

GRIEVANCE POLICY (HR01)

If you require a copy of this policy in an alternative format (for example large print, easy read) or would like any assistance in relation to the content of this policy, please contact the Equality and Diversity team on 01803 656680.

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JCNC		August 2014	
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Disciplinary Policy (H1)			
Equality and Diversity Policy (ED1)			
Whistleblowing Policy			

Amendment History

Issue	Status	Date	Reason for Change	Authorised
v2	Approved	March 2007	Appendix C added	JCNC
v3	Approved	July 2009	Change in statute	JCNC
v4	Approved	April 2010	Appendix 3 added	JCNC
v5	Approved	August 2014	Full review and update to align TSDHCT & SDHCT policies more closely.	JCNC
v5.1	Approved	September 2015	Ref Whistleblowing policy as per Audit recommendations paragraph 1.3	Deputy Director of HR

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1 Policy Statement

- 1.1 This policy is designed to assist employees and managers resolve individual or work-related concerns, problems or complaints as quickly and as fairly as possible.
- 1.2 It details appropriate steps to be taken by an employee or group of employees wishing to seek redress in respect of any issue which gives rise to a grievance.
- 1.3 If an individual has concerns around patient care, fraud, misconduct or wrongdoing by employees of the Trust they should raise this through the Whistleblowing Policy.

2 Purpose & Scope

- 2.1 The purpose of this policy is to ensure all grievances are resolved as quickly as possible.
- 2.2 This policy applies to all employees of the Torbay & Southern Devon Health and Care NHS Trust.
- 2.3 **Former Employees** – where an individual has left the Trust either before submitting a grievance or prior to the grievance being resolved the Trust will respond in writing to the points raised. There will be no further recourse under this process.
- 2.4 **Time Limits** – a grievance that refers to a matter that occurred three months or more before the grievance was raised shall be considered to be time expired.
- 2.6 Subject to the agreement of management and only in exceptional circumstances the practice or agreement in force at the time the grievance is registered may be agreed to continue to operate pending a resolution i.e. the status quo will apply.

3 Equality and Diversity Statement

- 3.1 The Trust is committed to preventing discrimination, valuing diversity and achieving equality of opportunity. No person (staff, patient or public) will receive less favourable treatment on the grounds of the nine protected characteristics (as governed by the Equality Act 2010): sexual orientation; gender; age; gender re-assignment; pregnancy and maternity; disability; religion or belief; race; marriage and civil partnership. In addition to these nine, the Trusts will not discriminate on the grounds of domestic circumstances, social-economic status, political affiliation or trade union membership.
- 3.2 The Trust is committed to ensuring all services, policies, projects and strategies undergo equality analysis. For more information about equality analysis and

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Equality Impact Assessments please refer to the Equality and Diversity Policy (ED1).

4 Roles and Responsibilities

4.1 Managers are responsible for:

- Attempting to resolve issues informally and as quickly as possible.
- Communicating with employees in an open manner to ensure that misunderstandings are avoided.
- Avoiding unnecessary delay, in the interests of both the employee and the Trust.
- Ensuring that decisions taken are fair and reasonable.
- Providing the employee with an outcome to their grievance.
- Taking forward good practice and lessons learned from grievances raised.

4.2 Employees are responsible for:

- Participating in and co-operating with the grievance process.
- Making themselves available for meetings.
- Where appropriate making use of available employee support mechanisms e.g. counselling and occupational health.
- Co-operating with good practice and lessons learned from grievances raised.

4.3 Trade Union Representatives/Work Place Colleagues are responsible for:

- Making themselves available for meetings, as far as is practicable.
- Providing support to members, as far as is practicable.

4.4 Human Resources are responsible for:

- Ensuring that appropriate advice and guidance about the interpretation and implementation of the policy is provided to managers, employees and their representatives to enable them to fulfil their role within the Grievance procedure.

5 Flexibility in HR Procedures

- 5.1 Normally this procedure will apply as set out. However, in some circumstances, two or more policies may apply to a situation, e.g. where a member of staff is taken through the disciplinary procedure and a grievance is raised. In these circumstances the most appropriate procedures will be determined by HR using the principles of ACAS best practice and employment law. The aim should be to incorporate the essential elements from each procedure but minimise the number of meetings and correspondence to the benefit of all parties to resolve and manage issues promptly.

- 5.2 In general this policy will not apply to grievances raised in relation to the disciplinary process. Insofar as a grievance has any bearing on disciplinary proceedings this should be raised as part of the disciplinary meeting.

6 Resolving a Grievance Informally

- 6.1 An employee who wishes to raise their concerns should first discuss the issue with their immediate line manager (where appropriate) on an informal basis. This provides an opportunity for the issues to be resolved without recourse to the formal Grievance procedure.
- 6.2 Under normal circumstances there is no right to be accompanied by a work colleague or union representative at the informal stage, neither is it appropriate for a manager to be accompanied by a HR representative or colleague.
- 6.3 Where it has either not been possible or not appropriate to resolve the grievance at an informal level the grievance may be raised formally.

7 Mediation

- 7.1 It may be appropriate depending on the nature of the grievance for the matter to be dealt with by way of mediation. This involves the appointment of a third-party mediator, who will seek to discuss the issues raised by the grievance with all of those involved and seek to facilitate a resolution. Mediation can be conducted either internally or externally by an appropriately credited individual.
- 7.2 Mediation is a voluntary process and may be considered at any stage of this procedure to help resolve issues between individuals. Mediation can only be used where all parties involved in the grievance agree.

8 Raising a Grievance Formally

- 8.1 The employee will be expected to provide the details of their grievance in writing. Appendix 1 can be used for this purpose if required. This written statement will form the basis of the subsequent meeting and any investigations so it is important that it clearly identifies:
- The nature of the grievance;
 - The discussions/actions to date to resolve the matter;
 - The outcome of those discussions/actions;
 - The resolution that is being sought.
- 8.2 Where the grievance is being raised by a group of staff or by a Trade Union on their behalf, these staff must sign up to the grievance being submitted. A staff

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member should also be identified as a lead to take the grievance forward [in conjunction with the trade union] on the others behalf.

- 8.3 The grievance letter should be sent to the employee's line manager. If the employee's complaint relates to the way in which their line manager is treating them, the grievance may be sent to the next level of management.
- 8.4 Further attempts may be made to resolve the matter informally, depending on the nature of the grievance.
- 8.5 An appropriate manager will acknowledge receipt of the grievance and make arrangements for the employee to attend a meeting to discuss the grievance.

8.6 The Grievance Meeting

- 8.6.1 The grievance meeting will be held as soon as is reasonably practicable and subject to any needs to carry out prior investigations. The meeting will be conducted by either the line manager or an alternative manager identified to hear the grievance. The manager will be supported by a Human Resources representative. The employee may be accompanied by a trade union representative or work place colleague.
- 8.6.2 At the grievance meeting the employee will be given every opportunity to explain the nature of their grievance and the resolution they are seeking. If any additional information is gathered in the course of the investigation into the grievance this will be discussed as part of the grievance meeting. Where confidentiality is necessary this will be explained and an appropriate summary provided.
- 8.6.3 If further investigation is required the meeting will be adjourned for these investigations to take place.
- 8.6.4 The employee must take all reasonable steps to attend this meeting. If an employee is unable to attend due to circumstances beyond their control, they should inform the manager hearing the grievance as soon as possible. If an employee's representative/workplace colleague is unable to attend the date originally proposed, the employee must contact the manager and agree another date for the meeting to convene provided that it is reasonable and where possible within five days of the original meeting. This five day limit will only be extended in exceptional circumstances. This may mean the employee needs to consider being accompanied by an alternative representative/workplace colleague.
- 8.6.5 Following the meeting the manager hearing the grievance should provide a detailed written response to the employee advising them of the outcome. This may include:
- The reason for upholding or dismissing the grievance;
 - Any agreement reached/actions to be taken;

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- Details of the appeal procedure.

9 Grievance Appeal

9.1 The appeal should be made in writing within 14 calendar days' of the date of the original outcome letter and clearly state the details under the grounds for the appeal as follows:

- The basis on which the employee believes the result of the grievance were incorrect; and/or
- That the action taken as a result was inappropriate

9.2 The appeal will be acknowledged and arrangements made to be heard without unreasonable delay. The appeal will be heard by a manager who has not previously been involved in the grievance supported by a Human Resources representative. The employee may be accompanied by a trade union representative or work place colleague.

9.3 The appeal manager will consider the grounds that have been put forward and assess whether or not the conclusion reached in the original grievance hearing was appropriate. The appeal is not a rehearing of the original grievance, but rather a consideration of the specific areas with which the employee is dissatisfied in relation to the original grievance.

9.4 The employee must take all reasonable steps to attend this meeting. If an employee is unable to attend due to circumstances beyond their control, they should inform the appeal manager hearing the grievance as soon as possible. If an employee's representative/workplace colleague is unable to attend the date originally proposed, the employee must contact the manager and agree another date for the meeting to convene provided that it is reasonable and where possible within five days of the original meeting. This five day limit will only be extended in exceptional circumstances. This may mean the employee needs to consider being accompanied by an alternative representative/workplace colleague. If the employee fails to attend the Appeal meeting without explanation the hearing may take place in their absence and a decision reached on whether the appeal is upheld or dismissed.

9.5 Following the appeal meeting the employee will be provided with a detailed written response. The outcome of this meeting will be final.

10 Training and Awareness

10.1 Advice and support will be provided by the HR team to support staff and managers in adhering to this policy and their understanding of dealing with grievance issues.

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- 10.2 The HR team will raise awareness of this policy through manager briefing sessions, the publication of information on iCare and Contact and to advise staff of changes to the policy through the staff bulletin and ratification processes.
- 10.3 Guidance documents are available to both Staff and Managers regarding the application of this policy.

11 References

- 11.1 ACAS Code of Practice on Disciplinary and Grievance Procedures

12 Contact Details

- 12.1 Any queries regarding this policy should be directed to the HR team of the Directorate of Workforce and Organisational Development.

HR Helpline – 01803 655754 (ext. 55754)
HR department – 01803 654506 or 01803 658475

13 Monitoring, Audit and Review Procedures

- 13.1 This policy will be monitored and audited on a regular basis. A full review will take place every two years by the Directorate of Workforce and Organisational Development unless legislative changes determine otherwise.

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14 Appendix 1 – Registering a Grievance

Employees and/or their staff representatives may wish to use this form to raise a grievance under the Grievance Policy. Please use additional sheets as necessary.

1. PARTIES TO THE GRIEVANCE

Please state the name(s) of those involved in raising this grievance and also of any representative(s).

Representative:

2. COMMUNICATIONS

Please state the name, address, e-mail address and contact telephone number for further communication.

Please identify any dates when you or your representative are not available to meet to discuss the grievance.

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3. THE GRIEVANCE

Please describe the nature of the grievance in as much detail as necessary to assist the manager in reaching a resolution.

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4. ACTION ALREADY TAKEN BY YOU OR YOUR MANAGER TO RESOLVE THE GRIEVANCE

Please detail any action that has already been taken to resolve the concerns that you are raising. Please detail why this has not been successful.

5. RESOLUTION SOUGHT

Please detail the resolution that you are seeking to address the concerns you are raising.

Name: _____ Job Title: _____

Signature: _____ Date: _____