

*Please Note: This policy is currently under review and is still fit for purpose.*

# GRIEVANCE AND DISPUTE PROCEDURE

This procedural document supersedes: CORP/EMP 3 v.5 – Grievance and Dispute Procedure



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**GRIEVANCE AND DISPUTE PROCEDURE****Amendment Form**

<b>Version</b>	<b>Date</b>	<b>Brief Summary of Changes</b>	<b>Author</b>
Version 6	17 August 2015	Minor amendments for factual accuracy.	Ruth Cooper
Version 5	February 2011	<ul style="list-style-type: none"> <li>• The process has been amended and shortened, timeframes within the formal element of the process have been added.</li> <li>• Monitoring Effective Compliance added at section 9.</li> <li>• Appendix 3 on process to follow at formal hearing has been removed and Appendix 4 and 5 have been re-numbered accordingly.</li> <li>• Appendix - Grievance Procedure Summary flow chart has been updated.</li> </ul>	Keeley Cromwell
Version 4	August 2009	<ul style="list-style-type: none"> <li>• Section 2 - Delete 'Whitley Council negotiations or any other'</li> <li>• Staff copy – amended paragraph numbering – is now Appendix 5</li> <li>• Amended to reflect Employment Act 2008 and ACAS Statutory Code of Practice 2009</li> <li>• Section 5 – 'role of the HR department' added</li> <li>• Section 8 – updated to include mediation and clarification on timescales for meetings.</li> <li>• Appendix 4 – Grievance Procedure Flowchart</li> <li>• Employee Representation clarified</li> </ul>	Michelle Victor
Version 3	January 2005	<p>Page 2 – paragraph 3.9 removed</p> <p>Staff copy – no revisions made (remains version 2)</p>	Jayne Lang

## **GRIEVANCE AND DISPUTE PROCEDURE**

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## **GRIEVANCE AND DISPUTE PROCEDURE**

### **1. Introduction**

The Trust recognises that from time to time employees may wish to raise matters, which are causing them concern, or to seek redress for grievances related to their employment. The grievance procedure provides a structured framework to allow employees' grievances to be handled fairly, speedily and consistently and at the point closest to where the grievance was originally raised.

1.2 The objectives of the procedure are:

- 1.2.1 To provide a mechanism for employees individually or collectively to resolve grievances which affect the terms and conditions of service under which they work. To also ensure that all employees are aware of the agreed procedure.
- 1.2.2 To facilitate grievances and disputes being settled fairly with a minimum delay and as near as possible to the point of origin.
- 1.2.3 To integrate the means of handling both individual and collective grievances.
- 1.2.4 To help create a constructive and positive industrial relations climate.

1.3 This procedure covers all staff employed under a contract of employment by the Trust and all questions which may become a source of grievance, excluding matters concerned with disciplinary action (including suspension from duty and dismissal) for which a separate procedure exists. The procedure includes any grievance concerned with an employee's job, conditions of service, grading or circumstances which are considered to be grounds for claiming constructive dismissal, together with such other matters for which statutory provision is made for applications to be heard by an employment tribunal (except applications alleging unfair dismissal) or other outside agency. This procedure shall not apply to matters pertaining to national insurance, income tax, rules of pension schemes, staff appraisal/performance review or matters concerning future joint negotiating machinery. Concerns about harassment will be dealt with in line with the Fair Treatment for All Policy [CORP/EMP 4 v.6](#)

1.3.1 All employees have access to the 'Staff Copy' (Appendix 4) of this procedure. Full copies will be made available to all managers, supervisors, and duly accredited and recognised employee representatives and can be accessed on the Trust intranet

### **2 Equality Impact Assessment**

An Equality Impact Assessment (EIA) has been conducted on this procedural document in line with the principles of the Equality Analysis Policy [CORP/EMP 27 v.3](#) - and the Fair Treatment For All Policy [CORP/EMP 4 v.6](#).

The purpose of the EIA is to minimise and if possible remove any disproportionate impact on employees on the grounds of race, sex, disability, age, sexual orientation or religious belief. No detriment was identified.

A copy of the EIA is available on request from People and Organisational Development.

### **3. General Principles**

- 3.1 This procedure has been identified as an acceptable means of handling grievances. The operation of the procedure shall be followed free from any form of duress by either party and there is an obligation upon both parties to maintain the status quo. Industrial action, therefore, would only be taken when all the avenues of appeal, conciliation or arbitration have been exhausted and there is still a failure to agree.
- 3.2 Nothing in paragraph 3.1 is to be taken as limiting management's exercising its responsibility to manage or to take or implement decisions which are needed urgently in the interests of patient services. Such a departure from the principle of status quo will be taken only on the authority of the appropriate manager who will report that decision and reasons for it in writing to the staff organisation(s) concerned. Staff individually or collectively may subsequently raise their disagreement with such decisions at the appropriate stage in this procedure.
- 3.3 Where an employee has an enquiry, problem or a grievance concerned with their job, conditions of service or grading, this should in the first instance be raised with their immediate supervisor in order to try and resolve the matter informally. Only in the event of the immediate supervisor:
  - (a) advising that the matter must be referred to a higher level of management for a decision; or
  - (b) giving what the employee considers to be an unsatisfactory decision, should the employee proceed to Stage 1 of the Procedure.
- 3.4 At all stages of the procedure the appropriate Head of Department/immediate Manager should consult as necessary with other members of management to find a satisfactory solution. Such consultation is vital where the solution of a grievance has implications for staff elsewhere in the Trust or may establish precedence.
- 3.5 An issue may be referred back to any previous stage of the procedure if it appears likely to produce a speedier or more acceptable solution.
- 3.6 Decisions in favour of employees will be applied with effect from the date upon which the grievance was formally lodged.
- 3.7 The name of the functional head who will be acting as Secretary to the Appeal Committee at Stage 4, will be notified to the employee before the date of the grievance procedure.

- 3.8 At all stages in the procedure up to and including Stage 3, the Director of People and Organisational Development or members of the P&OD department will be used in an advisory/conciliatory capacity.

#### **4. Representation**

- 4.1 The term companion within the context of this agreement means:
- a representative of a Trade Union (i.e. duly elected and accredited in accordance with the Trust's agreement on Facilities for Trade Unions or a full-time Union Officer)
  - a representative of a Professional Organisation
  - a work colleague who is acting as a supporter and not in a professional capacity.
- 4.2 An employee can choose to be accompanied by a companion at all stages of the procedure.
- 4.3 An employee with an individual grievance has the right to a personal appearance at all stages of the procedure.
- 4.4 The delegation arrangements for all stages of the procedure are detailed Appendix 2.

#### **5. The Role of People and Organisational Development (P&OD) Department**

- 5.1 The P&OD Department should be notified of any formal grievance received by a manager. A HR representative should accompany the manager during any meetings which take place.
- 5.2 The role of the P&OD Department is to monitor the grievance process and provide support throughout the process.

#### **6 Collective Disputes/Grievances**

- 6.1 For the purposes of this agreement a collective dispute is defined as a grievance which is common to two or more employees, and the grievance is within the scope of those matters which can be resolved by the Trust.
- 6.2 Two or more employees with a collective grievance are expected to be represented by an appropriate employee representative.

#### **7. Time Limits**

- 7.1 The time limits given for each stage are the maximum time limits given and are not to be regarded as the length of time it should take to resolve a grievance. It is in the interests of all parties to produce an acceptable solution as soon as possible. The time limits may be extended by mutual agreement. The time taken for grievance/disputes to receive a decision at each stage will

be routinely monitored by the appropriate next stage manager. Abuse of limits will attract appropriate criticism.

- 7.2 Where specific managers are designated as responsible for certain parts of this procedure and they are unavailable within the time limits, action may be taken by whomever else is authorised to act for them or reference will be made to the next appropriate stage.
- 7.3 It is recognised that problems involving bandings, collective disputes and appeal hearings may involve longer time limits.

## **8. Procedure**

### **8.1 Stage 1 (Informal)**

- 8.1.1 Before an employee or, in a collective grievance, a companion of the group takes up a formal grievance under this procedure they should raise the matter informally with their immediate supervisor/line manager in an attempt to resolve the issue by informal discussion(s).
- 8.1.2 Many problems can be resolved through discussions between the parties involved. It is in the interest of everyone to resolve grievances at the earliest opportunity through constructive and open discussions between the parties involved. To help facilitate this, mediation which provides a means whereby two parties can be helped to reach a mutually acceptable solution to their dispute by an agreed third party may be an appropriate option. If mediation is being considered as an option, staff/managers involved in the grievance may wish to seek advice from People and Organisational Development who will help assist with identifying an appropriate mediator. The role of the mediator is to offer unbiased, impartial advice and guidance to both parties.
- 8.1.3 If, in particularly sensitive cases, the employee or representative of the group feels unable to raise the grievance with their immediate supervisor/line manager or the supervisor/line manager's manager, it may be raised with People and Organisational Development or if preferred, with their staff side representative to raise it on their behalf.
- 8.1.4 If the matter is not resolved through informal discussion(s) with their immediate supervisor/line manager, the grievance should be put in writing to the next level of management, using the form at Appendix 1.
- 8.1.5 Stage 2 should not be initiated until after the informal procedure at Stage 1 has been followed and no resolution has been found at that stage.

### **8.2 Stage 2 (First Formal)**

- 8.2.1 Where an employee has a grievance which has not been resolved through discussion with their immediate supervisor then the employee should submit their grievance in writing to the next level of management setting down the nature of the alleged grievance as in 8.1.4 above.

- 8.2.2 The manager in receipt of the grievance should acknowledge this within 14 days of receipt, inviting the employee to a meeting to discuss the alleged grievance and include the employees right to be accompanied by a companion, either a fellow worker, trade union or professional body representative. All parties should make every effort to attend the meeting.
- 8.2.3 At the meeting the manager will ask the employee for further details of the grievance and how the employee would like to see the grievance resolved. The employee may present witnesses and the manager may ask questions of the witnesses. Following the presentation of their evidence, the immediate manager will provide information about their action prior to the formal procedure being invoked. Following this both parties will be given the opportunity to sum up their case.
- 8.2.4 Having considered all the evidence, the manager hearing Stage 2 of the procedure should give their decision explaining the reasons. If the manager needs to adjourn to consider their decision or make further investigations, they should inform and agree with the employee the timescales for making their decision.
- 8.2.5 An answer shall be given in writing within 14 days of the date of the meeting. Included in the letter must be information about the employees right of appeal informing the employee:
- who they should address the appeal to (normally the next level of management)
  - that any appeal must be raised in writing within 14 days of receipt of the outcome
  - their right to be accompanied as detailed in 8.2.2

### **8.3 Stage 3 (Final Formal Stage for Individual Grievances)**

- 8.3.1 If the matter is not resolved at Stage 2 within 14 days, the employee should confirm the nature of the grievance in writing, to the next responsible Senior Manager. This should be submitted within 14 days from the date of written notification of the outcome of stage 2 of the procedure.
- 8.3.2 A separate report from the Manager who heard Stage 2 of the procedure containing their comments and details of any further action taken by them should be submitted at this stage.
- New evidence may only be produced at the hearing which could not reasonably have been known to either parties prior to the hearing's commencement.
- 8.3.3 The Senior Manager in receipt of the Stage 3 grievance appeal should acknowledge the letter within 14 days of receipt and invite both the employee and the Manager who heard Stage 2 of the procedure to a meeting to discuss the alleged grievance.
- 8.3.4 The same process should be followed as paragraph 8.2.3 to 8.2.5



8.3.5 An answer shall be given, in writing within 14 days of the date of the meeting.

8.3.6 **For individual grievances, this is the final stage of this procedure.**

#### **8.4 Stage 4 (Final Formal Stage for Disputes)**

8.4.1 In the case of a collective dispute which remains unresolved at Stage 3 it shall be open to either party to give notice of appeal to a locally convened panel. This panel will be made up of an independent chairperson acceptable to both sides, and two members on each side, appointed by the Trust and the Staff Organisation(s) concerned. In the case of a dispute involving more than two recognised staff organisations, not more than four members shall be appointed from each side. Only one person on each side on every occasion may be a member or employee of the Trust. No member or employee shall be a member of the appeal panel if they have been directly involved in the dispute. The chairperson will be recognised by both sides as having a conciliatory role, and the panel will have the essential task of exploring all the issues involved in the dispute and will attempt to reach an agreed settlement. Recommendations made will be by agreement of both sides of the panel.

8.4.2 Where both parties agree, the appeal panel will be recognised as having the powers of arbitration.

8.4.3 In the event of the panel being unable to resolve the dispute, the dispute may be referred to the Advisory Conciliation and Arbitration Service (ACAS):

- (a) by either party for conciliation or
- (b) by joint agreement of the parties for arbitration.

8.4.4 **This will be the final stage of this procedure**

### **9. Process for Monitoring Effective Compliance**

All formal grievances including outcome and any subsequent appeals will be logged on ESR by the appropriate Human Resources Advisor.

### **10. Other Relevant Policies**

- CORP/EMP 2 - Disciplinary Procedure
- CORP/EMP 4 - Fair Treatment for All Policy
- CORP/EMP 13 - Conduct, Capability, Ill Health and Appeals Policies and Procedures for Practitioners
- CORP/EMP 14 - Whistleblowing Policy - Voicing Your Concerns
- CORP/EMP 25 - Capability Procedure

### **11 References**

Gov.uk –Handling an employee’s grievance

<https://www.gov.uk/handling-employee-grievance/overview>

Employment Act 2008

ACAS code of practice on disciplinary and grievance procedures 2015

## Appendix 1

## DONCASTER AND BASSETLAW HOSPITALS NHS FOUNDATION TRUST

## JOINT GRIEVANCE REPORT FORM

NOTE: This form is only used in the event of a "Failure to Agree" at Stage 1 of the procedure and should be completed jointly by the employee/employee representative and the employee's Supervisor/Line Manager/Immediate Manager

<b>1</b> Employee(s) Name(s) or Department(s)	Representative
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<b>2.</b> Details of outstanding grievance	
Signed (Employee or Employee Representative)	Head of Department (Designation)

<b>3.</b> Head of Department's Decision	
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<b>4.</b> Head of Department's comments or reasons	
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Date

Signed

Appendix 2

**GRIEVANCE AND DISPUTE PROCEDURE**

**DELEGATION ARRANGEMENTS**

The following are the delegated arrangements in respect of Stage 1 to Stage 3 of the agreed procedure.

**Stage 1**

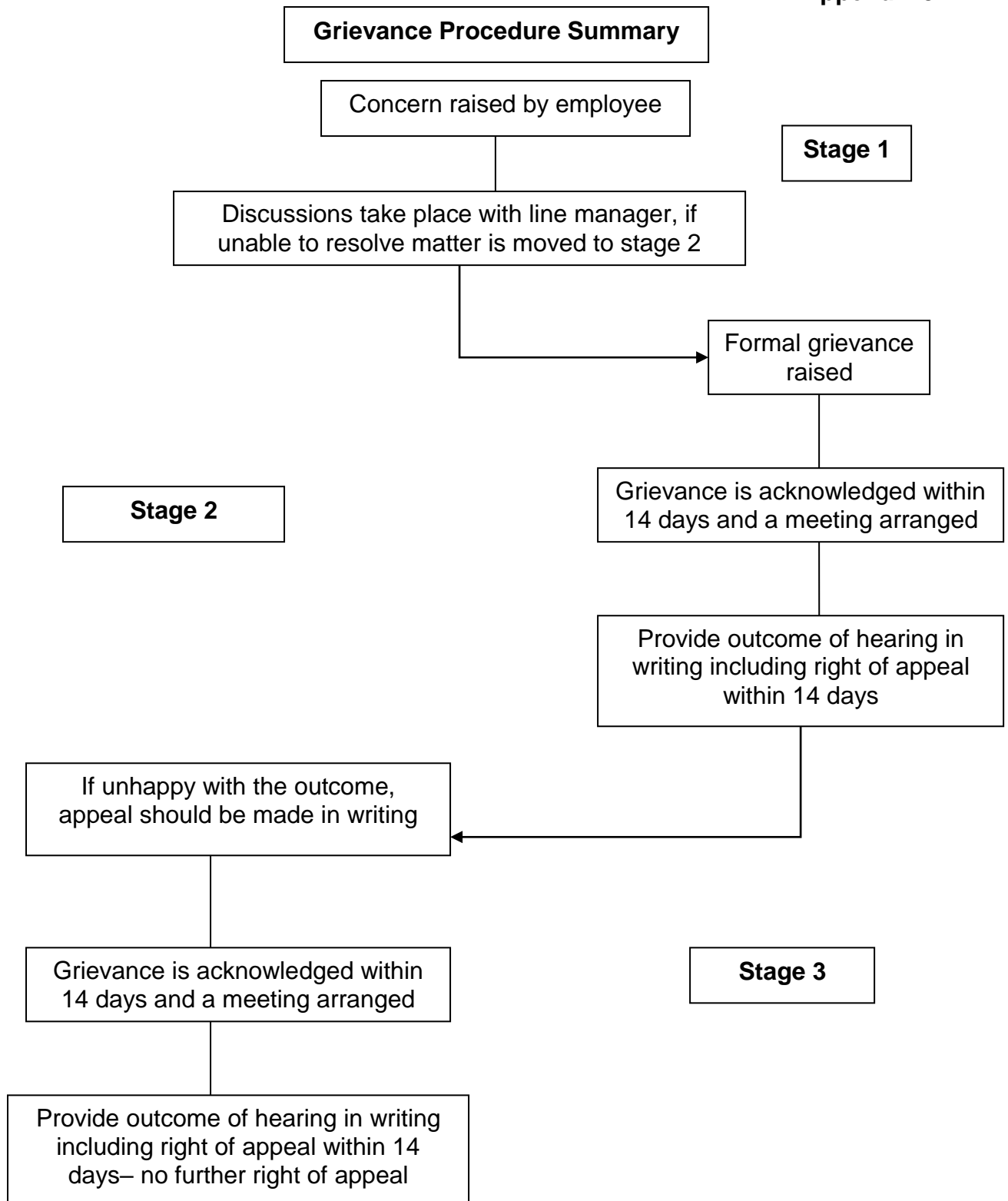
Supervisor  
Line/Ward Manager  
Head of Department  
General Manager or equivalent  
Director  
Chief Executive

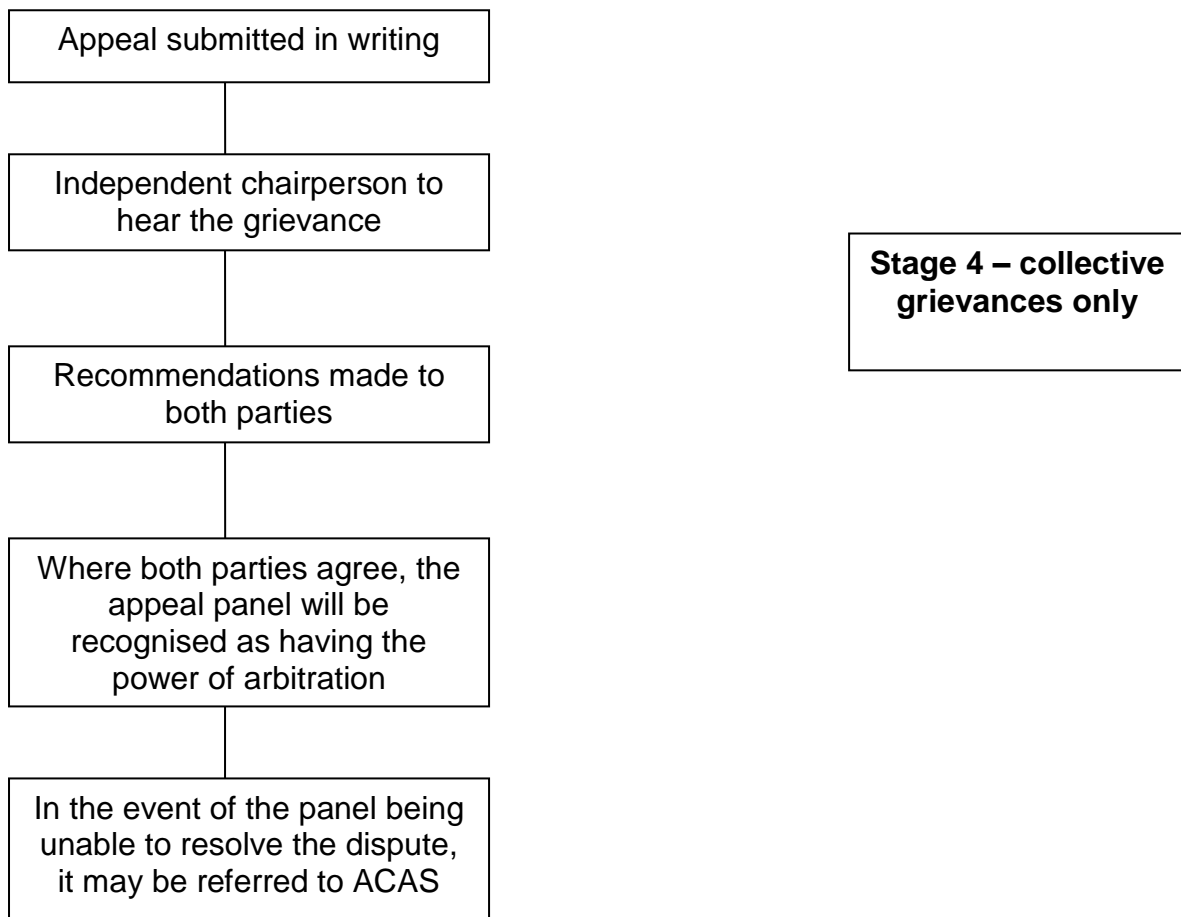
**Stage 2**

Line/Ward Manager  
Head of Department  
General Manager or equivalent  
Director  
Chief Executive

**Stage 3**

Head of Department  
General Manager or equivalent  
Director  
Chief Executive





**STAFF COPY – Appendix 4**

**This document forms part of your contract of employment**

**DONCASTER AND BASSETLAW HOSPITALS NHS FOUNDATION TRUST**

**TITLE: GRIEVANCE AND DISPUTE PROCEDURE - ADVICE TO STAFF**

1. The Trust operates a procedure to provide a means for employees individually or collectively to resolve grievances which affect the terms and conditions of service under which they work. The scope of the procedure covers all staff employed under a contract of employment by the Trust and all questions which may become a source of grievance, excluding matters concerned with disciplinary action (including suspension from duty and dismissal) for which a separate procedure exist, but includes any grievance with the employee's job, conditions of service, grading, or circumstances which are considered to be grounds for constructive dismissal, together with such other matters for which statutory provision is made for applications to be heard by an employment tribunal (except allegations alleging unfair dismissal) or other outside agency. This procedure shall not apply to matters pertaining to national insurance, income tax, rules of pension schemes, staff appraisal/performance review or matters concerning future terms and conditions of service which are properly within the scope of Agenda for Change negotiations or any other joint negotiating machinery. Concerns about harassment will be dealt with in line with the Fair Treatment for All Policy Personal Harassment Policy (CORP/EMP 4).
2. Where an employee has an enquiry, problem or a grievance concerned with their job, conditions of service or banding this should, in the first instance be raised with their immediate supervisor in order to try and resolve the matter informally.
3. Stage 1 - If the matter has not been settled satisfactorily through discussion as above, employees should write to their Supervisor/Line Manager/Immediate Manager setting down the nature of the grievance. A meeting will be arranged with the employee and any decision reached at this stage shall normally be communicated within 14 days.
4. Stage 2 - In the event of failure to agree at Stage 1, the case should be submitted in writing to the appropriate Manager or Head of Department. This should represent a joint agreement of the outstanding source of grievance to be resolved. Completion of the form should be undertaken jointly by the employee/companion and the Supervisor/Line Manager/Immediate Manager. This should be submitted within 14 days of the date of notification of the outcome of Stage 1 of the procedure. The manager or Head of Department will acknowledge receipt of the grievance within 14 days and include arrangements for the forthcoming hearing. Any decision reached at this stage shall normally be communicated within 14 days.

5. Stage 3 - In the event of a failure to agree at Stage 2, the nature of the grievance should be submitted in writing to the Senior Manager designated to deal with matters at Stage 3 of the procedure. Details of these Senior Managers are available within the full Grievance Policy. This should be submitted within 14 days of the date of notification of the outcome of Stage 2 of the procedure. The Senior Manager will acknowledge receipt of the grievance within 14 days and include arrangements for the forthcoming hearing. Any decision reached at this stage shall normally be communicated within 14 days. **This is the final stage of appeal for individual grievances.**
6. Collective disputes which remain unresolved at Stage 3 it shall be open to either party to give notice of appeal to a locally convened panel consisting of an independent Chairman acceptable to both sides and two members on each side appointed by the Trust and the staff organisation(s) concerned.
7. You are reminded that at any stage during this procedure you are entitled to be accompanied by a companion. (i.e. a Trade union representative, staff association or a work colleague who is acting as a supporter)
8. It is recognised that problems involving bandings, collective disputes and appeal hearings may involve longer time limits.
9. All staff are reminded that they may have access to the official Grievance and Disputes Procedure operating within the Trust, copies of which are available on the Trust intranet and all managers and duly accredited and recognised employee representatives have been notified of these.