



COLLECTIVE DISPUTES POLICY

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CARDIFF AND VALE NHS TRUST

COLLECTIVE DISPUTES POLICY

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CARDIFF AND VALE NHS TRUST

COLLECTIVE DISPUTES POLICY

1. POLICY STATEMENT

- 1.1 The Trust believes that fairness, equity and consistency in all its dealings with staff is essential and aims to conduct its business with the support and co-operation of staff. However, it recognises that there will be occasions when management and a group of staff fail to agree and the purpose of this policy is to ensure these issues are resolved promptly and fairly.
- 1.2 This document is written in accordance with the stated core values of the Cardiff and Vale NHS Trust, which are:
- To work in a spirit of partnership, co-operation and collaboration with all organisations whose work influences health
 - To provide our services in a climate of openness and inclusiveness
 - To foster a culture of individual, team and organisational accountability
- 1.3 Implicit within the aims and values of the Trust are principles relating to equal opportunities. The Trust regards equal opportunities as a cornerstone of its service to patients and treatment of staff. Consequently, all Trust strategies and policies will endorse the principles and practice of the Equal Opportunities Policy.
- 1.4 This Policy also takes account of Part 1 of the Employment Rights Act 1996 (formerly the Employment Protection (Consolidation) Act 1978), which states that employers must outline the person, by description or otherwise, to whom the employee can apply for the redress of any grievance and how such application should be made.
- 1.5 The Collective Disputes procedure is designed to provide a framework to resolve collective disputes, which are open to local negotiation and resolution in a fair and consistent manner as near to the point of origin as possible.

2. PRINCIPLES

The policy is founded on the following principles:

- 2.1 The policy applies to all members of staff who belong to a Trade Union or Staff Organisation recognised by the Trust for negotiation purposes.
- 2.2 That all staff shall be treated equally and fairly.

- 2.3 That all parties shall aim to resolve the dispute at the earliest stage of the procedure.
- 2.4 That, notwithstanding point 2.3, all staff shall have the right to take the dispute to all stages of the procedure.
- 2.5 That the collective dispute shall be raised and dealt with promptly and as close to the source of the dispute as is possible.

3. SCOPE OF THE POLICY

- 3.1 A “dispute” according to this procedure is concerned with the existence of a disagreement or difference relating to claims by employees or proposals by management.
- 3.2 The policy will not apply where adequate procedures already exist, or where statutory requirements may be contravened. For example:

- **Disciplinary matters**
These will be dealt with under the Disciplinary Policy
- **Disputes relating to individual employees**
These will be dealt with under the Grievance Policy
- **Disputes involving staff who do not belong to a recognised Trade Union or Staff Organisation**
These will be dealt with under the Grievance Policy
- **Disputes relating to Whitley Council/ Agenda for Change matters***
These will be dealt with under the Grievance Policy
- **Policy matters which are not negotiable with the Trust***
For example directives from the National Assembly for Wales
- **Changes in working practices related to appropriate statutory requirements***

*For these matters the Trust will use the appropriate communication channels and involve the staff in the change process associated with these issues.

4. INFORMAL PROCESS

- 4.1 When a dispute arises related to terms and conditions of employment open to local negotiation, every attempt by the parties to the dispute should be made to

settle the matter at the lowest operational level before entering into the formal procedure. This should be the most natural way of resolving any differences and every effort will be made by both parties to resolve the issue, informally.

On resolution of the issue a contemporary note should be made of the terms of the settlement and a copy kept by each side. A copy should also be forwarded to the Service Group Human Resources (HR) Manager.

5. FORMAL PROCEDURE

- 5.1 If the dispute cannot be resolved informally, the nature of the dispute and the redress sought should be clearly defined in writing by the staff representative on the form for registering and processing a collective dispute (see annex 1).
- 5.2 The form should be forwarded to the Service Group HR Manager.
- 5.3 On receipt of the form the HR Manager will refer the matter together with the dispute form to the appropriate Manager who will pursue the dispute in line with the formal stages of this procedure (see annex 2).
- 5.4 In exceptional cases, where the issue(s) concerned are deemed to be very serious indeed, the parties can short circuit the usual disputes stages in order to more quickly address the matters in hand.

It is envisaged that such major issues would be discussed as a matter of urgency, initially at Deputy Director of Human Resources and Senior Staff Representative level. If then necessary the matter can be swiftly referred to the fourth stage of the disputes procedure.

All parties agree that this “fast track” approach is appropriate when the dispute or matter at hand is of a fundamentally important nature thereby demanding urgent attention by all concerned.

5.5 Status Quo Arrangements

Status quo is defined as that practice, arrangement or situation which existed prior to the change which led to the Collective Dispute and may apply unless the dispute is resolved or until the mandatory process is exhausted.

However it is recognised that there may be occasions when in order to maintain service provision it is not practically possible to apply this principle and where the current position must be maintained. In these circumstances the situation will be discussed with the aggrieved staff and staff representative. As such, with the agreement of the staff or their representative and the manager hearing the dispute, an interim or “halfway house” arrangement could operate pending the next stage of the collective dispute process. Consideration will also have to be given to timescale involved since the change was made. This departure from

the status quo arrangements will be the decision of the manager hearing the dispute at the next stage of the procedure.

To avoid unnecessary lengthy applications of the status quo, both parties to a dispute must adhere to the specified time limits for each stage unless agreed as outlined in paragraph 6.2.

If the dispute arises from the suspension or dismissal of an employee, disciplinary procedures will apply.

- 5.6 Staff Organisations, Trade Unions and Trust Management agree that processing disputes through this procedure is the best way to ensure that the issue is resolved and that effective and positive industrial relations are maintained. Accordingly, management and the recognised staff organisation involved strongly support the proper following of the procedure (or the fast track option outlined in 5.4) and therefore will not encourage the undertaking of any industrial action whilst the disputes procedure is being applied.

6. STAGES OF THE PROCEDURE

- 6.1 A registered dispute should follow the stages outlined unless the situation dictates that some stages be omitted as outlined in 5.4.
- 6.2 Every effort should be made to resolve the issue quickly and ideally the procedure should be completed within two months of the date when the dispute was first registered, unless both parties agree to an extension of the timescale.
- 6.3 Meetings between the parties to the dispute will be held within the period allowed, arranged by the Service Group HR Manager.
- 6.4 When agreement is reached at any stage the details should be agreed by both parties and carefully recorded on the registered dispute form (Annex 1). Copies of the agreement should then be given to the staff side and the HR Manager.
- 6.5 If the dispute is not resolved within the period allowed, or there is a failure to agree, the dispute will pass to the next stage. The HR Manager will be notified of the failure to agree. Please refer to the table at Annex 2 for details of each stage of the process.

7. COLLECTIVE DISPUTE MEETING

It is the aim of all parties at each meeting to ensure that there is clarity about the disputed issues and to work towards agreeing such actions as to enable them to be resolved. Use of the following process is advised at each of the formal stages to enable all parties to contribute fully to the discussion.

- 7.1 The Manager / Non Executive Director hearing the dispute will chair the meeting and as such will:

- 7.1.1 Introduce those present,
 - 7.1.2 Explain that the purpose of the meeting is to consider the collective dispute outlined on the Collective Dispute Form and any other information relevant to the case. The Manager / Non Executive Director will also confirm what documentary evidence has been submitted.
 - 7.1.3 Clarify the roles of those present at the hearing,
- 7.2 The Manager / Non Executive Director hearing the dispute will describe the procedure, that:
- 7.2.1 The staff and/or representative will outline the nature of the dispute and the redress sought and produce any relevant information.
 - 7.2.2 The Manager / Non Executive Director chairing the meeting and the Human Resources (HR) Representative may question the staff and/or representative.
 - 7.2.3 If appropriate, the individual/manager who is the source of the dispute, or the manager who has heard the dispute at an earlier stage may respond to the statements made. At this point in the meeting the manager will have an opportunity to present their case and produce any relevant information. Arrangements will be made for any other member of staff who has been involved with the dispute to attend the meeting.
 - 7.2.4 The manager may be required to answer questions from the aggrieved staff and/or the representative and from the Manager / Non Executive Director who is hearing the dispute and the HR Representative.
 - 7.2.5 The issues will then be discussed and potential remedies explored.
 - 7.2.6 An opportunity will be provided for any closing remarks from both parties at which time no additional material will be introduced.
 - 7.2.7 Throughout the meeting the Manager / Non Executive Director and HR representative will ensure that the meeting focuses on the collective dispute and on the redress sought by the staff involved.
 - 7.2.8 It may be necessary for the Manager / Non Executive Director and HR representative to adjourn to consider the issues in private. If

possible the way forward will be communicated the same day and all parties will be present to hear the decision being communicated. On the occasions where it is not possible to reach a conclusion at the end of a meeting, this decision will be communicated within the timescales outlined in annex two and recorded on the collective dispute form.

- 7.3 At any time during the meeting, the Manager / Non Executive Director chairing the meeting and the HR representative shall have the right to ask questions of clarification of anyone present or adjourn if necessary.
- 7.4 The staff with the collective dispute and/or the representative and the individual/ manager who is the source of the dispute, if appropriate, shall remain in attendance throughout the meeting.
- 7.5 The Manager / Non Executive Director chairing the meeting may, during the course of the hearing, request that further information including copies of documents, is produced from either party for clarification.
- 7.6 The decision will be confirmed in writing within the agreed timescales. The Form of Registering and Processing a Collective Dispute (Annex 1) will be completed and copies sent to all relevant parties.

8. APPEALS

- 8.1 When stages 1- 3 of the procedure have been exhausted, the dispute will be referred within 15 working days of registering a failure to agree at the third stage, to a panel consisting of:
 - Non Executive Director
 - Trade Union/Staff Organisation representative (to be nominated by the staff side from an organisation not in dispute)
 - Executive Director

The Director of Human Resources, or representative, will service the panel. Persons directly involved in the dispute should not be members of the Appeal Panel. The role of the Appeals Panel is to explore the issues that have given rise to the dispute with a view to reaching an agreed settlement and/or decision.

- 8.2 At least 10 working days before the Appeal Panel meets, statements of case outlining each of the matters in dispute must be drawn up by both the management representatives and the trade union/staff organisation involved. These statements, together with relevant supporting documents, should then be exchanged and copies provided to the Appeal Panel.
- 8.3 The Non Executive Director will chair the panel.

- 8.4 Once the Appeal Panel has reached an agreed settlement and/or decision, this will be communicated to the parties involved within three days. The reasons behind the decision will not be disclosed. If this decision is accepted, the management and the staff affected will abide by it.
- 8.5 The recommendation of the panel will conclude this formal procedure. However, by joint agreement of the parties to the dispute, an unresolved dispute may be referred to ACAS for arbitration.

CARDIFF AND VALE NHS TRUST

FORM FOR REGISTERING AND PROCESSING A COLLECTIVE DISPUTE

DETAILS OF STAFF GROUP INITIATING THE COLLECTIVE DISPUTE

STAFF GROUP: _____

SERVICE GROUP: _____

WORK LOCATION: _____

STAFF ORGANISATION(S) INVOLVED: _____

NAME OF REPRESENTATIVE(S): _____

1. Statement by Employee/Staff Organisation Representative

a) Define the nature of dispute

b) Redress Sought _____

c) Discussed informally at immediate local level with:

(Name and Designation of Manager): _____

_____ on (date): _____

Signed: _____ Date: _____

TO BE SENT TO THE SERVICE GROUP HUMAN RESOURCES MANAGER

2. Action by HR Manager

a) Date Received: _____

b i) Dispute **does not** fall within the Collective Disputes procedure because:

b ii) Alternative advice given to the Staff Organisation:

c) Dispute **does** fall within Collective Disputes procedure.

Date Received: _____

d) Passed to immediate manager for statement on _____ (date)

Copied to Staff Organisation (s) on _____ (date)

3. Statement of Immediate Manager:

Signed _____ Date _____

(Copy to Staff Organisation (s) and HR Manager)

4. Dispute Resolved* Date _____

Please refer to section 8 and outline the nature of the settlement.

If the Dispute has not been resolved please sign below indicating that the Dispute will move to the second stage.

Passed to Stage 2 Signed _____ Staff Organisation

Signed _____ on behalf of the Trust

5. Dispute Resolved* Date _____

Please refer to section 8 and outline the nature of the settlement.

If the Dispute has not been resolved please sign below indicating that the Dispute will move to the third stage

Passed to Stage 3 Signed _____ Staff Organisation

Signed _____ on behalf of the Trust

6. Dispute Resolved* Date _____

Please refer to section 8 and outline the nature of the settlement.

If the Dispute has not been resolved please sign below indicating that the Dispute will move to the Appeal stage

Passed to Appeal Signed _____ Staff Organisation

Signed _____ On behalf of the Trust

7. Dispute Resolved* Date _____

Failure to Agree Signed _____ Chairman of Appeals
Panel

8. Nature of agreement reached:

Signed: _____ Staff Organisation

Signed: _____ on behalf of the Trust

Date: _____

9. Date Received: _____

Signed _____ HR Manager

Annex 2

TABLE OUTLINING THE TIMINGS AND THE PARTIES INVOLVED

STAGE	PERIOD WITHIN WHICH THE MEETING MUST BE HELD	PERIOD WITHIN WHICH TO REACH AGREEMENT FROM THE START OF THE MEETING	PARTIES TO THE MEETING EACH WITH A MAXIMUM OF SEVEN PERSONS ATTENDING	
1	5 days of the date when the dispute is first registered	3 days	Members of staff concerned and representative(s) of the Staff Organisation	Appropriate 1 st level of management and HR Representative
2	5 days of registering a failure to agree at stage 1 or the timescale is exhausted	3 days	Members of staff concerned and representative(s) of the Staff Organisation	Appropriate middle or senior level of management and HR Representative
3	10 days of registering a failure to agree at stage 2 or the timescale is exhausted	3 days	Members of staff concerned and representative(s) of the Staff Organisation	Appropriate senior or top level of management (except for the Chief Executive) and HR Manager
4 Appeal Stage	15 days of registering a failure to agree at stage 3 or the timescale exhausted	3 days	Members of staff concerned and representative(s) of the Staff Organisation	Chief Executive or delegated deputy and appropriate Non Executive Directors. The Chairman may be involved at his discretion

Please note: The timescale referred to in the above table exclude Saturdays, Sundays and bank/statutory holidays