

PERTH & KINROSS COUNCIL and NHS TAYSIDE

HEALTH & SOCIAL CARE PARTNERSHIP

Fairness at Work in Integration Protocol

Introduction

Day to day management of employees engaged within the Health & Social Care Partnership will be undertaken in accordance with the management policies and procedures of each organisation e.g. NHS or Council. The most effective management of people requires employees and managers to demonstrate a proactive approach as part of day-to-day operations, wherever possible. Early recognition, discussion and intervention can help to identify any underlying issues, for which action or support can be taken, and which can ensure that employees are aware of the standards of behaviour expected. Early intervention examples include facilitated discussions and involvement of Organisational Development mediation.

It is the duty of all managers who have responsibility for employees from the other organisation to ensure they have access to, and are familiar with, the relevant policies and procedures that apply as part of their normal day to day management concerning employees from the other partner body.

The purpose of the document is to highlight arrangements that will be put in place in the Health & Social Care Partnership where a group of employees from either/ or both NHS and Council raise a collective fairness at work/grievance complaint. The document excludes grievances which relate to an employee's own employer.

Consideration, on a case by case basis, will also be given to applying this protocol for cross-employer complaints relating to bullying and harassment by an individual of either NHS or Council within the Partnership.

Principles

The desired outcome from the application of this protocol is fair and consistent treatment of all employees and as such the following principles will be adhered to:

- Ensure all parties are treated with dignity and respect
- When any fairness at work/grievance complaints are raised joint agreement of the process to be applied will be formally set out at the outset and will continue to apply throughout the stages should early resolution not be achieved.

- Respond in a timely manner to ensure the fairness at work/grievance complaints is responded to promptly and reasonably.
- Seek early and informal resolution, at the lowest possible level, to all issues in the first instance.
- Use facilitated discussions, involvement of OD or mediation to seek early resolution.
- If the complaint gives rise to disciplinary action being invoked this will be undertaken in accordance with the policies and procedures of the employee's employing organisation e.g. NHS or Council.

Types of Complaint

It is not possible to specify all of the issues which may give rise to a complaint but examples of collective complaints that can normally be considered under this protocol would include:

- Working conditions i.e. health and safety, working practices/environment or equality issues, i.e. non-grade related issues.
- Dignity at work issues i.e. bullying and harassment

Harassment is defined as unwanted conduct at the place of work and/or in the course of employment that has the purpose or effect of violating people's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. For a complaint to be considered under this protocol it must relate to harassment on the grounds of a protected equalities characteristic, i.e. gender, race, disability, religion or belief, sexual orientation, age, marital status, pregnancy or gender reassignment.

Bullying or victimisation is defined as persistent, offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient, at the place of work and/or in the course of employment.

Each employing body uses different terminology in describing what constitutes a grievance, fairness at work, bullying or harassment issue. Although some of these terms are used within the protocol the exact definition for each employer will be contained within their respective policy to which reference should be made. This protocol excludes matters which would normally fall under a collective dispute resolution procedure.

Protocol for inter-employer Fairness at Work/Grievance or similar Complaints

Where a grievance has been raised the following principles will apply:

Informal or formal complaints relating to grievance/fairness at work issues must be raised by an employee in accordance with the policies and procedures of their employing organisation i.e. NHS or Council.

Every effort must be made to resolve the complaint informally in the first instance.

All employees are expected to participate in both employer's grievance and/or fairness at work processes when necessary.

All parties must treat others with dignity and respect, value individual differences and promote mutual trust and confidence in the workplace.

Employees must raise an informal complaint with the person concerned or immediate manager without unreasonable delay, detailing the grounds of their complaint, resolution and reasonable redress being sought. At this stage it will be for the immediate manager to determine with the complainant/s as to the process or actions which would achieve resolution of the matter. Where the complaint concerns a manager, and the employee feels unable to approach them, the complaint must be raised with an alternative manager, normally at an equivalent level, or level above if employees unsure who at an equivalent level to approach.

Joint Complaints – a complaint from employees of both employers within the partnership

Employees who have submitted a joint complaint should provide details of their complaint, what steps they may have taken to resolve their complaint informally so far and the resolution and reasonable redress sought.

On receipt of a joint complaint the line manager will discuss the complaint with nominated representatives on behalf of the employees and where represented the relevant trade union/staff side of those making the complaint to ascertain what, if any, steps they have taken to resolve the complaint with the employee concerned. Both NHS and Council HR departments will be involved in these discussions.

The purpose of this initial discussion/meeting will be to:

- Advise the employees that the information they have provided including the details of the reasonable redress sought will be reviewed and an agreement to proceed with an informal approach outlined.

- Identify if the employees are unwilling to approach the subject of the complaint, and if so, the manager will make the subject of the complaint aware of the issue.
- Discuss and agree, in advance, with all parties involved which Grievance/Fairness at Work process will be applied i.e. NHS or Council should the matter not be resolved at the lowest possible level. This can be determined by considering the majority of employees from one of the partnership bodies who raised the complaint and the other employees agreeing to such; or, if relevant, by applying the procedure applicable to the employee being complained of.
- Reach mutual agreement of all parties involved at this meeting to confirm the relevant procedure, ongoing identified Trade Union representative/staff side involvement and communication. Where mutual agreement cannot be reached then the individual or the union/staff side representing a particular group must withdraw, in writing, from the joint process and consider if they wish to raise a separate complaint using their respective employer's procedure.
- Establish if an investigation is deemed appropriate and if so, confirm and agree, in advance, with all parties involved the investigatory process to be applied.

NOTES:

The outcome of the initial meeting can vary depending on each individual case and will set out the agreed approach to be applied, the nominated lead of any investigation, if applicable, and the composition of any subsequent Panels/Hearings. It should be noted that once the process has been agreed this will continue to be applied throughout all stages of the fairness at work/grievance procedure should early resolution not be achieved.

Any investigation arising from the initial meeting will be undertaken using one employer process with the lead employer chairing any panels and it could be an employee from a different organisation that is involved at that stage. There will be one investigation report prepared by the person undertaking the investigation and this investigation report will be used at all other subsequent stages and/or any other procedures that may be invoked by either NHS or Council.

Should there be a need to consider any other Policy arising from the complaint then reference would be made to the Policy of the employee concerned.

Communication

When progressing a joint complaint consideration should be given to the means of involving all concerned employees in the process.

Individual outcome letters from meetings/hearings/appeal hearings will be sent directly to all complainants named in the initial complaint.

Written Submission

Only those named in the initial joint complaint will be involved in the process as it progresses. Additional names cannot be included at later stages. All those named in the joint complaint should indicate that they are willing to put their name to the complaint either by signing the initial letter or at least providing email confirmation.

Representation

If there has been one joint complaint submitted it may be appropriate to request that one or two representatives of the group be nominated to attend any meetings/hearings. Those nominated can change at different stages depending on availability etc.

The Trade Union Representatives/Staff Side will be represented as per the relevant employer grievance/fairness at work process. Both employers will agree, for the purposes of this process, to recognise the relevant trade unions/professional organisations of the employing bodies within the partnership.

Early Intervention/Resolution

In order to resolve the issue at the lowest possible level all parties to the complaint should consider facilitated discussions, involvement of OD or mediation as an option for resolving the situation.

Further information on early resolution can be obtained from the respective Human Resources' Departments.

