

GRIEVANCE AND DISPUTES POLICY

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DOCUMENT CONTROL

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Lead Director	Director of Human Resources and Workforce Development		

CONTRIBUTION LIST Key individuals involved in developing the document

All group members	Joint Policy Review Group
All group members	JMSSC
All group members	Regulation Governance Group
All group members	Senior Managers Operational Group
Maria Lazowski	HR Business Partner
Jenny Turton	Head of HR Operations

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1. INTRODUCTION

- 1.1 The effective handling of grievances and disputes as they arise plays an important part in maintaining good employment relations and high morale amongst staff.
- 1.2 This is a contractual document that forms part of each employee's terms and conditions of employment with the Trust.
- 1.3 All grievances should be resolved as near to their source as possible and as quickly as possible. Every manager will be expected to try and resolve grievances as soon as they arise, or to explain clearly to the aggrieved employee any difficulties which may prevent or delay a solution to the problem. Where a grievance is not resolved at one level, an employee has the right to refer it up to the next level. Once the grievance procedure is exhausted, the employee has no further redress for their complaint within the Trust.

2. PURPOSE & SCOPE

- 2.1 The policy applies to all Trust staff.
- 2.2 The purpose of this policy is to resolve grievances raised by staff of the Trust in a timely manner and to ensure staff are treated fairly, objectively, sensitively and consistently.

3. DUTIES AND RESPONSIBILITIES

- 3.1 Trust Managers, Human Resources, Employees, Well @ Work Team and trade union / staff side representatives all have key roles in the implementation of this policy and procedures. Specific responsibilities are defined below.

3.2 Trust Managers

Trust Managers are responsible for:

- ensuring that the Policy is applied consistently and in a way that does not discriminate;
- keeping written records and ensuring confidentiality;
- ensuring all employees are aware of and understand this Policy;
- ensuring that informal action is used wherever possible prior to any formal action being taken;
- ensuring disciplinary action is not taken until the facts of the case have been established and that any action is reasonable in the circumstances;
- ensuring staff are aware of and have access to Well @ Work for relevant support;

3.3 The Trust Human Resources Department

Human Resources are responsible for:

- ensuring that managers are provided with appropriate advice and guidance on the use of this procedure, including training and coaching;
- monitoring grievance matters across the Trust;
- providing support to operational managers in managing individual cases where necessary;

- ensuring that this Policy complies with legislative requirements and good employment practice;

3.4 **Employees**

Employees are responsible for:

- reading, understanding and complying with the Grievance & Disputes Policy;
- Trying to deal with the grievance locally and where appropriate, approach their line manager in order to discuss the problem informally first;
- To attend meetings as required;

3.5 **Well @ Work**

Well @ Work are responsible for:

- Providing a service that is committed to building a motivated and resilient workforce
- Ensuring that the workforce stay healthy and feel safe at work
- Ensuring that staff members have support for their emotional and mental health wellbeing in line with the Grievance & Disputes policy

4. **EXPLANATIONS OF TERMS USED**

A **Grievance** is regarded as a concern, problem or complaint that one employee raises with their employer. This can include:

- terms and conditions of employment
- health and safety
- work relations
- bullying and harassment
- new working practices
- working environment
- organisational change
- discrimination:

4.1 A **Dispute** is regarded as a concern problem or complaint that more than one employee raises with their employer.

4.2 **Discrimination** is when you are treated differently (e.g. less favourably) because of certain protected characteristics, these are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race

- Religion or belief
- Sex
- Sexual orientation

4.3 The procedure for dealing with grievances and disputes is the same. However if a dispute cannot be resolved internally within the Trust, it can be referred to the Advisory, Conciliation and Arbitration Service (ACAS) for conciliation.

4.4 For the purpose of this policy, both grievances and disputes will simply be referred to as grievances.

5. EMPLOYEE REPRESENTATION

5.1 All employees have a right to be accompanied when they attend a grievance meeting. The accompanying person may be:

- a work colleague;
- a representative of a professional organisation; or
- a representative from a recognised Trade Union / Staff Side Representative

5.2 Employees are requested to give advance notice (no later than 48 hours prior to the commencement of the meeting) of the identity of their colleague/representative. This will enable the Trust to make appropriate arrangements which may include ensuring sufficient cover is available so that the duties of a work colleague/representative can be covered.

5.3 If a specific individual is unable to attend a meeting under this policy as a colleague/representative, it may be necessary for the employee to choose an alternative.

5.4 If the colleague/representative cannot attend on a proposed date, the employee who is the subject of the meeting can suggest an alternative time and date, so long as it is reasonable and is not more than 10 working days after the original date or mutually extended.

5.5 In accordance with the Equality Act 2010, the Trust will make reasonable adjustments to cater for staff / colleagues / representatives who have a disability, for example providing for wheelchair access if necessary, BSL or interpreters.

5.6 Colleagues or trade union / staff side representative officials do not have to accept a request to accompany an employee, and will not be pressurised to do so.

6. ROLE OF THE COLLEAGUE/REPRESENTATIVE

6.1 Before the meeting takes place, the employee should inform his / her line manager of the name and status of their chosen colleague/representative in accordance with the provisions of clause 5.2 above.

6.2 The colleague/representative will be allowed to address the meeting in order to:

- present the case of the employee;
- sum up the case of the employee; and
- respond on behalf of the employee to any view expressed at the meeting

- 6.3 The colleague/representative should be allowed to address the hearing to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee during the hearing. The companion **does not** however have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the employer from explaining their case.
- 6.4 A member of staff who has agreed to accompany an employee will be entitled to take a reasonable amount of paid time off to fulfil that responsibility. S(he) will also be given reasonable time to familiarise himself / herself with the case to and confer with the employee before and after grievance meetings.

7. STAGES OF THE GRIEVANCE PROCEDURE – GENERAL PRINCIPLES

- 7.1 A grievance should be dealt with as speedily as possible as per the Grievance Flowchart (Appendix 1).
- 7.2 Employees should aim to resolve most grievances informally with their line manager
- 7.3 However, if a grievance cannot be settled informally, the employee should raise it formally to the next level of management by the submission of a Grievance Report Form (Appendix 2) which should be completed by the employee who wishes to lodge the grievance.
- 7.4 Receipt of grievances should be acknowledged within 10 working days with a substantive response being provided by the Trust.
- 7.5 If the grievance is against the Line Manager of the employee, the employee should approach their Line Manager's Manager.
- 7.6 If an employee has difficulty in setting out their grievance in writing, then s (he) should seek assistance from a colleague, a trade union / staff side representative.
- 7.7 Managers should be aware that under the Equality Act 2010, employers are required to make reasonable adjustments during all stages, which may include assisting employees to formulate a written grievance if they are unable to do so themselves because of a disability or if English is their second language.
- 7.8 There may be a certain amount of stress and anxiety for both parties when dealing with a grievance. Exemptions will only apply where the employee or Line Manager reasonably believes that (s)he could come to some serious physical or mental harm; that their property or some third party may be threatened; or that the other party has harassed them and may continue to do so. If an employee and/or Line Manager believe that they may be exposed to a situation as envisaged by this paragraph they should seek advice from Human Resources.
- 7.9 At any stage during the grievance process, additional support can be provided by Human Resources, Well @ Work Team and trade union / staff side representatives.

8. INFORMAL STAGE

- 8.1 Should an employee wish to raise a complaint or matter of concern, they should do so informally to their immediate line manager at the earliest opportunity.
- 8.2 Should an individual feel unable to discuss the matter with their line manager, or if the complaint relates to their line manager, then the individual should raise the concern or complaint with the next-in-line manager, a representative from a recognised trade union / staff side representative or a representative from Human Resources.
- 8.3 It is in the best interests of all concerned that grievances be resolved at the informal stage wherever possible. The line manager (or next-in-line manager where appropriate) should arrange to meet with the individual as soon as possible after the concern is raised with them, in order that the member of staff can explain the nature of their grievance and discuss how best it can be addressed. The employee should explain how they think the matter can be resolved.
- 8.4 Managers should be aware that under the Equality Act 2010, employers are required to make reasonable adjustments to ensure that employees can attend or understand the meeting.
- 8.5 The manager should make a written record of the main points and make discreet investigations in order to resolve the matter promptly and fairly.
- 8.6 If the grievance is about another employee, the manager should arrange to meet and discuss the issue giving them the opportunity to answer the grievance and put their side of the case to the manager in order to resolve the issue.
- 8.7 The manager must ensure that all discussions taken place within the meetings are confidential.
- 8.8 The manager should confirm the outcome of the informal stage in writing, as well as any associated action plan. A copy of this documentation should be given to the individual.
- 8.9 Consider whether to offer independent mediation (seek advice via HR).
- 8.10 If the grievance cannot be settled informally because the employee feels their grievance has not been satisfactorily dealt with, the employee should raise the issue formally in writing (using Appendix 2) to the next level of management.

9. FORMAL STAGE

- 9.1 On receiving a written formal grievance, the appointed Manager should inform Human Resources and send them a copy of the grievance.
- 9.2 The Manager must give a written response to the employee within 10 days inviting the employee to a meeting. The time and place of the meeting should be arranged in agreement with the employee and the employee's

colleague/representative. The meeting should take place in a private location with no interruptions in order to ensure that the grievance is dealt with confidentially.

- 9.3 The employee has the right to be accompanied by a colleague/ representative. See Section 5 for full details.
- 9.4 The Manager has the right to question any witnesses in relation to the grievance.
- 9.5 During the meeting, the employee will have the opportunity to explain their grievance and what their preferred outcome is.

All facts should be discussed. The manager hearing the grievance may request to interview other individuals related to the grievance and consider additional documentation. If the Manager reaches a point in the meeting where (s) he is not sure how to deal with the grievance or believes that a full investigation is required, the meeting should be adjourned to allow the Manager to obtain advice or make further investigation. In this event, the manager will make a written record of the main discussion points from each interview, used to inform their decision.

For details regarding the Conduct of the Meeting, please refer to Section 12.

If the matter requires a formal investigation, the manager should seek HR advice regarding the nature of the investigation, and decide whether to investigate the matter themselves, or appoint an Investigating Officer. The report should be completed within 28 working days. The investigating manager should ensure that the member of staff is kept informed of this progress during this time. The manager should then decide on what action, if any, to take.

- 9.6 Following the meeting or investigation, the employee should be invited to a further meeting to inform them of the outcome of the grievance and what action is to be taken. This should also be confirmed in writing. Once a grievance is resolved, a copy of the form and any relevant correspondence should be retained on the employee's personal file and copied to the HR Department. They should be informed of how and who to appeal if not satisfied of the decision.
- 9.7 The Manager can contact Human Resources at any time during the investigation for further support and advice if required.

10. APPEAL STAGE

- 10.1 Where an employee feels that their grievance has not been satisfactorily resolved they have the right to appeal. The employee must write to the next in line manager within 14 days from the date of the letter confirming the outcome of the Formal stage, clearly stating the grounds of the appeal
- 10.2 The next in line may assign a relevant manager to hear the appeal if appropriate and if this applies, this should be a manager who has not previously been involved supported by a representative from Human Resources.

- 10.3 Appeals should be heard without unreasonable delay and at a time and place which should be notified to the employee in advance.
- 10.4 The manager/Divisional Head of Service must give a written acknowledgement to the employee within 10 days of receipt of the appeal letter inviting the employee to a hearing.
- 10.5 The employee has the right to be accompanied by a colleague/ representative at any such appeal hearing as set out in Section 5.
- 10.6 If appropriate, the manager who is hearing the appeal may wish to consider if the manager who heard the grievance at the formal stage should explain to the appeal panel their rationale for their decision. The HR representative will arrange for copies of any paperwork to be circulated to both sides involved in the appeal.
- 10.7 The manager hearing the appeal may request to interview other individuals related to the grievance and consider additional documentation.

Any individual required to attend a meeting has the right to be accompanied by a work colleague or trade union / staff side representative. It will be the responsibility of the assigned manager hearing the appeal to read and hear all of the evidence available, to question any parties for clarification of facts and to arrive at a decision based on the information provided.

- 10.8 The Appeal manager should confirm the outcome of the appeal to the employee in writing without unreasonable delay. A copy of the outcome and any relevant correspondence should be retained on the employee's personal file and copied to the HR department.
- 10.9 The decision of the appeal panel will be final and the final stage of the grievance procedure. There will be no further appeal except to ACAS in case of disputes.

11. PREPARING FOR THE FORMAL/APPEAL MEETING

- 11.1 In preparation for the formal meeting, managers will undertake the following:
 - Arrange a meeting ideally within 5 working days, in private where there will not be any interruptions
 - arrange for someone who is not involved in the case to take notes of the meeting and to act as a witness to what is said
 - Consider whether similar grievances have been raised before, how they have been resolved, and any follow up action that has been necessary. This allows consistency of treatment.
 - Consider whether any reasonable adjustments are necessary e.g. wheelchair access, interpreter etc
 -

12. CONDUCT OF THE FORMAL/APPEAL MEETING

12.1 The Grievance meeting will be conducted by the manager or Head of Division as follows:

- make introductions as necessary
- invite the employee to re-state their grievance and how they would like to see it resolved
- put care and thought into resolving grievances. They are not normally issues calling for snap decisions, and the employee may have been holding the grievance for a long time. Make allowances for any reasonable 'letting off steam' if the employee is under stress
- consider adjourning the meeting if it is necessary to investigate any new facts which arise
- sum up the main points
- tell the employee when they might reasonably expect a response if one cannot be made at the time, bearing in mind the time limits set out in the organisation's procedure.

12.2 Managers should remember that a grievance hearing is not the same as a disciplinary hearing, and is an occasion when discussion and dialogue may lead to an amicable solution.

13. GRIEVANCES RELATING TO THE GRADING OF POSTS AND BANDING

For the avoidance of doubt, all appeals relating to the grading of posts and banding within the Trust will be dealt with under the Job Evaluation & Rebanding Policy and Procedure.

14. STATUS QUO WORKING

The status quo which is the working and management arrangements applying before the grievance, should operate until the grievance procedure has been exhausted. Operation of the status quo will apply to all parties concerned. The only occasions when it may be necessary not to continue with the status quo will be when health and safety may be compromised, or when other legal requirements are or might be at risk of being breached.

15. INVOLVEMENT OF OTHER SPECIALISTS

Where it is considered by either side that Human Resource advice or counselling may facilitate a solution, a Human Resources representative or a representative from the Well @ Work team may be involved. It may be appropriate to consider support/advice from the Trust's Occupational Health provider or Carefirst at any stage.

16. ATTENDANCE OF WITNESSES

Witnesses called to give evidence should normally attend in person. Where a witness cannot attend, or is not prepared to attend, then written statements **may** be accepted by the manager hearing the grievance.

17. FAILURE TO ATTEND A MEETING WITH NO JUST REASON OR CAUSE

There may be occasions when an employee is repeatedly unable or unwilling to attend a meeting aimed at resolving their grievance. This may be for various reasons, including genuine illness or concerns about dealing with the issue. In such cases, managers will consider all the facts and come to a reasonable decision on how to proceed. Considerations may include:

- the seriousness of the issue under consideration
- the reasons given for failure to attend
- medical opinion on whether the employee is fit to attend the meeting
- how similar cases in the past have been dealt with

18. OVERLAPPING GRIEVANCE/DISCIPLINARY OR CAPABILITY CASES

Employees cannot generally raise a grievance to complain about or object to the fact that the Trust may take action under any employment procedure. This would include the fact that the Trust is commencing or contemplating commencing an investigation. The only exception would be where the action being taken (or contemplated) amounts to, or could amount to, unlawful discrimination, victimisation or bullying and harassment, or in relation to concerns raised under the Trust's Whistleblowing policy. In such cases, where an employee raises a grievance during a disciplinary/capability process, the disciplinary/capability process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary/capability cases are related, it may be appropriate to deal with both issues concurrently.

19. VOLUNTARY RESIGNATION

In the event that an individual raises a grievance under the Trust's Grievance & Disputes Procedure and then tenders their resignation, the process will normally continue until an outcome is reached. The employee will also be advised that the Trust will make every effort to resolve the situation and maybe given the opportunity to rescind their notice where this is directly linked to the resolution of the grievance. The individual will continue to be invited to attend any meetings and/or a hearing which will be conducted in their absence should they choose not to attend. The outcome will be advised to the individual in writing to gain closure to the grievance and the HR Department should be advised.

20. TRAINING REQUIREMENTS

The Trust will work towards all staff being appropriately trained in line with the organisation's Staff Mandatory Training Matrix (training needs analysis). All

training documents referred to in this policy are accessible to staff within the Learning and Development Section of the Trust Intranet.

21. EQUALITY IMPACT ASSESSMENT

All relevant persons are required to comply with this document and must demonstrate sensitivity and competence in relation to the nine protected characteristics as defined by the Equality Act 2010. In addition, the Trust has identified Learning Disabilities as an additional tenth protected characteristic. If you, or any other groups, believe you are disadvantaged by anything contained in this document please contact the Equality and Diversity Lead who will then actively respond to the enquiry.

22. MONITORING COMPLIANCE AND EFFECTIVENESS

Overall monitoring of this policy will be by the Trust Executive Team

22.1 Process for Monitoring Compliance

The Trust Human Resources Department will monitor procedural document compliance and effectiveness

22.2 The Trust Human Resources Department will log all grievances including outcomes/appeals and ensure that any cases are dealt with as per the policy.

23. COUNTER FRAUD

The Trust is committed to the NHS Protect Counter Fraud Policy – to reduce fraud in the NHS to a minimum, keep it at that level and put funds stolen by fraud back into patient care. Therefore, consideration has been given to the inclusion of guidance with regard to the potential for fraud and corruption to occur and what action should be taken in such circumstances during the development of this procedural document.

24. RELEVANT CARE QUALITY COMMISSION (CQC) REGISTRATION STANDARDS

The standards and outcomes which inform this procedural document, are as follows:

Section	Outcome
Suitability of staffing	12 Requirements relating to workers
	13 Staffing
	14 Supporting workers

Relevant National Requirements

Legislation & Guidance:

The Employment Act 2008

Equality Act 2010

25. REFERENCES AND ASSOCIATED DOCUMENTS

25.1 References

Associated documents include the following:

ACAS Code of Practice: [Disciplinary and Grievance Procedures](#)

ACAS: Keys to handling grievances in the workplace
[Key to handling grievances in the workplace](#)

CIPD: Discipline and Grievances at Work:
[Discipline and Grievances at Work](#)

ACAS: Mediation, an approach to resolving workplace issues:
[An Approach to resolving workplace issues](#)

25.2 ***Cross reference to other procedural documents***

Development & Management of Organisation-wide Procedural Documents
Policy and Guidance

Disciplinary Policy

Job Evaluation and Rebanding Policy

Learning Development and Mandatory Training Policy

Record Keeping and Records Management Policy

Risk Management Policy and Procedure

Staff Mandatory Training Matrix (Training Needs Analysis)

Training Prospectus

Untoward Event Reporting Policy and procedure

Whistleblowing Policy

All current policies and procedures are accessible in the policy section of the public website (on the home page, click on 'Policies and Procedures'). Trust Guidance is accessible to staff on the Trust Intranet.

26. APPENDICES

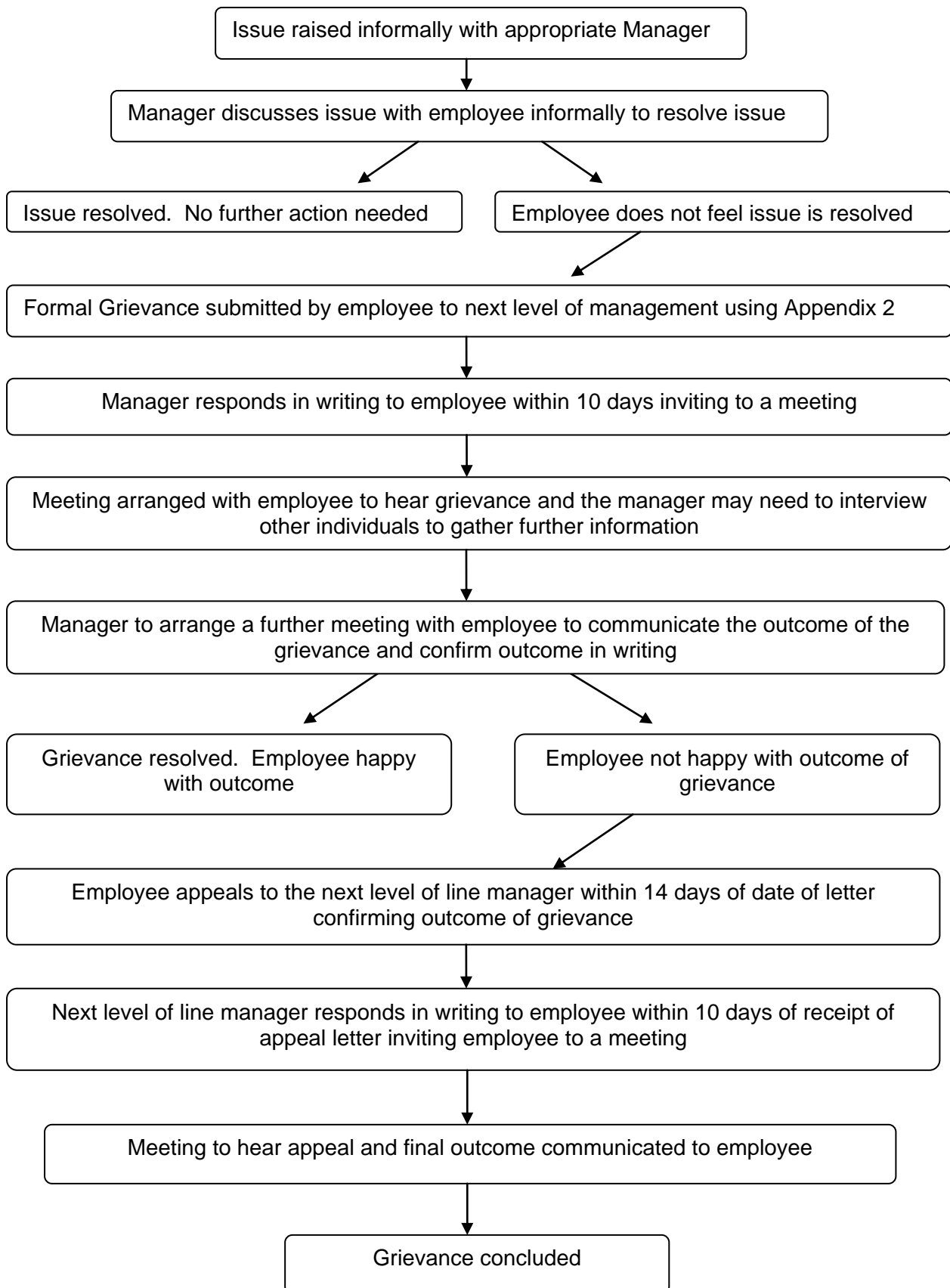
Appendix 1 – Grievance Flowchart

Appendix 2 – Trust Grievance Report Form

Appendix 3 – Stages of Grievance Procedure

Appendix 4 – What is Mediation?

GRIEVANCE FLOWCHART



SOMERSET PARTNERSHIP NHS FOUNDATION TRUST

GRIEVANCE REPORT FORM

PRIVATE & CONFIDENTIAL – NOTIFICATION OF EMPLOYEE GRIEVANCE

Please complete this form if you wish to submit a formal grievance. You should ensure that you have tried to resolve the matter informally before entering the formal stages of the process.

To: (Name and Title of relevant manager).....

From: (Employee name and job title):.....

Department & Base:.....

Employee's Contact No:.....

Trade Union/ Staff Side Representative name:

Main Points of Grievance:

(Include all relevant details, state clearly what the issues are, include names of relevant individuals, include dates of alleged incidents, include the outcome of any informal grievance meetings and if you name any witnesses, please ensure that they are aware)

Please state below the desired outcome/resolution you would like to achieve

Signed:..... Dated:.....
(Employee)

Received by:..... (PRINT)

Date:.....

Manager to send a copy to Human Resources

SUMMARY TABLE – STAGES OF GRIEVANCE PROCEDURE

Level	Grievance Heard By	Period to issue decision on Grievance	Period to Lodge Grievance at Next Stage
Informal	Line Manager of the Employee		
Formal	Next Level of management from the Line Manager	14 days from the hearing	14 days from the date of decision
Appeal	Next level of management from the manager who involved at the formal stage HR Representative	14 days from the hearing	No further appeal, except to ACAS in case of disputes.

1 WHAT IS MEDIATION?

'Mediation is based on the principle of collaborative problem-solving, with a focus on the future and rebuilding relationships, rather than apportioning blame.'
from University of Central Lancashire mediation policy

Mediation is where an impartial third party, the mediator, helps two or more people in dispute to attempt to reach an agreement. Any agreement comes from those in dispute, not from the mediator. The mediator is not there to judge, to say one person is right and the other wrong, or to tell those involved in the mediation what they should do. The mediator is in charge of the process of seeking to resolve the problem but not the outcome.

Mediators may be employees trained and accredited by an external mediation service who act as internal mediators in addition to their day jobs. Or they may be from an external mediation provider. They can work individually or in pairs as co-mediators.

Mediation distinguishes itself from other approaches to conflict resolution, such as grievance procedures and the employment tribunal process, in a number of ways. Mediation is:

- less formal
- flexible
- voluntary
- morally binding but normally has no legal status
- confidential
- (generally) unaccompanied
- owned by the parties.

What does mediation seek to achieve?

Mediation seeks to provide an informal and speedy solution to workplace conflict, and it can be used at any point in the conflict cycle. What the process offers is a safe and confidential space for participants to find their own answers. It does this in a number of ways, by:

- exploring the issues, feelings and concerns of all participants and rebuilding relationships using joint problem-solving

- allowing those involved to understand and empathise with the feelings of those they are in conflict with
- giving participants insights into their own behaviour and that of others and opening up opportunities for change
- helping participants develop the skills to resolve workplace difficulties for themselves in future
- encouraging communication and helping the people involved to find a solution that both sides feel is fair and offers a solution that favours them
- using energy generated by conflict in a positive way to move things on.

Models of mediation

The way in which a mediator conducts the mediation process will depend on the particular style of mediation involved. Various models exist, although it is common for mediators to draw on more than one. This guide is based predominantly on the model of facilitative mediation. Other models include evaluative, transformative, transactional and directive approaches.

Facilitative mediation is the most common style in the UK. The mediator normally plays an active role in guiding the process. Using joint problem-solving approaches, the mediator asks questions to identify the interests and real issues of disagreement, and helps parties to identify and evaluate options for resolution and settlement. The mediator does not suggest solutions, although they may float ideas.

What happens during a mediation?

There are distinct phases in the mediation process, and these are variously described in the literature as a three-, four- or five-stage process. Whichever way it is broken down, the essential elements remain the same. The first stage will deal with the parties





Stages of mediation

Separate meeting

- **First contact with the parties** – the mediator will meet parties separately. The aim of this first meeting is to allow each individual involved to tell their story and find out what they want out of the process.

Joint meeting

- **Hearing the issues** – the mediator generally brings the participants together and invites them to put their side of the story during a period of uninterrupted time. At this stage the mediator will begin to summarise the main areas of agreement and disagreement and draw up an agenda with the parties for the rest of the mediation.
- **Exploring the issues** – having identified the issues to explore, the mediation is now about encouraging communication between the parties, promoting understanding and empathy and changing perceptions. The aim of this part of the meeting is to begin to shift the focus from the past to the future and begin to look for constructive solutions.
- **Building and writing an agreement** – as the process develops, the mediator will encourage and support joint problem-solving by the parties, ensure the solution and agreements are workable and record any agreement reached.
- **Closing the mediation** – once an agreement has been reached, the mediator will bring the meeting to a close, provide a copy of the agreed statement to those involved and explain their responsibilities for its implementation. In some cases no agreement is reached and other procedures may later be used to resolve the conflict. However, nothing that has been said during the mediation can be used in future proceedings.

separately, while the remaining stages will generally be dealt with during the joint session. There may be a need to separate the parties at various points and speak to them individually if there appears to be an impasse or the mediator feels that one side is unwilling to divulge information which might help to break the deadlock.

There are occasions where shuttle mediation – the mediator moving between the parties and relaying the views of each – has to be used because parties will not sit in the same room with each other; or because at certain points it is more effective to do so. But the aim is to bring them together eventually.