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CONSULTED WITH:	Policy Development Group

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MANAGER RESPONSIBLE FOR REVIEW (Must be Authors Line Manager)	Senior HR Business Partner	

CONTENTS PAGE

CONTENTS	TITLE	PAGE NUMBER
1	INTRODUCTION	2
2	POLICY STATEMENT	2
3	KEY PRINCIPLES	2
4	RESPONSIBILITIES	2
5	DEFINITIONS	3
6	PROCESS	5
7	GRIEVANCE MEETING	5
8	APPEALS	6
9	INVESTIGATIONS	7
10	COLLECTIVE GRIEVANCES	7
11	RIGHT TO BE ACCOMPANIED	7
12	GENERAL	8
13	RAISING CONCERNS	8
14	SUPPORT	8
15	HUMAN RIGHTS ACT	8
16	INCLUSION AND DIVERSITY STATEMENT	9
17	MONITORING AND REVIEW	9
18	ACCESSIBILITY STATEMENT	9

APPENDICES		PAGE NUMBER
App 1	Grievance/complaint form	10
App 2	Equality Assessment Form	11
App 3	Monitoring and Review Form	12

**AT ALL TIMES, STAFF MUST TREAT PATIENTS WITH RESPECT
AND UPHOLD THEIR RIGHT TO PRIVACY AND DIGNITY.**

1. INTRODUCTION

- 1.1 It is Trust policy to ensure that all employees have access to a procedure to help deal with any grievances relating to their employment fairly and without unreasonable delay.
- 1.2 This policy is applicable to employees and directors only.

2. POLICY STATEMENT

If an employee is unhappy about the treatment that they have received, or any aspect of their work, they would normally discuss this with their line manager in the first instance, who will attempt to resolve any issues on an informal basis. Where the employee has attempted to resolve the matter informally but remains unhappy, it may be appropriate for the employee to raise a formal grievance in writing under this procedure (unless there is agreement to resolve the matter through other means).

3. KEY PRINCIPLES

- 3.1 Unless agreed otherwise, the Trust aims to respond to any formal grievance an employee raises and, where appropriate, hold a meeting to discuss it with them. Again, unless agreed otherwise, when the matter is dealt with formally, the Trust will inform the employee in writing of the outcome of their grievance and give them a right of appeal if they are not satisfied with the response or decision
- 3.2 Where the employee raises a formal complaint of bullying, harassment or victimisation, it will normally be considered under this grievance procedure, taking regard of the principles and guidance set out in the Section 5 of this policy. If during the investigation of the grievance there is evidence to suggest that there may have been bullying or harassment, the case will then normally be dealt with under the Disciplinary Policy. In exceptional circumstances the grievance process may be suspended until the disciplinary matter is resolved
- 3.3 An employee cannot use the grievance procedure to bring a complaint that can be brought under an appeal procedure provided for by another Trust policy (e.g. a complaint against disciplinary action taken), whether the employee made an appeal under that procedure or not.
- 3.4 If an employee submits a grievance that is believed by the Trust to be malicious, vexatious or false, consideration will be given to invoking disciplinary proceedings that could result in their summary dismissal.

4. RESPONSIBILITIES

4.1 Trust Board

It is the Trust Board's responsibility to ensure that the Trust has a grievance policy and procedure in place for resolving workplace disputes

4.2 Director of Human Resources (HR) & Organisational Development (OD)

It is the Director of HR's responsibility to ensure that there are adequately trained HR practitioners to provide advice on the operation of this grievance policy and procedure.

4.3 Managers/Clinical Managers (or equivalent)

- 4.3.1 It is the manager's responsibility to ensure that grievances are dealt with informally, where possible and where appropriate;

- 4.3.2 Where a formal grievance is raised, it is management responsibility to ensure that all employees involved are dealt with fairly and an informed outcome is provided within a reasonable time frame;
- 4.3.3 It is the manager's responsibility to acknowledge and respond to any grievance raised by any employee under their management control and direct the grievance appropriately.

4.4 Employees of the Trust

- 4.4.1 It is the employee's responsibility to bring any grievance that they have to the attention of their manager without delay;
- 4.4.2 It is the employee's responsibility to attempt to resolve any grievance on an informal basis, wherever possible;
- 4.4.3 Any employee asked to provide evidence that relates to a grievance, must do so, providing any relevant information during the course of the proceedings.

5. DEFINITIONS

5.1 Grievances may be raised around issues such as:

- 5.1.1 Terms and conditions of employment
- 5.1.2 Health and safety
- 5.1.3 Work relationships
- 5.1.4 New working practices, where appropriate procedures have not been followed
- 5.1.5 Dignity at Work
 - 5.1.5.1 Harassment
 - 5.1.5.2 Bullying
 - 5.1.5.3 Victimisation
- 5.1.6 Cyber Bullying

5.2 Harassment

- 5.2.1 The Equality Act 2010 defines harassment as 'unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual'. An employee will normally be deemed to have harassed someone if the Trust reasonably believes that an employee is found to have conducted themselves in this way. The relevant protected characteristics are age, disability, gender reassignment, race, religion or belief, sex and sexual orientation.
- 5.2.2 Employees can complain of behaviour that they find offensive even if it is not directed at them. In addition, the complainant need not possess the relevant characteristic themselves and can be because of their association with a person who has a protected characteristic, or because they are wrongly perceived to have one, or are treated as if they do.
- 5.2.3 An employee should always consider whether their words or conduct could be offensive to others as it is how the conduct is reasonably received, and not how it is intended, that is important. The definition for harassment however requires some objectivity, i.e. would 'most people' e.g. someone completely impartial, consider the conduct to be harassment.
- 5.2.4 Examples of harassment may include, but are not necessarily limited to:
 - 5.2.4.1 Unwanted physical conduct which can range from touching, pinching, pushing, brushing past someone or invading their personal space; to grabbing, shoving, punching and more serious forms of assault;
 - 5.2.4.2 Unwelcome sexual behaviour which you may perceive as harmless flirting including unwanted suggestions, advances, propositions or pressure for sexual activity;

- 5.2.4.3 Making suggestions such as that sexual favours may advance a person's career;
- 5.2.4.4 Continually suggesting social activity when it has been made clear by the other person that such activity is unwelcome;
- 5.2.4.5 Behaving in a way that may be seen as inappropriate, such as offensive or intimidating comments/gestures or insensitive jokes/pranks;
- 5.2.4.6 Sending or displaying pornographic or obscene material, through any method, that others may find offensive; or
- 5.2.4.7 Ignoring, shunning or deliberately excluding someone from a conversation or activity in the workplace.

5.3 **Bullying**

- 5.3.1 An employee will normally be deemed to have bullied someone if the Trust reasonably believes that the employee has been intentionally offensive, intimidating, malicious or insulting towards someone, which has made them feel vulnerable, upset, humiliated or threatened. Bullying can take the form of physical, verbal or non-verbal conduct and does not need to be because the person has a specific characteristic, unlike harassment.
- 5.3.2 As with harassment, an employee should always consider whether their verbal/written words or conduct could be offensive to others as it is how the conduct is reasonably received, and not how it is intended, that is important. The test for bullying requires some objectivity, i.e. would 'most people' e.g. someone completely impartial, consider the conduct to be bullying.
- 5.3.3 Examples of bullying may include, but are not necessarily limited to:
 - 5.3.3.1 Shouting at, being sarcastic towards, ridiculing or demeaning others;
 - 5.3.3.2 Physical or psychological threats;
 - 5.3.3.3 Spreading rumours;
 - 5.3.3.4 Attacking someone physically or verbally;
 - 5.3.3.5 Unjustifiably excluding someone from a group, meetings or communications;
 - 5.3.3.6 Inappropriate and/or derogatory remarks;
 - 5.3.3.7 Abuse of authority or power;
 - 5.3.3.8 Unjustifiably excluding others from meetings or communications.
- 5.3.4 There will be occasions where certain behaviours/activities will not constitute bullying, examples of which may include, but are not necessarily limited to:
 - 5.3.4.1 A reasonable request made for an employee to undertake a certain activity;
 - 5.3.4.2 A 'one off' minor incident;
 - 5.3.4.3 Unskilled managers handling difficult conversations poorly;
 - 5.3.4.4 Poor communication or disagreements between employees.

5.4 **Cyber Bullying**

- 5.4.1 As social media is used more and more by NHS staff in their professional and personal lives, cases of cyberbullying can occur with evidence showing an increase in cases.
- 5.4.2 The Trust is committed to heightening awareness of cyber-bullying to address the occurrence of cyber bullying and its effects in the workplace.
- 5.4.3 Cyber-bullying is defined as:
Bullying, harassment and victimisation conducted through social media such as blogs or social networking i.e. messenger apps, YouTube videos.
- 5.4.4 Examples of cyber bullying include:
 - 5.4.4.1 Posting offensive, derogatory or threatening messages online about an individual or posting them directly to an individual (staff, patient, relative, carer or visitor) no matter if it is in a public, private or group space;

- 5.4.4.2 Pressurising individuals to join online groups which they may not be comfortable with, for example, a group their boss is a member of;
- 5.4.4.3 Posting inappropriate photographs, videos or the posting of sensitive personal information of or about a member of staff, patient, relative, carer or visitor.

5.5 **Victimisation**

Victimisation occurs when an employee is treated badly because they have made or supported a complaint or raised a grievance under the Equality Act 2010; or because they are suspected of doing so. The relevant protected characteristics are age, disability, gender reassignment, race, religion or belief, sex and sexual orientation. Complaints must be made in 'good faith' i.e. not to get another employee(s) into trouble

6 PROCESS

6.1 **Informal Resolution**

- 6.1.1 Most grievances can be resolved quickly and informally through discussion. Therefore, employees should always attempt to resolve matters on an informal basis.
- 6.1.2 If an employee feels unable to speak to their manager, for example, because the complaint concerns them, then they should speak informally to a more senior manager. If this does not resolve the issue, the employee should normally follow the formal procedure below.
- 6.1.3 The initial discussion process is useful as it ensures that issues can be resolved early before escalating further e.g. before relationships between staff become strained. It is essentially a private discussion between individuals, the main aim of which is to resolve the issues as quickly as possible.
- 6.1.4 In usual circumstances the employee would not be accompanied at such meetings, however employees are advised to speak to their Union rep or HR for further support if required.
- 6.1.5 Informal mediation may be advised in some circumstances as an alternative to formal proceedings.

6.2 **Formal Written Grievances**

- 6.2.1 Where the employee has attempted to resolve the matter informally but remains unhappy with the outcome, or where the matter is sufficiently serious, it may be appropriate for the employee to raise their concerns as a formal grievance in writing to their manager without unreasonable delay (or the manager immediately more senior, where their concern relates to their manager) by completing the form at appendix 1. The complaint must be written and submitted by the employee.
- 6.2.2 The written grievance should contain a description of the nature of the complaint including any relevant facts, dates and the names of individuals involved (where appropriate). In certain situations it may be necessary for the Trust to ask the employee to provide further information before a meeting is arranged. When stating their grievance, employees should keep to the facts and avoid language which may be considered insulting or abusive.
- 6.2.3 Matters of concern/complaints which have previously been raised and an outcome given through this procedure cannot be raised again. I.e. the same issue/complaint cannot be raised more than once (with the exception of the appeals procedure).

7 GRIEVANCE MEETING

- 7.1 Where an employee raises a formal written grievance, they will normally be invited to a grievance meeting. The employee will be given reasonable notice of the grievance meeting in writing, typically this will be at least seven calendar days (unless it is agreed that the meeting can be held sooner).

- 7.2 The purpose of a grievance meeting is to enable the employee to explain their grievance and how they think it should be resolved. The meeting also allows management to explore the issues raised before they make a decision on the matter/provide a response.
- 7.3 An employee will usually be written to within seven calendar days of the grievance meeting (or final grievance meeting where a further one is held following investigation), to inform them of the outcome of their grievance and any further action required in order to resolve the grievance. This timeframe may, however, be varied where the manager considering the grievance requires more time, for example to conduct further investigation or to carefully consider their decision.
- 7.4 Complaints and subsequent witness testimonies should not be anonymous unless there are significant and genuine concerns to an employee's health and safety.
- 7.5 Employees must be aware that any information provided as part of their concerns may be shared with the individual(s) where the information directly relates to them, in order for the necessary investigations to be undertaken. Complaints and subsequent witness testimonies should not be anonymous unless there are significant and genuine concerns to an employee's health and safety.

8 APPEALS

- 8.1 If the grievance has not been resolved following the grievance meeting, the employee may appeal in writing, to a member of management immediately senior to the manager who made the initial decision.
- 8.2 A letter of appeal must detail the reasons why the employee disagrees with the original decision. The appeal must be written and submitted by the employee.
- 8.3 Any appeal must be received within fourteen calendar days of the date on which the outcome or decision was sent or given to the employee.
- 8.4 Where an employee raises an appeal in accordance with this section, they will be invited to an appeal meeting.
- 8.5 The purpose of the appeal meeting is to enable the employee to explain the reasons for their appeal and how they think the matter should be resolved. The meeting also allows management to explore the issues raised before they make a decision on the matter/provide a response.
- 8.6 The employee will be given reasonable notice of the appeal meeting in writing, this will usually be at least seven calendar days (unless it is agreed that the meeting can be held sooner).
- 8.7 The manager hearing the appeal will confirm their final decision in writing, normally within seven calendar days of the appeal meeting. This timeframe may, however, be varied where the manager considering the grievance requires more time, for example to conduct further investigation or to carefully consider their decision.
- 8.8 The conclusion of the appeal process is the end of the grievance procedure in relation to the matter raised and there is no further right of recourse through any other Trust policy or procedure in relation to the same or similar matters.

9 INVESTIGATIONS

- 9.1 In some cases it may be necessary for the Trust to carry out an investigation into an employee's grievance (for example, where they raise a bullying or harassment complaint). The amount of investigation that is required will depend of the nature of the complaint, and can vary from case to case. It may involve interviewing and taking statements from the employee and any potential witnesses and/or reviewing relevant documents.
- 9.2 Employees must co-operate fully and promptly in any investigation. This may include informing management of the names of any relevant witnesses, disclosing any relevant documents and attending interviews as part of an investigation. This may also include information covered by the Raising Concerns policy.
- 9.3 A manager may initiate an investigation before holding a grievance meeting where they consider this to be appropriate. In other cases a grievance meeting may be held before deciding what investigation (if any) to carry out.
- 9.4 If an investigation is conducted after a grievance meeting, the Trust may hold a further grievance meeting with the employee on conclusion of the investigation and before a decision is reached if management deem it to be appropriate.
- 9.5 If during the investigation of the grievance there is evidence to suggest that there may have been bullying or harassment, the case will then normally be dealt with under the disciplinary policy. An outcome to the grievance may still be issued prior to the disciplinary process being concluded.
- 9.6 The grievance outcome should not prejudice the disciplinary process in any way and does not indicate the issues are founded, only that there is evidence to suggest they may be. Only in exceptional circumstances would the grievance process be suspended until the disciplinary matter is resolved. This is to ensure the grievance can be resolved swiftly, with minimum distress to those involved.

10 COLLECTIVE GRIEVANCES

- 10.1 Where a trade union/staff side representative raises a formal written grievance on behalf of two or more employees in relation to the same (or similar) matter, the employees must nominate the representative who will attend the formal grievance and appeal meeting (if applicable) in line with Unison, Unite or other relevant trade union guidelines.
- 10.2 Where a grievance is raised by two or more employees in relation to the same (or similar) matter, but it is not raised by their trade union/staff side representative, their grievances will normally be dealt with separately and not under 10.1 and 10.3, except where management decide it to be appropriate otherwise. Employees may be represented by a representative from their professional body.
- 10.3 An appeal meeting held in relation to an unresolved collective grievance will normally be chaired by a Deputy Director, Head of Nursing, Clinical Director, Head of Department (or equivalent) or more senior manager.

11 RIGHT TO BE ACCOMPANIED

- 11.1 An employee may be accompanied by a trade union/staff side representative or workplace colleague (not otherwise involved or likely to be involved in the process) to any formal grievance meeting or appeal meeting under this procedure. For the avoidance of doubt, this does not include investigation meetings, where an investigation is conducted outside of the formal grievance meeting.

- 11.2 If the employee's choice of representative is inappropriate management may request the employee to choose someone else, for example:
 - 11.2.1 It is identified that there may be a conflict of interest or may prejudice the meeting;
or
 - 11.2.2 If the representative is unavailable or cannot be released from work at the time a meeting is scheduled and will not be available for more than seven calendar days afterwards.
- 11.3 The employee and their representative should make every effort to attend any formal grievance/appeal meeting(s) arranged.
- 11.4 One postponement may be permitted for up to seven calendar days, for representation purposes.

12 GENERAL

- 12.1 At the discretion of management, a grievance or appeal meeting may be chaired by a more senior manager (or managers) than those referenced in section 9 or 10.
- 12.2 If an employee fails to attend a grievance, appeal or investigation meeting under this procedure without reason (or without a reason deemed to be acceptable by management), the meeting may proceed in the employee's absence and/or the process may be concluded without the benefit of having met with the employee.
- 12.3 If an employee submits a complaint that is believed by the Trust to not have been made in 'good faith' i.e. to get an employee(s) into trouble or knowingly false, the employee will normally be subject to disciplinary proceedings that could result in their summary dismissal.

13 RAISING CONCERNS

- 13.1 The Trust will not tolerate harassment/victimisation nor any attempt to apply an unwarranted sanction or any other detriment to a person who has reported a genuine concern.
- 13.2 Investigations into grievances against employees who have previously spoken up should also seek to identify whether such allegations are motivated by a desire to cause detriment to that individual.
- 13.3 If evidence is found to confirm that allegations were made maliciously, appropriate action will be taken not excluding disciplinary action.
- 13.4 The Trust Freedom To Speak Up Guardian is available for staff as a contact point, whether raising a grievance or the subject of a grievance, to raise genuine concerns around patient safety or care. Staff can contact the Trust's Guardian FreedomtoSpeakUpGuardian@wwl.nhs.uk or 01942 822662.

14 SUPPORT

Any employee involved in a grievance can receive confidential support from the Employee Assistance Programme, Occupational Health and Counselling Service. Details can be accessed through the HR Contact for Staff Health and Wellbeing.

15 HUMAN RIGHTS ACT

Implications of the Human Rights Act have been taken into account in the formulation of this document and they have, where appropriate, been fully reflected in its wording.

16 INCLUSION & DIVERSITY

The document has been assessed against the Equality Impact Assessment Form from the Trust's Equality Impact Assessment Guidance and, as far as we are aware, there is no impact on any protected characteristics.

17 MONITORING AND REVIEW

The policy will be reviewed every 3 years.

18 ACCESSIBILITY STATEMENT

This document can be made available in a range of alternative formats e.g. large print, Braille and audio cd.

For more details, please contact the HR Department on 01942 77 3766 or email equalityanddiversity@wwl.nhs.uk

Appendix 1

Raising a complaint through the Grievance Policy & Procedure (including Dignity at Work)

Name of Person Raising Concerns:		Job Title:	
Ward/Department:		Division:	

Details of Complaint:

Please provide the details of the person(s) you are complaining about: (If applicable)

Name(s):		Job Title(s):	
Ward/Department(s):		Division(s):	

Nature of Complaint

Does your complaint involve any of the following:	Bullying <input type="checkbox"/>	Harassment <input type="checkbox"/>	Victimisation <input type="checkbox"/>
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If you have indicated harassment and/or victimisation, please state which protected characteristic(s) you consider your complaint relates to:

Disability: <input type="checkbox"/>	Gender <input type="checkbox"/>	Sexual Orientation <input type="checkbox"/>	
Gender Reassignment <input type="checkbox"/>	Age <input type="checkbox"/>	Religion/Belief <input type="checkbox"/>	Race <input type="checkbox"/>

Level of complaint:	Informal <input type="checkbox"/>	Formal <input type="checkbox"/>	Appeal <input type="checkbox"/>
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(If informal stage has not taken place, please indicate why):

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Summary of complaint/incident (please continue on a separate sheet if necessary):

Date(s) and time(s) of incident(s):	Date(s):		Time(s):	
	Date(s):		Time(s):	

Witnesses:	

What action has already been taken (please detail informal and formal action already taken):

What is your desired solution and outcome?

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Equality Impact Assessment Form

STAGE 1 - INITIAL ASSESSMENT

For each of the protected characteristics listed answer the questions below using Y to indicate Yes and N to indicate No	Sex (male/female/transgender)	Age (18 years+)	Race/Ethnicity	Disability (hearing/visual/physical / learning disability / mental health)	Religion/Belief	Sexual Orientation (Gay/Lesbian/ Bisexual)	Gender Re- Assignment	Marriage/Civil Partnership	Pregnancy & Maternity	Carers	Other Group	List Negative/Positive Impacts Below
Does the policy have the potential to affect individuals or communities differently in a negative way?	N	N	N	N	N	N	N	N	N	N	N	Policy protects those with protected characteristics.
Is there potential for the policy to promote equality of opportunity for all/promote good relations with different groups – Have a positive impact on individuals and communities.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Policy protects those with protected characteristics.
In relation to each protected characteristic, are there any areas where you are unsure about the impact and more information is needed?	N	N	N	N	N	N	N	N	N	N	N	If Yes: Please state how you are going to gather this information.

Job Title	HR Advisor			Date	26.09.18
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IF 'YES an NEGATIVE IMPACT' IS IDENTIFIED - A Full Equality Impact Assessment STAGE 2 Form must be completed. This can be accessed via <http://intranet/Departments/Equality Diversity/Equality Impact Assessment Guidance.asp>

Please note: As a member of Trust staff carrying out a review of an existing or proposal for a new service, policy or function you are required to complete an Equality Impact Assessment. By stating that you have **NOT** identified a negative impact, you are agreeing that the organisation has **NOT** discriminated against any of the protected characteristics. Please ensure that you have the evidence to support this decision as the Trust will be liable for any breaches in Equality Legislation..

POLICY MONITORING AND REVIEW ARRANGEMENTS

Para	Audit/Monitoring requirement	Method of Audit/Monitoring	Responsible person	Frequency of Audit	Monitoring committee	Type of Evidence	Location where evidence is held
18	Equality Assessment	Equality Duty report	Snr HR Advisor	Annual	Workforce Committee	Report against protected characteristics	Employee relations case files & ESR