

Grievance Policy and Procedure

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Policy to be followed by (target staff): All staff members		
To be read in conjunction with the following documents:		
<p>CQC Fundamental standards: Regulation 9 – person centred care Regulation 10 – dignity and respect Regulation 11 – Need for consent Regulation 12 – Safe care and treatment Regulation 13 – Safeguarding service users from abuse and improper treatment Regulation 15 – Premises and equipment Regulation 16 – Receiving and acting on complaints Regulation 17 – Good governance Regulation 18 – Staffing Regulation 19 – Fit and proper</p>		

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1.0 Introduction

The Grievance Procedure is used principally for the resolution of differences between individual staff and Milton Keynes Hospital NHS Foundation Trust. Its purpose is to ensure that individual staff grievances are dealt with quickly, reasonably and as fairly as possible.

The aim of the procedure is to provide a mechanism for resolving grievances as near as possible to their point of origin. It is intended that the timescales within the procedure will be observed, wherever practicable.

2.0 Scope of document

The Grievance Procedure of Milton Keynes Hospital NHS Foundation Trust applies to all staff employed under a contract of employment. However, there may be occasions where junior doctors in training raise a grievance outside the remit of this procedure, e.g. to the Postgraduate Dean when there is concern about an aspect of the training programme or the application of the study leave policy.

In certain circumstances, it will also be used to determine the resolution of collective grievances. The procedure may relate to the application or interpretation of:

- contracts of employment;
- **local** and national terms and conditions of employment;
- working practices.

This procedure does not apply to settling differences relating to any of the following:

- dismissal, disciplinary or capability matters
- Whitley Council and Agenda for Change agreements
- statutory matters (eg Health & Safety legislation) or matters over which the Trust has no control
- policy issues negotiated through the local consultative and negotiating machinery
- organisational change agreed by the Trust (except where the changes affect terms and conditions of employment) or dictated by a higher authority
- conditions relating to the NHS Pension Scheme
- an attempt within 6 months of the completion of action under this Procedure to restart the Procedure in relation to the same grievance. This would not apply where there had been a failure to implement agreed action to resolve the particular grievance.

Concerns about a lack of governance, malpractice that compromises standards of patient care and service delivery, unlawful acts etc – will be managed under the Whistleblowing Policy and Procedure. A grievance may, in certain cases, result in disclosure of information that is reasonable and responsibly disclosed in the public interest. (Public Interest Disclosure Act 1998). In such cases, the issues will be investigated in line with the Trust's Whistleblowing Policy.

2.1 Issues outside of this Policy

Issues concerning allegations of harassment and bullying will be managed under the Dignity at Work Policy.

In cases of collective disputes it frequently will not be appropriate to utilise every stage of the procedure. Collective disputes should usually be raised at the lowest managerial level having managerial responsibility for the entire group of staff in dispute.

A collective dispute may arise from circumstances beyond the direct control of the Trust, e.g. national action. In such circumstances the spirit and intention of this document is that staff organisations will co-operate with the Trust in establishing channels of consultation and negotiation and will co-operate in discussing and agreeing the maintenance of essential services.

Reference to, and/or the involvement of, an outside organisation (eg ACAS) may be arranged to assist with the resolution of collective disputes. It will be open to either party to propose such involvement which will only be contemplated when the stages in this procedure have been exhausted.

3.0 Roles and Responsibilities

3.1 Managers

Managers should ensure that all employees are aware of this procedure including the number of stages and appropriate timescales.

Managers should adhere to the grievance procedures timescales where practicable to ensure that the grievance is dealt with quickly, reasonably and as fairly as possible.

3.2 Employees

All employees should try to deal with their grievance at the nearest point of origin and where appropriate first approach their manager in order to discuss the problem informally.

All employees should be aware that where an allegation is raised maliciously the Trust may invoke its disciplinary policy and procedure.

3.3 Human Resources

The Human Resources Department is responsible for the implementation, monitoring and review of this policy.

4.0 General Principles and Informal Stage

4.1 General Principles

It is in the interest of all parties to resolve grievances as quickly as possible and it is expected that formal stages one to two of the procedure will be completed within 8 weeks of the grievance being lodged. It is recognised however, that the complexity of a grievance and the availability of the parties to the grievance may require the timescale to be varied, but the intention is for the grievance to be dealt with as soon as possible after it has been raised.

It is acknowledged that it is good practice for managers and staff side to acknowledge receipt of papers and inform all parties where timescales are being breached.

Representation

Throughout the formal stages of the procedure, a member of staff is entitled to be accompanied by a representative of a trade union/professional organisation, by a work colleague or a friend not acting in a legal capacity.

The member of staff will be responsible for informing Human Resources and any nominated representative of the grievance and to provide a copy of the Grievance form to both parties. In cases where a nominated representative is identified, formal correspondence will be shared with the representative.

4.2 Informal Stage

Staff who feel aggrieved should normally first approach their manager in order to discuss the problem informally. If no resolution is forthcoming, the member of staff may invoke the formal procedure at the lowest appropriate stage. It is recognised that the appropriate point for raising a formal grievance may depend upon the nature of the problem giving rise to the complaint. Staff who are unsure as to the most appropriate way of raising a grievance, and/or with whom it should be raised, should speak to a representative of a trade union/professional organisation and/or a member of the HR team. Any such contact will remain confidential.

5.0 Formal Procedure

5.1 General Principles

A grievance should be raised initially at the lowest appropriate stage in the procedure.

At formal stages one and two, the appropriate manager will complete the Staff Grievance Procedure Report Form (Appendix A) and for reference, will attach copies of written grievances and management written responses.

At any stage in the procedure, a member of the Human Resources Department will provide advice at the request of either party. The Director of Workforce and OD, or a person so delegated by her/him, not having previously been involved in dealing with the grievance, will act as secretary to the Trust Board Appeals Sub-Committee at stage three in the Procedure.

5.2 Stages in the Formal Procedure

At each stage in the procedure the aggrieved member of staff will have the opportunity to discuss the issue with the appropriate supervisor/manager. Advice on the application of the procedure and the processes to be followed can be obtained from a member of the Human Resources Department and from Trade Union/Professional Organisation representatives.

Stage One

Any member of staff who has a grievance should raise the matter, in writing, with their supervisor/immediate line manager. The supervisor/immediate line manager will meet with the member of staff to consider the grievance and respond formally within 14 calendar days of receipt of the grievance. This response will be confirmed in writing. If the member of staff remains aggrieved, he/she may invoke the second stage of the procedure.

Stage Two

The member of staff should raise their grievance, in writing, with their Divisional Manager / Departmental Head within 7 calendar days of receipt of a response at stage one. The Divisional Manager / Departmental Head must, within 14 calendar days of receipt of the written grievance, make arrangements to meet with the member of staff to consider the grievance. A written response will be made to the member of staff within 7 calendar days after the meeting. If the member of staff remains aggrieved, he/she may invoke the appeals procedure.

Appeal

If the member of staff remains aggrieved after stages one to two have been exhausted, he/she has the right to appeal to a Trust Board Appeals Sub-Committee. In the first instance, appeals must be lodged, in writing, with the Director of Human Resources within 7 calendar days of receipt of the letter confirming the outcome at stage two in the procedure.

In exceptional circumstances, such as:

1. Where the line management hierarchy does not allow it
2. In cases where decisions made will relate to strategy or policy on behalf of the Trust

it may be considered appropriate to by-pass stage two of the procedure. Where there is mutual agreement, therefore, a grievance can be submitted for consideration by a Trust Board Appeals Sub-Committee without it having been considered at each stage in the procedure. At stage three, the grievance will be considered within a reasonable timeframe and where practicable within six weeks.

6.0 Notes

If the immediate line manager is the subject of the grievance, this will be considered at the next appropriate stage in the procedure. The member of staff wishing to raise the grievance must contact the Human Resources Department who will facilitate this arrangement.

In the interest of natural justice, where the grievance relates to a specific manager's decision or actions, then that manager will be given every opportunity to respond. Similarly, if the grievance involves disagreement between two individuals, meetings convened to resolve

the grievance will be conducted in a non-confrontational setting.

7.0 Status Quo

During the operation of this procedure, the “status quo” will remain until the procedure has been exhausted (i.e. the procedures, policies, working practices, etc. which applied immediately prior to the formal submission of a grievance). Management reserves the right, however, to vary this provision where it is considered that the maintenance of the “status quo” might be detrimental to the health, safety and welfare of patients, staff, members of the public, or for some other substantial reason.

Only the Chief Executive or an Executive Director may vary the ‘status quo’ provision.

8.0 Overlapping Grievance and Disciplinary cases

Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently. Advice will be sought from a HR Business Partner as to the appropriateness of any decision.

9.0 Grievance Procedure for employees who have left the Trust

This policy and procedure complies with the statutory grievance procedures which require a 3 step process of the former employee setting the grievance out in writing, the manager inviting the former employee to discuss the grievance and the right of appeal against the employer’s decision.

When employment has ended and a former employee lodges a grievance then the procedure can be modified. The modified procedure will apply where an individual has left the Trust and:

1. The Trust was not aware of the grievance before the employment ended.
2. The Trust was aware but the internal procedure had not commenced or had not been completed by the time the employment ended or
3. It is not reasonably practicable to use the standard Trust procedure.

Steps in the Modified Procedure

Step 1

The individual sets out in writing the nature of the alleged grievance and sends it to the relevant manager’s manager.

Step 2

The manager’s manager sets out the Trust’s response in writing and sends it to the individual.

A former employee will have three months from the date of leaving Trust employment in which to lodge an outstanding grievance. Any grievances received outside of this timeframe

will not be investigated by the Trust.

10.0 Appeals Procedure to be followed by a Trust Board Appeals Sub-Committee when hearing grievances

10.1 Constitution of Appeals Sub-Committee

The appeal panel will comprise 2 Trust Board members - one Executive Director (Director of HR or A N Other), one Non-Executive Director and a HR Business Partner. The HR Business Partner will also act as Secretary to the Appeals Panel. In exceptional circumstances, for example in cases of collective grievances, the constitution of the appeal panel may comprise three Trust Board members (two Executive Directors and one Non-Executive Director) and a HR Business Partner, subject to the agreement of both parties (management and staff side).

Where necessary, at least one member of the appeals sub-committee should have a special knowledge of the field of the work of the appellant. If this is not possible, the appeals sub-committee shall, with the agreement of the employee or their representative, appoint an advisor who is experienced in the particular discipline of the appellant and who has previously not been involved with the grievance.

A Human Resources Business Partner not previously involved with the grievances shall act as Secretary to the sub-committee and offer advice to both parties in the procedure.

The Secretary shall organise and co-ordinate the Hearing.

Staff Side and Management shall be asked to submit a copy of their respective statements of the case at least 7 calendar days before the Hearing.

The Secretary will facilitate an exchange of the statements between Staff Side and Management and forward copies to the members of the sub-committee in advance of the Hearing.

10.2 Hearing of Appeals

An appeal shall be heard by the appeals sub-committee as soon as possible but other than in wholly exceptional circumstances, no later than five weeks from the date of receipt of the written request.

The appellant shall be given at least 14 calendar days notice of the appeal.

Employees must appear personally before the appeal sub-committee, either alone or accompanied by a representative of their trade union/professional organisation, by a work colleague, or by a friend not acting in a legal capacity.

The members of the panel shall not include any member of the Trust who has been directly involved in the earlier stages of the grievance process.

10.3 Procedure at Hearing

At the hearing of an appeal before the appeals sub-committee, the following procedure shall be observed: -

- The appellant or the appellant's representative shall put his/her case forward explaining the basis for their grievance in the presence of the Trust's representative and may call witnesses.
- The Trust's representative shall have the opportunity to ask questions of the appellant and the appellant's representative and witnesses.
- The members of the appeals sub-committee shall have the opportunity to ask questions of the appellant and the appellant's representative and witnesses.
- The appellant or the appellant's representative shall have the opportunity to re-examine his or her witnesses on any matter referred to in their examination by members of the appeals committee or the Trust's representative.
- The appellant's witnesses shall withdraw once their evidence has been heard.
- The Trust's representative shall state the Trust's case in the presence of the appellant and the appellant's representative may be called as a witness.
- The appellant or the appellant's representative shall have the opportunity to ask questions of the Trust's representative and witnesses.
- The member of the appeals sub-committee shall have the opportunity to ask questions of the Trust's representative and witnesses.
- The Trust's representative shall have the opportunity to re-examine his or her witnesses on any matter referred to in their examination by members of the appeal committee, the appellant or the appellant's representative.
- The Trust's witnesses shall withdraw once their evidence has been heard.
- The appellant or the appellant's representative shall have the right to make a final statement, but must not introduce any new evidence.
 - Nothing shall prevent the members of the appeals sub-committee from inviting either party or a representative to clarify any statement they may have made, or from asking them any necessary questions.
- The appeals sub-committee may, at its discretion, adjourn the appeal in order

that further evidence may be produced by either party to the dispute or for any other reason.

- The Trust's representative, the appellant and the appellant's representative shall withdraw.
- The appeals sub-committee with a Human Resources Business Partner appointed as Secretary to the committee and, where appropriate, the advisor, shall deliberate in private, only recalling both parties to clear points of uncertainty on evidence already given. If recall is necessary, both parties shall return even if queries are required and posed to only one party.

11.0 Document review history

Version number	Review date	Author	Changes made
Version 1	2003	Director of Human Resources	
Version 2	Nov 2005	Director of Human Resources	
Version 3	June 2011	Wendy Bowes	As agreed at the TDC meeting Dated 06/06/2011. All Human Resources documents due for review up to Dec 2010. Will have an extension of the review date to December 2011.

12.0 Equality Impact Assessment

This document has been assessed using the Trust's Equality Impact Assessment Screening Tool. No detailed action plan is required. Any ad-hoc incident which highlights a potential problem will be addressed by the monitoring committee.

If you have identified a potential discriminatory impact of this policy, please refer it to the lead Human Resources Business Partner for consideration, together with any suggestions as to the action required to avoid/reduce this impact.

Or

In any instances of potential non-compliance, whether identified here, or otherwise; managers are advised to consult their HR business partner for further advice as to how the organisation might seek to support the local implementation of this policy.

For suggestions please see Appendix C

APPENDIX A

Staff Grievances Procedure Report Form

At each stage of the internal procedure the form will be completed by the manager involved and signed. Copies should be sent to the Human Resources Department and, where no agreement is reached, passed on to the next level of management, as a front sheet with copies of relevant correspondence.

Grievance raised by

Department, Division

Location

Representative's Name and Organisation

.....

Record main points of Grievance:

Signed Date

Stage 1

Outcome: Record details of agreement reached or reasons for failure to agree:

Staff covered by the Grievance:

Signed Date
(Attach copy of letters) (Manager)

Stage 2

Outcome: Record details of agreement reached or reasons for failure to agree:

Signed Date
(Attach copy of letters) (Manager)

Stage 3

Outcome: Record details of agreement reached or reasons for failure to agree:

Signed Date
(Attach copy of letters) (Board Member)

APPENDIX B

Equal Opportunities Monitoring Data

Please complete Parts 1 and 2 ONLY and return the form to the HR department.

(This form should be photocopied as required)

IN CONFIDENCE

PART 1: Please indicate which Policy/Procedure is being used

(please ✓ appropriate box)

Disciplinary **Grievance**

Employee capability – Sickness Absence **Employee capability - Unsatisfactory Work Performance**

Harassment, Bullying and/or Discrimination at Work **Special Leave**

Please enter the appropriate code below in the box

Carer Leave = 1

Parental Leave = 2

Adoption Leave = 3

Compassionate Leave = 4

Domestic Violence = 5

PART 2: Name of Employee.....

Job Title

Grade.....

Directorate.....

Area/Department.....

Name of Manager conducting hearing.....

Manager's signature.....Date.....

Please complete and return the form in a sealed envelope marked 'In Confidence' to the HR Department

To be completed by the Human Resources Department:

PART 3: **Strictly Confidential**
Equal Opportunities Monitoring Form

Division/Directorate: _____

Staff Group (Please circle): (HCA/Support Workers), (Nursing/Midwifery/Matron), (Admin & Clerical /Senior Managers/Estates), (Health Care Scientists/AHP), (Medic)

Ethnic Origin (please indicate by a tick in the appropriate box)

<p>White</p> <input type="checkbox"/> British <input type="checkbox"/> Irish <input type="checkbox"/> Any other White background	<p>Mixed</p> <input type="checkbox"/> White and Black Caribbean <input type="checkbox"/> White and Black African <input type="checkbox"/> White and Asian <input type="checkbox"/> Any other mixed background	<p>Black or Black British</p> <input type="checkbox"/> Caribbean <input type="checkbox"/> African <input type="checkbox"/> Any other Black background
<p>Asian or Asian British</p> <input type="checkbox"/> Indian <input type="checkbox"/> Pakistani <input type="checkbox"/> Bangladeshi <input type="checkbox"/> Any other Asian background	<p>Other Ethnic groups</p> <input type="checkbox"/> Chinese <input type="checkbox"/> Any other ethnic group	<p>Not Stated</p> <input type="checkbox"/> Not Stated <input type="checkbox"/> I do not wish to disclose my ethnic group

Equality Act 2010

Definition of disability: a physical or mental impairment that has a substantial and long term effect on a person's ability to carry out normal day-to-day activities. Do you consider that you have a disability?

Yes No I do not wish to disclose whether or not I have a disability

Gender:

Male Female

Hours of Work:

Full Time Part Time

Age Group

16-19 20-24 25-29 30-34 35-39 40-44
 45-49 50-54 55-59 60-64 65 or over

Sexual Orientation

Please select that which best describes your sexuality:

- I do not wish to disclose my sexual orientation
- Lesbian
- Gay
- Bisexual
- Heterosexual

Religious Belief

Please indicate your religious belief:

- Atheism
- Buddhism
- Christianity
- Hinduism
- Islam
- Jainism
- Judaism
- Sikhism
- Other
- I do not wish to disclose my religion/belief

Marital Status

- Single
- Married/Civil Partnership
- Divorced
- Widowed
- Common Law Partnership
- Other

All information collated will enable the Trust to monitor the application of policies, services and employment arrangements. The information is governed by the Data Protection Act 1998 and all employees should be assured that all data provided will be kept confidential and remain anonymous. You are under no obligation to give such information, but doing so will help us to ensure that all our policies, services and employment arrangements are underpinned by equality and diversity principles.

Appendix C

Equality Impact Assessment

		Yes/No	Comments
1.	Does the policy affect one group less or more favourably than another on the basis of:		
	Race	No	
	Ethnic origins (including gypsies and travellers)	No	
	Nationality	No	
	Gender	No	
	Culture	No	
	Religion or belief	No	
	Sexual orientation including lesbian, gay and bisexual people	No	
	Age	No	
	Disability - learning disabilities, physical disability, sensory impairment and mental health problems	No	
2.	Is there any evidence that some groups are affected differently?	No	
3.	If you have identified potential discrimination, are any exceptions valid, legal and/or justifiable?	No	
4.	Is the impact of the consultation paper likely to be negative?	No	
5.	If so can the impact be avoided?	No	
6.	What alternatives are there to achieving the proposals without the impact?	N/A	
7.	Can we reduce the impact by taking different action?	No	