

Grievance Procedure

Version:	4.0
Bodies consulted:	Joint Staff Consultative Committee
Approved by:	Executive Management Team
Date Approved:	30 October 2017
Lead Manager:	HR Business Partner
Responsible Director:	Director of Human Resources
Date issued:	30 October 2017
Review date:	October 2022



Contents

1	Introduction.....	3
2	Purpose	3
3	Scope	3
4	Definitions	4
5	Duties and responsibilities	5
6	Procedures.....	5
7	Training Requirements	10
8	Process for monitoring compliance with this Procedure	10
9	References	10
10	Associated documents	11
	Appendix A : Equality Analysis	12

Grievance Procedure

1 Introduction

The Tavistock and Portman NHS Foundation Trust (the Trust) recognises that from time to time employees may wish to seek redress for grievances relating to their employment.

It is the Trust's policy to support good employee relations by encouraging communication between employees and management to ensure that questions and problems arising during the course of employment can be aired and, where possible, resolved quickly and to the satisfaction of all concerned.

2 Purpose

Grievances can offer managers the opportunity to resolve problems that their staff face. Effectively handled, they can boost staff morale and show staff that their managers are interested in their wellbeing at work.

The purpose of this procedure is to set out the process of how staff can raise concerns, have them investigated and seek potential resolution.

3 Scope

This procedure applies to all staff employed by Trust, however, it does not apply to contractors.

This procedure applies to all matters relating to terms and conditions of employment, arising at the place of work. Examples include:

- not being selected for promotion
- refusal of training opportunities
- refusal of rights under the Flexible Working policy

- unfair treatment at work

It excludes:

- matters which are being dealt with under any other HR procedure
- nationally negotiated terms and conditions of service such as rates of pay and basic hours of work
- legislative matters where the Trust has no jurisdiction
- strategic and policy issues which have been decided upon by the Trust Board
- locally negotiated terms and conditions of service
- matters which have been specifically dealt with on a previous occasion through this procedure
- issues concerning statutory deductions from pay e.g. Income Tax, National Insurance, or pension.

4 Definitions

Grievance: A grievance is raised when an employee has concerns regarding the behaviour or action of another employee(s). The behaviour or action has, or is likely to have, an unreasonable negative impact on an employee's ability to carry out their duties. A grievance is raised with the employer and informal resolution of grievances is encouraged.

Collective grievance: A collective grievance is where an issue affects more than one employee. Usually, collective grievances are pursued by a representative of the group. Informal resolution of collective grievances is encouraged.

Mediation: Mediation is an informal dispute settlement process run by a third party. Mediation is intended to bring two parties together to clear up misunderstandings, find out concerns and reach binding resolutions.

5 Duties and responsibilities

Chief Executive: has overall responsibility for this procedure. In practice, the **Director of Human Resources** is responsible for the procedure's implementation, monitoring and review.

Managers: responsible for ensuring that grievances are handled sensitively, confidentially and without unnecessary delay.

HR Advisers: will support managers to implement the grievance procedure. This include delivering coaching and training on how to manage work place issues both informally and formally.

Staff: responsible for raising concerns which may arise in the course of their work. Staff who feel aggrieved, but who do not feel able to talk about it first are encouraged to make notes, including dates and details, which will help them to recall events clearly at a later date.

6 Procedures

Representation

At all stages within this procedure, the complainant and the person complained about may be accompanied by a member of a recognised trade union or a workplace colleague.

Informal resolution

Normally, problems and complaints which arise on a day-to-day basis should be resolved with the employee's immediate supervisor or manager without need for a formal grievance.

Employees or their representatives should discuss difficulties as soon as they arise with the immediate manager or supervisor. If the issue relates to the immediate manager or supervisor the employee should raise the matter informally with that individual's manager.

Mediation

Mediation can be helpful at any stage of the process, but is especially helpful in the early stages if informal resolution has not worked. Mediation is where a third party, either another employee or a specially trained individual, facilitates a conversation between the parties. The aim is to help the parties come to a mutually acceptable resolution, which is summarised in a confidential, binding agreement. Both parties must agree to the involvement of a mediator and the Human Resources department will facilitate the appointment of one. Mediation may not be suitable for all cases.

Formal process

If the issue has not been resolved informally or through mediation, the complainant can raise their complaint formally.

The employee should put their grievance in writing to their line manager, or the next senior manager if their line manager is involved. The complaint should include:

- Date, time and place of incident(s)
- Names(s) of the individual(s) involved
- What happened
- Names of any witnesses
- What action, if any, was taken including attempts at informal resolution or mediation
- Copies of any correspondence relating to the matter
- What outcomes the individual is seeking to achieve

Investigation

The person complained about will be informed of the grievance and given details of the allegations against them. If the individual works in a different department, their line manager will also be informed.

A manager will be identified to investigate the grievance. In straightforward cases, this will be the line manager. In more complex cases, a manager from another department may be asked to investigate and, in exceptional cases, an external, independent investigator may be appointed.

The investigator will:

- Interview the employee raising the grievance to clarify the facts and details of the allegation(s)
- Interview the person complained about regarding the allegations
- Interview any witnesses put forward by either party
- Consider all of the relevant circumstances
- Keep details of all interviews in writing
- Summarise their findings in a report
- Recommend outcomes

At this stage the line manager may consider whether temporary redeployment, relocation or suspension on full pay is appropriate to prevent work place tensions escalating. If this is being considered then this should be considered and documented with an HR adviser. This can apply to either the complainant or the person complained about.

Wherever possible, the investigation and report will be completed without unnecessary delay. In more complex investigations, the process may take some time and the complainant and person complained about will be kept informed of progress and when an outcome is likely to be reached.

Upon completion of the investigation the manager will meet with the complainant and the person complained about to explain whether the grievance is to be upheld, partially upheld or not upheld. The decision will also be followed up in writing within five working days of an outcome meeting taking place.

The below are examples of potential outcomes.

- No action, because the allegation cannot be substantiated or there is insufficient evidence.
- A disciplinary hearing, where the findings warrant this.
- Alternative management action, because the findings do not justify formal disciplinary action. This could include:
 - Facilitated discussion/informal advice for both parties, where both parties agree
 - Redeployment of one or both parties, either on a temporary or permanent basis
 - Setting up arrangements to monitor the situation
 - Required attendance on training courses
 - Making arrangements for the complainant and the person whom the grievance was raised against to work as separately as possible within the same workplace with regular monitoring from the line manager

Where it is concluded that allegations are unfounded and not made in good faith, the investigator will consider what action is appropriate in those circumstances.

Appeals

If the complainant is not satisfied with the outcome of the formal process, they can appeal. They should write to the Director of Human Resources within 10 working days of the date of the outcome letter and must set out their grounds of appeal.

An appropriate senior manager will convene an appeal hearing without unnecessary delay. They will be supported by a senior member of the HR team.

Appeal hearings are not intended to repeat the investigation process, the terms of reference for an appeal panel are to establish whether:

- the complaint was adequately investigated;
- the Trust's procedure was correctly and fairly implemented; and
- the action taken by the manager concerned was reasonable.

The manager hearing the appeal will write to both the complainant and the investigating manager to confirm a hearing date. The letter will detail that the complainant should prepare a statement of case detailing their grounds of appeal. The case should be submitted to manager hearing the appeal 10 working days before the hearing.

The investigating manager will be provided with a copy of the statement of case and asked to prepare their statement of case detailing the chronology of events, process followed and rationale for their decision making. The case will also include a response to any other matters that are raised by the appellant. The investigating manager's case should be received by the manager hearing the appeal no later than 5 working days prior to the hearing.

The following process will be followed at the appeal hearing:

1. The manager who investigated the grievance will present their management case and call witnesses, if appropriate.
2. The complainant, or their representative, may ask questions of the manager.
3. The complainant will then present their case and call witnesses, if appropriate.
4. The investigating manager can then ask questions of the complainant.
5. Finally, both sides will be asked to summarise their case.

The manager hearing the appeal will then adjourn the hearing and confirm their decision, in writing, within 5 working days.

This is the final stage of the grievance procedure and there are no further levels of appeal.

7 Training Requirements

The Human Resources team offer a range of management development training sessions; this includes training in the application of this procedure.

HR Business Partners will coach managers in the application of this procedure and offer bespoke team or one to one training, where appropriate.

8 Process for monitoring compliance with this Procedure

The Human Resources team will record all informal and formal cases on the Trust's HR and payroll system. Data will be reported annually to Executive Management Team, and where necessary, via the annual equality and diversity reporting process and through the workforce race equality standard.

9 References

ACAS (2015). *Code of Practice on Disciplinary and Grievance Procedures [online]*. London. HM Treasury Office. Available from: <http://www.acas.org.uk/media/pdf/f/m/Acas-Code-of-Practice-1-on-disciplinary-and-grievance-procedures.pdf> [Accessed on 02 October 2017]

10 Associated documents¹

None

¹ For the current version of Trust procedures, please refer to the intranet.

Appendix A : Equality Analysis

Completed by	Craig de Sousa
Position	Director of HR
Date	02/10/2017

The following questions determine whether analysis is needed	Yes	No
Is it likely to affect people with particular protected characteristics differently?		X
Is it a major policy, significantly affecting how Trust services are delivered?	X	
Will the policy have a significant effect on how partner organisations operate in terms of equality?		X
Does the policy relate to functions that have been identified through engagement as being important to people with particular protected characteristics?		X
Does the policy relate to an area with known inequalities?	X	
Does the policy relate to any equality objectives that have been set by the Trust?	X	
Other?		X

If the answer to *all* of these questions was no, then the assessment is complete.

If the answer to *any* of the questions was yes, then undertake the following analysis:

	Yes	No	Comment
Do policy outcomes and service take-up differ		X	

between people with different protected characteristics?			
What are the key findings of any engagement you have undertaken?		X	
If there is a greater effect on one group, is that consistent with the policy aims?		X	
If the policy has negative effects on people sharing particular characteristics, what steps can be taken to mitigate these effects?		X	
Will the policy deliver practical benefits for certain groups?	X		Consistent approach to handling work place disputes.
Does the policy miss opportunities to advance equality of opportunity and foster good relations?		X	
Do other policies need to change to enable this policy to be effective?		X	
Additional comments			

If one or more answers are yes, then the policy may unlawful under the Equality Act 2010 –seek advice from Human Resources.