

**Joint Policy for Cumbria Partnership NHS Foundation Trust &
North Cumbria University Hospitals NHS Trust**

Grievance Policy & Procedure

Reference	POL/WOR/021
Version	1.0
Date Ratified	26/02/2019
Next Review Date	28/02/2022
Accountable Director	Director of Workforce & OD
Policy Author	HR Business Partners, HR Managers, HR Advisors

Please note that the Intranet / internet Policy web page version of this document is the only version that is maintained.

Any printed copies or copies held on any other web page should therefore be viewed as “uncontrolled” and as such, may not necessarily contain the latest updates and amendments.

Data Protection Legislation

The Trust(s) are committed fully to compliance with the requirements of the General Data Protection Regulations (GDPR) 2016 and the Data Protection Act (DPA) 2018. The GDPR and DPA legislation aims to balance the requirements of organisations to collect, store and manage various types of personal data in order to provide their services, with the privacy rights of the individual about whom the data is held.

The GDPR and DPA legislation covers both manual and computerised records in any format, where the record contains details that can identify, directly or indirectly data on a natural person or persons. The DPA sets out principles which must be followed by those who process data; it gives rights to those whose data is being processed.

Policy On A Page

SUMMARY & AIM

- The aim of this procedure is to provide a process to deal with employee's grievances fairly, consistently and speedily.
- Promoting a supportive working environment whereby employees can bring forward concerns for resolution in an effective and timely manner.
- In order to support early resolution of a grievance, facilitated discussion or mediation can be used at any stage of the procedure with the agreement of both parties

TARGET AUDIENCE:

- All Trust employees, as well as locums, agency staff and volunteers.

TRAINING:

- A Toolkit for Managers (including standard letters and 'How to Guides') is available on the HR section of the Trusts intranets. Support will be provided by HR to managers implementing this policy and procedure where required.
- People Management Training (PMP) is available to Line Managers.

KEY REQUIREMENTS

INFORMAL RESOLUTION OF CONCERNS

- It is preferable for all concerned that concerns/complaints are dealt with informally whenever possible.
- Where appropriate, a manager can use facilitated discussion and/or mediation to try and resolve an employee issue informally.

FORMAL PROCESS

- If it is not possible to resolve the grievance informally the matter may be dealt with formally and the employee should complete the 'Notification of Grievance Form'.
- Depending upon the circumstances, the manager may decide it is necessary for a formal investigation to take place and will in this situation appoint an investigating officer.

RIGHT OF APPEAL

- If the employee remains dissatisfied with the outcome of the formal process, they are entitled to appeal.

OTHER KEY REQUIREMENTS

- Employees have the right to be accompanied to a formal grievance meeting by a trade union representative or work colleague.
- Support available to all parties includes: occupational health, the Trusts employee assistance programme, trade union representative, HR representative, line manager.
- During and following any informal or formal processes every effort must be made by all parties to maintain confidentiality.

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SUMMARY FLOWCHART:**Informal Stage**

- Complaint raised with immediate line manager (or next level manager if concern about immediate manager)
- Manager arranges to meet with employee
- Manager to consider use of facilitated discussion and/or mediation to resolve issue as required
- Outcome confirmed in writing to employee

Grievance not resolved to
employee's satisfaction

**Formal Stage**

- Employee completes 'Notification of Grievance' Form (appendix 2)
- An appropriate manager who is not the subject of the grievance meets with employee to allow grievance to be explained and desired outcome discussed
- Investigating officer appointed. Investigation Report submitted to manager with whom the concerns were formally raised for decision **OR**
- Fact finding completed by manager
- Outcome verbally and in writing to employee

Grievance not resolved to
employee's satisfaction

**Appeal**

- Employee has right of appeal (in writing) within 14 calendar days of date of outcome letter
- Appeal hearing arranged
- Outcome confirmed in writing to employee
- End of grievance process

1. INTRODUCTION

Cumbria Partnership NHS Foundation Trust and North Cumbria University Hospitals NHS Trust (the Trusts) are committed to promoting a supportive working environment whereby employees can bring forward concerns for resolution in an effective and timely manner.

The details contained within this policy are compliant with employment law, best practice and the Trusts values.

This Policy takes into account the ACAS Statutory Code of Practice on Disciplinary and Grievance.

A Managers Toolkit (including 'How to Guides' and template letters) is available to assist managers in using this policy and procedure and can be found on the HR section of the Trusts Intranets.

2. PURPOSE

This Policy sets out a process to deal with employee's grievances fairly, consistently and speedily and details the support available.

Furthermore the policy aims to:

- promote a supportive working environment and prevent acts of discrimination, unfair treatment and other negative behaviours
- demonstrate commitment to equal opportunities

3. POLICY DETAILS

This policy applies to all Trust employees, as well as locums, agency staff and volunteers.

Grievances are concerns, problems or complaints that employees raise with their employers about their employment they may for example relate to terms and conditions, working practices.

This Policy will not apply to disputes which relate to matters which have been addressed through another Trust Policy/Procedure. For concerns relating to relationships with colleagues, including bullying and harassment please refer to the Trusts Dignity at Work policy.

All grievances must be raised within 3 months of the incident/concern unless there are exceptional circumstances preventing this (e.g. an ongoing issue).

3.1 Right to be Accompanied

The employee will be given at least 7 calendar days' notice in writing that they are required to attend a formal meeting and may choose to be accompanied by a Trade Union representative or work colleague.

It is the employee's responsibility to arrange Trade Union representative or work colleague support.

The employee should inform the Trust as soon as possible if their Trade Union representative cannot attend the meeting on the scheduled date. The employee may offer an alternative date within 7 calendar days when both they and their representative can attend.

3.2 Support and Confidentiality

Support available to all parties includes: Occupational Health, the Trusts Employee Assistance Programme which is a confidential telephone helpline providing counselling, information, signposting and support 24 hours a day (further details can be found in the Toolkit), Trade Union representatives, HR representatives and line managers.

During and following any informal or formal processes every effort must be made by all parties to maintain confidentiality. All employees involved with the investigation and any subsequent process are required to respect the need for confidentiality. In the context of such cases confidentiality means information only being divulged to other parties on a strict 'need to know' basis.

In certain circumstances where the allegation may place the complainant, another person, or the Trusts at risk, it may not be possible to maintain confidentiality. In such circumstances the person dealing with the details of the complaint will have a duty to advise the complainant of this and take further appropriate action.

A Human Resources representative must be consulted in advance of any such actions being taken.

3.3 Collective Grievances

Where a group of employees are aggrieved about an issue which affects them all, the grievance will be presented by no more than two employees at the formal grievance meeting. It must be clarified at the time of lodging the collective grievance on whose behalf it is being raised (individual employees must be named and must sign to show their agreement). The final outcome will be binding on all employees raising the collective grievance. The manager dealing with the grievance will therefore not hear each employee's case separately.

3.4 Informal Resolution

It is preferable for all concerned that concerns/complaints are dealt with informally whenever possible.

The employee, or their representative, should raise their concerns promptly with their immediate line manager either verbally or in writing and aim to reach a solution that is acceptable to all parties. If the concerns are about their immediate line manager then the employee should approach the next level of management.

The manager with whom the concerns are raised will arrange to meet with the employee as soon as reasonably practicable following receipt of the request.

See Template 'How to Guide' in the toolkit for guidance on conducting an informal grievance meeting.

Where appropriate, a manager can use facilitated discussion and/or mediation to try and resolve an employee issue informally where all parties are in agreement (see section 3.5 for further details).

The manager will keep a record of the meeting and will confirm the outcome in writing to the employee (see Template letter in the Toolkit) as soon as reasonably practical. If the grievance is resolved informally the matter is concluded.

Only in cases where informal local resolution cannot be found and facilitated discussion/mediation is not seen as viable should the formal grievance process commence. Only in exceptional circumstances, may it be appropriate to commence the formal procedure from the outset.

3.5 Facilitated Discussion and Mediation

Where appropriate, in order to support early resolution of a grievance a manager can use facilitated discussion and/or mediation to try and resolve an employee issue. These can be used at any stage of the procedure with the agreement of both parties.

Facilitated Discussion

Facilitated discussion is a powerful tool that can be used to resolve issues. During a discussion a facilitator will guide those involved through a meeting whilst keeping in mind the reason for the meeting and what the individuals within the attending group are hoping to achieve. A facilitator provides processes for thinking about an issue, creating effective participation and identifying strategies for building solutions. An effective facilitator will:

- Ensure all participants have their say
- Prevent someone from dominating the discussion
- Aim to ensure all topics are discussed
- Emphasise group ownership of the issue
- Affirm that there are no wrong answers

A facilitated meeting is a private and confidential meeting which can be arranged to help the parties explore the concerns and seek a resolution. Managers who wish to take advantage of using facilitated discussion can approach another manager within the Trusts who has the skills required to hold a facilitated meeting.

If a manager wishes to seek advice on which people within the Trusts have the necessary skills to hold a facilitated discussion, they may contact Human Resources.

Mediation

In some cases it can be helpful to involve an independent third party to help resolve the problem by way of mediation. Mediation is a voluntary structured process where an impartial third party helps two or more people in a dispute in an attempt to reach an agreement. Mediation is a reasonable management request but cannot be imposed on anyone and if used at the informal stage it does not prevent an employee from pursuing the formal grievance route. The Trust encourages all parties to participate in some form of mediation where it is felt appropriate. The mediator facilitates the process of seeking to resolve the problem but not the outcome of a grievance. Where it is felt necessary to follow the mediation process, this must be implemented as soon as possible to hasten resolution; further detail regarding mediation can be found in Appendix 1.

3.6 Formal Process

If it is not possible to resolve the grievance informally the matter may be dealt with formally and the employee should complete the Notification of Grievance Form (see Appendix 2). This should be raised within 14 calendar days of the date of the informal stage outcome. The Notification of Grievance Forms are also contained within the toolkit.

The employee's grievance will be acknowledged in writing as soon as reasonably practical (see Template letter in the Toolkit) and an appropriate manager who is not the subject of the grievance will arrange to meet with the employee who will be given opportunity to explain their grievance and how they think it should be resolved. See Template 'How to Guide' in the Toolkit for guidance on conducting a formal grievance meeting. Depending upon the circumstances, the manager may decide it is necessary for a formal investigation to take place and will in this situation appoint an investigating officer. An HR representative will support this process. However, in most cases it will be possible for the manager to carry out a fact finding exercise to reach an outcome in relation to the concerns raised without the need for a formal investigation.

In certain circumstances it may be necessary to interview other relevant parties and/or gather additional information in order to be able to resolve the grievance. The nature of the complaint will be shared with relevant parties involved. All involved parties should be reminded of the need for confidentiality. The manager will arrange for notes to be taken during all such interviews, a copy of which will be shared with the individual(s) for their comments.

In cases where an investigating officer has been appointed they will collate all information collected during the investigation and prepare a report detailing the findings. This will be submitted to the manager with whom the concerns were formally raised for a decision on any action the Trust should take in order to

resolve the grievance. A report will not be necessary in cases where there was no investigating officer appointed.

The investigation or fact finding exercise will be completed as soon as reasonably practical.

In all cases the individual raising the concern(s) will be invited to a meeting to receive feedback on the outcome of the complaint raised. The outcome will also be confirmed in writing (see Template letter in the Toolkit).

If the employee remains dissatisfied, they are entitled to appeal. Details of the appeal procedure are contained in section 3.7.

3.7 Appeals Procedure

If the employee remains dissatisfied, they are entitled to appeal. The appeal must be submitted in writing to the Director of Workforce and OD within 14 calendar days of the date of the letter confirming the outcome, clearly stating the grounds for their appeal. Receipt of the appeal will be acknowledged in writing as soon as reasonably practical (see Template letter in Toolkit).

An Appeal Hearing will be arranged as soon as reasonably practicable. Arrangements for the Appeal Hearing will be confirmed in writing to the employee (see Template letter in the Toolkit). The appeal will be heard by an appropriate level of Manager, who has not previously been involved in the process, and a Human Resources representative. See Template 'How to Guide' in the Toolkit for guidance on conducting an Appeal Hearing.

The appeal process is not an opportunity for a re-hearing of the original submission but to consider the grounds of the employee's appeal e.g. this could be to determine if the previous decision was fair, to consider any new facts and decide on the reasonableness of the procedure to date.

The Chair of the Appeal Panel will confirm the decision in writing to the employee within 7 calendar days of the Hearing or as soon as reasonably practicable (see Template letter in Toolkit). The decision of the Appeal Panel is final.

The Appeal Hearing is the final stage of the Formal Grievance Procedure.

3.8 Record Keeping

The responsible manager must ensure that all copies of written proceedings, statements and records are forwarded to the HR department for retention.

3.9 Status Quo

Previous working arrangements will apply whilst the grievance is resolved or the standard procedure exhausted; however there could be occasions when, because of the Trust's responsibilities, particularly in relation to legislation, professional accountability, service provision or the safety and welfare of patients or staff that the status quo may not be possible. In these circumstances the Senior Manager of

the service must decide whether previous working arrangements will remain in place or new working arrangements will apply. This will be clearly communicated to the employee.

4. TRAINING AND SUPPORT

For training on management of the grievance procedure please refer to the People Management Training Programme.

A Toolkit for Managers (including standard letters and 'How to Guides') is available on the HR section of the Trusts intranets. Support will be provided by HR to managers implementing this policy and procedure where required.

5. PROCESS FOR MONITORING COMPLIANCE

The process for monitoring compliance with the effectiveness of this policy is as follows:

Aspect being monitored	Monitoring Methodology	Reporting		
		Presented by	Committee	Frequency
The policy is being utilised to support staff with concerns about their employment Compliance with timescales for each stage of the Grievance procedure	HR ER Tracker KPI reports on number of grievances raised Progress against timescales for each grievance raised	HRBP	Workforce and OD SMT	Annually
Effectiveness of this policy in eliminating/keeping risks to a minimum	Anonymised reports on grievances raised including reasons, timescales and outcomes	HRBP	Workforce and OD SMT	Annually

Wherever the above monitoring has identified deficiencies, the following must be in place:

- Action plan

- Progress of action plan monitored by the Workforce and OD SMT minutes
- Risks will be considered for inclusion in the appropriate risk registers

6. REFERENCES:

ACAS Code of Practice on Disciplinary and Grievance Procedures, March 2015
www.acas.org.uk

The Health and Safety at Work etc, Act. 1974. London: The Stationery Office.
 Available at: www.opsi.gov.uk

Information on the *Equality Act 2010* is available from the Equality and Human Rights Commission at www.equalityhumanrights.com

Employment Rights Act 1996, London: The Stationery Office. Available at:
www.opsi.gov.uk

Data Protection Act 2018
<https://www.gov.uk/government/collections/data-protection-act-2018>

Employment Relations Act 1999, London: The Stationery Office. Available at:
www.opsi.gov.uk

7. CURRENT ASSOCIATED DOCUMENTATION

NCUHT

Probationary Period Policy &
 Procedure (Non-Medical)
 Raising Concerns (Whistleblowing)
 Policy
 Equal Opportunities in
 Employment Policy
 Conduct, Capability, Ill Health and
 Appeals Policies and Procedures
 For Practitioners

CPFT

Whistleblowing Policy
 Equality and Diversity Policy
 Disciplinary and Capability Policy
 for Medical and Dental Staff

JOINT

Joint Disciplinary Policy
 Joint Capability Policy and Procedure
 Joint Dignity at Work Policy

8. DUTIES (ROLES & RESPONSIBILITIES):

8.1 Chief Executive / Trust Board Responsibilities:

The Chief Executive and Trust Board jointly have overall responsibility for the strategic and operational management of the Trust, including ensuring that Trust policies comply with all legal, statutory and good practice requirements.

8.2 Executive Director Responsibilities:

All policies have a designated Executive Director (for this policy it is the Director of Workforce & Organisational Development) and it is their responsibility to be involved in the development and sign off of the policies, this should ensure that Trust policies meet statutory legislation and guidance where appropriate. They must ensure the policies are kept up to date by the relevant author and approved at the appropriate committee.

8.3 Managers Responsibilities:

Line managers are responsible for ensuring effective and consistent application of this policy and in supporting employees in its use. Line managers must attempt to deal with issues sensitively and without undue delay.

8.4 Staff Responsibilities:

All staff are responsible for ensuring that they comply fully with this policy.

8.5 Human Resources Team:

HR will provide advice and support on the application of this policy.

8.6 Trade Union Representatives:

Trade Union Representatives will advise and support employees in the use of this policy and will work in partnership with managers.

8.7 Joint Partnership Forum Responsibilities:

The Chair of the Joint Partnership Forum will ensure the policy approval is documented in the final section of the Checklist for Policy Changes. The committee will agree the approval of the final draft of the policy.

9. ABBREVIATIONS / DEFINITION OF TERMS USED

ABBREVIATION	DEFINITION
ACAS	Advisory, Conciliation and Arbitration Service
HR	Human Resources
OD	Organisational Development

APPENDIX 1 - MEDIATION

Mediation is a confidential and voluntary process which brings together employees who are experiencing problems in a work related relationship.

Mediation is a structured process using an impartial mediator to facilitate communication between two or more parties to help them understand one another and to begin to think about a mutually acceptable resolution to their differences. It is an alternative method of improving workplace relationships by encouraging both parties to actively seek a solution to their differences and agree effective ways of working together for the future.

Mediation is likely to be effective when:

- both parties are willing to work together to resolve their differences
- there is potential for an improvement in working relationship
- no serious breach of workplace policies or procedures have occurred

Mediation distinguishes itself from other approaches to conflict resolution as it is less formal, flexible, voluntary, voluntary binding, with generally no legal status, and owned by the parties involved. Mediation is regarded as a reasonable management request to resolve differences but cannot be imposed on anyone.

Who may mediate?

Individuals who have undergone formal training in mediation. Mediators offer a service and structured process that can help resolve conflict at an early stage. Mediators do not advise or impose their own views, they help people to communicate with each other.

Confidentiality:

Mediation is a confidential process, carried out in a confidential setting, as such it is inappropriate for additional parties to accompany the staff members. A mediator will seek to gain agreement from all parties on this issue before proceeding with mediation. However, in exceptional circumstances it may be necessary to allow a third party to the first meeting only in order to alleviate any concerns about the mediation process.

The Five Stages of Workplace Mediation:

1. Referral to manager
2. Making contact and gathering information
3. Pre-mediation meetings with each party
4. Direct mediation (joint meeting)
5. Agreement – closing the case

APPENDIX 2 – NOTIFICATION OF FORMAL GRIEVANCE FORM

NOTIFICATION OF FORMAL GRIEVANCE FORM	
<p>This form is intended for use by any employee who wants to make a <i>formal</i> complaint about a workplace issue. If the matter relates to alleged bullying and/or harassment then the please refer to the Dignity at Work Policy.</p>	
Employee's name:	
Employee's job title:	
Employee's department:	
Location:	
Does your grievance relate to your line manager?	Yes/No
Informal stage dealt with by (manager's name):	
Date informal stage completed:	
PLEASE ATTACH OUTCOME LETTER FROM INFORMAL STAGE (WHERE APPROPRIATE)	
Summary of complaint:	
<p>I have discussed my grievance at the Informal Stage of the Grievance Procedure. I remain aggrieved and in accordance with the Grievance Procedure, I now wish to raise this matter at the formal stage of the procedure, and outline the situation as follows:</p>	
<p>Please provide as much information as you can about the problem to enable your grievance to be settled as quickly as possible (if you have any additional documentation please provide this). (Please use additional sheets of paper if necessary and attach them securely to this form).</p>	

Outcome Desired:			
Please describe how you would like your grievance to be resolved (what is your desired outcome from the process):			
Declaration:			
I confirm that the above statements are true to the best of my knowledge, information and belief. I understand that making any false, malicious or untrue allegations may result in disciplinary action being taken against me by the Trust.			
Employee signature:		Date:	

Please send this completed form to the next level manager, copying in your trade union if desired. If you are unsure who to send it to your Trade Union Representative or the Human Resources Department will be able to advise you.

A copy should also be sent to the HR department.

For completion by the HR department:	
Date form received by HR:	
Name of recipient:	
Entered onto tracker:	

DOCUMENT CONTROL

Equality Impact Assessment Date	19 December 2018
Sub-Committee & Approval Date	Joint Partnership Forum 6/2/19

History of previous published versions of this document:

Trust	Version	Ratified Date	Review Date	Date Published	Disposal Date
CPFT POL/004/00 2	Oct 2017	Oct 2017	Oct 2019	Oct 2017	N/A
NCUH REF:HR20	4.0	23/6/16	Jan 2019	25/7/16	N/A

Statement of changes made from previous version - NCUH HR20 v4 and CPFT POL/004/002

Version	Date	Section & Description of change
1.0	27/02/2019	<ul style="list-style-type: none"> PMG amendments prior to publication Section 8, approving committee to be specified Section 9, sort in alphabetical order
CPFT POL/004/002	Oct 2017	<ul style="list-style-type: none"> Policy previously incorporated Dignity at Work – this has been moved into a separate policy. The process for raising concerns relating to bullying and harassment now included in separate Dignity at Work Policy
		<ul style="list-style-type: none"> Format changed in line with Joint Policy Template
		<ul style="list-style-type: none"> Front Page GDPR guidance (new) included
		<ul style="list-style-type: none"> Section 1 Grievance Policy Toolkit - new term used for standard letters and How to Guides already in use and available
		<ul style="list-style-type: none"> Section 3 policy now applies only to Trust employees, locums, agency staff and volunteers REMOVED students, contractors and employees of other organisations that provide services to the Trust
		<ul style="list-style-type: none"> Section 3.2 Support and Confidentiality - Further detail added around confidentiality and inclusion of reference to Trusts EAP
		<ul style="list-style-type: none"> Section 3.3 Collective Grievance - no more than two employees at the formal grievance meeting, was previously 2. Addition of 'it must be clarified at the time of lodging the collective grievance on whose behalf it is being raised (individual employees must be named and must sign to show their agreement)'
		<ul style="list-style-type: none"> Section 3.5 Facilitated discussion and mediation – New section. Previously had short section on mediation only – this has been expanded Further detail on mediation is provided at Appendix 1 – NEW

		<ul style="list-style-type: none"> Section 3.6 Formal grievance – Addition of timescale for raising formal grievance of 14 calendar days of the date of the informal stage outcome
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		<ul style="list-style-type: none"> Section 3.8 Appeals Procedure – Appeal to be lodged within 14 calendar days of the date of the letter confirming the outcome – was previously 14 calendar days from receipt of letter
		<ul style="list-style-type: none"> Section 3.9 Status Quo – New Section

Version	Date	Section & Description of change
NCUH REF:HR20	25/7/16	<ul style="list-style-type: none"> Format changed in line with Joint Policy Template
		<ul style="list-style-type: none"> Front Page GDPR guidance (new) included
		<ul style="list-style-type: none"> Front Page altered to mirror contents of policy
		<ul style="list-style-type: none"> Summary Flowchart amended to mirror contents of Policy; addition of appeal timeline
		<ul style="list-style-type: none"> Section 3.1 – Explanation of re-arranged meetings due to representative availability to take place within 7 days
		<ul style="list-style-type: none"> Section 3.3 – Collective Concerns – added for clarity
		<ul style="list-style-type: none"> Section 3.4 onwards is re-wording of previous policy; includes altered timeframes for arranging appeals and constituents of appeal panels
		<ul style="list-style-type: none"> Section 3.9 – Status Quo – clarity around need to alter working arrangements
		<ul style="list-style-type: none"> Section 5 – process for monitoring Compliance amended
		<ul style="list-style-type: none"> Section 6 – References – updated to reflect current legislation / guidance
		<ul style="list-style-type: none"> Section 8 – Duties and Responsibilities amended
		<ul style="list-style-type: none"> Appendices to previous policies removed: addition of explanation of mediation and new form to be used

List of Stakeholders who have reviewed the document

Name	Job Title	Date
CPFT Children and Families Care Group	Governance and Network Management Teams	Via email during August/September 2018
CPFT Mental Health Care Group	Senior Management Team	Via email during August/September 2018
CPFT Corporate Care Group	To all Heads of Services	Via email during August/September 2018
CPFT Community North Care Group	Senior Management Team	Via email during August/September 2018

Name	Job Title	Date
CPFT Specialist Care Group	Senior Management Team	Via email during August/September 2018
NCUH	Senior Management Teams across Care Groups and Corporate functions	Via email during August/September 2018
Joint HR Policy Sub Group	Trade Union representatives	20 September 2018 & 13 December 2018
Joint Partnership Forum		9 January 2019