

## WORKPLACE CONCERNS AND GRIEVANCE RESOLUTION POLICY AND PROCEDURE

### SUMMARY

The Royal Marsden NHS Foundation Trust (hereinafter called the Trust) recognises that employees may at some time during the course of their employment have problems, concerns or complaints (hereinafter referred as concerns) about their work, working conditions or working relationships with colleagues that they wish to talk about with management and want their concerns to be addressed and if possible resolved.

The Workplace Concerns and Grievance Resolution Policy and Procedure promotes and encourages positive relationships and constructive dialogue. Its aim is to provide a framework for supporting employees to raise concerns and to provide guidance to managers in resolving any such concerns informally, quickly and effectively as possible. The Trust will do everything that it can to promote and facilitate dialogue to find a collaborative resolution. Where dialogue does not work, or it is not suitable, the Trust will always seek the most appropriate and effective remedy to resolve the issues.

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### 1. POLICY STATEMENT

- 1.1 The Trust believes that all employees have the right to come to work, to do their best and deliver outstanding quality in everything they do and to drive continuous innovation to improve the lives of patients and the delivery of cancer care.
- 1.2. In line with the Trust's values and behaviours the Trust expects all employees to have a mutual obligation to show kindness, dignity and respect towards each other and to promote an environment that is safe, harmonious, positive, open and flexible.

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- 1.3 The Trust expects professional open, honest and constructive communication between employees, colleagues and managers to ensure that any problems arising during the course of their employment can be aired and resolved quickly and to the satisfaction of all concerned. Employees must provide constructive, fair and objective feedback, whenever needed and to receive feedback openly and reflectively.
- 1.4 The Trust recognises that, occasionally, employees will not agree on something and that different beliefs, values, needs and goals may clash. This is something that can occur as part of normal working life. The Trust aims to create a culture where concerns can be raised and resolved in a constructive and supportive way.
- 1.5 In the first instance, the Trust requests employees raise concerns informally directly with their colleague or line manager as soon as possible. This should be done in a way that encourages informal communication and resolution. Emphasis should be placed on working collaboratively, to find mutually acceptable outcomes and solutions for all parties, for the benefit of the patients and service. This action allows for the matter to be settled quickly and fairly.
- 1.6 This policy meets and exceeds the minimum standards set out in all relevant legislation and the ACAS Code on Disciplinary and Grievance. This policy also reflects the Trust's values and behaviours.

## 2. SCOPE

- 2.1 The policy and procedure applies to all Trust employees, excluding honorary contracts.

## 3. GENERAL PRINCIPLES

- 3.1 The policy draws on five core principles;
- Dialogue – building dialogue between employees or employees and manager to help them to resolve workplace concerns.
  - Fairness – giving all employees access to fair and dignified approaches for managing concerns.
  - Mutual Respect – recognising that workplace concerns can be challenging and the Trust encourages a respectful and professional approach at all times to assist with resolution.
  - Collaboration – actively encouraging the parties in a dispute to work together to identify, agree and implement a shared solution.
  - Timeliness – to resolve workplace concerns in a timely manner and wherever possible, avoid any unnecessary delays.
- 3.2 Any requests for resolution must be raised as soon as possible and without unreasonable delay and ideally within 5 working days of the matter arising, up to a maximum of 3 months.

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- 3.3 No employee will be penalised for raising a matter under the procedure if they have a genuine concern. However, where a concern is malicious or vexatious, without good reason or an employee raises a number of concerns over a short period of time to seize up, frustrate and unduly delay Trust processes will be treated as a misconduct issue and disciplinary action may be taken.
- 3.4 Repeated concerns which are made and have not been resolved informally will be treated as a formal request for resolution and will be managed under Stage 2 Formal Request for Resolution.
- 3.5 Confidentiality should be maintained at all times by all employees throughout the process.
- 3.6 The policy can be used for an employee raising their own concern or a collective concern, where a number of employees have the same concern, at the same time.
- 3.7 A number of matters will not be considered under this policy and procedure including:
- Issues concerned with an action taken under a procedure that has an appeal process within it. Issues relating to disciplinary matters, performance, pay progression, sickness and redundancy selection must be dealt with using the appropriate policy and procedure.
  - Issues concerned with bullying and harassment – employees should use the Dignity at Work Policy, where these concerns can be dealt with.
  - Concerns about a lack of governance, malpractice that compromises standards of patient care and service delivery, unlawful acts etc. – employees should use the Whistleblowing Policy and Procedure.
  - Non-renewal of fixed-term contracts on their expiry – a separate right of appeal is given through the Appeals Policy and Procedure.
  - Pay grading issues outcomes.
  - Concerns about contractual terms which are part of the nationally agreed terms and conditions, which are determined by a collective agreement for NHS staff.
  - Any matters that have previously been considered under this policy.

The policies mentioned above can all be found on the intranet.

- 3.8 If at any stage an employee wishes to withdraw their request for resolution, they must do so in writing. The Trust reserves the right to consider a request as withdrawn should the employee refuse to engage in any part of the process.
- 3.9 The policy and procedure does not apply to former employees. If an employee resigns, the policy will not apply after the date of termination of employment, however, the Trust reserves the right to note the concerns and/or respond.

#### 4. ROLES AND RESPONSIBILITIES

- 4.1 Everyone carries personal accountability for their own behaviour. Employees are responsible for ensuring their conduct at work is professional at all times, in line with the Trust values and behaviours, contractual duties, any relevant professional code of conduct and the principles and responsibilities set out in this policy and procedure.

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**4.2 Managers are responsible for:**

- Promoting the fair treatment of everyone equally, valuing differences and demonstrating honesty, integrity and transparency in line with the Trust's values and behaviours, through their day to day management accountabilities and responsibilities.
- Acting as roles models and leading by example.
- Being clear and consistent in communicating working objectives and expectations.
- Ensuring all employees receive information in a way that they can understand.
- Demonstrating respectful consideration for different perspectives in decision making.
- Taking time out to make employees feel supported and addressing inappropriate behaviours.
- Checking employee's wellbeing and noticing when employees may need help or support and taking appropriate action.
- Listening and trying to informally resolve any workplace concerns in a prompt, calm and objective manner
- Applying the procedure fairly and consistently whilst maintaining confidentiality and adhering to timescales.
- Informing the Human Resources Team when they receive an employee's request for resolution, and seeking advice and guidance.
- Ensuring that less favourable treatment is not applied against any employee who has lodged a formal concern.
- Attending and participating in appropriate line management training and/or coaching.

**4.3 Employees are responsible for:**

- Demonstrating commitment to delivering outstanding quality patient, cancer care and Trust Services.
- Complying with the Trust's values and behaviours, being professional at all time in line with their contractual duties and the Trusts and local departmental standards of conduct, policies, standard operating procedures and relevant professional codes of conduct.
- Supporting teamwork, communicating and co-operating professionally with others.
- Raising any concerns, as soon as possible, without unreasonable delay and within 5 working days of the matter arising up to a maximum of 3 months unless there are exceptional circumstances.
- Making every effort to resolve their concern informally with their immediate line manager.
- Making clear what their suggested remedies are for resolving the situation.
- Listening to feedback, respecting others colleague's points of view, being prepared to positively seek a resolution and to work collaboratively with their line manager and colleagues.

**4.4 Human Resources are responsible for:**

- Providing support, advice and guidance throughout the process, as appropriate.
- Monitoring the application of the policy and procedure to ensure it is applied in a fair and consistent way across the Trust
- Keeping records for monitoring and reporting purposes.

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**4.5 Trade Unions are responsible for:**

- Supporting and advising their members throughout the process.
- Working collaboratively with managers to achieve constructive resolutions to disputes and conflicts.

**4.6 Freedom to Speak Up Guardian and Champions are responsible for:**

- Supporting our whistleblowing policy ensuring that the individual raising the concern has all the correct information about the policy and procedure, and that they're supported through the process.

The Guardian or Champion does not get involved in investigations or complaints, but helps to facilitate the raising concerns process where needed, ensuring organisational policies are followed correctly and those individuals know where and how to access other support they may feel they need. They will ensure that those who raise concerns are given the appropriate support. The Freedom to Speak Up Guardian will keep the Council of Governors and Trust Board abreast with the latest developments in Freedom to Speak Up.

**5. RIGHT TO REPRESENTATION**

- 5.1 During the Stage 1 - Request for Informal Resolution the matter will be handled by the line manager, or another appropriate manager, with the employee on a one to one basis.
- 5.2 At Stage 2 - Request for Formal Resolution and Stage 3 - Appeal the employee has a right to be represented by a workplace Trade Union representative or an official employed by a Trade Union, or by a current Trust employee.
- 5.3 The choice of companion is a matter for the employee, but the Trust reserves the right not to accept a companion whose presence would compromise the process, e.g. if the companion is involved in the proceedings, or because they will not be available for a meeting for a substantial length of time. In cases of the latter, the employee will normally be expected to arrange for an alternative Trade Union representative or work colleague to attend.

The representative will be allowed to address the hearing, to present 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 hearing. The representative does not have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it, or prevent the employee from explaining their case. It is the responsibility of the employee to contact their chosen representative, ensure that they are willing to act in that capacity and is available on the day of the meeting.

- 5.4 Efforts will be made when arranging meetings to accommodate the availability of Trade Union representatives and work colleagues. However, where this is causing an unreasonable delay, a date for a hearing will be set subject to 7 working days' notice.

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- 5.5 If the employee is unable to attend the date arranged because of circumstances beyond their control, they must inform their line manager as soon as possible. A postponement of up to 5 working days will be allowed, or longer in exceptional circumstances. If there is an unacceptable delay because of the non-availability of the chosen companion, the employee will normally be expected to arrange for an alternative Trade Union Representative or work colleague to attend.
- 5.6 If there is a failure to attend without explanation or if the employee is persistently unable or unwilling to attend without good cause, then the meeting may be conducted in their absence, in exceptional circumstances it may be agreed that a trade union representative or work colleague may attend the hearing and a decision made based upon the evidence available at the time or the Trust may consider taking no action.

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## THE RESOLUTION PROCEDURE

### 6. STAGE 1 - REQUEST FOR INFORMAL RESOLUTION

- 6.1 Most concerns can and should be resolved quickly through the day to day management and discussion between employees, or an employee and their line manager, or colleague. Additional informal steps can be through a facilitated roundtable discussion and/or mediation.
- 6.2 If an employee has a concern, the Trust expects the employee to raise it in the first instance with their line manager. This approach can lead to swift resolution, as the line manager is often the individual with influence to address and rectify a problem promptly.
- 6.3 If the employee feels unable to speak to their manager, for example, because the issues concern them, then they should speak informally to their line manager's manager.
- 6.4 The employee can seek support through advice, guidance and information from the following:
- Their line manager or line manager's manager.
  - A Trust Trade Union Representative.
  - Human Resources Team.
  - Trust's Staff Support Service.
  - Trust's Occupational Health Department.
  - Freedom to Speak Up Champion.
- 6.5 On receipt of the employee's request for informal resolution, the line manager will arrange a meeting within 5 working days of the request being received. The meeting is an opportunity for the manager to meet with the employee face to face, to listen to and discuss their concerns, to consider any recommended resolution and to identify the most suitable route to resolution.
- 6.6 Where a group of employees have a concern, a meeting should be arranged between the relevant manager and a number of representatives from the aggrieved group (maximum three plus a trade union representative where relevant). At the meeting the employee should inform their line manager of the details of the concern and their desired outcome. The manager may need to ask questions to obtain further information or to clarify specific points.
- 6.7 If the issue is relatively straightforward, open and constructive discussion at this informal meeting may result in a satisfactory resolution being achieved immediately.
- 6.8 If the issue is more complex, the line manager may need to informally investigate the matter further to establish the facts, including speaking to other parties and examining paperwork and records. The manager will feedback any findings to the employee.

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- 6.9 If the informal discussion does not resolve the issue then a facilitated roundtable discussion and/or mediation should be considered – see sections 6.12 and 6.13 at this stage.
- 6.10 The line manager should respond to the employee within 5 working days of the first meeting. The response should be given face to face and include:
- The nature of the concern
  - The outcome of the discussion and if appropriate, details of any remedial action which may be taken and within what timescale
  - If they are not satisfied with action taken in the informal stage then the process for escalating to a Stage 2, Request for Formal Resolution.
- 6.11 The above details should be confirmed in writing and kept on the employee's personal file.

## 6.12 FACILITATED ROUNDTABLE CONVERSATIONS

It is the role of the line manager or a more senior manager to facilitate a resolution meeting between employees which is designed to:

- Address and resolve workplace concerns raised by employees.
- Understand the situation from the perspective of all those involved.
- Exploring the impact of the concerns on the individuals involved and the service
- Find realistic and workable solutions.
- Clarify expectations about future behaviour in the workplace.

The facilitating manager will meet individually with each employee involved before bringing them together and will then lead the joint meeting, giving time for each employee to explain their concerns and discuss ways of resolving the problems.

The role of the manager, as a facilitator, is to promote both a shared resolution to the concerns of the employee, and in so doing ensure that the employee understands the standards of behaviour and performance expected of them.

The manager should set out their expectations in writing following the meeting.

Managers can seek advice and guidance on conducting facilitated conversations from the Human Resources Team.

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### 6.13. MEDIATION

Mediation is a voluntary and entirely confidential process for resolving interpersonal differences.

The process of mediation is designed to help the employees or employee/line manager involved to share their experiences, identify the impact of the situation on them, and consider how they individually could improve the situation and what they need from others to resolve the situation.

Mediation should only be considered when the affected parties are openly committed to resolving their differences.

Mediation may be requested by the line manager with the agreement of the employees and is conducted by a trained mediator.

For further information about mediation and how to make a referral, please visit HR/Employee Relations on the Trust's intranet.

### 7. STAGE 2 - REQUEST FOR FORMAL RESOLUTION

7.1 If the concern is not resolved at Stage 1, or through a facilitated discussion or mediation, an employee may request formal resolution within 5 working days of the Stage 1, decision.

7.2 The employee must set out their concern in writing. When setting out their concern in writing the employee should describe, in as much factual detail as possible, the exact nature of their concern, the sequence of events, in date order, including any documentary evidence, what methods they have taken to try and resolve their concern and any resolution they would like to be considered to address and resolve their concern. If the issue being raised is unclear, the employee may be asked to clarify this further before any meeting takes place.

The written statement must be sent to the Director of Workforce, copied into the Employee Relations Team and should be titled 'Stage 2 Formal Request for Resolution' for the sake of clarity.

7.3 An appropriate manager will write to the employee inviting them to a Stage 2 Formal Resolution Meeting. The employee must take all reasonable steps to attend any meetings arranged. The employee will be advised of their right to be accompanied to the meeting by a workplace Trade Union representative or an official employed by a Trade Union, or by a current Trust employee. The employee will be notified of the meeting date within 5 working days' notice of receipt of the written statement. The manager will be supported by a member of Human Resources.

7.4 The line manager (or another manager) who dealt with the concern at Stage 1 of the procedure will be asked to attend the meeting describing the steps taken to resolve the concern. Evidence gathered during the informal stage, which was used and relied upon at the informal meeting, may be presented to the manager hearing this stage.

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- 7.5 Non verbatim summary notes will be made of the meeting. The meeting may also be recorded. A copy of the digital voice recording will be provided to the employee on request.
- 7.6 Employees will be given the opportunity to explain their case fully but should confine their explanation to matters that are directly relevant to the concern.
- 7.7 In the course of the meeting, if it becomes clear that the concern is more complicated than it at first appeared, the Chair of the meeting may decide to adjourn the meeting to carry out further investigations as may be deemed necessary. However, where no further cause for concern arises, the Chair may decide, the concern can be dealt with at the meeting. If an investigation is required the meeting will be paused and reconvened after completion of the investigation.
- 7.8 Where the issue concerns professional or technical matters the manager chairing the meeting may seek additional advice from an appropriate person with specialist and professional knowledge outside of the meeting. This person should have had no direct involvement in the case.
- 7.9 Wherever possible, the employee should be verbally informed of the outcome of the meeting on the day, or as soon as is reasonably practical, and this should be confirmed in writing normally within 5 working days.
- 7.10 A copy of the formal response should be kept on the employee's personal file.
- 7.11 The following are possible outcomes of Stage 2, Formal Request for Resolution; the list is not exhaustive and the decision made will depend upon the circumstances of each case:
- Mutual resolution reached.
  - Concerns not upheld, e.g., no change to the outcome of Stage 1, Informal Resolution Meeting decision.
  - Concerns upheld, either in full, or in parts.
  - Alternative or additional remedial actions agreed.

## 8 STAGE 3 - APPEAL MEETING

- 8.1 An employee may appeal against a decision made at Stage 2 by lodging a written statement to the Director of Workforce, along with a copy to the Employee Relations Team, within 7 working days of receipt of the letter confirming the Stage 2 Request for Resolution meeting outcome.

The employee must clearly state the grounds for the appeal i.e. the basis on which they believe the outcome of the Stage 2 Formal Resolution outcome was wrong, or the action decided on was inappropriate, and how they would like the matter resolved.

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- 8.2 The manager hearing the appeal at Stage 3 will be an appropriate senior manager, normally a Divisional Director, Head of Department or Assistant Director. They will be accompanied by a Human Resources Representative.

Those involved in the appeal panel shall not include anyone who has been involved in the circumstances leading to the appeal.

The manager conducting the appeal meeting will consider the grounds put forward for appeal, and assess whether or not the conclusion reached in the Stage 2 Formal Resolution Meeting was appropriate. It should not be a rehearing of the original process, but rather a consideration of the rationale for being dissatisfied with the outcome of the Stage 2 Formal Resolution Meeting. The manager hearing the appeal may confine the discussion to specific areas, rather than reconsider the whole matter afresh.

- 8.3 The manager hearing the Stage 3 Appeal should, wherever possible, verbally inform the employee of the outcome of the appeal on the day of the meeting. Where this is not possible, the decision and rationale should be confirmed in writing normally within 5 working days.

Written records, which will not be verbatim, capturing the main points of discussion will be kept and maintained in line with the General Data Protection Regulation (GDPR) and will be available to the employee and trade union representative on request.

- 8.4 The decision at Stage 3, Appeal Meeting, will be final and there is no further right of appeal.

### **POSSIBLE OUTCOMES OF FORMAL APPEAL**

- 8.5 The following are possible outcomes of Stage 3, Appeal; the list is not exhaustive and the decision made will depend upon the circumstances of each case:

- Mutual resolution reached.
- Concerns not upheld, e.g., no change to the outcome of Stage 2, Formal Resolution Meeting decision.
- Concerns upheld, either in full, or in parts.
- Alternative or additional remedial actions agreed.

### **9. OVERLAPPING CONCERNS AND CASES**

- 9.1 Where an employee raises a complaint during a process in another policy, the manager responsible will need to make a judgement about the best way to handle the two issues. Any concerns raised should be dealt with promptly, and without unreasonable delay. Depending on the nature of the concern, it may be appropriate to deal with the concern as part of the other proceedings, or to deal with it in parallel. In some instances, it may be necessary for it to postpone the other proceedings while the grievance is dealt with.

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- 9.2 A concern about the process may be handled best by the employee raising the matter in the appropriate hearing or on appeal. In cases where the concern amounts to the rebuttal of allegations of misconduct, or defence of mitigating factors, the most appropriate forum to consider this will be at the hearing.
- 9.3 Where a concern is raised concerning a matter that has been made, considered and rejected in the course of another process, the Trust may refuse to allow the matter to be considered further under this procedure.
- 9.4 Where serious allegations are made about the circumstances that led to a procedure under another policy being initiated, rather than the process itself, it may be appropriate to suspend proceedings and to consider the concern first.
- 9.5 Where a concern is unrelated to the process, there should be no need to postpone a hearing if it would not be affected by the unrelated grievance.

## 10. CONCERNS ALREADY RAISED

- 10.1 If the employee appears to restate a concern that the Trust is already dealing with, or that it has dealt with in the past, the employee will be asked to explain how the new concern differs from the previous one, and what new incident has occurred or what new evidence has come to light.
- 10.2 Where it is clear that there is nothing new being raised, and if the Trust can establish that the concern has in fact already been addressed, the Trust can reject the concern without starting a new process. Alternatively, if it closely related to an ongoing issue, the Trust should inform the employee that, because the issues are linked, the new concern will be dealt with as part of the existing process.
- 10.3 In rejecting the concern without a meeting, the Trust should write to the employee and explain that no further action will be taken because the grievance has already been dealt with. It may be appropriate at this stage to refer the employee to the previous correspondence and the outcome of the original concern. The employee should be informed that the matter will only be considered again if new incidents occur, or if new facts and information come to light.
- 10.4 The decision to reopen a previous concern and hold a fresh process is based upon whether the new evidence sheds additional light on the concerns originally made by the employee so that the Trust needs to revisit its original conclusions.

## 11 POLICY REVIEW

- 11.1 This policy and procedure will be reviewed at the date stated and may be subject to change at that time, or at an earlier date if necessary, subject to consultation with staff representatives recognised for that purpose.

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