

TRUST-WIDE NON-CLINICAL POLICY DOCUMENT

GRIEVANCE PROCEDURE

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2015 – Version 4

Quality, recovery and wellbeing at the heart of everything we do

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CORPORATE GRIEVANCE PROCEDURE

Further information about this document:

Document name	HR02 Corporate Grievance Procedure
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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 vulnerable adults, including:

- being alert to the possibility of child/vulnerable adult abuse and neglect through their observation of abuse, or by professional judgement made as a result of information gathered about the child/vulnerable 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/vulnerable 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 vulnerable 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 **Fairness, Respect, Equality Dignity, and Autonomy**

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1 PURPOSE AND RATIONALE

- 1.1 This procedure has been developed to ensure that all staff employed by the Trust understand how to raise a grievance if they wish to and provides guidance to managers in resolving grievances that have been raised.
- 1.2 The aim of this procedure is to settle any grievance an employee or employees may have as fairly and as simply as possible to ensure that minor issues do not escalate into major disputes.
- 1.3 The Dispute Resolution system which forms part of the Employment Act 2008 places increased emphasis on alternative dispute resolution mechanisms to encourage earlier and less formal resolution.
- 1.4 The Trust fully embraces this recommended approach and as such expects staff to participate in mediation or informal resolution prior to the formal grievance procedure being invoked.
- 1.5 The Trust recognises that an agreed and effective procedure for the settling of differences can contribute significantly to the creation and maintenance of a harmonious working environment. This procedure is a mechanism for settling grievances in a prompt and fair manner without fear of recrimination.

2 OUTCOME FOCUSED AIMS AND OBJECTIVES

- 2.1 To ensure that all managers and staff are aware of their responsibilities with regard to the framework for dealing with difficulties from the employees' perspective, which may arise as part of the working relationship.
- 2.2 To outline the process and associated timescales for handling of grievances.
- 2.3 A clear, consistent and transparent application of the Procedure aims to promote and sustain a supportive, harmonious work environment.

3 SCOPE

- 3.1 This procedure applies to all staff employed by Mersey Care NHS Foundation Trust. The procedure applies to any grievance held by an individual employee or employees and covers all disciplines and grades of employees. The Trust supports a philosophy of openness and genuine grievances will always be given serious consideration.
A grievance is an opportunity for an employee to raise any matter in relation to their employment that is causing them concerns. These may be regarding:
 - Departmental conditions of services
 - Duties
 - Working practices, including the delivery of patient care

- Working relations

The above list is not exhaustive.

3.2 Grievances will only be dealt with where an individual has identified and named the person/s involved.

4 DEFINITIONS

The relevant terms and their definitions (within the context of this Policy) are below:

4.1 Table of Definitions

Term	Definition
'the Trust'	Mersey Care NHS Foundation Trust.
'Employee'	Anyone employed by the Trust, including staff on fixed term contracts.
'Trade Union/Staff Association'	Nationally recognised NHS negotiating body.
'A.C.A.S'	Advisory Conciliation and Arbitration Service
'Grievance'	An opportunity for an employee to raise a matter in relation to their employment that is causing them concerns.

5 DUTIES

- 5.1 **Trust Board** – The Chief Executive has delegated responsibility for ensuring compliance with legislation to the Executive Director of Workforce.
- 5.2 **Lead Executive Director** – The Executive Director of Workforce has a responsibility to ensure that robust systems are in place, to ensure compliance with the policy and employment legislation. They will also ensure that all Directors, Managers, Human Resources staff and employees are fully aware of their roles and responsibilities in relation to the grievance procedure.
- 5.3 **Senior Managers** - It is the responsibility of Divisional Managers and Corporate Services Managers to ensure that they follow the procedure.
- 5.4 **Line Managers** – Line managers will attempt to resolve issues raised by employees informally, fairly, consistently and within the agreed timescales.
- 5.5 **All staff** – Employees are required to participate and co-operate with others in ways aimed at resolving issues and to state what would be seen as a suitable outcome.
- 5.6 **Trade Union Representative** – Trade Union representatives will represent the interests of staff. Trade union representatives have an important role to play in both the handling and the resolution of complaints and grievance. Employees should be advised of their right to be accompanied at all formal stages in the procedure by a trade union representative or workplace colleague.

- 5.7 **Human Resources** – The Human Resources Team will work with managers; trade unions and staff to ensure the policy is followed and complies with employment legislation. They will provide support and advice to managers, employees and trade union representatives. Human Resources are responsible for advising all parties on the handling of employee grievances and may be directly involved at any stage. They will also help to maintain consistent and uniform standards throughout the Trust.
- 5.8 **Panel Chair** – The Panel Chair will take lead responsibility for hearing grievances at Formal Grievance Hearings. The Panel Chair will make the decision as to whether or not a grievance is to be upheld and any associated action.
- 5.9 **Panel Members** – Panel members will support the Panel Chair at Formal Grievance Hearings.

6 PROCESS/PROCEDURE

6.1 Stage 1 – Informal Stage

6.1.1 Informal Resolution

6.1.2 All grievances must be dealt with through the informal process in the first instance.

6.1.3 Every attempt should be made by both the manager and the employee to resolve the problem in an informal manner where possible through discussion at a local level (Appendix 2 Flowchart)

6.1.4 An employee who is dissatisfied, should raise the matter either verbally or in writing, with their immediate line manager in the first instance, within 10 working days, wherever possible the manager will respond by taking such steps as are necessary and/or meeting the employee concerned (time limit may be extended where it appears that a resolution is possible at this stage). If resolved the matter ends.

6.1.5 The line manager will meet with the employee as soon as possible and within a reasonably agreed timescale from the date of notification. The timescale should take account of the nature and seriousness of the case.

6.1.6 The line manager will inform the employee in writing of the conclusions reached; this letter will also outline the nature of the grievance and the steps taken to investigate and conclusions/resolutions reached.

6.1.7 If no resolution is achieved, the employee may choose to initiate the formal procedure. The choice to progress to the formal stage of the process must be notified to the next level management, in writing, within 15 working days of receipt of the outcome letter (extendable by mutual agreement).

6.1.8 Where the grievance lies with the line manager, then the employee should raise the matter informally with the next level of management. In these circumstances advice and support can be sought from a Human Resources representative.

6.2 **Mediation**

6.2.1 Mediation may be considered as an option. Mediation is a confidential and voluntary process which brings together people who are experiencing problems with a work related relationship. The problem will usually relate to behaviour, attitude or communication. Mediation takes place in the presence of an impartial third party. During mediation individuals will be encouraged to tell their story and air their feelings. It empowers those involved, as the disputants not the mediators, decide on the terms of any resolution. The mediator does not offer advice on how to solve the problem. People participating in mediation do so without prejudice. Staff are not entitled to be accompanied by trade union representatives during the mediation process.

6.2.2 A record of informal grievances and resolutions should be kept on the member of staff's personal file, as they may be required for future reference.

6.3 **Formal Stage**

6.3.1 The purpose of having a formal procedure is to enable employees who do not feel that their issue has been resolved to explain the problem to the next level of management. The manager, who after listening to all of the facts and relevant information can then make an informed decision as to whether the grievance, or any aspect of it, is upheld and, if there is, how to resolve it.

6.4 **Stage 2 – First Formal Stage**

6.4.1 An employee who wishes to raise a formal grievance must do so in writing by completing the Grievance Report Form (Appendix 1). They must clearly state the reason for the grievance, who the matter was raised with informally, the outcome of the informal stage and why the employee remains aggrieved.

6.4.2 The employee lodging the grievance must be made aware that a copy of the Grievance Report Form will be provided to the person against whom they are aggrieved and the Human Resources Department.

6.4.3 An appropriate and impartial manager who has not been involved in the informal stage will hear the Stage 2 formal stage of the grievance (extendable by mutual agreement).

6.4.4 The manager or Human Resources should acknowledge (in writing) receipt of the formal grievance and should hold a hearing within 15 working days of receipt of the grievance.

6.4.5 The manager hearing the informal stage and the employee(s) pursuing the grievance will be expected to submit their evidence to the manager hearing the first formal stage of the grievance at least 7 calendar days in advance of the hearing.

6.4.6 The purpose of the hearing will be to discuss with the employee the reason for the grievance and the issues surrounding it and find a workable solution agreeable to both parties, if at all possible,

6.4.7 The manager should make every effort to resolve the issue, taking into account all of the information presented.

- 6.4.8 Witnesses must normally be introduced at first formal stage of the procedure. If new evidence or information becomes available at a later stage of the procedure, the manager may consider this.
- 6.4.9 A Human Resources representative will be present at the hearing and the employee may wish to be accompanied by a staff side representative or work colleague.
- 6.4.10 The outcome of the hearing will, where possible, be provided at the end of the hearing by the chair of the panel. The decision will be confirmed to the employee in writing within 15 working days of the date of the hearing.
- 6.4.11 If the issue has not been resolved at the First Formal Stage, the employee can appeal if he/she remains dissatisfied and progress to the Second and Final Formal stage (Stage 3 - Trust Board Appeal) of the procedure.

6.5 **Stage 3 – Final Formal Stage (Appeal)**

- 6.5.1 If unresolved the grievance will be referred to a Trust Board Grievance Appeal Panel and should be heard within 20 working days (extendable by mutual agreement).
- 6.5.2 The Appeal will be heard by an Executive Director of the Trust, or a delegated Director/Senior Manager supported by a member of the Human Resources team, none of whom should have previously been directly involved. A secretary to the Appeals Panel who has not previously been involved in the case will be appointed. Where appropriate, a professional advisor to the Appeal panel will be appointed.
- 6.5.3 The Secretary to the Appeal panel will arrange for all sides to present written statements setting out their case in relation to the grievance. These must be circulated to all parties at least 7 calendar days in advance of the hearing.
- 6.5.4 A written reply detailing the panels' decision and the reasons for the decision will be sent to the employee(s) within 15 working days of the hearing. This letter will state that this is the final stage of the process and there are no further rights of appeal within the organisation.
- 6.5.5 The decision of the panel is final and if the status quo has been maintained, it will cease to apply following the Panel's decision.
- 6.5.6 The procedure to be followed at the Trust Board appeal is contained within the Appeals procedure.

6.6 **Responsibilities**

Managers, employees and staff side representatives have a shared responsibility to ensure that issues are resolved in the best interests of service user care/service delivery.

6.7 Confidentiality

Employee grievances will be dealt with in strict confidence and the circumstances of the cases will not be discussed with anyone who does not need to know about them.

6.8 Time Limits

6.8.1 When an employee has a grievance this must be raised at the earliest opportunity or within **three months** of the individual becoming aggrieved. This timeframe may be extended in exceptional circumstances.

6.8.2 The following timescales should be followed for each stage of the procedure. These timescales are from the date of receipt of the grievance, at the relevant stage:
Stage 1 (Informal) – up to ten working days
Stage 2 (Formal) - up to fifteen working days
Stage 3 (Appeal) – up to 20 working days

6.8.3 The Trust will endeavor not to exceed these timescales without good reason but it is also recognised that they can be extended by mutual agreement. The above timescales also apply to former employees.

6.8.4 A grievance, or a subsequent appeal to the next stage(s) must be submitted within the time limits specified within this procedure, unless an agreement is reached between the manager and employee/their representative.

6.9 Documentation

At the formal stages of the procedure, all documentation, including witness statements to be presented as evidence must be submitted with the grievance form in order that the written evidence can be circulated to all parties involved.

6.10 Witnesses/Evidence

Witnesses must normally be introduced at the first formal stage (Stage 2). If new evidence or information becomes available at a later stage of the procedures, the manager may consider this.

6.11 Attendance at Meetings/Hearings

If either party refuses twice or is unable to attend a meeting the Chair of the panel may make a decision in their absence based on the evidence provided.

6.12 Vexatious Grievances

A vexatious grievance is one that is based on deliberate misrepresentations or untruths; lacks a serious value or purpose; is not made in good faith, for example, it is designed to cause annoyance and disruptions or can otherwise fairly be characterised as manifestly unreasonable. For example, where an individual continues to raise the same issues that have previously been the subject of formal management and appeal processes.

6.13 Exclusions from Grievance Procedure

The following are excluded from this procedure and the appropriate policy/procedure should be referred to:-

- Disciplinary matters
- Job Evaluation/Banding Reviews or KSF framework
- Any terms and conditions of employment that are either set nationally or by local collective bargaining procedures
- Policy on Concerns at Work about Patient Care or Matters of Business
Probity/Conduct
- Dignity at Work

6.14 Status Quo

The status quo (i.e. the working and management arrangements which applied before the grievance/dispute) should operate provided that this would not be prejudicial to patient care, until the agreed procedure within the Trust has been exhausted.

6.15 Grievance Outcomes

6.15.1 The following outcomes may be reached by the manager at the conclusion of the formal stages:

6.15.2 To uphold the grievance

6.15.3 If such a finding is made it will normally be appropriate for the manager to also recommend actions to remedy the situation.

6.15.4 Not to uphold the grievance

6.15.5 It may also be appropriate with such a finding to recommend actions, although it may be the case that no further action is required.

6.15.6 To find that the grievance is vexatious

6.15.7 If it is found that the grievance is vexatious, the manager should decide whether it is appropriate to instigate disciplinary proceedings against the individual raising the grievance.

6.16 Grievances raised when a Member of staff is due to leave the Trust

Any concern raised by an employee who is leaving the Trust but is received before their final date of employment should be dealt with in accordance with the procedure above. Completed exit questionnaires will be reviewed by the Trust in order to address any concerns raised by employees in relation to their employment with the Trust.

6.17 Post Employment Grievances

Should a previous employee raise a grievance within 3 months of the employment ending, the matter will be investigated and written response will be provided.

6.18 Overlapping Grievance and Disciplinary Cases

6.18.1 Where a formal grievance is raised during a disciplinary process, the appropriate action will be determined on a case by case basis.

6.18.2 If the issues relate to the content of the disciplinary process or the disciplinary process itself the matter will generally be dealt with as part of the disciplinary process.

6.18.3 The two processes may run concurrently following, where possible, agreed timescales, unless the content of the grievance is so significant in relation to the disciplinary case that a deferral of the disciplinary proceedings becomes inevitable. The decision as to whether this is appropriate will be made by the Head of Human Resources or Deputy Director of Workforce.

7 CONSULTATION

- The Policy has been developed by the HR Policy Group which consists of representatives from:
- Recognised Staff Organisations
- Senior Managers
- Human Resources staff

8 TRAINING & SUPPORT

Training will be delivered on an ad-hoc basis as and when required.

9 MONITORING

The Human Resources Department and the Investigation Team Leader will maintain data to enable the monitoring of the number of grievances submitted. This information will be reviewed and reported on to the Executive Director of Workforce on a monthly basis.

10 EQUALITY & HUMAN RIGHTS ANALYSIS – *to be added please*

GRIEVANCE REPORT FORM

STAGE 1 - Informal

Employee Name:

Contact Details

Department:

Date:

Has the informal process been used:

Yes/No (if yes please provide details:

Nature of Grievance:

(To be completed by the person initiating the grievance. If your grievance is against another employee you **must** state their name)

I seek the following resolution of my grievance :

***I attach the following evidence in support of my grievance if required
(List the documents below and attach the appropriate paperwork).***

Signature of Employee: _____

Date: _____

Name and contact details of Trade Union representative:

Stage 1

Action/Comments:

(To be completed by
the appropriate manager)

Outcome of Action:

Agreed/Not Agreed:

Manager's Signature:

Employee Signature:

Date:

Stage 2 (Please attach Stage 1 paperwork)

Action/Comments: (to be completed by the appropriate Director or nominated deputy)

Outcome of Action: Agreed/Not Agreed

Manager's Signature: _____

Employee's Signature: _____

Date: _____

Stage 3 – Appeal

Response to the grievance to be completed by the Chair of the Appeal Panel

Outcome of Action:

Agreed/Not agreed:

Follow up/monitoring action agreed:

Signature of Chair of the Appeal Panel

Date:

Employees Signature:

Date:

Note: One copy should be kept by the employee, one copy kept by the Manager, and one copy sent to the Human Resources Department at each stage of the grievance.

EQUALITY AND DIVERSITY MONITORING FORM (to be completed at all stages)

Employee Name:

Gender:

Contact Details

Ethnic Origin:

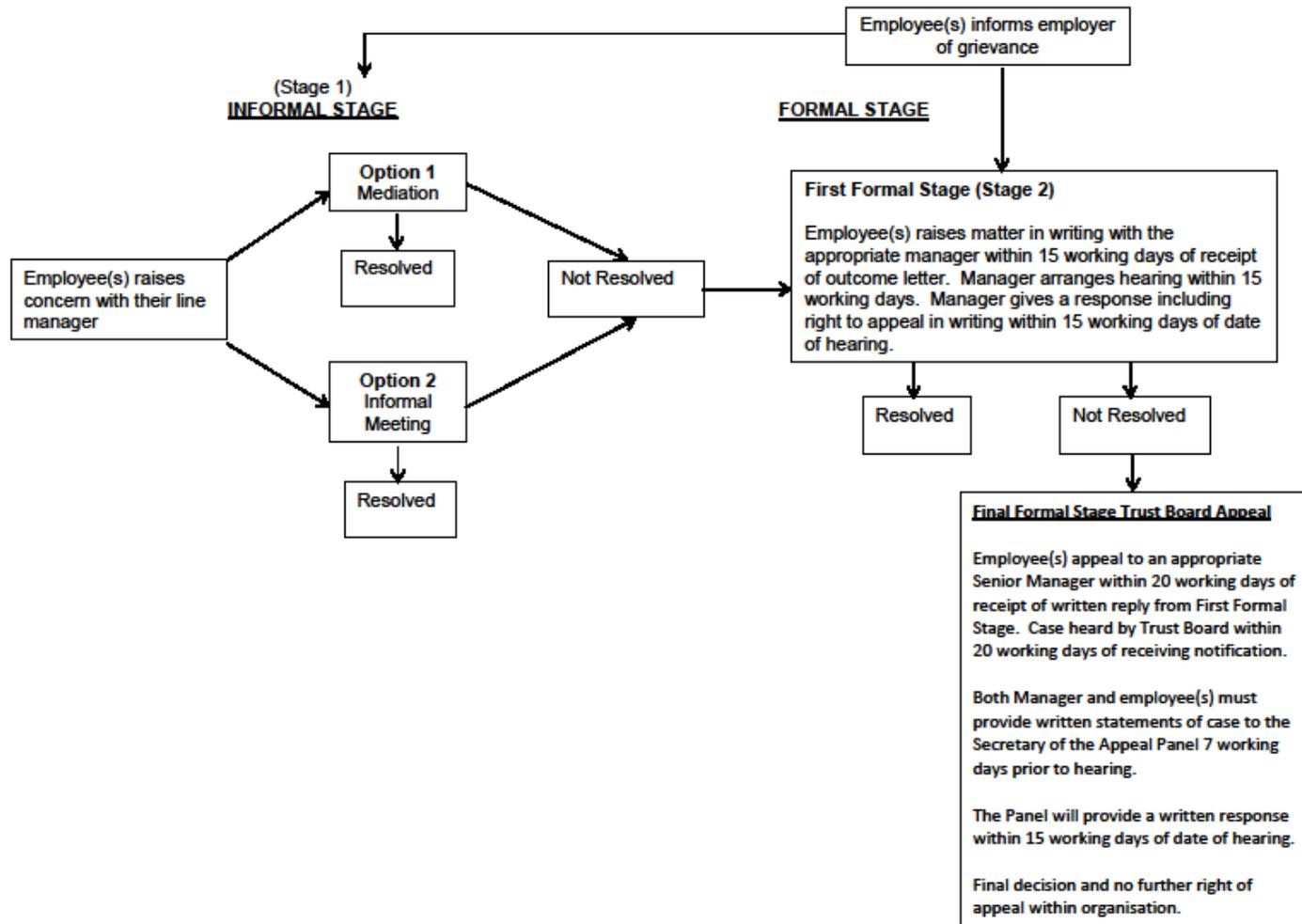
Do you consider yourself
to have a disability?:

Department:

Date formally registered:

Has the informal process been used:

Yes/No (if yes please provide details



Acknowledgement Letter – Stage 2 First Formal Stage

Dear

Grievance Procedure

Thank you for your letter of (date) setting out your reasons for invoking the Trust's formal Grievance Procedure. I am sorry that your issue has not been able to be resolved satisfactory at the informal stage (insert or through mediation if relevant).

In accordance with Stage 2 of Mersey Care NHS Foundation Trust grievance procedure, I invite you to a meeting to discuss your grievance. This will be held on (date) at (venue).

A Trade Union representative or work colleague may accompany you at this and any subsequent meeting.

I have enclosed a copy of the grievance procedure for your information.

I would be grateful if you could confirm your attendance at this meeting. If you have any queries, please do not hesitate to contact me.

Yours sincerely

Manager's name

Copy: HR representative (if applicable)
Union representative

Stage 2 Outcome Letter

Dear

Stage 2 (First Formal Stage) Hearing – Date

I write further to the meeting held on (date) in (venue), which was convened in accordance with the trust's grievance procedure to discuss your grievance issue, I write to confirm the outcome xxxxxxxxxxxxxxxxxxxxxxxxx.

Your grievance issue was heard by myself supported by (insert name). You were supported by (insert name). You and your representative/colleague provided the background to your issue and the reasons why you had to raise a formal grievance.

I considered all of the evidence presented as well as the comments made by you and your representative and have decided that (state decision, reasons for justification including consideration of all facts, including mitigating circumstances).

If you are dissatisfied with the decision you may appeal. This will be to the Trust Board and should be submitted within 15 working days of receipt of this letter.

Yours sincerely

Name
Title

Stage 3 - Trust Board Appeal – Invite Letter

Dear

Grievance Procedure – Stage 3 Trust Board Appeal

I write to confirm receipt of your grievance appeal and in accordance with Stage 3 of the grievance procedure, and in order to determine the facts of the matter, a Trust Board appeal has been arranged on (date within 20 working days of receipt of employees written statement of case) at (venue).

Your grievance will be heard by xxx

Present also at the hearing will be (name of manager who heard grievance at Stage 2 plus HR representative).

The purpose of the appeal is to consider the information previously submitted and the decision reached at the previous stage.

Yours sincerely

Appeal Secretary

Stage 3 - Trust Board Appeal – Outcome Letter

Dear

Trust Board Appeal (Stage 3) Outcome Letter

Further to the Stage 3 Trust Board Appeal held on (date) in (venue), convened in accordance with the Trust's grievance procedure to discuss your grievance, I write to confirm the outcome.

Your grievance issue was heard by the Trust Board in the presence of (e.g. Union representative, HR representative). You and your trade union representative presented your case and provided details of the background to the issue and the reasons why you have raised a formal grievance.

I have now considered all of the information presented to the panel as well as the comments made by yourself and your representative and management side and have decided that (state decision, reasons for justification, including consideration of all facts, including mitigating circumstances)

The decision is final. This is the final stage of the Trust's formal procedure.

Yours sincerely

Name
Title