

Grievance	Policy Register No: 04032 Status: Public
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Developed in response to:	Staff/Management Need Best Practice
Contributes to CQC Outcomes:	12/13/14

Consulted With	Individual/Body	Date
Human Resources	Sarah Stewart	May 2016
Professionally Approved By	Bernard Scully, Director of Human Resources	May 2016

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Author/Contact for Information	Nona Stevenson
Policy to be followed by (target staff)	All MEHT Staff
Distribution Method	Intranet & Website
Related Trust Policies (to be read in conjunction with)	

Document Review History

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1.0	Nick Groves	September 2003
2.0	Rob Jarvis	July 2005
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4.0	Nona Stevenson	1 st June 2016
4.1	Rachel Roper – change to 8.2	20 January 2016
4.2	Agusta Wickenden - 6 month extension request due MSB standardisation	28 th May 2019

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1. Equality Impact Assessment

1. Purpose

- 1.1 This policy provides a process for escalating concerns that have not been resolved informally or through local management.

2. Aims

- 2.1 The policy aims to resolve the grievance quickly, fairly, confidentially and at the lowest possible level within the organisation. Managers are reminded that a failure to take an employee's grievance seriously may itself amount to discrimination, and that any action taken against an employee because s/he has brought a complaint under a grievance procedure may amount to unlawful victimisation.

3. Scope

- 3.1 This policy is open to:

- individual members of staff; and
- Trade Union(s) representing a group of staff (a 'collective grievance') where the issue does not warrant invocation of a dispute procedure *and* where a negotiation or a collective agreement between management and the relevant Trade Union(s) would not be appropriate
- any member of staff who has left the Trust and makes the claim within three months of their leaving date

- 3.2 The policy refers throughout to the 'member of staff' or 'employee'. Where a collective grievance is being brought this would be a Trade Union representative, or representatives of more than one recognised Trade Union.

- 3.3 The grievance procedure covers any matters where staff consider that they have or will suffer a detriment (ie. damage, harm or loss) in relation to the terms and conditions of their employment or to their treatment.

- 3.4 Where applicable a status quo may be agreed pending resolution of the grievance.

- 3.5 The following may not be raised as a grievance:

- matters that are being dealt with, or would more appropriately be dealt with, under another Trust policy (eg. disciplinary, capability, sickness absence, regrading, 'whistleblowing', organisational change) except where the grievance relates to concerns about the misapplication of that policy
- matters that are being dealt with, or would more appropriately be dealt with, through a Trust committee or group established to address such matters, eg. the JCNC Health & Safety Subcommittee for Health & Safety issues
- matters that relate to collective agreements made between management and Staff side either nationally or locally, eg. Agenda for Change

- 3.6 Where a grievance relates to the operation of the disciplinary procedure, the latter should be suspended pending the outcome of the grievance

- matters relating to disputes between members of staff – except where the Trust has a duty of care or Health & Safety obligation (eg. bullying and harassment), or where there is concern that the Staff Charter has been breached
- matters relating to individual appraisal
- issues that are subject to a current investigation, eg. under the disciplinary or grievance procedures. In these circumstances any related ‘grievances’ should be treated as further evidence in the existing investigation, the terms of which may then need to be broadened, rather than as separate grievances in their own right. This may lead to separate proceedings

4. Equality and Diversity

4.1 Mid Essex Hospital Services NHS Trust is committed to a Policy embracing the Equality Act 2010 in all its employment practices and strives to eliminate all unfair discrimination, harassment, bullying and victimisation. Equality of opportunity is a high priority within Mid Essex Hospital Services NHS Trust and the Trust will not unlawfully, unfairly or unreasonably discriminate or treat individuals less favourably on the grounds of gender, marital status, sexual orientation, religion or belief, disability, age, race, nationality or ethnic origin.

5. Harassment, Bullying & Discrimination

- 5.1 In recognition of the particular sensitivities in cases that involve harassment, bullying, victimisation or discrimination (as set out in the Staff Charter), staff are entitled to raise such grievances directly with the relevant Human Resources Lead, without seeking first to achieve informal resolution locally where this would not be appropriate.
- 5.2 Staff are strongly encouraged to contact their HR Manager for advice and support if they feel that they are experiencing, or have witnessed, cases of harassment, bullying, victimisation or instances of discrimination.

6. Informal Resolution

- 6.1 The aim of the procedure is to resolve concerns at the lowest possible level within the organisation. Before a formal grievance can be brought, the member of staff must have therefore raised their concern with the immediate line manager, or with a more senior manager if the grievance relates to the line manager her/himself. The manager should respond within five working days of receipt, either with a resolution to the issue or with a timescale within which the issue will be addressed.
- 6.2 If the member of staff is not satisfied with the outcome at this stage, s/he must raise it with a more senior manager, such as the respective Service Manager. The Service Manager should respond within ten working days of receipt, either with a resolution to the issue or with a timescale within which the issue will be addressed. If the member of staff is not satisfied with the outcome, s/he may submit a formal grievance.

7. Formal Grievance

- 7.1 A formal grievance should be raised in writing with the relevant Human Resources Lead. This should state:
- the nature of the grievance;
 - the detriment that the employee considers s/he has suffered;

- the earlier attempts at resolution at a local level;
- outcome required

If the grievance relates to the relevant Human Resources Lead, it should instead be addressed to the Chief Executive.

7.2 The relevant Human Resources Lead or Chief Executive should acknowledge the grievance in writing within five working days of receipt. This letter should set out the action that will follow that:-

- the matter is relatively straightforward and can be addressed satisfactorily by the relevant Human Resources Lead without further investigation or formal hearing
- the matter requires further investigation. The relevant Human Resources Lead or Chief Executive may appoint an investigating officer to establish the facts. An investigation should be completed within twenty working days of the appointment of the Investigating Officer. If the matter goes to a formal hearing, the format, notice of and preparations for the hearing will mirror a disciplinary hearing, as detailed in the Trust Disciplinary Policy
- the matter raised is one that may not be raised under the Trust Grievance Policy (para. 3.4)
- the member of staff has not provided sufficient information to enable the relevant Human Resources Lead to determine which of the above options is appropriate, who may request further information in writing and/or invite the member of staff to an exploratory meeting

8. Appeal

- 8.1 There is a facility for independent arbitration through ACAS (Arbitration, Conciliation and Advice Service) if both parties agree.
- 8.2 An appeal must be lodged within five working days following receipt of written notification of the decision.
- 8.3 The letter should set out the grounds of the appeal, and in particular whether it is based on the facts of the case.
- 8.4 The decision of an appeal is final, therefore, there is no further right to an appeal. The chair conducting the appeal has discretion to treat the appeal as either a review of the original decision or as a re-hearing.
- 8.5 If the appeal is successful, in whole or in part, the employees personnel record will be amended as appropriate.

9. Records

- 9.1 A record detailing:
- the nature of the grievance;
 - management's response;
 - any action taken; and
 - the reasons for that action.

should be retained on the employees personal file.

- 9.2 These records should be confidential and should be retained in accordance with Data Protection Act and Freedom of Information Act. Copies of any meeting records should be given to the employee, although in certain circumstances some information may be withheld, for example to protect a witness.

10. False Allegations

- 10.1 Raising a grievance which is both false and not made in good faith will be considered a disciplinary offence and may result in disciplinary action, up to and including dismissal.

11. Breaches of Policy

- 11.1 Where there is a significant breach of this policy, the HR Operations Team must consider whether that breach should be reported under the Trust's Datix reporting procedure.

12. Audit and Monitoring

- 12.1 Record on the Electronic Staff Record (ESR) system, grievances with reasons, names of those involved, dates and outcome. Report taken from ESR and highlighting cases at least quarterly to the HR Sub Committee.
- 12.2 Feedback received from all users (managers and members of staff) will be collated by Human Resources and discussed at the Policy Sub-Group to review the Policy together with any Employment Law updates regularly.
- 12.3 The policy will be monitored annually by the Human Resources Operations Team with areas of exception being highlighted.
- 12.4 A yearly audit of all breaches of this Policy will be carried out and submitted to JCNC. This will be completed by the Human Resources Operations Team.

13. Communication and Implementation

- 13.1 Staff will be made aware of this policy through reference at Corporate Induction and dissemination via Staff Focus. The document will be stored for access to all on the MEHT Intranet under HR Policies and will be available also on the Trust website.

14. Equality Impact Assessment

- 15.1 The Trust is committed to the provision of a service that is fair, accessible and meets the needs of all individuals. An Equality Impact Assessment is attached at Appendix 1.

Equality Impact Assessment (EIA)

Title of document being impact-assessed: Grievance Policy

Equality or human rights concern. (see <i>guidance notes below</i>)	Does this item have any differential impact on the equality groups listed? Brief description of impact.	How is this impact being addressed?
Gender	Impact of the policy is neutral	
Race and ethnicity	Impact of the policy is neutral	
Disability	Impact of the policy is neutral	
Religion, faith and belief	Impact of the policy is neutral	
Sexual orientation	Impact of the policy is neutral	
Age	Impact of the policy is neutral	
Transgender people	Impact of the policy is neutral	
Social class	Impact of the policy is neutral	
Carers	Impact of the policy is neutral	

Date of assessment:

Names of Assessor (s).....Nona Stevenson.....
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