



Islington

Clinical Commissioning Group

Grievance Procedure

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3	APPLIES TO:	All Employees
4	COMMITTEE & DATE APPROVED:	NCL Joint Partnership Group, July 2015
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DOCUMENT CONTROL

Date	Version	Action	Amendments

BEFORE USING THIS POLICY ALWAYS ENSURE YOU ARE USING THE MOST UP TO DATE
VERSION



GRIEVANCE PROCEDURE

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1. Introduction

- 1.1. This procedure applies to all employees of Islington CCG. Other workers will be subject to the procedures laid out in any written agreement that exists between Islington CCG and/or the worker and/or the agency through which they work.
- 1.2. Islington CCG considers that it is committed to a fair, clear and consistent procedure for dealing with employee grievances.
- 1.3. Islington CCG recognises that management, employees and their representatives share a common interest in the quick settlement of issues causing dissatisfaction, either to an individual or to a group of employees.
- 1.4. Wherever possible, Islington CCG encourages and expects that grievances will be raised and resolved informally and as locally as possible.
- 1.5. Islington CCG is mindful nonetheless, that informal resolution may not always be achievable or in some cases may not be appropriate for example where examples of gross misconduct have been alleged. In such circumstances it expects the formal stages of this procedure to be followed.
- 1.6. The grievance procedure sets out various timescales and any steps under this procedure will be taken promptly. However, the time limits in this procedure may be extended if it is reasonable to do so. Where this is necessary, the employee will be informed of the delay and the reasons for it.
- 1.7. If an employee has difficulty at any stage of the grievance procedure because of a disability, they should approach the manager dealing with the grievance for assistance.

2. Policies statement

Islington CCG's policies set out the organisation's standards and intentions, and are written with the aim of being as clear and comprehensive as possible. However, we operate in a dynamic and evolving work environment and attention should be paid to the spirit of the policy as well as the letter. Policies by themselves cannot guarantee effective behaviour or the delivery of key objectives. While they are designed to support the CCG, and the people working within it, our success depends on continuous, high quality effort by everyone the policy covers. Therefore thought must be given to good practice when applying or interpreting any of the CCG's policies, and you should read any guidance or supporting documentation that relates to this policy to help you do this. In addition, this policy should work in accordance with national and local guidance on child and adult safeguarding as applicable.

3. Scope of Procedure

3.1. The procedure does not apply to the following issues or concerns:

3.1.1. Misconduct or poor performance.

These matters will be dealt with in accordance with Islington CCG's Disciplinary Procedure including, in particular, through the appeal process set out therein.

If, in the course of a disciplinary process, a grievance is raised that relates to the case, management consideration will be given to either suspending the disciplinary process for a short time whilst the grievance is dealt with under this procedure or dealing with the complaint through the disciplinary appeal process. Where the matter is addressed and responded to via the disciplinary procedure the outcome will act as the final organisational response to the grievance process.

Alternatively, Islington CCG may appoint an alternative, neutral manager (or take the view that the already appointed manager is sufficiently neutral) to consider either the grievance alone (concurrent with the disciplinary process) or both the grievance and disciplinary matters as part of the same disciplinary investigation and process.

3.1.2. Any terms and conditions of employment that are either set nationally or by local collective bargaining procedures.

3.1.3. Grading appeals.

3.1.4. Matters relating to discrimination, harassment, victimisation or bullying, which will be dealt with under Islington CCG's Policy and Procedure for Dealing with Discrimination, Harassment, Victimisation and Bullying.

3.1.5. Reports of illegal activities, wrongdoing and/or malpractice within Islington CCG, which will be dealt with under the Raising Concerns at Work (Whistleblowing) Policy and Procedure. However, where the employee is aggrieved about their personal position and would like the matter dealt with as a grievance, the employee should use this grievance procedure or Islington CCG's Policy and Procedure for Dealing with Discrimination, Harassment, Victimisation and Bullying.

3.1.6. Any other matter for which a separate local procedure exists.

4. Who this policy applies to

This Policy applies to all Islington CCG employees.

5. Definitions used in this procedure

- 5.1. *Aggrieved employee(s) or the aggrieved:* The staff member or members who have lodged the grievance.
- 5.2. *Vexatious or malicious grievance:* A vexatious grievance is one that:
 - 5.2.1. Is based on deliberate misrepresentations or malicious;
 - 5.2.2. Lacks a serious value or purpose;
 - 5.2.3. Is not made in good faith, for example, it is designed to cause annoyance and disruptions; or
 - 5.2.4. Can otherwise fairly be characterised as manifestly unreasonable. For example, where an individual continues to raise the same issues that have previously been the subject of formal management and appeal processes.

Grievance Procedure

6. Informal Stage

- 6.1 Most grievance matters can be resolved quickly and informally through discussion between the individual and their manager. Consequently, a member of staff should raise any grievance matters initially with their immediate supervisor or manager and endeavour to resolve such concerns informally.
- 6.2 The employee can seek advice from their union representative to help with having this conversation. However, the main emphasis of this stage is for a direct and open conversation to occur between the employee and the manager with the aim of finding a fair, informal and amicable resolution.
- 6.3 A file note of this conversation should be made by the manager.
- 6.4 If the employee remains dissatisfied, they should follow the formal procedure set out below.

7. Formal Stages

- 7.1 During the formal stages involved in dealing with the grievance, the aggrieved employee has the right to be accompanied by a union representative or a work colleague to meetings held as a part of the process. The employee's companion may make representations and ask questions for the employee but they should not answer questions on the employee's behalf. Legal representatives, whether solicitors, barristers or otherwise, are not permitted to take part in the proceedings in any capacity.
- 7.2 If the employee wishes to be accompanied to a meeting under this procedure, they should notify the manager holding the meeting in advance, giving the

name of the employee's chosen companion within the deadlines specified in the letter of invitation to the meeting, if they are able to do so.

- 7.3 The aggrieved employee must take all reasonable steps to attend any meetings arranged under the grievance procedure.
- 7.4 In the event that a meeting relating to one of the formal stages is arranged for a time that is inconvenient for the aggrieved employee or their Union representative, the employee must immediately notify the manager holding the meeting and should suggest an alternative time and date that is not more than 5 working days after the initial meeting date.
- 7.5 Where the Union representative is known, effort will be made to set any meeting dates and times in consultation.

8 Formal Stage 1

- 8.1 If the employee's grievance has not been resolved informally, the employee should outline the nature of their concerns in writing using the standard pro-forma (attached to this grievance procedure), and send this to their next-in-line manager within 15 working days of the outcome of the informal stage.
- 8.2 The pro-forma from the aggrieved employee should be sufficiently detailed to allow the manager dealing with the grievance to understand the basis of the grievance.
- 8.3 On receipt of the pro-forma, the next-in-line manager (or their nominated alternative) will notify the individual, against whom the grievance is being taken, that a grievance has been submitted by the member of staff. The individual will be provided with details of the grievance. The individual will be given an opportunity to respond to the grievance.
- 8.4 The manager will take the most appropriate of the following actions, within 20 working days:

8.4.1 Mediation

Where there is scope for the grievance to be mediated, and all parties are in agreement, the manager will arrange for a neutral person to meet with both parties to facilitate discussion to resolve the grievance.

If this proves to be unsuccessful or where the matter is not considered to be suitable for mediation, the most appropriate of the remaining Stage 1 actions will then be taken.

8.4.2 Investigation and grievance meetings

Where there is a need for the manager to confirm facts or the nature of the complaint and/or its background facts require it, an investigation into the employee's grievance will be commenced.

The manager considering the grievance will arrange to meet with the member of staff who raised the grievance. A Human Resources' representative may be present at the meeting.

The purpose of the meeting will be for the member of staff to state their grievance, for those present to understand the full nature of the grievance, discuss the grievance and explore potential solutions.

The member of staff must take all reasonable steps to attend the meeting, and they may be supported and accompanied at the grievance meeting by a trade union representative or colleague. The member of staff should provide the name of any representative that will be assisting with their complaint in advance.

If the member of staff's representative is unable to attend on a proposed date, then the member of staff may suggest an alternative date provided it is within 5 working days of the original date. This 5-day time limit may be extended by mutual agreement.

If the member of staff does not attend either the original or re-arranged meeting, a decision may be made in their absence and the outcome confirmed in writing.

In certain circumstances, it may also be necessary for the manager investigating the grievance to carry out further investigations into the complaint, by meeting with the member of staff who is the subject of the complaint and/or any witnesses relevant to any of the matters complained of. If this is necessary, the manager will again forward any witness statements and/or relevant papers to the complainant. Copies will also be provided to any colleague or trade union representative assisting the complainant, and to the member of staff against whom the complaint has been raised.

A member of Human Resources will also be present at the investigation meeting. The member of staff must take all reasonable steps to attend the

meeting and they may be supported and accompanied to the complaint meeting by a trade union representative or work colleague. The member of staff should provide the name of any representative who will be attending with them.

The purpose of the investigation meetings will be for the member of staff to state their response to the complaint or for witnesses to provide information on specific matters under investigation. It may be necessary to undertake further investigations of their response, in which case the meeting may be adjourned in order to enable this to take place, and reconvened within a reasonable period of time agreed with both parties.

If the member of staff who is the subject of the complaint, or their representative, is unable to attend on a proposed date, then they may suggest an alternative date, provided it is within 5 working days of the original date. This 5-day time limit may be extended by mutual agreement between both parties.

If the member of staff against whom the grievance has been raised makes allegations that are relevant to the original complaint or complainant, they should be investigated simultaneously and before any disciplinary action is decided.

Following these meetings, the timetable for any further investigations will be made available to both the member of staff who raised the grievance, and the individual against whom the grievance has been raised. The investigating manager will endeavour to address the issue promptly.

The manager will ultimately have the responsibility to make a final decision with regard to the grievance and the manager will inform the employee of the outcome of the Stage 1 meeting in writing within 5 working days of the meeting or as soon as the investigation has been completed. The letter/ report will generally summarise:

- the nature of the grievance;
- the investigation that was conducted [if applicable];
- the decision;
- the reason for the decision; and
- any outcome for work and working practices as a result of the decision

The employee will also be notified of their right to appeal against the grievance decision.

A copy of meeting records or any formal minutes taken will also be enclosed.

A copy of the paperwork will be provided to the individual, against whom the grievance was raised, representatives of both members of staff, and the relevant line manager(s). If a prima facie case (sufficient evidence to prove there is a case to answer in accordance with the Disciplinary Procedure) is proven, a disciplinary hearing may be convened.

In certain circumstances it may be appropriate for the manager investigating the grievance to meet with the member of staff and the line manager, in order to explore any specific issues and/or to advise them orally of the decision.

There may be situations where, with mutual agreement, it would be helpful to seek external advice and assistance during the grievance procedure, or after it has concluded. For example, where relationships are strained, a mediator might be able to assist in resolving the problem. A mediator may be used to assist in the rebuilding of work relationships or to provide expert advice on a particular area of work. The mediator may be an external consultant or an agreed internal member of staff not directly connected with the grievance. The manager considering the grievance may recommend the use of a mediator with the agreement of both members of staff.

9. Grievance Outcomes

Except where successfully mediated, the following outcomes may be reached by the manager at the conclusion of Stage 1:

9.1 To uphold the grievance

If such a finding is made it will normally be appropriate for the manager to also recommend actions to remedy the situation.

9.2 Not to uphold the grievance

It may also be appropriate with such a finding to recommend actions, although it may be the case that no further action is required.

9.3 To find that the grievance is vexatious

If it is found that the grievance is vexatious, the manager should decide

whether it is appropriate to instigate disciplinary proceedings.

10. Formal Stage 2 (Appeal)

If the employee remains aggrieved after the Stage 1 decision, they may refer their grievance to Stage 2 by completing the standard pro-forma (see Appendix 2) and forwarding it to the HR Business Partner within 15 working days from the date of receipt of the outcome in which to set out the details of their appeal.

The hearing of a grievance at Stage 2 shall take place as soon as possible and, wherever possible, within 8 weeks of receipt of the pro-forma. This timeframe may be extended in exceptional circumstances or by agreement between the parties.

The Stage 2 grievance panel shall normally consist of a Director (or nominated representative) and 2 panel members. If relevant, one member of the panel should have knowledge of the field of work of the staff concerned.

The members of the grievance panel shall not include anyone who has been involved in the circumstances leading to the grievance.

Anyone that has been involved at an earlier stage of the grievance will not be present at the grievance hearing in any capacity, other than as a witness or as the management side or staff side representative.

The pro-forma from the aggrieved employee should be sufficiently detailed to enable the appeal panel to understand the basis of the appeal.

This pro-forma will be available to the respondent, who will submit a written statement setting out their response to the employee's grievance and the referral to Stage 2.

All written evidence/statements produced by either party should be exchanged before the Stage 2 hearing. This should take place a minimum of 5 working days before the hearing.

Only evidence heard/presented during previous stages is admissible at Stage 2 unless new information or evidence has come to light since the previous stages. In these circumstances the appeal panel will decide whether to pursue the new evidence. Appendix 1 sets out the procedure of a Stage 2 meeting. The Panel may exercise discretion in determining the most

appropriate procedure for the circumstances.

A member of the appeal panel will inform the employee of the outcome of the Stage 2 meeting in writing within 10 working days of the appeal meeting or as soon as possible thereafter.

11. Witnesses

If either party proposes to call witnesses to formal meetings, they shall only remain in the hearing whilst giving evidence or being questioned. Only one witness should be present at a time. If desired, witnesses may be represented by their appropriate trade union/professional organisation.

Other conditions that apply to the calling of witnesses shall be as outlined in Islington CCG's disciplinary procedures.

12. Status Quo

Where management seeks to change a term or condition of employment that is either agreed or is customarily applicable to employees or an individual employee's conditions, the existing conditions shall be maintained until agreement has been reached or the above procedure exhausted.

13. Vexatious Grievances

13.1 Islington CCG is confident that the majority of grievances raised by staff are not vexatious and would not deter any individuals from raising a grievance that is genuine and made in good faith.

13.2 In the event that a grievance is found to be vexatious, consideration will be given to taking disciplinary action.

Written grievances will be placed on an employee's personnel file along with a minimum of the records of any decisions taken, any appeal notices and the outcome of any appeals.

Appendix 1: Grievance Pro-forma

**Islington CCG
Grievance Pro-forma**

Name: _____

Address: _____

Telephone No. Work: _____ Home: _____

Please state your job title, grade and your department (BLOCK CAPITALS)

Job title and grade: _____

Department: _____

If a representative or work colleague has agreed to accompany you at meetings relating to this matter, please give their name and address below (BLOCK CAPITALS)

Name of representative/
work colleague: _____

Union or organisation: _____

Address: _____

Telephone No: _____

Email Address

You are advised to consult your representative before submitting this completed form.

Signed: _____ Date: _____

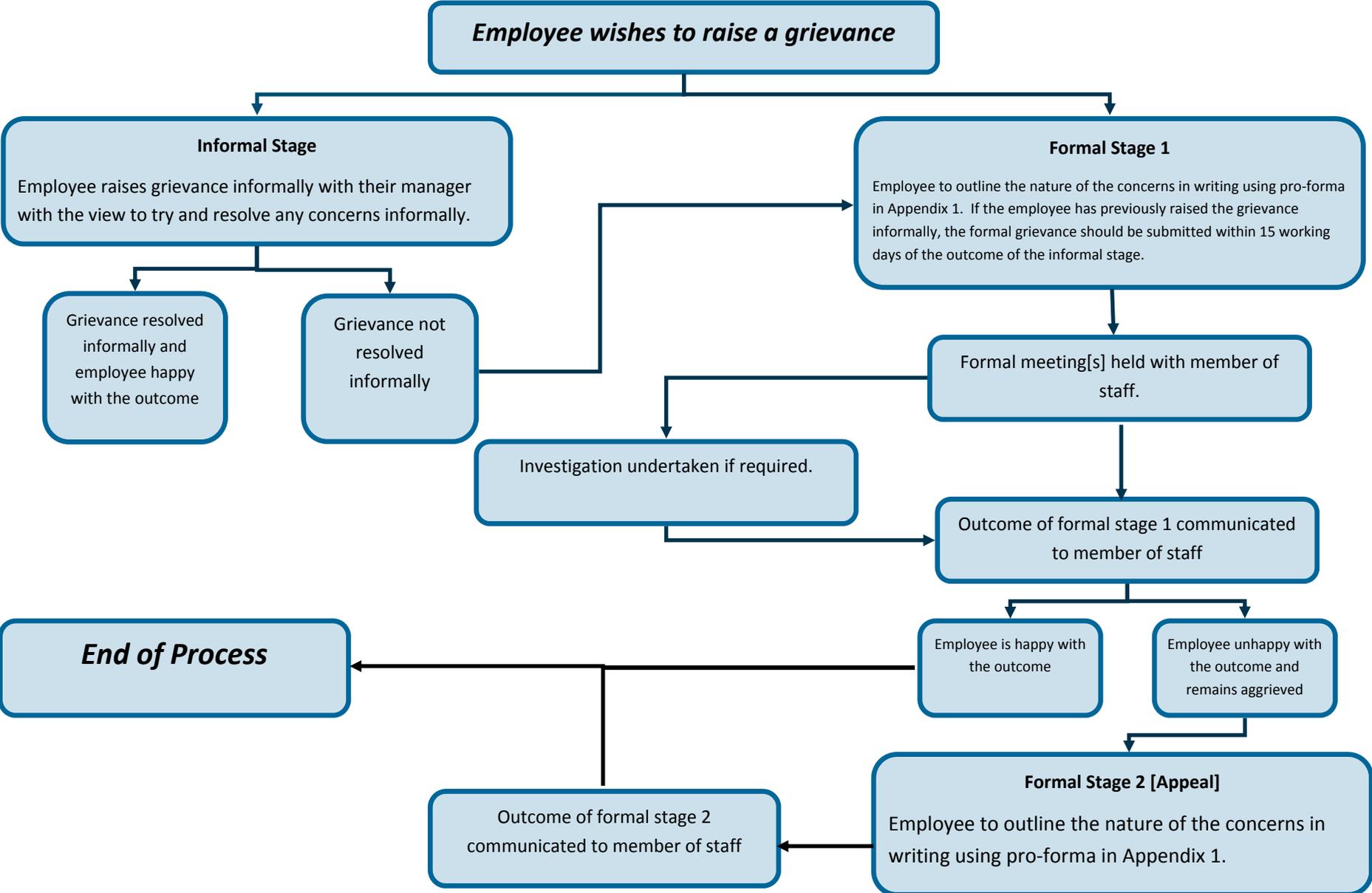
Note: Once you have formally lodged your grievance, it will be acknowledged in writing

Appendix 2: Grievance Meeting Procedure

1. The aggrieved employee or their representative shall put his or her case in the presence of Islington CCG's representative and may call witnesses.

2. Islington CCG's representative shall have the opportunity to ask questions of the aggrieved employee and their representative.
3. The members of the panel shall have the opportunity to ask questions of the aggrieved employee, and their representative.
4. Islington CCG's representative shall state Islington CCG's case in the presence of the aggrieved employee and their representative.
5. The aggrieved employee or their representative shall have the opportunity to ask questions of Islington CCG.
6. The members of the panel shall have the opportunity to ask questions of Islington CCG's representative.
7. The aggrieved employee or their representative and Islington CCG's representative shall have the opportunity to sum up their cases if they so wish. Islington CCG's representative shall have the right to speak last. In summing up, neither party may introduce any new material.
9. Nothing in the foregoing procedure shall prevent the panel from questioning management side and staff side as appropriate to clarify issues or seek supplementary information.
10. The panel may, at its discretion, adjourn the hearing in order that further evidence may be produced by either party or for any other reason.
11. Once the evidence has been heard, the aggrieved employee, their representative and Islington CCG's representative shall withdraw.
12. The panel, together with the officer appointed as secretary to the panel and where appropriate the assessor, shall deliberate in private, only recalling both parties and the representative to clear points of uncertainty on any evidence already given. If recall is necessary, both parties shall return notwithstanding only one party is concerned, with the point giving rise to doubt.
13. The decision of the Chair of the panel on questions of order, relevancy, regularity and his/her interpretation of the procedure shall be final.
14. All questions shall be put formally through the Chair.
15. The final decision will be notified to the aggrieved employee, their representative and Islington CCG's representative by the Chair within 5 working days of the meeting or as soon as soon as the investigation has been completed.

Appendix 3: Grievance Procedure Flow Chart



BEFORE USING THIS POLICY ALWAYS ENSURE YOU ARE USING THE MOST UP TO DATE VERSION

Equality Analysis Initial Assessment

Title of the change proposal or policy:

Grievance Procedure

Brief description of the proposal:

To ensure that the policy amends are fit for purpose, that the policy is legally compliant, complies with NHS LA Standards and takes account of best practice.

Name(s) and role(s) of staff completing this assessment:

Kasia Parfieniuk – HR Advisor

Date of assessment: July 2015

Please answer the following questions in relation to the proposed change:

Will it affect employees, customers, and/or the public? Please state which.

Yes it will affect all employees.

Is it a major change affecting how a service or policy is delivered or accessed?

No

Will it have an effect on how other organisations operate in terms of equality?

No

If you conclude that there will not be a detrimental impact on any equality group, caused by the proposed change, please state how you have reached that conclusion:

No anticipated detrimental impact on any equality group. The policy adheres to the NHS LA Standards and best practice. Makes all reasonable provision to ensure equity of access to all staff. There are no statements, conditions or requirements that disadvantage any particular group of people with a protected characteristic.

Please return a copy of the completed form to the Equality & Diversity Team

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