

# C5 Staff Grievance Policy

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## 1. Introduction

- 1.1 The Trust believes that all employees should be treated fairly and respectfully and is committed to providing an inclusive workplace that is free from bullying and harassment.
- 1.2 The Trust encourages open communication between employees and their managers to enable dissatisfactions to be raised and resolved on an informal basis. Where it is not possible or appropriate to resolve a dissatisfaction informally, an employee may submit a formal grievance.
- 1.3 This policy aims to provide a framework for grievances to be raised and resolved in a fair and timely manner.
- 1.4 This policy applies to all staff.
- 1.5 A grievance may be about the way an employee perceives that they have been treated by the Trust or managers acting on its behalf, colleagues or any aspect of their work, including but not exclusively:
  - Terms and conditions of employment
  - Working environment
  - Bullying or harassment
  - Discrimination or victimisation
  - Restricted opportunities for development or enhancement
- 1.6 This policy encompasses collective grievances, where two or more staff raise a grievance. The term 'employee' throughout includes groups of employees.
- 1.7 The grievance policy does not apply in the following situations:

- Matters outside the scope of discretion within the Trust e.g. conditions of national agreements
- Matters that are dealt with under other Trust policies e.g. disciplinary, capability, pay
- Public interest disclosure (whistleblowing)

- 1.8 If an employee raises a grievance and ceases employment before the process is concluded, this policy and procedure will be followed so far as it reasonably practicable to do so.
- 1.9 The grievance procedure is concerned with resolving disputes with employees, and by definition does not extend to ex-employees. If an ex-employee raises a concern regarding their employment, the Trust will engage in dialogue to enable the employee's concern to be heard, and where possible resolved. Such dialogue will be conducted giving due regard to the principles of this policy.

## **2. Roles and Responsibilities**

- 2.1 It is the responsibility of all members of staff to create and maintain a positive working environment. This includes acting in accordance with the Staff Code of Conduct and treating all staff with professionalism, dignity and respect.
- 2.2 Managers are responsible for creating a positive, open and supportive working environment within their teams and department/academy.
- 2.3 The People department is responsible for developing and updating this policy in accordance with statutory and Trust requirements, as well as providing fair and consistent advice to managers and employees regarding the application of this policy and associated procedures.

## **3. Principles**

- 3.1 The Trust recognises that a grievance can be a stressful and upsetting experience for all parties involved. Everyone involved in the process will be treated calmly, sensitively and with respect.
- 3.2 Where the matter is a collective grievance, the group will be represented by an employee involved in the grievance.
- 3.3 Employees who have a grievance on the grounds of bullying or harassment are invited to discuss their situation in confidence before deciding on an appropriate course of action. They should discuss the matter with their line manager in the first instance. If the matter relates to their line manager, they should discuss it with the People department.
- 3.4 Bullying and harassment is generally when something happens to an employee that is unwelcome, unwarranted and causes a detrimental effect:
- 3.4.1 Bullying is 'offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate denigrate or injure the recipient' (*ACAS Bullying and Harassment at work: a guide for managers and employers*).
- 3.4.2 Harassment is 'Unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual' (*Equality Act 2010*)
- 3.5 An employee who becomes aware of bullying or harassment occurring to themselves or others has a duty of care to bring the matter to the attention of their manager and/or the People department.
- 3.6 Staff responsible for an act of bullying or harassment may be subject to disciplinary proceedings, up to and including dismissal.
- 3.7 Serious acts of bullying or harassment may be considered a criminal offence. In this instance, the Trust may refer the matter to the police for a criminal investigation.

- 3.8 If a grievance is made against another member of staff, the Trust may consider suspension or adjustments to working arrangements for either party. This is subject to reasonableness and practicability taking into account individual circumstances. Suspension is not an assumption of guilt. In all cases, a period of suspension will be for as minimal time as possible and will be with full pay.
- 3.9 Employees who raise a grievance under this policy must be free from victimisation. If they feel they are being victimised following a grievance being raised, they should notify their line manager immediately, or the People department if the concerns relate to their line manager.
- 3.10 If during the course of an investigation it appears that the grievance was raised on vexatious or malicious grounds, or for personal gain, this will be dealt with under the Trust's disciplinary policy.
- 3.11 In applying this procedure, managers will have due regard to the principles and requirements of the Equality Act 2010 and the Trust's Equality and Diversity policy, including the need to provide reasonable adjustments if appropriate.
- 3.12 Meetings held under the provisions of this policy will be held in an appropriate environment that is free from distractions and interruptions.
- 3.13 All parties involved in the procedures must ensure they maintain confidentiality. Disclosure of information may occur subject to agreement with the complainant, where there is a legal requirement or duty of care to do so.
- 3.14 Employees have the right to be accompanied at all formal stages of the grievance procedure by a trade union representative or workplace colleague. Employees must provide the name and role of their companion no less than 2 working days before any meeting.
- 3.15 If an employee raises a grievance whilst another procedure is being applied, it is expected that the two procedures can run concurrently. In some instances, and where there is interdependency, it may be appropriate for either procedure to be suspended. This will be determined by the individual circumstances of the case.
- 3.16 The employee or any person acting on their behalf will not normally be permitted to electronically record any meeting held under the grievance procedure. Any breach of this provision may be considered gross misconduct and lead to disciplinary action.
- 3.17 Employees who raise a grievance and are on long term sickness absence are expected to engage with the grievance procedure as far as is reasonably possible. This is in recognition that an unresolved grievance can potentially be a deterrent to an employee being able to return to work. Where ill health prevents this, medical advice and/or an occupational health assessment may be requested.
- 3.18 The expectation is that the formal meetings will take place at the date and time stipulated by the Trust giving appropriate notice. In exceptional circumstances where the time is not suitable for either the employee or their companion, there may be one postponement of up to 5 working days. If the employee is unable to attend the rescheduled meeting, this will continue in their absence. The employee may provide a written submission for consideration.
- 3.19 There is an expectation that line managers consult with the People department during the formal stages of a grievance procedure. A member of the the People department team will be present to advise and assist at all formal grievance and appeal meetings.
- 3.20 Timescales and procedures referred to in this policy should be followed wherever possible, however there may be circumstances where they can be varied subject to agreement by all parties.
- 3.21 The Trust's People department department can provide mediation services, allowing disagreements or disputes to be resolved informally. This may be considered at any stage of the informal or formal grievance procedure.

- 3.22 If an issue has been fully and properly addressed through the grievance procedure, the employee may not restart the procedure in respect of the same issue. The employee may submit a further grievance if a new issue has emerged following conclusion of the first procedure.
- 3.23 In the case of collective disputes, no industrial action will be taken until all stages of this procedure have been exhausted.
- 3.24 Any employee involved in the grievance process will be allocated a named contact to provide appropriate support. They will also be encouraged to liaise with their Trade Union Representative if they should have one, in order to receive any additional support which may be available.
- 3.25 Employees are able to access the Trust's Employee Assistant Programme through Birmingham Hospital Saturday Fund (BHSF). This is a free and confidential service offering information, support and counselling. Their Freephone number (0800 015 7287) is manned 24 hours a day, 7 days a week, or they can be contacted online through [www.colleaguesupport.co.uk](http://www.colleaguesupport.co.uk) (username/password: 72160)
- 3.26 The Trust is committed to ensuring that employees and their representatives do not experience any disadvantage due to a disability or any special requirement. Employees are encouraged to raise any queries relating to disability or other needs with the People department at the earliest opportunity. This will enable the Trust to consider and accommodate the request, where reasonably possible.
- 3.27 Personal data obtained during the implementation of this policy will be used, stored and disposed in accordance with GDPR.

#### **4. Stage One: Informal Procedure**

- 4.1 If an employee has a grievance about their employment, the matter should initially be raised informally with their line manager. If the grievance is about their line manager, they should discuss it with the People department.
- 4.2 The employee's manager or a People department representative will arrange an informal grievance meeting as soon as practicable and without undue delay. Employees do not have a legal right to representation but may be accompanied on the basis that this doesn't unreasonably delay the meeting date.
- 4.3 The manager should enquire into the nature of the grievance and discuss it with the complainant, seeking a mutually agreeable resolution.
- 4.4 The manager or People department representative may consult with others before or after the meeting prior to identifying a resolution.
- 4.5 The employee will receive a written summary of the discussion and its outcome within 5 working days of the informal grievance meeting.

#### **5. Stage 2: Formal Procedure**

- 5.1 An employee may raise a formal grievance where they are not satisfied with the outcome of the informal procedure or they consider their complaint to be sufficiently serious. They should send a written grievance to the People department, clearly stating the nature of the grievance, any witnesses and the outcome that they are seeking.
- 5.2 The People department will allocate a manager of the Trust to chair a formal grievance hearing in accordance with the delegation of responsibility matrix (appendix 2).
- 5.3 The employee is entitled to be accompanied by a trade union representative or workplace colleague.

- 5.4 The employee will be given 7 calendar days' notice of the grievance hearing. Where the meeting time is not suitable for the employee or their companion, there may be one postponement, normally of up to 7 calendar days. However the Trust recognises that the employee may wish to make arrangements to be accompanied at the hearing, and that they will need time to review the evidence and prepare their case before the hearing takes place. The Trust will therefore consider a written request, stating the reasons, for postponement beyond 7 calendar days. If the employee is unable to attend the rescheduled date the appeal will continue in their absence, and the employee may provide a written submission for consideration.
- 5.5 The employee will be given the opportunity to explain the details of their grievance. This will be a full and explorative discussion, and witnesses may be called to provide evidence.
- 5.6 If there is a need to obtain further information, seek clarification or carry out an investigation, the hearing may be adjourned for up to 10 working days or such period as is mutually agreeable. The chair may seek to facilitate a resolution during the hearing if this is possible.
- 5.7 The chair will decide the outcome, which may be:
- Fully uphold the grievance
  - Partially uphold the grievance
  - Reject the grievance

If the grievance is fully or partially upheld, the manager will also need to decide the actions that will be taken to resolve the issue.

- 5.8 Written confirmation will be provided within 10 working days of the original or reconvened hearing date. This will state the decision, reason for reaching the decision and any required actions.

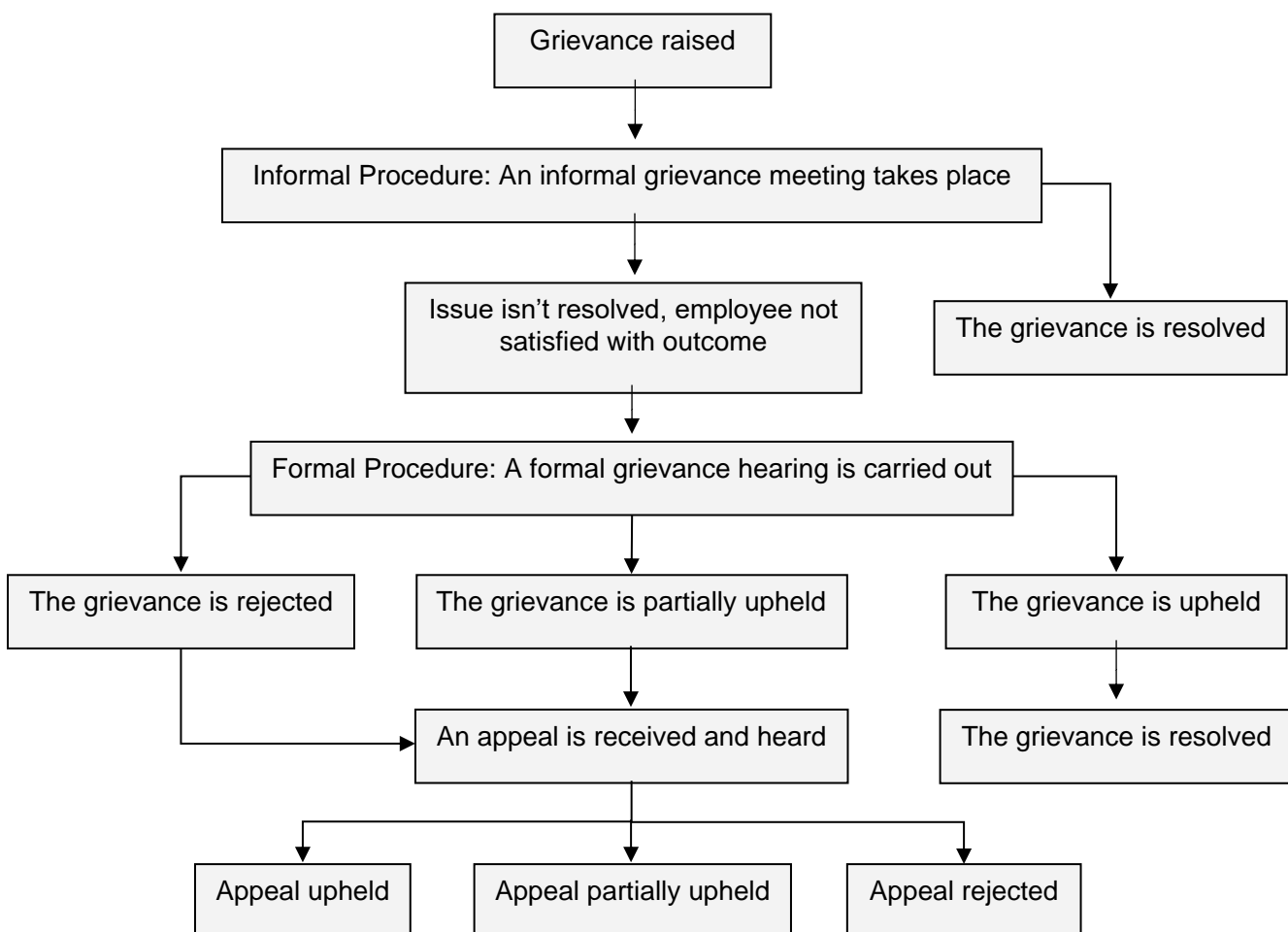
## **6. Stage Three: Appeal Process**

- 6.1 The employee may appeal against the outcome of the formal grievance procedure. This should be sent to the Head of People in writing within 7 calendar days of receiving the written decision.
- 6.2 The appeal should state the grounds of the appeal.
- 6.3 The Head of People will arrange for the appeal to be chaired in accordance with delegation of responsibility matrix (appendix b).
- 6.4 The employee is entitled to be accompanied by a trade union representative or workplace colleague
- 6.5 The employee will be given a minimum of 7 calendar days' notice to attend the appeal hearing. Where the meeting time is not suitable for the employee or their companion, there may be one postponement of up to 7 calendar days. If the employee is unable to attend the rescheduled date the appeal will continue in their absence, and the employee may provide a written submission for consideration.
- 6.6 Following the appeal hearing, the chair will call a short adjournment to deliberate the employee's arguments. They will invite the employee back into the meeting to confirm the outcome. The possible outcomes are:
- Uphold the appeal – The decision is overturned
  - Partially uphold the appeal – Where there are multiple points to the appeal, it is possible that some may be upheld, and some rejected. This may result in an amendment to the decision.
  - Reject the appeal – The decision remains in place.
- 6.7 The employee will receive written confirmation of the appeal decision within 7 calendar days of the hearing.

## 7. Policy Status and Review

Written by	HR Manager
Owner	Head of People
Status	Approved
Equality Impact Assessment	Initial Impact Assessment Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Full Impact Assessment Yes <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
JCC Consultation date	30 <sup>th</sup> January – 1 <sup>st</sup> March 2019. 29.9.2020
Approval date	28 <sup>th</sup> February 2019 (subject to union approval) 22 <sup>nd</sup> June 2020 (subject to union approval)
Review date	June 2022
Comments	

## Appendix a: Grievance Procedure Flowchart



## Appendix b: Grievance - Delegation of Responsibility Matrix

Post	Informal Procedure*	Formal Procedure*	Appeal*
Academy based support staff	Trust Manager** / Principal	Trust Manager** / Principal	Executive Director
Teaching staff	Trust Manager** / Principal	Trust Manager** / Principal	Executive Director
Academy Leadership (excluding Principal)	Trust Manager** / Principal	Trust Manager** / Principal	Executive Director
Principal	Executive Director	Executive Director	Trustee
Central support staff	Trust Manager** / Principal	Trust Manager** / Principal	Executive Director
Central Services Directors/Heads of Service	Executive Director	Executive Director	Trustee
Executive Director	Chief Executive	Chief Executive	Trustee

\*Each stage of the process will be led by a different person. The formal stages will be conducted by people who do not work directly with the employee. The hearing will be led by a person senior to the employee. The appeal will be held by a person who is more senior to the manager involved in the hearing.

\*\* A Trust Manager may include anyone on Local and Management Support Grade





# Grievance Form

Employee Details	
Academy/Department	
Name	
Job title	

Grievance Details	
Nature of grievance	
Details	
Date of issue(s)	
Witnesses	
Resolution sought	

Previous Action	
Have you tried to resolve this matter informally?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Details	

Declaration			
To the best of my knowledge, the information provided in this form is true and correct. I understand that knowingly giving false information is considered a disciplinary matter.			
Signed		Date	

A signed copy of this form must be returned to your line manager, or if the issue(s) relate to your manager it should be sent to the People department.

Version	V2/2019	Date Updated	05/03/2019
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