



The voice of NHS leadership



## NHS Confederation grievance policy

<b>Reviewed:</b>	September 2016
<b>Next Review:</b>	August 2019

### **Accountable director:** Director of People

This document sets out the NHS Confederation's grievance policy and applies to all employees irrespective of status, grade or contracted hours. It does not apply to non-employees (for example agency workers, self-employed contractors or volunteers and trustees.)

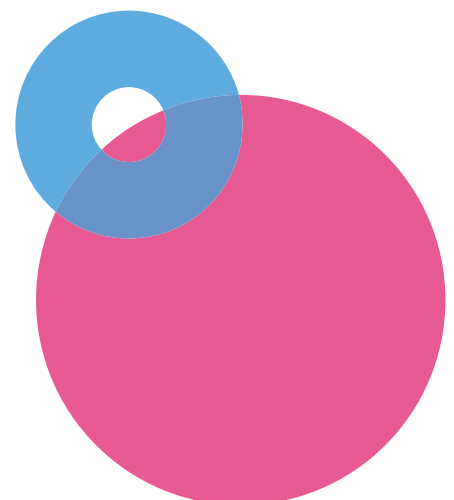
[References to 'You' or 'Your' refer to any employee to whom this policy applies.]

### **Statutory obligations**

This policy recognises the requirements to comply with the following legislation:

- the Employment Act 2008
- the Employment Tribunals (Constitution and Rules of Procedure) (Amendment) Regulations 2013

This policy and procedure does not form part of any employee's contract of employment and it may be amended at any time.



## 1. What is a grievance?

Grievances may arise out of a genuine misunderstanding which could be resolved through informal conversation between the individuals concerned.

Where an employee does not feel able to speak to the person who is causing them to feel aggrieved directly, they should speak with their line manager, or they can speak to one of the organisation's anti-bullying and harassment advisors.

In all cases, employees are supported to resolve issues informally and at the earliest possible opportunity.

Guidance is provided within this document as to the process for raising concerns either formally or informally, supported by an indicative timescale and details of roles and responsibilities with regards to this procedure.

At all stages this policy and procedure identifies support systems available for any employee involved with a grievance.

### Issues that could cause grievance may include:

- terms and conditions of employment
- health and safety
- work relations
- bullying and harassment
- new working practices
- working environment
- organisational changes and
- discrimination.

## 2. About this policy

This procedure applies to all employees of the NHS Confederation on all company premises or in other premises. It provides a framework for dealing with all types of grievances.

The organisation has a separate guidance document outlining how to raise concerns relating to the Public Interest Disclosure Act 1998, (PIDA) However, where the employee is directly affected by the matter in question, or where they feel they have been victimised for an act of whistleblowing, they may raise the matter under this grievance procedure.

Employees who are dissatisfied with action carried out through another policy, for example the disciplinary policy, have the right to appeal under that specific policy. Employees can use the grievance policy if they feel the behaviour or process which led to the action being taken was unfair.

We have a separate procedure for initially raising concerns which relate to bullying and harassment. If you raise a grievance informally and feel that attempts to resolve the issues informally have not been successful, you should raise the matter under the first formal stage of the grievance policy as outlined in the organisation's dignity at work policy.

## Raising a grievance

The organisation is an equal opportunities employer and supports a working environment for individuals where dignity at work is paramount. The organisation's approach is to believe that most problems encountered in the workplace can be resolved informally between an individual or individuals and their line managers. However where it is not possible to reach a satisfactory resolution following an informal route, then the formal process should be followed.

The procedure is set up to help resolve any grievances relating to an individual's employment, fairly and without unreasonable delay. The aim is to investigate any formal grievance raised, hold a meeting to discuss, inform in writing of the outcome, and give a right-to-appeal if employees are not satisfied.

The organisation recognises that all employees have the right to be treated with integrity, dignity and respect. The organisation seeks to support all employees in their professional development and aims to provide a happy and fulfilling environment in which to work.

Every employee carries a personal responsibility for their own behaviour in relation to this policy and is responsible for ensuring that their conduct is in line with the standards set out and the organisation's values.

All concerns and grievances will be taken seriously. Confidentiality is expected at all stages of the process, with all parties privy to information relating to a grievance or complaint expected to uphold this standard. All investigations will be carried out as quickly as possible. The policy promotes a fair and transparent process of dealing with all types of grievance or concerns that employees have. The organisation gives assurance that there will be no victimisation against any employee either making a grievance or against whom a grievance or complaint has been raised. This also applies to any employee who assists or supports a colleague in making a grievance, complaint or raising a concern.

Actions which have contributed to a grievance being raised may be treated as a disciplinary offence and could require further investigation. Disciplinary action may also be taken if a complaint is found to have been submitted maliciously or in bad faith.

## **4. Roles and responsibilities**

Please see section six for a summary of actions and timescales relating to the grievance process.

### **Employees**

All employees have personal responsibility for their own behaviour and for ensuring that they comply with the policy. All staff should act in a way which reflects our organisational values. All employees are encouraged to participate in informal resolution wherever possible and be open minded to finding a solution. Employees are encouraged to raise issues at the earliest possible opportunity. All employees are expected to keep any information relating to a grievance or complaint confidential. Employees can consult with the human resources (HR) team at any time for advice and support.

### **Managers**

All managers have a responsibility to implement this policy and to bring it to the attention of employees in their work area ensuring it is understood. Managers have responsibility to listen to employees' concerns. They are responsible for responding to and investigating complaints and grievances swiftly and confidentially, seeking resolution to an issue at the earliest possible opportunity. Managers will lead formal grievance meetings, and will be the decision makers in respect of agreed resolutions and outcomes from these meetings. Managers involved in resolving a grievance or complaint must keep all parties informed of any delays or developments in a timely and appropriate manner. Managers must always set a positive example by treating others with respect and setting standards of acceptable behaviour in line with the organisation's values. Managers can consult with the HR team at any time for advice and support. Managers should ensure appropriate and timely support is offered to all staff involved in any grievance process.

### **Human Resources**

The HR team has a responsibility to ensure that the policy is followed fairly and consistently. Duties involve: advising managers on the application of the policy and, facilitating informal resolutions, where possible, between those who have raised a grievance or concern and the people that they have concerns about. HR will be involved in grievance meetings where they have been escalated to the formal stages of the policy. HR can also provide advice and support for seeking informal resolutions where required. HR will advise managers to ensure that all employees are receiving support at every stage of the process.

### **Director of people**

The Director of People is responsible for ensuring this policy is reviewed on a regular basis. The Director of People provides advice at the appeal hearing stage of this policy.

## 5. Procedure to deal with a complaint or grievance

See Appendix A for a flow chart explaining the grievance process

## 6. How to raise a grievance or concern

If you feel aggrieved or have concerns about something at work you should initially speak to your line manager to attempt to resolve the matter on an informal basis. Managers and employees can seek advice or support from the HR team at any stage.

If you feel that you are being bullied or harassed, please refer to the dignity at work policy, (previously named the bullying and harassment policy) for advice on how to raise concerns of this nature. All concerns will be treated in confidence.

There are a number of ways in which a grievance or complaint can be resolved informally. These include:

- arranging a conversation between two employees or an employee and their manager
- having a facilitated or mediated conversation with someone else enabling the conversation and seeking a resolution
- line management feedback and conversations with individuals involved
- organisational feedback, for example involvement in focus groups
- discussing concerns with a staff forum representative to ensure views are recorded and fed back over changes or concerns
- counselling or support on an individual or team basis
- team development activities
- training or coaching.

If you decide to raise a formal grievance, you should put your concerns in writing, providing a brief description of the nature of the complaint, all relevant facts, dates and names of individuals involved. This detail will inform any subsequent investigation. You are also encouraged to explain what you are seeking in terms of a satisfactory resolution as this will assist managers in working with parties to agree a solution.

At all stages, managers investigating a grievance or a complaint will give consideration as to how the matter could be resolved.

### 6.1 Investigations

It may be necessary to carry out an investigation into a grievance. This could be with the purpose of fact finding to clarify events relating to a complaint or grievance. The amount of any investigation required will depend on the nature of the allegations and will vary from case to

case. It may involve interviewing and taking statements from the employee and any witnesses, and/or reviewing relevant documents. The investigation will, in usual circumstances, be undertaken by the employee's line manager. In the case of a complaint against the line manager themselves, the manager's manager will carry out the investigation. Employees must co-operate fully and promptly in any investigation. This may include informing of the names of any relevant witnesses, disclosing any relevant documents and attending interviews as part of the investigation.

An investigation may be initiated before holding a grievance meeting where considered appropriate. In other cases, a grievance meeting may be held before deciding what investigation (if any) to carry out. In those cases a further grievance meeting will be held with the employee after investigation and prior to a decision being reached.

## **6.2 Additional support and the right to be accompanied**

Any employee may bring a companion to any formal meeting or appeal held under this procedure. The companion may be either a trade union representative or a colleague. It is the employee's responsibility to ensure that the manager conducting the formal meeting is informed of the chosen companion in good time before the meeting.

A companion is allowed reasonable time off from duties without loss of pay but no-one is obliged to act as a companion if they do not wish to do so.

If the companion is unavailable at the time a hearing is scheduled and will not be available for more than five working days, there may be a requirement for the employee to choose someone else.

There is discretion to allow an employee to bring a companion who is not a colleague or union representative (for example, a member of the family) where this will help overcome a particular difficulty caused by a disability. The companion may not be a lawyer or acting in a professional legal capacity.

The purpose of meetings held under the grievance policy is for the employee to explain their grievance and to consider how it could be resolved. This will assist the manager considering the grievance in reaching a decision based on the available evidence and representations made.

HR advice and support is available for all employees and managers involved with any aspect of a grievance. The organisation's occupational health service can provide staff counselling and support for any individual affected by a grievance at any time during or after a matter is resolved.

## **6.3 Record keeping and timescales**

Written grievances will be kept on file by HR along with a record of any decisions taken, and notes or other documents compiled during the grievance process.

The timescales provided are recommended, but are not absolute. It is essential that all involved with a grievance make resolving the issue a priority. However, it is recognised that external factors can impact upon timescales being met. Where this is the case employees should be kept informed of the reason for any delay.

## 7. Procedure for raising a grievance or complaint

Stage	Process and actions	Indicative timescale
<b>Informal</b>	<p>The Confederation seeks to resolve complaints and grievances informally, through dialogue between individuals and their line managers. An employee who initially has a concern should raise it with their line manager in the first instance or with the next tier of line management if the concerns relate to their own line manager.</p> <p>The line manager will meet with the employee who has raised concerns to understand the issue.</p> <p>Following this the line manager may facilitate a conversation between two individuals to seek to resolve a complaint or may, with the employee's involvement, agree to actions to help resolve the grievance at this stage. A list of possible ways to resolve a grievance informally is included in section 6 of this policy.</p>	<p>An employee should seek to raise any concerns as soon as possible</p> <p>Within five working days</p>
<b>Formal grievance meeting</b>	<p>Where a complaint has not been resolved through the informal stage, an employee should put their concerns in writing, addressed to their line manager or next appropriate tier of management. This should clearly state the nature of their complaint and including a brief description of the complaint, any relevant facts, dates and names of individuals involved. Employees are encouraged to explain how they feel the matter could be resolved.</p> <p>The employee's line manager or other appropriate manager will invite the employee to a formal grievance meeting within ten days of receiving this written grievance or complaint.</p> <p>From this stage HR will be present at this meeting.</p>	<p>Within ten working days of receipt of the written grievance or complaint.</p>

	<p>The purpose of this meeting is for the employee to present their grievance. The focus of the meeting will be listening to the concerns raised and focussing on finding a solution. It may be that further investigation or information is required. The manager may decide to adjourn the meeting pending further investigation.</p> <p>The meeting will be reconvened once investigation has been concluded.</p> <p>Following the conclusion of this meeting the manager will confirm any recommendations, agreements and proposed resolutions in writing to the employee including outlining arrangements for the employee to escalate to the second formal stage.</p>	<p>Within five working days of the grievance meeting.</p>
<p><b>Second stage – formal grievance meeting</b></p>	<p>Where a complaint or grievance has not been able to be resolved at the first formal stage, the employee can escalate to the second formal stage.</p> <p>At this stage the line manager or investigating manager will review the resolutions offered to the employee to date and involve HR in seeking solutions to resolve the issue.</p> <p>The employee who has raised the grievance will be invited to a further grievance meeting.</p> <p>A different manager who has not previously been involved will be asked to lead this meeting.</p> <p>The purpose of this meeting is for the employee to present their grievance. The focus of the meeting will be to listen to the concerns raised and on finding a solution. It may be that additional investigation or information is required. The manager may choose to adjourn the meeting pending further investigation.</p> <p>The manager leading the meeting will seek to reach a resolution to resolve the grievance. The manager will consider all information relating to any investigation or meetings held under previous</p>	<p>To be arranged within ten working days of receipt of request to escalate</p>



	<p>stages of this policy, including any resolutions offered at previous stages.</p> <p>Following this meeting the manager will confirm any recommendations and agreements in writing to the employee including outlining details of the appeal process.</p>	<p>Within five working days of the grievance meeting.</p>
<b>Appeal</b>	<p>Where an employee remains dissatisfied with the outcome following the formal grievance meeting, the employee can write to the director of people outlining clear reasons for their appeal against the decision.</p> <p>A nominated manager will be appointed to chair the appeal meeting which will review the grounds for appeal. This manager will have had no previous involvement with the case.</p> <p>Following the appeal meeting the manager will provide a written decision to the individual stating reasons for why the appeal has either been upheld or rejected and providing any recommendations agreed at the meeting.</p> <p>Any decision made at this stage is final.</p>	<p>Within ten working days or receipt of outcome letter</p> <p>Appeal meeting to be convened within ten working days of receipt of appeal letter.</p> <p>Within five working days of the appeal meeting.</p>

## 8. Intimidation or victimisation

Intimidation or victimisation of any employee prior to or following a complaint or grievance, whether or not the grievance or complaint is proved, is a disciplinary offence in itself. Any such intimidation or victimisation should be reported immediately to the employee's line manager.

## 9. Anonymous allegations

The Confederation recognises that individuals may want to raise a concern anonymously under this procedure. However, complainants are encouraged to put their names to allegations. If an individual asks us to protect their identity they will need to bear in mind that if they do not tell us who they are, it will be much more difficult for us to investigate their concern or to give feedback.

## **10. Employees with a disability**

Consideration will be given to whether matters falling under this policy are related to a disability and, if so, whether there are reasonable adjustments that could be made to working arrangements/practices, including changing duties or providing additional equipment or training. Consideration may be given to making adjustments to this procedure in appropriate cases, although this is at the discretion of the NHS Confederation.

If an employee has difficulty at any stage of the grievance procedure because of a disability, they should discuss the situation with their line manager as soon as possible. If an employee wishes to discuss or inform the organisation of any medical condition they consider relevant, they should contact their line manager or a member of the human resources team.

## **Appendix A - Grievance procedure summary**

### Informal

- You should discuss any issues you have with your line manager as soon as possible. If your concerns relate to your line manager you should speak to their line manager or you can speak to a member of the HR team. You may also want to speak to one of the organisation's Anti-Bullying and Harassment Advisors for advice or support.
- Your line manager or another appropriate manager will meet with you to understand more about your concerns
- This meeting will focus on agreeing solutions to resolve any issues.

### Formal Grievance Meeting

- If you feel informal attempts to resolve your grievance have not dealt with the matter, then you should put your concerns in writing, either to your line manager or another appropriate manager.
- It is helpful if you can clearly state what you are seeking as a resolution to your grievance.
- A formal grievance meeting will be arranged and a manager will be asked to hear your grievance. If the manager feels that further investigation is needed then this meeting may be adjourned whilst an investigation is carried out.
- This meeting will focus on finding a resolution to the issues raised.
- You can choose to be accompanied or represented at this meeting.
- After the meeting has been concluded, the manager hearing the grievance will confirm recommendations and agreements from the meeting to you in writing.

### Second Formal Stage

- If you still feel that your grievance has not been resolved, then you can escalate your grievance to the second formal stage.
- A new meeting will be arranged, with a different manager leading the conversation. This manager may decide that additional investigation is required, the meeting may be adjourned to allow this to happen.
- This meeting is to look at what has already been done to resolve the grievance and agree what else could be done to resolve the grievance.
- You can choose to be accompanied or represented at this meeting.
- After the meeting has been concluded, the manager will confirm a decision regarding your grievance to you in writing and will outline any appeal options.

### Appeal

- The letter sent to you at the second formal stage will outline the timescale and process for appealing the decision reached.
- If you appeal the decision an appeal meeting will be arranged, with a different manager appointed to hear this appeal.
- The appeal meeting will consider all steps which have been taken to resolve your grievance and will reach a decision as to whether your appeal is 'upheld' - which means that the manager agrees with your reasons for appeal or that your appeal is 'rejected' which means that the manager is satisfied that all reasonable steps have been taken to resolve your grievance.
- This decision will be confirmed to you in writing and is a final decision.