

**TRUST CORPORATE POLICY :
GRIEVANCE AND EMPLOYEE COMPLAINTS POLICY**

APPROVAL	Interim Partnership Board: 27 Mar 2012, JCC at Whipps Cross: 27 Mar 2012, HR Governance Group at Newham: 27 Mar 2012, Trust Policy Working Group Chair's Action Barts and The London NHS Trust: 27 Mar 2012	Date approved:	27 March 2012
EFFECTIVE FROM	27 March 2012		
DISTRIBUTION	All Managers in CAGs via Trust Bulletin, Corporate Services and Non-Clinical Services via Trust Bulletin dated [date] and all staff via Trust intranet		
RELATED DOCUMENTS	Whistleblowing Policy (COR/POL/005/2012-001) ACAS Code of Practice 2009 NHS Constitution BLT/NUHT/WX Policies on Bullying and Harassment		
OWNER	Designate Director of HR and Designate CEO		
AUTHOR/FURTHER INFORMATION	Author: HR Policy Development Workforce Specialist		
EXTERNAL REFERENCES	NHSLA Risk Management Standard		
SUPERCEDED DOCUMENTS	Grievance Procedure (Barts and The London NHS Trust & Newham University Hospital NHS Trust); Grievance Policy & Procedure (Whipps Cross University Hospital NHS Trust); Policy & Procedure for the Resolution of Grievances (BLT Community Health Services).		
REVIEW DUE	Three years from the date of approval shown or earlier subject to legislative or national policy changes or organisational need.		
KEYWORDS	Policy, grievance, complaint,		
INTRANET LOCATION(S)	tbc		
CONSULTATION	<i>Proposed Barts Health Working Groups</i>	Policy Development Working Group Merger Governance Lead	
	<i>Barts and the London NHS Trust (BLT)</i>	Trust Policy Working Group	
	<i>Newham University Hospitals NHS Trust (NUHT)</i>	HR Governance Group	
	<i>Whipps Cross University Hospital (WXUH)</i>	JCC	
	<i>External Partners</i>	-	
SCOPE	<i>For the groups listed below, failure to comply with this policy may result in investigation and management action which may include formal action in line with the Trust's disciplinary or capability procedures for Trust employees, and other action in relation to organisations contracted to the Trust, which may result in the termination of a contract, assignment, placement, secondment or honorary arrangement.</i>		
	Application: All Trust staff employed on a contract of employment or undertaking work in/on behalf of the Trust		
	Exclusions: None		

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Please note that where words/phrases are inside square brackets [], this indicates that you can click on the word/phrase when and it will send you to the relevant area of the policy or (if you are using a Trust PC) the relevant supporting document/template.

This Policy is available in Braille, large print, Easy-Read and alternative languages by request. It is a manager's responsibility to ensure employees are aware of these options.

GRIEVANCE POLICY

1 INTRODUCTION AND AIMS OF POLICY

- 1.1 Barts Health (“The Trust”) is committed to supporting its employees to raise their grievances in a constructive way that ensures their early resolution in order to support the individual employees involved in the grievance and the delivery of an efficient and consistently high standard of care to its patients and service users.
- 1.2 The Trust encourages open and honest conversations between managers and their employees so that both can work together to ensure the right support is in place to meet the aims of this policy (see 1.4) and where possible remedy any causes of conflict. The Trust also recognises that the best outcomes often come when concerns or conflict are dealt with at the earliest opportunity, quickly and informally.
- 1.3 Conflict at work has a disruptive effect on all employees involved and their ability to deliver a consistently high standard of care. Therefore this policy sets out a consistent and proactive approach to the management of these situations.
- 1.4 The aim of this policy is to ensure that the management of employee grievances:
- Are fair, consistent and proactive and without discrimination in relation to any of the [\[protected characteristics\]](#)
 - Take the individual’s circumstances and needs into consideration
 - Ensure that expectations about employee behaviour are clear to all
 - Ensure that employees understand how to seek redress where they have a complaint and who to contact for support
 - Is carried out in a timely manner without unnecessary delay
 - Is carried out in line with the [\[Equality Act 2010\]](#)
 - Ensure efficient and high quality care for our patients
 - Are monitored to identify effectiveness of implementation
- 1.5 This policy contains the process and principles for managing grievances only. For further details please read the supporting Management Guide.

2 DEFINITIONS

- 2.1 The following definitions are used in this policy:

(Individual) Grievance	<p>Is a complaint or concern that an individual employee has. This may be about:</p> <ul style="list-style-type: none"> • Duties • How another policy has been applied to the employee • How national terms and conditions have been applied (though not the terms and conditions themselves) • Working conditions or practices • Changes in the workplace or the Trust • Health and safety • Equal opportunities
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	<ul style="list-style-type: none"> • Discrimination • Operational management decisions <p>This list is not exhaustive</p>
Collective Grievance	<p>Is a complaint or concern that a group of employees have but which has not been raised as a [Collective Dispute] (see below).</p> <p>Where this is the case, the group should nominate an individual(s) to represent them. The manager will meet with the nominated individual(s) and manage the grievance in the same process as if it were raised by an individual. An investigation will be appropriately configured to ensure all views are considered.</p>
Collective Dispute	<p>Is a complaint or concern that the Trust's Staffside Representatives raise with the Trust in line with the Trust Recognition Agreement.</p> <p>Where a group of employees wishes to raise a complaint and do not wish to raise this through Staffside (or are not members of a recognised trade union) they should raise a [Collective Grievance] (see above).</p>
Investigation	<p>An impartial fact finding process. The investigation report will collate evidence collected including documentary evidence, witness statements and interviews and recommend whether or not, based on the evidence collected, the case is substantiated and should proceed to a hearing.</p> <p>This would normally be carried out by an Investigating Officer who is external to the environment.</p>
Investigating Officer	<p>An impartial person who has had no previous knowledge of or involvement with the complaint or concern and is preferably separate to the department in which it occurred unless it is mutually agreed otherwise. It is essential that they have undertaken investigation training. The employee may object to the choice of Investigating Officer where there may be a conflict of interest and request an alternative. The final decision of the who the Investigating Officer will be will rest with the Commissioning Manager.</p>
Commissioning Manager	<p>Normally the Manager receiving the grievance except where they have witnessed or been involved in the events. Where this is the case, it will be a more senior manager, typically the manager's manager.</p>
Representative	<p>A representative of a recognised Trade Union, an accredited Staffside representative or an Employee of the Trust.</p> <p>Employees are not permitted to bring legal representation to internal formal or informal meetings.</p>
Mediation	<p>A voluntary process where an independent third party helps people in dispute to try to reach an agreement. This should be considered at all stages of the process. If an agreement is not reached normal grievance processes may continue. It may be appropriate to use an external agency to deliver the mediation.</p>
Malicious complaints	<p>Complaints that are made and found to be without foundation (following an investigation), with the intention to cause harm or upset other people. The Trust considers this misconduct and it may be gross misconduct.</p>
Vexatious complaints	<p>Complaints that are made and found to be without foundation (following an investigation), with the intention of causing aggravation or in order to delay another process and for which there are no grounds. The Trust considers this misconduct and it may be gross misconduct.</p>
Exclusions from the policy	<p>[Collective Disputes] (as above).</p> <p>The Trust has made a distinction between complaints that are about processes or policies and complaints that are about another employee's behaviour or relationships. Where the complaint is about another employee's behaviour, employees should normally refer to the process in the [Bullying and Harassment policy] (see table in appendix 2).</p>

	Nationally agreed terms and conditions. Whistleblowing – a protected right to raise concerns or complaints about malpractice or wrongdoing. This is covered in the [Whistleblowing Policy] (see table in appendix 2).
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2.2 For a full list of terms, please see the [\[Glossary\]](#) in [\[Appendix 1\]](#)

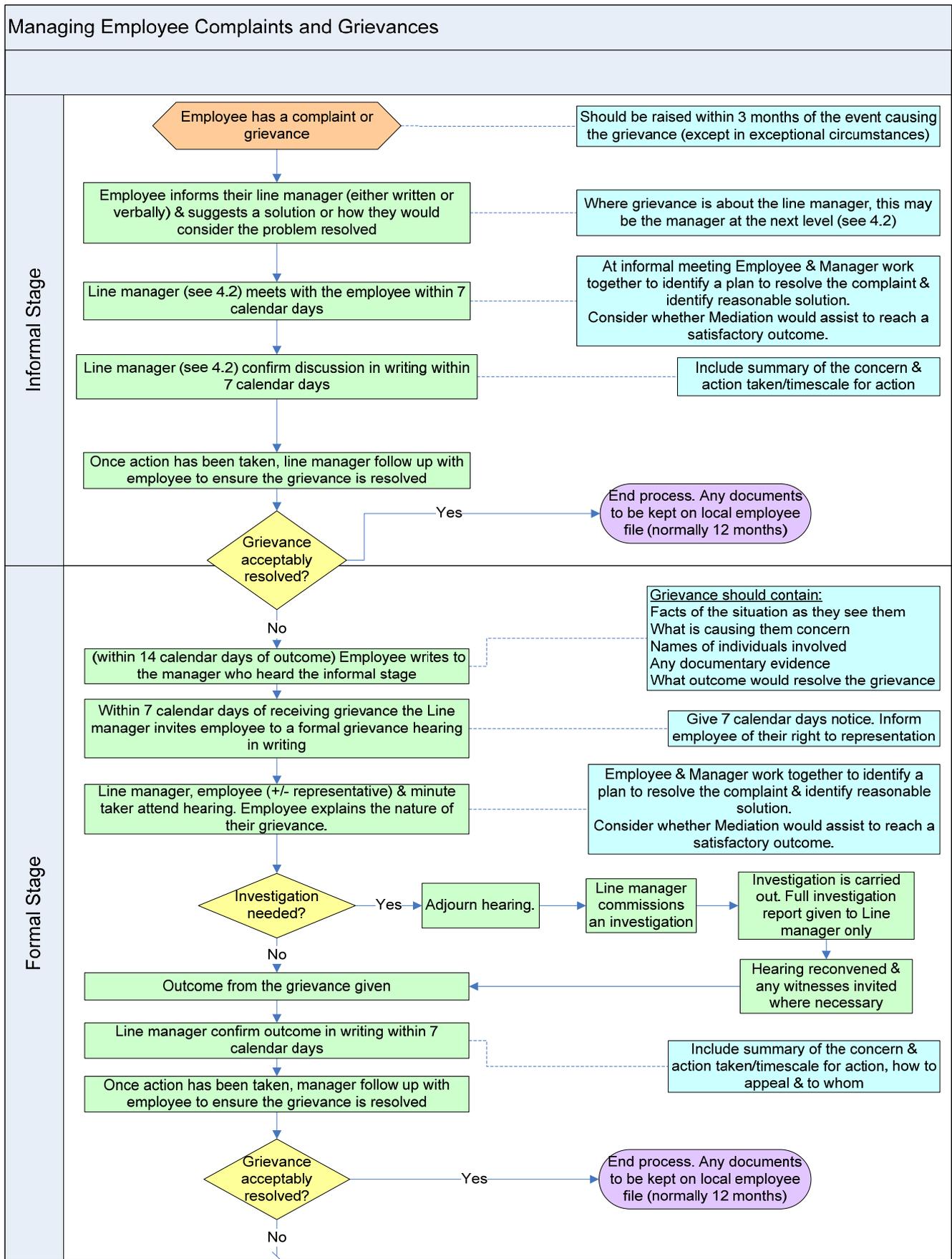
3 DUTIES AND RESPONSIBILITIES

Employee	<ul style="list-style-type: none"> • Where possible, resolve grievances at an informal stage and discuss directly with the individual involved • Talk to their line manager, or where the grievance is about the line manager talk to the manager’s manager, about any concerns or complaints they have and support they may need in order to address these concerns • Understand that although they can submit a grievance anonymously, it may make it more difficult for the Trust to resolve the issue • Ensure that when the grievance is raised or discussed they have an idea of the outcome that would resolve the grievance and discuss this • Where a representative is unavailable on a proposed meeting date, the employee will provide their manager with an alternative within 7 calendar days of the original date or an extension to this by mutual agreement to take place within a reasonable timeframe
Manager	<ul style="list-style-type: none"> • Have a duty of care for their employees • Ensure employees are aware of and understand the policy, their responsibilities and how to raise a grievance if they have one (this may include supporting employees by providing [reasonable adjustment] e.g. providing the Policy, in Braille/large print/Easy-Read or in a language other than English, or reading it to them) • Carry out regular 1:1s and informal ‘catch-ups’ to support an environment where employees feel they can raise a concern with their manager as soon as it arises so that it can be proactively addressed • Be sensitive to individual employee needs and be discreet and consistent in their approach towards all employees who are involved in a grievance • Remain impartial to all involved in the grievance • Commission investigations where needed as part of the formal process • Facilitate mediation where suitable and mutually agreed • Seek Occupational Health advice about support or [reasonable adjustments] where needed or make a referral where employee stress or health is a concern • Carry out necessary risk assessments and consider application of [other Trust policies] • Monitor grievance levels and reasons in their own teams • Take a proactive and supportive approach to managing grievances including exploring work-/workplace-related causes for the grievance at an early, informal stage and addressing these where possible • Where a grievance appears resolved, follow up with the employee who raised it at a later date to ensure that it has actually been resolved • Notify HR when a formal grievance is raised and the subsequent outcome • Inform employees of their right to representation (Trade Union/Staffside representatives or an employee of the Trust) at all formal grievance meetings, investigation meetings and any suspension review meetings
Mediator	<ul style="list-style-type: none"> • An external Mediator must be trained with an accredited mediation qualification.

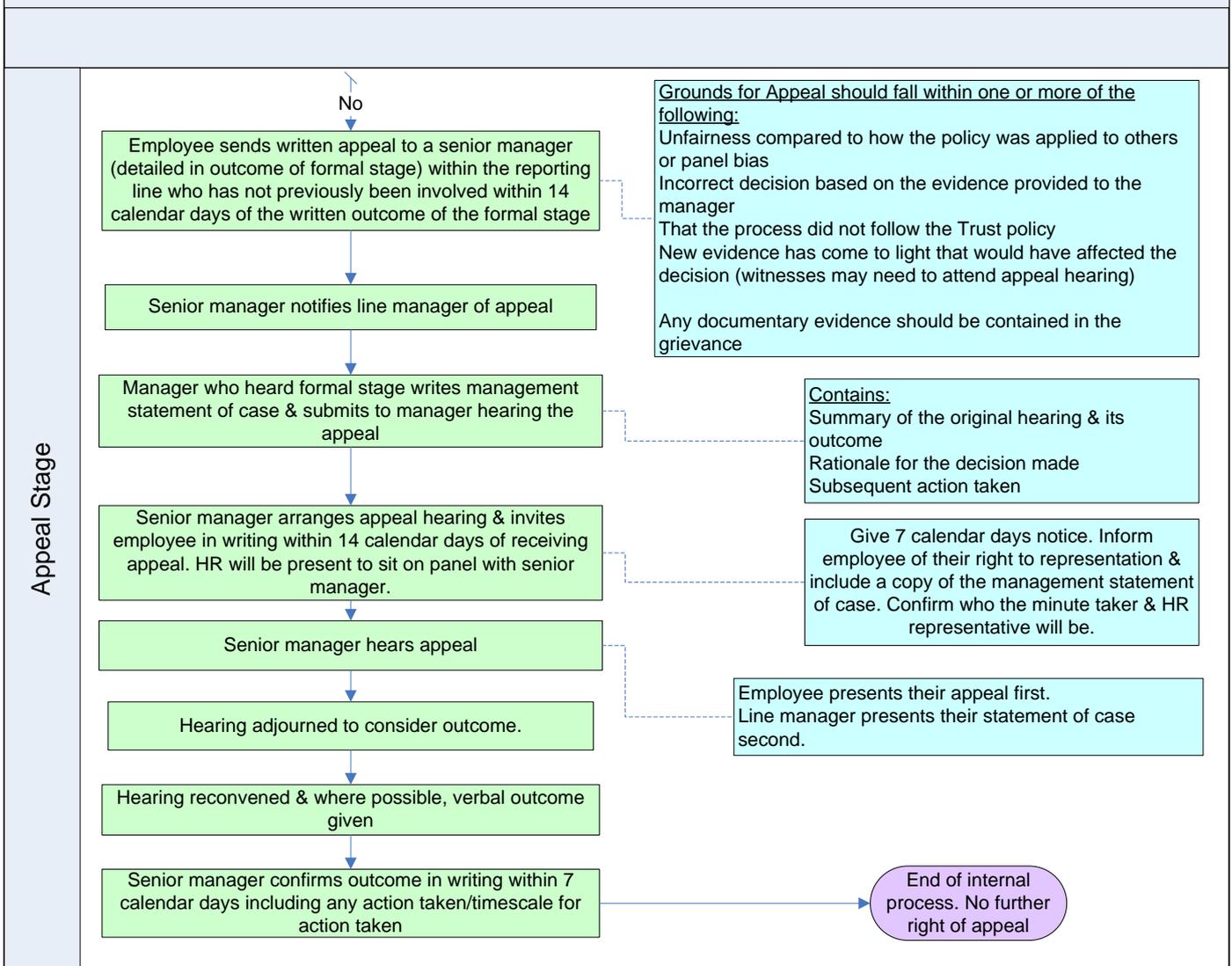
	<ul style="list-style-type: none"> • An internal Mediator must be trained in the Trust's Mediation process. • Remain impartial from the situation where mediation is required • Disclose any prior relationships with those involved before starting the mediation • Work with participants to negotiate agreement of a dispute or disagreement – participants should remain in ultimate control of the outcome e.g. whether or not an agreement is reached.
Commissioning Manager	<ul style="list-style-type: none"> • Commission an investigation within a maximum of 1 week of the grievance hearing • Identify an appropriate Investigating Officer to carry out the investigation, notify them of the allegation(s) and Terms of Reference in writing and supply them with any documentary evidence that is available • Notify HR of the investigation • Remain impartial throughout the investigation • Monitor investigation to ensure it is concluded in a timely manner and a maximum of 3 months unless mutually agreed • Notify the employee of who the investigating officer is and who they can seek [support] from (may include those listed in [Appendix 3])
Investigating Officer	<ul style="list-style-type: none"> • Remain impartial throughout the investigation process • Collect information relating to the incident e.g. documentary evidence, CCTV, interviews and witness statements • Do not provide opinion in the report except in conclusions and recommendations, which must be evidence based • Present the Commissioning Manager with an investigation report which summarises the facts of the investigation and directs them to which appendices will provide further detail • Disclose any prior relationships with those involved before starting the investigation
Occupational Health (OH)	<ul style="list-style-type: none"> • Provide advice to managers about how to support employees who are under stress as a result of going through the grievance process
Human Resources	<ul style="list-style-type: none"> • Advise, and support where necessary, managers about how to use this policy • Attend final stage meetings as a panel member • Advise employees on the application of this policy • Facilitate mediation where suitable and mutually agreed • Provide Management training
Staffside/ Trade Union representative	<ul style="list-style-type: none"> • Staffside/Trade Union representatives may facilitate their member to present their case • Advise employees on the application of this policy

4 RAISING AND MANAGING A GRIEVANCE

4.1 The process of managing a grievance is set out in the flowchart below:



Managing Employee Complaints and Grievances - Appeal



- 4.2 Where the grievance is raised against an employee's line manager, the grievance should be submitted to the manager of the line manager or a more senior manager within the reporting line who is not involved in the issue causing the grievance and references to 'Line Manager' in the flow chart should be read as such.
- 4.3 Where grievances are raised during the application of another Trust policy (e.g. Disciplinary Policy), normally that process will be paused whilst the grievance is being resolved. However, if the grievance and the other process are related it may be appropriate to manage both processes concurrently (e.g. broaden the terms of reference for an investigation to investigate both issues but the outcomes to be considered separately). Where this is the case, HR advice should be sought.
- 4.4 If an investigation takes place, the employee raising the grievance will receive a copy of the full report, less any sensitive information.
- 4.5 If an investigation finds that another Trust policy needs to be applied, then the outcome of the grievance will be that the issue needs to be managed under that other policy (e.g. the outcome may be that the Trust Disciplinary Policy needs to be applied to decide appropriate action). The person who raised the grievance may become a witness in that subsequent process.
- 4.6 If an investigation finds evidence of misconduct (including vexatious or malicious complaints), then that individual responsible will need to be managed in line with the Trust Disciplinary Policy.

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4.7 Where the employee raises the grievance against another (second) employee and the second employee is managed under the Disciplinary Policy, the first employee will only be informed that their grievance has been upheld and not the outcome of the subsequent disciplinary as it is a confidential matter for the second employee. The first employee will be instructed in this regard formally by their Line Manager.

5 IMPACT AND EQUALITIES ANALYSIS

5.1 An Equality Analysis has been carried out for this policy and has concluded that there are no detrimental effects and some positive effects of this policy. The analysis has been included here:



12 03 12 Grievance
Policy EqAnalysis.doc

6 MONITORING THE EFFECTIVENESS OF THIS POLICY

Issue being monitored	Monitoring method	Responsibility	Frequency	Reviewed and followed up by
Compliance with duties within Equality Act	Report demographics of people raising grievances and who they are against	Human Resources	Bi-annual (every 6 months)	Interim Partnership Board
Grievance levels and areas	Reporting of grievance levels, areas of occurrence and status.	Human Resources	Bi-annual (every 6 months)	Interim Partnership Board
	Reporting of grievance levels and reasons.	Human Resources	Bi-annual (every 6 months)	Interim Partnership Board and Trust Management Executive

END

APPENDIX 1: GLOSSARY OF TERMS

ACAS	Advisory, Conciliation and Arbitration Service
ACAS Code of Practice on Disciplinary and Grievance Procedures 2009 and The Employment Act 2008	<p>Before The Employment Act 2008 there was statutory guidance in The Employment Act 2002 that gave a process for managing grievances.</p> <p>This has now been repealed (<i>made null and void</i>) and replaced by The Employment Act 2008, which directs employers to the ACAS Code of Practice on Disciplinary and Grievance Procedures 2009. This code of practice has been used to structure this policy.</p>
Equality Act 2010	<p>Replaces previous discrimination law (e.g. Disability Discrimination Act 1995) and makes the following changes in addition:</p> <ul style="list-style-type: none"> • Extends the groups protected (protected characteristics) • Removal of health questionnaires • Bans discrimination by association and perception • Bans direct and indirect discrimination • Bans harassment (including 3rd Party), victimisation and failure to make reasonable adjustments • Replaces all previous discrimination law • Introduces discrimination by third parties • Also relates to provision of services to patients, not just employment • Recognises ‘ a proportionate means to a legitimate aim’
Protected Characteristics (part of the Equality Act 2010)	<ul style="list-style-type: none"> • Age • Disability • Gender Reassignment • Marriage and Civil Partnership • Race • Religion or Belief • Sex • Sexual Orientation • (Pregnancy and Maternity – only some elements apply)
Reasonable Adjustments (part of the Equality Act 2010)	<p>An ‘adjustment’ is a change. This can be a physical change or a change in the way something is done.</p> <p>‘Reasonable’ will depend on a number of circumstances but the tests include:</p> <ul style="list-style-type: none"> • How much will a reasonable adjustment reduce the disadvantage? • The practicality of the change. • The financial & other costs & the extent of any disruption caused. • The extent of the Trust’s financial & other resources. <p>Although the Trust must consider reasonable adjustments for employees who have a disability or are pregnant, it is best practice for them to be considered for all employees to facilitate attendance & implemented where service delivery allows.</p>
Flowchart Colour Key	<p>In order to assist reading the flowcharts, please note that specific information has been colour coded.</p> <p>Orange hexagons = Start of process/specific milestones</p> <p>Green rectangles = the process to be followed</p> <p>Yellow diamonds = a decision to indicate which part of the process to follow</p> <p>Blue rectangles = provide further information (e.g. topics to be discussed, required information in written correspondence etc)</p> <p>Purple oval = end of process</p>

	Orange rectangles = possible outcomes
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APPENDIX 2: OTHER LINKED TRUST POLICIES AND GUIDELINES

	Title differences where policies have not been amalgamated		
	Barts and The London (& CHS)	Newham University	Whipps Cross University
Bullying and Harassment Policy	Harassment and Bullying Amongst Staff (CHS equivalent)	Dignity at Work: Standards of Behaviour Policy and Procedure	Bullying and Harassment at work policy and procedure
Stress Management	Managing Work Related Stress Policy and Guidance	Policy for the Prevention and Management of Stress at Work	Stress Management Policy
Disciplinary Policy	n/a	n/a	n/a
Whistleblowing Policy	n/a	n/a	n/a
Recognition Agreement	n/a	n/a	n/a
Dignity at Work	n/a	Dignity at Work: Standards of Behaviour Policy and Procedure	Dignity at Work policy

APPENDIX 3: EXTRA SOURCES OF INFORMATION AND SUPPORT

<p>Employee Assistance Programme <i>provided by CiC</i></p>	<p>A free service to all employees provided 24 hours 7 days a week which includes advice on debt, legal issues, caring and childcare and offers face to face counselling services. Tel. 0800 085 1376 Or access them via www.well-online.co.uk</p>
<p>ACAS</p>	<p>www.acas.org.uk</p> <p>The Acas Helpline is the place to go for both employers and employees who are involved in an employment dispute or are seeking information on employment rights and rules. The Helpline provides clear, confidential, independent and impartial advice to assist the caller in resolving issues in the workplace. ACAS also provides information on rights and responsibilities under the Equality Act 2010</p> <p>Call the Helpline on 08457 47 47 47. Monday-Friday, 8am-8pm and Saturday, 9am-1pm</p>

APPENDIX 4: TEMPLATE GRIEVANCE LETTER

Dear [Line Manager/Line Manager's Manager],

I wish to formally notify you of a grievance that I have regarding [insert what is causing you concern]. I would like this to be managed as a formal grievance.

[Insert a summary of the facts as you see them here]

I believe the following individuals are involved with or may have witnessed the issues detailed above:
[list names and roles – stipulate whether they are involved or are witnesses]

I have attached the documentary evidence which supports my grievance to this letter/I do not have any documentary evidence to support my grievance.

The outcome that would resolve my grievance for me would be:
[Insert desired outcome].

Yours sincerely