

GRIEVANCE POLICY AND PROCEDURE

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Designation:	Director of Human Resources and Organisational Development	
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	This is the most current document and should be used until a revised version is in place	
Target Organisation(s)	Worcestershire Acute Hospitals NHS Trust	
Target Departments	All Wards and Departments	
Target staff categories	All Staff Categories	

Policy Statement

The Trust values its staff and recognises the need to be clear, fair and consistent in its dealings with all employees.

This policy and procedure aims to provide an agreed means for all employees (including those in training) to resolve grievances (concerns, complaints or issues) arising from their work.

Where grievances come to light, the spirit of the policy seeks resolution at the most appropriate level and to facilitate the settling of grievances fairly with minimum delay.

Human Resources advice will be available to all parties to ensure fair and consistent application of this procedure. Trade Union representative advice will be available to members to aid the early resolution of grievances.

All parties involved must treat any grievances with absolute confidentiality.

Application of this policy should be in accordance with the Trust's Equality and Diversity Policy

Key amendments to this document

Date	Amendment	By:
June 2012	Revision to improve timescales for dealing with grievances, clarify lines of accountability and appeal	Debbie Drew
Nov 2013	Policy reviewed with no amendments made	Julia Cross
Nov 2015	Document extended for 12 months as per TMC paper approved on 22 nd July 2015	TMC
Oct 16	Further extension as per TMC paper approved on 22 nd July 2015	TMC
November 2017	Document extended whilst under review	TLG
December 2017	Document extended for 3 months as per TLG recommendation	TLG
March 2018	Document extended for 3 months as approved by TLG	TLG
June 2018	Document extended for 3 months as per TLG recommendation	TLG
June 2019	Document extended for 12 months whilst review process takes place	Rachel Morris/Tina Ricketts
June 2020	Document extended for 6 months during COVID-19 period	

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1. Introduction

1.1 The Trust values its staff and recognises the need to be clear, fair and consistent in its dealings with all employees.

1.2 To promote an environment in which the best possible service may be provided to the community, employees need an opportunity of airing complaints and for these complaints to be resolved promptly.

1.3 This policy and procedure aims to:

- Provide an agreed means for employees (including those in training) to resolve grievances arising from the course of their employment.
- Facilitate the settling of grievances fairly, at the appropriate level (see Section 6) and with minimum delay.
- prevent the disruption to services, and consequent effect on patients, staff, and the organisation as a whole

1.4 This policy provides for the consideration and discussion of matters which are raised by **one or more** employees as a grievance. A group of employees e.g. from the same Department/Ward whose grievance relates to the same matter may raise a collective grievance using this procedure.

1.5 Any collective dispute raised by employees concerning a Trust-wide issue will be handled in accordance with the Trust's Disputes procedure.

1.6 This policy is set against the legal framework of the Employment Act 2002 (Dispute Resolutions) Regulations 2004 and Employment Act 2008. It also takes into account the ACAS Code of Practice on Discipline and Grievance and the ACAS Guide.

2. Scope of the Policy

2.1 A grievance is a concern, complaint or issue that is raised **by an employee of the Trust** in relation to their work **during their employment**. **Matters raised by ex-employees which are formally lodged after an employee has left the Trust, fall outside the scope of this policy.**

2.2 This procedure covers all grievances relating to an employee's work and conditions of service but **excluding:**

- Matters which cannot be directly resolved by the Trust e.g. nationally negotiated terms and conditions of service, National Insurance, Income Tax etc.
- Matters which already have an existing appeals mechanism.
- Matters that relate to bullying and/or harassment –which are dealt with under the Trust's Dignity at Work Policy.
- Matters that relate to discrimination or any other disciplinary matter which are dealt with under the Trust's Disciplinary Policy
 - Matters relating to Public Interest Disclosure Act and whistleblowing which are dealt with in line with the Trust's Whistleblowing Policy
 - Matters which have already been considered under the Grievance Procedure within the last 12 months.

2.3 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.

2.4 Grievances should be raised promptly in the spirit of seeking resolution, and will not normally be considered if they are more than 3 months old.

2.5 Grievances should be resolved **informally** wherever possible, through discussion between the employee and the immediate line manager, without recourse to the procedure. Individuals should be encouraged to discuss ordinary, day to day issues informally with their line manager.

2.6 Where, because of the nature of the grievance (e.g. where the grievance is against the immediate line manager), it is felt inappropriate by the employee concerned to raise the matter at Stage 1 of the procedure then the issue may be raised informally at stage 1 using the next level of management.

2.7 Either party may propose at any stage to refer a matter to Stage 3 in respect of collective grievances. No employee will, however, be denied their right to pursue their grievance through the earlier stages of the procedure if they so wish.

2.8 It is recognised that there are management structures within the Trust for which all the stages in this procedure will not apply. All employees must, however, be able to submit a grievance at stages 2 and 3 of the procedure. Grievances submitted against a Director will be considered by the Chief Executive at Stage 2. Grievances submitted against the Chief Executive will be considered by a Non-Executive Director at Stage 2 since the Trust Chairman may be required to sit on any subsequent Appeals Panel at Stage 3.

2.9 The working and management arrangements which applied before the grievance will operate until agreement has been reached or the procedure has been exhausted. This is commonly termed the "status quo". This will not apply where the continuation of the working and management arrangements would constitute an illegal act or a health and safety risk. In such circumstances, alternative arrangements would be put in place.

3. Responsibility and Duties

Overall responsibility for this Policy rests with the Trust Board. Operational responsibilities are delegated as follows:

3.1 Executive Directors

The lead Executive Director for this Policy will be the Director of Human Resources and Organisational Development. In addition, all Executive Directors will be responsible for ensuring that:

- All employees are informed of the terms of the policy and the procedures that apply to them
- The policy is implemented and operated effectively within their directorates and departments
- Managerial action is fair and equitable and is monitored effectively

3.2 Line Managers and Supervisors

Managers and Supervisors carry responsibility for effectively and fairly implementing and operating this policy within their departments. In addition all managers will be responsible for ensuring that:

- Employees are informed of this policy and its operation and reminded that the current version of the policy is available on the intranet
- All staff are aware of their responsibilities in relation to the Grievance Policy

3.3 Employee Responsibilities

Staff should, in the first instance, raise their grievance with their immediate manager with a view to resolving on an informal basis. However, if the grievance is against the immediate line manager then the matter should be raised informally at the next level of management. Only when this does not resolve the issue should they revert to the formal procedure.

3.4 The Role of Human Resources

It is essential that guidance is sought from an appropriate member of the Human Resources Department at all the formal stages of the procedure and a Human Resources representative should normally be present at all meetings.

At Stage 2, a Human Resources Manager will provide advice to the Senior Manager chairing the grievance hearing.

At Stage 3 the Director of HR or Head of HR will provide administrative support to the Panel and provide advice on procedural/HR matters.

3.5 The role of Trade Union Representatives

Trade Union Representatives are available to support and represent individual members. They should also be allowed reasonable time off (in accordance with the Recognition Agreement) to prepare for these meetings, hearings or appeals.

A Trade Union Representative should be present at Grievance meetings and hearings where requested by one of their members.

4. Equality requirements

An Equality Impact Assessment has been undertaken in accordance with Trust policy and attached at Appendix 4.

5. Policy Detail

5.1 Definitions

Grievance – for the purposes of the procedure ‘grievance’ means a concern, problem or complaint raised by staff to their employer

Status Quo – the working and management arrangements which applied before the grievance will operate until the procedure has been exhausted. The aggrieved party may invoke the status quo if applicable (in line with paragraph 2.9).

Working days - are exclusive of weekends and public holidays.

In Writing – this can be either in paper or electronic format.

5.2 Representation

Employees will have the right at all stages of the procedure to be accompanied, if they so wish, by a representative of their trade union or by a work colleague.

The Trust recommends that the advice of a representative is sought at any stage in the spirit of partnership working and early resolution of grievances

In exceptional circumstances, witnesses attending grievance hearings may be accompanied. The person accompanying the witness will attend in a supporting capacity only and will not be able to take any part in the hearing. Attendance will be subject to prior agreement with the manager chairing the hearing.

5.3 Timescales

It is in the interests of all parties that grievances should be resolved as soon as possible. The time-scales detailed within the procedure are the maximum length of time that should be taken at each stage of the procedure under normal

circumstances. There may, however, be circumstances which necessitate an extension to these time scales (e.g. in order to conduct a thorough investigation into circumstances leading to the grievance) and it is expected that management and employees will operate a common sense approach towards mutually agreeing to extend time-scales. Where an extension is agreed the employee will be kept fully informed of the progress being made.

The procedure is intended to minimise delay in resolving grievances. Its contents should not be used by any party to prolong the time necessary to resolve an issue.

Where an employee, without good reason, fails to submit his/her grievance to the next stage of the procedure within the agreed time limits the procedure will be deemed to have been exhausted.

5.4 Keeping Records

5.4.1 It is important to keep written records during the grievance process. Records should include:

- the nature of the grievance raised
- a copy of the written grievance
- the manager's response
- action taken and reasons
- whether there was an appeal and, if so, the outcome

5.4.2 Records should be treated as confidential and kept in accordance with the Data Protection Act 1998, which gives individuals the right to request and have access to certain personal data. Records should be kept for 12 months. A summary log of grievances will be retained in HR for monitoring purposes for a period of 6 years.

5.4.3 The outcome of meetings should be confirmed in writing within 5 working days to the employee including notes of the meeting.

5.5 Internal Facilitation

At any stage, or prior to a formal grievance being raised, the opportunity for internal facilitation will be explored. Only where mutual agreement has been obtained will this option be pursued. Guidance must be sought from the HR department about the appropriateness and scope of the facilitation needed or available.

5.6 The Procedure

The formal procedure should be used where it has not been possible or appropriate to resolve the grievance informally. A flow chart outlining the procedure is shown in Appendix 3.

5.6.1 Stage 1 - Immediate line manager

Where an employee has a grievance or problem this should, in the first instance, be raised in writing with his/her immediate line manager.

He/she must, at the outset, clearly declare that he/she is making use of the formal Grievance Procedure.

A formal grievance must be raised in writing prior to discussion with the immediate line manager. A sample letter which may be used is shown in Appendix 1. The letter should state the nature of the grievance, what informal steps have taken, and what outcome the employee is looking for. Setting out a grievance in writing is not easy – especially for those employees whose first language is not English or who have difficulty expressing themselves on paper. In these circumstances the employee should be encouraged to seek help e.g. from a Trade Union representative or work colleague or the Trust’s translation service Under the Equality Act 2010 the Trust is required to make reasonable adjustments which may include assisting employees to formulate a written grievance if they are unable to do so themselves due to a disability.

The immediate line manager will invite the employee to a meeting to discuss the grievance raised and will try and resolve the matter as quickly and as informally as possible. The employee may choose to be accompanied at this meeting by a Trade Union Representative or work colleague.

If at this stage it is recognised that the issue of concern relates to bullying and/or harassment, the immediate line manager should refer to the Trust’s Dignity at Work Policy. If it is recognised that the issue of concern relates to discrimination the immediate line manager should refer to the Trust’s Disciplinary Policy.

Following consideration, the immediate line manager should respond to the employee in writing within 5 working days.

The Grievance should be considered and concluded at Stage 1 within 15 working days.

If the employee remains aggrieved, then he/she should refer the grievance to the Manager/Head of Department concerned (Stage 2) in writing within 10 working days of receipt of the immediate line manager’s response.

6.6.2 Stage 2 – Senior Manager

Where an employee wishes to proceed to Stage 2 of the procedure, or where he/she feels it appropriate to move directly to Stage 2 of the procedure he/she should write to the appropriate Senior Manager, detailing why he/she is dissatisfied with the outcome of Stage 1.

The Senior Manager will arrange a hearing to discuss the grievance with the parties concerned. Both parties will attend this hearing to allow for a full exploration of all the facts surrounding the grievance and the Senior Manager should be accompanied by a Human Resources Manager.

The hearing will follow an agreed process (Appendix 4) and should normally take place within 20 working days of receipt of the Stage 2 grievance.

Statements should be sent to the Human Resources Manager supporting the Senior Manager who will arrange for the simultaneous exchange of statements (as appropriate) at least 10 working days prior to the hearing.

The decision of the Senior Manager and the rationale for this decision should be confirmed to all parties in writing within 5 working days of the hearing.

If the employee remains aggrieved then he/she may appeal (Stage 3) within 10 working days of receipt of the decision of the Senior Manager.

6.6.3 Stage 3 - Appeal

An appeal by the employee should be made in writing to the Director of Human Resources and Organisational Development within 10 working days of the outcome of the grievance hearing

A Panel will be arranged to hear the appeal normally within 5 weeks of receipt of the written appeal.

The Appeals Panel will comprise a Director, a Senior Manager and an HR Manager.

In some circumstances, it will be beneficial for an independent adviser with relevant knowledge to be appointed to provide guidance at the hearing (where the issues to be considered are of a technical or specialist nature). The Panel will inform both parties of the appointment of an independent adviser prior to the hearing.

Both parties will be present at the appeal hearing and copies of any statements, meeting notes and the Senior Manager's response from earlier Stages will be forwarded to the Appeals Panel and all parties at least 10 working days prior to the hearing.

The hearing will follow the agreed process as detailed in Appendix 4.

Written confirmation of the decision of the Appeals Panel will be sent to the employee within 5 working days of the Hearing. This decision will be final.

This is the final stage in respect of Individual/Collective Grievances.

7. Financial risk assessment

There are no direct financial risks associated with the policy.

8. Consultation

The policy has been developed by a sub-group of the Joint Negotiating and Consultative Committee and has been subject to consultation with staff representatives.

References:

Code:

Trust Disciplinary Policy	
Trust Capability Policy	
Conduct, Capability, Ill Health and Appeals Policies and Procedures for Medical and Dental Staff	
Trust Incident Reporting Procedures	

Employment Act 2002 (Dispute Resolutions) Regulations 2004 and Employment Act 2008	
Code of Practice: Disciplinary and Grievance Procedure and Discipline and Grievances at work (the ACAS guide)	
Trust Disputes Procedure	
Trust Dignity at Work Policy	
Trade Union Recognition Agreement	
Trust Equality and Diversity Policy	
Disability Discrimination Act 1995 amended 2005	
National AfC Terms and Conditions of Service	
Trust's Policy Supporting Staff Involved in Traumatic / Stressful Incidents, Complaints & Claims Policy	
Data Protection Act 1998	

9. Approval process

The policy has been approved by the Joint Negotiating and Consultative Committee.

10. Implementation arrangements

The policy will be implemented immediately upon approval.

11. Dissemination process

The policy will be placed in the Trust's HR Document library on the Intranet and will be publicised through Trust weekly update, and policy update briefings for managers.

12. Training and awareness

- 12.1 Awareness of this Policy will be raised throughout the Trust. It will be included in all Induction training and will also form an integral part of all Management Development training.
- 12.2 Specific training and awareness sessions will be provided periodically to enable all managers and staff-side representatives to understand what is expected of them.
- 12.3 Specific training will be provided for those managers who will be required to undertake formal investigations.

13. Monitoring and compliance

- 13.1 This policy will be reviewed in 2 years or earlier in the light of any legislative changes or developments in good employment practice, and to ensure its continuing relevance and effectiveness.
- 13.2 Actions taken under this Policy will be monitored by the HR Department in terms of equal opportunities.

14. Development of the Policy

This policy will be reviewed after 2 years.

Appendix 1

Sample Letter from employee initiating Formal Grievance Procedure

Date

Private and Confidential

Name of immediate line manager
Department of immediate line manager

(where grievance is about immediate line manager this may be addressed to the next level of management)

Dear

Grievance

I am writing to raise a formal grievance in accordance with Stage 1 / 2 (delete as appropriate) of the Trust's Grievance Procedure.

My grievance concerns the following matter:

(Give full details of the nature of the grievance).

I first raised this grievance informally with my line manager on....

I would hope to achieve the following outcome from my grievance....

I would be grateful if you would consider the above grievance and respond to me within 5 working days in accordance with Trust Grievance Policy and Procedure.

Yours sincerely

(Name/Job Title of Employee)

cc Name, Trade Union Representative (if applicable)

Appendix 2

Grievance Procedure Flow Chart

The formal procedure should be used where it has not been possible or appropriate to resolve the grievance informally

Stage 1

Employee raises grievance with immediate line manager in writing using sample letter outlined in Appendix 1

Immediate line manager responds in writing within 5 working days and meets with employee within 15 working days

If grievance relates to bullying and/or harassment – refer to Dignity at Work Policy

If employee stills feels aggrieved, he/she should refer the grievance to Stage 2 within 10 working days of the immediate line manager’s response



Stage 2

Employee raises grievance in writing with appropriate Senior Manager detailing his/her dissatisfaction with the outcome of Stage 1

Senior Manager arranges grievance hearing within 20 working days of receipt of the Stage 2 grievance.

Decision should be confirmed in writing to all relevant parties within 5 working days of the hearing

If employee still feels aggrieved, he/she should appeal (Stage 3) within 15 working days of receipt of the decision of the Senior Manager



Stage 3

Employee appeals in writing to Director of Human Resources and OD

Director of Human Resources and OD arranges for the grievance to be heard by an Appeal Panel within 5 weeks of receipt of written appeal

Written confirmation of decision will be sent to the employee within 5 working days of the hearing.

This is the final stage in respect of Individual/Collective Grievances

Appendix 3**PROCEDURE TO BE FOLLOWED AT GRIEVANCE HEARINGS**

1. The Chair of the hearing introduces everyone and explains the format of the hearing.

Staff Member's case

2. The member of staff or his/her representative shall present his/her case and may call witnesses.
3. The manager will be able to ask the member of staff, his/her representative and witnesses questions.
4. The Panel will be able to ask any questions for clarification.
5. The member of staff or his/her representative can ask any further questions of his/her witness on any matter referred to by the Panel or manager.

Manager's case

6. The manager presents his/her case and calls witnesses.
7. The member of staff will be able to ask the manager and witness's questions.
8. The Panel may ask any questions for clarification.
9. The manager can ask any further questions of the witness (s) on any matter referred to by the Panel or the member of staff /representative.

Summing Up

10. The member of staff /representative will have the opportunity to sum up their case followed by the manager. No new matter may be introduced during the summing up.

Decision

11. The Panel will ask all parties to withdraw from the room, only recalling both parties to clarify points of uncertainty on evidence already given. If recall is necessary both parties shall return.
12. Both parties shall be recalled to hear the decision.

NB. The Panel may at its discretion adjourn the hearing so that further evidence may be produced by either party or for any other reason.

Appendix 4

Plan for Dissemination of Key Documents

To be completed by the key document author and attached to any document which guides practice when submitted to the appropriate committee for consideration and approval.

Title of document:	Grievance Policy		
Date finalised:	15 June 2012	Dissemination lead: Print name and contact details	Debbie Drew
Previous document already being used?	Yes (Please delete as appropriate)		
If yes, in what format and where?	Trust Policy document held on intranet under HR Document Library		
Proposed action to retrieve out-of-date copies of the document:	Delete existing policy and replace with revised policy		
To be disseminated to:	How will it be disseminated, who will do it and when?	Paper or Electronic	Comments
All staff	Trust Weekly Update	electronic	
All staff	Publication on HR Document library	electronic	
Managers	through Trust email	electronic	
Trust board	Through JNCC	electronic	
Managers	Management Development Workshops	Electronic	Supporting documentation

Dissemination Record - to be used once document is approved.

Date put on register / library of procedural documents		Date due to be reviewed		
Disseminated to: (either directly or via meetings, etc)	Format (i.e. paper or electronic)	Date Disseminated	No. of Copies Sent	Contact Details / Comments

Appendix 5

Equality Impact Assessment Tool

To be completed by the key document author and attached to key document when submitted to the appropriate committee for consideration and approval.

		Yes/No	Comments
1.	Does the policy/guidance affect one group less or more favourably than another on the basis of:		
	• Race	No	
	• Ethnic origins (including gypsies & travellers)	No	
	• Nationality	No	
	• Gender	No	
	• Culture	No	
	• Religion or belief	No	
	• Sexual orientation including lesbian, gay & bisexual people	No	
	• Age	No	
	• Disability - learning disabilities, physical disability, sensory impairment & mental health problems	No	
2.	Is there any evidence that some groups are affected differently?	No	
3.	If you have identified potential discrimination, are any exceptions valid, legal and/or justifiable?	N/A	
4.	Is the impact of the policy/guidance likely to be negative?	N/A	
5.	If so can the impact be avoided?	-	
6.	What alternatives are there to achieving the policy/guidance without the impact?	N/A	
7.	Can we reduce the impact by taking different action?	N/A	

If you have identified a potential discriminatory impact of this key document or require advice, please refer it to Head of Human Resources, together with any suggestions as to the action required to avoid/reduce this impact.

Appendix 6

Financial Risk Assessment

To be completed by the key document author and attached to key document when submitted to the appropriate committee for consideration and approval.

	Title of document:	Yes/No
1.	Does the implementation of this document require any additional Capital resources	No
2.	Does the implementation of this document require additional revenue	No
3.	Does the implementation of this document require additional manpower	No
4.	Does the implementation of this document release any manpower costs through a change in practice	No
5.	Are there additional staff training costs associated with implementing this document which cannot be delivered through current training programmes or allocated training times for staff	No

If the response to any of the above is yes, please complete a business case and which is signed by your Finance Manager and Directorate Manager for consideration before progressing to the relevant committee for approval