

Grievance Policy & Procedure
(Incorporating Collective and Individual Grievances)

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Executive summary

This Policy sets out Leeds Community Healthcare (LCH) NHS Trust's Grievance Policy and Procedure (the Policy).

This Policy applies to **all** employees of LCH including Medical and Dental staff.

This Policy does not apply to "workers" such as staff employed on an honorary contract or through an agency for which the responsibility rests with the individual's statutory employer.

The Policy has been drafted to comply with statutory requirements, professional codes of conduct and the following ACAS Code and guidance. This Policy should be read together with other relevant Trust policies, procedures and local guidance.

This Policy has been developed in consultation with Staffside and management representatives, and other key stakeholders.

The Policy may be reviewed at the request of management or Staffside by giving four weeks' written notice to the Director of Workforce with reasons for the review.

Equality Analysis

Leeds Community Healthcare NHS Trust's vision is to provide the best possible care to every community. In support of the vision, with due regard to the Equality Act 2010 General Duty aims, Equality Analysis has been undertaken on this policy and any outcomes have been considered in the development of this policy.

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1 Introduction

This document sets out Leeds Community Healthcare NHS Trust's (LCHT) process for dealing with individual and collective grievances. It is drafted to comply with current statutory requirements and ACAS guidance. It applies to all Trust employees and is intended to provide a fair and transparent means of dealing with grievances.

2 Definition

As defined in the ACAS Code of Practice (2009) grievances are concerns, problems or complaints that employees raise with their employers. Examples of these are:

- Terms and conditions of employment
- Health and Safety
- New working practices
- Organisational changes

These are examples and not an exhaustive list.

3 Aims & Objectives

The Trusts aim is to resolve grievances as close to their source as possible recognising that early resolution is more likely to provide a long term solution.

The Trust fully recognises the right of employees to raise a formal grievance in respect of such issues if those issues cannot be resolved informally.

It is the Trusts intention that employees should feel encouraged to bring legitimate grievances to the attention of management. However if, through investigation, the allegations are found to be deliberately malicious or vexatious, disciplinary action may be instigated.

Issues not covered under this policy.

There will be occasions where the Trust cannot apply this policy such as;

- The application of national agreements;
- Interpretation of employment legislation;
- Disputes between colleagues which should be raised with the appropriate manager in the first instance;
- Conduct matters which should be addressed through the Disciplinary Policy and Procedure;

- Challenging the outcome of a formal Disciplinary decision which should be addressed through the Appeals Policy and Procedure;
- Complaints of harassment or bullying which should be dealt with under the Acceptable Standards of Behaviour policy;
- Other issues which may be covered under the Whistleblowing Policy.

4 Responsibilities

4.1 Joint Responsibility

- Good working relations are vital for the Trust to operate successfully and provide its essential services. Management, Staffside representatives and employees accept the responsibility of working together with the shared intention of facilitating good working relations.
- Senior Managers and Staffside representatives will work in partnership to ensure consistency and fairness in the way the policy is applied to employees, addressing areas of ineffective practice as appropriate;
- All staff employed by Leeds Community Healthcare NHS Trust must work in accordance with the Leeds Safeguarding Multi-agency Policies and Procedures and local guidelines in relation to any safeguarding concerns they have for service users and the public with whom they are in contact.

4.2 Management Responsibility

Managers will:

- respond to all grievances promptly;
- consider grievances with an open mind at both the informal and formal stages;
- respond to them objectively and sensitively;
- resolve them where possible at the informal stage;
- demonstrate what informal measures have been considered to resolve the grievance before the formal stage is initiated;
- will ensure appropriate documentation is completed at each stage of the process and stored in line with agreed data protection and personal records guidance.

Pursuing the formal route should be the last resort rather than the first option.

4.3 Employee Responsibility

Employees will:

- Where they are a member of a trade union member seek advice from the union to discuss their grievance and arrange representation at any subsequent formal meetings;
- Raise their concerns promptly;
- Raise a grievance informally with their immediate line manager or another manager, if the line manager is not the most appropriate person to approach, in the first instance, making it clear that they wish to raise a grievance under this procedure;
- Complete the grievance form with their line manager or another manager as appropriate at the informal stage.

N.B. where the grievance is collective, please refer to Appendix 1 for the grievance form.

4.4 Workforce Department Responsibility

Workforce Department will:

- Work in partnership with managers and staffside representatives to ensure employees are treated fairly and consistently within the framework of the policy.
- Encourage resolution at the earliest opportunity

4.5 Trade Union Responsibility

Trade Unions will:-

- Provide advice and support to their members in individual and collective grievance as appropriate;
- Contribute to the development of the Trust's employment policies and practices;

5 Right to Escalate

The aggrieved person has the right to escalate the grievance to the formal process if the informal outcome has not been satisfactory.

6 Right to be accompanied

An employee has the statutory right to request to be accompanied by a supporter in any formal grievance hearing. The supporter may be a work colleague not acting in a legal capacity, an accredited Trade Union representative or an official employed by the employee's Trade Union.

Nothing in this policy will affect the right to any reasonable adjustments needed to help the employee or their supporter, for example, foreign language interpretation where either the employee or the supporter has difficulty understanding or communicating in English. This may be in addition to a trade union representative or official.

Any request to be accompanied must be reasonable. The employee should let the workforce department know if they are being supported / represented by a trade union or professional body representative as soon as is practicable if a hearing is to take place, as well as the name of the supporter.

The employee is responsible for involving their supporter initially, and ensuring that dates of hearings are passed on to the supporter. Once a supporter is identified, they should normally be included in all correspondence with the employee, either in hard copy or electronically.

It is the responsibility of the employee to ensure that any case materials are prepared, sent and received within the timescales contained in the policy. Making such arrangements should not cause undue delay to the process as it is in everyone's interests to proceed promptly.

If the supporter is unavailable at the date and time of the hearing, the supporter and employee can suggest an alternative date or time provided a) the reason the supporter is unavailable is reasonable, b) all panel members are available on the proposed date/time. This should usually be within seven working days of the original date, although in exceptional circumstances this may be extended by mutual agreement.

The role of the supporter in any hearing is to assist and support the employee. The supporter is allowed to present the employee's case, sum up the employee's case, and respond to any view expressed on the employee's behalf. They should also be given the opportunity to ask questions of presenting managers and witnesses on the employee's behalf. The supporter is also entitled to time out to confer with the employee during the hearing as needed. The supporter may not answer questions on behalf of the employee, disrupt the process, or prevent the Trust from explaining their case. The supporter is not allowed to address the panel if the employee does not wish them to do so.

7 Procedure - Informal

Employees are encouraged to raise problems informally with their immediate line manager or another manager, if the line manager is not the most appropriate person to approach, in the first instance.

If the grievance is about the employees' line manager, consideration should be given to raising it informally with their line manager's manager in the first instance.

Employees must complete the appropriate sections of the grievance form (Appendix A) clearly setting out in full the reasons for their grievance and forward to their line manager or another manager (as stated above).

Once notified of the informal grievance, managers should make every effort to respond/and or meet with the employee within a reasonable timescale. It is advisable to discuss and agree these timescales at the outset.

Following the meeting, the manager must confirm in writing, usually within 5 working days, the informal action taken to resolve the matter and if appropriate the reasons why the matter remains unresolved outlining the employee's right to refer the matter to the formal stage

8 Procedure - Formal Stage

The employee must set out the content and grounds for their grievance in writing referring to and attaching the grievance form completed at the informal stage together with any additional information relevant to the grievance.

The grievance must be submitted to the employees' line manager (or managers' manager if appropriate) who will identify an appropriate independent manager from within the Business Unit to consider the grievance formally. A copy should also be sent to the HR team for reference purposes.

Once the grievance form and all relevant information has been received it is expected that a formal stage hearing will be convened within 25 working days of receipt. Any delay to hearing the case within the specified timescale should be communicated to all parties at the earliest opportunity.

9 Formal Hearing

A panel will be formed to hear the case consisting of a manager and an HR representative neither of whom have had any prior involvement in the informal stage.

Where appropriate, an impartial specialist advisor may be called as part of the panel and will be agreed by both sides.

The HR representative ensures that a letter is sent to the employee inviting them to the formal hearing giving at least 10 working days' notice.

If an employee is unable to attend the formal hearing due to sickness absence, an Occupational Health referral and report will be required to advise if and when the employee is fit to attend.

If the companion is unable to attend then the procedure at Section 6 above will apply.

The responding manager and the employee must notify the nominated HR representative of their intention to call any witnesses to the hearing (including their

names and job titles) no later than five working days prior to the hearing. Confirmation of witnesses will be made to both sides with the exchange of information or as soon as reasonably possible thereafter.

If witness attendance is contested by either side, the Chair will decide upon the appropriateness of their attendance. However, if witness evidence is contested and said witness is unable or unwilling to attend the hearing, the panel will consider what weight will be given to that evidence when reaching their decision and may discount it altogether.

Each party is responsible for briefing and facilitating their witnesses' attendance at the hearing. If a witness is unable to attend on the scheduled date / time, the procedure at Section 6 above will apply.

There is no provision for witnesses to be represented either during the investigation process or at the formal hearing. In exceptional circumstances this may be facilitated, for example to accommodate any requirements under the Equality Act 2010.

The manager who considered the matter informally (responding manager) will prepare the management response for the hearing. The management response will typically include the completed grievance form together with the outcome letter from the informal stage, a timeline of events, any agreed actions, the rationale for the decisions and copies of any relevant documentation or information.

The employee may also produce a statement including any relevant material to support their grievance in addition to the completed grievance form.

The management response and any employee case should be provided to the HR representative five working days prior to the hearing so that an exchange of information between the parties is made. The information will be presented to the panel four working days prior to the hearing.

10 The Procedure to be followed at a formal grievance hearing

The independent manager will chair the hearing.

The Chair will introduce those present, explain the purpose of the hearing and how it will be conducted.

The employee will be asked to summarise their grievance and the resolution they are looking for.

The Chair and the responding manager can question the employee.

The responding manager will be asked to summarise their response to the grievance.

The Chair and the employee can question the responding manager.

If the Panel feel that further investigation is required, the hearing may be adjourned until such information has been received.

The Panel will adjourn the hearing to consider the decision in private.

If the Panel are able to arrive at a decision on the day the hearing will be reconvened to communicate the decision, which will be confirmed in writing no later than five working days after the hearing date.

If the Panel requires more time to reach a decision, the meeting will be adjourned and the decision communicated in writing within an agreed timescale.

The outcome letter will outline the employees' right of appeal should they remain aggrieved.

Note – all records and reports received / created by the grievance panel should be forwarded to the relevant HR representative at the end of the process.

11 Right of Appeal

Employees have the right of appeal against the outcome of a formal grievance hearing. In wishing to exercise this right, the employee should write to the Director of Workforce within fifteen working days of the date of the letter confirming the decision clearly setting out in full the reasons for their appeal i.e. procedural failure, new evidence etc.

Appeals will be dealt with in accordance with the Trust's Appeal Policy.

12 TRAINING NEEDS

Refer to the Statutory and Mandatory Training Policy including Training Needs Analysis. Up to date information is available on the Intranet for course details.

13 REFERENCES

NHS Terms & Conditions
ACAS
NHS Constitution

14 MONITORING COMPLIANCE AND EFFECTIVENESS

Workforce will provide reports on the number of formal and informal grievances as part of the employee relations monitoring data.

15 REVIEW ARRANGEMENTS

This policy will be reviewed in three years following ratification or sooner if there is a local or national requirement.

16 ASSOCIATED DOCUMENTS

Managing Attendance Policy and Procedure
Managing Concerns with Performance Policy and Procedure
Bullying & Harassment Policy
Disciplinary Policy and Procedure

Freedom to Speak Up Policy
Records Management Policy
Employee records – guidance for managers

17 APPROVAL AND RATIFICATION PROCESS

This policy will be approved by the JNCF and ratified by the Trusts' Remuneration Committee.

18 DISSIMINATION AND IMPLEMENTATION

Following ratification this policy will be available to all staff via the Trust intranet site. A short summary of its contents will also be published in Community Talk.

GRIEVANCE FORM FOR RECORDING OF GRIEVANCES

This form should be used for individual or collective grievances

On completion this form must be signed and forwarded to the employee's line manager or in the case where the grievance is against the line manager to that person's line manager. Additional sheets may be attached if required.

Individual

Name:

Job Title:

Department:

Signature:

Date:

Collective

We confirm we wish to pursue a formal grievance, as described in this form, and that we authorise the following to act on our behalf:.....

Parties to the grievance please state the name(s) of those involved in raising this grievance including any staff side representative/s

Names of Employee	Job Title	Department	Line Manager

In the case of a collective grievance please indicate below two staff authorised to act on behalf of the group.

- 1.....
- 2.

THE GRIEVANCE

1. Please describe the nature of your grievance clearly setting out in full your reasons (continuing on a separate sheet if necessary)

2. How would you like your grievance resolved?

3. Please explain what steps have been taken to resolve the grievance informally

(Please attach a copy of the informal outcome letter)

4. Please outline why you consider your grievance remains unresolved

Date:.....

MANAGER DETAILS

Signature

Print Name

Job Title

Relationship to Individual/Collective

Date