

# Concerns Resolution Guidance

## [Grievance and Dignity at Work]

### Introduction

University Hospitals of Derby and Burton NHS Foundation Trust (UHDB) recognises that from time to time there will be instances where individual colleagues or groups of colleagues may have concerns about their employment, relationships with fellow colleagues, working environments or acts or omissions of the Trust, for instance in relation to health and safety or terms and conditions of service. When these situations arise UHDB is committed to ensuring that all colleagues feel they can openly discuss their concerns and have access to a clear procedure to help resolve any concerns fairly and at the earliest opportunity, without unreasonable delay.

The Concerns Resolution guidance explores how colleagues can be supported to raise their concerns and how to seek support if they are unable to resolve themselves.

Our managers will listen to and review all concerns raised, ensuring that a resolution is reached fairly and compassionately considering a person-centred approach. This means we think about all colleagues at the heart of a situation, the context of the situation, how colleagues are feeling, and how support can be tailored to them.

### 1 – Raising Concerns Informally

UHDB believe that most concerns can be resolved quickly and informally through open communication and discussion with the line manager. You should approach your line manager and ask for a chat or meeting with them to discuss the concern you have. There may be a situation, where you observe a behaviour or attitude of a colleague towards a fellow colleague, that is not in line with the UHDB values. In such situation, you should use this guidance to report your observation as a concern to your line manager. As this is an informal approach, Trade Union representatives and People Services Advisors would not normally be part of the discussion, but advice and guidance may be sought prior to the meeting.

Your line manager will arrange this meeting, and it will be an opportunity for you to explain your concern and discuss any potential resolutions. Your line manager will listen and keep a record of how you have both dealt with your concern.

The record should include:

- What your concern was about
- What you have done personally to resolve your concern
- What additional support you require to resolve your concern
- Any agreed steps or actions; and reasons
- Clear, specific and measurable detail for example: 'colleague A will do action B by date C, because of reason D'

Your line manager may need to carry out further enquiries before coming to a conclusion and proposing a resolution. Once an outcome is reached, your line manager should discuss this with you and then summarise briefly in writing. It is important to understand, that it may not always be possible to achieve the desired resolution identified by you. If this is the case, your line manager will feed this back to you and the alternative outcome will be explained.

If you feel unable to speak to your line manager, for example, because the concern relates to them or if there is some other reason why you don't feel able to raise it with them, then you should speak informally to a more senior manager. Alternatively, you may wish to have an initial conversation with one of the Trust Freedom to Speak Up Guardian(s) who will listen to your concerns.

If your concern is relating to bullying, harassment and/or discrimination, please refer to the Trust's guide "Dealing with Bullying & Harassment" booklet for support including how to produce a diary of incidents or alternative ways to raise your concern.

Ways to resolve concerns informally:

- a) Personal Resolution:** You may be able to take steps yourself to resolve your concern; your line manager can support you with identifying the appropriate steps.

For example:

- Signposting you to another department
- Discussing your concern directly with your colleague, if there is a concern about working relationships

- b) Local Resolution:** Your concern may be something that can be resolved through a workplace adjustment or line manager intervention.

For example:

- An amendment to local operating procedures
- Additional training for those involved
- Changes to working hours or place of work
- Your line manager speaking to colleagues on your behalf highlighting your concern and agreed resolution.

- Your line manager speaking to a colleague to highlight the concern raised and supporting them through the desired resolution i.e. an apology for how they made you feel or for the perceived behaviour to stop.

**c) Facilitated Meeting:** Where the concern is relating to working relationships, a facilitated meeting is an informal way of allowing colleagues to discuss the concerns raised. The meeting will be arranged by your line manager [or where the concerns are relating to your line manager, the next manager in the structure]. This meeting can be facilitated by either your line manager, or another work colleague. The following should form part of the discussion:

- Details of the incident and/or concerns
- How the colleague raising the concern is feeling as a result of the above
- The other colleagues view of the situation
- Both parties to reach agreement on the way forward
- Expectations for any concerns raised not to be repeated
- Consideration on how mediation may be used as a way forward

The record and outcomes of this meeting should be circulated to you and other colleague[s] who were in attendance.

**d) Mediation:** Mediation is a voluntary process that takes place with the willingness of individuals involved in the breakdown of their working relationship to settle their differences through supported discussion. It is an informal process and will not form part of any formal proceedings.

The mediation process will include:

- an opportunity for all parties to be heard
- identification of issues to be resolved in mediation
- proposed alternatives for resolution
- if participants desire, a written agreement

More information on accessing mediation can be found on NET-i or by emailing [uhdb.coachingandmentoring@nhs.net](mailto:uhdb.coachingandmentoring@nhs.net).

If your concern cannot be resolved informally or the informal approach does not resolve your concern, you should follow Section 2: Raising Concerns Formally.

## 2 – Raising Concerns Formally

You should only use the Concerns Resolution Policy to raise a concern relating to your employment (see Concerns Resolution Policy for further details). You should always approach your line manager first as we believe most concerns can be resolved through an open dialogue. However, there may be times when your concern is not resolved through an

informal approach, or the situation is serious enough to warrant a formal process (for example when you report discrimination). If this happens then you will need to put in writing what your concern is and submit it to your line manager. This can be a letter, or an email and it will help you to organise your thoughts and think through the examples you want to share. If your line manager is part of your complaint, then you should approach another manager (usually a more senior manager). If you are unsure who the appropriate person is, then you should contact the People Services Advisory Team. Your concern will always be treated seriously. For further guidance and support you can speak to your Trade Union representative.

### **What to include in a written document?**

- Key facts (what happened)
- Dates (when did it happen)
- Location (where did it happen)
- Names of any colleagues involved
- What steps you have taken to resolve your concern informally
- What your desired outcome is to resolve the situation (what steps you want the organisation to take). Examples of what you may want us to do: to receive an apology, to take action about another colleague's conduct, to be paid correctly, to implement reasonable adjustments, to change your shift pattern, to apply another policy fairly and in a correct way.
- Any relevant documents that support your concern

If your concern is about civility and respect at work, then your line manager will ask you if you would feel comfortable for your concern to be shared with the person who you are complaining about. Your line manager will talk to you before your complaint is shared.

### **What happens when you submit your concern formally?**

The manager who received your concern will promptly acknowledge your concern in writing (this may be an email), normally within **seven calendar days** of you submitting your concern. There may be times when it may take longer to let you know your line manager received your concern (for example due to annual leave). You will be invited to a meeting to talk through your concern (we call it a concern resolution meeting).

Your line manager will agree a date and time with you for the meeting and will confirm the arrangements to you, without unreasonable delay after your concern has been received. You can bring a companion with you to the meeting (either a trade union representative or a work colleague). You should contact your companion and tell the manager holding the meeting who you have invited as your chosen companion, in good time before the meeting. In some situations, we may need to ask you to provide further information, prior to the meeting.

In situations where your concern is about relationship breakdown with another colleague, then your line manager will talk to you about working arrangements. It may be that you don't feel able to work together with the colleague you are complaining about. The manager will consider temporary changes such as working from home where possible, shift changes or amending start and finish times. Sometimes an alternative area or work can be considered, but this will only happen with your agreement.

### **What to expect from a concern resolution meeting?**

The purpose of the resolution meeting is to enable you to explain your concern and how you think it should be resolved, and to assist your line manager to reach a decision based on the available evidence. It is good practice to meet face to face, however it is fine to hold a meeting remotely (via MS teams), or by telephone if that is the preferred option (for example in a situation where it would be easier to meet virtually to avoid travelling).

It is possible that a note taker will be present to help create an accurate record of the discussion. Alternatively, the meeting may be recorded but your line manager would not do so without telling you. If you wish for the meeting to be recorded, you should obtain consent from all present. We ask that you do not covertly record the meeting.

A member of the People Services Advisor Team may join the meeting in an advisory capacity, and you may bring a companion.

We understand that it is not easy to share concerns and that you may feel anxious. You should tell the manager who is holding the meeting how you feel so that they can support you. You may want to ask to take a break during the meeting.

You will have an opportunity to explain in detail what your concern is and what you want to happen next. Your line manager will listen carefully and may ask you questions to help clarify facts to ensure they understand every aspect of your concern. The manager may also ask you to provide further information / evidence that supports your concern.

The manager will explain what will happen next and will give you some idea of how long you may need to wait for a decision.

The notes taken at this meeting will be shared with you to agree accuracy.

### **What happens after a concern resolution meeting?**

After you attend the initial concern resolution meeting, your line manager may carry out further enquiries into your concern as appropriate. The way in which your line manager does this, will depend on the nature of the concern and will vary from case to case. It may involve speaking to other colleagues, liaising with other departments, creating records of discussion, requesting statements from you and/or any other parties, reviewing relevant

documents and requesting further information from other departments. These enquiries will usually be carried out by your line manager however, there may be times when it may be necessary to carry out a formal investigation into your concern where we would appoint an alternative and independent Trust colleague (an Investigating Officer) to do so. This will be communicated to you. Roles and responsibilities are outlined in the Concerns Resolution Policy. Sometimes, your line manager may decide there is no need for any further investigations.

Your line manager will inform you of when you will receive the decision; the amount of time needed for a decision will depend on the concern raised and the amount of enquiries. If there are delays, for example where further investigation is needed, your line manager will explain to you how long the delay will be and why.

We ask that you co-operate fully and promptly in any enquiries. This may include informing us of the names of any relevant witnesses, disclosing any relevant documents to support your concern and providing any requested documentation/information in a reasonable timeframe.

It is possible that further concern resolution meetings may be arranged; and your line manager will communicate with you if that is the case. The manager will hold a further resolution meeting with you after the enquires / formal investigation and before a decision is reached.

### **When will you be informed of the outcome?**

At the final meeting your line manager will explain their findings, conclusions, and their decision. We hope that your concern is fully resolved and that you are satisfied with the outcome. We understand that there may be times when you may not be happy about the decision reached, but your line manager will discuss and explain any decision openly with you. The line manager will then write to you, usually **within seven calendar days** of the final meeting; this will include any further action that your line manager intends to take to support you in resolving your concern and/or the outcome that resolved your concern. Sometimes, it may take longer than a week to inform you of the outcome. If this happens, we will keep you informed of the timescales. It is important to recognise that all colleagues' concerns will be considered fully, and we will try to find a solution however it is possible that your concern may not be upheld; this should be clear in the outcome letter including all enquiries made when looking into the concerns. You will have the right of appeal (please see section 3 below).

In a situation where a formal investigation was carried out, a copy of the investigation report or a summary of the findings should be shared with you. The line manager will communicate this to you. In some cases, it is not appropriate to discuss some or all the actions your manager is taking as the result of you raising a concern. This is usually because

the other colleague(s) involved have the right to confidentiality. We recognise that you may feel dissatisfied, and we will only do this if we have a good reason not to tell you what actions we are taking.

### **What should happen after the decision is reached?**

If the concern is upheld and actions have been taken to resolve the concern, then the line manager should monitor the situation. The manager may arrange further follow up discussions with you to check that you are happy that the situation has been resolved and to enquire about your wellbeing and if further support can be offered. In a situation where the concern has not been upheld, it is possible that this can cause upset and/or anxiety. The line manager should offer further support as appropriate, for example a referral to Occupational Health for support or signposting to other support services such as the Employee Assistance Programme.

## **3 – Right to Appeal**

### **How to appeal?**

If you are dissatisfied with the outcome of the formal section of the Concerns Resolution policy, you may appeal in writing (this can be a letter or an email). The appeal should be made in writing, stating the full grounds of appeal, to the person identified in the decision letter within **14 calendar days** of the date of on which the decision was sent or given to you.

We will let you know when we receive your appeal inviting you to a meeting, without unreasonable delay. The meeting will be led by a more senior manager who has not previously been involved in any of the concern resolution meetings / investigations. You can bring a companion to the meeting (see right to be accompanied).

### **What to include in your appeal?**

Your letter or email will need to explain the reasons why you are appealing. Your appeal should include:

- What decision you are appealing
- When you were notified of this decision and how
- Your reasons for your appeal
- Your desired outcome

When providing the reasons for appeal, provide a summary of the detail for example, the way in which your concern has been handled, if you feel the decision is wrong and why or if you have new information that you feel should be considered.

## **What to expect from the appeal meeting?**

An appeal meeting will be arranged without unreasonable delay and conducted by a manager more senior to the manager who concluded Section 2 “Raising Concerns Formally”. The purpose of the appeal meeting is to discuss your appeal in more detail to enable the manager to reach a decision. Also in attendance will be People Services support (present in advisory capacity), and you may be accompanied by a trade union representative or a work colleague. It is possible that a note take will be present to help capture an accurate record of the discussion.

The manager holding the meeting will ask you to explain your appeal and may ask you further questions to clarify the facts. It is likely that the manager will adjourn the meeting to consider what has been said before they reach a decision. The manager will tell you how long you may need to wait.

Following the appeal meeting, the original decision may be confirmed or replaced with a different decision. The final decision will be confirmed in writing to you, within a timescale agreed at the appeal meeting. We will aim to do this within **7 calendar days**. Sometimes, it may take longer to inform you of the decision. If this happens, we will keep you informed of the timescales. There will be no further right of appeal against our decision.

## **4 – Right to be accompanied**

You may bring someone to support you at any meetings arranged during all stages of the Concerns Resolution Policy including informal meetings (to be read in conjunction with section 1). Your companion may be either a Trade Union Representative or a fellow work colleague. Legal representation is not permitted. You should tell the person holding the meeting who you have invited as your chosen companion, in good time before the meeting.

There may be situations where we would make reasonable adjustments, for example if you have a disability and ask to bring a carer or a family member for support who understands your needs, or if your first language is not English and you ask to bring someone who can help translate.

Your companion may take notes on your behalf, present information on your behalf and/or offer you moral support.

Your companion will not be able to answer any questions that your line manager may have, as this should come directly from you as it is your concern you are raising; they may supplement or assist with your answers. It is also important that the steps and actions agreed are between you and your line manager; your companion may make suggestions however unable to reject or accept suggestions on your behalf.



It will be your responsibility to make the necessary arrangements for this and provide your companion with any paperwork. Some companions may not be allowed: for example, anyone who may have a conflict of interest, or whose presence may prejudice a meeting.

Advice may be sought at any time from Occupational Health and People Services in the best interests of the individual and may attend meetings as appropriate.

## **5 – Reasonable Management**

There may be occasions where colleagues believe that the actions or behaviour of their line manager are disproportionate and/or concerning, however there is a difference between bullying and harassment and reasonable management actions and requests. All colleagues should be aware how their behaviours and actions can be perceived by others. Sometimes it is not what you say but how you say it.

Where colleagues believe that the actions or behaviour of their line manager are disproportionate and/or concerning, colleagues should attempt to approach their line manager to resolve the matter informally; the result of which would hopefully provide clarification and understanding of the actions or behaviour.

The following are examples of where concerns can occur however are not deemed as bullying and harassment:

- a reasonable instruction
- feedback on performance
- justifiable management intervention
- reasonable and justifiable feedback on performance
- conduct of other colleagues

If colleagues are not satisfied with their manager's response to their concerns regarding inappropriate bullying and harassing management then colleagues are encouraged to refer their concerns to the next line manager in the structure. Section 1 "Raising Concerns Informally" should be followed in the first instance.

Please see the Trusts guide for "Dealing with Bullying & Harassment" for examples of reasonable management and inappropriate bullying and harassing management.

## **6 – Vexatious Complaints**

A vexatious complaint is one that is raised without sufficient grounds; therefore, line managers may consider that the complaint is likely to be untrue or with primary purpose of delaying other procedures.

A vexatious complaint can also be a complaint that continues to be presented having exhausted internal procedures. This does nothing to undermine an employee's statutory rights (these are the legal rights you are entitled to).

## 7 – Support for Colleagues

We understand that it may be a difficult time when a concern is raised and that colleagues involved may feel anxious. We will look to provide support and guidance when the concern is raised, throughout the informal and formal process, any investigations that may take place and post any investigations / final resolution meetings. Managers will offer support such as reasonable adjustments and signpost to a number of sources.

### What support is available?

- Wellbeing resources on the intranet (net-i), wellbeing champions, 'my health and wellbeing plan' and wellbeing conversation, <https://neti.uhdb.nhs.uk/your-wellbeing>
- Occupational Health team
- Employee assistance programme, where colleagues can access support including counselling, financial advice etc.
- The National bullying helpline
- Advice can be sought from the People Services Advisory team and the Trade Union colleagues
- The Freedom to Speak Guardian (FTSU) offers a safe space for colleagues to raise concerns and will listen objectively.