

# Grievance Policy and Procedure

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## **Promoting equality, valuing diversity and ensuring fairness within NHS Nene Clinical Commissioning Group**

NHS Nene Clinical Commissioning Group aims to design and implement business functions, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage. This policy was originally produced in consultation with staff side representatives and approved by the Provider Services Partnership Forum and Nene CCG's Executive Management Team. This policy was adopted by NHS Nene CCG's Governing Body in April 2013.

The policy will be applied fairly and consistently and those responsible for its implementation towards individual staff or groups of staff will ensure that their behaviour and actions are non-discriminatory and are in line with the Requirements of:

- Equality Act, (2010)
- The Race Relations (Amendment) Act, (2000)
- The Civil Partnership Act, (2004)
- The Public Sector Gender Equality Duty (2007)
- The Disability Discrimination Act, (1995, 2005)
- Employment Equality (Age) Regulations (2006)

In addition Equality Impact Assessment has been performed as part of the public sector duty to:

- Eliminate unlawful discrimination
- Promote equal opportunities
- Promote good relations between people from different backgrounds

In addition, the Equality Impact Assessment has considered the following aspects of potential discrimination, which are age, gender, sexual orientation, disability, ethnicity, religion and belief.

In order for this policy to be effective, Nene CCG believe that it is important for all employees to be aware of the processes, and that managers are trained in their use. Monitoring information will be produced on an annual basis to ensure policy is effective in the way it is applied.

Action to ensure this will be as follows:

- Copies of the full policy and procedure will be available on the Nene website
- Copies will also be available from the Corporate Services Department and managers.
- Managers must explain the provisions to new employees as part of the induction process.
- Special attention must be paid to individuals whose first language is not English, or who have a sensory impairment or some other disability.
- Monitoring information will be produced on an annual basis to ensure policy is effective

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## 1. What is a Grievance?

“An official complaint by a worker to their employer”

“Anybody working in an organisation may, at some time, have problems or concerns about their work, working conditions or relationships with colleagues that they wish to talk about with management. They want the grievance to be addressed and if possible resolved” –

## Draft ACAS Code of Practice on Disciplinary & Grievance Procedures 2004

## 2. THE GRIEVANCE POLICY

Nene CCG recognises that from time to time employees may have concerns or complaints about the way in which they feel they have been treated at work. These may be associated with their work, their environment or relationships with their line manager or colleagues. Whilst Nene CCG encourages these issues to be dealt with informally, and at a local level, it recognises that there may be occasions when more formal procedures are required to ensure a satisfactory outcome to the concerns raised.

The purpose of this policy and accompanying procedures is to provide the mechanism to ensure that individual staff grievances are dealt with quickly, reasonably, as fairly as possible and as near as possible to their point of origin.

The policy is used principally for the resolution of differences between individual employees and Nene CCG. It is applicable to all staff holding a contract of employment from Nene CCG (i.e. permanent, temporary, fixed term, bank). However, in certain circumstances, it will also be used to determine the resolution of collective grievances.

The policy relates to the application or interpretation of:

- Contracts of employment
- Local terms and conditions of employment
- Working practices

The policy does not apply to settling differences relating to any of the following:

- Dismissal, Disciplinary or Capability matters (separate policies are available to deal with these issues)
- Complaints of Harassment, Bullying or Discrimination (separate policies are available to deal with these issues)
- National pay agreements i.e. Agenda for Change
- Statutory matters (e.g. Health & Safety Legislation) or matters over which the Trust has no control

Policy issues negotiated through the local consultative and negotiating arrangements

- Conditions relating to the NHS Pension Scheme
- An attempt to restart the procedure in relation to the same grievance.

This would not apply where there had been a failure to implement agreed action to resolve the particular grievance.

- Staff working within Nene CCG who are seconded from another employer (they should refer to their employer's Grievance Policy).

There are a variety of other policies within Nene CCG that may be better suited to resolving some grievances (e.g. Raising Matters of Concern and Practice Concerns) and where this may be appropriate advice can be sought from Corporate Services.

Employees who feel aggrieved should normally first approach their line manager in order to discuss the problem informally. If no resolution is forthcoming, the member of staff may invoke the formal procedure at the lowest appropriate stage. The appropriate point for raising a formal grievance may depend upon the nature of the problem, giving rise to the complaint.

It is recognised that the employee may feel unable to raise the concern / complaint with their immediate line manager (i.e. if the line manager is involved in the grievance) or they may feel unsure as to the most appropriate way of raising a grievance, and/or with whom it should be raised. In these circumstances the employee should speak to a representative of a trade union/professional organisation and/or another manager within the CCG. Any such contact will remain confidential unless it involves a serious breach of conduct or alleged criminal activity, or where there is a significant risk to patients, members of the public or colleagues.

At all stages of the Formal Grievance Procedure an employee has the right to be accompanied by a companion. This person may be a certified representative of a trade union / professional organisation or by a work colleague not acting in a legal capacity.

Time limits to each stage of the grievance procedure are identified to encourage a prompt resolution. It is recognised that long drawn out procedures can have a negative impact on all parties.

It is recognised that on occasion, the complexity of a grievance and / or the availability of the parties to the grievance may require the time limits to be varied. The reason for this will be communicated to all parties and a revised time limit will be set. However, this should not be seen as the norm and at all times the need to conclude grievances as quickly as possible must be born in mind.

In the interest of natural justice, where the grievance relates to a specific manager's decision or actions, then that manager will be given every opportunity to respond.

Where meetings are convened to resolve a grievance that involves disagreement between two individuals, this will be conducted in a non- confrontational manner.

During the execution of the Grievance Procedure, the "status quo" will remain until the procedure has been concluded (i.e. the procedures, policies, working practices, etc, which applied immediately prior to the formal submission of a grievance will remain in force). Nene CCG reserves the right, however, to vary this provision where it is considered that the

maintenance of the “status quo” might be detrimental to the health, safety and welfare of patients, staff or members of the public, or for some other substantial reason.

Only the Director may vary the ‘status quo’ provision. All parties will be formally advised when the grievance procedure has been concluded.

### 3. THE GRIEVANCE PROCEDURE

It is expected that employees with a grievance will review this policy and attempt to resolve their concerns using the procedure outlined below, starting at the lowest possible level i.e. Informal Discussion. However, it is recognised that in certain situations this may not be possible and that they will need to go straight to the Formal Stages.

At any stage during this procedure the employee is entitled to seek advice from the Head of Corporate Services or a representative of a trade union / professional organisation.

Please see Appendix 1, which provides a flowchart of the procedure.

### 4. INFORMAL DISCUSSION

If an employee has a grievance about their employment they should first attempt to resolve this by raising it informally with their line manager. This should be done as soon as possible after the grievance is identified. The employee should be clear about what their concerns are and also what they are looking for in terms of a resolution. A discussion should take place between the employee and the line manager to highlight the concerns and to agree a course of action to resolve these where appropriate. It may be appropriate for the line manager and the employee to keep a record of the concern, the discussions and any action agreed.

It is anticipated that most employee concerns can be resolved in this way. If resolution cannot be reached then the employee should move to Stage 1 of the Formal Procedure.

### 5. FORMAL PROCEDURE

#### 5.1. Stage 1

Where informal discussions have failed to resolve an employee’s concerns, or where the employee does not feel able to raise their grievance informally, they should put their grievance in writing to their line manager. If the grievance is against their immediate line manager the employee should write to a more senior manager. This letter should clearly identify the grievance, state their concerns, highlight the effects on them **and, very importantly**, provide an indication of what they are looking for in terms of a resolution.

Upon receipt of a formal grievance, the line manager should acknowledge receipt of this as soon as possible and must formally respond in writing within 5 working days. It may be possible to respond in writing to the employee’s grievance or, more likely, it will be necessary to arrange a meeting with the employee to discuss their concerns. The

employee must be advised of their right to be accompanied by a representative of a trade union / professional organisation, by a work colleague not acting in a legal capacity to any meeting arranged.

The meeting should enable the employee to clarify their concerns and allow the line manager to respond. Where possible the outcome should be to agree a course of action to resolve the grievance. The outcome of the grievance meeting should be documented and a formal response to the grievance should be put in writing to the employee within 5 working days of the meeting.

All reasonable effort should be taken to respond to a grievance within the timeframes detailed above. However, if this is not possible the employee should be given an explanation for the delay and advised when a response can be expected.

It is anticipated that a resolution will be reached at this stage, however if the employee remains aggrieved, he/she may invoke the second stage of the procedure. The advice of the HR business partner should be sought before moving to Stage 2.

## **5.2. Stage 2**

At this stage of the procedure the employee has the opportunity to raise their grievance with their Director. An employee may go directly to this stage if they believe that they cannot address their grievance to their immediate management team or if they are not satisfied that their grievance has been addressed appropriately following Stage 1.

The advice of Senior HR Advisor should be sought before moving to Stage 2. Where an employee moves to Stage 2 because they are dissatisfied with the outcome of Stage 1 they should do so within 5 working days of receiving the outcome of Stage 1.

As in Stage 1, the employee should put their grievance in writing, detailing the grievance, stating their concerns, the effects on them and provide an indication of what they are looking for in terms of a resolution. Where an employee is dissatisfied with the outcome of Stage 1, they should also highlight the reasons for this.

The Manager must respond to the grievance within 5 working days. This will involve arranging a meeting with the employee to hear the grievance and attempt to resolve the issue. The employee must be advised of their right to be accompanied by a representative of a trade union / professional organisation, by a work colleague not acting in a legal capacity to this meeting. The HR Business Partner must also be in attendance at the meeting.

The meeting should enable the employee to clarify their concerns and allow the Trust, via the Director to respond. Where possible the outcome should be to agree a course of action to resolve the grievance. The outcome of the grievance meeting should be documented and a formal response to the grievance should be put in writing to the employee within 5 working days of the meeting.

All reasonable effort should be taken to respond to a grievance within the timeframes

detailed above. However, in exceptional circumstances this may not be possible. Where it is not possible the employee should be given an explanation for the delay and advised when a response can be expected.

It is anticipated that a resolution will be reached at this stage, however if the employee remains aggrieved, he/she may appeal and invoke the third stage of the procedure.

### **5.3. Stage 3 – Final Stage**

If the employee believes that their grievance has not been resolved to their satisfaction following Stage 2 of the procedure they may appeal and move to the third and final stage in the Grievance Procedure. This requires the employee to put their grievance in writing to the Associate Director of Human Resources, or their authorised deputy Head of Corporate Services, within 5 working days of receiving the outcome of Stage 2.

As in Stage 2, the employee should detail the grievance, stating their concerns, the effects on them and provide an indication of what they are looking for in terms of a resolution. Where an employee is dissatisfied with the outcome of Stage 2, they should also highlight the reasons for this.

The Head of Corporate Services will arrange for the grievance to be heard either by a Nene CCG Director or their authorised deputy, although not one previously involved in the Grievance. The employee must be advised of their right to be accompanied by a representative of a trade union / professional organisation, by a work colleague not acting in a legal capacity to this meeting. At this stage the HR Business Partner must also be in attendance at the meeting.

The meeting should enable the employee to clarify their concerns and allow Nene CCG, via the Director, or their deputy to respond. Where possible the outcome should be to agree a course of action to resolve the grievance. The outcome of the grievance meeting should be documented and a formal response to the grievance should be put in writing to the employee within 5 working days of the meeting.

All reasonable effort should be taken to respond to a grievance within the timeframes detailed above. However, if this is not possible the employee should be given an explanation for the delay and advised when a response can be expected.

The Director, or their deputy's decision at Stage 3, is final and concludes the Grievance Procedure.

## **6. For Directors and any other Staff who report directly to the Chief Executive**

Where a Director, or a member of staff who reports directly to the Chief Executive moves to Stage 2 because they are dissatisfied with the outcome of Stage 1 they should do so within 5 working days of receiving the outcome of Stage 1.

They should put their grievance in writing to the Head of Corporate Services detailing the grievance, stating their concerns, the effects on them and provide an indication of

what they are looking for in terms of a resolution. Where an employee is dissatisfied with the outcome of Stage 1, they should also highlight the reasons for this.

The Head of Corporate Services will arrange a meeting with the employee and the Chair, or one of the non-Executive Directors to hear the grievance and attempt to resolve the issue. The employee must be advised of their right to be accompanied by a representative of a trade union / professional organisation, by a work colleague not acting in a legal capacity to this meeting. At this stage either the Head of Corporate Services or HR Business Partner must also be in attendance at the meeting.

The meeting should enable the employee to clarify their concerns and allow Nene CCG, via the Chair or non-Executive Director to respond. Where possible the outcome should be to agree a course of action to resolve the grievance. The outcome of the grievance meeting should be documented and a formal response to the grievance should be put in writing to the employee within 5 working days of the meeting.

All reasonable effort should be taken to respond to a grievance within the timeframes detailed above. However, if this is not possible the employee should be given an explanation for the delay and advised when a response can be expected.

The Chairman's decision at Stage 2 for a Director and staff reporting directly to the Chief Executive is final and concludes the Grievance Procedure.

## **7. GUIDANCE FOR EMPLOYEES RAISING A GRIEVANCE**

As employees of Nene CCG we all have a right to be treated fairly, with dignity and respect. It is recognised that occasionally employees have concerns or complaints about the way in which they feel they have been treated in the workplace. The Grievance Policy and Procedure provides a vehicle for employees to highlight these to management.

It is recognised that it can be difficult for an employee to raise a grievance, and often takes a lot of courage. As such, if you choose to invoke this policy your concerns will be taken seriously and dealt with in an efficient, professional manner.

When considering raising a grievance you should be very clear about what you are hoping to achieve and you should collate your concerns e.g.

- Who is your grievance against?
- What are the facts? What has occurred?
- When did the concerns / problems start?
- What is your grievance?
- How would you like to see the grievance resolved?

The clearer you are, the better placed you will be to make your case and provide all parties with an opportunity to resolve issues.

Consult with your union representative or professional organisation throughout the process. If you do not have anyone to represent you then you can contact the HR

Business Partner, who will be able to assist.

You have the right, and are encouraged, to be accompanied to any meeting during the formal stages of the procedure by a representative of a trade union / professional organisation, by a work colleague or by a friend not acting in a legal capacity.

Nene CCG undertakes to act as quickly as possible to resolve any grievances. Timescales for action are detailed within each stage of the procedure. It is important that you also undertake to work within these timescales, unless there are mitigating circumstances.

You must make every effort to be available to attend meetings set up through this process and where this is not possible, you should provide alternative dates as close to the original dates as possible.

If the grievance is personal (i.e. it relates to the behaviour or attitude of another individual) this can clearly be difficult for all parties whilst working through the procedure. Support can be sought from your line manager or Head of Corporate Services. Although difficult, it is important to maintain a professional approach and to sustain an appropriate level of communication with those involved during the normal course of your work.

It is important to maintain a level of confidentiality throughout this process and you should not therefore discuss the situation with colleagues within your service area, unless they are involved in the process with you.

If you are in any doubt about this Policy and associated procedures please contact a Head of Corporate Services who will be able to provide advice and support through the process.

## **8. GUIDANCE FOR MANAGERS**

As employees of Nene CCG we all have a right to be treated fairly, with dignity and respect. It is recognised that occasionally employees have concerns or complaints about the way in which they feel they are being treated in the workplace. The Grievance Policy and Procedure provide a vehicle for employees to highlight these to management.

It can be difficult for an employee to raise a grievance, and often takes a lot of courage. It is vital that if an employee chooses to invoke this policy that their concerns are taken seriously and dealt with in an efficient, professional manner.

It is essential to remember the importance of the individual employee's perspective when tackling their concerns. What may seem insignificant to one person may be a serious problem for another.

Speedy resolution of concerns is helpful to harmonious working and productivity. By contrast, failure to address grievances properly leaves employees with 'residual anger' and can lead to general unrest and disputes in the workplace.

Timescales for responses are identified at each stage of the procedures. It is important that these are adhered to so that the employee believes that their grievance is being

addressed.

Communication is critical. Grievances can escalate if the employee does not feel they are being listened to, or if they think that no action is being taken. Keep the employee informed of progress throughout the process.

Some managers may see an employee taking out a grievance as a personal slight. However, it can often be established that systems are at fault and as such this process can be positive and beneficial to service improvement or development.

If the grievance is personal (i.e. it relates to the manager's behaviour or attitude) this can clearly be difficult for the manager to deal with. Support can be sought from their line manager or Human Resources. Although difficult, it is important to maintain a professional approach and to sustain an appropriate level of communication with the individual during the normal course of their work. If the grievance is upheld it can provide an opportunity for personal reflection and should be seen as a learning/development opportunity.

It is important to maintain a level of confidentiality throughout this process and you should not therefore discuss it with others, unless they are involved in the process.

If you are in any doubt about this Policy and associated procedures please contact a Human Resources Manager who will be able to provide advice and support through the process.

## **9. COLLECTIVE DISPUTES**

In cases of collective disputes it may not be appropriate to utilise every stage of the procedure. Collective disputes should usually be raised at the lowest managerial level having managerial responsibility for the entire group of staff in dispute.

A collective dispute may arise from circumstances beyond the direct control of the Trust, e.g. national action. In such circumstances the spirit and intention of this policy is that staff organisations will co-operate with the Trust in establishing channels of consultation and negotiation and will co-operate in discussing and agreeing the maintenance of essential services.

Reference to, and/or the involvement of, an outside organisation (e.g. ACAS) may be arranged to assist with the resolution of collective disputes. It will open to either party to propose such involvement, which will only be contemplated when the stages in this Procedure have been exhausted.

## 11. Equality Impact Assessment

		Yes/No	Comments
1.	Does the document/guidance content affect one group less or more favourably than another on the basis of:	No	
	Race	No	
	Ethnic origins (including gypsies and travellers)	No	HR Department will offer additional support where ability to read the policy may have a detrimental impact.
	Nationality	No	HR Department will offer additional support where ability to read the policy may have a detrimental impact.
	Gender	No	
	Culture	No	
	Religion or belief	No	
	Sexual orientation including lesbian, gay and bisexual people	No	
	Age	No	
	Disability - learning disabilities, physical disability, sensory impairment and mental health problems	No	HR Department will offer additional support where ability to read the policy may have a detrimental impact.
	Carers	No	
2.	Is there any evidence that some groups are affected differently?	No	
3.	If you have identified potential discrimination, are there any exceptions valid, legal and/or justifiable?	No	
4.	Is the impact of the document/guidance likely to be negative?	No	<b>Grievance can be seen as a negative act. This policy does not discriminate based on protected characteristics.</b>
5.	If so, can the impact be avoided?	No	HR Department can be contacted and additional support can be accessed through Occupational Health Services. We also offer counselling services through Choosing Health.
6.	What alternative is there to achieving the document/guidance without the impact?	No	Where counter allegations are raised individuals should speak to the HR Department.
7.	Can we reduce the impact by taking different action?	No	HR Department should be contacted to offer additional support where appropriate

If you have identified a potential discriminatory impact of this procedural document, please refer it to the HR Department, together with any suggestions as to the action required to avoid/reduce this impact. For advice in respect of answering the above questions, please contact Communications & Human Capital.