

Flexible Worker Guidelines

Procedure for Raising Concerns

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Flexible worker procedure for raising concerns

1. Scope

This procedure is to be used when a flexible worker (FW) has a concern, problem or complaint regarding their assignment or terms of registration.

The procedure set out in this document may also be activated when a FW wishes to raise a grievance, and so, for the avoidance of doubt, these provisions serve as NHS Professionals Ltd (NHSP) grievance procedures for FWs. However, these procedures are not contractual and do not have any contractual effect during any Assignment or otherwise. The procedure may also be varied from time to time by NHSP at its discretion.

The procedure takes account of the ACAS Code of Practice 1: Disciplinary and Grievance Procedures (March 2015).

2. Procedure for Flexible Workers to raise a concern

FWs should first try to resolve their concern locally through the Client Relationship Team covering the Trust at which they are on assignment or to which Trust the concern relates to.

If the matter cannot be resolved in this way, then the FW should raise the matter formally via the NHSP online feedback channel using the form in Appendix 1. The form should also state that the FW wishes the concern to be dealt with under this procedure.

3. Resolving the concern

All concerns received under this process will be acknowledged by NHSP within five working days.

NHSP will then consider the concern and decide whether it can be resolved by correspondence or requires a meeting with the FW.

4. Resolving the matter by correspondence

If NHSP considers it is a matter that can be resolved in writing, for example because they agree with the concern, or because it involves explaining a company policy or procedure, then they will write to the FW with a response. This should be done promptly and without unreasonable delay.

If the FW is not satisfied with the written response, and they wish to take the matter further, they must write to NHS Professionals within five working days, with the reasons why. A meeting will then be arranged with the FW, under the arrangements below.

4.1 Resolving the matter by a meeting

If the matter is serious or complex, then NHSP may invite the FW to a meeting to discuss the matter further. A manager will be appointed to consider the concerns raised.

The meeting should be arranged as soon as possible, without unreasonable delay on either side, to enable the manager to hear the FW's concern.

The invitation must be made in writing. FWs have the right to be accompanied at these meetings (see section 6), this will be confirmed to the FW in the invite letter. It is a FW's responsibility to make arrangements with their chosen companion for them to accompany them at the meeting.

FWs must take all reasonable steps to attend the meeting. Where the FW provides an acceptable reason for themselves, or their represented nominated individual, as to why they are unable to attend a scheduled meeting, they will be invited to a meeting on an alternative date within 15 working days.

A FW will not be entitled to ask for more than one postponement of a meeting except in exceptional circumstances. Failure to attend a re-scheduled meeting or the reason why they are unable to attend is not considered acceptable may mean that NHSP will assume that the FW no longer wishes to proceed with the investigation of their concern(s) or may consider the facts and reach a decision in the FW's absence.

After the meeting or further investigation, the manager will decide upon the action to take and will inform the FW in writing of this. This will be done within five working days of the conclusion of the meeting or further investigation. In some circumstances, it may be necessary for the further investigation to take longer in which case NHSP will advise the FW of this, explaining the reason for the delay and the anticipated time it may take to resolve.

The manager must inform the FW of the right of appeal (section 5) if they are not satisfied with the outcome/action taken.

5. Appeal arrangements

5.1 Lodging an appeal

FW's must write to NHSP's Flexible Worker HR Department on form at appendix 2 if they wish to appeal within five working days of receipt of the meeting outcome letter. They must include the grounds for their appeal on the form.

FWHR will on receipt of the FW's appeal acknowledge the appeal within 5 working days.

5.2 Identifying who will hear the appeal

An Appeal hearing will be arranged to consider the grounds of appeal and the FW will be written to with details of the hearing and the right to be accompanied. An Appeal Hearing Panel will be appointed to hear the appeal. Any documentation gathered as part of the initial concern by either party to the case must be sent to the Flexible Worker HR Department who will pass this on to the Appeal Hearing Panel.

5.3 Setting up the appeal

FW's will be invited to an appeal hearing in writing and the invitation letter will include a reminder of the right to be accompanied. Witnesses must also be invited at the same time.

A FW will not be entitled to ask for more than one postponement of a meeting except in exceptional circumstances. Failure to attend a re-scheduled meeting or the reason why they are unable to attend is not considered acceptable may mean that NHSP will assume that the FW no longer wishes to proceed with the investigation of their concern(s) or may consider the facts and reach a decision in the FW's absence.

5.4 Appeal outcome

After the hearing, the FW will usually be informed of the outcome of the appeal in writing within five working days. There is no further right of appeal.

6. Right to be accompanied at Meetings and Appeal Hearings

The FW has the right to be accompanied/represented at meetings/hearings. They may be accompanied by a work colleague, trade union representative or a full-time trade union official. A trade union representative who is not an employed official must have been certified by their union as being competent to accompany the worker.

Should the FW wish to be accompanied, it is their responsibility to arrange representation in a timely manner and confirm to the Flexible Worker HR department at least 3 days before the Hearing, who they will be accompanied by.

NHS Professionals will confirm whether this is a reasonable request, for example, it would not normally be reasonable for a worker to be accompanied by a companion whose presence would be prejudicial to the meeting or appeal, or who is from a remote site/ different geographical area, when someone else suitable was available within the same site.

A companion may address the panel to make or sum up the FW's case, respond on behalf of the FW to any view expressed at the meeting and confer with the FW during the meeting. Companions do not have the right to answer questions on behalf of the FW or address the panel if the Worker requests them not to do so. Companions should also not prevent the FW from explaining their concern fully.

7. Concerns raised by FWs who are also trade union representatives

Where a serious concern is raised by a FW who is also a recognised accredited representative of a trade union or staff organisation, the matter should be discussed before the meeting with a full-time officer of the trade union concerned.

8. Concerns raised after registration ends:

Sometimes FWs may raise a concern after their registration with NHSP has come to an end. On such occasions, NHSP may consider inviting the FW to a meeting to discuss the issues raised and then respond in writing. Alternatively, it may be decided with the FWHR Department that a response can be provided in writing without a meeting.

Due to limitations of the Data Protection Act 1998, the onus is on the FW to notify FWHR of any change of address (both email and home) as communications will be either by post to the home address / email at the time of leaving.

NHS Professionals cannot be responsible for any delay caused by FWs not responding to correspondence.

9. Collective Concern:

A collective concern is a concern raised by more than one individual or their trade union representatives. Such concerns may relate to procedural issues, pay or terms of registration.

Collective concerns should be made in writing using form at Appendix 1 to the FWHR Department and should contain the following information:

- Names of individuals making the concern.
- Signature of the individuals to confirm their agreement that the concern raised is collective.
- Nature of the concern including relevant dates, facts of individuals associated with the concerns.
- Issues to be addressed.
- Desired Outcome.

The concern will not be addressed until the above is received by the FWHR Department.

Collective concerns will be dealt with in line with the Concerns procedure (Sections 4 and 4.1). Subject to the number of individuals that raise the concern, a decision may be made as to whether an appropriate representative is elected to attend meetings/hearings.

All individuals concerned will be advised in writing of the outcome of concerns raised.

10. Equal opportunities

It is NHSP's Limited policy to treat all FWs fairly and equally regardless of their gender, sexual orientation, marital status, race, colour, nationality, ethnic or national origin, religion, age or disability. In addition, NHSP Limited will ensure that no requirement or condition will be imposed without justification which could disadvantage individuals on any of the above grounds, or on the grounds of trade union membership.

11. Record keeping

Confidentiality will be maintained at all stages of the process and information provided and discussed will be treated in strictest confidence. To investigate concerns thoroughly, some details will have to be shared with those involved in the investigation including those complained about and witnesses.

Full confidential records should be kept of all concerns raised, including a record of:

- The nature of the concern;
- All interviews conducted;
- The response made;
- Any actions taken as a result
- The reasons for such actions;
- Details of any appeal and its outcome;
- Any subsequent developments.

In accordance with the Data Protection Act 1998, all records must be kept in safe storage and in confidence at all times. At the conclusion of the concerns procedure action, all records and documentation must be stored confidentially on the flexible worker's personal file, accessible only through the human resources department.

The FW should also be provided with copies of meeting notes and documentation relating to their concerns. However, in certain circumstances information may be withheld if the identity of witnesses needs to be protected.

Appendix One – Form to Raise a Concern- (Please complete and return to the FWHR Department at fwhumanresouces@nhsprofessionals.nhs.uk)

Flexible Worker’s (FW) Concern

This form is intended for use by any FW who wishes to raise a concern about the behaviour of a colleague, his/her manager or a third party, or any other workplace issue.

Where the FW requests that the concern be dealt with formally in line with the provisions set out in the Flexible Worker Guidelines for raising concerns, this form should be completed and NHSP’s procedure for raising concerns will be invoked.

In certain circumstances, FWs can request that their complaint be kept anonymous. Where possible, NHSP will respect an FW’s request for anonymity, but cannot guarantee that it will be able to do so.

Concern

FW’s Name:

NI Number:

Job Title:

Trust:

Date:

Summary of Concern:

Please set out the details of your concerns (providing as much detail as possible, particularly dates, times, locations and the identities of those involved). You may attach additional sheets if required.

Individuals involved in the alleged incident

Please provide any relevant dates, facts and the names and contact details of any people involved, including witnesses.

Desired Outcome:

Please set out how you would like to see your concern dealt with / resolved, and detail why and how you believe that this will resolve the issue.

Declaration:

I confirm that the above statements are true to the best of my knowledge, information and belief. I understand that making any false, malicious or untrue allegations may result in disciplinary action being taken against me by the organisation. (In the most serious cases, making false, malicious or untrue allegations can be treated as gross misconduct.)

Form completed by:	
Signature:	
For completion by the NHSP:	
Date form received by the NHSP:	
Name of recipient and job role:	
Signature:	

Outcome requested from the appeal:

Please set out what outcome you would like to see from your appeal, and why and how you believe that this will resolve the issue.

Declaration:

I confirm that the above is true to the best of my knowledge, information and belief. I understand that making any false, malicious or untrue allegations may result in disciplinary action being taken against me by the organisation. (In the most serious cases, making false, malicious or untrue allegations can be treated as gross misconduct.)

Form completed by:

Signature:

Date:

For completion by NHSP:

Date form received:

Name of recipient and job role:

Signature: