



Grievance Policy

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The Trust will not tolerate unlawful discrimination on the grounds of the protected characteristics of: age, disability, gender reassignment, race, religion/belief, gender, sexual orientation, marriage/civil partnership, pregnancy/maternity. The Trust will not tolerate unfair discrimination on the basis of spent criminal convictions, Trade Union membership or non-membership. In addition, the Trust will have due regard to advancing equality of opportunity between people from different groups and foster good relations between people from different groups.

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1. POLICY STATEMENT

- 1.1 This document outlines the Grievance Policy and procedure for The East of England Ambulance Service NHS Trust (the Trust). This policy observes current employment legislation, the ACAS Code of Practice on disciplinary and grievances procedures, and the ACAS guide to discipline and grievances at work which compliments the Code of Practice, to ensure fair and consistent treatment.
- 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 staff feel aggrieved and wish to seek redress. This procedure aims to resolve 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 grievance under this procedure should do so without fear of victimisation. All 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. Training is also provided for managers in equality and diversity issues.
- 1.4 Where time limits are referred to in the course of this procedure they may be reasonably varied by mutual agreement between the employee and the Trust.
- 1.5 The time limits within this policy may also be varied, and/or access for staff to redress grievances under this policy 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 Chief Executive.
- 1.6 This policy 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 policy applies to all staff employed by the Trust.
- 2.2 This policy applies to all grievance cases raised from the date this policy comes into effect where the incident giving rise to the grievance occurred wholly on or after 6 April 2009. Where the incident/issue/matter giving rise to the grievance occurred wholly before 6 April 2009, or is continuing after that date, the Trust's previous Grievance Policy will continue to apply throughout the remainder of the grievance procedure through to and including any appeal stage.
- 2.3 This policy is to be used by any member of staff who has a grievance, (concern, problem or complaint) about their own work; working environment; or their terms and conditions of employment.

2.4 This grievance policy does not apply where another Trust Policy applies, or in the following circumstances:

- Where two or more individuals raise the same grievance under this procedure. Any such grievances may be managed through the Trust's Collective 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 staff to redress grievances under this policy 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 Chief Executive.
- Where the matters raised do not fall under the definition of a grievance within the ACAS Code of Practice Disciplinary and Grievance Procedures. 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 can not be reached the final decision will rest with the Chief Executive.
- The employee is no longer employed. This policy is aimed at providing a form of grievance resolution for current employees and is not intended for use by persons no longer employed by the Trust. Any complaints received which might otherwise have been considered a 'grievance' under this policy, will or will not be responded to as is deemed appropriate, at the discretion of the Chief Executive.
- The employee wishes to complain about an actual or threatened dismissal, or action short of dismissal, that arises out of the application of the Trust's Disciplinary Policy (Managing Conduct and Performance), unless the grounds of the grievance are based on unlawful discrimination or that the disciplinary is not genuinely related to capability or conduct;
- The employee raises a concern as a "protected disclosure" in compliance with the public interest disclosure provisions of the Employment Relations Act 1996 where the Trust's Whistleblowing Policy would apply.

3. ACCESS TO THE PROCEDURE

3.1 All employees are entitled to access to this policy which is located in the HR Policies and Procedures Folders and/or on the Trust's Intranet. However, if you require this Policy 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), Collective Grievance and Whistleblowing.

4. ROLES AND RESPONSIBILITIES

4.1 Managers should deal with 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

4.2 In all cases informal grievances should be heard, and where possible resolved within 14 calendar days of the issue being raised.

4.3 Employees and Managers should act consistently and, as per the underlying philosophy of this policy, seek to resolve grievance issues informally, prior to following the formal grievance procedure (paragraph 5.5 below). Where a grievance is of a

more serious nature the informal stage may however be omitted in agreement between senior staff-side and Human Resources.

- 4.4 Formal stage grievances must be heard within 28 days of the request for formal stage being made. Any delays must be reported to the Chief Executive with the rationale.
- 4.5 Employees, and their companions, should co-operate fully with the operation of this policy 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.
- 4.6 Decisions on the composition of appeal panels (and decisions relating to non-attending witnesses, as referred to in sections 5.12 and 5.13) within the Trust will operate under the authority of the Trust's Staff Partnership Forums These decisions will be made in agreement between the senior staff side and Human Resources (as described in Appendix A).
- 4.7 The Human Resources Department is responsible for keeping the provisions within this policy in line with employment legislation and best practice people management principles.
- 4.8 Managers, HR staff and trade union representatives are responsible for providing advice and guidance to employees on the application of this policy and procedure.
- 4.9 Management and trade union representatives are responsible for bringing any mutually beneficial improvements to this policy to the attention of the Trust.

5. STANDARD PROCEDURE

Stage 1 - Informal Approach

- 5.1 An individual member of staff who has 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 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 agree a date, time and suitable location to meet with the employee as soon as practicable to discuss the details of the grievance. They will record the date and particulars of the grievance, discuss the issues with the individual concerned, try to find ways of resolving the problem and record any action to be taken - this may include mediation. Notes taken during the discussion outlining any agreed actions and reasons for these will be provided to the employee. Managers will notify HR of the grievance for statistical purposes.
- 5.3 It is expected that both the manager and the employee will approach this informal

resolution attempt in a positive manner with the intention and a clear willingness to find resolution to the grievance and avoid any need for formal 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 Staff can request a staffside mediator, and this will be facilitated wherever possible.
- 5.6 Where the grievance cannot be resolved informally the employee may request that the matter be addressed formally.

Stage 2 - Formal Grievance Meeting

- 5.6 Where, despite best efforts, an employee's grievance remains unresolved after informal resolution attempts, or the matter is considered sufficiently serious to warrant informal resolution attempts being inappropriate (see Section 4.2), the employee 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 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 employee who finds it difficult to complete a 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 grievance, the manager will respond to the employee within 7 calendar days confirming receipt of the grievance and forward a copy to the Human Resources Department. The manager will: firstly, determine whether it meets the necessary requirements relating to the 'scope' of application of this policy (see Section 2); and if so, will liaise with a senior staff-side officer in order to proceed with matters and inform the employee accordingly (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 grievance, the manager will decide on the appropriate panel to hear the grievance with advice from Human Resources if required (as described in Appendix A). They will then ensure that arrangements for a formal grievance meeting are made, in conjunction with the employee's nominated representative. These will be confirmed to the employee in writing setting out the date, time and location of the meeting, the name of the manager who will hear their grievance and how the employee can exercise their right to be accompanied at the meeting.
- 5.11 Grievance meetings will normally be held within 28 calendar days of receipt of their formal grievance unless exceptional circumstances arise in relation to the availability of the relevant parties (and subject to the scope of application of this policy). In such cases, the manager will notify the employee of the delay which will not normally be more than an additional 7 calendar days and the reason for it. Any delays must also be reported to the Chief Executive with the rationale. Similarly, where applicable, the manager, will advise the employee of any postponement or rejection of their grievance

submission and the reason for that decision.

- 5.12 The employee must submit any additional material which was not available at the time of registering the grievance, at least 14 calendar days prior to the meeting. Management will provide the employee with a written statement in response to their grievance at least 7 calendar days prior to the meeting including any witness statement on which they intend to rely.
- 5.13 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.
- 5.14 If the employee who has raised the 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 grievance meeting, all such statements will be included as part of the 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.
- 5.15 The manager considering the grievance will normally keep to the following meeting agenda:
- Allow the employee or their representative to present their case;
 - Allow the responding manager to present their case;
 - The person/panel hearing the case will ask questions and invite discussion to try to find solutions;
 - Both sides will be invited to sum up.
- 5.16 If the panel hearing the grievance reaches a point in the meeting where they are: not sure how to deal with the 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.
- 5.17 An adjournment may be taken for the panel 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 employee 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.
- 5.18 In the event of a longer period being required for the Panel to reach its decision, mutual agreement will be sought on the best way to deliver the outcome to the individual(s). Options may include either a face-to-face meeting or alternatively, for example, a telephone conversation between the Panel Chair and the individual.
- 5.19 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 employee will be welcomed and retained on file.

Stage 3 - Formal Grievance Appeal

- 5.20 Where an employee is not satisfied with the decision given at Stage 2 they have a right

of appeal and should state the grounds of their appeal.

- 5.21 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.
- 5.22 On receipt of this, the manager will liaise with the Human Resources Department and senior staff-side (as described in Appendix A) to agree the panel and then make arrangements for the Formal Grievance Appeal to be heard at Stage 3.
- 5.23 Once arrangements have been made to hear the appeal, the panel or a representative of them, will write to the employee within 7 calendar days inviting them to an appeal meeting. This invite should inform them of the date, time and location of the meeting, the name of the panel who will hear their grievance appeal and how the employee can exercise their right to be accompanied at the meeting.
- 5.24 All appeals will normally be heard within 28 calendar days of receipt of the appeal letter.
- 5.25 The employee should submit any additional material in support of their appeal at least 14 calendar days prior to the appeal meeting including copies of any witness statements on which they intend to rely. Management should provide the employee 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.
- 5.26 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.
- 5.27 The format of the appeal meeting will follow the same agenda as that provided at the Stage 2 grievance meeting (see Section 5.14 above), or as otherwise directed by the panel considering the appeal.
- 5.28 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 employee within 7 calendar days of the appeal meeting, unless advised by the panel that a longer period is required (refer also to Section 5.15). This may be given verbally in the first instance, but will always be confirmed in writing.
- 5.29 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 employee will be welcomed and retained on file.
- 5.30 It should be noted that any decision taken by the panel hearing the formal grievance appeal at Stage 3 is final. There is no further right of appeal within the Trust's Grievance Policy and Procedure.

6. REPRESENTATION

- 6.1 All employees will have the right, if they wish, to be represented by a work colleague, Trade Union representative, or an official employed by a trade union at all stages of the policy/procedure. This right must be brought to the attention of the employee by the manager or HR. A Trade union representative who is not an employed official must have been certified by their union as being competent to accompany a worker.

- 6.2 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.
- 6.3 To exercise the 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 employee should identify from the outset who their intended representative 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.
- 6.4 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.
- 6.5 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 procedure, 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

- 8.1 Any practices or agreements that exist prior to the grievance being raised will continue to operate pending settlement or until the agreed procedure has been exhausted.

9. POLICY REVIEW

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

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 Staff Partnership Forum. This decision making responsibility will be delegated to designated members of the Human Resources Department and senior staff-side members of the Staff 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 serious health and safety infringement	Head of Service, General Manager or equivalent and H&S specialist (of minimum Band 8b or above).	Associate Director or Director.

**** Please note that job titles are not definitive but are provided as an example.***

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:

APPENDIX C

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):