

# Grievance Policy and Procedure



<b>Please complete the table below:</b> <i>To be added by corporate team once policy approved and before placing on website</i>	
<b>Policy ref no:</b>	4
<b>Responsible Executive Director:</b>	Deputy Chief Executive & Chief Finance Officer
<b>Author and Job Title:</b>	HR Manager/HR Business Partner
<b>Date Approved:</b>	05 November 2018
<b>Approved by:</b>	Deputy Chief Executive & Chief Finance Officer
<b>Date of next review:</b>	04 November 2021

	Yes/No/NA	Supporting information
Has an Equality Impact Assessment Screening been completed?	Yes	
Has the review taken account of latest Guidance/Legislation?	Yes	ACAS Code of Conduct
Has legal advice been sought?	No	
Has HR been consulted?	Yes	
Have training issues been addressed?	yes	
Are there other HR related issues that need to be considered?	No	
Has the policy been reviewed by SPF?	Yes	
Are there financial issues and have they been addressed?	No	
What engagement has there been with patients/members of the public in preparing this policy?	None	Internal Staff only
Are there linked policies and procedures?	Yes	
Has the lead Executive Director approved the policy?	Yes	
Which Committees have assured the policy?	Yes	Governing Body JCC
Has an implementation plan been provided?	Yes	
How will the policy be shared with: <ul style="list-style-type: none"> <li>• Staff?</li> <li>• Patients?</li> <li>• Public?</li> </ul>	Yes	Via the BNSSG internet site – The Hub and dedicated communication to CCG employees
Will an audit trail demonstrating receipt of policy by staff be	Yes	

required; how will this be done?		
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## 1. Introduction

BNSSG is committed to resolving your problems, difficulties or dissatisfactions in a sensitive, fair and speedy manner. It is your right to seek an appropriate resolution to your problems at work.

This policy has been drawn up in accordance with The Employment Act 2002 (Dispute Resolution) Regulations 2004 and the ACAS Code of Practice on Disciplinary and Grievance Procedures. This now includes the right of recent ex-employees to raise a grievance once they have left the organisation using the Modified Grievance Procedure.

## 2 Purpose and scope

The policy applies equally to all employees and ex-employees who have left the organisation within the previous three months. It cannot be used where NHS national agreements are in place e.g. pay awards.

Wherever possible, managers and staff should make every effort to resolve a grievance or potential grievance informally at a local level before invoking the grievance procedure.

For those employees whose first language is not English or who have a disability, expressing themselves formally can be difficult. In these circumstances, managers and Human Resources representatives should encourage individuals to seek help from a trade union representative or work colleague. Under the Equality Act 2010, reasonable adjustments to Grievance Procedures must be made which may include assisting employees to formulate written evidence if they are unable to do so because of their disability. In such circumstances advice should be sought from a Human Resources representative.

Where a complaint is maliciously raised, the manager must discuss the case with a Human Resources representative. It may be appropriate in these circumstances to invoke the Disciplinary Procedure.

In cases where two or more employees raise a grievance on the same issue, this will be known as a "Collective Grievance". In such cases, an appropriate representative may set out details of the grievance in writing on behalf of the employees. An appropriate representative shall be defined as Trade Union Representative or a nominated member of the group.

A grievance raised by an employee whilst subject to disciplinary proceedings and the grievance has a bearing on the disciplinary proceedings, it can be raised as a relevant issue in the course of the proceedings and disciplinary proceedings may be suspended. In instances where an initial investigation into the grievance finds that the grievance and disciplinary cases are related it may be appropriate to deal with both matters concurrently.

If the grievance complaint is found to have no bearing on the matters being investigated the disciplinary proceedings will continue and the grievance meeting will be heard at the conclusion of the disciplinary process.

All information shared and discussed during the grievance processes shall be dealt with in strict confidence by all parties.

All parties agree that a status quo should be maintained wherever possible, pending resolution of the grievance.

### **3 Mediation**

Mediation may be considered at any stage of the procedure to secure an effective resolution. When considering mediation as a tool for resolution advice should be sought from the HR department. Mediation will be used only where all parties involved in the grievance agree.

### **4 Duties and responsibilities**

The responsibility for the provision of the Grievance Policy rests with the CCG's Governing Body. It is the responsibility of the CCG's Executive Team to ensure that the Policy is implemented through the organisation's line management structure.

#### **What are the Responsibilities of the Human Resources Department?**

It is the responsibility of the Human Resources Department:

- To provide training for all managers and on-going support in the application of the policy in individual cases
- To ensure the policy is continually reviewed and updated as appropriate

#### **What are the Responsibilities of Managers?**

It is the responsibility of managers:

- To ensure the employees are made aware of the Grievance Policy and Procedure and their responsibilities under the policy
- To take timely, appropriate action to deal with grievances, balancing the needs of the individual with the needs of the service
- To put thought into resolving grievances, remembering that a grievance is not the same as a disciplinary matter and is an occasion when discussion and dialogue may lead to an amicable solution
- To endeavour to resolve grievances raised at the lowest level of the procedure as possible
- To keep written records during the grievance process
- To ensure that a resolution deals effectively with the grievance and any relevant outcome is monitored and reviewed as appropriate
- To consider the confidentiality of information before providing or discussing it
- To inform their Human Resources representative when a formal grievance has been raised
- To contact the Human Resources Team to discuss the Modified Grievance Procedure for ex-employees if this is to be implemented.

## What are the Responsibilities of the Employee?

It is the responsibility of employees:

- To attempt to resolve the grievance as soon as possible by raising an issue normally with their line manager or an alternative manager, where appropriate
- Where an issue is with their line manager and it is inappropriate to raise the grievance directly, they should raise the grievance with the next level of management
- To detail the nature of their grievance in writing to the appropriate manager and complete the necessary forms attached (Appendix C)

## What is the Role of Staff Side?

It is the role of staff side to negotiate, raise concern, or provide support on the member's behalf as necessary in relation to this policy

## 5 Time Limits

To assist the speedy resolution of grievances, time limits are identified at each stage of the procedure. However, there may be circumstances where it is **not** possible to comply with these time limits, in which case all reasonably practicable steps will be taken to ensure that the relevant stage is completed as soon as is possible after the expiry of the appropriate time limit. Completion of each stage of the procedure must be taken without unreasonable delay.

In this policy where time limits referred to are in days these are regarded as calendar days. In the interests of employee relations every effort should be made to complete the relevant part of the procedure without delay. The time limits can be extended, for example to take annual leave into account.

## 6 Rights to Accompaniment

At informal stages it is not usually necessary for employees to be accompanied. However should an individual ask to be accompanied this should not be unreasonably refused. In such cases managers should seek advice from a HR representative.

At formal stages of the procedure, employees have the right to be accompanied by their staff side representative or work colleague not acting in a legal capacity. They must be informed of their right and then choose whether or not to exercise it. It is the employee's responsibility to make arrangements to be accompanied.

Please note, in order to minimise any potential distress for all parties, we can only accept representation from staff side representatives or work colleagues and not relatives or friends who are not employed by the organisation.

Further information on the right to be accompanied can be found in Appendix A.

## 7 What is a Grievance?

A grievance is an employment related problem which you individually or as part of a group cannot resolve informally.

Where appropriate, employees are encouraged to use mediation to resolve problems.

## **8 What Sort of Problems does this Procedure cover?**

Any employment related concerns. Examples would be:

- Terms and conditions of employment, health and safety issues, relationships at work, new working practices, organisational change, or equal opportunities
- If you are dissatisfied with an action your manager has taken or proposes to take.

## **9 What Sorts of Issues are not covered by this Procedure?**

- Any outcome of a disciplinary meeting which has its own appeals process
- Issues relating to a banding outcome, redeployment, termination of contract or redundancy – all of the above have their own appeals process
- An issue outside of the organisation's sphere of responsibility
- If you feel you are being harassed, victimised or the subject of discrimination please see the Bullying and Harassment policy for advice and action.

This policy does not link to the Appeals Policy – there are three stages to this policy and no further right to appeal.

## **10 Status Quo**

Once a grievance has been lodged the “status quo” (original position) where practicable will operate until the procedure is exhausted. However, where there is a risk to service delivery “status quo” is unlikely to be maintained and this decision will always rest with the appropriate manager.

## **11 How do I Raise a Grievance?**

You should aim to resolve your grievance(s) informally with your line manager and as soon as is reasonably practical. It is in everyone's best interest that grievances are resolved at this stage in a timely manner and every effort should be made to do so.

In some cases, depending on the situation, this may need to involve a third party.

If you cannot resolve your grievance informally, then you should raise it formally, using the procedure below.

It is important that you set out clearly the nature of the grievance and indicate the outcome that you are seeking. If your grievance letter is unclear, further clarification will be sought.

## **12 Raising a Formal Grievance**

### **Step 1**

Inform your manager of your grievance in writing and send a copy to your Human Resources department. If your grievance relates to your line manager, you may raise your



grievance with your manager's line manager or another appropriate manager in the organisation. If you are unsure of whom to address your grievance to, HR will allocate an appropriate manager to hear your grievance.

If your grievance is in relation to the Chief Executive, this should be directed to the Chair.

If you need assistance in setting out your grievance(s), you are encouraged to seek help from your trade union representative or a work colleague.

## **Step 2**

Your manager will then invite you to a meeting with them to discuss your grievance as soon as practically possible. You have a right to be accompanied at this meeting by either a trade union representative or a work colleague not acting in a legal capacity (see Appendix A on who may accompany you). A member of the HR department will also attend. You must take all reasonable steps to attend the meeting.

All employees involved in any grievance investigation will be expected to fully cooperate with the process. This includes making themselves available for any investigatory meetings within 5 working days of a request being issued by the investigatory team. Failure to attend an investigatory interview within this timeframe will result in the matter being escalated to the employee's line manager unless there is a substantial reason as to the lack of availability for the meeting. Please note other work commitments will not be seen as a reasonable reason for delaying an investigatory meeting.

All investigations must be seen as a priority due to the stress and upset that investigations cause individuals.

If you or your companion cannot attend on the proposed date, you may suggest another date, provided it is reasonable and not more than 5 working days after the date originally proposed. This limit may be extended by mutual agreement. Alternatively, in the case of a representative not being available for the meeting, staff may wish to seek a suitable alternative, including other staff side representatives, or a work colleague not acting in a legal capacity, who can accompany them but not represent them.

At the meeting you will need to explain your grievance and give an indication of how you think it might be settled.

If your manager feels your grievance requires investigation, the meeting will be adjourned in order for that to take place.

Following the meeting, your manager will respond in writing to your grievance within a reasonable time period (as a guide this will normally be 5 working days). If this is not possible this should be discussed with you. As part of the response, your manager will inform you of your right to appeal. This must be done within 5 working days of the date of the outcome letter.

### **Step 3**

If you feel that your grievance has not been satisfactorily resolved, you have the right to an appeal meeting. You will need to raise the appeal in writing to the Chief Executive or the Chair if your grievance is with the Chief Executive. This should be received within 5 working days of the written outcome at step 2.

A Director will be appointed to hear your case, they will be accompanied by a Senior Manager and a Senior Human Resources representative may also be present in an advisory capacity. The Director will invite you to a meeting within 10 days of receiving your appeal. You have the right to be accompanied at the meeting by a Trade Union representative or work colleague.

It may be necessary to adjourn the meeting should an investigation need to take place before an outcome can be reached. You will be advised in writing of the reasons for the adjournment and the date the meeting is to be reconvened.

Following the appeal meeting, the decision will be confirmed in writing. You will be informed that this is the final stage and that you will have no further right to appeal.

## **13 Raising a Grievance after leaving the Organisation?**

Wherever possible, a grievance should be dealt with before you leave. If you leave and raise a grievance or if the above 3 step procedure has either not started or been completed before you leave, the 'Modified Procedure' will apply. All grievances should be received within 1 month of an employee's leaving date to be considered.

## **14 Overlapping Grievance and Disciplinary Cases**

Where an employee raises a grievance during a disciplinary process, the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently

## **15 Training Requirements**

Training and support will be available to all line managers in the implementation and application of this policy.

## **16 Equality Impact Assessment**

All relevant persons are required to comply with this document and must demonstrate sensitivity and competence in relation to the nine protected characteristics as defined by the Equality Act 2010. The Act prohibits discrimination on the basis of age, disability, gender reassignment, marriage/civil partnership, pregnancy/maternity, race, religion/belief, sex or sexual orientation. It also means that each manager or member of staff involved in implementing the policy must have due regard to the need to: eliminate unlawful discrimination, harassment, victimisation; advance equality of opportunity between those

who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not.

If you, or any other groups, believe you are disadvantaged by anything contained in this document please contact the Document Lead (author) who will then actively respond to the enquiry.

## **17 Monitoring compliance and effectiveness**

This policy will be reviewed every 3 years but can be reviewed at any time if the CCG deems it necessary to do so or a review is requested by management or staff.

## **18 Counter fraud**

The CCG is committed to reducing fraud in the NHS to a minimum, keeping it at that level and putting funds stolen through fraud back into patient care. Therefore, we have given consideration to fraud and corruption that may occur in this area and our responses to these acts during the development of this policy document.

## **19 References, acknowledgements and associated documents**

Disciplinary Policy

Guidance on Investigating Complaints and Allegations Relating to Employment

## **20 Appendices**

## Appendix A: Right to be Accompanied

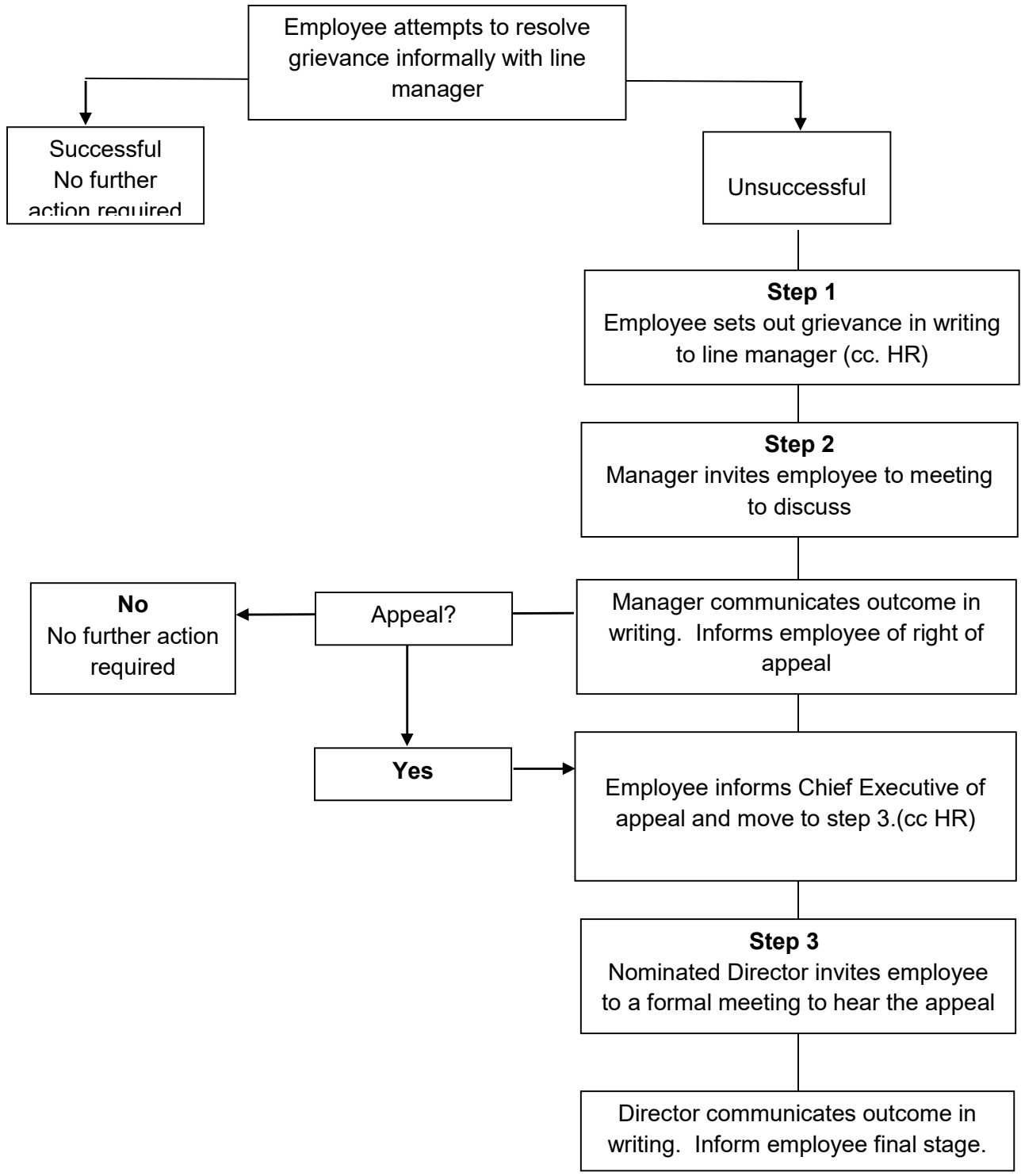
### The right to be accompanied (adapted from ACAS Code of Practice).

- Any outcome of a disciplinary meeting which has its own appeals process
- All workers/employees have the right to be accompanied at a grievance meeting
- The companion can be a work colleague or a trade union representative not acting in a legal capacity
- You should tell your line manager/manager facilitating the grievance meeting who your chosen companion is
- Your companion can have a say at the meeting but cannot answer questions on your behalf
- When choosing a companion you should be aware that it would not be reasonable to insist on being accompanied by a colleague whose presence would prejudice the meeting or who might have a conflict of interest
- Nobody has to accept an invitation to act as a companion, and should not be pressurised to do so
- Work colleagues acting as companions can have reasonable paid time off to prepare for and attend a grievance meeting.

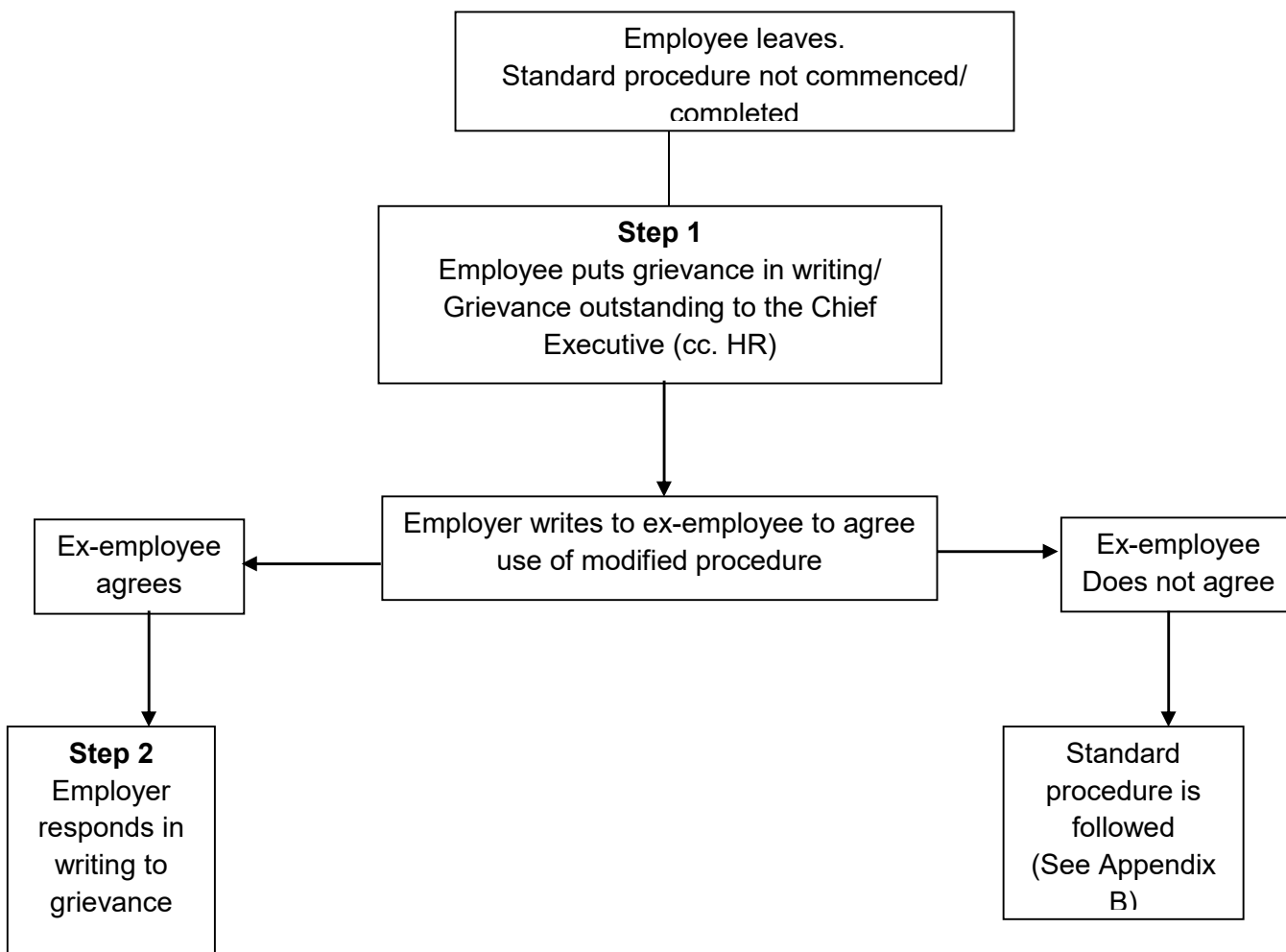
## Appendix B: Grievance Meetings and Hearings - General Guidelines

- The aim of the meeting is to fully explore and discuss your grievance and to seek a mutually acceptable resolution
- Managers will be responsible for carrying out any investigation, including interviewing any witnesses and collating any relevant information
- Each party must submit and exchange a statement of case together with any supporting information to the panel at least 7 days prior to the a hearing taking place
- The arrangements for the meeting will depend upon the nature of your grievance. Managers responding to your grievance are expected to be sensitive to the needs of those involved
- You and any other party involved in the grievance have the right to be accompanied by a trade union representative or work colleague not acting in a legal capacity
- Employees will need to be available for any investigatory meetings within 5 working days of a request being issued by the investigatory team. Failure to attend an investigatory interview within this timeframe will result in the matter being escalated to the employee's line manager unless there is a substantial reason as to the lack of availability for the meeting. Please note other work commitments will not be seen as a reasonable reason for delaying an investigatory meeting
- If you or your representative cannot make the meeting date, you can suggest another date so long as it is reasonable and not more than five working days after the date originally proposed by the manager. This five day limit may be extended by mutual agreement. Alternatively, in the case of a representative not being available for the meeting, staff may wish to seek a suitable alternative, including other staff side representatives, or work colleague not acting in a legal capacity, who can accompany them but not represent them
- Both parties are able to call witnesses to the hearing
- A member of the Human Resources department will be present at the meeting to assist in any matters of procedure
- A note taker may be present at the meeting. A summary of the main issues under discussion will be recorded
- The manager considering your grievance may adjourn the meeting at any time in order, for example, that further evidence may be produced or for any other reason mutually agreed by you and others involved
- The manager may need to speak to you again for points of clarification or for further questions
- A companion or work colleague must not be part of the grievance or witness to any incident relating to the grievance

### Appendix C: Standard Procedure Flowchart



## Appendix D: Modified Procedure Flowchart



Equality Impact Assessment Screening		
Query	Response	
What is the aim of the document?	to set out the CCG responsibilities in relation to	
Who is the target audience of the document (which staff groups)?	All staff	
Who is it likely to impact on and how?	Staff	Yes - All Grievances will be handled and processed in a fair and transparent way and to avoid any subjective bias. No anticipated detrimental impact on any equality group. The policy adheres to AFC Terms and Conditions, is legally compliant and takes account of 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.
	Patients	No
	Visitors	No
	Carers	No
	Visitors	No
	Other – governors, volunteers etc	Yes
Does the document affect one group more or less favourably than another based on the 'protected characteristics' in the Equality Act 2010:	Age (younger and older people)	no
	Disability (includes physical and sensory impairments, learning disabilities, mental health)	no
	Gender (men or women)	no
	Pregnancy and maternity	no
	Race (includes ethnicity as well as gypsy travellers)	no
	Sexual Orientation (lesbian, gay and bisexual people)	no
	Transgender people	no
	Groups at risk of stigma or social exclusion (e.g. offenders, homeless people)	no
	Human Rights (particularly rights to privacy, dignity, liberty and non-degrading treatment)	no

Target Group	Implementation or Training objective	Method	Lead	Target start date	Target End date	Resources Required
Governing Body	Ensure GB is aware of CCG's responsibilities for handling grievance matters and provide assurance that appropriate process is established to ensure legal compliance	Cover paper to the policy to be presented to the Governing Body	HR Business Partner			staff time, governing body time
Executive Directors	Ensure awareness of responsibilities of CCG process to ensure compliance Individual Executive Director responsibilities Directorate Responsibilities	Discussion with individual directors	HR Business Partner			staff time, executive director time
Managers	Ensure awareness of CCG process and roles	Specific training sessions and 1:1 support to be provided, including awareness of the Guidance in handling Investigations and Complaints.	HR Business Partner			staff time
All Staff	Ensure awareness of CCG processes and procedures	Policy to be placed on website Information about the policy and CCG process to be placed on the Hub Information about the policy and CCG process to be communicated through internal newsletter Awareness raising item at individual Directorate SMT and Directorate team meetings	HR Business Partner/HR Manager			staff time

