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CONTENTS

	Page No
1. Summary of Stages	3
2. Introduction	4
3. Scope of the Procedure	4
4. Right of Representation	5
5. General Points	5
6. Individual Grievances	6
• Informal Meeting – Stage One	6
• Formal Meeting – Stage Two	7
• Appeal Meeting – Stage Three (Final Stage)	8
7. Collective Grievances	10
8. Monitoring the Effectiveness of this Procedure	10
9. Equality Impact Assessment	10
10. Version Control Sheet	10
Grievance Notification Form	Appendix 1
Guidance on Organising a Formal Stage 2 or 3 Meeting	Appendix 2
Procedure for Stage 3 Grievance Appeal	Appendix 3
Equality Impact Assessment	Appendix 4
Version Control Sheet	Appendix 5

GRIEVANCE AND COLLECTIVE GRIEVANCE PROCEDURE

SUMMARY OF THE STAGES THROUGH WHICH A GRIEVANCE CAN PASS

ACTION OF EMPLOYEE	ACTION OF MANAGER	STAGES
<p>An employee has a grievance</p> <ul style="list-style-type: none"> Notifies their immediate manager that they wish to raise the issue under the informal meeting stage of the grievance procedure. 	<ul style="list-style-type: none"> Manager and the individual meet Manager responds to the grievance within 5* working days. If it is not resolved to the employee's satisfaction they may proceed to the formal stage of the procedure 	<p>Informal Meeting</p> <p>Stage 1</p>
<p>The employee is still aggrieved</p> <ul style="list-style-type: none"> Completes a Grievance Notification Form (Appendix 1) or sends a letter of grievance within five working days of informal stage. This also needs to be completed by the manager at Stage One and signed off by both. 	<ul style="list-style-type: none"> Next level of management arranges to hold a meeting within 5* working days. Supporting documentation from manager and member of staff required. A response is given within 5* working days. If not resolved to the employee's satisfaction they may proceed to the final Appeal Stage 	<p>Formal Meeting</p> <p>Stage 2</p>
<p>The employee is still aggrieved</p> <ul style="list-style-type: none"> Notifies the appropriate Director in writing, attaching a copy of the completed Grievance Notification Form (Appendix 1) within five working days of the formal Stage Two meeting. 	<ul style="list-style-type: none"> Director arranges to hold a meeting within 15* working days. Employee given 10 working days notice of the meeting Supporting documentation from manager and member of staff required. After the meeting the Director responds within 5* working days. 	<p>Appeal Meeting</p> <p>Stage 3 (Final Stage)</p>
The grievance can be pursued no further		

NB Staff may be represented at all stages, but it is not normally necessary for representation to be sought at the informal stage.

* Where mutually agreed it acceptable to extend this time period, when circumstances demand (eg when the manager concerned is on annual leave, or where further information is needed etc)

1. INTRODUCTION

The Grievance Procedure enables a member of staff to raise an issue and for it to be dealt with fairly, quickly, and as closely as possible to the point of origin before it becomes a major issue.

There is also an expectation that staff will exhaust internal procedures before approaching an Employment Tribunal to resolve an issue.

Grievances are generally best dealt with on a day to day basis between the member of staff and their immediate manager.

If grievances cannot be resolved informally, this document lays down the procedure to be used and the rights that employees have in order that their concerns are addressed.

This Procedure complies with the ACAS 2009 Code of Practice on Discipline and Grievance.

2. SCOPE OF THE PROCEDURE

A grievance may arise when an individual disagrees with:

- the interpretation of their terms and conditions of employment
- application or interpretation of conditions of service
- working conditions or practices
- issues of unfair treatment.

A member of staff cannot raise a grievance specifically on conditions of service, the grievance can only be raised on how the conditions of service were applied or interpreted in relation to that person.

Where there is a disciplinary investigation underway, subsequent action will not normally be interrupted or delayed by the presentation of a grievance or claim of bullying and harassment. If the grievance is related to the disciplinary case the manager hearing the case will investigate and hear the grievance as part of the disciplinary process

This procedure is not intended to be used to:

- Challenge the outcome of the Disciplinary Procedure – this will be addressed through the appeals process in the Disciplinary Procedure.
- Raise issues regarding colleagues – in the first instance these should be raised with the appropriate manager.
- Address harassment, including intimidation and bullying - these must be addressed under the Trust's Harassment and Bullying Policy.
- Resolve disputes arising out of the Trust's Negotiating Forum - these need to be addressed under the procedure outlined in the Social Partnership Agreement.

- Address matters which would require the amendment of established policies, procedures or agreed terms and conditions of employment.

It may be appropriate, by mutual agreement, to omit the informal stage of the procedure for a speedy resolution. For example if a grievance is directed at the manager who would normally be destined to hear that grievance, then it may be appropriate that the issue is referred to Stage 2 (formal meeting)

Status quo may remain in some cases until all procedural means to find a solution are exhausted. Please seek advice from an Human Resources Advisor

3. RIGHT OF REPRESENTATION

The Trust recognises the important role that staff side organisations have in representing employees and that this support enables employees to bring forward concerns regarding workplace issues.

Staff may be represented at all levels of the procedure by an accredited representative of their trade union, by an official employed by a trade union, or by a fellow worker not acting in a legal capacity. However, it would be unusual for an individual to be accompanied at the Informal Meeting Stage 1. There may be circumstances however, when a representative may help clarify the member of staff's thoughts and help take the heat out of the situation. On these occasions the manager is advised they may have the support of a Human Resources Representative if they require it, but that this depends on the circumstances.

At the other stages of the procedure, it is usual that a member of staff is offered the opportunity to be represented by trade union representative, or by a fellow worker not acting in a legal capacity.

The employee should be informed of their right to representation prior to any formal meeting convened under this procedure.

If the manager does not know the person accompanying the individual they must clarify who they are and ensure they meet the above criteria.

4. GENERAL POINTS

- All staff should be aware of this procedure and have access to a copy when needed.
- The table at the beginning of the document summarises the steps in the Procedure. Important points to note are; the imposed timescale, and the different stages a grievance can pass through.
- Due to the nature of the services provided by the Trust, the levels of management available will vary from unit to unit. As a guide to the appropriate level a grievance is heard, reference should usually be made to the last stage,

Stage 3. This is the Appeal stage and would usually be heard by a Deputy Director or above.

- A Human Resources Representative will be a fully participating member of the grievance meeting at Stages 2 and 3, (also if a representative is present at Stage 1). Their role will be to advise on procedure and consistency of approach, as well as advising the Manager/Director on good employment practices to enable a decision to be reached.
- The Manager/Director at their discretion may also include another manager on the panel if this manager is able to bring expertise that may help to try and resolve the issue.
- If the stages in the procedure cannot be followed rigidly for any reason (such as the next step manager being implicated in grievance), the following will apply
- Stage 1 informal – the grievance will be referred to stage 2 (formal meeting)
- Stage 2 If the manager is implicated it can be heard by an independent manager from within or external to the BDU or a more senior manager
- Stage 3 if the Deputy Director or Director are implicated it may be heard by another Deputy Director or Director from outside the BDU or corporate service.
- Managers **must** give a high priority to the resolution of grievances.
- It is essential that all the parties involved, are available to resolve the grievance. On occasion, it may be necessary to extend time scales and these may be extended by mutual agreement.

5. INDIVIDUAL GRIEVANCES – STAGES

Informal Meeting - Stage 1

- This is designed to be the initial opportunity to resolve the matter quickly between the member of staff and their immediate manager in a straight forward uncomplicated way. It is recognised that it is usually easier to resolve issues without the involvement of other parties.
- In the first instance, a grievance should be discussed with the member of staff's immediate supervisor (or manager). Where the immediate supervisor is the source of the grievance, the member of staff may instead approach the next level of management with the grievance.
- A member of staff must make it clear that they wish to raise their issue under the grievance procedure.

- The grievance can initially be raised orally and then followed up in writing.
- The meeting will be held in an open way to encourage all the issues to be aired and discussed. This is to enable a full understanding of the facts to be reached in order to aid resolving the issue.
- If it is necessary to involve a witness to clarify points/issues they may also be involved in the meeting as appropriate or spoken to outside of the meeting by the manager to ascertain the facts prior to reaching an outcome. The manager should keep notes of the grievance and outcome, in case the grievance needs clarification in the future.
- It would be unusual for a member of staff to be represented at the informal meeting, however, the right of representation will not be unreasonably refused.
- A response from the immediate supervisor (or manager) should normally be given within **5 working days**, together with the right to refer the matter to the next stage of the procedure. For complex or detailed information, this response time may be extended to **15 working days**. Should this be the case, the immediate supervisor (or manager) will set out the reasons for the extended timescale.

Formal Meeting – Stage 2

- Issues that cannot be resolved at the informal meeting (stage 1), will move to Stage 2.
- The complainant should refer their grievance to the next appropriate level of manager, and this must be done within **5 working days** of receipt of the written notification of the decision from stage 1.
- The complainant will detail the nature of their grievance in a clear written statement of their case, on the proforma at Appendix 1, together with any supporting documentation. This proforma will also be completed by the immediate supervisor (or manager) who heard the grievance at the Informal Meeting (Stage 1).
- On receipt of the completed proforma, the next level manager will arrange a meeting to discuss the matter within **5 working days**, unless it is mutually agreed to delay the meeting. Meetings should not be delayed unless there are pressing reasons for doing so. eg where there needs to be a fact finding exercise to clarify aspects of the grievance.
- Employees may be represented at the Formal Meeting (Stage 2).
- Any fact finding exercise into the grievance should normally be completed within **10 working days**, unless this is not reasonably practical.

- Where possible a decision following the Stage 2 meeting will be given to the employee orally after the meeting. Whether or not the decision is given orally, it will be confirmed in writing within **5 working days**.
- This will contain the right to refer the matter to the Appeal Meeting (Stage 3) and how the member of staff can exercise that right; should that be necessary.

This meeting is in practice run like a hearing process where an employee presents their grievance and then the manager responds and clarifies allowing questions from all.

Grievance Appeal Meeting - Stage 3 (Final Stage)

- This is the final stage of the Procedure to be used when a member of staff remains dissatisfied following Stage 1 and 2.
- A request to refer the grievance to Appeal (Stage 3) must be made in writing to the appropriate Deputy Director/Director within **5 working days** of the receipt of the written notification following completion of the Stage 2 Meeting.
- The request will clearly indicate the nature of the grievance and the measures taken so far to resolve it along with any documentation and paperwork used so far.
- It must also detail the reasons why the individual still feels the grievance remains unresolved.
- The Grievance Appeal Meeting will be heard without undue delay and usually within **15 working days** of receipt of the appeal letter.
- It is appreciated that arranging grievance meetings can be difficult for both sides due to their prior diary commitments. However it is a principle that in dealing with grievances, there needs to be forward momentum from both sides in working towards resolving the issues without unnecessary delays.
- The employee will be given **10 working days** notice in writing of the date of the Grievance Appeal Meeting.

The Chair of the panel at Stage 2, will present the management case supported by the HR Representative.

- Management Side should produce a management statement of case which will include:
 - ✓ A new summary of case
 - ✓ The outcome letter from the Stage 2 Meeting
 - ✓ The notes of the Stage 2 Meeting
 - ✓ All other documents used in the Stage 2 Meeting

- The management pack will be sent to the HR Representative **5 working days** before the Stage 3 Meeting along with the names of any witnesses.
- The employee or their representative must submit full information about their grievance to the HR Representative on the panel, a minimum of **5 working days** before the date of the Stage 3 meeting along with the name of their representative and any witnesses they wish to attend.
- The HR Representative will ensure that the packs are then exchanged between the manager and the member of staff.
- Should either party believe that new evidence has come to light which may help resolve the grievance, this can be submitted as part of their case a minimum of **5 working days** before the date of the meeting. It is the responsibility of both parties to highlight to the panel where evidence submitted is new. The panel will then decide if this information is relevant to the appeal.
- The employee must be given an opportunity to be accompanied to the meeting by a Trade Union Representative or a fellow worker.
- The employee's representative may present the employee's case on their behalf but cannot answer any questions on their behalf.
- The Grievance Appeal Meeting will be conducted as outlined in Appendix 3. It will be for the panel members, after listening to both cases, to consider the information presented and focus on what can be done to resolve the matter. The final decision regarding the outcome of the appeal will however rest with the Director. The Director may adjourn the meeting if it becomes clear that further evidence, or clarification of points is needed before a decision can be made regarding the grievance.
- This represents the final stage of the procedure.
- A summary of the Grievance Appeal Meeting is given at Appendix 3.

Outcome of the Grievance Appeal Meeting - Stage 3

- The outcome of the Grievance Appeal will be communicated verbally to the employee wherever possible. This will consist of:
 - ✓ A summary of findings
 - ✓ What action has been taken
 - ✓ The reason for the action taken
- A comprehensive written outcome should be sent to the employee within 10 working days of the date of the decision.
- There is no further right to appeal the outcome of this decision

6. COLLECTIVE GRIEVANCES

Where a group of employees have a collective grievance, the procedure will follow the same stages outlined for individual grievances. The stage at which it commences will be appropriate to the nature of the grievance and the authority of the manager or managers, to resolve the issue.

For collective grievances it may be necessary to have 1 or 2 representatives of the whole group with the same grievance.

If there are slight differences in their collective grievance, then individual hearings may take place.

ACAS may be approached at any stage, by agreement of both the parties, in order to assist in resolving the collective grievance. ACAS will operate in a conciliatory role and attempt to resolve the collective grievance.

Should ACAS recommend that an independent panel is set up, or other steps proposed, in order to aid resolution of the matter, the recommendations will be followed, subject to agreement by both parties.

Both parties to the collective grievance will give full consideration to the final recommendations made by ACAS, with a view to seeking a mutually satisfactory solution.

7. MONITORING THE EFFECTIVENESS OF THIS PROCEDURE

The Director of Human Resources, Organisational Development and Estates will ensure that a process is in place to monitor effectiveness of this procedure. This will include:

- Ensuring that the Human Resources Department maintain a central database on the ESR system of all formal grievances and the outcomes.

8. EQUALITY IMPACT ASSESSMENT

The equality impact assessment has been made and can be viewed at Appendix 4

9. VERSION CONTROL

See Version Control Sheet at Appendix 5

GRIEVANCE NOTIFICATION FORM

1. Name 2. Post Title

3. Service/Directorate/BDU
.....

4. Location 5. Immediate manager.....

6. Details of the Grievance - please simply describe the main elements of your grievance.
.....
.....
.....
.....
..... (please continue on a separate piece of paper if necessary)

7. Desired Outcome (What outcome are you hoping to achieve?)
.....
.....
.....
.....

Signature of Employee..... Date

8. **Details from the informal meeting stage**

- Date request raised:..... Date of the informal stage meeting:

- Details of the outcome/Attempts to resolve the issue

.....

.....

.....

.....

.....

- Manager(s) involved in the informal meeting stage

.....

.....

Signature of manager

Date

Guidance on Organising a Formal Stage 2 or 3 Meeting

Listed below are some points to bear in mind when considering or undertaking an interview with a member of staff who feels aggrieved:

Purpose of the meeting

- To enable an employee to air their complaint(s)
- To identify and resolve the causes of dissatisfaction
- To reduce tension in working relationships
- To improve communications and understanding

Preparation for the meeting

It is essential to collect any background information that is available: eg

- Job description
- Personal file
- Grievance Notification Form
- Grievance Procedure
- Supporting documentation, letters, contract etc, relevant to the grievance
- Details of previous grievances which are similar (and subsequent outcome) if available

It is also important to note the details of the grievance procedure:

- The limits of the manager's responsibility
- The rights of the employee to representation
- The subsequent stages in the procedure if the grievance is unresolved

Planning the meeting

- Has reasonable notice been given?
- Timing – how urgent is it?
- How long will the the meeting take?
- Who will participate?
- Where will it take place?

The Structure of the Meeting

- Treat the grievance sensitively, seriously and not defensively
- Listen to the grievance
- Ask what would resolve the grievance for the individual

- Give consideration to the other persons perspective
- Summarise and re-state the grievance in your own words, to ensure your understanding
- Give your interpretation of the facts, to put them into perspective
- Explain any progress already made in resolving the cause of the grievance
- Explain what should be done, this may involve seeking advice on the matter
- Explain the reasons for your own actions
- Take and keep notes
- Be aware it is counterproductive to belittle or evade the grievance

Closing the Meeting

- Check that you understand the facts of the grievance (it should be written down. preferably on the Grievance Notification Form Appendix 1).
- Summarise the main points of the grievance
- Adjourn the meeting to consider your decision
- Identify and agree the proposed action:
 - *Grievance resolved:* Check with the employee the agreed action/outcome and that the grievance is resolved (confirm in writing)
 - *Grievance adjourned:* If the meeting is adjourned, agree a timescale for provision of progress reports and ensure you remain within procedural time limits, confirm this in writing
 - *Grievance unresolved:* Confirm decision in writing and advise of right to go to next stage if the individual wishes to do so

After the meeting

Ensure notification of the decision is confirmed in writing within 5 working days.

Undertake any actions agreed promptly

PROCEDURE FOR STAGE 3 GRIEVANCE APPEAL MEETINGS

During the procedure either party may request a short adjournment at any stage and this will not be unreasonably refused.

1. All parties including panel members will be introduced to each other and a brief outline of the proceedings given by the Chair of the panel.
2. The employee and/or, their representative will present their grievance case and call any witnesses.
3. The Management Representative and HR representative will have the opportunity to question the employee and their witnesses.
4. The members of the panel will have the opportunity to question the employee and their witnesses.
5. At this stage a witness may be released or asked to remain available should the panel or either party feel that further questions or clarification may be required later in the grievance meeting.
6. The Management Representative supported by the HR representative will present their case and call any witnesses.
7. The employee and/or their representative will have the opportunity to question the Managing Representative, and his/her witnesses.
8. The members of the panel will have the opportunity to question the Management Representative and their witnesses.
9. At this stage a witness may be released or asked to remain available should the panel or either party feel that further questions or clarification may be required later in the grievance meeting.
10. Nothing in the foregoing procedure will prevent the panel from inviting either party or representative to describe or clarify any statement they have made.
11. Should the panel believe that further investigation or evidence is required, then an adjournment may be called to enable this to take place. The meeting will be reconvened as soon as practicably possible.
12. The panel will reconvene to announce their decision to both parties verbally where possible. In any event the individual will be notified of the decision in writing within seven working days of the decision being made.

EQUALITY IMPACT ASSESSMENT

Date of Assessment: February 2017

	Equality Impact Assessment Questions:		Evidence based Answers & Actions:
1	Name of the document that you are Equality Impact Assessing		Policy for combined Grievance, Collective Grievance Procedure and Guidance
2	Describe the overall aim of your document and context? Who will benefit from this policy/procedure/strategy?		The overall aim of the policy is to manage grievances and collective grievances in a fair and consistent manner in line with employment legislation. All staff
3	Who is the overall lead for this assessment?		Human Resources
4	Who else was involved in conducting this assessment?		The Employment policy Group consisting of Management, Staff Side and HR
5	Have you involved and consulted service users, carers, and staff in developing this policy/procedure/strategy? What did you find out and how have you used this information?		Staff side organisations represented staff's views N/A
6	What equality data have you used to inform this equality impact assessment?		Data recorded on HR records relating to any formal grievances that have been made. The data revealed very small numbers of formal grievances so no meaningful conclusions could be drawn from it.
7	What does this data say?		N/A
8	Taking into account the information gathered above, could this policy /procedure/strategy affect any of the following equality group unfavourably:	Yes/No	Evidence based answers & actions. Where negative impact has been identified please explain what action you will take to remove or mitigate this impact.
8.1	Race	No	N/A
8.2	Disability	No	N/A
8.3	Gender	No	N/A

	Equality Impact Assessment Questions:		Evidence based Answers & Actions:
8.4	Age	No	N/A
8.5	Sexual orientation	No	N/A
8.6	Religion or belief	No	N/A
8.7	Transgender	No	N/A
8.8	Maternity & Pregnancy	No	N/A
8.9	Marriage & Civil partnerships	No	N/A
8.10	Carers*Our Trust requirement*	No	N/A
9	What monitoring arrangements are you implementing or already have in place to ensure that this policy/procedure/strategy:-		This policy aims to manage any grievances or collective grievances across the trust and applies equally to all staff and should have no adverse effect on staff with protected characteristics. It will continue to be monitored in line with protected characteristics.
9a	Promotes equality of opportunity for people who share the above protected characteristics;		As above.
9b	Eliminates discrimination, harassment and bullying for people who share the above protected characteristics;		As above.
9c	Promotes good relations between different equality groups;		As above.
9d	Public Sector Equality Duty – “Due Regard”		As above.
10	Have you developed an Action Plan arising from this assessment?		N/A
11	Assessment/Action Plan approved by document and will be published on the web. Failing to complete an EIA could expose the Trust to future legal challenge.		Signed: Date: Title:
12	Once approved, you <u>must</u> forward a copy of this Assessment/Action Plan to the partnerships team: partnerships@swyt.nhs.uk Please note that the EIA is a public		

	Equality Impact Assessment Questions:	Evidence based Answers & Actions:
	document and will be published on the web. Failing to complete an EIA could expose the Trust to future legal challenge.	

