

<b>Document Title</b>	Disputes Policy			
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**This policy supersedes the following documents which must now be destroyed:**

<b>Reference Number</b>	<b>Title</b>
NTW(HR)07 – V03.1	Disputes Policy

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## **1 Introduction**

- 1.1 Cumbria, Northumberland, Tyne and Wear NHS Foundation Trust (the Trust/CNTW) recognises that, in the interests of a good employee relations climate, a procedure should exist whereby all employees can have disagreements resolved as fairly, equitably and as near to the point of origin as possible. The Trust also recognises that the procedure should be as simple in operation and be capable of progressing the resolution of matters quickly. The provisions in this procedure apply to all employees of the Trust and their recognised staff organisations.

## **2 Policy Statement**

- 2.1 The Trust is committed to working in partnership with all staff side organisations.
- 2.2 Both sides agree that the disputes procedure should be needed very rarely as the Trust, its management and its staff organisations will seek to maintain a positive working environment involving regular communication and consultation. Issues will inevitably arise from time to time but, since disputes are potentially harmful to the workings of the Trust, Trust managers, in collaboration with staff and their local representatives, will be expected to resolve all but the most complex difficulties without recourse to formal procedures.
- 2.3 The Trust expects all its managers to communicate and consult with staff side organisations on a range of issues and both parties are fully committed to working in partnership to avoid, wherever possible, major disputes or conflict without the recourse to formal procedures.

## **3 Duties, Accountability and Responsibilities**

- 3.1 This Policy applies to all employees of the Trust.
- 3.2 The Policy complies with relevant and current legal and statutory requirements and will be reviewed by Workforce and ratified three yearly by the Business Delivery Group. It will be disseminated to identified contacts within Clinical Business Units, in liaison with Policy Administration.
- 3.3 Managers' responsibilities – include the requirement to adhere to this policy and the necessary actions contained within. Managers should also assess if a dispute can be resolved informally and if so, what actions can be taken accordingly.
- 3.4 Further advice and information is available from Workforce and Organisational Development Department.

## **4 Definitions of Terms**

- 4.1 Definition of a Dispute -A dispute exists when there has been a breakdown in discussions between management and a recognised trade union(s)/professional organisation(s) over an issue which, if it were to remain unresolved, would have potentially serious repercussions.
- 4.2 Matters concerning individual grievances, disciplinary matters and individual grading issues will be subject to separate arrangements.

## **5 Status Quo**

- 5.1 The status quo is defined as the existing arrangements in operation, agreed or customarily applicable prior to the raising of a dispute, except where a change has been implemented without proper consultation, when the status quo will be the arrangement, which previously applied. If the trade union / professional organisation has previously agreed to the proposed changes and a subsequent dispute is lodged before they come into operation, these agreed changes shall be regarded as the status quo.
- 5.2 Where a change is affected by a decision which departs from an existing agreement or arrangement and which has been referred to the disputes procedure, there will be an obligation to defer implementation of the decision until agreement is reached or procedure is exhausted.
- 5.3 There could be occasions when, because of the managers' responsibilities, particularly in relation to legislation, professional accountability or the safety and welfare of patients or staff that the status quo may not be possible. This may include responsibilities under the Health and Safety at Work Act (1974) or occasions when service provision may be significantly affected.
- 5.4 Should this be so, Senior Managers will formally write to the staff side organisation(s) giving a written explanation as to why the status quo cannot be maintained.

## **6 Timescales**

- 6.1 Disputes should be dealt with as speedily as possible and the time limits set out within this policy are those regarded as the normal time although they may be extended in order to continue negotiations.

## **7 Workforce and Organisational Development Directorate**

- 7.1 In order to ensure fairness and consistency in the application of the procedure, managers should utilise the Workforce Directorate's expertise in both the practical application of the procedure and the handling of the dispute. The procedure requires the involvement of the Workforce

Directorate at all stages. All correspondence relating to the dispute should be copied to the Executive Director of Workforce and Organisational Development or in her absence, a nominated deputy.

## **8 Representation**

8.1 All employees are entitled to be represented at all stages of the procedure by a trade union representative or a fellow employee (full time officers can be involved at any stage of the disputes procedure at the request of either the trade unions or Trust representatives).

8.2 The Trust will not request the involvement of full time officers, without prior discussion with local staff side representatives.

## **9 Reference to Named Posts**

9.1 Where the procedure refers to the involvement of certain officers, for example the Director level or Senior Manager level reporting to Directors, responsibility may be delegated to nominated managers where exceptional circumstances apply. Where the issue concerns professional practice, any party can decide whether appropriate professional advice from a third party is required.

## **10 Procedural Flexibility**

10.1 The point at which the procedure commences, or the omission of any of its stages, will depend entirely on the circumstances of the dispute and on the mutual agreement of both parties.

## **11 Informal Approach**

11.1 Whilst recognising the right of the employees and staff side organisations to pursue a dispute through the appropriate formal stages, the managers and staff organisations expect that attempts should be made to resolve issues on an informal basis.

11.2 This may involve both parties agreeing to meet informally with an independent third party; however, this will be discussed at each stage.

## **12 Disputes Procedure (see Disputes Procedure Flowchart page 5)**

### **12.1 Stage 1**

12.1.1 If a difficulty cannot be resolved informally, the relevant trade union representative or representative of the professional organisation will lodge a written report outlining the issue to the appropriate Clinical Business Unit (CBU) Associate Director/Head of Department and the desired outcome, making it clear that they are taking a first step in the procedure.

- 12.1.2 This will be acknowledged in writing by the CBU Associate Director/ Head of Department who will arrange a formal meeting within five working days to take place within ten working days. If resolution is not possible the matter can be referred to the next stage. A written record of the decision and the reasons for making the decision will be provided to all parties.

## **12.2 Stage 2**

- 12.2.1 If the difficulty cannot be resolved at Stage 1, the dispute will be lodged in writing with the appropriate Locality Director/Deputy Director, who will acknowledge receipt of the dispute in writing within five working days and arrange a formal meeting to take place within ten working days.
- 12.2.2 If resolution is not possible the matter can be referred to the next stage. The Locality Director/Deputy Director will provide a written record of the decision and the reasons for making the decision.

## **12.3 Stage 3**

- 12.3.1 In event of agreement not being reached at Stage 2, the dispute will be lodged in writing to the Executive Director of Workforce and Organisational Development, who will acknowledge receipt of the dispute in writing within five working days and arrange a formal meeting to take place within ten working days.

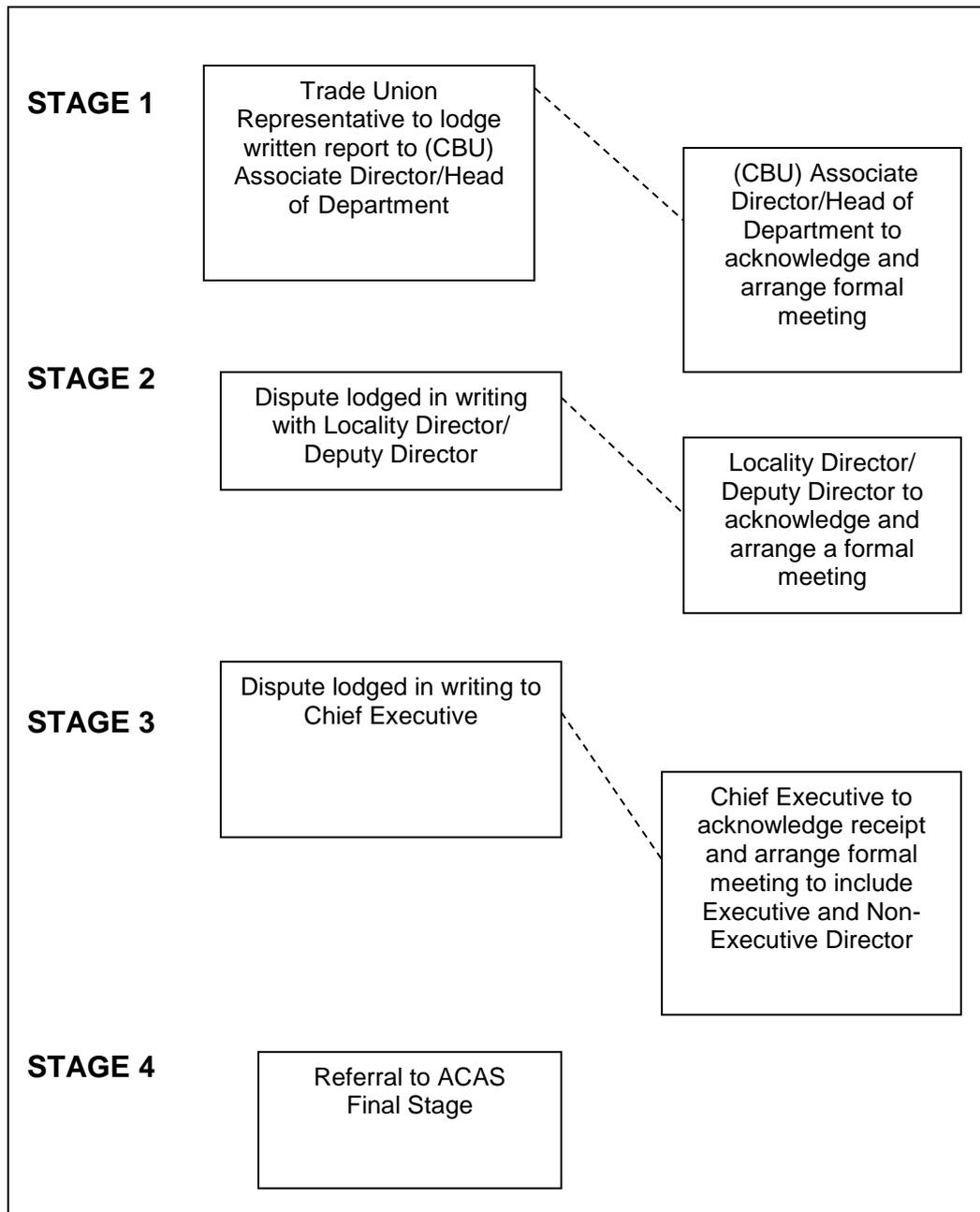
## **12.4 Stage 4**

- 12.4.1 If a resolution is not possible then either the Trust or the staff organisations may approach Advisory, Conciliation and Arbitration Service (ACAS) or mutually agree to refer the matter to ACAS for conciliation. This is the final stage in the procedure.

## **13 Related Provisions**

If a settlement is not reached and the procedure has been exhausted, then the Trust management will inform the employee(s) and staff organisation(s) of the action to be taken and give one week's notice of this. The staff organisation(s) will respond accordingly to the Trust within two weeks.

**Disputes Procedure Flowchart**



## **14 Review of this Procedure**

- 14.1 This Policy and Procedure will continue in existence until such time as either party sees the need to withdraw from it by giving not less than three months' notice of such intent. It will also be subject to annual review.

## **15 Identification of Stakeholders**

- 15.1 This policy has been reviewed and circulated for a 2 week Trust wide consultation.

- North Locality Care Group
- North Cumbria
- Central Locality Care Group
- South Locality Care Group
- Corporate Decision Team
- Business Delivery Group
- Safer Care Group
- Communications, Finance, IM&T
- Commissioning and Quality Assurance
- Workforce and Organisational Development
- NTW Solutions
- Local Negotiating Committee
- Medical Directorate
- Staff Side
- Internal Audit
- Health Safety Security and Resilience

## **16 Training**

- 16.1 Guidance on the use of this policy should be sought via the Workforce and Organisational Development teams.

## **17 Implementation**

- 17.1 The Policy has been implemented with immediate effect

## **18 Fair Blame**

- 18.1 The Trust is committed to developing an open learning culture. It has endorsed the view that, wherever possible, disciplinary action will not be taken against members of staff who report near misses and adverse incidents, although there may be clearly defined occasions where disciplinary action will be taken.

**19 Fraud and Corruption**

- 19.1 In accordance with the Trust's policy CNTW(O)23 – Fraud and Corruption/Response Plan, all suspected cases of fraud and corruption should be reported immediately to the Trust's Local Counter Fraud Specialist or to the Executive Director of Finance.

**20 Monitoring and Compliance (see Appendix C)**

- 20.1 The number of disputes and resolved disputes will be monitored via the 6 monthly report produced by the Workforce Directorate and sent to the Corporate Decision Team Workforce (CDTW).

## Appendix A

Equality Analysis Screening Toolkit			
Names of Individuals involved in Review	Date of Initial Screening	Review Date	Service Area / Locality
Chris Rowlands	Feb 2021	Feb 2024	CNTW
<b>Policy to be analysed</b>		<b>Is this policy new or existing?</b>	
CNTW(HR)07 - Disputes –V04		Existing	
<b>What are the intended outcomes of this work?</b> Include outline of objectives and function aims			
To resolve formal disagreements with Trade Unions, fairly, equitably and as near to the point of origin as possible			
<b>Who will be affected?</b> e.g. staff, service users, carers, wider public etc			
Staff			
<b>Protected Characteristics under the Equality Act 2010.</b> The following characteristics have protection under the Act and therefore require further analysis of the potential impact that the policy may have upon them			
<b>Disability</b>	N/A		
<b>Sex</b>	N/A		
<b>Race</b>	N/A		
<b>Age</b>	N/A		
<b>Gender reassignment (including transgender)</b>	N/A		
<b>Sexual orientation.</b>	N/A		
<b>Religion or belief</b>	N/A		
<b>Marriage and Civil Partnership</b>	N/A		
<b>Pregnancy and maternity</b>	N/A		
<b>Carers</b>	N/A		
<b>Other identified groups</b>	N/A		
<b>How have you engaged stakeholders in gathering evidence or testing the evidence available?</b>			
Through Policy Review process			
<b>How have you engaged stakeholders in testing the policy or programme proposals?</b>			
Through Review process			

<b>For each engagement activity, please state who was involved, how and when they were engaged, and the key outputs:</b>	
Policy Consultation Group, Staff Side	
<b>Summary of Analysis</b> Considering the evidence and engagement activity you listed above, please summarise the impact of your work. Consider whether the evidence shows potential for differential impact, if so state whether adverse or positive and for which groups. How you will mitigate any negative impacts. How you will include certain protected groups in services or expand their participation in public life.	
No impact	
<b>Now consider and detail below how the proposals impact on elimination of discrimination, harassment and victimisation, advance the equality of opportunity and promote good relations between groups. Where there is evidence, address each protected characteristic</b>	
<b>Eliminate discrimination, harassment and victimisation</b>	N/A
<b>Advance equality of opportunity</b>	N/A
<b>Promote good relations between groups</b>	N/A
<b>What is the overall impact?</b>	N/A
<b>Addressing the impact on equalities</b>	N/A
<b>From the outcome of this Screening, have negative impacts been identified for any protected characteristics as defined by the Equality Act 2010? NO</b>	
<b>If yes, has a Full Impact Assessment been recommended? If not, why not?</b>	
<b>Manager's signature:</b>	<b>Chris Rowlands</b> <b>Date: Feb 2021</b>

## Appendix B

## Communication and Training Check List for Policies

## Key Questions for the accountable committees designing, reviewing or agreeing a new Trust Policy

Is this a new policy with new training requirements or a change to an existing policy?	Existing Policy
If it is a change to an existing policy are there changes to the existing model of training delivery? If yes specify below.	N/A
Are the awareness / training needs required to deliver the changes by law, national or local standards or best practice?  Please give specific evidence that identifies the training need, e.g. National Guidance, CQC, NHS Resolutions etc.  Please identify the risks if training does not occur.	N/A
Please specify which staff groups need to undertake this awareness / training. Please be specific. It may well be the case that certain groups will require different levels e.g. staff group A requires awareness and staff group B requires training.	Guidance on the use of this policy should be sought via the Workforce and Organisational Development teams.
Is there a staff group that should be prioritised for this training / awareness?	N/A
Please outline how the training will be delivered. Include who will deliver it and by what method.  The following may be useful to consider: Team brief / e bulletin of summary Management cascade Newsletter / leaflets / payslip attachment Focus groups for those concerned Local Induction Training Awareness sessions for those affected by the new policy Local demonstrations of techniques/equipment with reference documentation Staff Handbook Summary for easy reference Taught Session; E Learning	Guidance on the use of this policy should be sought via the Workforce and Organisational Development teams.
Please identify a link person who will liaise with the Training Department to arrange details for the Trust Training Prospectus, Admin needs etc.	N/A

**Appendix B – continued****Training Needs Analysis**

<b>Staff / Professional Group</b>	<b>Type of Training</b>	<b>Duration of Training</b>	<b>Frequency of Training</b>
Workforce and Development	Awareness	As necessary	As and when needed

**Should any advice be required, please contact:- 0191 245 6777 (Option 1)**

### Monitoring Tool

#### Statement

The Trust is working towards effective clinical governance and governance systems. To demonstrate effective care delivery and compliance, policy authors are required to include how monitoring of this policy is linked to auditable standards/key performance indicators will be undertaken using this framework.

<b>CNTW(HR)07 – Disputes Policy - Monitoring Framework</b>			
<b>Auditable Standard / Key Performance Indicators</b>		<b>Frequency / Method / Person Responsible</b>	<b>Where results and any associated action plan will be reported to, implemented and monitored;</b> (this will usually be via the relevant governance group).
<b>1.</b>	Number of Disputes in the Trust *	6 monthly report produced by the Workforce Directorate	Report sent to CDTW
<b>2.</b>	Number of Disputes resolved at Stage 1*	6 monthly report produced by the Workforce Directorate	Report sent to CDTW
<b>3.</b>	Number of Disputes resolved at Stage 2*	6 monthly report produced by the Workforce Directorate	Report sent to CDTW
<b>4.</b>	Number of Disputes resolved at Stage 3*	6 monthly report produced by the Workforce Directorate	Report sent to CDTW
<b>5.</b>	Number of Disputes resolved at Stage 4*	6 monthly report produced by the Workforce Directorate	Report sent to CDTW

\*Please Note: Where this is 0 it will not be reported.

The Author(s) of each policy is required to complete this monitoring template and ensure that these results are taken to the appropriate Quality and Performance Governance Group in line with the frequency set out.