

GRIEVANCE AND DISPUTE POLICY

Last Review Date	Adopted 2 nd April 2013
Approving Body	Executive Committee
Date of Approval	4 th October 2017
Date of Implementation	4 th October 2017
Next Review Date	September 2020
Review Responsibility	Associate Director of HR & Corporate Services
Version	0.3

REVISIONS/AMENDMENTS SINCE LAST VERSION

Date of Review	Amendment Details
July 2013	<p>The original PCT document has been revised to:</p> <ul style="list-style-type: none">• Reflect the Clinical Commissioning Group Establishment• Reflect the Clinical Commissioning Group structure• Align to the Clinical Commissioning Group Human Resources and Organisational Development Policies and procedures
September 2017	<ul style="list-style-type: none">• Amended to reflect revised organisational structure

CONTENTS

SECTION A: POLICY	PAGE NUMBER
1. Policy Statement, Aims and Objectives	4
2. Legislation and Guidance	4
3. Scope	5
4. Accountabilities and Responsibilities	5
5. Dissemination, Training and Review	6
SECTION B: PROCEDURE	
1. Stage 1 – Informal Resolution	8
2. Stage 2 – Formal Resolution	8
3. Mediation	9
4. Appeal	10
5. Grievance Appeal Procedure	11
APPENDICES	
Appendix 1 – Scheme of Delegation	
Appendix 2 - Equality Impact Assessment	

SECTION A – POLICY

1. Policy Statement, Aims and Objectives

- 1.1. This policy aims to provide an agreed means for employees, individually or collectively, to resolve grievances which affect the terms and conditions under which they work.
- 1.2. The development of this policy:
 - Facilitates grievances being settled fairly, with the minimum of delay and as near as possible to the point of origin with delegation of authority of authority to the manager at the next level of seniority to the aggrieved employee where appropriate
 - Encompasses the means to handle both individual and collective grievances
 - Prevents disruption to services by industrial action through responsible use of the Grievance Procedure by managers, employees and staff side organisations
 - Satisfies legislative requirements.
- 1.3. The Grievance Procedure consists of a number of stages at which, if a grievance remains unresolved, an employee will have the right to take the matter forward to the next stage, and to be represented at each of the formal stages by a Staff Side Representative or a colleague. In exceptional circumstances an employee has the right to be accompanied by a relative or friend, not acting in a legal capacity.
- 1.4. The time limits given for each stage of the procedure should be regarded as being the maximum and should not be regarded as the length of time it should take to resolve a grievance. It is in the interests of all parties to reach an acceptable solution as soon as possible. The time limits are exclusive of general public holidays, sickness absence and weekends and can be extended by mutual agreement.

2. Legislation and Guidance

- 2.1. The following legislation and guidance has been taken into consideration in the development of this procedural document.
 - ACAS Code of Conduct

3. Scope

- 3.1 This policy applies to those members of staff that are directly employed by NHS Doncaster CCG and for whom NHS Doncaster CCG has legal responsibility. For those staff covered by a letter of authority / honorary contract or work experience this policy is also applicable whilst undertaking duties on behalf of NHS Doncaster CCG or working on NHS Doncaster CCG premises and forms part of their arrangements with NHS Doncaster CCG. As part of good employment practice, agency workers are also required to abide by NHS Doncaster CCG policies and procedures, as appropriate, to ensure their health, safety and welfare whilst undertaking work for NHS Doncaster CCG.

4. Accountabilities and Responsibilities

- 4.1 Overall accountability for ensuring that there are systems and processes to effectively manage grievances and disputes lies with the Chief Officer. Responsibility is delegated to the following:

<p style="text-align: center;"><i>Associate Director of HR & Corporate Services</i></p>	<p>Has delegated responsibility for:</p> <ul style="list-style-type: none"> • Maintaining an overview of the corporate ratification and governance process associated with the policy. • Leading the development, implementation and review of the policy. • Advising Managers on all aspects of managing employee grievances • Participating in formal investigatory procedures. • Supporting Management at Grievance Hearings.
<p style="text-align: center;"><i>Appointing Officers</i></p>	<p>Have delegated responsibility for:</p> <ul style="list-style-type: none"> • Ensuring they understand and adhere to their obligations in relation to this policy.

All Staff	<p>Have delegated responsibility for:</p> <ul style="list-style-type: none"> • Ensuring they understand the appropriate mechanism to raise grievances and their responsibilities in relation to this policy.
Staff Side	<p>Have responsibility for:</p> <ul style="list-style-type: none"> • Providing advice/representation to employees who are members of a recognised Trade Union.

5. Dissemination, Training and Review

5.1. Dissemination

5.1.1. The effective implementation of this procedural document will support openness and transparency. NHS Doncaster CCG will:

- Ensure all staff and stakeholders have access to a copy of this procedural document via the organisation's website.

5.1.2. This procedural document is located on the CCG website. A set of hard copy Procedural Document Manuals are held by the Governance Team for business continuity purposes and all procedural documents are available via the organisation's website. Staff are notified by email of new or updated procedural documents.

5.2. Training

5.2.1. All staff will be offered relevant training commensurate with their duties and responsibilities. Staff requiring support should speak to their line manager in the first instance. Support may also be obtained through their HR Department.

5.3. Review

5.3.1. As part of its development, this procedural document and its impact on staff, patients and the public has been reviewed in line with NHS Doncaster CCG's Equality Duties. The purpose of the assessment (refer to Appendix 2) is to identify and if possible remove any disproportionate adverse impact on employees, patients and the public on the grounds of the protected characteristics under the Equality Act.

5.3.2. The procedural document will be reviewed every three years, and in accordance with the following on an as and when required basis:

- Legislatives changes
- Good practice guidelines
- Case Law
- Significant incidents reported
- New vulnerabilities identified
- Changes to organisational infrastructure
- Changes in practice

5.3.3. Procedural document management will be performance monitored to ensure that procedural documents are in-date and relevant to the core business of the CCG. The results will be published in the regular Governance Reports.

PART 2 – PROCEDURE

1. Stage 1 – Informal Resolution

- 1.1. Any employee who wishes to express a grievance should first discuss the issue with their immediate line manager. This provides an opportunity for issues to be resolved without recourse to the formal procedure. If the individual feels unable to raise the issue with their line manager, they should speak to another manager within the department. Informal grievances should be handled promptly to prevent further issues arising.
- 1.2. Employees are encouraged to address issues informally wherever possible and are invited to consider alternative interventions. Dependent upon the nature of the grievance, examples of alternative interventions may include: Mediation, Coaching, and Mentoring. To understand more about what interventions may be beneficial the employee should discuss this with a manager within the CCG.
- 1.3. Where an issue is initially communicated in writing it will be recognised as a formal grievance and Stage 2 will apply.

2. Stage 2 – Formal Resolution

- 2.1. Should the matter not be resolved informally at Stage 1, or where the issue is felt to be more serious, then the employee has the right to raise the matter formally. To do this, the employee should set out the details of the grievance and desired outcome in writing and send the written complaint to their line manager. Should they feel unable to do this, the grievance may be submitted to an equivalent level manager within the CCG. It is recognised that putting concerns in writing may cause anxiety for some employees and it is recommended that support is sought from either a work colleague or trade union representative if required.
- 2.2. Any manager receiving a formal grievance must act upon the matter promptly and must also notify Human Resources. The manager should write to the employee to acknowledge receipt of the grievance and to advise how this will be handled.
- 2.3. Attempts must be made to resolve the matter informally, depending on the nature of the employee's complaint. However if the employee remains dissatisfied with the outcome they may request that the matter proceeds to a full grievance hearing.

- 2.4. The manager dealing with the grievance should invite the employee to a formal meeting, to allow the employee to discuss their grievance. The employee should be advised of their right to representation. The employee must inform the employer of the basis for the grievance.
- 2.5. This meeting should be held as soon as possible, ideally within 5 working days of, but no later than 10 working days after receipt of the grievance. All parties must take all reasonable steps to attend this meeting. If this cannot be achieved, the reasons for delay are to be recorded. The timing and location of the meetings must be reasonable to all parties.
- 2.6. Wherever possible it is expected that resolutions will be presented at the meeting by the manager hearing the grievance. However it may be necessary to adjourn the meeting to further investigate the issues.
- 2.7. Where it is not possible to meet this timescale because further investigation is required, any extension to the deadlines set out in this procedure should, if possible, be agreed with the complainant. Reasons for the extensions must be recorded and an estimation of the revised timescale given.
- 2.8. The grievance will be fully investigated by an appropriate manager and HR representative and the employee informed of any decision in writing within a further 10 working days of the meeting.
- 2.9. Parties to the grievance are required to take all reasonable steps to meet the timescales outlined. Where this is not possible, the parties must keep each other informed and proceed without delay.
- 2.10. All meetings will be conducted in a manner which enables both sides to put forward their cases. Where necessary, managers should seek advice from a HR Representative who will attend the meeting.
- 2.11. In cases where two or more employees raise a grievance on the same issue, this will be known as a "Collective Grievance". In such cases, an appropriate representative may set out details of the grievance in writing on behalf of the employees. An appropriate representative shall be defined as Trade Union Representative or a nominated employee representative.

3. Mediation

- 3.1. Mediation is a voluntary process and may be considered at any stage of this procedure to help resolve issues between individuals. It may be used in situations such as:

- dealing with conflict between colleagues or between a line manager and staff;
 - rebuilding relationships after a formal dispute has been resolved;
 - Addressing a range of issues including relationship breakdown, personality clashes, communication problems etc.
- 3.2. It should be noted that not all cases will be suitable for mediation and that both parties must be in agreement for it to go ahead.
- 3.3. Should mediation be considered an option, please discuss with Human Resources who can arrange access to the mediation service in the WSYB CSU who may suggest an independent mediator to take the matter forward.
- 3.4. The mediator is responsible for the process of seeking to resolve the issue but not the outcome, which will be agreed by the individuals.

4. APPEAL

- 4.1. If the employee considers that the grievance has not been satisfactorily resolved, then they must inform the employer that they wish to appeal against the grievance panel's decision. An appeal must be made in writing, stating the grounds on which the appeal is being made and received by the employer within 5 working days of the employee being informed of the decision. The appeal should be sent to the manager identified in the scheme of delegation contained in Appendix 1.
- 4.2. Should the appeals procedure be invoked, the employee will be invited to an appeal hearing. The appeal meeting will be chaired by an appropriate manager in line with the scheme of delegation (see Appendix A). This meeting should take place as soon as possible but no later than 10 working days following receipt of the application to appeal. Where this is not possible, reasons for the delay are to be recorded and agreed.
- 4.3. The employee should be informed of the outcome of the appeal in writing within 5 working days of the appeal meeting taking place. There is no further right of appeal.
- 4.4. In the case of a collective grievance which has not been resolved at Appeal level and where the group of staff remains aggrieved, a referral to ACAS may be made. In the interests of resolving the issue(s) all parties will co-operate in any such conciliation process and any outcome will be mutually acceptable. Either party may seek arbitration as a final means of resolving any grievance but arbitration will only be instigated by the agreement of all parties, with written terms of reference.

5. GRIEVANCE APPEAL PROCEDURE

- 5.1. Appeals will normally be heard by the line manager of or a more senior manager to, the person(s) who were involved in the original investigation. All appeals will include a HR Representative.

The procedure for an appeal hearing is as follows:

- The employee(s) will present their case first, explaining the outstanding issues that are unresolved from their perspective and call any witnesses.
- The management side will then be able to ask any questions about the case the employee(s) have presented.
- The appeal panel members will also have an opportunity to ask any questions.
- The management side will then be asked to present their case to the panel, explaining the reasons for the action they have taken, including calling of any witnesses.
- The employee side may then wish to ask the appellant any questions about their case.
- The appeal panel members will also have the opportunity to ask any questions.
- Both parties may call an adjournment with the agreement of the panel members.
- Both parties will have the opportunity to sum up their case.
- There will then be an adjournment when both sides will be asked to leave the room while the appeal panel consider the information they have heard and reach their decision.
- The decision of the panel will be communicated to both parties verbally, following the adjournment wherever possible, and in any case will be confirmed later in writing (again to both parties), no later than 5 working days after the Appeal Hearing.

NHS DONCASTER SCHEME OF DELEGATION – GRIEVANCE PROCEDURE

The following scheme of delegation has been developed pertaining to the settling of grievances.

The following table details the lowest grade of officer who will normally have delegated authority to take the specified action. This will be subject to change in the event of revised managerial arrangements. Exceptionally there may be circumstances where a deputy is given delegated authority to act in place of the designated officer. The designated officer shall consult with Human Resources and may arrange to be accompanied by another senior manager or representative.

	Informal	Formal	Appeal
Clinical Chair	Lay Members	Governing Body	NHS England
Chief Officer	Clinical Chair/Lay Members	Lay Members/Governing Body Members	Governing Body
Chief Finance Officer Chief Nurse Director of Strategy & Delivery Associate Director of HR & Corporate Services	Chief Officer/Clinical Chair	Clinical Chair/Lay Members	Governing Body
All other Employees	Line Manager or equivalent level manager from elsewhere within the organisation	Line manager or equivalent level manager from elsewhere within the organisation or the line managers direct manager if the line manager has been previously involved or implicated	Line Managers manager or equivalent who has not previously been involved or implicated

Equality Impact Assessment

Title of policy or service contract:	Grievance Policy	
Name and role of officer/s completing the assessment:	Andrea Richards, HR Manager	
Date of assessment:	February 2018.	
Type of EIA completed:	Initial EIA 'Screening' <input checked="" type="checkbox"/> or 'Full' EIA process <input type="checkbox"/>	<i>(select one option - see page 4 for guidance)</i>

1. Outline	
<p>Give a brief summary of your policy or service</p> <ul style="list-style-type: none"> • Aims • Objectives • Links to other policies, including partners, national or regional 	<p>The Grievance Policy applies equitably to all employees and ensures that when issues cannot be resolved informally through normal line management routes that there is an agreed process in place for concerns to be raised and resolved through a formal process.</p> <p>The policy is applicable to all employees and adheres to NHSLA Standards, statutory requirements and best practice and makes all reasonable provision to ensure equity of process for all employees.</p>

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Identifying impact:

- **Positive Impact:** will actively promote or improve equality of opportunity;
- **Neutral Impact:** where there are no notable consequences for any group;
- **Negative Impact:** negative or adverse impact causes disadvantage or exclusion. If such an impact is identified, the EIA should ensure, that as far as possible, it is either justified, eliminated, minimised or counter balanced by other measures. This may result in a ‘full’ EIA process.

2. Gathering of Information

This is the core of the analysis; what information do you have that might *impact on protected groups, with consideration of the General Equality Duty.*

(Please complete each area)	What key impact have you identified?			For impact identified (either positive or negative) give details below:	
	Positive Impact	Neutral impact	Negative impact	How does this impact and what action, if any, do you need to take to address these issues?	What difference will this make?

Human rights	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Age	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Carers	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Disability	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Sex	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Race	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Religion or belief	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Sexual orientation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Gender reassignment	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Pregnancy and maternity	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Marriage and civil partnership (only eliminating discrimination)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Other relevant	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		

groups					
HR Policies only:	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Part or Fixed term staff					

IMPORTANT NOTE: If any of the above results in 'negative' impact, a 'full' EIA which covers a more in depth analysis on areas/groups impacted must be considered and may need to be carried out.

Having detailed the actions you need to take please transfer them to onto the action plan below.

3. Action plan				
Issues/impact identified	Actions required	How will you measure impact/progress	Timescale	Officer responsible
No anticipated detrimental impact has been identified.	There are no statements, conditions or requirements that disadvantage any particular group of people with a protected characteristic – therefore there is no required action identified	Policy will be monitored in line with changes in legislation and amended as necessary	In line with CCG Policy Review timetable.	HR Manager

4. Monitoring, Review and Publication				
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When will the proposal be reviewed and by whom?	Lead / Reviewing Officer:	Associate Director of HR & Corporate Services	Date of next Review:	September 2020
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Equality Lead Name:	
Signature	
Date	

Once completed, this form **must** be emailed to Gareth Jones Equality Lead for sign off @ gareth.jones22@nhs.net.