

# Policy:

## HR 027 - Grievance

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### Summary of policy

This policy provides a process for dealing with concerns, problems or complaints by employees regarding management actions which directly affect them as individuals or as a collective group.

The changes made to this version of the policy are summarised on page 3 (amendment log).

<b>Target audience</b>	All SHSC staff
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<b>Keywords</b>	Grievance, mediation
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### Storage

This is Version 3 and is stored and available through the SHSC Intranet/Internet. This version supersedes the previous version [September 2014]. Any copies of the previous policy held separately should be destroyed and replaced with this version.

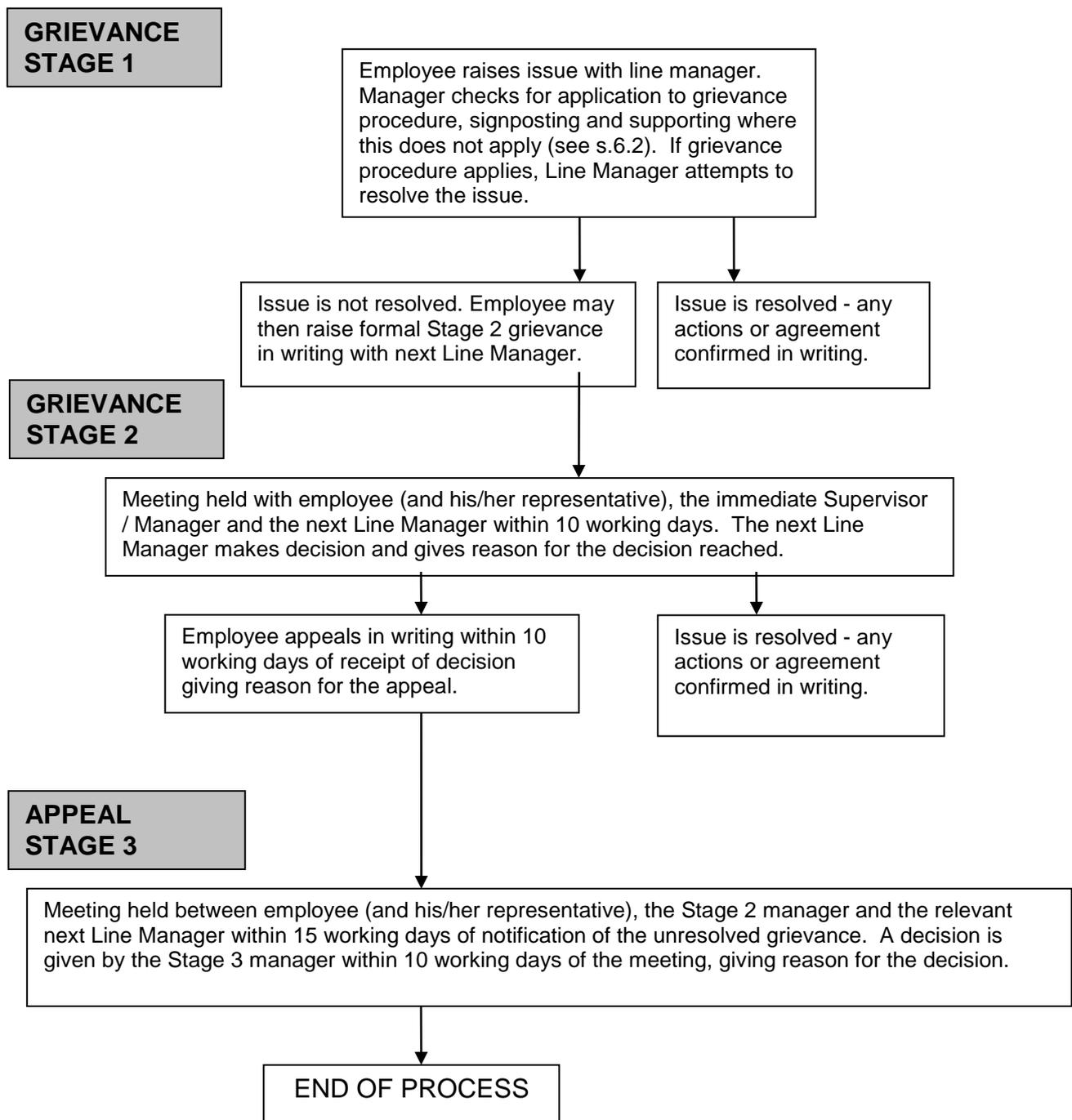
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### Version Control and Amendment Log

<b>Version No.</b>	<b>Type of Change</b>	<b>Date</b>	<b>Description of change(s)</b>
1.0	New draft policy created	2003	
1.0	Ratification and issue	1 <sup>st</sup> April 2003	Amendments made during consultation, prior to ratification.
1.1	Policy updated into new format	October 2009	Review undertaken to transfer the policy to approved policy format, and to update any policy or process references only.
1.1	Ratified /finalised / issued	October 2009	
2.0	Policy updated	November 2013	Review undertaken to change procedural steps and give additional guidance to managers.
2.0	Ratification and issue	September – October 2014	
3.0	Policy updated and consultation took place with HR colleagues, other influential colleagues and Staff Side	January – July 2019	HR Review undertaken to <ul style="list-style-type: none"> <li>• transfer the policy to approved policy format, and to update references and clarify processes.</li> <li>• amendments to correct typographical errors and make some reference updates.</li> </ul> Changes include clarification of an appeal process, inclusion of the Freedom to Speak up Guardian, and other more minor clarification points. <ul style="list-style-type: none"> <li>• In addition, the following change has been made since the last review - 6.2 EXCLUSIONS FOR THE PROCEDURE - Agenda for Change added as an exclusion in section 6.2 on page 5.</li> </ul>
	Policy approved		Policy Governance Group to approve.
	Ratification and implementation		EDG to ratify policy. Policy to be replaced on the intranet and Trust website. A message will also appear in Connect alerting staff to the latest version of this policy.

# Flowchart



## 1. **Introduction**

The Grievance Policy and Procedure is required to provide employees with a clear and transparent framework to deal with difficulties that may arise from their working relationships within the Trust. It is one of a number of policies and procedures designed to enable staff to raise concerns which they may have about their work.

Other policies include:

- Bullying and Harassment Policy
- Flexible Working Policy

## 2. **Scope**

This policy applies to all Trust employees.

## 3. **Purpose**

This policy and procedure enables the Trust to deal with grievances fairly, consistently and speedily and to meet its legal obligations under employment legislation.

Many grievance issues can be, and are often best, resolved informally and such informal resolution is actively encouraged in the interests of all parties. However, where an issue cannot be resolved informally it may be pursued formally. This procedure seeks to provide scope for informality and prompt consideration of any issues by Stage 1 being essentially informal in nature.

Similarly, where appropriate, consideration should be given to using an independent third party (generally from inside the Trust) to help resolve the problem.

Employees have the option to seek support and advice from the Trust's Freedom to Speak up Guardian where the issue is one of concern for service user or patient safety. Contact details for the Freedom to Speak up Guardian can be found on the intranet within the Health and Wellbeing Widget, under 'Support for Staff - Work'.

## 4. **Definitions**

Grievances are concerns, problems or complaints that employees raise with their employers. These will normally relate to their terms and conditions of employment, working arrangements or health and safety, etc.

Collective grievances are raised on behalf of two or more employees by a representative trade union or other appropriate representative.

## 5. **Detail of the policy**

The broad overview of this policy is as described in the introduction.

## 6. **Duties**

The Trust expects managers, Trade Union representatives and employees to seek to avoid the need for formal grievance processes, wherever possible, by ensuring constructive and reasonable responses to the resolution of problems.

Managers will ensure clear communication lines are established to enable employees to raise their concerns and have these considered within a reasonable timescale.

Managers will ensure that grievance processes are managed within the reasonable timescales identified in the procedure or if this is not practicable the reason for the delay will be provided.

Managers will deal with employee complaints equitably.

Employees will have a responsibility to ensure that issues raised through this grievance procedure are reasonable and raised in a reasonable manner. ACAS guidance states that when stating their grievance employees should stick to the facts and avoid language which may be considered insulting or abusive.

Human Resources will provide appropriate and sound advice, guidance, and support to assist managers in the resolution of grievances.

An employee will have the right to be accompanied by a Trade Union representative or work colleague at meetings under Stages 2 and 3 of this procedure. To avoid formality neither party should need to be represented or supported at Stage 1 of the Procedure.

## **7. Procedure**

### **7.1 Application**

If an employee has an individual grievance with no wider implications for other employees and informal approaches have not resolved it, then this procedure is applicable.

A grievance can relate to a proposed management action, to an action that has already been taken or to lack of action in a situation deemed to require it.

The procedure aims to deal with a grievance quickly, fairly and at the lowest level of management possible and comply with the rules of natural justice. The principle therefore is that the grievance will be heard as soon as possible at whatever stage, and that the individual has the opportunity to set out their concerns. This should not be unduly delayed.

Complaints will be dealt with as speedily as possible and at the lowest level.

Mediation can sometimes help to resolve an issue. It is a voluntary process which helps 2 or more people in dispute to reach an agreement (See Appendix A).

### **7.2 Exclusions**

This procedure does not apply to:

- matters of a collective nature, to which the Collective Disputes procedure is applicable;

- cases where the grievance has arisen out of other formal procedures (e.g. Disciplinary, Capability, Bullying and Harassment, Flexible Working request, the Agenda for Change process (A4C), or Redundancy Dismissal), where there is scope for the concern to be raised within that procedure or its appeal arrangements;
- a grievance in connection with an allegation of unsatisfactory performance or conduct of the employee (See 7.4 below);
- issues of pay or conditions of employment which are the subject of Collective Agreements, unless the grievance concerns an alleged failure to observe the agreement;
- dissatisfaction with the outcome of a job evaluation case.

The Trust cannot apply the grievance procedure to disputes or disagreements between employees except where it affects the service as it relates to clients or other staff. However, alternative processes may be appropriate such as mediation. HR can be contacted for further advice. (See also Section 7.5).

Where a member of staff has a grievance with a colleague, he/she should first endeavour to resolve the matter with the member of staff concerned where possible.

### **7.3 Procedural Stages**

The following paragraphs set out the procedure to be adopted.

#### Stage 1:

The employee should raise the issue in question with their line manager. This should be done at an appropriate time and place but there is no set format for this consideration. Both parties are responsible for making every effort to resolve the matter as speedily as possible. As set out in 6.1.5, mediation can also be considered.

The consideration could occur by telephone / email or face-to-face at an established meeting (e.g. 1-1) or a specially arranged meeting. The focus is on ensuring proper communication and a commitment to resolution.

There are no requirements in terms of providing a statement of case, but the employee should ensure that relevant information is available or accessible if they expect the manager to be able to consider the matter properly.

A note of the outcome should be shared and put on the employee's personal file. If the employee is unable to obtain a response, they should ensure that a written communication to that effect is sent to the manager and they should also keep a copy.

Evidence that the parties have sought to resolve the matter will be required prior to a Stage 2 meeting being convened.

(Prior to going to Stage 2, the parties may seek the involvement of HR and their union representative to help resolve the matter. This will not prevent the HR representative or union representative being involved at a subsequent stage).

### Stage 2:

Where the issue is not resolved at Stage 1, the employee can raise the matter formally in writing with the immediate supervisor/manager's line manager. A meeting will be held between the employee (and his/her representative), the immediate supervisor/manager and the manager's own manager within 10 working days. The line manager's own manager will make the decision regarding the grievance. A decision, with reasons, should normally be given within 10 working days. If the matter is not resolved, the employee has the option to appeal the Stage 2 decision, and the grievance may proceed to Stage 3.

The employee must appeal in writing to the Stage 2 Manager's line manager within 10 working days of receipt of the decision, giving reasons for the appeal.

### Stage 3 (Appeal stage):

A meeting will be held between the employee (and his/her representative), the Stage 2 manager, and the next line manager. It may be appropriate for an Executive Director to be asked to hear the issue depending on the significance of the issue under consideration.

This meeting should take place within 10 working days of notification of the appeal.

A decision will be made on the grievance by the most senior manager (i.e. the line manager of the manager hearing the Stage 2 grievance, or an Executive Director). This decision should then be given in writing within 10 working days of the meeting, with the reasons for the decision clearly outlined. This is the final stage of the procedure.

### The Parties

1. The manager making the decision will chair the meeting and will be advised by Human Resources. The other parties will be the employee (and representative) and other manager(s) as appropriate to the grievance (e.g. where an Executive Director is asked to chair the hearing, the manager originally identified as hearing the case may attend to advise them).
2. A witness or witnesses may be called if they have a relevant contribution to make to the consideration of the case.

### Conduct of the meeting at Stages 2 and 3

1. The employee (or representative) will outline the reason for and details of the grievance.
2. If a witness is to be used, he/she will be called by the employee's side at the appropriate time to give evidence. He/she may be questioned by those present and will then withdraw.
3. The person against whom the grievance is made will have the opportunity of asking other questions of the employee, followed by the hearing chair and the Human Resources representative.
4. The person will respond and present appropriate information / evidence.

5. If a witness is to be used, he/she will be called by the manager at the appropriate time to give evidence. He/she may be questioned by those present and will then withdraw.
6. The employee or representative chair will have the opportunity of asking other questions followed by the HR representative.
7. The parties will have the opportunity of summing up: the manager first, followed by the employee (or representative) and the parties will then withdraw whilst the chair considers the information presented.
8. At this point, the chair may decide that more information is required before a decision can be made, and the hearing may be adjourned.
9. When the chair is content that they have sufficient information to make their decision, they should do so. The parties will then be called back into the meeting to hear the decision, which will be confirmed in writing to the parties within 10 working days of the meeting.

#### Decision-making at Stages 2 and 3

1. The hearing chair will deliberate in private with the HR representative. He/she will seek to resolve the matter whilst ensuring that at all times the needs of the service are adequately met. (If the Executive Director has been asked to chair the hearing, they may be accompanied by the manager already identified as hearing the appeal.)
2. If points of uncertainty are identified during the hearing chair's deliberations or clarification is required from the parties, both sides will be recalled.

### **7.4 Guidance for Managers managing this procedure**

This guidance is designed to be read in conjunction with the Individual Grievance Procedure, which has been the subject of consultation with trade unions.

These notes clarify procedural points and provide further guidance to support managers in handling grievance matters. Further advice is available from the Human Resources Department on handling specific issues.

#### Principles

The emphasis for managers should be on resolving difficulties on a person-to-person basis wherever possible through normal communication and supervisory channels. Grievance procedures should only need to be used where efforts have been attempted through usual means and have failed. You may feel that the grievance is not reasonable and should not be pursued through the procedure. Pragmatically it will be preferable to try to resolve the problem rather than dwell on the procedural issue. However, there may be occasions when you feel you have a justifiable reason for believing that a formal process is not appropriate, and you should seek advice on this.

The Trust is clear that managers have a duty to deal with matters quickly, equitably and reasonably, but taking account of service needs. ACAS Guidance indicates that care and thought should be put into resolving grievances and whilst the issue may be stressful, all parties should abide by the standards set out in the Equal Opportunities and Dignity at Work Policy.

### Scope

Policy decisions made by the Trust Board are not subject to challenge through grievance processes. The way in which these policy decisions are implemented by managers may, of course, be subject to grievance proceedings.

An employee will not be entitled to raise a grievance, for example, about being issued with a warning or notification under the Capability Procedure, as appeal arrangements for these procedures allow for these matters to be considered. However, where there is no scope for the concern to be raised within another procedure - for example, because no formal action results (and therefore no appeal is possible) - an employee should be able to raise significant concerns about their treatment through grievance processes.

In some cases, the grievance may require consideration to be given to suspending the operation of another procedure until the grievance has been resolved. For example, this could happen during a disciplinary process where the employee alleges:

- there is a conflict of interest with the manager holding the disciplinary hearing
- there is evidence of bias or discrimination against the employee which could affect the fairness of the disciplinary process.

Each situation will be considered on its merits. Options include:

- deciding that the issue does not have any basis and/or does not affect the operation of the disciplinary process.
- postponing the disciplinary hearing until the grievance has been determined
- deciding that the issues can be incorporated within the disciplinary investigation so that in effect there is a joint investigation.
- arranging for the disciplinary hearing to be conducted by another manager from outside the team/Network.

### Application

1. Where a grievance arises from the actions of Executive Directors, employees should still seek informal resolution of the matter with the Executive Director concerned in the first instance. If this does not provide a resolution, the Chief Executive would hear the matter with the appeal being to a Non-Executive Director.

Where an Executive Director wishes to raise a grievance, they can raise the matter informally with the Deputy Chief Executive at Stage 1. Stage 2 would then be heard by the Chief Executive and Stage 3 by the Trust's Chair. Where a grievance is raised by a more senior manager than an Executive Director, a process will be identified appropriate to the circumstances.

Where it is believed a grievance is appropriate in relation to the actions of a Non-Executive member of the Board, the Chief Executive and Director of HR should be contacted for further consideration of how the procedure can be applied.

Where an issue is raised by the Deputy Chief Executive, the Chief Executive or by a Non-Executive Director, the appropriate process will be considered by the Board with the relevant parties being excluded.

2. Status Quo:

Where there is a justifiable reason for moving to new arrangements, the general position will be that proposed changes will be applied pending consideration at a Stage 2 grievance hearing. This formal position does not automatically apply if the changes proposed involve changes to contractual terms and conditions unless there are exceptional service requirements. Staff Side representatives may seek to challenge the non-application of the status quo in such circumstances; in which case a meeting with HR and Staff Side will be convened as soon as practicable in order for the matter to be considered further.

3. Mediation may be a positive way forward in some circumstances if both sides are committed to moving their position to find a mutually acceptable solution. The Human Resources department can advise you on this, and may suggest a suitable conciliator(s). Mediation outcomes will be shared and form part of the documentation/information to be considered at further stages of the process. (See Appendix A).

### Procedure

There are a range of management arrangements throughout the Trust, and there needs to be flexibility in relation to identifying the most appropriate manager to seek to resolve the matter in the first instance. Clearly, whilst some issues may be resolved by a first line manager/supervisor, others may more appropriately be discussed with the manager's line manager. If you are contacted you will need to consider how the matter is best handled to ensure adequate consideration of the problem in the most appropriate way.

## **7.5 Special Cases**

### Grievances relating to employees who work outside the Trust

Where an employee is engaged to work outside the Trust for another organisation (e.g. on a secondment), the employee should raise any issue in the first instance with their line manager within the Trust. It can then be agreed whether this is a matter for the Trust to consider through the grievance process, or if it is for the Trust to raise on behalf of the employee within the other organisation. This will depend upon the nature of the issue and the nature of the contractual relationship with the outside organisation. This should not deter the employee, however, from seeking to resolve matters informally with the organisation where the issue is urgent and/or where the matter can be resolved straightforwardly.

### Grievances relating to staff who are not employees of the Trust but carry out work for the Trust

This guidance relates to staff who are seconded to the Trust from Sheffield City Council.

Under the terms of the SCC-SHSC Staff Supply Agreement, secondees should be supervised and directly accountable to the person shown as their line manager, whether that manager is an employee of the Council or the Trust. Secondees retain their Council terms and conditions and are also covered by the Council's relevant personnel policies. The partners can agree, however, appropriate mediation applicable to seconded staff.

Where a secondee wishes to raise a grievance they are encouraged to seek resolution informally with their line manager, whether the manager is a Council or a Trust employee. The line manager should then seek advice from their own HR service regarding next steps and this will involve parties agreeing on an appropriate process for considering the issue.

### Employees with disabilities / language difficulties

Where employees have difficulty expressing themselves because of language or other difficulties, they should contact HR and/or seek help from their union representative or colleagues.

Where a grievance meeting is being held, the manager should consider whether any reasonable adjustments are necessary and/or consider arranging for an interpreter where the employee has difficulty speaking English.

### Grievance raised by an employee against another employee

ACAS Guidance states that "Employers must deal with these cases carefully and should generally start by talking privately to the individual about the concerns of fellow employees". Alternatively, if those involved are willing, mediation can be offered.

The Guidance also points out that "Care needs to be taken that any discussion with someone being complained about does not turn into a meeting at which they would be entitled to be accompanied".

In such situations advice from Human Resources should be sought before taking any action.

## **8. Development, consultation and approval**

- Human Resources Management team consulted February – June 2019.
- JPG consulted in May 2019 and in June 2019.
- Changes made to the clarity of the appeals process in consultation with JPG.
- The Equality Impact Assessment will be undertaken and stored separately in conjunction with Corporate Governance and the Head of Equality and Inclusion.
- PGG to review this policy in July 2019.
- Policy to be reviewed again by 31st July 2023.

## 9. Audit, monitoring and review

This section should describe how the implementation and impact of the policy will be monitored and audited. It should include timescales and frequency of audits. If the policy is required to meet a particular standard, it must say how and when compliance with the standard will be audited.

<b>Monitoring Compliance Template</b>						
Minimum Requirement	Process for Monitoring	Responsible Individual/group/committee	Frequency of Monitoring	Review of Results process (e.g. who does this?)	Responsible Individual/group/committee for action plan development	Responsible Individual/group/committee for action plan monitoring and implementation
To be reviewed in line with relevant employment changes	Review policy, review employment legislation changes	HR Advisory Team	At least every 3 years	HR Adviser	HR Senior Management Team	HR Senior Management Team

This Policy is due to be reviewed at least every 3 years. However, monitoring will be on an ongoing basis pending any amendments which may occur due to revised legislation or release of good practice guidance information from relevant organisations, e.g. ACAS. Overall, HR policies are subject to joint monitoring and review between management and Staff Side at the Joint Policy Group (a sub-group of the Joint Consultative Forum).

The policy review date is 31/07/2023.

## 10. Implementation plan

Action / Task	Responsible Person	Deadline	Progress update
New policy to be replaced on the Intranet and Trust website.	Director of Corporate Governance	Within 5 working days of ratification	TBC
A communication will be issued to all staff via Connect.	Director of Corporate Governance		TBC
A communication will be sent to Education, Training and Development to review training provision.	HR Adviser, as appropriate		As necessary

## 11. Dissemination, storage and archiving (version control)

This section should describe how the new policy will be disseminated. It says where the policy will be made available and to whom. This will normally be that the policy is available on the Trust's intranet and available to all staff.

It makes it plain that any previous versions must be deleted and describes the archiving and storage arrangements for the current and previous versions of the policy. It says who is responsible for archiving and version control, and what they should do.

<b>Version</b>	<b>Date on website (intranet and internet)</b>	<b>Date of entry in Connect (all staff communication)</b>	<b>Any other promotion/ dissemination (include dates)</b>
1.0	April 2003	N/A	
2.0	October 2014	N/A	
3.0	July 2019	July 2019	

This is Version 3 and is stored and available through the SHSC Intranet/Internet.

This version supersedes the previous Version 2 [September 2014].

Any copies of the previous policy held separately should be destroyed and replaced with this version.

All versions of HR policies are stored on the HR Shared Drive by the policy author and the PA to the Director of Human Resources.

Word copies of final versions of policies can be obtained from Policy Governance via the PA to the Director of Human Resources

## 12. Training and other resource implications

The Human Resources department offers training and support to managers in the implementation of Human Resources policies.

## 13. Links to other policies, standards, references, legislation (associated documents) and national guidance

Bullying & Harassment Policy  
Whistleblowing Policy  
Equal Opportunities and Dignity at Work Policy  
Flexible Working Policy  
ACAS Code of Practice (April 2015)  
The Employment Act 2008  
SCC-SHSC Staff Supply Agreement (2018)

## 14. Contact details

<b><i>Title</i></b>	<b><i>Name</i></b>	<b><i>Phone</i></b>	<b><i>Email</i></b>
HR Adviser	Sharon Booth	0114 2716753	<a href="mailto:sharon.booth@shsc.nhs.uk">sharon.booth@shsc.nhs.uk</a>
Human Resources Management Team	HR Helpline	0114 2263301	
Freedom to Speak Up Guardian	Wendy Fowler	0114 2263129	<a href="mailto:wendy.fowler@shsc.nhs.uk">wendy.fowler@shsc.nhs.uk</a>

## Mediation in Practice

### Definition:

Mediation is a structured process whereby an impartial mediator facilitates communication between those in dispute in order for them to understand each other better so that they can identify mutually acceptable solutions that will improve working relationships in the future.

### What is mediation and how does it work?

- Mediation is a process for resolving difficulties between individuals or groups.
- Mediation helps two or more people in a dispute to talk about their situation, exchange their concerns and develop ideas about how to move the dispute forward with the aim of achieving a resolution.
- Those in mediation enter into it voluntarily and with the intention of reaching a resolution that works for all involved.
- A trained mediator is involved, who is independent of the people involved, facilitates the process, acting with impartiality. The mediator, who needs to be seen as impartial, establishes clear guidelines on confidentiality in the process. It is important for participants in mediation to understand that the mediator will not *judge* the merits of each individual's case.

### Those who take part in mediation are asked to:

- Be open about how they feel, what the problem is and what they want
- Listen to the other person/people
- Think about how things could be improved in the future and what they can do to make this happen
- Try to understand and accept the others involved.

### The mediator will:

- Ensure everyone has an equal opportunity to communicate (speak and listen), negotiate and work with those involved in the mediation to work out realistic and fair agreements.
- Prevent name-calling, abuse or behaviour that prevents people from negotiating fairly (by setting ground-rules and ensuring these are adhered to).
- Not take sides or make decisions for participants.

### The mediation process is usually as follows:

#### 1. Individual meetings with the mediator

Describe the problem. Each person will have an individual meeting with the mediator to describe how he/she sees the situation, to reflect on how he/she would like the working relationship to be different and to consider how this might be achieved.

#### 2. Joint meeting

Outlining the problem. Each participant will have a short time at the start of the meeting to explain, without interruption, how he/she sees the situation and would like to see happen.

Exploring issues. The mediator will ensure that participants are clear about what the important issues are, check facts, compare views of the problem, agree what issues can realistically be settled in mediation and get agreement to continue.

*Building agreements.* The mediator will explore what participants want and what can be done about the difficulties between them, working through differences, managing conflict, problem solving and preparing for decision making.

*Making agreements.* The mediator will not make suggestions or tell participants what to do. The mediator will help participants to find solutions that everyone is willing to accept and test the likely outcomes, clarify what will happen next and think about what will happen if the process gets stuck.

*Closure and follow-up.* At the end of the session the mediator will help participants to agree plans for future contact between themselves and the mediator if necessary. This may involve written agreements between participants.