

Livewell Southwest

Grievance Policy

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Notice to staff using a paper copy of this guidance

The policies and procedures page of the intranet holds the most recent version of this guidance. Staff must ensure they are using the most recent guidance.

Author: Human Resources

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Grievance Policy

1. Introduction

This policy lays down the appropriate steps to be taken by an employee or group of employees of Livewell Southwest wishing to seek redress in respect of any issue that gives rise to a grievance. This policy will ensure that Livewell Southwest is compliant with guidance issued by Advisory, Conciliation & Arbitration Services (ACAS), and with the Employment Act 2002 and the Employment Act 2002 (Dispute Resolution) Regulations 2004.

Livewell Southwest is committed to fairness and equity and values diversity in all aspects of its work as a provider of health and social care services and as an employer of people. We constantly strive to build a workforce that is representative of the community it serves.

Livewell Southwest is committed to eliminating all forms of discrimination on the grounds of age, disability, gender reassignment, marriage / civil partnership, pregnancy maternity, race, religion or belief, sex and sexual orientation in the provision of our services and in recruitment and employment. This enables an environment that is characterised by dignity and respect which is free from harassment, bullying and victimisation.

2. Purpose

- 2.1 This policy applies to all staff of Livewell Southwest. It is important to ensure the application of the most appropriate policy given the historical employment record of the employee raising a grievance concern, particularly as specific contractual policy arrangements may apply following transfer processes (known as TUPE).
- 2.2 The policy applies to all staff who are contracted to undertake work on behalf of Livewell Southwest. The policy applies to students undertaking professional training (on secondment if covered by appropriate agreement) at Livewell Southwest, and in some instances (depending upon prior agreement), other secondees. The policy does not apply to people who use our services, visitors or volunteer staff, where the separate Compliments, Concerns and Complaints Policy arrangements apply.
- 2.3 There is a separate Whistleblowing Policy.
- 2.4 Issues regarding job banding will be managed in accordance with Agenda for Change (AfC) processes and are not covered by this policy. However a grievance may be raised in relation to the operation of the AfC processes.

3. Definitions

- 3.1 An employee grievance is defined as real or perceived concern or complaint. This includes a complaint an employee may have that they are being bullied or harassed by another employee.

- 3.2 A collective grievance is defined as a real or perceived concern or complaint by two or more employees (or by a recognised Trade Union on their behalf) which questions the validity of any action (or inaction) taken (or not taken) by a manager or group of managers.

4. Duties and Responsibilities

- 4.1 Line Managers are responsible for:
- The effective implementation and monitoring of this policy and procedure at operational level.
 - Resolving grievance matters at the appropriate level (informal/formal).
 - Maintaining accurate and confidential records of all grievance matters in accordance with the policy arrangements.
 - Familiarising themselves with the policy and procedures and ensure that their staff are aware of how they can access them.
- 4.2 All employees are responsible for:
- Ensuring they are aware of the policy and their responsibilities.
 - Ensuring that they raise any grievance matters at the appropriate level (informal/formal).
 - Participate and engage in the process by providing full and detailed information as required.
 - Maintain confidentiality of the matter as appropriate.

5 Informal Resolution

- 5.1 As far as possible the organisation will endeavour to resolve any issues via informal resolution. (At this point, both manager and employee may agree to involve union representation and HR Representative for advice/support.) Involvement of Trade Unions and HR at this point does not constitute a meeting as described in Step 2 of the Formal 3-Step Policy. Where a resolution cannot be agreed through this process, then the Formal 3-Step Policy will be invoked.
- 5.2 It is anticipated that matters of informal grievances would usually be raised verbally to the relevant line manager however employees may choose to record their informal grievance on the Statement of Grievance form in Appendix A thus providing a framework to define the grievance matter and desired resolution at the informal stage.
- 5.3 Where allegations of bullying and harassment have been made, every effort must be made wherever possible to attempt to secure an informal resolution to the allegations. Details of how to manage allegations of bullying and harassment are described in detail in the Bullying and Harassment Policy.
- 5.4 Upon completion of the informal grievance a file note of the grievance concern, investigation information, and agreed outcomes shall be made within either the personnel file (held by HR) or line management file of the employee who raised the grievance initially. Appendix B Grievance Summary Outcome shall be used for this record. Where appropriate a record of agreed actions and outcome

arrangements shall be made on the line management file of employees concerned within the informal grievance matter.

- 5.5 Where it has not been possible to resolve a grievance by informal discussion, the policy (described below) should be entered into by raising a grievance in writing.

6 The Formal 3-Step Policy

6.1 Step 1: Statement of Grievance

- 6.1.1 Unless there are exceptional circumstances, a grievance will only be heard, either formally or informally, within three months of the issue in question. This time period will only be waived at the discretion of the senior HR representative.
- 6.1.2 If an employee is unsure of the Policy, they may seek advice from their HR representative or Trade Union representative. There may be circumstances where the Equality Act 2010 applies and where, as a reasonable adjustment, Livewell Southwest will support an employee in writing the Statement of Grievance.
- 6.1.3 The employee or Trade Union must set out the nature of the grievance in writing using Appendix A Statement of Grievance form and outline their preferred outcome and send the statement to the appropriate manager, which would usually be the line manager. If the grievance concerns their line manager, then the statement should be sent to the manager's manager. Head of Service or equivalent need to be informed of the grievance by the manager receiving the grievance.
- 6.1.4 It is not necessary for the written statement to set out the full details of the employee's grievance, nevertheless, it must contain sufficient information to make the broad nature of the grievance clear to Livewell Southwest. It is expected that any grievance will be sent in the form of a signed and dated Statement of Grievance form.
- 6.1.5 If the employee does not state that their complaint is a grievance, Livewell Southwest will, nevertheless, regard it as such. Moreover, if the employee does not send the grievance to the correct person, this will not affect Livewell Southwest's duty to comply with this Policy.
- 6.1.6 Alternatively a written Statement of Grievance may be contained in the employee's letter of resignation.

6.2 Step 2: The Meeting

- 6.2.1 An investigating manager will be allocated to review the matter, with support from a HR representative. An acknowledgement letter will be sent to the employee(s) within 10 working days of receipt of the Statement of Grievance. The employee will be invited to attend a meeting, within a

reasonable timescale (should be within 10 working days), to discuss the grievance. The employee will take all reasonable steps to attend the meeting (see Section 7.2 below regarding failure to attend).

The line manager is responsible for informing the other party that a grievance has been raised against them. This will be upon commencement of the formal process. They will also discuss any continued support that they require within the working environment.

- 6.2.2 The meeting will not take place unless the employee has informed Livewell Southwest of the basis of their grievance and outline their preferred outcome. This information need not necessarily be in the initial Statement of Grievance (Step 1) however, the managers may request particular information relating to the basis of the grievance prior to the meeting, which the employee will be obliged to provide, although this need not necessarily be in writing.
- 6.2.3 Managers' should not meet with any other witnesses, including the alleged perpetrator, until the initial meeting with the aggrieved staff member.
- 6.2.4 The investigating manager may decide whether or not to meet with concerned parties together.
- 6.2.5 After all meetings have taken place, the manager must inform the employee of their decision of the grievance and notify the employee that they have the right of appeal if not satisfied. If the grievance is in relation to a bullying and harassment claim, please see Section 6.2.9.
- 6.2.6 This decision and notification of right of appeal will be put in writing with a confirmation letter. In some instances, other parties may have a legitimate interest in the outcome of the grievance and shall be advised of the outcome accordingly.
- 6.2.7 Learning outcomes from the investigation will be fed back to relevant parties.
- 6.2.8 Upon completion of the formal grievance a record of the grievance concern, investigation information, and agreed outcomes shall be made within either the personnel file (held by HR) or line management file of the employee who raised the grievance initially. This record shall include the Statement of Grievance form (Appendix A) and Grievance Outcome form (Appendix B) as a minimum. Where appropriate a record of agreed actions and outcome arrangements shall be made on the line management file of employee(s) concerned within the grievance matter.

N.B:

- If Head of Service or equivalent raises a grievance, Step 2 will be heard by a Director.
- If a Director raises a grievance, Step 2 will be heard by the Deputy Chief Executive.

Bullying and Harassment:

6.2.9 A grievance alleging bullying and harassment will often involve a more detailed investigation and longer timeline. Please refer to the Bullying and Harassment Policy which is available on the intranet.

6.2.10 On completion of the investigation, where the investigating manager confirms the complaint (or in part) the allegations of bullying and harassment, they may recommend that further action is taken, including:

- Mediation/facilitation – this can be supplied via Occupational Health and Wellbeing, Trade Union/professional body or external provider.
- Consideration of redeploying one or both members of staff.
- Coaching, mentoring or training.
- Review the appropriate employee's job description/person specification.
- Remove management responsibilities, as appropriate.
- If a disciplinary sanction is felt to be appropriate, the Disciplinary Policy will be followed.
 - As the investigating manager would have fully investigated the allegations, (including meeting with the alleged perpetrator) there would be no requirement to undertake further investigations as described in the Disciplinary Policy. In this circumstance, it is anticipated that the Manager hearing the grievance at Stage 2 would present the disciplinary case.

This should not be seen as an exhaustive list.

6.2.11 The recommendations will be included in a short report, prepared by the managers with support from the HR representative, this will be sent to the Head of Service or equivalent for information and possible discussion.

6.2.12 Key points only from the investigation will be fed back to the complainant and alleged perpetrator by the investigation manager and the Head of Service.

6.2.13 Learning outcomes from the investigation will be fed back to relevant parties.

6.3 Step 3: The Appeal

6.3.1 The employee must put their appeal in writing. This letter should be received within five working days of receipt of the outcome letter by a senior HR manager.

6.3.2 As part of the appeal letter the employee must provide a full written statement within 10 working days from receipt of the outcome letter*. This will form the basis of the appeal hearing and any further investigations, so it is important that the employee sets out clearly the grounds upon which

the previous decision and management action is being contested; and indicates the outcome they are seeking. If the grievance appeal is unclear, they may be asked to clarify their complaint before the appeal hearing takes place.

- * For example:
- The correct process was not followed resulting in a detriment to the individual.
 - The sanction or outcome was unduly harsh.
 - Additional information has come to light that was not available for the initial hearing.

- 6.3.3 Livewell Southwest will respond to the notification of appeal within 10 working days, inviting the employee to the appeals panel, which should take place within one calendar month.
- 6.3.4 The employee will take all reasonable steps to attend the Appeal Hearing. (Please see Section 4.2 below regarding failure to attend).
- 6.3.5 After the appeal hearing has taken place, the Panel Chair must inform the employee of their decision of the appeal. There is no right to appeal this decision. This decision will be put in writing.
- 6.3.6 Upon completion of the appeal a record of the appeal, appeal hearing, any investigation information, and agreed outcomes shall be made on Grievance Appeal Outcome Summary form (Appendix C) within either the personnel file (held by HR) or line management file of the employee who raised the appeal.
- 6.3.7 Appeals Panel Members:

Panel Chair	Normally the Director of the Directorate in which the employee works. The Panel Chair may be delegated to a Head of Service or equivalent, who will in these circumstances assume an Acting Director role for the purposes of the hearing. The Panel Chair will have had no prior involvement with the case
Trade Union Representative	Trade Union Representative who has had no prior involvement with the case.
HR Representative	HR representative who has had no prior involvement with the case.

N.B:

- If a Head of Service or equivalent appeals a grievance, the Step 3 Panel Chair will be either the Director or Deputy Chief Executive or the Chief Executive if Directors have previously been involved. The HR Panel Member will be a senior HR manager from the HR department.

- If a Director appeals a grievance outcome, the Step 3 Panel Chair will be the Chairman or Non-Executive Director. The HR Panel member will be a senior HR manager from the HR department.
- It may be appropriate, in some instances, to involve a senior HR representative from a neighbouring Trust/Organisation, where Livewell Southwest's senior HR representative has had prior involvement

7. General Principles

7.1 Right to be Accompanied:

An employee has the right to be accompanied by a Trade Union representative or work colleague at any stage of this Policy. An employee cannot be represented by a barrister or solicitor working in a legal capacity.

7.2 Timing and Location of Meetings, and Failure to Attend

7.2.1 Where mentioned within this policy, all time schedules will, as far as reasonably practicable, be met.

7.2.2 All meetings will be held within a reasonable time-scale and without unreasonable delay, and at a reasonable location.

7.2.3 Wherever possible, the timing of meetings will be arranged with the employee. An employee will take all reasonable steps required to attend a meeting. If an employee does not attend a meeting without providing Livewell Southwest with a reasonable explanation (which will normally be an unforeseen circumstance) their failure to attend will absolve Livewell Southwest of any further obligation to hear the grievance. Nevertheless, the Manager (see Step 2) or Appeal Panel Chair (see Step 3) may decide to make a decision on the case based on the information available.

7.2.4 If it is not reasonably practicable for the employee, or their representative, to attend a meeting for a reason that was not foreseeable when the meeting was arranged, their failure to attend the meeting will not amount to a failure to comply with the policy. In these circumstances (which include the non-availability of a representative to accompany the employee), Livewell Southwest will invite the employee to attend a meeting at a reasonable time agreed with the employee that is within five working days of the time originally proposed by Livewell Southwest.

7.2.5 The duty to invite the employee to attend a further meeting ends if Livewell Southwest has invited the employee to attend two meetings and on each occasion the employee, or their representative, has been unable to attend owing to unforeseen circumstances. In this instance, the Manager (Step 2) or Appeal Panel Chair (Step 3) may make a decision based on the information available.

7.3 The Meetings

- 7.3.1 The meetings at both Step 2 and 3 will be held in an inquisitive, non-adversarial manner, where all parties are enabled to fully state their case. Although the Manager/Chair may ask questions of either party, there will be no cross-examination.
- 7.3.2 The employee will be given the opportunity to explain how they would like the grievance settled.
- 7.3.3 In some circumstances the Manager (Step 2) or Appeal Panel Chair (Step 3) may decide to adjourn the meeting so that more information may be collected.
- 7.3.4 At both Steps 2 and 3, the employee will receive a response, in writing, of the outcome of the grievance.
- 7.3.5 An Appeals Panel (Step 3) will always be chaired by a manager of greater seniority than the manager who heard the grievance at Step 2.

7.4 Collective Grievances

If the same grievance is raised by more than one employee, it may be appropriate for the problem to be raised as a collective grievance. It will follow the same stages as above.

7.5 Vexatious or Malicious Allegations

At both Steps 2 and 3, the Manager/Panel Chair, may form the view that there is evidence to suggest that the grievance itself is malicious or vexatious. In these circumstances the Manager/Chair may convene an independent investigation team to investigate the matter under the Disciplinary Policy.

7.6 Disciplinary Action and the Grievance Policy

- 7.6.1 It is acknowledged that an employee may have a complaint that arises from disciplinary action being taken against them. In these circumstances, the grievance will be presented as part of the employee's case, and heard by the disciplinary panel.
- 7.6.2 An employee who is subject to disciplinary action raises (or has raised) an otherwise unconnected grievance, the grievance process and disciplinary processes will run separately and concurrently. However in cases of alleged gross misconduct and where the employee is suspended from work, the grievance may be heard after the disciplinary process has been concluded.

7.7 Current and Concluded Grievances

Livewell Southwest will not hear a formal grievance which has been raised by an individual concerning an issue which is being raised or has already been raised as a collective grievance.

7.8 Procedure for people who have left Livewell Southwest

7.8.1 Wherever possible a complaint should be dealt with before an employee leaves employment. However, an employee who has left employment and wishes to raise a grievance should write to their previous line manager, setting out their complaint as soon as possible after leaving employment, within two weeks. Where the complaint is about their former line manager, the complaint should be raised to their line manager's manager.

7.8.2 The manager who receives the complaint will set out their response in writing in conjunction with an HR Representative and send to the ex-employee. The response letter must be sent without unreasonable delay. There is no appeal process.

7.9 External Advice

In some circumstances, it may be appropriate, if all parties agree to seek either external mediation or arbitration.

7.10 Continuing Service During Grievance Processes

7.10.1 To maintain good working relations where employees and their managers are working to resolve grievance matters, it will generally be expected that both parties work normally.

7.10.2 Where a grievance matter is raised by the employee and concerns their line manager it may be appropriate to temporarily amend the reporting lines to the manager of the manager or explore opportunities for temporary redeployment to a suitable alternative role. Any such actions shall require the authorisation of the Head of Service and further advice is available from the HR department.

7.11 Confidentiality

Participants of grievance procedures, including those interviewed as witnesses and supporting complainants as representatives, are expected to maintain the confidentiality of the matter throughout the course of the proceedings and upon completion to prevent negative impact on the proceedings achieving a fair and accurate outcome.

8. Training Implications

Training will be provided to managers, as required, on their duties in relation to this policy.

9. Monitoring Compliance

9.1 This document will be reviewed every two-years or earlier if required, e.g. due to legislation changes.

9.2 The HR Department will be responsible for monitoring the effectiveness of this Policy in conjunction with managers and Trade Union partners.

All policies are required to be electronically signed by the Lead Director. Proof of the electronic signature is stored in the policies database.

The Lead Director approves this document and any attached appendices. For operational policies this will be the Head of Service.

The Executive signature is subject to the understanding that the policy owner has followed the organisation process for policy Ratification.

Signed: Deputy Heads of HR

Date: 18 March 2016

Appendix A – Statement of Grievance Form

Statement of Grievance Form			
Employee Details			
Name			
Job Title		Grade	
Locality/Department		Work base	
Line Manager			
Trade Union	<i>(If applicable please detail your trade union body and named representative supporting you with this matter.)</i>		

Date of Notification	
Date Line Manager Informed	

Grievance Stage	Informal / Formal / Appeal (please circle)
Substance of Grievance	Please detail the substance of your grievance, full names/roles of parties concerned, remedial actions taken to date, and attach any related correspondence if appropriate. Please include details of the desired outcome.

*All grievance notifications will be treated as strictly confidential.
This grievance will be acknowledged upon receipt and will be dealt with in accordance with Livewell Southwest's Grievance Policy.*

Authorisation	Employee
Name (block capitals)	
Signed	
Date	

Appendix B – Grievance Outcome Summary Form

Grievance Outcome Summary Form			
Employee Details			
Name			
Job Title		Grade	
Locality/Department		Work base	
Line Manager			
Trade Union	<i>(If applicable please detail the trade union body and named representative supporting with this matter.)</i>		

Date of Step 1 Notification	
Date of Step 2 Meeting	
Name of Manager Processing the Grievance	
Names of Any Other Parties (e.g. witnesses interviewed, HR support, or other)	

Grievance Stage	Informal / Formal / Appeal (please circle)
Summary of Grievance	

Outcome of Grievance	
Actions / Next Steps	
Date Outcome Issued	

<i>A copy of the Grievance Outcome Summary Form shall be stored on the line management or personnel file (with the HR department).</i>	
Authorisation	Line Manager
Name (block capitals)	
Signed	
Date	

Appendix C – Grievance Appeal Outcome Summary

Grievance Appeal Outcome Summary Form			
Employee Details			
Name			
Job Title		Grade	
Locality/Department		Work base	
Line Manager			
Trade Union	<i>(If applicable please detail the trade union body and named representative supporting with this matter.)</i>		

Date Step 3 Appeal Submitted	
Appeal Panel Members	
Date of Appeal Hearing	

Summary of Appeal Grounds	
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Outcome of Appeal	
Actions / Next Steps	
Date Appeal Outcome Issued	

<i>A copy of the Grievance Appeal Outcome Summary Form shall be stored on the line management or personnel file (with the HR department).</i>	
Authorisation	Appeal Chair
Name (block capitals)	
Signed	
Date	

Appendix D – Grievance Process Flowchart

The following flowchart is provided to support the Livewell Southwest Grievance Policy with specific regards to the Grievance Process.

Review the full [Grievance Policy document](#) for details. [Click here](#) for details of manager's toolkit sessions.

