

Policy Number	LCH CORP 24
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This document has been reviewed in line with the *Policy Alignment Process for Liverpool Community Health NHS Trust Services*. It is a **valid Mersey Care document**, however due to organisational change this FRONT COVER has been added so the reader is aware of any changes to their role or to terminology which has now been superseded. **When reading this document please take account of the changes highlighted in Part B and C of this form.**

### Part A – Information about this Document

<b>Policy Name</b>	<b>Grievance Policy</b>								
<b>Policy Type</b>	Board Approved (Trust-wide) <input type="checkbox"/>			Trust-wide <input type="checkbox"/>			Divisional / Team / Locality <input type="checkbox"/>		
<b>Action</b>	No Change <input type="checkbox"/>	<input type="checkbox"/>	Minor Change <input type="checkbox"/>	<input type="checkbox"/>	Major Change <input type="checkbox"/>	<input type="checkbox"/>	New Policy <input checked="" type="checkbox"/>	No Longer Needed <input type="checkbox"/>	<input type="checkbox"/>
<b>Approval</b>	As Mersey Care's Executive Director / Lead for this document, I confirm that this document: a) complies with the latest statutory / regulatory requirements, b) complies with the latest national guidance, c) has been updated to reflect the requirements of clinicians and officers, and d) has been updated to reflect any local contractual requirements								
	Signature:						Date:		

### Part B – Changes in Terminology *(used with 'Minor Change', 'Major Changes' & 'New Policy' only)*

Terminology used in this Document	New terminology when reading this Document

### Part C – Additional Information Added *(to be used with 'Major Changes' only)*

Section / Paragraph No	Outline of the information that has been added to this document – especially where it may change what staff need to do

### Part D – Rationale *(to be used with 'New Policy' & 'Policy No Longer Required' only)*

Please explain why this new document needs to be adopted <u>or</u> why this document is no longer required

### Part E – Oversight Arrangements *(to be used with 'New Policy' only)*

Accountable Director	
Recommending Committee	
Approving Committee	
Next Review Date	

## SUPPORTING STATEMENTS

This document should be read in conjunction with the following statements:

### SAFEGUARDING IS EVERYBODY'S BUSINESS

All Mersey Care NHS Foundation Trust employees have a statutory duty to safeguard and promote the welfare of children and adults, including:

- being alert to the possibility of child / adult abuse and neglect through their observation of abuse, or by professional judgement made as a result of information gathered about the child / adult;
- knowing how to deal with a disclosure or allegation of child / adult abuse;
- undertaking training as appropriate for their role and keeping themselves updated;
- being aware of and following the local policies and procedures they need to follow if they have a child / adult concern;
- ensuring appropriate advice and support is accessed either from managers, *Safeguarding Ambassadors* or the trust's safeguarding team;
- participating in multi-agency working to safeguard the child or adult (if appropriate to your role);
- ensuring contemporaneous records are kept at all times and record keeping is in strict adherence to Mersey Care NHS Foundation Trust policy and procedures and professional guidelines. Roles, responsibilities and accountabilities, will differ depending on the post you hold within the organisation;
- ensuring that all staff and their managers discuss and record any safeguarding issues that arise at each supervision session

### EQUALITY AND HUMAN RIGHTS

Mersey Care NHS Foundation Trust recognises that some sections of society experience prejudice and discrimination. The Equality Act 2010 specifically recognises the *protected characteristics* of age, disability, gender, race, religion or belief, sexual orientation and transgender. The Equality Act also requires regard to socio-economic factors including pregnancy /maternity and marriage/civil partnership.

The trust is committed to equality of opportunity and anti-discriminatory practice both in the provision of services and in our role as a major employer. The trust believes that all people have the right to be treated with dignity and respect and is committed to the elimination of unfair and unlawful discriminatory practices.

Mersey Care NHS Foundation Trust also is aware of its legal duties under the Human Rights Act 1998. Section 6 of the Human Rights Act requires all public authorities to uphold and promote Human Rights in everything they do. It is unlawful for a public authority to perform any act which contravenes the Human Rights Act.

Mersey Care NHS Foundation Trust is committed to carrying out its functions and service delivery in line the with a Human Rights based approach and the FREDA principles of **F**airness, **R**espect, **E**quality **D**ignity, and **A**utonomy

Liverpool Community Health NHS Trust

**Grievance Policy**

Grievance Policy

Version Number:	3
Ratified by:	HR & OD Committee
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## 1. Introduction

Liverpool Community Health (LCH) is committed to all employees experiencing positive relationships within the organisation. It also recognises that on occasion an employee may wish to exercise their right to raise a grievance for resolution.

## 2. Aims and Objectives

The aim of this Policy and Procedure is to promote a working environment with the best possible relations between staff by providing an opportunity for the consistent, fair and efficient resolution of grievances as they affect members of staff. This policy will provide a framework which will allow employees, individually or collectively, to raise concerns in an open and fair way, ensuring they can be resolved as quickly as possible and at the earliest possible stage.

## 3. Principles

The objective of this policy is to provide a fair and equitable process for the employee to raise their grievance and have it resolved in a timely manner without fear of recrimination. The following principles apply to this policy:

- Throughout the grievance procedure the organisation encourages open communication between employees and management to help contribute to the maintenance of positive relationships as well as resolving issues in a timely, fair, and consistent manner.
- This policy focuses on the resolution of issues, rather than assigning blame.
- All parties to the grievance have a responsibility to behave in a professional manner at all times whilst contributing to a satisfactory resolution.
- Confidentiality should be maintained at all stages.
- It is expected that most grievances will be resolved satisfactorily through informal discussion between the employee(s) and their manager.
- The manager should be fully conversant with the grievance policy and its application.

LCH acknowledges that setting out a written grievance is not easy. Any member of staff who requires assistance is advised to contact a staff side representative or work colleague for support.

### 3.1 Definitions

#### **Grievance**

The ACAS Code of Practice on Disciplinary & Grievance Procedures defines a grievance as 'a concern, problem or complaint that an employee raises with their employer'.

#### **HR representative**

An appropriate level of Human Resources professional to provide advice given the circumstances of each case. This may be a HR Adviser, HR Manager, Senior HR Manager, and Associate Director of HR or HR Director.

## **4. Scope**

This policy applies to all employees of LCH. It will be adapted to handle issues relating to all other workers, i.e. all bank staff, agency workers and volunteers.

This Policy can be used to raise grievances concerning terms and conditions of employment, health & safety; employee relations; new working practices; working environment; organisational change and equal opportunities of an employee or a group of employees.

Issues that are not appropriate nor can be addressed via the Grievance Policy route are:

- Concerns under the Public Interest Disclosure Act for which the Whistleblowing Policy should be followed
- Application of Employment Legislation
- NHS Directives
- National Terms & Conditions Application
- Outcome of Disciplinary Hearing (for which the Disciplinary Policy should be followed)
- Complaints about Bullying and Harassment (for which the Bullying and Harassment – Dignity at Work Policy should be followed)

## **5. Responsibilities**

### **5.1 LCH Board**

The responsibility for the provision of an agreed Grievance Policy lies with the LCH Board. The LCH Board is responsible for maintaining and setting standards of conduct.

The LCH Board accepts that it will have responsibility for the smooth running of the LCH and to ensure that any disputes are settled in a fair and consistent manner. The Director of Human Resources and Organisational Development is accountable for the Grievance policy.

### **5.2 Managers**

In addition to responsibilities under the Code of Conduct for NHS Managers, Line Managers should make sure they are aware of the Grievance Policy and how to begin to resolve employee's grievances, both informally and through a formal procedure.

Managers/Supervisors should ensure that they follow the guidelines of this policy as closely as possible, paying specific attention to the timescales set out under each stage.

Where appropriate, Managers/Supervisors should ensure they contact Business Human Resources for support with grievance matters. Any risks highlighted should be assessed and recorded.

### **5.3 Employees**

It is the responsibility of each employee to make their supervisor/manager (or manager above their Line Manager) aware of their grievance as soon as possible. LCH does not consider that it is in anyone's interest to delay when an individual believes that there is an issue that requires resolution.

Employees should outline the nature of the grievance and avoid the use of language that is widely considered insulting or abusive.

Employees must suggest a suitable remedy to their grievance where ever possible.

Employees should seek to resolve grievances informally in the first instance.

### **5.4 Business Human Resources**

Business Human Resources has the responsibility to monitor the implementation of the policy and to ensure that procedures are managed fairly and consistently across LCH.

Business Human Resources will provide guidance and support to Line Managers on the operation of this policy at all stages as well as encouraging both managers and employees/staff to find a solution at the earliest opportunity.

### **5.5. Staff Side Representatives**

Staff Side representatives have a duty to advise and represent their members, both when they are instigating a grievance or dispute, and when they are the object of one. This might include guidance on procedure, advice on how or whether to proceed with a case. It may also involve being an advocate during any formal hearings.

## **6. Right to be Accompanied**

Employees only have a statutory right to be accompanied during any stage of the Formal Procedure by either an accredited Staff Side Representative or by a workplace colleague, who must be an employee of LCH.

If an employee's staff side representative/workplace colleague is unavailable, it is the responsibility of the employee, so long as it is deemed reasonable to suggest another date which is not more than 7 calendar days after the original date of the Meeting/Hearing or Appeal Hearing.

The staff side representative/workplace colleague should be allowed to address the hearing to put and sum up the employee's case, respond on their behalf to any views expressed at the meeting/hearing and confer with them during the meeting/hearing. The staffside representative/workplace colleague does not however, have the right to answer questions on the employee's behalf, address the meeting/hearing if the employee does not wish it, or prevent the employee from explaining their case.

The staff side representative/workplace colleague accompanying the employee is bound by their duty of confidentiality in all matters relating to disciplinary issues especially where people who use services, carers and relatives are involved. Representatives are bound by the duties under the Data Protection Act 1998.

Employees have no right under this procedure to be accompanied by anyone else (e.g. a spouse, partner, other family member, or legal representative) other than those persons previously referred to.

## **7. Status Quo**

Status Quo is defined as existing arrangements in operation prior to the grievance being raised. When a grievance is raised by an individual or collective group the Status Quo shall remain wherever practicable and reasonable until the procedure has been exhausted.

However where this impacts on the Health and Safety of employees/workers then this should be reviewed and detailed risk assessment completed.

Status Quo will not apply in the event of changes which have been subject to formal consultation or following the issue of contractual notice.

## **8. Mediation**

As part of any resolution within this procedure it may be appropriate for the parties to be encouraged to participate in mediation. Whilst all parties cannot be forced to participate in mediation, the organisation does have a right to seek assurances from all parties involved that service delivery and patient safety will not be comprised due to poor or difficult relationships.

Please see the Mediation Leaflet for more information.

## **9. Grievance Procedure**

### **9.1 Informal Stage**

Most routine complaints and grievances are best resolved informally in discussion with the employee(s) concerned and the Line Manager, or another appropriate manager. Dealing with grievances in this way can usually lead to a speedy resolution as it enables the manager to make decisions on those issues he/she manages. Both manager and employee(s) should keep an agreed written note of the informal meeting, including details of any action to be taken in resolving the grievance.

If the grievance cannot be settled informally, the employee should progress to the formal grievance stage.

### **9.2 Formal Stage**

At any stage in the formal process, managers must seek advice from a Business Human Resources Representative regarding proposed action.

#### **9.2.1 Stage One – Grievance Meeting**

The employee must raise the grievance, in writing using the Grievance Report Form, with their Line Manager, or, if the complaint is against the Line Manager, the employee should then escalate the grievance to the next level of line management in

LCH. Receipt of the grievance should be acknowledged in writing within 5 calendar days.

A meeting should then be set up within 14 calendar days of receipt of the grievance. The employee should be advised in writing of the date time and venue as well as advising them that they have the right to be accompanied.

If the employee's staff side representative or workplace colleague cannot attend on a proposed date, the employee can suggest another date so long as it is reasonable and is not more than 5 calendar days after the date originally proposed by LCH. The 5 day time limit may be exceeded by mutual agreement.

At the meeting the employee should be allowed to explain their complaint and state how they think it should be resolved.

If the manager reaches a point in the meeting where they are not sure how to deal with the grievance or feel that further investigation is necessary the meeting should be adjourned, no longer than 5 calendar days after the employees first meeting to get advice or make further investigation.

If an investigation has taken place, then the investigating officer will present the report to the panel. It may be necessary to invite other appropriate people to the hearing in order to provide the relevant information to the panel.

Once all relevant information has been presented, the panel will adjourn to make their decision. The Chair of the panel, along with the other panel members, will then respond verbally with their decision.

After the hearing the manager must complete the Grievance Procedure Form Part 1, (see Appendix 1) noting any outcomes, and providing a copy to the employee and the Human Resources representative.

The decision reached by the panel will be communicated to the employee(s) within 5 calendar days in writing. If the employee(s) remain dissatisfied they have 14 calendar days from the receipt of the written record in which to appeal. If no letter is received within this period it will be assumed that the employee(s) does not wish to proceed to the next stage and the matter is closed.

### **9.2.2 Stage Two - Grievance Appeal Hearing**

If the employee(s) remains dissatisfied after stage 1, they can submit an appeal by stating the grounds of appeal in writing to the next level of line management. Receipt of the grievance appeal should be acknowledged in writing within 5 calendar days.

An appeal hearing should then be set up within 14 calendar days. The employee should be advised in writing of the date time and venue as well as advising them that they have the right to be accompanied.

If the employee's staff side representative or workplace colleague cannot attend on a proposed date, the employee can suggest another date so long as it is reasonable and is not more than 5 calendar days after the date originally proposed by the LCH. The 5 day time limit may be exceeded by mutual agreement.

Wherever possible it is expected that resolutions will be presented by the panel at the appeal hearing. However, if further investigation is required, this will be acknowledged with the agreed extended timescales communicated in writing to the employee. The investigation will be conducted as quickly as practicable, and another appeal hearing arranged.

The panel will hear the employee’s case first. The Stage 1 panel chair will then have an opportunity to state their case. If an investigation has taken place, then the investigating officer will present the report to the Panel. It may be necessary to invite other relevant people to the hearing in order to provide information to the panel in relation to the grievance. Once all relevant information has been presented the panel will adjourn to make their decision.

The Chair of the Appeal Hearing panel, along with the other panel members, will then respond verbally with their decision.

After the hearing the manager must complete the Grievance Procedure Form Part 2, (Appendix 1) noting any outcomes, and providing a copy to the employee and the Human Resources representative.

The Appeal Hearing shall be the final internal opportunity available to the employee(s) for achieving an acceptable resolution. The decision reached by the panel shall be final in this respect and will be communicated to the employee(s) within 5 calendar days in writing.

At this point LCH internal processes have been exhausted. It is recognised that for certain matters where an employee remains dissatisfied, they may refer the matter to an Employment Tribunal. Their employment arrangements will not be changed, nor will they be disadvantaged if they wish to do so.

It is agreed that in the event of any differences arising which cannot immediately be resolved, then whatever practice or agreement existed prior to the differences shall continue to operate pending a settlement or until the agreed procedure has been exhausted. This shall be known as “status quo” – please refer to Section 7 for further information.

## 10. Formal Grievance Procedure Diagram

STAGE	ATTENDEES	PROCESS	DECISION
1	Employee(s) +/- representative Line Manager/next tier manager	Employee(s) fills in Grievance Report Form and submits to Line Manager/ next tier manager. Line Manager/next tier manager arranges Hearing within <b>14 calendar days</b> . Employee(s) +/- representative states Grievance. Line Manager/next tier manager responds.	Verbal Decision at Hearing. Decision confirmed in writing within <b>5 calendar days</b> of the Hearing (enclose Grievance Report Form). Right to Appeal

2	<p>Employee(s) +/- representative</p> <p>Chair of the stage 1 Grievance</p> <p>Manager who received the appeal</p>	<p>Employee(s) appeals against Stage 1 decision, in writing (include Grievance Report Form) to the next level of line management.</p> <p>Manager who receives the appeal arranges Hearing within <b>14 calendar days</b> of receipt of appeal to include</p> <p>Employee(s) +/- representative states Grievance. Chair of the stage 1 Grievance. Panel adjourns to make decision.</p>	<p>Verbal Decision at Hearing.</p> <p>Decision confirmed in writing within <b>5 calendar days</b> of the Hearing (Grievance Report Form sent to HR for filing).</p> <p>Final Stage No Right to Appeal</p>
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## 11. Special Considerations

### 11.1 Counter Grievances

In the case of a grievance being taken out as a counter-grievance or in response to the instigation of disciplinary action, cases will be heard in strict chronological order.

Each procedure shall run sequentially i.e. no procedure may commence until the previous one has been completed.

If a grievance is raised in the course of a disciplinary investigation in relation to the behaviour of the manager hearing the case, dependent on the circumstances it may be appropriate to suspend the disciplinary procedure for a short period until the grievance can be considered. Consideration might also be given, where possible, to bringing in another manager to deal with the disciplinary case.

### 11.2 Exemptions which apply to the Grievance Procedures

There is no requirement to start or complete the grievance procedure if one or more of the following situations applies:

- Factors beyond the control of either party make it effectively impossible for the procedure to be started or completed within a reasonable period.
- If at any stage the employee wishes to withdraw their grievance they must do so in writing to the Line Manager with whom they raised the initial grievance.
- If issues raised under the Grievance procedure are found to be in breach of another policy, the Trust has the right to deal with the issue in accordance with the relevant policy.

### 11.3 Collective Grievances

At each formal stage of the procedure, the group of employees may nominate two of their group to represent them in the appropriate meeting (i.e. in addition to their accredited Staff Representative if appropriate).

Where several Trade Unions are involved in the same dispute in one area of LCH, they will be expected to co-ordinate their views, and nominate one representative, in addition to two employees involved, to present the case. Other representatives may attend a hearing as witnesses, if desired.

In cases where the dispute is LCH wide, the matter will be resolved via the JNCC.

LCH will attempt to resolve disputes internally within a maximum of two months of the date when it was first brought to the attention of the immediate Line Manager. However, if the dispute remains unresolved LCH will consider the use of ACAS.

#### **11.4 Leavers and Grievances**

If an employee decides to leave employment part way through the Grievance procedure, LCH will take suitable steps to bring the grievance to an appropriate conclusion.

LCH will not normally consider grievances raised by ex-employees.

#### **11.5 Handling Issues Relating to 'Other Workers'**

A worker may use this procedure to raise any concerns and the process will be adapted to handle such issues as appropriate. This may include invoking the grievance procedure within their organisation.

### **12. Keeping Records**

All formal meetings must be recorded in writing along with a record of agreed or dictated actions. These should be given to the employee following each meeting. It is the Manager's responsibility to ensure copies of documents are on an employee's personnel file.

### **13. Associated Documentation and References**

#### **13.1 Relevant Legislation**

- Employment Act 2002
- Trade Union and Labour Relations (Consolidation) Act 1992
- Data Protection Act 1998

#### **13.2 Associated Policies and Guidance Documents**

To support effective implementation and understanding the following Policies and Documents are signposted for additional guidance:

- Equality and Diversity Policy
- Bullying and Harassment Policy
- Disciplinary Policy
- All Professional Codes of Conduct

The current version of these Policies can be found on the Trust intranet site.

#### **13.3. Useful Contacts**

- Business Human Resources  
0151 296 7722
- Learning and Development Bureau  
0151 295 3292

- Staff side  
0151 296 7927  
staffside@liverpoolch.nhs.uk
- Staff Support Services  
0151 330 8103

## **14. Implementation - Training and Resources**

LCH acknowledges the importance of awareness and skills training for managers to ensure the effective implementation of this Policy. Working in partnership the Human Resource Service will provide appropriate support through a variety of means including formal skills training, informal policy briefings or guidance toolkits. The induction and mandatory training programmes will also provide relevant information related to this policy.

Further information relating to training support can be obtained from Business Human Resources and the Learning and Development Bureau.

## **15. Policy Governance**

### **15.1. Equality and Diversity**

The Trust is committed to an environment that promotes equality and embraces diversity in its performance as an employer and service provider. It will adhere to legal and performance requirements and will mainstream equality and diversity principles through its policies, procedures and processes. This policy should be implemented with due regard to this commitment.

To ensure that the implementation of this policy does not have an adverse impact in response to the requirements of the Equality Act 2010 this policy has been screened for relevance during the policy development process and a full impact assessment conducted where necessary prior to consultation. The Trust will take action when necessary to address any unexpected or unwarranted disparities and monitor workforce and employment practices to ensure that this policy is fairly implemented.

This policy and procedure can be made available in alternative formats on request including large print, braille, moon, audio cassette, and different languages. To arrange this please contact the Equality & Diversity Team in the first instance.

Liverpool Community Health will endeavour to make reasonable adjustments to accommodate any employee with particular equality and diversity requirements in implementing this policy and procedure. This may include accessibility of meeting venues, providing translation, arranging an interpreter to attend meetings, extending policy timeframes to enable translation to be undertaken, or assistance with formulating any written statements.

### **15.2. Management and Review of Policy**

The Business HR team will be responsible for the management of this policy, on behalf of the Employment Policies and Practices Group. The formal review of all Employment Policies will be undertaken on three yearly basis in accordance with the Trust's Employment Policy Review Programme or more frequently if necessary. In

addition, the effectiveness of this policy will be monitored by Business HR and the policy may be reviewed and amended at any time if is deemed necessary. Notification of any changes to polcies will be communicated to all staff.

Staff should be aware that the Trust intranet site version of this document is the only version that is maintained and controlled. Any printed copies should be viewed as 'uncontrolled' and as such may not necessarily contain the latest updates and amendments.

### Appendix 1: Grievance Procedure Form

This form is to be completed by the Line Manager, clearly outlining any outcomes, and copied to the employee and relevant Human Resources representative.

#### Part 1: Stage One – Grievance Meeting

Employee Name(s)* *please list all names in a collective grievance	
Department/Base	
Date grievance formally registered with Line Manager	
Line Manager Name	

Nature of Grievance

Comment/Outcome (include any reference to internal or external mechanisms for the resolution of collective grievances)

Is the grievance resolved?	Yes / No
Line Manager Signature	
Employee Signature	
Date	

**Part 2: Stage Two – Grievance Appeal Panel**

To be completed by the Secretary to the Grievance Appeal Panel

Employee Name(s)* *please list all names in a collective grievance	
Department/Base	
Date of Grievance Appeal Panel	
Name of Chair of Grievance Appeal Panel	

Comment/Outcome (include any reference to internal or external mechanisms for the resolution of collective grievances)

Chair of Appeal Panel Signature	
Employee Signature	
Date	

The Appeal Panel marks the end of the Grievance Procedure, and there is no further right of appeal.

## Appendix 2 – Grievance Panel

All grievance panels must follow the following suggested format:

### 1. **Introductions**

- Introduce those present and their role.
- Explain the purpose of the Panel – to consider the grievance issue(s) and former outcomes proposed at Stages One and Two.
- Explain how the hearing will be conducted.

### 2. **Employee Statement of Case – the appellant**

- The employee/representative shall state their case.
- The management representative and panel members may ask questions regarding the case.
- Employee witnesses may be called, or a witness's own written and signed statement read out. All parties are entitled to ask questions of any witnesses, if present.

### 3. **Management Statement of Case**

- The management representative shall state their case.
- The employee/representative and panel members may ask questions regarding the case.
- Management witnesses may be called, or a witness's own written and signed statements read out. All parties are entitled to ask questions of any witnesses, if present.

### 4. **Summing Up**

Both the employee/representative and the management representative may sum up their case briefly, without introducing any new matters.

### 5. **Adjournment**

It is good practice to adjourn before a panel decision takes place. This allows time for reflection and proper consideration of the issue. If a recall is required to clarify any points of uncertainty, both parties shall return.

### 6. **The decision**

Both the employee/representative and the management representative are asked to return to the Panel. The decision will be confirmed on Part 3 of the Grievance Procedure Form and confirmed in writing to the employee within 7 calendar days of the Panel.