



TRUST WIDE DOCUMENT

	Policy
DOCUMENT TITLE:	Early Resolution Policy
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AUTHOR(S): Note should <u>not</u> include names	Human Resources Department

TARGET AUDIENCE:	All Trust Personnel
DOCUMENT PURPOSE:	<p>The purpose of this policy is to explain the Trust's response to employees who, during the course of their employment have a disagreement, conflict or complaint and ensure that they are dealt with quickly, fairly and constructively. It aims to encourage positive employee relations and to prevent bullying, harassment and any form of unacceptable behaviour between employees.</p> <p>The Resolution Policy aims to secure constructive and lasting solutions to workplace disagreements. This document provides guidance which takes account of employment legislation, statutory obligations and relevant codes of practice.</p>

To be read in conjunction with	<ul style="list-style-type: none"> • Resolution Policy Toolkit • Behavioural Framework • HR6 Attendance at Work Policy • HR9 Disciplinary Procedure • HR8 Equal Opportunities Policy • HR17 Managing Performance Policy • HR20 Freedom to Speak Up – Staff Raising Concerns (Whistleblowing) Policy • HR43 Managing Organisational Change
SUPPORTING REFERENCES	<ul style="list-style-type: none"> • Equality Act 2010 • Crime and Disorder Act 1998 • Protection from Harassment Act 1997 • Employment Rights Act 1996 • Health and Safety at Work etc Act 1974 • ACAS Guidelines - www.acas.co.uk • NHS Improvement – ‘A Just Culture Guide’ • NHSI – Improving People Practices • The NHS People Plan/People Promise 2020/2021

CONSULTATION		
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1. Introduction

- 1.1 The Early Resolution Policy replaces the Grievance (HR18) and Bullying and Harassment (HR7) Policies and is a different approach to resolving workplace issues, aligned to the Trust's values that supports an open and honest environment where workplace issues are talked through, addressed and resolved at the earliest opportunity.
- 1.2 This policy draws on six core principles:-
- Fairness
 - Compassion
 - Mutual respect
 - Empathy
 - Dignity
 - Dialogue
- 1.3 The Trust recognises that a positive working environment and good working relationships have a positive impact on employee wellbeing and employee engagement. A positive working environment can also lead to better performance, improved employee retention and reduced stress related sickness absence. Focusing on resolution is good for our organisation, it is good for our employees and it is good for our patients.
- 1.4 The Trust also recognises that conflict in the workplace is normal and, in many cases, inevitable. When it does happen, we wish to support staff and managers to work together to resolve any disagreements and conflicts constructively and speedily. Resolution that is owned by those involved is more likely to provide lasting solutions.
- 1.5 The policy provides an overview of the process the Trust will follow to resolve disagreements. It is intended to create an open and honest environment that empowers colleagues to raise a "Request for Resolution" for any workplace concern that they have as soon as possible and to work together with colleagues to resolve them. More detail on the process and the support available to staff can be found in the accompanying toolkit and on the HR Portal.
- 1.6 The principles within this policy also underpin how the Trust will deal with disciplinary matters, alleged bullying and harassment complaints as well as other concerns. The intention is that, where appropriate, issues are resolved at the earliest opportunity without resorting to the formal process.

2. Scope

- 2.1 This policy applies to all Trust staff including doctors, bank staff and volunteers. Other staff, e.g. contractors, locums and agency staff employed to carry out duties within the Trust premises on behalf of the Trust will be covered by the protocols specified in contractual arrangements with third party organisations.
- 2.2 Any disagreement should be treated in a fair and consistent way and dealt with quickly and supportively. This approach can be used for individuals and groups when there is a collective complaint.

- 2.3 All complaints must be raised within 3 months of the incident/concern unless there are exceptional circumstances preventing this (e.g. an ongoing issue relating to bullying and harassment).
- 2.4 The following are excluded from this procedure and the appropriate policy/procedure should be referred to:-
- Disciplinary matters
 - Job Evaluation/Banding Reviews
 - Any terms and conditions of employment that are either set nationally or by local collective bargaining procedures
 - Any concerns at work about patient care or matters of business probity/conduct

3. Aims

- 3.1 The Resolution Policy is aimed at securing constructive and lasting solutions to workplace disagreements, conflicts and complaints. It is suitable for the following types of issues:-
- Disagreements between colleagues
 - Disagreements within or between teams
 - Disagreements between managers and members of their team
 - Concerns or complaints about the allocation or distribution of resources
 - Concerns or complaints about the actions or inactions of the Trust
- 3.2 The purpose of the policy is to provide an accessible, inclusive and constructive way for people to have their issues heard, with a view to learning, resolving or correcting any mistakes or wrongdoing. In line with the Freedom to Speak Up policy, where there is a concern about inappropriate patient care, health and safety or fraud, bribery or corruption at work employees may contact the Staff Guardian who will give guidance and signpost accordingly.
- 3.3 This policy encourages early resolution and empowers colleagues to work together in a supportive, safe environment to reach resolution. It is an expectation that employees will cooperate in exploring early resolution as an alternative to a formal process, however it is recognised that in exceptional circumstances a formal approach may be necessary. The 'Just Culture Guide' in the toolkit should be applied to support consistent decision making and guidance.
- 3.4 The main systems for resolution available through the policy include:-
- Resolution meetings between managers and employees
 - Informal discussion within department
 - Facilitated conversation with suitably trained facilitator(s)
 - Mediation
 - Coaching
 - Facilitated move
 - Investigation to establish the facts if necessary
 - Formal resolution meeting
 - Appeals

4. Principles of Good Practice

4.1 The following principles should be applied to every issue raised under this policy:-

- Ensure the Trust's values guide the actions and behaviours throughout the application of this policy.
- Ensure that all people involved feel able to openly engage in the resolution processes
- Ensure the health and wellbeing of all involved is considered throughout the process.
- It is expected that most issues will be resolved informally, however it is recognised that employees have the right to raise concerns formally.
- Ensure decisions are supported by a consistent framework and that they are well informed, justified and appropriate for the circumstances (see Just Culture Guide in toolkit).
- Ensure identification of key members (stakeholders) involved/affected in the application of the policies and procedures, to ensure regular communication is maintained.
- Ensure timely, detailed, clear, sensitive and compassionate communication throughout.
- Be underpinned by thorough and consistent decision-making.
- Ensure objectivity is maintained at every stage of the process by decision makers.
- Ensure any perceived or identified conflict of interest is responded to.
- Be carried out without unreasonable delay.
- Be sensitive and respectful to all involved members.
- Seek to explore and not to pre-judge.
- Seek to establish facts.
- Be part of a learning culture where appropriate feedback is given and utilised to improve the service.
- Have accurate notes captured where appropriate, complying with the principles of General Data Protection Regulations (GDPR).
- Ensure timescales are regularly reviewed and not drawn-out.
- Where a formal approach is taken, ensure decisions are not taken by one person alone.
- Ensure confidentiality throughout the process and thereafter when the resolution has been reached.
- Provide an appropriate briefing/closure for all involved.

5 Process

The process is outlined within a flowchart for ease of reference at Appendix 1 and is described in detail in the following sections.

5.1 Request for Resolution

You can make a request for resolution either verbally or in writing to your line manager. If you are uncomfortable discussing the matter with your manager you can also make contact with a member of the Resolution Team via the Resolution Mailbox (Resolution@elht.nhs.uk) or with one or more of these independent people who can also help you. Details of who they are and how to contact them are available on our HR Portal in the Resolution section:-

- Staff Guardian
- Trade Union Representative
- Health and Wellbeing Practitioner in Occupational Health
- Mediation Co-Ordinator
- Human Resources Team

5.2 Resolution Assessment (Triage)

The resolution triage discussion is an opportunity for your line manager and/or one of the parties named in 5.1 to meet with you to understand more about your issue and identify the most suitable route for resolution. Although this is not a formal meeting you can bring a Trade Union representative or work colleague along for support if you want to.

The fact finding can result in one (or more) courses of action:-

- Agreement to enter into early resolution (see section 5.3)
- Formal resolution (see section 5.4)

5.3 Early Resolution

There are a number of options available within the Trust to support early resolution which includes:-

- Resolution meeting between individuals
- Informal discussion within department
- Resolution meeting with managers
- Informal meeting with Trade Union support
- Mediation
- Facilitated conversations by a suitably trained facilitator(s)
- Coaching
- Facilitated move

Further details on the above can be found in the guidance documents available on the HR Portal in the Resolution section.

These options enable you to be supported to resolve your issue without needing to go through a formal process. If the issue isn't satisfactorily resolved at this point you can request to go to formal resolution.

5.4 Formal Resolution

Whilst the Trust would always encourage and promote early resolution, we recognise that there are times when a more formal approach is necessary, which may be for one of the following reasons:-

i) Immediate referral for formal resolution

If the resolution assessment finds that none of the early resolution options are appropriate, we can progress immediately to formal resolution. This may be because the matter is sufficiently serious to warrant a formal investigation to establish the facts and could involve recourse to the Trust's disciplinary procedure.

ii) Early resolution not resolved satisfactorily

If following early resolution your issue has not been resolved satisfactorily then you can make a request for formal resolution. Any request should be put in writing to a more senior manager who has not previously been involved.

The senior manager will contact you with regards to arranging a formal resolution meeting as soon as practicable (normally within 10 working days) and confirm the outcome to you in writing as soon as possible, normally within 5 working days. If further fact finding is required before you can be notified of the decision, the timescale may be extended and you will be informed.

You will have the right to be accompanied by a Trade Union representative or work colleague at this stage.

5.5 Appeal

If you remain dissatisfied with the outcome following receipt of your formal resolution outcome you have the right of appeal. Your appeal should be made in writing within 10 working days of receiving the letter. Subject to the availability of panel members the Trust will aim to hear your appeal within 30 days which is extendable by mutual agreement.

An appeal hearing is not designed to re-hear the case but to examine the grounds of appeal. You must be specific about the grounds of the appeal and these will effectively form the agenda for the appeal hearing. Appeals can be raised on one of the following grounds:-

- The procedure - a failure to follow procedure had an effect on the outcome
- The decision - the evidence did not support the conclusion reached
- Any proposed action - was inappropriate given the circumstances of the case
- New evidence - which has genuinely come to light since the first hearing.

The appeal hearing panel will consist of a Director, independent senior manager and a representative appointed by the Trade Unions. The senior manager and Trade Union representative will provide independent advice/support to the decision-making Director and will not be from the colleagues' department or their trade union [should they be a member of one].

This is the final stage in the process and there will be no further right of appeal.

However, it should be noted that, in line with our Just and Learning Culture, unfortunately it will not always be the case that potential relationships will be healed and colleagues may wish to have or remain with differing views regarding a situation, but they must have had the opportunity to share their feelings/views and the Trust must do all it can to support all parties to an incident, in order that they can move on.

6 Support Available

- 6.1 It is recognised that for all colleagues involved, the processes may be unusual or unfamiliar and therefore immediate and/or ongoing support may be required. The following support is available in addition to support offered by a person's line manager. Note that if colleagues feel unable to speak to their line manager, they may approach an alternative manager.

Employee Assistance Programme (EAP)

The EAP provides free and confidential advice and support to all employees regardless of the situation; this can be sourced by the individual directly or through the individual's line manager, Occupational Health or HR for immediate and on-going support.

Staff Side Representatives / Work Colleague

Colleagues will have the right to be accompanied by a Staff Side (Union) Representative or work colleague at any formal meetings held in line with the Resolution Policy. It is the employee's responsibility to arrange accompaniment. If they require support with this, they should contact their line manager or another appropriate manager. Having a companion has many benefits including providing the employee with advice and support and aiding the employee's understanding of the situation.

Occupational Health

Employees can self-refer to the Trust's Occupational Health team at any time. Manager referrals will be made for any employee who either requests or is identified as needing such support. Where indicated, Occupational Health will advise on an individual's fitness to attend meetings. Employees are required to attend and engage with Occupational Health appointments.

7 Additional Considerations

- 7.1 Outlined below are additional considerations which may need to be considered within the application of this policy:-

Raising a Concern or Complaint During a Formal Process/Counter Allegations

Where a person who is going through any other formal process (such as formal conduct or formal attendance management) raises an issue or counter allegations under this policy, the appropriate action will be determined on a case-by-case basis.

The considerations will be based on the relevance and severity of the issue which may make it inappropriate for the relevant formal process to continue, but in most cases the procedures will run parallel. It is considered in most cases that a delay to concluding a formal process and any subsequent interventions/actions may not always be in the best interests, or conducive to, the wellbeing of those involved and affected by the process itself.

Complaints Raised by Former Employees

Should a former Trust colleague raise a workplace disagreement, conflict or complaint within 3 months of their employment ending, the matter will be investigated and a written response will be provided. All necessary measures to stay within the prescribed timescales of the policy framework will be taken.

Collective Requests for Resolution

If the same “Request for Resolution” is raised by two or more colleagues, these will be heard as one, not separately. If the matter cannot be resolved informally, no more than three employees will present their case at formal hearings.

Status Quo

The status quo (ie the working and management arrangements which applied before the workplace disagreements, conflicts or complaint) should operate if this would not be prejudicial to patient care, until the agreed procedure within the Trust has been exhausted.

Vexatious or Malicious Requests for Resolution

On a rare occasion, it may be found through investigation that a request for resolution has been raised with vexatious or malicious intent. A vexatious or malicious complaint is one that is unreasonable, without foundation and made with the intent to cause upset or hurt. This goes against the Trust’s values and approach to resolution and, whilst the aim of positive resolution may prevent such instances arising, if following investigation there is reason to believe that a request for resolution has been raised with vexatious or malicious intent, this will be taken seriously and the person making the request may be subject to formal action.

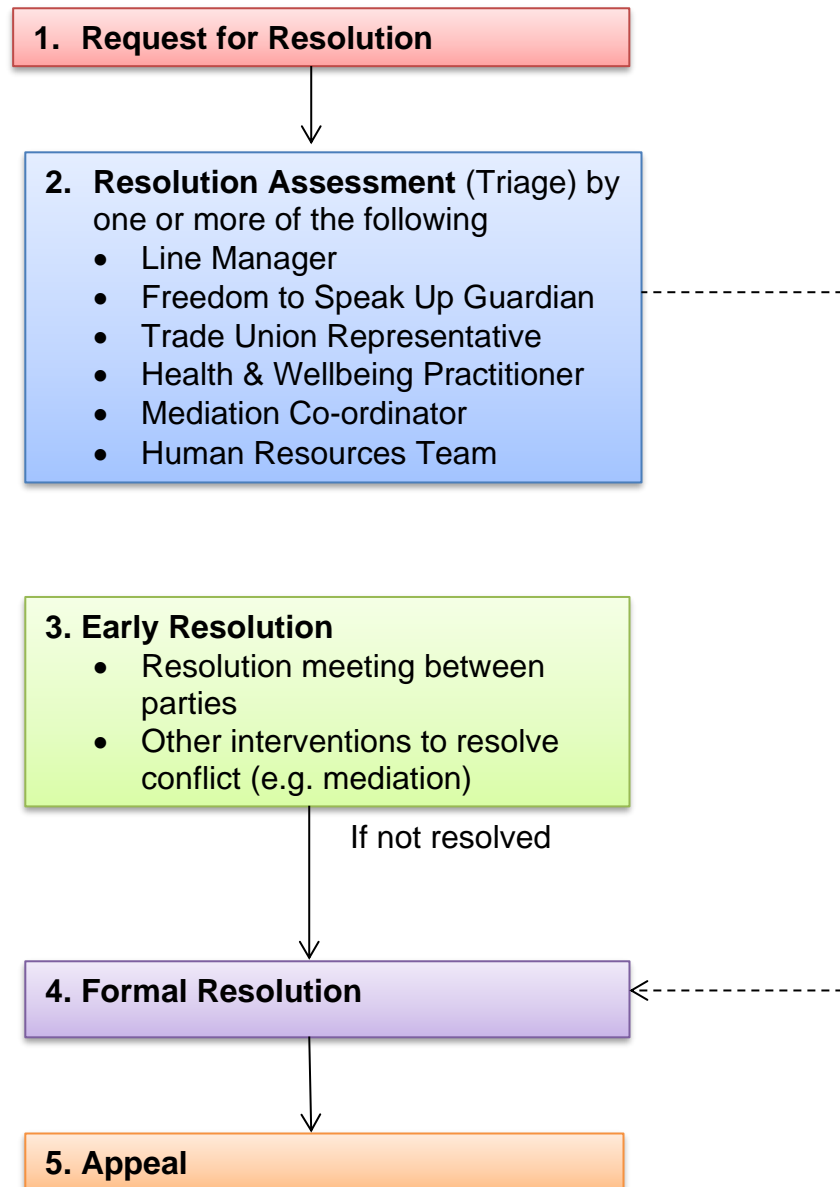
8 Monitoring & Review

- 8.1 The Human Resources Department will maintain data to enable the monitoring of the number of workplace disagreements, conflicts or complaints submitted. This information will be reviewed and reported on a regular basis to the Trust’s Joint Negotiating Consultative Committee (JNCC) as per below:-

Aspect of compliance being measured or monitored	Individual responsible for the monitoring	Tool and method of monitoring	Frequency of monitoring	Responsible Group or Committee for monitoring
Number of workplace disagreements, conflicts or complaints submitted	Head of HR	Review of number of requests received	Bi-Monthly	JNCC
How requests are being resolved, eg use of mediation	Head of HR	ER Activity Reports	Bi-Monthly	Resolution Partnership Group and JNCC

- 8.2 The Policy will be reviewed once every three years as a minimum by the Human Resources Department in conjunction with the JNCC.

APPENDIX 1



APPENDIX 2

Equality Impact Assessment Screening Form

Department/Function	Human Resources			
Lead Assessor	Senior HR Business Partner – DCS/E&F			
What is being assessed?	Early Resolution Policy (HR07)			
Date of assessment	March 2022			
What groups have you consulted with? Include details of involvement in the Equality Impact Assessment process.	Equality of Access to Health Group	<input type="checkbox"/>	Staff Side Colleagues	<input checked="" type="checkbox"/>
	Service Users	<input checked="" type="checkbox"/>	Staff Inclusion Network/s	<input type="checkbox"/>
	Personal Fair Diverse Champions	<input type="checkbox"/>	Other (Inc. external orgs)	<input type="checkbox"/>
	Please give details:			

1) What is the impact on the following equality groups?		
Positive:	Negative:	Neutral:
<ul style="list-style-type: none"> ➤ Advance Equality of opportunity ➤ Foster good relations between different groups ➤ Address explicit needs of Equality target groups 	<ul style="list-style-type: none"> ➤ Unlawful discrimination, harassment, and victimisation ➤ Failure to address explicit needs of Equality target groups 	<ul style="list-style-type: none"> ➤ It is quite acceptable for the assessment to come out as Neutral Impact. ➤ Be sure you can justify this decision with clear reasons and evidence if you are challenged
Equality Groups	Impact (Positive / Negative / Neutral)	Comments
	<ul style="list-style-type: none"> ➤ Provide brief description of the positive / negative impact identified benefits to the equality group. ➤ Is any impact identified intended or legal? 	
Race (All ethnic groups)	Positive	Policy will be positive for all protected groups, making it easier for people to raise concerns and have assurance that they will be properly dealt with
Disability (Including physical and mental impairments)	Positive	Policy will be positive for all protected groups, making it easier for people to raise concerns and have assurance that they will be properly dealt with
Sex	Positive	Policy will be positive for all protected groups, making it easier for people to raise concerns and have assurance that they will be properly dealt with
Gender reassignment	Positive	Policy will be positive for all protected groups, making it easier for people to raise concerns and have assurance that they will be properly dealt with
Religion or Belief	Positive	Policy will be positive for all protected groups, making it easier for people to raise concerns and have assurance that they will be properly dealt with

Sexual orientation	Positive	Policy will be positive for all protected groups, making it easier for people to raise concerns and have assurance that they will be properly dealt with
Age	Positive	Policy will be positive for all protected groups, making it easier for people to raise concerns and have assurance that they will be properly dealt with
Marriage and Civil Partnership	Positive	Policy will be positive for all protected groups, making it easier for people to raise concerns and have assurance that they will be properly dealt with
Pregnancy and maternity	Positive	Policy will be positive for all protected groups, making it easier for people to raise concerns and have assurance that they will be properly dealt with
Other (e.g. caring, human rights)	Positive	Policy will be positive for all protected groups, making it easier for people to raise concerns and have assurance that they will be properly dealt with
2) In what ways does any impact identified contribute to or hinder promoting equality and diversity across the organisation?	No issues have been identified with regards to any of the protected characteristics. It is supportive of eliminating all forms of discrimination, harassment and victimisation by having a positive and open culture to address issues. The policy describes the process required to support colleagues to secure constructive timely and lasting solutions to workplace disagreements as well as providing guidance which takes account of employment legislation, statutory obligations and relevant codes of practice.	

3) If your assessment identifies a negative impact on Equality Groups, you must develop an action plan to avoid discrimination and ensure opportunities for promoting equality diversity and inclusion are maximised.

- This should include where it has been identified that further work will be undertaken to further explore
- the impact on equality groups
- This should be reviewed annually.

Action Plan Summary

Action	Lead	Timescale
n/a		