# GRIEVANCE POLICY & PROCEDURE
(Incorporating Dignity at Work)

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<td>Executive Management Team</td>
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## TRUST GOVERNANCE STRUCTURE

POLICY LINKED TO HR Delivery and Governance
POLICY VERSION CONTROL

This record shall detail all previous versions of the Policy, including versions that have been known by other names and the date of when a new version was created.

<table>
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<tr>
<td>Grievance Policy</td>
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1. Trust Policy Statement

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.

2. Application

2.1 This policy applies to all staff employed by Lancashire Care 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.

2.4 Definitions

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

2.4.2 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.
2.4.3 Harassment is defined under the section 26 of the Equality Act as “Unwanted conduct relating to a relevant protected characteristic, which has the purpose of effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual”

2.4.4 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.

3.0 Implementation

3.1 Informal Resolution Meeting

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

3.1.2 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.

3.1.3 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.

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

3.1.5 The person raising the grievance is entitled to be represented at this meeting by a Trade Union Representative or work colleague.

3.1.6 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.

3.1.7 See Appendix 1 for ‘How to Guide’ on conducting an informal grievance meeting, or Appendix 2 for ‘How to Guide’ if the grievance relates to bullying or harassment.

3.1.8 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.

3.2 1st Stage of Formal Process

3.2.1 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 3 of this Policy or Appendix 4 if the grievance relates to Bullying & Harassment.

3.2.2 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 opportunity to explain their grievance and how they think it should be resolved, see Appendix 5 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.

3.2.3 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.

3.2.4 At this stage if the case relates to bullying or harassment the manager must consider the temporary transfer of one of the employees concerned.

3.2.5 In all cases the manager or other nominated person will keep the employee(s) updated on case progress.

3.2.6 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.

3.2.7 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.

3.3 Subsequent Action (In relation to concerns of bullying and harassment)

3.3.1 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.

3.3.2 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.

3.3.3 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.

3.4 Appeals Procedure

3.4.1 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.

3.4.2 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 6 for ‘How to Guide’ on conducting the appeal hearing.

3.4.3 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.
3.4.4 The Appeal Hearing is the final stage of the Formal Grievance Procedure.

3.4.5 Modified Approach

3.4.6 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.

3.5 Right to be accompanied

3.5.1 The employee will be given at least 5 working days' notice in writing that they are required to attend any formal meetings and may choose to be accompanied by a trade union representative recognised by LCFT or a work colleague.

3.5.2 In cases where the grievance relates to Bullying & Harassment the individual against whom the concerns have been raised may choose to be accompanied by a trade union representative or work colleague.

3.5.3 It is the employee’s responsibility to arrange trade union representative or work colleague support.

3.6 Support

3.6.1 Support is available to all parties involved and this includes; Occupational Health, The Employee Assistance Programme (Health Assured), Trade Union Representative, HR representative, Line Manager.

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

3.7 Using Mediation

3.7.1 In some cases mediation can help resolve workplace issues especially those involving working relationships. Further information can be gained from the HR Advice Line.

3.8 Collective Grievances

3.8.1 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.

3.9 Status Quo

3.9.1 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.

4.0 Record Keeping

4.1 The responsible manager must ensure that all copies of written proceedings, statements and records are forwarded to the HR department for retention.

5.0 Training

5.1 Line managers may access one-to-one advice and guidance from the Human Resources department. Where a significant need to increase management capability in the application of the policy is identified, training sessions will be delivered to a cohort of line managers.

5.2 Further advice and support in relation to this policy can be obtained through e-HR or the HR Advice Centre.

6.0 Monitoring (Including Standards)

6.1 The governance of this policy, including the reviews, monitoring and reporting will be overseen by Trust’s Partnership Group and/or HR Delivery and Governance Group. The reviews will be undertaken in accordance with the review date set out within the policy or at appropriate intervals when required.

7.0 References

- Lancashire Care Trust’s Disciplinary Policy & Procedure
- ACAS code of practice on disciplinary & grievance procedures
Appendix 1 - 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 employee not satisfied with 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 2 - 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

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 employee not satisfied with 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 3 - 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.

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 4 - 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

Include:

- Factual descriptions of events of unacceptable behaviour (Where possible dates, times and witnesses to incidents)
- An indication of how the incident(s) made you feel
- Details of informal approach already taken
- Any relevant documentary evidence supporting the complaint
Please describe how you would like your grievance to be resolved (what is your desired outcome from the process):

___________________________________________________________________

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 5 - 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
- 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 had 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.
- Explain that depending upon the circumstances either an Investigating officer will be appointed who will on completion of the investigation submit a report to the manager for decision OR the manager will undertake a fact finding exercise to reach an outcome in relation to the concerns raised without the need for 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 6 - 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
- 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 7 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 (where concern relates to B&H managers informs individual against whom allegations made)
- Hold meeting with employee (follow ‘How to Guide’ appendix 1 or 2)
- Outcome confirmed in writing to employee

### Formal Stage
- Employee completes ‘Notification of 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
- (In cases of Bullying and harassment outcome also provided to individuals against whom allegations made verbally and in writing)

**NB if following an investigation it was concluded that there was a case of bullying & harassment to answer a disciplinary hearing would be arranged in line with Trust Disciplinary Procedure**

### Appeal
- Employee has right of appeal (in writing) within 14 calendar days of outcome letter