



## Grievance Policy & Procedure (Incorporating Dignity at Work)

### Document Governance

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Policy and procedure reviewed following legal advice in relation to representation.					

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<b>Document Type:</b>	Policy & Procedure	<b>Reference No:</b>	HR003	<b>Document level:</b>	Trust wide
<b>Document Grading:</b>	Medium				
<b>Document purpose:</b>	To set out the process for dealing with employee's individual or collective grievances (including those relating to claims of bullying & harassment) fairly, consistently and in a timely manner.				
<b>Applicable to:</b>	All staff				

<b>People/Groups Consulted:</b>	Staff side, management colleagues, EDI
<b>Approval Meeting:</b>	JNCC
<b>Governance Assurance Meeting:</b>	People & Culture Committee

<b>Other documents to be read in conjunction:</b>	Code of Conduct Disciplinary Policy and Procedure Just Culture Charter and Guiding Principles
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## Version Control and Change Summary

Version	Date	Section	Author	Comments
1	Dec 2015			New policy
2	Aug 2016			Updated
3	January 2019			Reviewed and updated into a policy and procedure.
4	August 2022			Updated with a 'Just and Learning Culture' statement – section 1.
5	Dec 2022			Reviewed and updated in line with expiry date.
6	26 <sup>th</sup> June 2023	1.6, 3.6, 3.7, 4.3, 5.2, 5.7, 5.8		Minor changes following legal advice and review.

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## **1.0 Introduction and Purpose**

- 1.1 This Policy sets out the process for dealing with employee's individual or collective grievances (including those relating to claims of bullying & harassment) fairly, consistently and in a timely manner.
- 1.2 A grievance policy is not a substitute for healthy, regular communication where employees are encouraged to raise, discuss and resolve daily working issues. The Trust wishes to promote a culture where open and honest communication and discussion takes place and concerns are raised and settled as close to the point of origin as possible.
- 1.3 This policy and procedure is in line with the relevant legislation and the Advisory, Conciliation and Arbitration Service (ACAS) guidance set out as follows: -
  - ACAS code of practice on disciplinary & grievance procedures
  - The Trade Union and Labour Relations (Consolidation) Act 1992
  - The Employment Rights Act 1996
  - The Employment Act 2008
  - The Equality Act 2010
- 1.4 The Trust will take false, frivolous and vexatious complaints very seriously and as such will treat any such complaints as a Disciplinary matter.
- 1.5 Line managers are responsible for ensuring that staff who report to them perform to an acceptable standard within a performance management framework. Legitimate, justifiable, appropriately conducted monitoring of a member of staff's behaviour, or job performance does not constitute bullying. It is reasonable to expect a manager to carry out his/her responsibilities in a fair, firm and consistent manner.

### **1.6 Policy Statement:**

- 1.6.1 The Trust have a Just Culture Charter. A Just and Learning Culture in LSCFT enables everyone to contribute to a fair, safe and compassionate environment. It is a culture that asks and curiously enquires into 'what' happened, not 'who' did what when an incident has occurred and promotes accountability, learning and support in equal measure. We will work together to be open with each other when things go wrong to feel supported and empowered to learn rather than feeling blamed.
- 1.6.3 We all have a responsibility to be honest, kind and willing to learn in all our interactions with each other. We will work in line with the 3 guiding principles of a Just and Learning Culture, of Fairness, Openness and Transparency and Learning not blame.
- 1.6.4 Please refer to the Trust Just Culture Charter in appendix I.

1.6.5 The Trust operates a zero-tolerance approach to unacceptable behaviour relating to any protected characteristic. This means that allegations raised are taken seriously, and dealt with promptly. We will listen to those who have suffered harm/unacceptable experiences and we will offer support as well as involving them in identifying how we will address the allegations, such as the application of Trust policies including the Grievance & Disciplinary Policies. We will challenge and take action to address inappropriate behaviour. We will offer support to those impacted and we will proactively increase knowledge and awareness for all.

## 2.0 Scope

2.1 This policy applies to all staff employed by Lancashire and South Cumbria NHS Foundation Trust (the Trust), as well as locums, bank workers, agency staff, volunteers, students, contractors and employees of other organisations that provide services to the Trust.

2.2 This Policy will not apply to disputes which relate to matters which have been addressed through another Trust Policy/Procedure.

2.3 All grievances must be raised within 3 months of the incident/concern unless there are exceptional circumstances preventing this.

## 3.0 Definitions

3.1 Grievances are concerns, problems or complaints that employees raise with their employers about their employment.

3.2 Bullying is characterised by ACAS as “offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.” In addition, bullying can be defined as ‘an attack on someone else’s dignity by persecution, oppression, physically or morally by (threat of) superior force’. Examples of behaviours that may constitute bullying and harassment can be found on the ACAS website.

3.3 Harassment is defined under the section 26 of the Equality Act (2010) as “Unwanted conduct relating to a relevant protected characteristic, which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual”

3.4 Bullying and Harassment ‘At work’ includes any place where the occasion can be identified within the requirements of employment, including social events linked/associated with the Trust.

3.5 Protected characteristics - the Equality Act (2010) defines protected characteristics as age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

3.6 Trade union representative - elected representative of an accredited/certified trade union whose role is to represent members in formal disciplinary meetings. The trade union must be accredited/certified but does not need to be recognised by the Trust for collective bargaining purposes.

3.7 Accredited / certified union - one that has satisfied the statutory definition of a trade union

and has been entered onto the list of Unions list maintained by the Certification Officer under section 3 of the Trade Union and Labour Relations (Consolidation) Act 1992.

## **4.0 Duties**

### **4.1 Responsibility of the Trust Board**

- 4.1.1 The responsibility for the provision of a policy for grievances rests initially with the Trust Board.
- 4.1.2 Additionally, the Trust Board will ensure through the line management structure that this policy is applied fairly and equitably and adequate resources are available to support the policy.

### **4.2 Responsibility of the Human Resources Directorate**

- 4.2.1 The Human Resources Directorate will oversee the introduction, operation and monitoring of this policy to ensure the fair and consistent application throughout the Trust in accordance with employment legislation.
- 4.2.2 Have a responsibility to familiarise managers with the provisions of the Equality Act 2010 as they relate to protected characteristics.
- 4.2.3 To seek support as and when required from the relevant staff networks or the Freedom To Speak Up Team and to ensure staff are aware of where they can access support from.
- 4.2.4 The Human Resources Directorate will ensure the provision of training, guidance and support to line managers on the operation of this policy.
- 4.2.5 The Human Resources Directorate will ensure that queries in relation to this policy at a local level will be answered and ensure the policy is applied fairly and consistently throughout the Trust.

### **4.3 Responsibility of Line Managers**

- 4.3.1 Line Managers are responsible for ensuring that this policy is applied fairly and consistently within their own area.
- 4.3.2 Have a responsibility to familiarise themselves with the provisions of the Equality Act 2010 as they relate to protected characteristics.
- 4.3.3 Ensuring that all staff are aware of the policy and understand the process for raising grievances.
- 4.3.4 To seek support as and when required from the relevant staff networks or the Freedom To Speak Up Team .
- 4.3.5 Employee wellbeing should be considered throughout the application of this policy. Employees should be made aware of the support available to them including the Employee Assistance programme. See 5.8.1 for details of how to access this.'

## 4.4 Responsibility of Employees

4.4.1 To raise any grievances immediately with their line manager with a view to resolve informally

4.4.2 To follow this procedure in lodging a grievance.

## 5.0 The Policy

5.1 This procedure should not be used for any process that has its own right of appeal or review e.g. Disciplinary, performance, sickness, flexible working etc. as such procedures already affords employees similar rights to this procedure.

### 5.2 Informal Resolution Meeting

5.2.1 It is preferable for all concerned that concerns/complaints are dealt with informally whenever possible.

5.2.2 In the case when concerns raised relate to protected characteristics, advice should be sought from a Diversity & Inclusion representative. Those impacted by the concerns should be offered support and their views on what steps will be taken to deal with their grievance should be considered carefully.

5.2.3 The employee, or their representative, should raise their concerns promptly with their immediate line manager and aim to reach a solution that is acceptable to all parties. If the concerns are about their immediate line manager then the employee should approach the next level of management.

5.2.4 The manager with whom the concerns are raised will arrange to meet with the employee as soon as reasonably practicable (usually within 7 calendar days) following receipt of the grievance.

5.2.5 A Human Resources representative may be present at the meeting and/or provide advice if required.

5.2.6 The person raising the grievance may be represented at this meeting by an accredited/certified Trade Union Representative or work colleague. Representation does not extend to family members however in exceptional circumstances, the employee may be supported by a family member where this is deemed appropriate and agreed by all parties.

5.2.7 Where concerns relate to bullying or harassment, the line manager, following the above meeting, will inform the person against whom the allegations have been made (the respondent) of the nature of the complaint and how the complainant intends to take this forward.

5.2.8 See Appendix A for 'How to Guide' on conducting an informal grievance meeting, or Appendix B for 'How to Guide' if the grievance relates to bullying or harassment.

5.2.9 The manager will keep a record of the meeting and will confirm the outcome in writing to the employee (usually within 7 calendar days). If the grievance is resolved the matter ends.

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### **5.3 1st Stage of Formal Process**

- 5.3.1 If it is not possible to resolve the grievance informally (or where the complaint relates to bullying and harassment and is sufficiently serious) the matter may be dealt with formally and the employee should complete the 'Notification of Grievance Form' included as Appendix C of this Policy or Appendix D if the grievance relates to Bullying & Harassment.
- 5.3.2 The employee's grievance will be acknowledged in writing by the appropriate level of manager (usually within 7 calendar days). The manager will then arrange to meet with the employee usually within 14 calendar days of receipt of the grievance. The employee will be given the opportunity to explain their grievance and how they think it should be resolved, see Appendix E for 'How to Guide' on conducting a formal grievance meeting. At this meeting, the manager, along with the HR representative, will consider the appropriate steps necessary by which to bring the grievance to a conclusion.
- 5.3.3 In most cases, and dependent on the circumstances, it will be possible for the manager to carry out a fact finding exercise or arrange a facilitated meeting to reach an outcome in relation to the concerns raised without the need for a formal investigation, however the manager may decide that it is necessary for a formal investigation to take place and will, in this situation, appoint an investigating officer. An HR representative will support this process. If no formal investigation is required, it is expected that a decision will be communicated back to the employee usually within 21 calendar days. If a formal investigation is required, it is expected that this will be undertaken in a timely manner.
- 5.3.4 At this stage if the case relates to bullying or harassment the manager must consider the temporary transfer of one of the employees concerned. Support is available from relevant staff networks for both the staff member and manager to ensure this is handled in a sensitive and supportive way.
- 5.3.5 In all cases the manager or other nominated person will keep the employee(s) updated on case progress.
- 5.3.6 The appointed investigating officer will collate information and prepare a report detailing their findings. This will be submitted to the manager to whom the concerns were formally raised for a decision on any action the Trust should take in order to resolve the grievance.
- 5.3.7 Following a fact find or formal investigation, a meeting will be arranged by the manager whom the concerns were formally raised with to provide feedback on the outcome to the complainant. The outcome will also be confirmed in writing by the manager. In cases where the grievance relates to Bullying & Harassment feedback will also be provided (verbally and in writing) to the individual against whom the allegations have been made.

### **5.4 Subsequent Action (In relation to concerns of bullying and harassment)**

- 5.4.1 Where an investigation concludes there is a case of harassment or bullying to answer, consideration will be given to invoking the disciplinary policy or performance policy.
- 5.4.2 If a complaint is not upheld, consideration may still be given, where practicable, and in exceptional circumstances, to the transfer of one of the employees concerned.



5.4.3 Where an investigation concludes that an allegation made was false, malicious, frivolous or vexatious it may require necessary action to be taken under the disciplinary policy.

5.4.4 Consideration should be given to other support needed for an individual or a team and / or their Manager following the conclusion of a case for example where a team may benefit from support from Organisational Development (OD) or Equality Diversity & Inclusion (ED&I) colleagues. This should be discussed with the relevant HR representative and explored further.

## **5.5 Appeals Procedure**

5.5.1 If the employee remains dissatisfied with the outcome of the 1st formal stage of the grievance, they are entitled to Appeal. The appeal must be lodged in writing within 14 calendar days of receipt of the written response. It must be addressed to the Director of Workforce and OD and must clearly outline the grounds of appeal. Receipt of the appeal will be acknowledged.

5.5.2 The appeal hearing will normally take place within two calendar months of the receipt of the written appeal. Arrangements for the hearing will be confirmed in writing to the employee and will be heard by an appropriate level of Manager, who has not previously been involved in the process, and a Human Resources representative. See Appendix F for 'How to Guide' on conducting the appeal hearing.

5.5.3 The Chair of the Appeal Panel will confirm the decision in writing to the employee usually within 14 calendar days of completion of the hearing or as soon as reasonably practicable.

5.5.4 The Appeal Hearing is the final stage of the Formal Grievance Procedure.

## **5.6 Modified Approach**

5.6.1 If a person raises a grievance after their employment has ended, the Trust will deal with the grievance under a modified approach. The Trust will decide whether it is appropriate to meet with the complainant or otherwise and will respond to the grievance in writing within a reasonable timescale. The complainant will have no right to appeal against the outcome/decision. If the employee leaves their employment after raising a grievance and that grievance has not been concluded. The employee will still have the right of appeal.

## **5.7 Right to be accompanied**

5.7.1 The employee will be given at least 5 working days' notice in writing that they are required to attend any formal meetings and have the right to be accompanied by an accredited/certified trade union representative or a workplace colleague. Representation does not extend to family members however in exceptional circumstances, the employee may be supported by a family member where this is deemed appropriate and agreed by all parties.

5.7.2 In cases where the grievance relates to Bullying & Harassment the individual against whom the concerns have been raised have the right to choose to be accompanied by an accredited/certified trade union representative or work colleague.

5.7.3 It is the employee's responsibility to arrange for an accredited/certified trade union representative or work colleague

## **5.8 Support**

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5.8.1 Support is available to all parties involved and this includes; Trade Union Representative, HR representative and Line Manager. Also, Occupational Health and the Employee Assistance Programme can be accessed via the Your Health & Wellbeing website at <https://wellbeing.lscft.nhs.uk/>.

5.8.2 An appropriate designated contact from LSCFT will be offered to the complainant(s) and respondent(s) to provide support to them during the formal part of this process.

## 5.9 Using Mediation

5.9.1 In some cases mediation can help resolve workplace issues especially those involving working relationships. This is strongly encouraged at all stages to assist with early resolution but must be voluntary agreed by all parties. Further information can be gained from the HR Advice Line.

## 5.10 Collective Grievances

5.10.1 This procedure can be applied to a group of employees sharing a collective grievance. Where the grievance is collective and the issues are the same in all respects, it is expected that the grievance will be presented by no more than three employees at the formal grievance meeting. The final outcome will however be binding on all employees raising the collective grievance. Management will therefore not be expected to separately hear each employee's case.

## 5.11 Status Quo

5.11.1 The status quo may be applied in a grievance situation where this is requested by the employee or representative and is considered appropriate by management in the circumstances. Management will consider the operational impact and reasonableness of any request. Whether status quo is applied or not, will have no bearing on the potential outcome of the grievance and cannot be used by either party as evidence to support their case. The status quo is defined as being the situation/practice/agreement which existed prior to the grievance being raised.

## 6.0 Monitoring

Standard	Time frame/ format	How this will be monitored	By whom
Consistency of Application	Monthly	Via monthly meetings between HR Advisors and Management  Queries brought to HR Team Meetings to ensure consistency of advice offered	HR and Management  HR Team
Ensure legal compliance of the policy	Ad hoc	Policy to be reviewed as and when revision to guidance and employment law occurs	Policy Author

## 7.0 References (including applicable NICE publications)

7.1 ACAS Code of Practice – Disciplinary and Grievance procedures

7.2 ACAS (2009) “Dealing with Grievances” [www.acas.org.uk](http://www.acas.org.uk)

## 8.0 Implementation plan

Category	Action(s)	Target date	Responsible person
Engagement	Trust wide communication regarding the updated policy. Employees and managers encouraged to review the revised policy.  Disseminated via Locality Management Team Meetings.	TBC	Head of HR Business Partnering & Employee Relations
Training	Briefing sessions across the Trust at a local level.	TBC	Senior HR Business Partners

## **Appendix A - How to Guide for Conducting an Informal Grievance Meeting**

The below checklist is for guidance purposes only, as it is recognised that the manager will need to determine how best to conduct the meeting given the individual circumstances.

### **Introductions**

- Welcome attendees. Introduce those present and their roles,
- Ask the employee to introduce themselves and their companion (if applicable)

### **Clarify Procedure**

- Confirm that this is an informal meeting to discuss the concerns raised by the employee (providing the date when the concerns were raised), and that the meeting will take place in line with the informal stage of the grievance procedure.
- If the meeting has been rescheduled, confirm with the employee that they acknowledge why this was the case.
- Advise that the employee will be given opportunity to explain the issue and how they would prefer for it to be resolved i.e. desired outcome from the process
- Through discussion every effort should be made to reach a mutually agreeable solution.
- Advise that the outcome will be confirmed in writing to the employee.

### **Present Concerns**

- Employee to be given opportunity to:
  - i. explain issues and
  - ii. how they would prefer concerns to be resolved (desired outcome from process).

### **Decision/Next Steps**

- Manager considers concern(s) & makes a decision. Outcome confirmed in writing
- If the manager is unable to make a decision as further consideration/information is required, inform the employee as to when they can expect written notification of the decision (or if further action was deemed necessary what this would entail)
- If the employee is not satisfied with the managers response they may raise the matter formally in line with the Grievance Policy
- Close the meeting, ensuring that everyone understands what is going to happen.

### **Record**

- Record summary of discussions (including any agreed actions and timescales etc).
- Store records securely, as these may be subsequently required within later procedural stages and shared with all relevant parties, including the employee.

## **Appendix B - How to Guide for Conducting an Informal Grievance Meeting (where grievance relates to Bullying & Harassment)**

The below checklist is for guidance purposes only, as it is recognised that the manager will need to determine how best to conduct the meeting given the individual circumstances.

### **Introductions**

- Welcome attendees. Introduce those present and their roles,
- Ask the employee to introduce themselves and their companion (if applicable)

### **Clarify Procedure**

- Confirm that this is an informal meeting to discuss the concerns raised by the employee (providing the date when the concerns were raised), and that the meeting will take place in line with the informal stage of the grievance procedure
- If the meeting has been rescheduled, confirm with the employee that they acknowledge why this was the case.
- Advise that the employee will be given opportunity to explain the issue and how they would prefer for it to be resolved i.e. desired outcome from the process
- Through discussion every effort should be made to reach a mutually agreeable solution.
- Advise that the outcome will be confirmed in writing to the complainant

### **Present Concerns**

- Employee to be given opportunity to:
  - i. Provide a clear description of what behaviour has caused offence
  - ii. Explain whether the behaviour has been a one-off incident or part of a series
  - iii. Explain how the behaviour has affected the employee/made them feel
  - iv. Explain what improvements of behaviour the complainant wants from the respondents

### **Next Steps**

- Advise employee that you will discuss their concerns with the individual against whom the concerns have been raised and provide written notification of the outcome, including any actions and how the situation will be monitored going forward
- If the employee is not satisfied with the managers response they may raise the matter formally in line with the Grievance Policy
- Close the meeting, ensuring that everyone understands what is going to happen.

### **Meeting with Individual against whom concerns have been raised (the respondent)**

Advise employee that concerns have been raised against them under the informal stage of the Grievance policy

- i. Provide a clear description of what behaviour has been explained as causing offence and how this behaviour has affected the employee/made them feel

- ii. Confirm intention to deal with the matter informally
  - iii. Provide opportunity for the individual to share their view of the situation (and how the behaviour may have been intended if contrary to the nature of the complaint)
  - iv. Where appropriate clarify required standards of behaviour expected and the preferred behaviours of the employee raising the concern(s)
  - v. Where appropriate confirm likely consequences of continuing the same or similar behaviour
  - vi. Willingness/agreement to resolve the situation/confirm specific actions
  - vii. Agree how to monitor situation going forward
- Advise that the outcome will be confirmed in writing to the respondent usually within 7 calendar days.

## **Record**

- Record summary of the discussions with both parties, (including any agreed actions and timescales etc).
- Store records securely, as these may be subsequently required within later procedural stages and shared with all relevant parties, including the employee.

**Appendix C - Notification of Formal Grievance**

Name: \_\_\_\_\_

Post: \_\_\_\_\_

Department: \_\_\_\_\_

Location: \_\_\_\_\_

Your Trade Union Representative/nominated workplace colleague

\_\_\_\_\_

To: \_\_\_\_\_(Manager)

I have discussed my Grievance informally, outlined below, with \_\_\_\_\_  
(Manager) and I remain dissatisfied.

I request that it now be dealt with in accordance with the Formal Grievance Procedure.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Please provide as much information as you can about the problem to enable your grievance to be settled as quickly as possible

(Please use additional sheets of paper if necessary and attach them securely to this form).

Please describe how you would like your grievance to be resolved (what is your desired outcome from the process):

**Please send this completed form to the next level manager. If you are unsure who to send it to your Trade Union Representative or the Human Resources Department will be able to advise you.**

**Please include a copy of the letter sent to you by the Manager with whom you discussed your Grievance informally.**

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**To be completed by the Receiving Manager:**

Date of Receipt: \_\_\_\_\_

Acknowledged in writing: \_\_\_\_\_

HR Support \_\_\_\_\_

**PLEASE SEND THIS FORM TO THE HUMAN RESOURCES DEPARTMENT**



**Appendix D - Notification of Formal Grievance (where grievance relates to Bullying & Harassment)**

Name: \_\_\_\_\_

Post: \_\_\_\_\_

Department: \_\_\_\_\_

Location: \_\_\_\_\_

Your Trade Union Representative/nominated workplace colleague

\_\_\_\_\_

Name of individual against whom grievance is being raised: \_\_\_\_\_

To: \_\_\_\_\_ (Manager)

I have discussed my Grievance informally, outlined below, with \_\_\_\_\_ (Manager) and I remain dissatisfied. I request that it now be dealt with in accordance with the Formal Grievance Procedure.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Please provide as much information as you can about the problem to enable your grievance to be settled as quickly as possible

<p>Include:</p> <ul style="list-style-type: none"><li>• Factual descriptions of events of unacceptable behaviour (Where possible dates, times and witnesses to incidents)</li><li>• An indication of how the incident(s) made you feel</li><li>• Details of informal approach already taken</li><li>• Any relevant documentary evidence supporting the complaint</li></ul>
--

Please describe how you would like your grievance to be resolved (what is your desired outcome from the process):

**Please send this completed form to the next level manager. If you are unsure who to send it to your Trade Union Representative or the Human Resources Department will be able to advise you.**

**Please include a copy of the letter sent to you by the Manager with whom you discussed your Grievance informally.**

---

**To be completed by the Receiving Manager:**

Date of Receipt: \_\_\_\_\_

Acknowledged in writing: \_\_\_\_\_

HR Support \_\_\_\_\_

**PLEASE SEND THIS FORM TO THE HUMAN RESOURCES DEPARTMENT**

## **Appendix E - How to Guide for Conducting a Formal Grievance Meeting (Incorporating Dignity at Work)**

The below checklist is for guidance purposes only, as it is recognised that the manager will need to determine how best to conduct the meeting given the individual circumstances.

### **Introductions**

- Welcome attendees. Introduce those present and their roles,
- Ask the employee to introduce themselves and their companion (if applicable)
- Representation of Employee – If accompanied confirm the role of the companion, i.e. that they will be able to address the hearing in order to: put the employee's case forward; sum up the case; respond on the employee's behalf to any view expressed at the hearing; and confer with the employee. However, the representative will not usually answer questions on behalf of the employee
- If not accompanied note that the employee has been advised of their right to be accompanied but has chosen to attend unaccompanied.
- Confirm with the employee that they have received the letter notifying them of the meeting and any associated documentation.

### **Clarify Procedure**

- Confirm that this is formal meeting to discuss the concerns raised by the employee (providing the date when the concerns were raised formally), and that the meeting will take place in line with the formal stage of the grievance procedure.
- If the individual has previously had an informal meeting confirm the date this took place and the outcome confirmed by the manager
- If the meeting has been rescheduled, confirm with the employee that they acknowledge why this was the case.
- Advise that the employee will be given opportunity to explain the issue and how they would prefer for it to be resolved i.e. desired outcome from the process
- Through discussion every effort should be made to reach a mutually agreeable solution.
- Dependent on the circumstances of the grievance it may be agreed between the complainant and manager that a fact find exercise may be more appropriate instead of conducting a formal investigation.
- Advise that in either of the above routes to resolution the outcome will be confirmed verbally and in writing to the employee usually within 21 calendar days.

### **Present Concerns**

Employee to be given opportunity to:

- explain issues and
- how they would prefer concerns to be resolved (desired outcome from process).

## **Decision/Next Steps**

- Manager considers concern(s) and depending upon the circumstances, either undertakes a fact finding exercise to reach an outcome in relation to the concerns raised without the need for a formal investigation or appoints an Investigating Officer who will, on completion of the investigation, submit a report to the manager for a decision.
- Outcome confirmed verbally and in writing
- If employee not satisfied with managers response they have the right of appeal in line with the Grievance Policy
- Close the meeting, ensuring that everyone understands what is going to happen.

## **Record**

- Record summary of discussions (including any agreed actions and timescales etc).
- Store records securely, as these may be subsequently required within later procedural stages and shared with all relevant parties, including the employee.

## **Appendix F - How to Guide for Conducting an Appeal Hearing (Incorporating Dignity at Work)**

The below checklist is for guidance purposes only, as it is recognised that the Chair will need to determine how best to manage any hearing given the individual circumstances of the case

### **Introductions**

- Welcome attendees. Introduce those present and their roles,
- Ask the employee to introduce themselves and their companion (if applicable)
- Representation of Employee – If accompanied confirm the role of the companion, i.e. that they will be able to address the hearing in order to: put the employee's case forward; sum up the case; respond on the employee's behalf to any view expressed at the hearing; and confer with the employee. However, the representative will not usually answer questions on behalf of the employee
- If not accompanied note that the employee has been advised of their right to be accompanied but has chosen to attend unaccompanied.
- Confirm with the employee that they have received the letter notifying them of the appeal hearing/meeting and any associated documentation.
- Advise that any questions, comfort breaks and adjournments requests should be directed at the Chair.
- Identify the location of the rooms available to both the employee and the manager should any adjournments be required.

### **Preliminary Matters**

- Confirm that the appeal hearing/meeting is a result of the decision of a grievance outcome (providing the date when the decision was confirmed and its outcome), and that the appeal will be heard in line with the relevant procedure.
- If the appeal hearing/meeting has been rescheduled, confirm with the employee that they acknowledge why this was the case.
- Reaffirm that the appeal process is not an opportunity for a re-hearing of the original submission but to: consider the grounds of their appeal e.g. this could be to determine if previous decision was fair, consider any new facts and judge reasonableness of procedure to date etc.
- Advise that the decision of the appeal panel will be made after the hearing, either following an adjournment, or after closing the hearing, should it require more time to consider the case. The outcome will be confirmed in writing 14 calendar days of the hearing or as soon as reasonably practicable.

## **Clarify Procedure**

- Advise of the procedure
- The individual or the representative will outline their appeal and provide supporting argument and evidence.
- The Deciding Manager will outline their position in relation to the grievance and provide supporting evidence as appropriate.
- The Appeal Panel will question both parties
- The Appeal Panel may adjourn the hearing at any point to consider in detail the information obtained.
- Following any adjournment the Panel may seek further clarification or explore issues.
- At any stage either party may seek permission from the Chair to provide further information, present additional argument, make proposals or seek clarification.

### Documentation:

- Advise that it is the employee's responsibility to specifically draw the panel's attention to all relevant documentary evidence that should be considered in relation to their grounds for appeal.

### Taking of Notes:

- Advise that the note-taker will take summary notes to support the panel's consideration. Should the employee want a summary of these notes these can be provided on request. Advise that both the employee and their representative would be welcome to make their own notes.

## **Present Case**

- Hear case based on the above procedure.

## **Adjournment & Decision**

- Panel either adjourns or closes the hearing to consider the case
- Panel considers the case and makes a decision (Grounds for appeal: upheld, rejected, or require a full or partial rehearing). Outcome to be confirmed in writing within 5 working days of hearing or as soon as reasonably practicable
- No further right of appeal
- If the panel is unable to make a decision as further consideration/information is required, inform the employee as to when they can expect written notification of the decision (or if further action was deemed necessary what this would entail)
- Close the hearing, ensuring that everyone understands what is going to happen.

## **Record**

- Record summary of the discussions, (including any agreed actions and timescales for improvement etc).
- Store records securely, as these may be subsequently required within later procedural stages and shared with all relevant parties, including the employee.



## APPENDIX G Flowchart of the Grievance Procedure (Incorporating Dignity at Work)

### Informal Stage

Complaint raised with immediate line manager (or next level manager if concern about immediate manager)

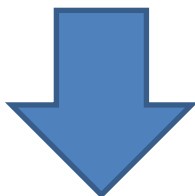
Manager arranges to meet with employee

Hold meeting with employee (follow 'How to Guide' Appendix A or B)

Where concern relates to B&H managers informs individual against whom allegations made

Outcome confirmed in writing to employee

Grievance not resolved to  
Employee satisfaction



**NB May commence at formal stage if  
complaint relates to bullying &  
harassment & is sufficiently serious**

### Formal Stage

Employee completes 'Notification of Formal Grievance' Form

Next level manager meets with employee to allow grievance to be explained & desired outcome

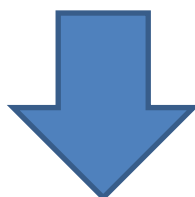
- Investigating officer appointed. Report submitted to manager for decision OR
- Fact finding completed by manager

***NB In cases where the grievance relates to Bullying & Harassment the manager will always appoint an investigating officer such that a formal investigation can take place***

Outcome verbally and in writing to employee. Employee has right of appeal (in writing) within 14 calendar days on receipt of the outcome letter

(In cases of Bullying and harassment outcome also provided to individuals against whom allegations made verbally and in writing)

Grievance not resolved to  
employee satisfaction



### **Appeal Hearing Stage**

The appeal process is not an opportunity for a re-hearing of the original submission but to: consider the grounds of their appeal e.g. this could be to determine if previous decision was fair, consider any new facts and judge reasonableness of procedure to date etc.

At Appeal hearing stage the outcome made by the panel is final. There is no further right of appeal.

## Appendix H Lessons Learnt

<b>Attendees at Lessons Learnt Process:</b>	<b>Date of Lessons Learnt Meeting:</b>
<b>Date of Grievance lodged:</b>	<b>Name of Grievance Chair:</b>  <b>Name of HR Support to Grievance Chair:</b>
<b>Date informal stage completed:</b>	<b>Outcome of the grievance:</b>
<b>Date Formal Stage completed :</b>	
<b>Date Appeal Stage completed:</b>	<b>Length of grievance (weeks):</b>
<b>Please describe the nature of the grievance lodged:</b>	
<b>If the grievance took longer than the timescales set out in the policy what were the reasons for the delay?</b>	
<b>What were the positives to take away from the grievance process?</b>	
<b>Would the chair make any changes if they heard the grievance again?</b>	
<b>Would the staff side representative change anything if involved in such a process again?</b>	
<b>Were there any learning points from the Grievance process?</b>	
<b>Were there any organisational learning points that were highlighted during the grievance process:</b>	
<b>Please detail the actions that will be put in place as a result of the organisational learning points:</b>	
<b>Action: Who will implement: By when:</b>	
<b>Any other relevant information for the lessons learnt process</b>	



Lancashire & South Cumbria  
NHS Foundation Trust

## Definition

A Just and Learning Culture in LSCFT will provide a system of shared accountability amongst all parties enabling everyone to contribute to a fair, safe and compassionate environment that makes everyone feel supported and empowered to learn when something goes wrong rather than seeking to apportion blame or feeling blamed.

To support this we will be honest, kind and willing to learn in all aspects of our interactions with each other.



## Guiding principles

Our 3 guiding principles will underpin the Just and Learning Culture within LSCFT



- **Fairness** - LSCFT is committed to developing a Just and Learning Culture recognizing that treating staff fairly, having insight and input from staff in incidents and learning from incidents is vital to our continuous learning and improvement journey.



- **Openness and Transparency**- LSCFT is committed to develop a culture of openness and transparency, accepting that we don't always get things right first time and that we will learn to continually improve.



- **Learning not Blame**- LSCFT is committed to being compassionate and supportive to those involved in incidents, promoting and encouraging consistent and curious enquiry and always ask 'what happened' and not 'who did what'. We will work towards reducing variability in how managers respond to staff involved in patient safety and other incidents to ensure they are treated fairly.

This will become the way we do things round here and will be embedded in our policies, procedures and practice.



## What does **Just Culture** mean at LSCFT?

**Justice** - Our leaders will behave in a way that promotes openness and fairness. We will commit to a culture of workplace justice which permeates through everything we do. **We are respectful.**

**Understanding** the systemic factors involved in incidents; offer organisational accountability which does not shame, blame or humiliate an individual. Committing to assessing situations with consistent, constructive and fair evaluation, using a systemic approach that considers those actions in the context of the wider system. As an organisation we will show humility and a willingness to learn and develop from incidents. **We are kind.**

**Support** - Offer organisational commitment to Peers, Managers, and Leaders supporting and treating healthcare workers with respect, dignity and compassion (when they are involved in a situation in which a patient is harmed or nearly harmed). **We are a team.**

**Transparency** - Treat individuals with equity, offering constructive, consistent and fair evaluation which includes an appropriate accountability for actions at all levels of the trust. Engaging healthcare workers in efforts to understand what happened and take appropriate action to improve the system. **We are always learning.**





## What does a **Learning Culture** mean at LSCFT?

### We are always learning

- When there is an incident, we will approach this from a human factors perspective and seek to learn from what has gone wrong in care
- We will use supervision to reflect on incidents we have been involved in and use this as an learning opportunity to improve patient care
- We speak up if we are concerned about safety and focus on opportunities to improve
- Our leaders will share lessons learnt with their teams on a regular basis
- Our teams will be open about challenges and celebrate what is working well





**Appendix iii: Equality Impact Assessment:** this MUST be done in collaboration with the Trust Equality and Diversity Lead

When completing, remove all guidance text like this but do not alter or delete any elements of this assessment

LSCFT puts equality, inclusion, and human rights at the centre of the design and delivery of inclusive services for the diverse communities we serve, and the empowering culture we create for our staff.

The legal case is set out in the Equality Act 2010 and the practice is embodied by our staff every day, without exception.

We are stronger together.

[Equality@lscft.nhs.uk](mailto:Equality@lscft.nhs.uk)



This assessment applies to any Trust policy document, or activity required in a Policy, which will have an impact on people.

Please refer to the Equality Impact Assessment (EIA) Form Guidance and the Equality and Diversity Lead. This assessment must be done in collaboration with the E&D Lead

**1. What is the title of the Policy and purpose of the activity in requires or involves that needs to be considered and assessed for its impact on people?**

To set out the process for dealing with employee's individual or collective grievances (including those relating to claims of bullying & harassment) fairly, consistently and in a timely manner.

**2. Which group/s of people is/are being considered?**

Patients / Service Users  Staff  Public  Partner agencies

Other (please specify here) Staff side representatives

**3. Which of the following protected characteristics may or are likely to be affected by this policy? (\* in any box as needed)**

Age	Disability	Gender-reassignment	Marriage/Civil Partnership <i>in employment only</i>	Pregnancy & Maternity	Race	Religion or Belief	Sex	Sexual Orientation	Other <i>detail below</i>
									
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

**Other:** Single parents for example if they had a grievance about how leave policy had been applied to them.

Bank workers

**4. What engagement is taking place or has already been undertaken with those who are likely to be affected?**

The policy was reviewed via the Trusts Policy Group and shared with the ED&I team.

**5. What impact or potential impact has been identified through the consultation?**

Disability – more requests from those with disabilities, making reasonable adjustments and managing those situations with sensitivity and in line with legislative requirements.

Race – data from WRES indicates that staff from a BME background disproportionately represented in pay bands and are more likely to be frontline and in roles in some of our more challenging service areas which could give rise to challenges circumstances resulting in disputes

Carers – more likely to make requests for leave – so could raise a grievance related to access to leave policies

Protected characteristics should be given due regard when considering grievances to allow for consideration of appropriate context

**6. What further steps are needed to mitigate or safeguard against the impact/potential impact identified?**

Training sessions for managers on how to use the policy and follow the process – will help to mitigate against the policy disproportionately impacting on specific identified groups I./e unconscious bias, stigma etc.  
 Training and coaching for managers in relation to support to deliver early interventions for example facilitated discussions and encouraging mediation at informal resolution stage.  
 Other work / policies are addressing wider equality issued with the Trust I.e. career progression for BME staff  
 Lessons learnt review process to be undertaken after every grievance involving key stakeholders who were part of the process and investigation etc. – which can include the staff member affected - learning and reflection to be shared as appropriate with key stakeholders.

Outcome of the assessment	Action/s Required	Timescale	Accountability
<p>Outcome 1: <b>No change(s) required</b>  <i>When the scoping exercise has not identified any potential for discrimination or adverse impact and all opportunities to promote equality have been taken.</i></p>			
<p>Outcome 2: <b>Adjustments to remove barriers that were identified in the consultation</b>  <i>We need to be satisfied that the proposed adjustments will remove the barriers identified.</i></p>	<p>The Trust is rolling out a comprehensive BRAP Training model which aims to eliminate workplace biases and racial inequality. All HR Business Partners will undertake the training and will be able to challenge any biased or discriminatory practices and ideology throughout the flexible working process. In addition to this, the HR Team will include Unconscious Bias Training as part of the wider policy training rollout so that managers and HR support are aware of responsibilities with regard to equality, diversity and inclusion.</p> <p>Introduction to Allyship training. All HR teams will undertake and this is being rolled out across the organisation</p>		

	<p>ED&amp;I linked into Case Conference processes at early stages with the clinical networks and corporate support services to identify interventions required and / or support as alternative to formal processes.</p> <p>OD&amp;ED&amp;I colleagues support to teams around culture changes and linked to above re alternative interventions and support for managers.</p> <p>HR colleagues and ED&amp;I colleagues to work more closely in relation to monitoring of cases, investigation reviews and learning outcomes post case.</p> <p>HR teams being trained in facilitated discussion skills – to support early resolution of grievance at informal stages.</p> <p>Separation of process and policy for dealing with bullying &amp; harassment cases identified via work stream – separate policy being drafted.</p>		
<p><b>Outcome 3: There is still potential for adverse impact or missed opportunities to promote equality.</b>  <i>This requires the consideration of ‘reasonable adjustments’ under the law to adapt and enable people to engage in or access the activities/practices required by the policy. In this case, the justification for continuing must be described here and should also be in line with the duty to have ‘due regard’.</i>  <i>For the most important relevant policies, compelling reasons will be needed.</i></p>			

<p><i>We need to demonstrate that there are sufficient plans to reduce the negative impact with 'reasonable adjustments' and/or plans to monitor the actual impact</i></p>			
<p><b>Outcome 4: Stop and rethink.</b>  <i>When an EIA shows actual or potential unlawful discrimination you will now need to make changes to the policy and practices it requires.</i></p>			

<p><b>How will we monitor this and to whom will we report outcomes?</b>          The executive owner of the policy must be made aware of this assessment and any monitoring or rewriting in relation to outcomes 2,3 or 4  <i>Risks identified throughout the assessment process and controls designed to address them, must be described and rated and recorded on Datix or in service risk registers in line with Trust processes. Assurance mechanisms should be developed for each activity to ensure that equality and diversity compliance is achieved on an ongoing basis</i></p>	<p>The Policy Owner is aware that this EIA has been undertaken as part of the policy review process. Any future reviews will be undertaken by the policy Author. The outcomes in section 2 will be monitored by the Head of HR Business Partnering &amp; Employee Relations in discussion with the Trust ED&amp;I lead. The Head of HR Business Partnering will also review the Trusts work on Zero Tolerance with relevant parties with review this in terms of the outcomes and any impacts on this policy.</p>
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**7. Who undertook this assessment and when?**

<p>Name: David Rooms</p>	<p>HR Advisor</p>
<p>Liz Keir</p>	<p>Head of HR Business Partnering and Employee Relations</p>
<p>Job Title:</p>	<p>Date assessment started:</p>
<p>Service: HR</p>	<p>Date assessment completed: 03.10.22</p>
<p>Sign off: <b>High – to be signed off by E&amp;D Team</b>  <b>Medium – to be signed off by Author with E&amp;D advice</b>  <b>Low – signed off by Lead Author</b></p>	<p>EIA Grade: High</p>

**8. Authorised by Trust Equality and Diversity Lead (Signature):** Candace Bedu-Mensah

**Date:** 18/10/22