

# LOCALA

## Grievance Policy

<b>Document Type</b>	<b>HR Policy</b>
<b>Who the Policy applies to</b>	<b>All Locala Colleagues</b>
<b>How to Access</b>	<b>ELSIE (intranet)</b>
<b>Issue Date</b>	<b>03<sup>rd</sup> May 2017</b>
<b>Next Review</b>	<b>03<sup>rd</sup> February 2020</b>
<b>Approved by</b>	<b>Board</b>
<b>Developed by</b>	<b>HR/Partnership Forum and colleagues</b>
<b>Lead Director</b>	<b>Director of Workforce</b>

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*Caring for you, locally*

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## **1. Introduction**

Grievances are concerns, problems or complaints that colleagues raise with their employers. They may relate to the behaviour of management or that of another colleagues that the aggrieved consider has been unfair and unjust.

Locala seeks to ensure that individual and collective grievances are resolved quickly and as close to the source as possible, so that disputes are avoided and the best possible patient care is maintained.

## **2. Locala Values**

Locala expect all colleagues to demonstrate our values as part of their day to day working lives; be caring, be inspirational, be part of it.

**Be caring...** putting customers at the heart of what we do and providing great customer service by giving and receiving support and respecting others.

**Be inspirational...** create a vision and get others to share it; engage and enthuse; take a positive approach to challenges and set high standards for self and others.

**Be part of it...** motivation to improve the performance of our services and make a real difference to others' health and quality of life. To be part of it at Locala, a person needs to be community-minded, able to build relationships and seek to continuously challenge themselves.

## **3. General Principles**

Normal working will continue until the Grievance procedure and all agreed avenues of conciliation and arbitration have been exhausted. However in some cases it may be appropriate to relocate any involved party/parties in the interest of patient care or where working relationships have broken down. This would be in discussion with the aggrieved party/parties and with Human Resources (and possibly Trade Union)

Grievances shall be dealt with in the agreed timescales unless all parties agree to an extension of timescales in exceptional circumstances.

All colleagues have the right to be accompanied at all stages of the formal Grievance Policy. This can be a Trade Union representative or a colleague not acting in a legal capacity.

Written documents will be kept by Locala during the grievance process. Records should be treated as confidential and kept in accordance with the Data Protection Act 1998. Copies of any meeting records should be given to the colleague, including any formal minutes that may have been taken to be verified and signed

In meetings involving collective grievances notification should be given of all the parties involved in the grievance. Depending on the numbers of individuals concerned 1 or 2 colleagues should be selected to present the case for the group. Where the group are represented by different Trade Unions/staff associations a representative from each will be able to attend but it is recommended that one representative is selected to lead the presentation of the case.

## **4. Responsibilities**

### **Line Managers**

- To respond to formal grievances as specified within this procedure

## **Colleagues**

- To ensure that they secure representation in accordance with the procedure if required
- To attend any formal meetings
- To provide all information appropriate to the case within the allocated timescales

## **Human Resources**

- Will ensure consistent application of this procedure
- Will attend grievance meetings and provide advice/support to the panels including support when writing any correspondence to the colleague
- Will be responsible for the taking of notes at hearings

## **Trade union/Professional Bodies**

- To support their members throughout the process
- If requested by the colleague, the representative may present the case on their behalf

## **5. Informal Stage**

Locala encourages the use of informal discussions to resolve a grievance. In the interests of promoting good working relationships, if a colleague or group of colleagues feel they have a grievance they should, in the first instance, raise the matter directly with their immediate line manager. If the complaint is against the person with whom the grievance would normally be raised, the colleague can approach that person's line manager or another Locala Manager.

Facilitated discussions are an alternative to any formal process that might be used for resolving conflict. It is a method of conflict resolution that brings those in disagreement together with an objective third party in assisting the two parties find a mutually agreeable solution. Facilitated discussions are voluntary and only work effectively when both sides take part in the process. This can be considered at any stage of the process.

Every effort should be made to resolve the grievance informally but if this is not successful the formal Grievance Policy should be followed.

## **6. Formal Stage**

The colleagues will inform their line manager in writing of their grievance using the grievance submission form in [appendix 1](#).

If the complaint is against the person with whom the grievance would normally be raised, the colleague can approach that person's line manager or another Locala Manager.

Whoever receives the grievance should send an acknowledgement of receipt within 5 working days.

On receipt of the written formal grievance the line manager will arrange for the grievance to be heard. The line manager will be accompanied by a member of the Human Resource team to ensure consistency in the use of this procedure.

The colleagues will be invited to attend a meeting to hear the grievance within 15 working days of receipt of the grievance. Colleagues should be reminded of their right to be accompanied by a trade union representative or work colleague not acting in a legal capacity. This meeting should address the basis for the grievance and how the colleague thinks it should be resolved.

The grievance will be fully considered and the colleague/colleagues will be notified of the outcome and the reason for the decision in writing 5 working days after the meeting.

## **7. Appeal Stage**

Should the colleague remain aggrieved following completion of the formal stage, they have the right to move to the appeal stage. A request to progress to the appeal stage should be sent by the colleague in writing using the form in [appendix 2](#), stating the reason they are unhappy with the decision to Human Resources within 5 working days following receipt of the written decision being made.

On receipt of this request, an appeal stage hearing will be arranged in accordance with the appeals procedure, [appendix 3](#). The panel will consist of a Director or designated deputy and an independent Trade Union representative (an accredited representative of an organisation that is not involved in the grievance), accompanied by a member of the Human Resource team. The panel may seek the advice of a clinical advisor in considering a grievance that concerns professional issues.

When inviting the colleague to attend the hearing, they should be reminded that they have the right to be accompanied as before.

This is the final stage of the grievance procedure, therefore the decision of this hearing will be binding.

## **8. Collective Grievance**

Where an issue affecting two or more colleagues is raised in writing by a Trade Union or a representative from the affected colleagues, it will be dealt with as a collective grievance.

A collective grievance should be resolved locally or informally where appropriate and where possible. If the matter cannot be resolved in these ways then a meeting will be arranged by a member of the senior management team, involving the Trade Union or colleague representative at the earliest opportunity to discuss the resolution as per the above formal process. If a resolution cannot be achieved at this meeting, the appeal stage above should be followed.

Colleagues raising a collective grievance in the absence of a Trade Union representative should elect a colleague representative to act on their behalf at meetings. The number of colleague representatives should not exceed two. When more than one Trade Union is involved in a collective grievance, a representative from each Trade Union should be involved but it is recommended that one representative is selected to lead the presentation of the case with input if necessary from the other Trade Union representatives.

Consideration may be given by Trade Unions to involving full time officials and external mediators to resolve a collective grievance.

The final appeal stage should be replaced with the guidance below on conciliation and arbitration.

## **9. Conciliation and Arbitration in Collective Grievance**

In the event of failure to agree and with the consent of both parties, the assistance of ACAS will be sought. ACAS will operate in a conciliatory role and if unable to resolve the collective grievance then by mutual agreement, an independent panel made up of ACAS officials may arbitrate.

Both parties to the dispute will accept the recommendations made. The decision of arbitration will be binding unless it conflicts with a directive of the Secretary of State for Health or nationally agreed pay and terms of employment.

## **10. Former Colleagues Raising a Grievance following the end of their Employment**

A grievance process will be open to those colleagues who have submitted a grievance within 15 working days of leaving Locala employment. This will consist of a grievance hearing, chaired by a member of the senior management team. The decision of the chair will be final and binding. The former colleague will be expected to attend the hearing as arranged.

The former colleague will be invited to attend the grievance hearing within 15 working days. The former colleague should be reminded of their right to be accompanied by a Trade Union representative or colleague not acting in a legal capacity.

## **11. Non –attendance at Meetings and Hearings**

The line manager arranging the meeting/hearings will attempt to find a mutually convenient time for both the individual and their representative within the timescale. If either the individual or their representative is unable to attend the meeting/hearing, for legitimate reasons, after it has been arranged the line manager will seek to arrange another suitable date. However, if the colleague or their representative fails to attend the second meeting, then the line manager may choose to reject the appeal and make no further attempts to re-arrange the meetings.

## **12. Safeguarding**

When dealing with issues/incidents under this policy there should always be a consideration of the potential safeguarding concerns e.g. whether or not an adult or a child has been or may be harmed. Should safeguarding concerns be identified the 'Safeguarding Children or Safeguarding Adults at Risk Policy' must be used.

## **Appendix**

### **1. Grievance submission form**

(NB this form is to be used to submit an initial grievance).

<b>Name:</b> <b>Job title:</b> <b>Department:</b> <b>Work Telephone No:</b>
<b>Details of</b> <b>Grievance/Dispute:</b>
<b>Desired outcome:</b>
<b><u>Colleague Signature:</u></b>
<b><u>Date:</u></b>

## **2. Grievance Final Appeal Report Form**

(NB this form should be completed and submitted within 5 working days following receipt of the written decision being made.)

**Name: Job title:**  
**Department:**  
**Work Telephone No:**  
**Trade Union/Staff Representative:**

**Outcome of formal stage**

**Basis of the Appeal and desired outcome:**

Please give brief details of the basis for your appeal. All applicants must complete this section:

**Colleague Signature:**

**Date:**



### **3. Grievance guidance**

#### **Formal stage**

A colleague must set out the details of the alleged grievance in writing, outlining the details of the grievance and the desired outcome. The formal submission form should be used, [appendix 1](#). The grievance should be dealt with at the level of management who has the authority to resolve the issue. Managers who have had previous involvement in the grievance are not permitted to hear the formal grievance.

When a formal grievance is received the manager will aim to set a meeting within 15 working days to discuss the basis of the grievance and how the colleague thinks it should be resolved. If further investigation is required, the colleagues should be notified of the extension and provided with an explanation. If the grievance is regarding another person(s), they will be in attendance at the meeting in order to respond.

Once a decision on the outcome has been made the colleague will be notified in writing within 5 working days.

#### **Before the appeals hearing**

If a colleague considers that the grievance has not been satisfactorily resolved at the formal stage, they must inform Locala that they wish to appeal against the formal stage outcome. This must be made in writing using [appendix 2](#), to Human Resources within 5 working days of the grievance outcome. A hearing will be arranged within 28 days of the appeal being received. Where it is not possible to adhere to this timescale the reason for this should be recorded and agreed with both parties.

The colleagues will be advised of his/her right to be accompanied by a trade union official.

The colleague/s will be informed who will be on the appeals panel hearing and any witnesses that will be called.

Both parties need to provide any information in writing that they want the panel to consider within 2 working days before the appeals hearing.

The colleague will be advised of his/her right to call any witnesses. Colleagues should note that it is their responsibility to ensure that any witnesses are available and willing to attend at the required date and time. In the witnesses absence a written statement may be presented to the panel but the panel may consider the evidence as having less weight if they have been unable to challenge it with the witness in person.

If either party fails to attend the appeals hearing, the panel will conduct the hearing in their absence and a decision made on the information available to them.

The panel will be able to postpone or adjourn the hearing if needed, with the agreement of both parties.

#### **At the appeals hearing**

The appeal panel will be chaired by a senior manager to the manager who originally heard the grievance, with a Human resource representative.

A tape/electronic recording of the hearing or the private deliberations would not normally be accepted.

Both parties will be given the opportunity to present their sides, this may include any witnesses. Questions will be allowed from both parties throughout the hearing.

Hearings should be conducted in a structured fashion as follows:

<ul style="list-style-type: none"> <li>• The Chair will introduce those present.</li> </ul>
<ul style="list-style-type: none"> <li>• The colleague will give his/her account of the matter.</li> </ul>
<ul style="list-style-type: none"> <li>• The Panel may permit questions of the colleague by the management side and may ask questions.</li> </ul>
<ul style="list-style-type: none"> <li>• The Panel may ask questions</li> </ul>
<ul style="list-style-type: none"> <li>• The colleague or their representative may call witnesses and present evidence</li> </ul>
<ul style="list-style-type: none"> <li>• The Panel may permit questions by the management side and may ask questions.</li> </ul>
<ul style="list-style-type: none"> <li>• The Panel may ask questions.</li> </ul>
<ul style="list-style-type: none"> <li>• The Panel may permit further questions by the colleague or their representative.</li> </ul>
<ul style="list-style-type: none"> <li>• The management side will then present their case to the panel</li> </ul>
<ul style="list-style-type: none"> <li>• The management side may call witnesses and present evidence.</li> </ul>
<ul style="list-style-type: none"> <li>• The Panel may permit questioning of the witnesses by the colleague or representative.</li> </ul>
<ul style="list-style-type: none"> <li>• The Panel may ask questions.</li> </ul>
<ul style="list-style-type: none"> <li>• The Panel may permit further questions of the witnesses by the management side.</li> </ul>
<ul style="list-style-type: none"> <li>• The colleague or their representative will sum up.</li> </ul>
<ul style="list-style-type: none"> <li>• The management side will sum up.</li> </ul>
<ul style="list-style-type: none"> <li>• The meeting will be adjourned to allow the panel to consider the case</li> </ul>
<ul style="list-style-type: none"> <li>• The Panel informs the parties of the decision by letter, normally within 5 working days of the hearing.</li> </ul>

The purpose of the hearing is to ascertain the facts and come to a considered decision. This process is to ensure that all parties have an opportunity to present and question evidence. Exceptionally the panel may vary the structure of the hearing if it believes that this will best serve the interests of justice, for instance, returning to question a party who has already given evidence in light of later evidence.

- All parties (except the witnesses) return when the outcome is delivered unless the hearing panel have not made a decision. In cases such as this all parties involved in the hearing (except the witnesses) will be informed of the panel decision within 24 hours
- The panel may at any time chose to call an adjournment to the hearing. This could be for a number of reasons including to request further information or clarification, to clarify points of procedure, emotional distress or to request further investigation of a previously undisclosed issue. This list is not exhaustive and it is for the panel to decide when an adjournment is appropriate.

### **After the hearing**

Letters advising colleagues of the hearing decision

- The letter must be sent within 5 working days of the hearing

- It must state who was present and in what capacity
- The letter must include a clear statement of the decision of the appeals hearing
- Any actions specified by the appeals panel.

### **Good Practice**

Always deal with disciplinary, capability and grievance matters as promptly as possible since time can cloud memory. In addition, prompt action helps alleviate the build-up of stress for the colleague facing the allegations.

Hold hearings away from the colleague's immediate work location to avoid embarrassment.

Ensure that the hearing is free from any interruptions.

Be prepared to adjourn the hearing in the event of emotional distress or the production of any issues/evidence that have not been fully investigated.

Be totally fair and objective.

Be thorough in allowing all involved in the hearing to contribute fully. If new evidence comes to light that requires further investigation, adjourn and reconvene the hearing if necessary (to secure a just outcome).

Consider the colleague's record if appropriate and general employment record prior to making a decision.

In the interests of consistency, check penalties imposed in similar cases in the past. The human resources department will provide advice.

Always ensure that correspondence produced is in strict accordance with the procedures.

Remember that disciplinary, grievance and capability action is intended to encourage an improvement in performance.

Seek advice from the HR department with regard to all disciplinary, capability and grievance matters.

Confidentiality must be fully respected when dealing with these matters. This includes the maintenance of records.

The procedure should be strictly followed. However, it is accepted that there can be good reasons for going straight to a specific stage of the procedure, i.e. if the gravity of an offence can result in the bypassing of stages.

Also current warnings can be reiterated and the timescale re-applied where a further minor offence is committed within the time duration of the current warning. This should be very much the exception as reiterations can indicate a lack of serious concern. However, if dismissal ultimately occurs then it is also important to demonstrate that the colleague has been given every opportunity to improve.

#### **4. Delegation for Managers with authority to take Grievance Action**

<b>Staff Category</b>	<b>Verbal Warning</b>	<b>Written Warning</b>	<b>Final Written Warning</b>	<b>Dismissal</b>	<b>Appeal</b>
Chief Executive	Chairman	Chairman	Chairman	Chairman	**Board Excluding Chairman
Directors	Chief Executive	Chief Executive	Chief Executive	Chief Executive	**Chairman of Board
Colleagues Band 7 and above, or equivalent.	Director/Head of Service	Director/Head of Service	Director/Head of Service	Director/Head of Service	**Panel
Colleagues band 1-6, or equivalent	Operational manager/Head of Service	Operational manager/Head of Service	Operational manager/Head of Service	Operational manager/Head of Service	** Panel

\*\* The level of authority recognises the need for flexibility in appointing the appropriate level of manager to deal with Grievance matters.

\*\* Appeal Panels in respect of Chief Executive Grievance action will include a Non-Executive Director, a Director, the Head of Human Resources and a staff side representative.

\*\* Appeal Panels in respect of Directors Grievance action will include the Chairman, a Non-Executive Director, the Head of Human Resources or nominated deputy and a staff side representative (belonging to a union not involved in the case).

## 5. Equality Impact Assessment Tool

To be completed and attached to any policy document when submitted to the appropriate committee for consideration and approval.

	<b>Insert Name of Policy</b>		
	<b>Capability Policy</b>	<b>Yes/No</b>	<b>Comments</b>
<b>1.</b>	<b>Does the policy affect one group less or more favourably than another on the basis of:</b>		
	• Race	no	
	• Ethnic origins (including gypsies and travellers)	no	
	• Nationality	no	
	• Gender	No	
	• Culture	No	
	• Religion or belief	no	
	• Sexual orientation including lesbian, gay and bisexual people	no	
	• Age	no	
	• Disability - learning disabilities, physical disability, sensory impairment and mental health problems	no	
<b>2.</b>	<b>Is there any evidence that some groups are affected differently?</b>	no	
<b>3.</b>	<b>If you have identified potential discrimination, are any exceptions valid, legal and/or justifiable?</b>		
<b>4.</b>	<b>Is the impact of the policy/guidance likely to be negative?</b>		
<b>5.</b>	<b>If so can the impact be avoided?</b>		
<b>6.</b>	<b>What alternatives are there to achieving the policy/guidance without the impact?</b>		
<b>7.</b>	<b>Can we reduce the impact by taking different action?</b>		