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Signed off by:	
	

COLLECTIVE GRIEVANCE PROCESS

1. POLICY STATEMENT

- 1.1 This document outlines the Collective Grievance Process for The East of England Ambulance Service NHS Trust (the Trust) and reflects the changes to the statutory legislation.
- 1.2 The Trust aims to create a harmonious working environment and to maintain good working relationships. It is recognised however that there may be occasions when a group of employees feel aggrieved and wish to seek redress. This procedure aims to resolve collective grievances informally, whenever this is possible in order to promote, maintain, and/or restore positive and harmonious employee relations in the workplace.
- 1.3 Individuals raising a collective grievance under this process should do so without fear of victimisation. All collective grievances will be dealt with fairly, consistently and confidentially. Support is available to staff from the Human Resources Department, trade union representatives and the Trust's Occupational Health Services and/or counselling services.
- 1.4 All decisions reached under this policy and procedure will be binding on all employees involved in that collective grievance. Where it is identified that the decisions may have wider implications or application, this will be referred to the Staff Partnership Forum.
- 1.5 Where time limits are referred to in the course of this process they may be reasonably varied by mutual agreement between the employee and the Trust.
- 1.6 The time limits within this process may also be varied, and/or access for staff to redress collective grievances under this process be delayed or denied, by agreement between senior staff-side and Human Resources (as described in Appendix A). This would be where other actions are being taken by the Trust

and/or staff-side which may, or are likely to, lead to the matter being resolved either in full or in part, without the need to enact matters under this policy, for example, where local agreements are proposed and/or being negotiated and/or implemented. Where agreement with staff-side cannot be reached the final decision will rest with the Director of Business Transformation.

- 1.7 This process has been written in partnership by management and staff side, and in accordance with current employment legislation, including the Employment Act 2008, the Employment Rights Act 1996 (as amended), the Employment Rights Dispute Resolution Act 1998, the Employment Relations Act 1999 and the Employment Rights Act 2004.

2. SCOPE

- 2.1 This process applies to all employees employed by the Trust.
- 2.2 This process is to be used by any employee who has a collective grievance where there is a concern, problem or complaint that employees raise about their employers about: their own work; working environment; or their terms and conditions of employment.
- 2.3 This collective grievance process does not apply where another Trust Policy applies, or in the following circumstances:
- Where only one individual raises a grievance. Any such grievance will be managed through the Trust's Grievance Policy;
 - Where other actions are being taken by the Trust and/or staff-side which may, or are likely to, lead to the matter being resolved either in full or in part, without the need to enact matters under this policy. For example, where local agreements are proposed and/or are being negotiated and/or implemented. In these circumstances entitlement for employees to redress collective grievances under this process may be either restricted or withheld. All such decisions will be made in agreement between the senior staff side and Human Resources (as described in Appendix A). Where agreement with staff-side cannot be reached the final decision will rest with the Director of Business Transformation;
 - Where the matters raised do not fall under the definition of a collective grievance process. In such cases the Trust with agreement with senior staff side will use its discretion to determine the best way forward. Where agreement with staff-side cannot be reached the final decision will rest with the Director of Business Transformation;
 - The employee is no longer employed. This process is aimed at providing a form of collective grievance resolution for current employees and is not intended for use by persons no longer employed by the Trust;
 - Whilst the Trust is in a period of statutory consultation relating to an issue of Trust-wide importance;
 - Following the outcome of a statutory consultation or Trust process,

whereby a decision has been reached by collective agreement;

- Where National Terms & Conditions apply.

2.4 Where the standard collective grievance process has been started, but not been completed by the time an employee leaves the Trust's employment, the Trust will not be obliged to complete the standard collective grievance process outlined in this process. In such cases, all matters relating to the collective grievance will be considered as having been concluded unless, at the discretion of the Trust, it is considered that it is in the best interests of the Trust and its employees to respond to the collective grievance and/or appeal. It is expected that in these exceptional circumstances, this would be by written response.

3. ACCESS TO THE PROCEDURE

3.1 All employees are entitled to access to this process which is located in the HR Policies and Procedures Folders and/or on the Trust's Intranet. However, if you require this Process in any other format please seek guidance from the Human Resources Department, your line management or trade union representative.

3.2 Employees and Managers may also wish to consult related Trust policies such as the Disciplinary Policy (Managing Conduct and Performance), Grievance and Whistleblowing.

4. ROLES AND RESPONSIBILITIES

4.1 It will be the responsibility of the employees wishing to pursue a collective grievance to nominate individuals to represent their interests throughout the process (hereafter referred to as 'nominated representatives'). These need not necessarily be the same individuals at each stage of the process and may, or may not, be trade union representatives. The role of these nominated individuals will be to:

- represent the interest of all employees involved in the collective grievance, including presenting the case at the meeting(s);
- undertake the administrative requirements within this procedure, including preparation and submission of the case for presentation at the meeting(s); (refer to paragraph 5.6 below); and
- communicate with all employees whose interests they are representing in order that they are kept fully informed and can effectively contribute in the process.

4.2 Managers should deal with collective grievances promptly, carrying out any necessary fact finding or investigations to establish the facts of the case and should not unreasonably delay meetings, decisions or confirmation of those decisions.

4.3 Employees and Managers should act consistently and, as per the key underlying philosophy of this process, seek to resolve collective grievance issues informally, prior to following the formal collective grievance process (paragraph 5.6 below). Where a collective grievance is of a more serious

nature, or if any potential outcome may impact across other employees within the Trust, the informal stage may however be omitted in agreement between senior staff-side and Human Resources.

- 4.4 Employees, and their companions, should co-operate fully with the progression of this process including making every effort to attend meetings (informal and formal) and appeals and without causing unreasonable or unnecessary delay. This may necessitate attendance outside of the employee's and the companion's (where they are an employee of the Trust) rostered hours and/or normal working pattern (refer to section 6.2 for a definition of 'companion'). Where employees' or their companions have any additional requirements due to disability, they should make their line manager or the Human Resources Department aware.
- 4.5 Decisions on the composition of formal collective grievance meetings and appeal panels (and decisions relating to non-attending witnesses, as referred to in section 5.12) within the Trust will operate under the authority of the Trust's Staff Partnership Forum. These decisions will be made in agreement between the senior staff side and Human Resources (as described in Appendix A).
- 4.6 The Human Resources Department is responsible for keeping the provisions within this process in line with employment legislation and best practice people management principles.
- 4.7 Managers, HR staff and trade union representatives are responsible for providing advice and guidance to employees on the application of this process and procedure.
- 4.8 Management and trade union representatives are responsible for bringing any mutually beneficial improvements to this process to the attention of the Trust.

5. STANDARD PROCEDURE

Stage 1 - Informal Approach

- 5.1 A group of employees who have a concern, problem or complaint about a matter affecting their employment should raise the problem in the first instance with their immediate line manager, or another manager if the collective grievance is against their line manager. In circumstances where this may not be appropriate employees should contact their trade union representative or the Human Resources Department. In order to enable the manager to fully understand the issue(s) being raised, the employee would be expected to provide as much information relating to the grievance at the time of raising it, including copies of any witness statements on which they intend to rely. This will allow for a more timely review of the details and to provide a suitable response.
- 5.2 The manager should then, in conjunction with colleagues if appropriate, agree a date, time and suitable location to meet with the nominated representatives (in line with the table below), as soon as practicable to discuss the details of the collective grievance. They will record the date and

particulars of the grievance, discuss the issues with the individuals concerned, try to find ways of resolving the problem and record any action to be taken, this may include mediation. Managers will notify HR of the collective grievance for statistical purposes.

Number of employees with grievance	Maximum number of nominated representatives of the group, including trade union representative(s)
2 to 5	2
6 to 12	3
13 to 20	4
21 and over	5

- 5.3 It is expected that both the manager and the “nominated representatives” will approach this informal resolution attempt in a positive manner with the intention and a clear willingness to find resolution to the collective grievance and avoid any need for formal collective grievance mechanisms.
- 5.4 The informal route should aim to be completed within 14 calendar days, taking into account duty commitments and involvement of other individuals, i.e. a trained mediator.
- 5.5 Where the collective grievance cannot be resolved informally the employees may request that the matter be addressed formally.

Stage 2 - Formal Grievance Meeting

- 5.6 Where, despite best efforts, the employees collective grievance remains unresolved after informal resolution attempts, or the matter is considered sufficiently serious to warrant informal resolution attempts being inappropriate (see Section 5.5), the employees will be permitted to request that the matter be dealt with formally by submitting it in writing to their immediate line manager in writing using the Collective Grievance Registration Form (Appendix B). In circumstances where this may not be appropriate employees should contact their trade union representative or the Human Resources Department.
- 5.7 In order to enable the manager to fully understand the issue(s) being raised, the employee would be expected to provide as much information relating to the grievance at the time of raising it, including copies of any witness statements on which they intend to rely. This will allow for a more timely review of the details and to provide a suitable response.
- 5.8 Any employees who find it difficult to complete a Collective Grievance Registration Form, for example through disability, should seek the help of a colleague, trade union representative or member of the Human Resources Department.

- 5.9 On receiving a formal collective grievance, the manager will respond to the “nominated representatives” within 7 calendar days confirming receipt of the collective grievance and forward it to the Human Resources Department who will: firstly, determine whether it meets the necessary requirements relating to the ‘scope’ of application of this process (see Section 2); and if so, will liaise with a senior staff-side officer in order to proceed with matters (refer to Appendix A). It is recognised that background information may be required in order to formulate a response, however any fact finding should be done in as timely a manner as possible.
- 5.10 On receipt of the collective grievance, designated senior staff-side and members of the Human Resources Department, will decide on the appropriate panel to hear the collective grievance (as described in Appendix A). They will then ensure that arrangements for a formal collective grievance meeting are made in conjunction with the employee’s nominated representative. These will be confirmed to the “nominated representatives” in writing setting out the date, time and location of the meeting, and the name of the manager who will hear their grievance.
- 5.11 The number of nominated representatives of the employees permitted to attend the formal meeting will be the same as is permitted at the informal stage (see Section 5.3 above).
- 5.12 Collective Grievance meetings will normally be held within 49 calendar days of receipt of their formal collective grievance unless exceptional circumstances arise in relation to the availability of the relevant parties (and subject to the scope of application of this process). In such cases, the manager will notify the “nominated representatives” of the delay which will not normally be more than an additional 7 calendar days and the reason for it. Similarly, where applicable, the manager, will advise the “nominated representatives” of any postponement or rejection of their collective grievance submission and the reason for that decision.
- 5.13 The “nominated representatives” must submit a written statement in support of their collective grievance at least 14 calendar days prior to the meeting including copies of any witness statements on which they intend to rely. Management will provide the “nominated representatives” with a written statement in response to their collective grievance at least 7 calendar days prior to the meeting including any witness statement on which they intend to rely.
- 5.14 It is the responsibility of the parties concerned to arrange for the attendance of their own witnesses and should not rely on the attendance of the witness as called by the other party. In the case where witnesses are employees of the organisation time off with pay, or time off in lieu will be granted for them to attend the meeting.
- 5.15 If the employees who have raised the collective grievance or one of their witnesses has made a statement but is not available for questioning, or it would not be appropriate or reasonable in the circumstances to invite them for questioning or the collective grievance meeting, all such statements will be included as part of the collective grievance meeting and should be considered in the context of the overall meeting evidence. For instance, it may not be

viable, appropriate or reasonable in the circumstances to undertake investigatory meetings with patients/clients, the relatives of patients/clients or members of the public. In such cases, written statements will be relied upon.

- 5.16 The manager considering the collective grievance will normally keep to the following meeting agenda:
- Allow the “nominated representatives” to present their case;
 - Allow the responding manager to present their case;
 - The manager(s) hearing the case will ask questions and invite discussion to try to find solutions;
 - Both sides will be invited to sum up.
- 5.17 If the manager hearing the collective grievance reaches a point in the meeting where they are: not sure how to deal with the collective grievance; not sure that it meets the scope of application of this policy; feel that further investigation is necessary; or they consider that the matter could be heard by a more appropriate panel, the meeting should be adjourned to get advice or make further investigation.
- 5.18 An adjournment may be taken for the manager to consider the facts and make a decision. The decision, together with reasoning, and the right of appeal will be confirmed in writing to the “nominated representatives” within 7 calendar days of the meeting, unless advised by the panel that a longer period is required. This may be given verbally in the first instance, but will always be confirmed in writing.
- 5.19 In the event of a longer period being required for the manager to reach its decision, mutual agreement will be sought on the best way to deliver the outcome to the “nominated representatives”. Options may include either a face-to-face meeting or alternatively, for example, a telephone conversation between the manager and the “nominated representatives”.
- 5.20 Notes will be taken during the meeting, including any agreed actions and reasons for these, and will be circulated to all parties. Comments on these from the “nominated representatives” will be welcomed and retained on file.

Stage 3 - Formal Grievance Appeal

- 5.21 Where the majority (i.e. 50% plus one) of the original group of employees are not satisfied with the decision given at Stage 2 they have a right of appeal.
- 5.22 Appeals should be made in writing using the appeal form (Appendix C), to the manager named in the letter informing them of the outcome of the formal Stage 2 meeting. This must be done within 7 calendar days of receipt.
- 5.23 On receipt of this, the manager will liaise with the Human Resources Department will agree with senior staff-side (as described in Appendix A) to agree the panel and then make arrangements for the Formal Collective Grievance Appeal to be heard at Stage 3.
- 5.24 Once arrangements have been made to hear the appeal, the manager will write to the “nominated representatives” within 7 calendar days inviting them

to an appeal meeting. This invite should inform them of the date, time and location of the meeting and the name of the manager who will hear their collective grievance appeal.

- 5.25 All appeals will normally be heard within 49 calendar days of receipt of the appeal letter, unless exceptional circumstances arise in relation to the availability of the relevant parties. In such cases, the manager will notify the “nominated representatives” of the delay, which will aim to be not more than an additional 7 calendar days, and the reason for it.
- 5.26 The “nominated representatives” should submit any additional material which was not available at the time of registering the grievance at least 14 calendar days prior to the appeal meeting. Management should provide the “nominated representatives” with a written statement in response to the appeal at least 7 calendar days prior to the meeting including any witness statement on which they intend to rely.
- 5.27 It is the responsibility of the parties concerned to arrange for the attendance of their own witnesses and should not rely on the attendance of the witness as called by the other party. In the case where witnesses are employees of the organisation time off with pay, or time off in lieu will be granted for them to attend the meeting.
- 5.28 The number of nominated representatives of the employees permitted to attend the formal meeting will be the same as is permitted at the informal and formal meeting stages (see Section 5.2 above).
- 5.29 The format of the appeal meeting will follow the same agenda as that provided at the Stage 2 collective grievance meeting (see Section 5.16 above), or as otherwise directed by the panel considering the appeal.
- 5.30 An adjournment may be taken for the panel considering the appeal to consider the facts and make a decision. The appeal decision, together with reasoning, will be confirmed in writing to the “nominated representatives” within 7 calendar days of the appeal meeting, unless advised by the panel that a longer period is required (refer also to Section 5.18). This may be given verbally in the first instance, but will always be confirmed in writing.
- 5.31 Notes will be taken during the meeting, including any agreed actions and reasons for these, and will be circulated to all parties. Comments on these from the “nominated representatives” will be welcomed and retained on file.
- 5.32 It should be noted that any decision taken by the manager hearing the formal collective grievance appeal at Stage 3 is final. There is no further right of appeal within the Trust’s Collective Grievance Process.

6. REPRESENTATION

- 6.1 Employees have the statutory right to be accompanied by a companion at formal grievance meetings and appeals. The Trust will also permit employees to be accompanied at all formal grievance investigatory meetings.
- 6.2 The chosen companion may be a fellow worker, a trade union representative,

or an official employed by a trade union (a trade union representative who is not an employed official must have been certified by their union as being competent to accompany a worker).

- 6.3 Employees will not be entitled to bring a person acting in a legal capacity unless exceptionally entitled to do so under the common law currently in force at the time of the grievance meeting. Any such decision will be determined by the Human Resources Department whose decision will be final.
- 6.4 There is no statutory right to be accompanied at informal meetings where attempts are being made to resolve matters before resorting to the formal procedure or, at management counselling and advisory meetings with employees.
- 6.5 To exercise the statutory right to be accompanied employees must make a reasonable request identifying who, from those in paragraph 6.2, they wish to attend as their companion. What is reasonable will depend on the circumstances of each individual case. The employees should identify from the outset who their intended representatives will be, and wherever possible, their availability will be taken into account when planning meeting dates. However, it will not normally be considered reasonable, and therefore employees would not be eligible to exercise their right to be accompanied, when they:
- insist on being accompanied by a companion whose presence would prejudice the hearing or who might have a conflict of interest;
 - ask to be accompanied by a companion from a remote geographical location if someone suitable and willing was available on site;
 - insist on being accompanied by a specific companion in situations where this would cause unreasonable or unnecessary delay.
- 6.6 In respect to bullet point 3 above (section 6.5), the Trust will however, permit the employee to provide an alternative date for a grievance meeting or appeal in situations where the chosen companion cannot attend on the meeting date initially proposed by the Trust. This will only be permitted on one occasion. In this situation, the alternative date provided by the employee should fall within 14 calendar days of the original planned date. Where the Trust is unable to facilitate the offered alternative date, the Trust will reschedule a date as soon after the 14 calendar day period as is possible and the employee will be expected to either secure the attendance of their preferred companion or make alternative arrangements for an alternative companion.
- 6.7 At grievance meetings and appeals, the companion should be allowed to address the meeting to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee during the meeting. The companion does not, however, have the right to answer questions on the employee's behalf, address the meeting if the employee does not wish it or prevent the Trust from explaining the case.

7. CONFIDENTIALITY

- 7.1 All information at any stage of this process, whether it is written or verbal

information, must be treated as confidential information by all parties. Failure to do so may result in disciplinary action being taken.

- 7.2 All records should be kept by all parties in accordance with the Data Protection Act 1998. The Data Protection Act gives individuals the right to request and have access to certain personal data.

8. STATUS QUO

STATUS QUO

- 8.1 Status quo will not automatically be applied. On receipt of a collective grievance by the relevant manager or HR Business Partner, the collective grievance should be acknowledged for recording purposes only and forwarded to the joint SPF chairs. They will then consider, on an individual basis, as to whether any practices or agreements that exist prior to the collective grievance being raised, will continue to operate i.e. status quo pending settlement or until the agreed procedure has been exhausted.

- 8.2 When considering the application of status quo the joint SPF chairs will consider whether it is appropriate taking into account the best interests of all parties, including the employees concerned, other employees not subject to the collective grievance and, most importantly patients. Consideration might be given therefore to any or all of the following principles. However, due to the varied nature of collective grievances, this is a non-exhaustive list, and cases will be considered on an individual basis.

- Decisions regarding status quo will be reviewed, as appropriate, and can therefore be subject to change.
- Where the application of status quo would have a disproportionate impact on the ability to deliver services and/or provide effective and/or safe patient care, the decision may be made that it will not apply. The rationale for any such decision will be provided by the Joint Chairs.
- Whilst current or previous decisions regarding status quo will be taken into account, they will not be an automatic determinate in relation to a subsequent collective grievance.
- Where the application of status quo to a group of employees would significantly and/or negatively impact on other employees within the same team and/or group, then the 50% + 1 rule may be considered most appropriate to determine if status quo should or should not apply.
 - Status quo would not normally be expected to apply to persons outside of the collective grievance, i.e. those whose signatures are not on the collective grievance form (signatories to it).
 - Where the number of signatories to a collective grievance either increases or decreases, decisions around status quo and the viability of it will be reviewed (e.g. perhaps because a 50% + 1 rule is no longer valid, because of the effect on other staff and/or the impact on service delivery).
 - Where signatories have left, changed location or job role which alters previous decisions on Status Quo in regard to the 50% +1 rule.
 - The progress of the collective grievance and the proximity of any hearing date.

8.2 The recognised Trade Union will refrain from completing balloting of their members about industrial action, or acting in furtherance of any local dispute, until the stages in this process have been exhausted.

9. PROCESS REVIEW

9.1 This process will be reviewed on an annual basis or amended in the light of new employment legislation and/or relevant case law.

Under Review

The Trust Staff Partnership Forum and Grievance Policy Decisions

Decisions on the composition of grievance meeting, appeal panels and other identified aspects within the policy ultimately rest with the Trust's Policy Partnership Forum. This decision making responsibility will be delegated to designated members of the Human Resources Department and senior staff-side members of the Policy Partnership Forum. These decisions will therefore be made in partnership between one member of senior staff-side and one of the nominated members of the Human Resources Department. Where mutual agreement can not be reached as required under any section of this policy, the final decision will rest with the Director of Business Transformation.

It is the principle of this policy that grievances should be heard at the lowest appropriate level of the Trust management structure, facilitating the resolution and timeliness of the grievance process. This will also promote ownership of the issue and its resolution by line managers. Composition of the panel will also take into account the contribution that specialised knowledge or expertise could make, and will try to accommodate this where practical.

All appeals will be heard by a more senior manager than those who heard the grievance at Stage 2.

Although the variety of possible grievances is wide ranging, the following table is intended to give a framework in which decisions relating to the composition of grievance meeting and appeal panels may be made. **However, it is neither exhaustive nor definitive.**

GRIEVANCE MATTER	SUGGESTED MEETING PANEL* (Stage 2)	SUGGESTED APPEAL PANEL* (Stage 3)
Matter regarding the application of the national terms and conditions of employment where there is a potential that issues may arise which may be outside the control of the Trust.	Associate Director	Panel of the Trust Board comprising of at least one Non-Executive Director and one Executive Director
Matter which could result in significant financial implications for the Trust	Associate Director or Director	Director with senior member of Finance Department
Matter relating to locally agreed terms and conditions where there is a possibility that Trust-wide changes may be required	Head of Service, General Manager or equivalent (of minimum Band 8b or above).	More senior manager
Matter relating to the application of national or locally agreed terms and conditions of service or workplace issues	Line Manager	More senior manager
Matter relating to potential	Head of Service,	Associate Director or

serious health and safety infringement	General Manager or equivalent and H&S specialist (of minimum Band 8b or above).	Director.
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** Please note that job titles are not definitive but are provided as an example.*

Under Review

GRIEVANCE PROCEDURE STAGE 2
FORMAL GRIEVANCE REGISTRATION FORM

Part A and B of this form should be completed by employees wishing to submit their grievance formally under the Trust's Grievance Policy (subject to compliance with Section 2 which outlines the 'Scope' of this policy).

PART A – PERSONAL DETAILS

Name: Job Title:
Department: Workplace:
Contact Telephone No.
Email Address:

PART B – THE GRIEVANCE

Please set out below the details of your grievance, including information relating to the following (attach a separate sheet if necessary):

- What the grievance is about, outlining any relevant dates, witnesses, locations and background information.

What action have you already taken to try and resolve your grievance informally?
Why do you feel that these have failed?

What outcome are you looking for? (i.e. how, in your view, can your grievance be resolved?)

Signature: Date:

Name of receiving manager: Date:

Signed (manager):

Name of nominated representative (if appropriate).....

Date copy sent to the Human Resources Department:

GRIEVANCE PROCEDURE STAGE 3 – APPEAL FORM

PART A – PERSONAL DETAILS

Name: Job Title:

Department: Workplace:

Contact Telephone No.

Email Address:

PART B – APPEAL DETAILS

Please indicate below, clearly and comprehensively, the reasons for your appeal against the Stage 2 decision:

Please provide factual detail to support your appeal and highlight any additional material relevant to the appeal.

Signature: Date:

Date received by Human Resources Department:

Signed and print (on behalf of HR):