

Cambridgeshire Primary Care Trust Grievance Policy and Procedures

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Revised:
Reviewed:

Cambridgeshire Primary Care Trust

Grievance Policy and Procedure

1. Introduction

- 1.1 This procedure applies to all employees of Cambridgeshire Primary Care Trust (hereinafter referred to as the Trust). However, where separately agreed appeals procedures are in place for specific policies, these should be used (eg. appeals against the award of discretionary points).
- 1.2 The objective of this procedure is to ensure that all staff shall have the right to seek redress for grievances, which should be settled as near as possible to the point of origin. Staff must also have the opportunity to appeal to a higher level of authority if necessary. It is considered that observance of an agreed procedure is in the mutual interests of both management and staff.
- 1.3 Within the procedure, there are prescribed time limits for each stage of the process to prevent frustration and a deterioration of management/staff relations. These may be extended by mutual agreement.
- 1.4 In certain circumstances it may, with mutual agreement, be helpful to seek external advice and assistance during the Grievance Procedure. For instances where relationships have broken down an external facilitator might be able to help resolve the problem eg ACAS.
- 1.5 Grievance proceedings and records will be kept confidential. However, in exceptional cases, there may be circumstances in which disclosure is desirable, but only with the agreement of the employee and management.
- 1.6 It is recognised that, according to the nature of grievances and staff groups involved, the initial stages of the procedure may be inapplicable and the procedure can therefore be implemented at whatever stage both parties agree is appropriate, for example in the event that an employee has a grievance against either of the officers mentioned in the informal stage or stage 1, they should progress directly to stage 2. Additionally, if mutually agreed, an issue may be referred back to earlier stages of the procedure if such action seems likely to result in a speedier or more acceptable solution.
- 1.7 At each stage of this procedure every attempt will be made to resolve the issues raised. Until this procedure has been exhausted there shall be no precipitous action.
- 1.8 Managers will not discriminate in the application of this procedure in respect of age, disability, race, nationality, ethnic or national origin, gender, religion, beliefs, sexual orientation, domestic circumstances, social and employment status, gender reassignment, political affiliation or trade union membership.

2 Issues Covered

- 2.1 The procedure is to be used for settling differences between individual employees and the Trust where the difference relates to a duty by an employer in relation to an

employee or a legal duty arising from statute or common law, eg terms and conditions of service, health and safety, relationships at work, new working practices, organisational change, equal opportunities, questions of grading or in other circumstances agreed to be appropriate.

- 2.2 The procedure is limited to issues affecting individuals or groups of employees with a common problem. Where groups of individuals, who wish to raise the same complaint, not subject to collective consultation/negotiation, may do so as a group and each employee will be dealt with on an individual basis if that is their wish.

3 Issues Excluded

- 3.1 The procedure does not cover issues not related to the employment contract, for example, a complaint against occupancy of hospital accommodation if an employee is not compulsorily resident.
- 3.2 The procedure does not cover issues that are subject to collective consultation/negotiation between the Trust and the recognised trade unions, or are in relation to decisions made by the Trust or one of its committees.
- 3.3 The procedure does not cover issues about the actions or conduct of other employees, private contractors or councillors at work that do not directly affect the individual employee – these should be raised via the Trust’s Whistleblowing Procedure.
- 3.4 The procedure does not cover issues about the standards of service that one section/team/unit receives from other Trust sections, employees or contractors – these should be raised through the normal agreed communication channels within each directorate.
- 3.5 The procedure does not cover issues that an employee has as a service user (rather than about their working conditions as an employee) – these should be raised via the Trust’s Complaints procedure and/or Whistleblowing Procedure.
- 3.6 The procedure does not cover issues raised on behalf of a service user – employees should not raise these issues but direct service users to the Trust’s Complaints procedure.

4. Principles

The Grievance Procedure is underpinned by the following basic principles:

4.1 Employee Rights

All employees have a right to raise a grievance relating to their employment, and the Trust encourages them to do so, for the mutual benefit of employees and the organisation.

Employees against whom grievances are raised have the right to be told the detail(s) and to respond to any allegations made.

At each stage of the Grievance Procedure (informal and formal) employees have the right to be accompanied and/or represented by a trade union representative or by a work colleague. Legal representation will not be permitted.

It is the responsibility of the employee to arrange for someone to be his/her representative and to bear any costs involved. However, if that person representing or accompanying is an employee of the Trust they will receive their salary when attending any grievance meeting with the Trust. In this situation the employee should discuss this with their line manager and seek the permission of their manager to ensure they can leave their department/work area at that time. Attendance will not be unreasonably refused and should attendance be difficult this can be discussed with the HR department to seek a solution.

4.2 Confidentiality

Confidentiality will be maintained at all times. Information will be shared only with those necessary to resolve the grievance – this should be agreed with employees before an investigation into the grievance begins, and with all parties (including representatives) throughout the process.

However, in exceptional cases, there may be circumstances in which disclosure is desirable, but only with the agreement of the employee and management. Where proceedings are beyond the remit of the Trust eg. Employment Tribunals, the confidentiality of these documents will be beyond the Trust's control.

4.3 Manager Responsibilities

If at any stage in the procedure the appropriate manager is not available, then a manager at an equivalent or higher level will act for him/her.

Wherever possible every attempt will be made to resolve issues of concern at the informal stage between employees and their supervisor/line manager.

Throughout the process managers dealing with grievances will remain impartial and not pre-judge the outcome of any issue raised before all parties have had the opportunity to put forward their viewpoint.

4.4 Timescales

Issues raised under the Grievance Procedure will be dealt with promptly to avoid undue stress and concern to those involved.

Where time limits apply in the procedure these may be extended by mutual agreement of both parties.

Where managers fail to comply with a time limit in the procedure, which has not been extended by mutual consent, employees have the right to proceed to the next stage of the procedure.

Where employees fail to comply with a time limit specified for progressing the grievance to the next stage of the procedure, the procedure will cease and the grievance considered settled or withdrawn, unless the Trust considers that there are reasonable grounds for the delay.

Employees cannot raise a grievance within twelve months of the resolution/outcome/withdrawal of the same or related grievance(s) unless:

- agreed management action has not been implemented; and/or
- management considers that the circumstances/facts of the grievance(s) have substantially changed.

5. Harassment Procedure

A complaint of harassment/bullying/victimisation is a form of grievance, i.e. it is a complaint by employees about their treatment/conditions at work. However, due to the sensitivities of harassment/bullying/victimisation cases a separate Dignity at Work Policy has been developed to deal with these situations.

6. Records

Managers are expected to maintain a written record at all stages of the process.

HR Advisers and/or line managers will retain all other papers relating to a grievance, e.g. investigation/meeting notes, separately, in a secure file for 12 months following the resolution of the process. At the end of the 12 month period the documentation will be destroyed.

7. Status Quo Working

The status quo (ie the working and management arrangements which applied before the grievance) must operate until the procedures have been exhausted except where there is a manifest emergency situation in relation to services provided and/or health and safety matters.

8. Use of Alternative Procedures

In some instances, where mutually agreed, it may be more appropriate to use the Trust's Dignity at Work (for cases of harassment, bullying and victimisation) or Raising Issues of Serious Concern at Work (Whistleblowing) Policies. Advice on these matters can be obtained from the Human Resources Team.

Links to the Disciplinary Procedure

There are several scenarios in which the grievance and disciplinary procedures may be linked:

- **An employee raises a grievance whilst suspended from work for an act of alleged gross misconduct** – in these circumstances the disciplinary procedure will take precedence as it will not be possible to address the grievance issue until the employee's return to work.
- **An employee raises a grievance as a direct result of disciplinary action being taken against him/her** – in these circumstances the grievance should be dealt with through the appeal mechanism within the disciplinary procedure and not through the Grievance Procedure.
- **An employee raises a grievance at the same time as misconduct is alleged against him/her and the two issues are not related in any way** - in these circumstances the two issues should be dealt with simultaneously and be treated separately following the two different procedures.
- **An employee raises a grievance that leads to the investigation of another employee or manager under the disciplinary procedure** – in these circumstances

the employee raising the grievance will be expected to act as a witness in any disciplinary hearing, in order that his/her complaint may be progressed.

- **An employee raises a grievance that, through investigation, proves to be vexatious or malicious** – in these circumstances the employee raising the grievance may find himself/herself subject to disciplinary action.

9. Definitions

- i) “Supervisor” is the person to whom an employee is directly responsible for the purpose of his/ her duties.
- ii) “Line Manager” is the officer to whom the Supervisor is directly accountable.
- iii) “Senior Manager” is the officer to whom the line manager is directly accountable.
- iv) “Union” is used to mean Trade Union, Staff Association or professional organisation, which is afforded recognition and facilities by the Trust.
- v) ‘Trade Union representative’ is a person elected or appointed in accordance with the rules of a Union to represent its members and who is accredited as such by the Trust.
- vi) “Day” – unless specified, this refers to working days.
- vii) “Represented” is defined as answering for or making specific responses to actual questions addressed to the employee. “Accompanied” is defined as being present in a supportive role but not taking part in the questioning or ascertaining of facts.

10. Further Advice

Advice and guidance is available from Human Resources. A flowchart depicting all stages of the Grievance procedure can be seen in Appendix 2.

11. Procedure

11.1 Format

The grievance procedure is a staged process that consists of two distinct elements:

- initial informal procedure; followed by
- formal procedure (divided into three stages).

The formal procedure should not be initiated until after the informal procedure has been followed, and no resolution has been found at that stage.

11.2 Informal Procedure

Employees who have a concern/complaint arising from or relating to their employment with the Trust should raise the issue informally, in the first instance, by discussing it with their supervisor. If the concern/complaint is about the supervisor, employees should raise the issue with their line manager/supervisor’s manager.

The supervisor/line manager should meet with the employee(s) to discuss the full facts of the situation and attempt to find a satisfactory solution as quickly as possible. As a rule,

the supervisor/line manager should respond to the employee(s), within **5 working days** of the initial discussion meeting. The reason for the grievance and the outcome must be confirmed in writing.

The Trust expects that both managers and employees will make every effort to resolve issues quickly at this stage to the satisfaction of all concerned.

11.3 Formal Procedure – Stage 1

Complaint

If employee complaints/concerns remain unresolved, despite informal discussions, employees should put their grievance(s) to their line manager stating:

- briefly the details and nature of their complaint, outlining what they covered in the informal stage including where, when and who was present at the meeting.
- the reasons why they are not satisfied with the outcome/response from informal discussions;
- that they wish the matter to be addressed as a formal grievance at Stage 1 of the procedure; and
- their desired outcome at this stage.

The details of the grievance do not need to be particularised in writing at the outset, however the employee must set out their grievance, in writing, prior to the stage 1 grievance meeting below.

Employees may be accompanied and/or represented at this stage. Employee representatives may submit the Stage 1 grievance on behalf of the employee(s).

If the grievance is in relation to the line manager, employees may submit their Stage 1 grievance, as detailed above, to the next tier of management.

Meeting

The manager in receipt of the Stage 1 grievance, should arrange to meet with the employee(s) to hear the full facts of the situation and to attempt to find a satisfactory solution. Employees have the right to be accompanied and/or represented at this meeting, which should be held within **ten working days** of receipt of the written complaint. A Human Resources Advisor must be present at any such meeting.

Although part of the formal procedure, this meeting should be conducted in as informal a manner as possible to encourage a frank and full discussion of the issues and to facilitate a satisfactory solution for all concerned.

A copy of the steps to be followed at a Stage 1 meeting are attached in Appendix 2.

Outcome

In the majority of cases a satisfactory solution will be achieved through these discussions and the manager will be able to deliver a decision and agree any action(s) with the employee(s) at the end of the meeting(s). This outcome should be confirmed in writing to the employee(s) within **five working days** of the meeting(s).

However, in some cases, discussions will uncover other facts/issues that require further investigation. In these circumstances, the meeting should be adjourned, by mutual agreement, until the manager has been able to investigate the identified areas/points of

concern, including discussion with identified individuals as appropriate.

Generally, any further investigations should be completed and a second meeting held with the employee(s) within **ten working days**, at which time the manager should deliver a decision on the grievance and confirm this in writing to the employee(s) within **five working days**.

The manager's decision must be delivered to the employee(s) personally and then confirmed in writing within **five working days**. A decision, therefore, can only be:

- made after full discussion with the employee(s); and
- delivered in person in the first instance.

Employees should be informed, in the letter confirming the outcome of the meeting(s), of their right, if not satisfied with the outcome at Stage 1, to ask for the decision to be reviewed and referred to Stage 2 of the formal procedure.

11.4 Formal Procedure - Stage 2

Written Complaint

If employees are not satisfied with the outcome at Stage 1, they must notify the relevant Senior Manager, in writing, of their wish to take the grievance(s) to Stage 2 of the procedure, outlining the reasons/grounds for their dissatisfaction with the outcome at Stage 1.

Meeting

The Senior Manager, or his/her delegated representative, should invite the employee(s) and the manager involved at Stage 1 to a meeting to discuss the grievance. The manager is present to provide information on the process to date but not to make a decision as at this stage this now rests with the Senior Manager. This meeting should take place within **20 working days** of receipt of the written notification from the employee(s).

Throughout Stage 2 an appropriate HR representative should advise the Senior Manager.

A copy of the steps to be followed at a Stage 2 meeting are attached in Appendix 3.

Employees have the right to be accompanied and/or represented. The manager or any other involved party does not have the right to be accompanied/represented, although it is important to note that a Human Resources Advisor must be present.

Employees may have reasonable access to documents that they wish to use at the meeting. Requests for documents should be made through line managers in advance of the meeting.

Outcome

The Senior Manager will, either after immediate consideration at the meeting, or within five working days of the meeting, inform all parties of his/her decision. This decision should be confirmed in writing within **five working days** of announcing his/her decision and employees informed of their right, if not satisfied with the outcome at this stage, to

ask for the decision to be reviewed and referred to Stage 3 of the procedure.

11.5 Appeal - Stage 3

If an employee is dissatisfied with the outcome of Stage 2, he/she will have the right of appeal to a Trust Board Appeals Committee, comprising of three members of the Trust Board (at least one of these should be a non-executive director). Where appropriate the Trust may appoint an external assessor to advise the panel. No member of the Appeal Committee shall have been involved previously in the case. No member of the panel will hear an appeal raised by a peer or senior officer. The employee will have the right to appear personally before the Appeals Committee either alone or with an accredited Union Representative or work colleague.

Conciliation

The Director of HR (or his/her delegated representative) may attempt to bring about a resolution of the grievance acceptable to both the relevant Senior Manager and the employee(s), but without prejudice to an employee's access to the Trust Board Appeals Committee. If a resolution is not achieved the grievance will then be referred to the Trust Board Appeals Committee as a Stage 3 Appeal.

11.5.1 Notice of appeal shall be sent by an employee or his representative to the Strategic Lead for Human Resources within 21 calendar days of formal notification to the employee of a failure to agree at Stage 2 of the procedure, who will organise the appeal hearing. Within 28 working days of receipt of the notice of appeal the Strategic Lead for Human Resources will convene an appeals panel and the employee will receive at least 10 working days notice of the date of the hearing. He/she will appoint a secretary to the panel who has not previously been involved in the case.

11.5.2 The employee is not required to put their notification of appeal in writing. However, if the employee would like to put the details of their appeal in writing this would be accepted and this could be used to clarify the specific details of the employee's appeal.

11.5.3 The procedure followed at the Appeal Committee will be in accordance with Appendix 4 of this document.

11.5.4 The decision of the Appeal Committee will be final, with the exception of action taken under section 12 below.

12. Referral to a Person or Body Other Than the Trust

In relation to a specific grievance on an important question of principle; that is of general application following an appeal to the Trust Board's Appeal Committee either party may within 21 calendar days request the other party to agree to a referral to a person or body other than the Trusts, for example ACAS. Where the parties agree that the reference is appropriate, the grievance may be referred to a person or body other than the Trusts. Both parties must also agree whether the decision will be binding. Where the grievance relates to the application of a national Agenda for Change agreement, either party may seek clarification as to the intended interpretation of the agreement from the NHS Staff Council to provide that clarification.

13. Review and Monitoring

Members of the Senior Management Team will be responsible for implementing this policy within directorates and ensuring that it is strictly adhered to.

The Senior Management Team and Human Resources will be responsible for monitoring the effectiveness of this policy, i.e.

- number of informal grievances raised and successfully resolved;
- number of Stage 1, Stage 2 and Stage 3 grievances registered; and
- average time taken to resolve grievances at each stage.

This Policy will be reviewed by the Trust Joint Consultative and Negotiating Partnership in 3 years, unless an earlier review is required e.g. due to changes in legislation, NHS directions or in the Trust.

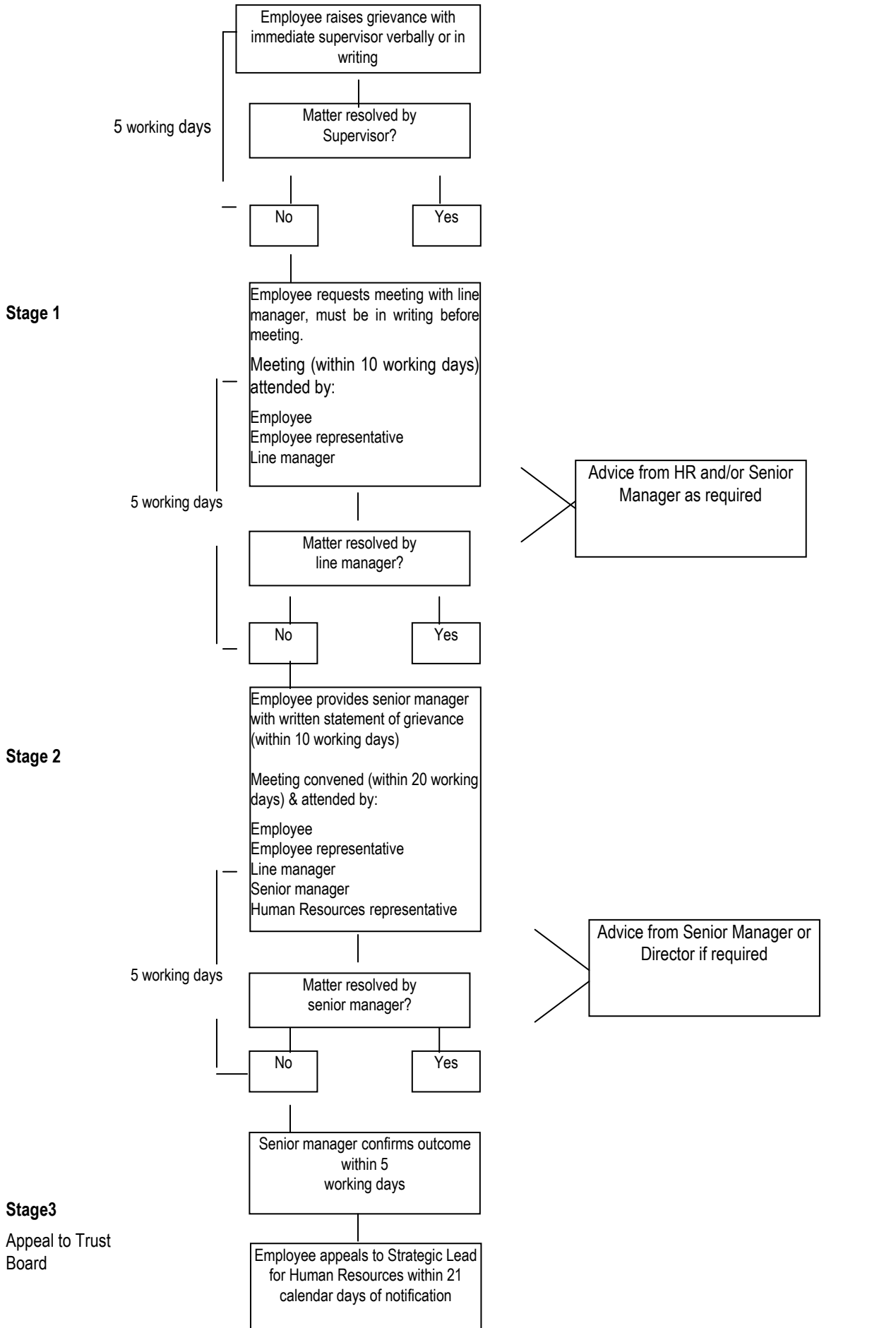
Human Resources
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Appendix 1 - Grievance Policy and Procedure

GRIEVANCE PROCEDURE – FLOW CHART

Informal Stage

Status Quo Maintained



Appendix 2

Grievance Policy and Procedure

THE STEPS BELOW ARE AVAILABLE AS GUIDANCE AT A STAGE 1 GRIEVANCE MEETING

1. The manager conducting the meeting will outline the framework for the meeting.
2. If the employee is not represented/accompanied, the manager conducting the meeting will check that he/she is aware of his/her right to be represented/accompanied and whether or not he/she is happy to proceed without representation/accompaniment.
3. The employee or his/her representative puts forward his/her grievance, introducing written information as appropriate.
4. The manager conducting the meeting will ask questions in relation to the employee's grievance as it is put forward.
5. If possible the manager conducting the meeting will give his/her decision at the time. However the meeting may be adjourned to allow the manager conducting the meeting to consider solutions/investigate matters further (including speaking to relevant people as agreed with the employee), in which case the meeting will be reconvened at a mutually agreed date.
6. Written confirmation of the oral decision will be given within 5 working days and the employee will be notified of his/her right to request that the matter be reviewed and referred to the next stage of the formal procedure.

Appendix 3

THE STEPS BELOW ARE AVAILABLE AS GUIDANCE AT A STAGE 2 GRIEVANCE MEETING

1. The manager conducting the meeting will introduce all parties present and outline the framework for the meeting.
2. If the employee is not represented/accompanied, the manager conducting the meeting will check that he/she is aware of his/her right to be represented/accompanied and whether or not he/she is happy to proceed without representation/accompaniment.
3. The employee or his/her representative puts forward his/her grievance, introducing written information as appropriate.
5. The manager conducting the meeting will ask questions in relation to the employee's grievance as it is put forward.
5. The management representative will be able to ask questions/make comments in relation to the employee's grievance as it is put forward.
6. The management representative responds to the employee's grievance, introducing written information as appropriate.
7. The manager conducting the meeting will ask questions in relation to the management response as it is put forward.
8. The employee or his/her representative will be able to ask questions/make comments in relation to the management response as it is put forward.
9. Both sides will be given the opportunity to sum up, if they wish, with the employee or his/her representative summing up first.
10. If possible the manager conducting the meeting will give his/her decision at the time. However the meeting may be adjourned to allow the manager conducting the meeting to consider solutions/investigate matters further (including speaking to relevant people as agreed with the employee), in which case the meeting will be reconvened at a mutually agreed date.
11. Written confirmation of the oral decision will be given within 5 working days and the employee will be notified of his/her right to request that the matter be reviewed and referred to the next stage of the formal procedure.

Appendix 4

Grievance Policy and Procedure

TRUST BOARD APPEALS COMMITTEE – PROCEDURE

1. The employee who has raised the grievance or his/her representative shall state their case and call any witnesses.
2. The members of the Committee and the management representative may question any witnesses called.
3. The employee who has raised the grievance or his/her representative may re-examine his/ her witnesses on any matters referred to by members of the Committee or the management representative of the Trust.
4. The management representative shall state the case for the Trust and call any witnesses.
5. The members of the Committee and the employee who has raised the grievance or his/her representative may question any witnesses called.
6. The management representative may re-examine his/her witnesses on any matters referred to by members of the Committee or the employee who has raised the grievance or his/ her representative.
7. The employee who has raised the grievance or his /her representative may reply to the Trust's case.
8. Nothing in the foregoing procedure shall prevent members of the Committee from inviting the representative of either party to elucidate or amplify any statement he/she may have made; or from asking him/her such questions as may be necessary to ascertain whether or not he/she proposes to call any evidence in respect of any part of his/her statement or alternatively, whether he/she is in fact claiming that the matters are within his/her own knowledge, in which case he/she will be subject to examination as a witness under (2) or (5) above.
9. The Committee may at their discretion adjourn an appeal in order that further evidence may be produced by either party to the dispute.
10. The employee who has raised the grievance and his /her representative, the management representative and witnesses shall withdraw.
11. The Committee shall consider their decision in private and if an immediate decision cannot be given, it shall be communicated in writing within 5 working days of the appeal hearing by the Chair of the Committee.

Note:

The officer appointed as Secretary to the Committee shall be in attendance throughout the appeal hearing, recording the proceedings and shall remain with the Committee whilst they consider their decision. He/she shall advise the Committee on points of procedure and may ask questions for clarification. He/she shall not have been involved in the case previously.