ethnicity, disability, gender reassignment, sex, sexual orientation, marriage & civil partnership, pregnancy, maternity/paternity, religion/belief, human rights)
2. taking steps to meet the needs of people from protected groups where these are different from the needs of other people
3. no further action required

Equality law protects people on the following grounds:	Is your policy or service relevant to this area of equality or human rights?		If relevant, is the effect positive or negative		Evidence of the effect (e.g. statistics, research, surveys, results of engagement, etc)	Is further action required?	
	Yes	No	Positive effect	Negative effect		*Yes	No
Age	✓		✓				✓
Race / Ethnicity	✓		✓				✓
Disability	✓		✓				✓
Gender Reassignment	✓		✓				✓
Sex	✓		✓				✓
Sexual orientation	✓		✓				✓
Marriage and Civil Partnership	✓		✓				✓
Pregnancy, Maternity / Paternity	✓		✓				✓
Religion / Belief	✓		✓				✓
Human Rights	✓		✓				✓

\* Complete the following Equality Analysis Action Plan only for the equality grounds marked: \*Yes further action required.

Equality Analysis Action Plan								
Equality grounds ticked *yes requiring further action:	Does your policy or service:			Any action taken to date	Action to be taken	Target date	Responsible Person(s)	Expected Outcome (including monitoring arrangements)
	Discriminate?	Eliminate discrimination or promote equality?	Promote good relations between groups?					
Age								
Race / Ethnicity								
Disability								
Gender Reassignment								
Sex								
Sexual orientation								
Marriage and Civil Partnership								
Pregnancy, Maternity/Paternity								
Religion / Belief								
Human Rights								

  

Equality Analysis: Care Group Manager / Head of Service to sign off	
Signed	Date