



Dealing With Staff Concerns: Grievance Policy and Procedure

DOCUMENT CONTROL	
Owner:	Head of HR Business Services
Document Control:	HR Business Support
Date Live From:	February 2017
Review/Approval Group:	Partnership Policy Review Group/Area Partnership Forum
Last Reviewed:	December 2016
Review Due/Cycle:	Every 2 years

1. Introduction

NHS 24 recognises that from time to time, staff may wish to raise matters, which are causing them concern, or to seek redress for grievances related to their employment. Initially, NHS 24 would encourage staff to raise these issues informally with their line manager. However, it is recognised that there may be occasions on which it is not possible to resolve issues informally, and in these cases, the guidelines set out in this policy should be adhered to.

NHS 24's grievance procedure is driven by the principles of fairness, openness, integrity and promptness.

NHS 24 encourages its staff members to raise grievances without fear of penalty or victimisation.

NHS 24 will operate its grievance procedure in an open, consistent and fair manner and aims to create a no-blame culture.

This policy applies to all staff equally, irrespective of their race, nationality, sex, sexual orientation, disability, age, religion or belief, marriage or civil partnership, pregnancy, maternity, gender reassignment, political conviction, membership/non-membership of a trade non/professional organisation or work pattern.

The grievance procedure provides a structured framework to allow staff grievances to be handled closest to where the grievance was originally raised.

This policy also offers staff members the option of mediation as an alternative to, or an additional option within, the grievance procedure.

Staff involved in conducting the grievance hearing will receive appropriate training.

NHS 24 aim to ensure that all staff members are treated in a fair and equitable manner and with dignity and respect in accordance with the organisational values set out in the NHS Scotland Workforce 2020 Vision Plan.

2. Scope

The policy and procedure applies to all NHS 24 staff, regardless of grade, length of service or hours worked.

Grievance issues must be restricted to areas in which NHS 24 has authority to make decisions (for example, not nationally agreed pay and

Terms and Conditions of Employment). Issues, which may cause grievances, include:

- A decision or action affecting a staff member's work, conditions or working conditions or contractual or employment rights;
- A decision or action which may be personally detrimental;
- A decision or action which may potentially constitute unfair discrimination;
- A decision or action which is not covered by an appeals process;
- A decision or action, which is not subject to a dispute.

3. Principles

The grievance policy and procedure has been developed with the following guiding principles in mind and has been designed to:

- Exercise every reasonable effort in the first instance to resolve staff problems or concerns informally through discussion with the line manager, or through mediation.
- Enable the staff member to invoke the formal stages of the grievance procedure where it is not possible to resolve the problem or concern informally.
- Provide a structured framework and procedure to ensure that all cases are handled fairly, consistently and reasonably.
- Ensure that each step and action is taken timeously without unreasonable delay and that the timing and location of hearings is reasonable.
- Ensure that any “reasonable adjustments” are made so that, disabled staff members involved in the procedure are not disadvantaged in any way.
- Make staff aware of who has the authority to hear the grievance (see Appendix A).
- Ensure that all staff and managers understand their rights, roles and responsibilities under the procedure.
- Ensure that all grievances are investigated and dealt with within clear timescales, where possible.

- Ensure that all grievances are treated with the highest degree of confidentiality and that concerns raised are discussed only with relevant parties.
- Ensure that all members of staff are advised in writing of the date and time of the grievance hearing, their rights to be accompanied at any grievance hearing, the outcome of any decision made and their right to appeal the decision.

4. Mediation

NHS 24 recognises that any dispute between one member of staff and another can have a negative impact on job satisfaction, motivation, and work performance and that addressing a dispute within the workplace could be a daunting and stressful consideration for staff.

NHS 24 recognises that staff may wish to explore an alternative method of resolution rather than progressing through the grievance procedure. Mediation offers an alternative to progressing through the grievance procedure or may represent the Informal Stage of the Grievance Procedure.

When a staff member feels aggrieved about an issue, it should be raised informally in the first instance with their immediate line manager and the line manager should deal with this request within 5 working days.

4.1 Principles of Mediation

Exploring mediation is a voluntary process where a mediator helps two or more people in dispute to attempt to reach an agreement. Any agreement comes from those in dispute, not from the mediator. The mediator is not there to judge, or to say one person is right and the other wrong, or to tell those involved in the mediation what they should do. The mediator is in charge of the process of seeking to resolve the problem but not the outcome.

There are no fixed rules for when mediation is appropriate but as a guide, it can be used:

- For conflict involving colleagues of a similar job or grade, or between a line manager and their staff;
- To rebuild relationships after a formal dispute has been resolved;
- To address a range of issues, including relationship breakdown, communication problems, bullying and harassment.

Mediation may not be suitable if:

- Used as a first resort – staff should speak to each other and their line manager individually before they seek mediation;
- It is used by a manager to avoid their managerial responsibilities;
- A decision about 'right' or 'wrong' is needed, for example where there is possible criminal activity;
- The individual bringing a discrimination or harassment case wants it investigated;
- The parties do not have the power to settle the issue;
- One side is intransigent and taking an informal approach is likely to raise unrealistic expectations of a positive outcome.

Mediation can be considered by either the staff member or NHS 24 at any stage prior to, during, after, or separate to, the grievance procedure. Where mediation is being considered during the grievance process, the grievance process will be suspended until this is fully explored. Participation is entirely voluntary however and does not remove a staff member's right to raise a grievance.

Staff may also wish to discuss their concern, problem or complaint with an independent party, for example, via the Employee Assistance Programme, NHS 24's Confidential Contacts, or Staffside Representative.

Staff who wish to explore mediation should complete the relevant sections of Appendix C and submit this to the Employee Relations representative (please see section 4.3).

4.2 Range of Mediation

Mediation can be used as a flexible means of aiming to resolve any conflict or concern through discussion. Mediation can be informal, using the skills of a 3rd party from within NHS 24 to facilitate a meeting between the staff member and colleague(s).

In exceptional circumstances, NHS 24 may use external mediators to assist in reaching a resolution between 2 or more parties. This may be required where:

- The situation could potentially be high risk to NHS 24, either reputationally or legally;
- The situation involves senior members of staff;
- The situation involves a staff member's direct line manager.

The Employee Relations representative will recommend which form of mediation, either single or co-mediation would be appropriate to the particular situation.

4.3 Mediation Process

To establish the appropriateness of a particular method of mediation the Employee Relations Representative will liaise with all staff who request mediation. The Employee Relations Representative will arrange an appropriate mediator and will also provide general advice on the benefits of mediation and outline the process, which will be followed.

- 4.4** Prior to mediation commencing, all parties will be contacted by the Employee Relations Representative to ensure they are willing to proceed. Where all parties agree to explore mediation, a Mediation Referral and Mediation Agreement will be created (Please see Appendix C). The referral will detail the reasons for the mediation.

Following completion the Employee Relations Representative will liaise with all relevant parties to establish whether the Mediation has been successful and identify whether any further action is required. This may include considering further mediation at a later date or progressing with the Grievance Procedure.

- 4.5** The Employee Relations representative also contact those staff who are wishing to raise a formal grievance if it is considered that a form of mediation may be beneficial. The decision to take part in mediation is however entirely voluntary and does not remove a staff member's right to raise a formal grievance.

The Employee Relations representative will maintain records of all offered, accepted and declined mediation in addition to all signed Agreements. These records will be used to monitor the effectiveness of mediation throughout NHS 24 and identify any areas for development.

Records of individual cases will be held on the individual's personal file.

5. Grievance Procedure: Informal Stage

Staff should aim to resolve most grievances informally with their line manager in the first instance. Concerns, problems or complaints should be raised as early as possible and in the first instance with the immediate line manager to whom the member of staff reports. Staff should consider at this stage whether mediation would be beneficial in addressing their concerns (please see Section 4 for further details).

Where mediation is not considered appropriate, the line manager must make every effort to resolve the complaint as quickly as possible through discussion with the member of staff and by allowing reasonable time to conduct a thorough investigation. The discussion at this stage will represent an Informal Grievance hearing.

Staff who have a grievance against their line manager can request mediation by completing the Grievance Notification Form (Appendix C), highlighting this as their preferred method of resolution. In such cases, the Employee Relations Representative will liaise with the staff member and all parties involved to arrange an appropriate mediator. The Employee Relations Representative can also advise on the appropriateness of this method of resolution in this particular case. Alternatively, staff can raise the grievance to the next level of management. In such cases, staff may find it beneficial to discuss their grievance with an independent party such as the Employee Assistance Programme, Confidential Contacts, or Staffside representative.

If the staff member believes their line manager's decision or action at the end of this Informal stage is unfair or unreasonable, or where they deem mediation to have been unsuccessful, they may choose to invoke the formal stages of the grievance procedure, within twenty calendar days of the informal grievance hearing or of the mediation session.

6. Stages of Formal Procedure

6.1 Stage 1

Where mediation or the Informal Stage of the Grievance Procedure have been unsuccessful, staff have the right to raise a Formal Grievance. In such cases, the member of staff should complete a written formal notification of the grievance using the Grievance Notification Form (see Appendix B). Within this, the staff member should detail the concern, problem or complaint and why they believe the outcome of the Informal Stage to be unfair or unreasonable or why mediation was deemed unsuccessful.

Once complete, the Grievance Notification Form should be forwarded to the line manager within a reasonable timescale of the end of the informal meeting or of the date of the mediation session.

- On receiving a formal grievance, the manager should arrange a hearing with the member of staff within a reasonable timescale from the date of receipt of the notification of a grievance. HR advice should be sought by the line manager upon receipt of the formal grievance.
- The member of staff should receive notice of the hearing and of their right to be represented or accompanied by a staff side representative, work colleague, or friend not acting in a legal capacity. Normally this notice will be in writing and seven calendar days in advance of the date and time of the hearing.

- Copies of any relevant correspondence and notes relating to the grievance, including the Formal Notification of Grievance form (Appendix B), should be passed to the manager hearing the grievance by the member of staff.
- If the staff member's companion cannot attend on the proposed date, the member of staff can suggest another date as long as it is reasonable and it is no more than five calendar days after the date originally proposed by NHS 24. The 5-day limit can be extended by mutual agreement.
- At the hearing, the staff member should have the opportunity to fully explain their complaint and propose a solution, within reasonable parameters and bearing in mind organisational needs. The line manager may also take this opportunity to propose a solution.
- The line manager should take into account all the facts and the need for fairness and consistency, ensuring full consultation with the Human Resource Department. If the manager feels that further investigation is required, the hearing should be adjourned to allow further investigation.
- The manager should normally respond in writing to the member of staff within ten calendar days of the date on which the grievance was heard, to advise the staff member of the outcome and of the right to appeal.
- If it is not possible to respond to the member of staff within this time scale, the staff member should be given an explanation for the delay and advised when a response will be provided.
- At any point during Stage 1 of the process, either the staff member, the line manager, or HR Representative can suggest exploring mediation. Please see Section 4 for more details. If mediation is unsuccessful, the staff member can recommence the formal Grievance Procedure at the same point at which it was suspended.
- Mediation may also be appropriate following a closed grievance, for example, to rebuild working relations within a team or between a staff member and their line manager.

6.2 2nd and Final Formal Stage

- If the member of staff believes the management decision made at the end of Stage 1 is unfair or unreasonable, they may appeal the decision to the next level of management. The appeal should be made in writing within a reasonable timescale from the date of receipt of the Stage 1 outcome letter (or of the mediation session where appropriate) and clearly set out the

reasons for this appeal. Requests for an appeal hearing without reasonable grounds being set out will not be accepted.

- The manager hearing the Stage 2 grievance should arrange a hearing within a reasonable timescale of receipt of the notification of appeal.
- The member of staff should receive notice of the hearing and of their right to be represented or accompanied by a staff side representative or work colleague, not acting in a legal capacity. Normally this notice will be in writing and 7 calendar days in advance of the date and time of the hearing.
- All parties must present written statements surrounding the grievance and these should be circulated amongst all parties at least 5 calendar days before the hearing.
- The manager hearing the Stage 2 grievance should not have been previously involved in the grievance. Where possible a more senior manager should conduct the appeal hearing.
- If the staff member's companion cannot attend on the proposed date, the member of staff can suggest another date as long as it is reasonable and it is not more than 5 calendar days after the date originally proposed by NHS 24. The 5 day limit can be extended by mutual agreement.
- At the hearing the member of staff should have the opportunity to fully explain their grievance and say how they think it should be settled.
- The manager should take into account all the facts and the need for fairness and consistency, consulting with the Human Resource Department as appropriate. If the manager feels that further investigation is required, the hearing should be adjourned to allow further investigation to occur.
- The manager should normally respond in writing to the member of staff within 10 calendar days of the date on which the grievance was heard, to advise the staff member of the outcome.
- If it is not possible to respond to the member of staff within this time scale, the staff member should be given an explanation for the delay and advised when a response will be provided.
- Where appropriate, the letter must inform the staff member of their right of appeal and include details of who will hear the next stage of the process. Except where the provisions of section 6.3 apply, the letter should detail that this represents the end of the internal process.

- At any point during Stage 2 of the process, either the staff member, the line manager, or the HR representative can suggest exploring mediation. Please see Section 4 for more details. If mediation is unsuccessful, the staff member can recommence the formal Grievance Procedure at the same point at which it was suspended.
- Mediation may also be appropriate following a closed grievance, for example, to rebuild working relations within a team, or between a staff member and their line manager.

6.3 Grievances with wider organisational consequences

Where the grievance relates to an issue where the outcome might affect more than one individual (examples include: the application of terms and conditions of service, the implementation of a Board-wide policy or matters which could become litigious, or the focus of an industrial dispute) and if the issue cannot be resolved at stage two, then it may be referred to the Director of Human Resources and the Employee Director. They will be responsible for determining whether the grievance raised has wider organisational consequences beyond the aggrieved party.

If agreed as having wider organisational consequences, the Director of Human Resources will organise a formal hearing, which will normally be heard by one non-executive and one executive member, and other panel membership as appropriate as determined locally, supported by a senior member of the HR department not previously involved.

This exhausts the internal process for cases which fall into this category.

7. Grievance Raised by Director or Board Member

In the event that an Executive Director or other Board member raises a formal grievance, it will normally be heard by 2 non-executive members of the Board.

8. Grievance Procedure for Ex-Staff Members

Where a member of staff who is ending their employment with NHS 24 feels they wish to raise a grievance, the staff member is encouraged to do so in advance of termination of their employment. NHS 24 also encourages staff to complete an online Exit Questionnaire which allows them to provide feedback on their work experiences.

Should a previous employee raise a grievance within a reasonable timescale of the employment ending, the matter will be investigated and a response will be given in writing.

9. Right to be Accompanied

All staff have the right to be accompanied at a grievance hearing and may also choose to be accompanied at an appeal hearing.

Staff may choose to be represented or accompanied by a staff side representative, friend or work colleague, not acting in a legal capacity. In addition, NHS 24 will be sufficiently flexible and allow staff to choose support which accommodates any physical, emotional, mental health, or wellbeing needs (i.e. use of an advocate), provided they are not acting in a legal capacity.

Staff should advise Human Resources in advance of the hearing if they intend to be accompanied and who will accompany them.

10. Collective Grievance

The grievance procedure can be applied to a group of staff members sharing a collective grievance. Where the grievance is collective and the issues are the same in all respects, it is expected that the grievance will be presented by no more than 3 members of staff at the grievance hearing/s. The final outcome will however be binding on all staff members raising the collective grievance. Management will therefore not be expected to separately hear each staff member's case.

11. Status Quo

The working arrangement applying immediately prior to the submission of the formal grievance (The Status Quo) shall continue to apply, whenever possible, until the matter has been resolved or the formal procedure has been exhausted.

12. Review

This policy will be reviewed in Partnership on a 2-yearly basis.

Appendix A

Authority to hear grievances under the procedure			
Category/Grade of Staff	Informal Stage	Stage 1	Stage 2
Director/Board Member	Chief Executive	Chief Executive	Panel including 2 non-executive Directors and Senior HR Representative
Senior Manager (Reporting To Executive Director)	Director	Director	Chief Executive* and Senior HR
All Other Staff	Line Manager**	Line Manager**	Immediate line manager's line manager and HR Representative

- Collective grievances with organisational consequences not resolved at Stage 2 will be heard by Board-level panel.

*** or delegated authority**

****Where the grievance is against the line manager, this will be the line manager's immediate manager**

Note: Those involved in Stage 2 should not have been involved in the decision at the previous stage;

Senior Manager is defined as grade 8b and above and must report directly to a Director;

Senior HR Representative is deemed as Business Partner and above;

The manager taking decisions should, wherever possible, be from within the staff members chain of command.

Appendix B – Formal Notification of Grievance

To be completed only when informal stage has been exhausted. To be submitted to line manager within 20 calendar days of the outcome of the informal stage. Please note if there is insufficient detail on this form, it will be returned and any formal Hearings delayed.

Staff Name:

Post:

Base:

Directorate:

Line Manager's Name:

Date problem raised with Line /Manager:

Nature and details of the Grievance:

Options considered for resolution of the problem (including details of the informal methods explored):

Reasons why you consider the outcome to be unfair or unreasonable:

How do you suggest this grievance can be resolved?

Staff signature.....Date.....

Appendix C

Appendix C – Mediation Referral

Section A

To be completed by Staff Member

Your Details

Name	
Work Location	
Job Title	
Contact Number	
Contact e-mail address	
Typical Availability	

Reason for Mediation

--

Please provide details of any action taken to resolve, investigate or otherwise manage the situation including outcomes.

--

Please outline your expected outcome of the mediation

Section B

To be completed by Employee Relations

Date Mediation Requested	
Reason for Mediation	
Mediation Between	
Recommended Mediator	

Section C

Mediation Agreement

Party 1

I confirm that I am willing to voluntarily participate in mediation.

I confirm that I am comfortable with the recommended mediator, or
I request an alternative mediator (delete as appropriate);

I confirm that I understand that mediation does not affect my right to raise a formal grievance.

Signed.....Date.....

Name (print).....

Party 2

I confirm that I am willing to voluntarily participate in mediation.

I confirm that I am comfortable with the recommended mediator, or
I request an alternative mediator (delete as appropriate);

I confirm that I understand that mediation does not affect my right to raise a formal grievance.

Signed.....Date.....

Name (print).....

Mediator

To be completed by the agreed Mediator:

I agree to undertake mediation with the above noted parties:

Signed.....Date.....

Name (print).....

Appendix D - Grievance Process Flow

