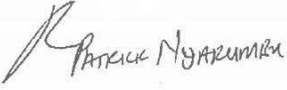




# RESOLUTION OF GRIEVANCE AND DISPUTES POLICY AND PROCEDURE

Policy number and category	HR02	Human Resources
Version number and date	7	July 2023
Ratifying committee or executive director	Transforming our Culture & Staff Experience Sub Committee	
Date ratified	July 2023	
Next anticipated review	July 2026	
Executive director	Executive Director of Strategy, People and Partnerships	
Policy lead	People Partner	
Policy author (if different from above)	As Above	
Exec Sign off Signature (electronic)		
Disclosable under Freedom of Information Act 2000	Yes	

## POLICY CONTEXT

On occasion employees may have a problem or a concern about their work, or working conditions that they have not been able to resolve through informal discussions or routes with their line manager.

This policy allows employees to raise workplace related complaints with their manager through a informal/formal process.

The Trust is committed to creating a culture of openness and recognises that employees from time to time may wish to raise concerns about their treatment or work. The Trust policy states that all employees should be given a fair hearing concerning any grievance or dispute they may wish to raise with regards to their employment.

## POLICY REQUIREMENT (see Section 2)

When Grievances or Disputes are lodged, it is the responsibility of the relevant manager(s) to follow the procedures within the Grievance and Disputes Policy with advice and guidance from the People Team. It is the responsibility of both managers and staff alike to try to resolve any problems in the workplace at the earliest possible opportunity and at the lowest level possible.

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## **1 INTRODUCTION**

### **1.1 Rationale (Why)**

- 1.1.1** The Trust must be able to respond to grievances and disputes raised by employees in the context of their employment.
- 1.1.2** A Grievance is a complaint about an action that the Trust has taken or is proposing to take in relation to the staff member in the context of their employment. It may also relate to acts of omission, whether deliberate or not, by the Trust in the context of their employment.
- 1.1.3** A Dispute is a collective grievance by a group of employees about an action that the Trust has taken or is proposing to take in relation to the staff member in the context of their employment. It may also relate to acts of omission, whether deliberate or not, by the Trust in the context of their employment.
- 1.1.4** This policy provides a mechanism for grievances and disputes to be dealt with in a fair, consistent and timely manner, and to be resolved at the lowest level possible within the organisation. It provides the individual with a course of action should they have a complaint, and offers points of contact and timescales to resolve these issues of concern. Where possible, an informal meeting should be held to discuss the procedure and possible outcome with the employee and their representatives. This will potentially help resolve concerns, explain the process and set expectations. Any outcomes are confidential and will be taken forward in line with Trust policy and procedure.
- 1.1.5** Matters outside of the Trust control i.e HMRC are not covered by this policy

### **1.2 Scope (Where, When, Who)**

- 1.2.1** This policy applies to all staff within the Trust.

This policy does not apply to ex-employees of the Trust, however if an ex-employee raises serious concerns the Trust may choose to investigate these.

Where a concern is raised involving an employee from another organisation, the People Team will liaise with the Human Resources/People department, where applicable, of the other organisation involved, to agree a way forward within the policy framework of each organisation.

Any concerns raised under this policy should be raised at the earliest opportunity and within 3 months of the incident/behaviour taking place in order that it can be addressed in a timely manner however, it is acknowledged that in some cases, small issues can happen over a period of time therefore any exception to this should be discussed and agreed in conjunction with the People Team.

- 1.2.2** This policy shall not be used to pursue issues relating to any disciplinary matter, to allegations of bullying and harassment, Organisational Change, Job matching or the management of attendance issues as separate policies exist to deal with these issues; unless the policy does not have any formal right of appeal process. A grievance must relate to an act/proposed act or omission of the Trust and as a consequence individual employees of the Trust should only be named if they carry responsibility for the act or omission by virtue of their role within the Trust. Concerns about personal decisions/actions of other employees are outside the scope of this policy.

Issues that might give rise to a grievance might be (but are not limited to)

- The application or interpretation of agreements, policies and procedures
- Health and Safety
- Working arrangements
- Working environment
- A breach of statutory employment rights
- Any other issue affecting an individual's employment

It is important that early resolution of pay issues etc are dealt with in a timely manner to ensure that employees do not suffer any potential detriment. The Line Manager should consult with the expert in that field e.g Payroll, Pensions etc.

- 1.2.3** This policy shall not be used for issues that are outside the scope of the Trust to resolve e.g. nationally agreed Terms and Conditions of Employment, Agenda for Change, Employment Legislation, Tax and National Insurance rules and national pay and conditions (unless the concerns are about the Trusts correct application of such matters).

### 1.3 Principles (Beliefs)

- 1.3.1** We want to create a positive workplace culture where we all take responsibility for our own behaviour and contribute to our culture. Birmingham and Solihull Mental Health Foundation Trust (hereafter referred to as the Trust) is committed to creating a culture of openness and recognises that all staff may wish to raise concerns about their treatment or work situation within the Trust. It is the policy of the Trust that all employees should be given a fair hearing concerning any grievance or dispute they may wish to raise with regards to their employment.

Both the Trust and Trade Unions believe that all staff and persons working within the Trust should be treated fairly and with respect.

Our values, which will guide all of our actions and underpin our conduct are as follows:



It is the intention of this policy to support the delivery of these values by managers supporting our colleagues and applying these values in the application of this policy.

- 1.3.2** Any grievance or dispute raised under this policy must be made in good faith, with no malicious intent. Should there be evidence of malicious or vexatious intent, the individual or individuals in question may be subject to disciplinary action in line with the Disciplinary policy.

- 1.3.3** This agreement meets the minimum requirements for resolving grievances and disputes.
- 1.3.4** This policy has been subject to an Equality Impact Assessment. Monitoring information will be collected in respect of all cases of grievances and disputes formally lodged under this policy and this information will be used to determine whether there is a disproportionate impact on any group.
- 1.3.5** This policy should be read in conjunction with the Disciplinary Policy, Dignity at Work, Raising Concerns: Speaking Up Policy, Professional Codes of Conduct and other guidance as applicable. All can be found on Connect.
- 1.3.6** All staff, managers and Trade Union representatives will be made aware of this policy and procedure.
- 1.3.7** All managers will be trained in the operation and application of this policy. Managers are responsible for ensuring that all staff are made aware of this policy, and that staff have opportunities to raise issues with their line manager.

## **2 POLICY (What)**

- 2.1.1** When Grievances or Disputes are lodged, it is the responsibility of the relevant manager(s) to use the following procedures with advice from the People Team. It is the responsibility of both managers and staff alike to try to resolve any problems in the workplace at the earliest possible opportunity and at the lowest level possible.
- 2.1.2** Staff can also raise concerns with the Freedom to Speak up (FTSU) Guardian at any stage of a Grievance or Dispute. Guardians support workers to speak up when they feel that they are unable to do so by other routes. They ensure that people who speak up are thanked, that the issues they raise are responded to, and make sure that the person speaking up receives feedback on any actions taken.

## **3 PROCEDURE**

- 3.1** There is an expectation that employees will raise matters of concern promptly to enable issues to be addressed as soon as practicable, or in any event within 3 months of the alleged incident unless they are still ongoing or where circumstances have not allowed the issues to be raised in this timescale.
- 3.2** When a formal grievance is raised, it is the responsibility of managers to ensure that it is dealt with in a consistent manner and adheres to the timescales outlined in the procedure (see section 3.11) The manager must ensure that the grievance is resolved as quickly as possible and keeps relevant parties informed of progress in dealing with the issue on a regular basis.
- 3.3** The raising of a grievance requires the preservation of "Status Quo" where possible. This means that the situation as it stood at the point in time when the grievance was raised must remain until the grievance is resolved. A grievance may be raised as part of a separate process so again status quo applies. Status Quo is to be utilised to ensure there is no material loss, or demonstrable disadvantage to the individual or individuals. In certain circumstances the Trust may decide not to preserve the Status Quo e.g. where preservation of Status Quo jeopardises the health and safety of staff and/or patients or have other significant adverse consequences. In these circumstances, every effort will be made to make as few changes as possible to the

Status Quo. This will be discussed with the employee(s) raising a grievance and their staff representative.

**3.4** At all stages of the procedure, managers must ensure that all staff are treated fairly and with respect and in accordance with the Equality, Inclusion and Human Rights Policy 2018 (HR28). No staff should receive detrimental treatment for raising concerns. Whilst every endeavour will be made to comply with timescales, due to the complexity and or specific circumstances of a case, timescales may be extended. If this is the case the manager will contact all involved to reach an agreement to an extension.

**3.5** Mediation can be offered at any stage of the procedure, subject to the agreement of all parties concerned and there may be a need to temporarily suspend proceedings to facilitate mediation discussions with the aim of promoting early resolution of the case. The People Team will co-ordinate the mediation process and contact a Trust recognised mediator on behalf of the Manager. The process is detailed in the toolkit and the People Team should be contacted to support arrangements for this.

### **3.6 Employee Rights to be Accompanied**

**3.6.1** In circumstances where the employee feels they need support in raising the issue they have the right to request support from a recognised Trade Union or a work colleague. All employees have a right to be represented by a Trade Union/Professional organisation representative or a work colleague, at any stage of the formal procedure. A Trade Union representative who is not an employed official must have been certified by their Union as being competent to accompany an employee. In the case of investigation meetings, an employee can be represented by a Trade Union representative or work colleague, providing it does not unreasonably delay the process.

**3.6.2** Recognised Trade Union representatives accompanying a member of staff at a hearing may present a case on an employee's behalf however the employee must answer any direct questions posed.

### **3.7 Record Keeping**

**3.7.1** Records should be kept at all stages (formal and informal) of a grievance procedure, detailing where appropriate:

- The nature of the grievance raised
- The manager's response
- Any action taken and the reasons for it
- Timeline of actions taken
- Outcome of the grievance
- Whether there was an appeal and if so the outcome
- Subsequent developments

**3.7.2** These records should be kept confidential and retained in accordance with the Data Protection Act 1998 and as amended 2018.

**3.7.3** The grievance notification paperwork will be copied to the People Team who will provide advice and support where required.

**3.7.4** Copies of interview/hearing notes should be given to the employee. In certain circumstances (for example to protect a witness or a third party i.e. service user) the Trust might withhold or

redact some information. If agreed by the employee, the notes will also be shared with their trade union support for checking and feedback.

**3.7.5** Whilst grievances may not always be resolvable to the full satisfaction of the employee, the following process allows for full consideration of the issue in question. During the process a number of resolution interventions may be used in achieving a positive outcome. These may include but are not restricted to:

- An opportunity to simply 'clear the air'.
- The issuing of an apology.
- Training, development, education.
- A review of any original decision/action that may have initiated the grievance.
- Mediation

These may be offered at the informal or formal stage of the process.

In considering the grievance and seeking an appropriate and practical resolution the issue(s) raised will be considered by an appropriate manager and the stages outlined in this policy will be followed.

### **3.8 Collective Grievances / Disputes**

**3.8.1** If an organisational decision/issue affects a group of employees, a representative of the group (normally a Trade Union Representative, or this could be a nominated employee from the collective group who have raised the collective grievance) will raise the matter on behalf of the group in line with the procedure for individual grievances stating the names of the employees who are signatories to the grievance. At the investigatory stage, the manager will consult with other appropriate managers, in order to find a satisfactory solution.

**3.8.2** If the matter is unresolved, it may be referred to ACAS for conciliation, or if agreed, arbitration.

**3.8.3** Following a process of a collective grievance or dispute this should be used in circumstances where an organisational decision/issue affects a group of staff. Such a process should not be used for cases of harassment and bullying; any such complaint should be progressed through the Trust Dignity and Work policy.

### **3.9 Grievances from ex-employees or from employees who are leaving their employment.**

**3.9.1** For a grievance to be considered it must be lodged before the employees last working day. If the employee leaves the Trust part way through a grievance then the investigating officer will confirm with the employee if they wish to continue with the grievance. If yes, it needs to be confirmed with the individual if they are happy with a written response/outcome or if they still wish to participate fully in the process.

**3.9.2** In deliberating whether the grievance should be considered as such, any issue(s) identified would be subject to the same provisions as outlined in this policy.

### **3.10 STAGES OF GRIEVANCE PROCEDURE**

#### **3.10.1 STAGE 1: Informal Stage of the Procedure**

**3.10.2** All members of staff who feel that they have been treated unfairly must try to resolve any issue that they have in connection with their employment informally, by discussing the issue(s) with their line manager on a one to one basis as part of normal everyday working, or alternatively

the manager who was on duty at the time of the event. If the grievance is regarding a decision made by the individual's line manager and the employees issue is not being resolved, then it must be raised with the next manager in line. The appropriate manager will then arrange a meeting with the individual to discuss the matter informally. (Appendix 6)

If it is a collective grievance then the appropriate manager should discuss the issues informally with the group or a nominated representative.

It is then the responsibility of the manager to:

- To ascertain the facts surrounding the grievance
- To identify what issues / circumstances may have led to the individual raising the grievance
- To identify what can be done in order to resolve the grievance (this may, however not be possible, and the individual must be made aware that the grievance can be pursued formally if they are dissatisfied with the outcome informally)
- To allow the employee to offer some potential solutions to the problem and engage fully in the resolution process (i.e. mediation)
- To act in a fair and reasonable way and based on the information available, ensure that the correct decisions have been made and applied in an equitable way
- The manager needs to confirm with the employee that they are happy with the outcome of the discussions that have taken place
- It is important that at the informal meeting notes are taken of the discussions and action points agreed, so both the manager and employee can sign to agree to take these points forward.
- If at this stage the employee is unhappy with any event which has taken place they must speak to their Trade Union representative or their line manager to try to resolve the issue at an early stage.
- If the employee is not happy with the outcome at the informal stage then it would be beneficial if it was agreed at the informal meeting with their manager the points that they wish to take forward to the formal stage of the grievance process.
- If the manager is unable to deal with an issue themselves then they will need to speak to an expert in that particular field i.e payroll, pensions departments.
- Following the discussions, the manager must ensure that they have carried out all action needed as agreed.

**3.10.3** Discussions held during this part of the informal process as well as the actions and decision will be recorded by the line manager using (Appendix 2) and a copy given to the employee(s) raising a grievance, within 7 working days of the meeting.

If further investigation is required this should be undertaken and the informal meeting reconvened within 10 working days of the original discussion, or as soon as practicably possible. The employee will be informed of this.

**3.10.4** Every effort must be made for the informal process to be concluded within 20 working days of the issue/incident arising. A timeline should be agreed between the Line manager and the employee so the process is dealt with in a timely manner.

**3.10.5** If an informal resolution is not achieved, then it may be necessary to proceed to the formal grievance procedure, as set out below:-

<b>Informal (Stage 1)</b>	<b>Complete (Appendix 2) Form</b>	<b>Timelines</b>
<b>Employee</b>	The employee must raise their concern within:	20 working days of the incident/event, unless they are still ongoing



<b>Manager</b>	All informal discussions that take place and actions that are recorded, a copy needs to be given to the employee within:	7 days of the informal meeting
<b>Manager</b>	If further investigation is required this should be undertaken and the informal meeting reconvened within:	10 working days of the original discussion
<b>Manager</b>	Every effort should be made for the process to be concluded within:	20 working days of the issue/incident occurring.

**Note:** If it is unlikely that any of the above timelines can be met, then it is the responsibility of the manager to inform the employee at the earliest opportunity.

### 3.11 STAGE 2: Formal Stage of the Procedure

**3.11.1** To initiate the formal stage of the process the employee must complete the Grievance and Disputes Notification Form (Appendix 3) clearly stating their complaint and submit this to the next level of manager to the manager who was involved in the informal stage. This should be submitted within 10 working days of the employee being notified of any decisions made following the informal discussion taking place. Where the grievance is with their line manager, then this should be raised with a more senior manager.

It would be advisable for the employee to seek advice from their Trade Union representative and to inform them of their intention to submit a formal written grievance.

The manager receiving the grievance should liaise with a member of the People Team and consider the need for a Decision Making Group (DMG) to be used. The DMG Guidance, available from the People Team, will detail how a DMG should be taken forward. The purpose of the DMG is to ensure that all matters are dealt with in a fair and consistent manner, and that the appropriate action is taken to address the concerns.

**3.11.2** It should be noted that if a grievance is submitted straight to the formal stage without evidence of the employee raising the issue at an informal level, consideration will be given to re-directing the grievance back to the informal level.

**3.11.3** Upon receipt of the Grievance and Disputes Notification Form by the next level of management, the manager receiving the notification (Commissioning Manager) will write to the employee within 5 working days to acknowledge receipt and to advise of the next steps to be undertaken. If the FTSU Guardian has been involved in supporting the concern, the Commissioning Manager will also inform the Guardian. A DMG should be arranged where appropriate to agree next steps and the most appropriate way forward.

**3.11.4** Once a DMG has taken place and it is agreed to investigate the DMG will appoint a Commissioning Manager. To ensure independence, the Commissioning manager must arrange for an independent investigating manager to carry out a fact finding review to establish the facts. This involves interviewing the aggrieved employee, witnesses and gathering any paper evidence that may be relevant. The investigating manager should not have had any previous involvement in the issue. The Commissioning manager will inform the employee of any expected delays or details of another manager nominated to investigate the grievance.

**3.11.5** The investigating manager will invite the employee to an investigation meeting. The investigating manager may request that the employee submits further information including evidence that the issue has been raised at the informal stage.

**3.11.6** The employee can be represented by a Trade Union representative or work colleague at all formal stages of the process.

**3.11.7** When the investigating manager has completed the fact finding review and determined their findings a report must be presented to the Commissioning Manager. The report should be sent to the Commissioning Manager within 10 working days following completion of the investigation to determine the outcome and whether further action is required.

There are various outcomes that could be considered including:

- There is a case to answer
- There is no case to answer
- The case is partially upheld

The individual complainant should be met with to deliver the outcome where remedies and recommendations should be also be provided in writing.

### **3.12 STAGE 3: APPEAL**

**3.12.1** Should colleagues be unhappy with a decision made in relation to this policy or an outcome that has resulted from it, they should consult with the Trust’s appeal procedure, about what steps they need to take in order to have their concerns addressed. As the Trust’s procedure outlines, any appeals or requests for review, need to be properly reasoned and substantive, so that concerns can be considered properly.

### **3.13 OTHER PROCEDURAL ISSUES**

**3.13.1** A manager may not take part as a member of a panel in more than one stage of the procedure.

**3.13.2** At the appeal stage there will be a People Team representative to support the Chair. This will be a different People Team representative to any present at a previous stage.

**3.13.3** Once the grievance procedure has been concluded, it is considered as the end of the matter and cannot be raised again.

## **4 RESPONSIBILITIES**

<b>Post(s)</b>	<b>Responsibilities</b>	<b>Ref</b>
All Staff	<p>Employees are expected to:</p> <ul style="list-style-type: none"> <li>• Ensure that any grievance is raised as soon as practicably possible to the relevant manager whilst adhering to the recognised timeframes.</li> <li>• Co-operate fully in attempts to resolve the matter informally in the first instance and adhere to the requirements of the procedure, behaving professionally at all times.</li> <li>• Treat fellow colleagues that raise a grievance without detriment; any employee failing to uphold this standard may be subject to the Disciplinary policy and procedure.</li> </ul>	

	<ul style="list-style-type: none"> <li>• Maintain confidentiality where this policy is being applied.</li> <li>• Seek a positive outcome and should offer solutions to the problem wherever possible.</li> </ul>	
Management Responsibilities	<p>Managers are expected to:</p> <ul style="list-style-type: none"> <li>• Understand the Grievance and Disputes Policy and procedure and be able to apply it appropriately at all times.</li> <li>• Ensure that all employment matters are dealt with in a fair and consistent manner, are appropriately documented and dealt with informally where possible.</li> <li>• Handle any informal concerns raised by their employees in a timely, confidential and efficient manner escalating concerns to Senior Management and/or Human Resources as appropriate (e.g. when a formal grievance is received or there are implications for other staff or services).</li> <li>• Promote understanding and a constructive outlook to help employees to address any identified problems.</li> <li>• Document all decisions or outcomes and both informal and formal stages of the process and ensure the relevant recording processes are adopted and adhered to.</li> <li>• Undertake training to support grievance meetings and provide guidance to staff.</li> <li>• Be familiar with the Speaking up policy</li> </ul>	
Associate Directors	Ensure that managers within the defined service area of responsibility apply the policy and procedures fairly, consistently and in a timely manner.	
Policy Lead	Ensure that the policy and procedure is maintained, is up to date, is consistent with any relevant employment legislation and utilised correctly.	
Executive Director	To ensure any concerns regards the policy are considered as appropriate and it is reviewed in line with any legislative changes.	

## 5 DEVELOPMENT AND CONSULTATION PROCESS

Consultation summary	
<b>Date policy issued for consultation</b>	February 2023
<b>Number of versions produced for consultation</b>	7
<b>Committees / meetings where policy formally discussed</b>	<b>Date(s)</b>
<b>JOSC</b>	March 2023

PDMG		May 2023
TCSE		July 2023
Where received	Summary of feedback	Actions / Response

This policy will normally be reviewed in three years' time. Earlier review may be required in response to circumstances, organizational change or relevant changes in legislation or guidance.

## 6 REFERENCE DOCUMENTS

HR01 Disciplinary Policy  
 HR07 Dignity and Work Policy  
 HR28 Equality, Inclusion and Human Rights Policy 2018  
 HR20 Freedom to Speak Up: Raising Concerns Policy  
 Attitude, Behaviour and Communication standards  
 Professional Codes of Conduct

## 7 BIBLIOGRAPHY

ACAS Code of Practice 1: Disciplinary and Grievance Procedures  
 Discipline and Grievances at work: The ACAS Guide

## 8 GLOSSARY

**Grievance** - a problem, concern or complaint that an employee has about their work, working conditions, or about an action that the Trust has taken or is proposing to take. A Grievance may also relate to acts of omission by the Trust, whether deliberate or not.

**Collective Grievance / Dispute** – a grievance (see above) raised on behalf of two or more employees by a representative of a recognised trade union or other appropriate workplace representative.

**ACAS** – Acronym for the „Advisory, Conciliation and Arbitration Service“ an independent body that works with employers and employees offering advice on employment relations

## 9.AUDIT AND ASSURANCE

Element to be monitored	Lead	Tool	Frequency	Reporting Committee
Investigation times	People Team	Casework Tracker	Quarterley	TCSE
Investigation times	Lead FTSU Guardian	FTSU Tracker	Quarterley	TCSE

Allegations of perceived or actual detriment (upheld or otherwise)	Lead FTSU Guardian	National Guardians Office	Quarterly	TCSE
Equality and Diversity monitoring.	Head of Operational HR	HR Tracker	Quarterly	TCSE

## 10 APPENDICES

**Appendix 1 – Equality Impact Assessment**

**Appendix 2 – Informal Grievance checklist Form**

**Appendix 3 – Formal Grievance notification form**

**Appendix 4 – Appeal notification form**

**Appendix 5 – Formal Grievance process for the hearing**

**Appendix 6 – Informal grievance process**

## Appendix 1

### Equality Analysis Screening Form

A word version of this document can be found on the HR support pages on Connect

<http://connect/corporate/humanresources/managementsupport/Pages/default.aspx>

<b>Title of Policy</b>	Grievance and Disputes Policy and Procedure		
<b>Person Completing this policy</b>	Taj Ghai	<b>Role or title</b>	Senior People Partner
<b>Division</b>	Corporate	<b>Service Area</b>	Human Resources
<b>Date Started</b>	February 2023	<b>Date completed</b>	February 2023
<b>Main purpose and aims of the policy and how it fits in with the wider strategic aims and objectives of the organisation.</b>			
<p>This policy provides a mechanism for grievances and disputes to be dealt with in a fair, consistent, and timely manner and to be resolved at the lowest level possible within the organisation. It provides the individual with a course of action should they have a complaint and offers points of contact and timescales to resolve these issues of concern.</p> <p>As a result, this policy aims to provide a clear framework to ensure fair and equitable approach when dealing with grievances and disputes within the Trust.</p>			
<b>Who will benefit from the proposal?</b>			
<p>All staff who work for the Trust whether that be in a permanent, temporary, secondment, honorary position or placement.</p> <p>This policy sets out a clear procedure, it identifies the responsibilities of each party concerned to ensure a fair and equitable approach is taken when dealing with Grievances and Disputes.</p>			
<b>Does the policy affect service users, employees or the wider community?</b>			
<b><i>Add any data you have on the groups affected split by Protected characteristic in the boxes below. Highlight how you have used the data to reduce any noted inequalities going forward</i></b>			
People working within Birmingham and Solihull Mental Health NHS Foundation Trust.			

<b>Does the policy significantly affect service delivery, business processes or policy?</b> <i>How will these reduce inequality?</i>				
The policy aims to resolve conflict/disputes at the lowest possible levels to support minimal impact to services.				
<b>Does it involve a significant commitment of resources?</b> <i>How will these reduce inequality?</i>				
There is a significant need for additional support when addressing formal grievances in the shape of DMG participants, commissioning managers, investigating officers, People Team, Inclusion Adviosors, Occupational Health etc.				
The policy aims to support all indivudals in a fair and consistent manner with all wellbeing supported offered throughout the process.				
<b>Does the policy relate to an area where there are known inequalities? (e.g. seclusion, accessibility, recruitment &amp; progression)</b>				
Not applicable.				
<b>Impacts on different Personal Protected Characteristics – Helpful Questions:</b>				
<i>Does this policy promote equality of opportunity?</i> <i>Eliminate discrimination?</i> <i>Eliminate harassment?</i> <i>Eliminate victimisation?</i>			<i>Promote good community relations?</i> <i>Promote positive attitudes towards disabled people?</i> <i>Consider more favourable treatment of disabled people?</i> <i>Promote involvement and consultation?</i> <i>Protect and promote human rights?</i>	
<b>Please click in the relevant impact box and include relevant data</b>				
<b>Personal Protected Characteristic</b>	<b>No/Minimum Impact</b>	<b>Negative Impact</b>	<b>Positive Impact</b>	<b>Please list details or evidence of why there might be a positive, negative or no impact on protected characteristics.</b>
<b>Age</b>	<b>X</b>			Open to all staff, FTC, secondments, and placements irrespective of age and level/grade
Including children and people over 65				

Is it easy for someone of any age to find out about your service or access your policy? Are you able to justify the legal or lawful reasons when your service excludes certain age groups				
<b>Disability</b>	X			There is minimal impact on staff due to disability as all staff follow the same guidance. Monitoring is built into the framework to evaluate the use of the policy and the support provided to all protected characteristics and where necessary to take action to avoid bias.
Including those with physical or sensory impairments, those with learning disabilities and those with mental health issues Do you currently monitor who has a disability so that you know how well your service is being used by people with a disability? Are you making reasonable adjustment to meet the needs of the staff, service users, carers and families?				
<b>Gender</b>	X			There is minimal impact on staff due to gender as all staff have to follow the same guidance. Monitoring is built into the framework to evaluate the use of the policy and the support provided to all protected characteristics and where necessary to take action to avoid bias.
This can include male and female or someone who has completed the gender reassignment process from one sex to another Do you have flexible working arrangements for either sex? Is it easier for either men or women to access your policy?				
<b>Marriage or Civil Partnerships</b>	X			There is a minimal impact on marriage or civil partnership being affected. Monitoring is built into the framework to evaluate the use of the policy and the support provided to all protected characteristics and where necessary to take action to avoid bias.
People who are in a Civil Partnerships must be treated equally to married couples on a wide range of legal matters Are the documents and information provided for your service reflecting the appropriate terminology for marriage and civil partnerships?				
<b>Pregnancy or Maternity</b>	X			There is minimal evidence that staff can be disproportionately affected as a result of pregnancy/maternity. Monitoring is built into



				the framework to evaluate the use of the policy and the support provided to all protected characteristics and where necessary to take action to avoid bias.
<p>This includes women having a baby and women just after they have had a baby</p> <p>Does your service accommodate the needs of expectant and post natal mothers both as staff and service users?</p> <p>Can your service treat staff and patients with dignity and respect relation in to pregnancy and maternity?</p>				
<b>Race or Ethnicity</b>	X			The policy highlights that there should be equality for all staff irrespective of their race or ethnicity and monitoring is built into the framework to evaluate the use of the policy and the support provided to all protected characteristics and where necessary to take action to avoid bias.
<p>Including Gypsy or Roma people, Irish people, those of mixed heritage, asylum seekers and refugees</p> <p>What training does staff have to respond to the cultural needs of different ethnic groups?</p> <p>What arrangements are in place to communicate with people who do not have English as a first language?</p>				
<b>Religion or Belief</b>	X			The policy highlights that there should be equality for all staff despite of their religion or belief. Monitoring is built into the framework to evaluate the use of the policy and the support provided to all protected characteristics and where necessary to take action to avoid bias.
<p>Including humanists and non-believers</p> <p>Is there easy access to a prayer or quiet room to your service delivery area?</p> <p>When organising events – Do you take necessary steps to make sure that spiritual requirements are met?</p>				
<b>Sexual Orientation</b>	X			This policy has been written to avoid any assumptions being made about sexual orientation. Monitoring is built into the framework to evaluate the use of the policy and the support provided to all protected characteristics and where necessary to take action to avoid bias.

Including gay men, lesbians and bisexual people Does your service use visual images that could be people from any background or are the images mainly heterosexual couples? Does staff in your workplace feel comfortable about being 'out' or would office culture make them feel this might not be a good idea?				
<b>Transgender or Gender Reassignment</b>	X			This policy should not disadvantage any trans or gender reassignment staff members and has been written gender neutral to avoid any assumptions being made. Monitoring is built into the framework to evaluate the use of the policy and the support provided to all protected characteristics and where necessary to take action to avoid bias.
This will include people who are in the process of or in a care pathway changing from one gender to another Have you considered the possible needs of transgender staff and service users in the development of your policy or service?				
<b>Human Rights</b>	X			This policy should not affect anyone's human rights, follows the Working Time Directive and monitoring is built into the framework to evaluate the use of the policy and the support provided to all protected characteristics and where necessary to take action to avoid bias.
Affecting someone's right to Life, Dignity and Respect? Caring for other people or protecting them from danger? The detention of an individual inadvertently or placing someone in a humiliating situation or position?				
<b>If a negative or disproportionate impact has been identified in any of the key areas would this difference be illegal / unlawful? I.e. Would it be discriminatory under anti-discrimination legislation. (The Equality Act 2010, Human Rights Act 1998)</b>				
	<b>Yes</b>	<b>No</b>		
<b>What do you consider the level of negative impact to be?</b>	<b>High Impact</b>	<b>Medium Impact</b>		<b>Low Impact</b>
				<b>X</b>
				<b>No Impact</b>

If the impact could be discriminatory in law, please contact the **Equality and Diversity Lead** immediately to determine the next course of action. If the negative impact is high a Full Equality Analysis will be required.

If you are unsure how to answer the above questions, or if you have assessed the impact as medium, please seek further guidance from the **Equality and Diversity Lead** before proceeding.

If the policy does not have a negative impact or the impact is considered low, reasonable or justifiable, then please complete the rest of the form below with any required redial actions, and forward to the **Equality and Diversity Lead**.

**Action Planning:**

How could you minimise or remove any negative impact identified even if this is of low significance?

EDI Leads will work with the organisation to reduce impact of any detriment experienced by reports of concerns.

How will any impact or planned actions be monitored and reviewed?

Feedback from reports of concerns, escalating concerns through governance routes. Regular audits and policy updates, communication to managers through Operational Meetings.

How will you promote equal opportunity and advance equality by sharing good practice to have a positive impact other people as a result of their personal protected characteristic.

EDI Communications plan and trust wide promotion in ways accessible to ALL people without the reliance upon electronic communications.

Please save and keep one copy and then send a copy with a copy of the policy to the Senior Equality and Diversity Lead at [bsmhft.edi.queries@nhs.net](mailto:bsmhft.edi.queries@nhs.net). The results will then be published on the Trust's website. Please ensure that any resulting actions are incorporated into Divisional or Service planning and monitored on a regular basis

## Appendix 2

# Birmingham and Solihull Mental Health NHS Foundation Trust

## CHECKLIST: STAGE 1: INFORMAL GRIEVANCES

**Please send a copy of this form to the People Team inbox and your representative.**

This checklist is intended to assist any discussion that takes place at the level of „informal grievance“.

In order to facilitate an attempt at resolving any queries or concerns raised at this stage, the employee must be able to confirm that they have tried to resolve the issue(s) in an informal, timely manner with the most appropriate person on a one to one basis as part of normal everyday working.

### PERSONAL DETAILS

Name:..... Job Title:.....

Location:..... Contact Details:.....

**1.** To help establish whether the concern/complaint should be considered at the informal grievance stage, the following questions should be considered:

- a) Has the employee tried to discuss and resolve the issues with their line manager / other most appropriate person? **Yes / No**
- b) Has the employee had the above discussion within 20 working days of the issue/incident arising? **Yes / No**
- c) If the complaint/concern relates directly to the behaviour of another individual, are either the Prevention of Dignity at Work policy or the Disciplinary policy more appropriate? **Yes / No**
- d) Does the issue relate to matters outside the jurisdiction of the Trust e.g. matters relating to nationally agreed NHS Conditions of Service or legislation? **Yes / No**

**2.** Answering “Yes“ to any of the above questions may mean that the issue should either be raised through alternative procedures or that the issue is outside of the scope of the Trust to resolve. The employee must be made aware of this in order that he/she can seek appropriate advice or make an informed decision.

**3.** Other options for resolving the issue should be suggested including, but not limited to any of the following:

- Mediation between the relevant parties facilitated by someone who has not been previously involved.
- Action taken under other policies.
- Employee to have a discussion with their Line Manager
- Alternative support as deemed appropriate by the employee and the manager completing this form.

**Agreed actions for resolution; Specific actions, by whom and timeframe:**

(There may be more than one meeting take place as part of the informal stage. Please use this form as a record of all meetings undertaken as part of the process).

Signed ..... Date.....  
**Manager**

Signed ..... Date.....  
**Employee**

## Appendix 3

# Birmingham and Solihull Mental Health NHS Foundation Trust

## STAGE 2: GRIEVANCE & DISPUTES NOTIFICATION FORM: FORMAL GRIEVANCES

**Please send a copy of this form to the People Team inbox and your representative**

This form should be used to submit a formal complaint under the Grievance Procedure. You are advised to read the procedure before completing the form.

The use of the procedure and the outcomes reached (but not details of individual cases) are monitored and published in accordance with Equality, Inclusion and Human Rights Policy 2018 (ref HR28).

If you believe your complaint concerns: harassment, victimisation or bullying the Dignity at Work Policy (Ref HR07) should be used.

**Please note the time limits for registering your grievance.** Failure to submit your complaint within the required timescales will jeopardise your grievance being heard.

**Stage 2: Formal Stage:** To be submitted to the next level of management within 10 working days of the informal discussion having taken place.

**Please note that you must fully complete the sections of this form, failure to do so may result in the form being returned to you for further information.**

### PERSONAL DETAILS

Name:..... Job Title:.....

Location:..... Contact Details:.....

## DETAILS OF GRIEVANCE

1. Please indicate which stage of the Grievance Procedure you are invoking by ticking the appropriate box.

**Stage 2: Formal Stage**

Date of incident / issue giving rise to grievance: .....

Date you raised incident/issue with your line manager:.....

Dates informal meeting/s took place:.....

(Please attach a copy of (Appendix 1) : Stage 1: Informal Grievance checklist)

2. Please state the grounds for your grievance, giving details of the circumstances or event occurring, which have given, rise to the grievance:

3. If you are invoking a Collective Grievance please ensure that you have included the names of all staff who are signatory to the grievance.

**REMEDY SOUGHT**

5. Please indicate what you would consider to be a satisfactory remedy to your grievance.

Signed: ..... Print Name: .....

Date: .....



## Appendix 4

# Birmingham and Solihull Mental Health NHS Foundation Trust

## STAGE 3: GRIEVANCE & DISPUTES NOTIFICATION FORM: APPEAL

**Please send a copy of this form to the People Team inbox and your representative**

This form should be used to submit a formal appeal under the Grievance Procedure. You are advised to read the procedure before completing the form.

The use of the procedure and the outcomes reached (but not details of individual cases) are monitored and published in accordance with Equality, Inclusion and Human Rights Policy 2018 (ref HR28).

If you believe your complaint concerns: harassment, victimisation or bullying the Dignity at Work Policy (Ref HR07) should be used.

**Please note the time limits for registering your grievance.** Failure to submit your complaint within the required timescales will jeopardise your grievance being heard.

**Stage 3: Appeal:** To be submitted within 10 working days of the written response to the Formal Grievance Hearing.

**Please note that you must fully complete the sections of this form, failure to do so may result in the form being returned to you for further information.**

### PERSONAL DETAILS

Name:..... Job Title:.....

Location:..... Contact Details:.....

### DETAILS OF APPEAL

Date of incident / issue giving rise to grievance: .....

Date you raised incident/issue with your line manager:.....

Dates informal meeting/s took place:.....  
(Please attach a copy of (Appendix 1) : Stage 1: Informal Grievance checklist)

Date of Grievance Hearing:.....

1. Please state the grounds for your Appeal, why you are dissatisfied with the decision made at the formal hearing stage.

2. If you are invoking an Appeal, please confirm that you have attached the following:

- A copy of the Grievance Notification Form;
- A copy of the outcome letter received by you from the formal grievance stage 2; and
- That you have stated why you are dissatisfied with the decision made at the formal hearing stage.

**REMEDY SOUGHT**

3. Please indicate what you would consider to be a satisfactory remedy to your grievance.

Signed: ..... Print Name: .....

Date: .....

## Appendix 5

# Birmingham and Solihull Mental Health NHS Foundation Trust

## PROCEDURE TO BE FOLLOWED AT FORMAL GRIEVANCE HEARINGS

1. The member of staff or their representative shall state their case in the presence of the hearing manager and may call witnesses.
2. The investigating manager/People Team Representative, and then the panel, shall have the opportunity to ask questions of the member of staff, their representative and witnesses.
3. The member of staff or their representative shall have the opportunity to question witnesses on any matter referred to in their examination by the panel or management.
4. The Investigating manager/People Team representative shall state their case in the presence of the member of staff and their representative and may call witnesses.
5. The member of staff or their representative, and then the panel, shall have the opportunity to ask questions of the investigating Manager and their witnesses.
6. The investigating manager/People Team representative shall have the opportunity to question their witnesses on any matter referred to in their examination by the panel, member of staff or their representative.
7. The member of staff or their representative and the investigating manager/People Team representative shall have the opportunity to sum up their cases if they so wish. The member of staff shall have the opportunity to speak last.
8. Nothing in the foregoing procedure shall prevent the members of the panel from inviting either party to elucidate or amplify any statement made, or from asking such questions as may be deemed necessary to clarify evidence presented.
9. The panel may, at their discretion, adjourn the hearing in order that further evidence may be produced by either party, or for any other reason, and will always do so in order to reach a decision. The member of staff, their representative and the investigating manager/People Team representative, and any witnesses will withdraw.
10. The panel 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, notwithstanding only one is concerned with the point giving rise to doubt.
11. If the panel are able to reach a decision on that day, both parties shall be recalled to hear the decision, which will be confirmed in writing within the time periods laid down in the Grievance Procedure.
12. Alternatively if the panel decides that it is not possible or desirable to make a decision on that day, both parties will be notified in writing of the decision within the time periods laid down in the Grievance Procedure

## Appendix 6

### **Birmingham and Solihull Mental Health NHS Foundation Trust**

#### **PROCEDURE TO BE FOLLOWED AT INFORMAL STAGE OF A GRIEVANCE**

- 1) The staff member must try to resolve any issues informally first with their line manager.
- 2) They should meet with their line manager as part of their normal everyday working.
- 3) If the grievance is regarding the staff members line manager then they should raise their concern with the next manager in line.
- 4) The appropriate manager will then arrange a meeting with the individual to discuss their issues informally.
- 5) If it is a collective grievance then the appropriate manager should discuss the issues informally with the group or a nominated representative.
- 6) It is the responsibility of the manager to ascertain the facts around the grievance.
- 7) The manager must ensure that as part of the informal process that all actions/discussions are recorded on (Appendix 2) and a copy given to the employee within 7 days of the meeting.
- 8) If further investigation is required this should be undertaken and the informal meeting reconvened within 10 working days of the original discussion, or as soon as practicably possible. The employee will be informed of this.
- 9) Every effort must be made for the informal process to be concluded within 20 working days of the issue/incident arising. A timeline should be agreed between the Line manager and the employee so the process is dealt with in a timely manner.
- 10) If an informal resolution is not achieved, then it may be necessary to proceed to the formal stage of the grievance procedure.