

Lead Employer policy for Handling Respect and Dignity at Work Concerns

Version No: 7

Document Summary:

To set out the measures the MWL Lead Employer has put in place to ensure that all its colleagues in training are treated with fairness and respect.

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Document Control

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Title	Lead Employer Policy for Handling Respect and Dignity at Work Concerns
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Policy reviewed and revised in its entirety to align the process to the tripartite model of the Lead Employer.	
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1. Scope

The aim of this policy is to both engender a culture where all colleagues in training are treated with fairness and respect and lays down the action that will be taken where colleagues in training feel that their dignity and/or respect has been compromised.

2. Introduction

Mersey and West Lancashire Teaching Hospitals NHS Trust Lead Employer, (herein referred to as MWL LE), recognises that compassionate working environments advantage all staff who work in them and are committed to engendering working environments where everyone is treated with dignity and respect by their work colleagues.

This policy sets out the procedures to be followed where colleagues feel that their respect and dignity at work has been compromised by a colleague.

3. Statement of Intent

The key principles of this policy are to ensure that MWL LE:

- Ensures good working relationships and settles concerns promptly, fairly, and as close as possible to the point of origin.
- Develops a culture in which inappropriate behaviour is known to be unacceptable and where individuals are confident enough to raise a complaint without fear of ridicule, discrimination or victimisation.
- Has staff safety and respect as a priority.
- Provides a framework to ensure that concerns raised by colleagues are managed promptly and in a manner which recognises the sensitivity of the issues raised and the rights of all parties involved.
- Promotes the policy within the organisation to improve knowledge and practice in the area of respect.
- Encourages colleagues in training to seek an early resolution to concerns quickly and effectively.
- Provides support and resources to colleagues in training to resolve concerns informally where possible.
- Encourages all colleagues in training to speak up when a concern arises during their employment.

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- Ensures that all workplace issues are treated fairly and consistently.
- Encourages positive employee relations and helps resolve concerns constructively and effectively.
- Encourages open communication between colleagues in training, their colleagues and managers so that questions and problems can be aired and, where possible, resolved quickly and to the satisfaction of all concerned.

4. Definitions

Colleagues in training - Specialty colleagues in training employed by MWL LE which includes the following:

- Dental Foundation Colleagues in training
- Core Colleagues in training
- Specialty Registrars
- Medical and Dental Public Health Specialty Registrars
- Non-medical Public Health Specialty Registrars

Host – the organisation with which colleagues in training undertake their on-the-job training

Mersey and West Lancashire Teaching Hospital NHS Trust Lead Employer (MWL LE) – that part of Mersey and West Lancashire Teaching Hospital NHS Trust (“the Trust”) and its staff delegated to undertake duties on behalf of that Trust as Lead Employer for NHS England Education medical and dental colleagues in training and non-medical Public Health colleagues in training.

NHS England Education – NHS England Education, with responsibility for the relevant colleagues in training educational training programme.

Case Investigator – the person appointed to investigate the concerns raised by the colleague in training to establish the facts of the case. The appointment will normally be made with the assistance of the Host’s HR Department or GP/Dental Practice Manager (see below) as, other than in exceptional circumstances, the Case Investigator will be from the Host or other organisation where the employee was placed / engaged when the alleged concerns arose.

Independent Reviewer – the person appointed to review the completed case investigation report and provide an outcome that details whether the concerns are upheld or not upheld.

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MWL LE HR - Part of the Trust's HR service delegated to undertake duties on behalf of the Trust as Lead Employer for NHS England Education medical and dental colleagues in training.

Appointed HR Support – the MWL LE HR professional assigned to oversee and support the Respect and Dignity at Work case. They will also set the terms of reference and support the Case Investigator and the appointed Host HR Support to the Case Investigator in carrying out their duties and provide guidance and support in relation to the process.

Appeal HR Support - the HR professional, usually from MWL LE, assigned to support and advise the Appeal Authority at the appeal meeting.

Host HR Support to Case Investigator – the Host HR or Medical Staffing Representative appointed to support the Case Investigator. Under the direction of the Case Investigator and often in liaison with the Appointed HR Representative from MWL LE, they will usually assist with tasks such as drafting communications to the colleagues in training and witnesses about the investigation, arranging meetings, typing up interview notes, assisting in the drafting of the investigation report.

Appeal Authority – MWL LE's senior manager who conducts the appeal meeting and who is responsible for the appeal decision.

Host Managers - Consultants / Dentists / GPs / nominated senior professionals / designated university managers from within the Host with responsibility for the day to day supervision and management of colleagues in training.

Host Primary Manager - The Host's Medical Director, or, in the case of:

- a General / Dental Practitioner placement, the senior or other appointed GP / Dental partner at the GP / Dental practice;
- Public Health colleagues in training working within local authorities or third party organisations and colleagues in training working in Hospices, the Host's nominated senior professional.

Right to be accompanied – Trade Unions have an important part to play in providing advice and or support to colleague in trainings and work constructively with the Lead Employer Human Resources team to achieve resolutions. In line with [ACAS Code of Practice](#) colleagues in training have the right to be accompanied by a companion / representative as set out in Section one of this Policy when they are required or invited by their employer to attend meetings. Under this policy, they may also be accompanied at formal investigation meetings.

Informal Resolution - is a flexible process used to address concerns raised by colleagues in training without the need for a full investigation or formal proceedings. It aims to restore professional relationships and foster better understanding between parties involved.

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Formal Investigation - A formal Investigation takes place once a decision has been made to invoke the formal process. At that point a Case Investigator is appointed to take statements and source evidence in accordance with the concerns raised and within the Terms of Reference set by the LE HR Team. The investigation findings will be presented in a report to the independent reviewer who will determine whether the concerns are upheld or not upheld.

LNC – Local Negotiating Committee – MWL LE’s joint working committee for workforce matters comprising Trust and staff side members

5. Duties, Accountabilities and Responsibilities

5.1 Chief Executive

The ultimate responsibility in the areas of performance and legislative adherence lies with the Trust’s Chief Executive.

5.2 Trust Board

The Board of Directors are responsible for ensuring that the policy is being adhered to both collectively and by the management and staff in their area of responsibility. The Director of Human Resources has Board level responsibility for ensuring that this policy applies to all levels within the organisation and that the policy is followed fairly and consistently. In addition they must ensure that any allegation of harassment and/or bullying is investigated and that appropriate action is taken to stop this behaviour and to prevent its recurrence. The monitoring of the impact of the policy will be delegated to the Commercial Services Council and the auditing to the HR management team however the HR Director and Commercial Services Council will highlight any areas of significant shortfall identified to the Governance Board (a subcommittee of the Board).

5.3 Host Primary Manager

The Host Primary Manager is the Host’s key / primary contact with MWL LE in relation to colleagues in training placed at the Host and must ensure that:

- Any concerns raised by colleagues in training are notified to MWL LE, promptly including those concerns which are being handled informally by the Host
- They assist MWL LE HE Team with the appointment of a Case Investigator from the Host, as appropriate.
- All matters to which a Case Investigator is appointed are properly investigated by the Case Investigator in line with this policy.
- If appropriate, colleagues in training are offered the opportunity to receive additional support from MWL LE Health, Work and Well Being Department and NHS England Education.
- All those from within the Host involved in the management or supervision of colleagues in training, and particularly those dealing with a specific case, familiarise themselves with this policy and procedure.

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5.4 Director of Human Resources

The Trust's Director of Human Resources has a responsibility to ensure all relevant employment legislation including the [ACAS Code of Practice - Disciplinary and Grievance Procedures](#) is adhered to.

Whilst specific responsibility for areas such as auditing and monitoring may be designated to particular individuals within MWL LE's HR function, the ultimate responsibility remains with the Director of HR.

The senior management team in MWL LE's HR department are responsible for escalating any areas of concern arising from monitoring or otherwise to the HR Director who, where necessary, will highlight them to the Board and responsible Non-Executive Director, where necessary.

The monitoring of the impact of this policy has been delegated to the Trust Commercial Services Council, the LNC and the auditing to the HR management team, however the HR Director and Commercial Services Council will highlight any areas of significant shortfall identified to the Governance Board (a subcommittee of the Board).

5.5 Case Investigator

The Case Investigator is usually employed by the Host Organisation but occasionally it may be necessary / appropriate to appoint a suitable person from another organisation such as NHS England Education or LE.

All Case Investigators should be asked to confirm at the outset of a formal investigation that there are no real or perceived conflicts of interest which may prevent them from undertaking the investigation. It may not be possible to identify a Case Investigator totally without knowledge of the colleague in training and/or their concerns in some capacity. Any concerns about potential impartiality should be raised at the outset with the LE HR Team.

It should also be established that a Case Investigator:

- Has had appropriate training in investigations, equality and diversity and other relevant aspects;
- Has time identified to enable them to complete the investigation and report within the timescales required by this policy.

The Case Investigator is responsible for leading the investigation into the concerns raised by the colleague in training, establishing the facts, if possible, and reporting the findings.

The Case Investigator is someone who acts in an objective and impartial way, to investigate the concerns raised by the colleague in training to present the facts of the case relating to those concerns. The case investigator gathers relevant information by interviewing relevant witnesses and reading documents. In many cases the case investigator will not be able to resolve disputed issues of fact. They can only record the

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conflicting accounts of the interviewees and, where appropriate, express views on the issue. Where individuals admit that they have behaved in a certain way or where there is otherwise undisputed evidence, the case investigator can more readily make findings of fact.

The Case Investigator must:

- Allocate sufficient time to complete the investigation and report within the timeframe laid down by this policy.
- Ensure that safeguards are in place throughout the investigation so that breaches of confidentiality are avoided as far as possible.
- Ensure that the colleague in training raising the concerns can meet with them as the case investigator to discuss their concerns in more detail. NB it is good practice for the case investigator to meet with the complainant in the first instance to obtain a detailed account of all the concerns and identify potential witnesses.
- Judge what information needs to be gathered and how.
- Ensure that appropriate and sufficient meeting notes are taken during investigation meetings and shared with those who have attended the meeting.
- Ensure that a written record is kept of the investigation.

The Case Investigator does not make the decision on whether the concerns raised are upheld or not upheld.

5.6 Host Managers

Host Managers must:

- Ensure that colleagues in training are treated with dignity and respect throughout the duration of their placement with that host organisation.
- Colleagues in training are made aware of how to raise any concerns that they may have whilst placed at the host placement provider.
- Ensure that any concerns raised by LE colleagues in training are shared with the LE HR Team as soon as reasonably practicable after the concerns have been raised.
- Ensure adequate advice and supervision is available to their colleagues in training.
- Act as a Case Investigator if required.
- Engender an environment where colleagues in training feel able to speak up about any concerns that they may have.

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5.7 Colleagues in training

All colleagues in training must:

- Take personal responsibility for their own behaviour, treating colleagues with respect and for ensuring that they comply with this policy.
- Take all reasonable steps to intervene in situations to prevent or disrupt disrespectful behaviour, attitudes and systems in the workplace.
- Ensure that any concerns arising from inappropriate behaviour, whether as the recipient or observer, are reported to their clinical supervisor or host manager as soon as is reasonably practicable.
- Where concerns arise, complete the resolving workplace issues form (Appendix 1) and show willingness to engage in informal resolution of concerns (unless the issue is so serious as to prevent the use of the informal resolution).
- Provide all information/evidence relating to the incidents that led to the concerns in a timely manner and within 3 months of the incident taking place.
- Ensure that they attend training as designated.
- Ensure MWL Values are adhered to at all points within the process.

5.8 MWL LE's Human Resources Staff and Management

The MWL LE HR Service must:

- Ensure that colleagues in training are informed of this policy in their induction processes.
- Ensure that clinical supervisors/managers are provided with appropriate advice and guidance on this policy, including training and coaching as required.
- Provide appropriate intervention and support to resolve the concerns informally where possible.
- Liaise with host organisations/NHS England Education to identify a suitable case investigator
- Act as a workplace mediator or arrange for workplace mediation when appropriate through appropriate external support e.g. ACAS
- Provide HR support to case investigators in individual cases as necessary.

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- Guide the Case Investigator and Host HR Manager as necessary / appropriate in the conduct of the investigation including seeking to ensure they maintain momentum.
- Ensure that, as appropriate, colleagues in training are offered the opportunity to receive additional support from MWL LE's HWWB department and pastoral support from NHS England Education.
- Ensure that all colleagues in training are offered reasonable adjustments as necessary to support them with their engagement in the processes outlined within this policy.
- Review the workings of this policy when shortfalls are identified and escalate to their line manager where appropriate, including where cases are not processed in a timely manner.

5.9 Host Human Resources Management and Staff

Host HR management and staff must:

- Ensure that Host Managers are provided with appropriate advice and guidance on this policy, including coaching as required.
- Provide support to Host Managers and Case Investigators in individual cases as necessary and as requested by MWL LE's HR Team usually through the Appointed HR Representative.
- Liaise with MWL LE's HR team in individual cases as necessary.

5.10 Trade Union (TU) Representatives

TU representatives acting in accordance with this policy must:

- Familiarise themselves with this policy and procedure.
- Advise the colleagues in training in respect of this policy and procedure.
- Where appropriate, assist a colleague in training in preparing a written statement if required, providing a clear explanation of their concern with supporting evidence wherever possible.
- Agree a reasonable amount of time off to fulfil their responsibility to accompany the colleague in training (for non-full time Trade Union officers).
- Ensure MWL Values as detailed in Appendix 5 are adhered to at all points within the process.

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5.11 NHS England Education

NHS England Education will be notified by the MWL LE HR team of any cases that are escalated to the formal process outlined in this policy.

The outcome of any formal investigation and associated recommendations will be shared with NHS England Education for any action that they deem appropriate.

Pastoral Support

It is recognised that raising concerns and the subsequent processes can be very upsetting and stressful for the colleague in training. To recognise the need for additional pastoral care, over and above that routinely provided by the Educational Supervisor during these proceedings, the colleague in training may agree with NHS England Education an individual who will be able to provide pastoral care, mentorship and personal support. The individual providing mentorship and support may be the Educational Supervisor, Clinical Supervisor in the Host Organisation or Training Programme Director or other appropriate person but must not be connected in any way to the concerns raised and may not participate, or in any way influence, the investigation or subsequent proceedings.

The Trust recognises that any investigation process can affect colleagues in training in a variety of ways and therefore support is available and encouraged.

5.12 Commercial Services Council and LNC

The Commercial Services Council and LNC are responsible for monitoring the impact of the policy including any resulting equality issues on behalf of the Board. Any issues of significant concern and learning opportunities should be considered for escalation to the Quality Committee, which will decide whether to refer them on to the Board.

The Commercial Services Council has delegated authority from the Trust's Quality Committee to investigate any issue. Specifically, its aim is to ensure the Trust complies with externally set standards and to establish, monitor and review content and methods of providing assurance to the Quality Committee in relation to all areas of people management. The Commercial Services Council will provide assurance to the Quality Committee on matters within its remit and escalate any issues or risks.

This policy, and any changes / revision to it, is consulted with the LNC and ratified by the Commercial Services Council under regular MWL LE governance procedures.

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6. Process

6.1 Informal Process

The Trust recognises that the first and most important step in resolving concerns is for a prompt, informal conversation between the parties involved to share the concerns regarding their behaviours and how those behaviours are making the colleague in training feel, to try to find an outcome that is acceptable to all parties. By focusing effort on initial resolution, the Trust aims to foster a culture where all parties engage with one another constructively. This will enable most concerns to be resolved informally and without the need to escalate further.

There are a variety of informal resolution methods which include:

- Mediation
- Facilitated conversations.

Facilitated Conversations

A facilitated meeting is a single meeting, or a series of meetings, which can be held between parties who are having difficulty working together to resolve a problem. The aim is to try to reach agreement on the way forwards. The facilitator would usually be the host organisation's allocated Adviser, but on occasion they may ask a colleague to either facilitate (to avoid conflict of interest) or to join them if they have particular relevant knowledge or skills.

Mediation

Mediation is a process of conflict resolution between employees facilitated by an independent trained mediator. The purpose of mediation is to allow the individuals concerned an opportunity to explore issues of conflict with the aim of reaching a mutually agreeable solution at the earliest stage possible. It can be used at any stage in the Dignity at Work process.

Mediation offers a safe confidential space for participants to raise and address their concerns with the support of a mediator. This must not be seen as dismissing the colleagues in trainings concerns and this option must never be imposed. The colleague in training should always be offered the opportunity of seeking advice from their trade union representative before accepting the offer.

Mediation seeks to give a solution to individual workplace conflict without recourse to formal rights-based processes. It aims to:

- Provide solutions that are faster and less stressful
- Address underlying relationship difficulties

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- Reach solutions that are more genuinely win-win and increase the chances that relationships can continue afterwards.

Such mediation must be conducted by an appropriately trained mediator who is impartial to those involved in the mediation process. There may be some situations where it is appropriate to appoint an external third party this can be arranged by the Host Organisation and/or the Lead Employer Assistant HR Business Partner who will make the arrangements e.g. with ACAS or other external resource as appropriate.

If an employee elects to undertake the mediation process, this does not stop them from progressing their complaint to the formal process if the matter remains unresolved i.e. the unacceptable conduct is continuing.

6.2 Formal Process

Prior to commencing the formal process, the resolving workplace issues form should be completed and the above options should have first been considered. If informal attempts to resolve the matter have not been successful, or if the issue is so serious as to prevent the use of the informal process, the complaint should be raised formally. In such cases, a member of the LE HR team will meet with colleague in training, this is to explore their concerns in greater detail, to get an understanding of what the colleague in training is seeking as a resolution to their concerns and to discuss the outcome of any attempts of informal resolution.

The LE HR team will review the information available and will determine whether a formal process is necessary or whether further consideration to informal resolution would be more appropriate.

The colleague in training raising the concerns must set out in writing, the following.

- The nature of the complaint – what was said or done (the facts)
- The name and job title of the individuals
- Dates and times of incidents
- What it is about the alleged behaviour they feel is unacceptable.
- The names of any witnesses.
- What steps have been taken to resolve the issue informally
- What is the preferred outcome?

If the colleague in training elects not to make a formal complaint, in order to fulfil our duty of care, the Lead Employer can elect to continue with the formal process if they regard the case as sufficiently serious. In such cases all parties should co-operate with the investigation.

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6.2.1 Investigation

The Lead Employer HR team, in conjunction with the Host's Primary Manager, will identify a Case Investigator, who should, familiarise themselves with this policy.

This case investigator will be independent and will be responsible for arranging a full investigation of the complaint, which will involve meeting with each party and named witnesses. Given the potential stress involved for all parties it is imperative that the investigation is carried out as quickly as practically possible without threatening the objectivity and thoroughness required. Once the investigation is completed, the Case Investigator is responsible for providing a report detailing their findings to the independent reviewer.

A Host HR Support to the Case Investigator will be identified to advise and support the Case Investigator and help coordinate the HR aspects of the investigation including liaising with the Appointed HR Representative from MWL LE.

6.2.2 Terms of Reference

The MWL LE HR Team will be responsible for setting the parameters for the investigation. The parameters of the investigation will usually outline:

- Basic factual background of the incident(s) / allegations(s) / concern(s)
- the specific concerns or allegations to be investigated
- preliminary list of relevant staff and others to be interviewed
- preliminary list of documentation relevant to the investigation
- planned timescales for completion

6.2.3 Investigation Meetings / Interviews

In cases where an incident involves, or was witnessed by, several people, this is likely to involve obtaining statements from each individual. Witnesses should be advised that the matter must be treated in strictest confidence and must not be discussed with colleagues, and that their evidence will be included in the final investigation report.

The Host HR Support to the Case Investigator will normally attend the investigation meetings as the role of HR is to advise on process.

Colleagues in training are obliged to attend investigation meetings and formal meetings and must take all reasonable steps to attend when invited but it is reasonable that if a colleague in training cannot attend such a meeting / meeting due to extenuating circumstances, a further meeting / meeting will be scheduled, usually within seven

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calendar days. The colleague in training should be released from other work activities in order to facilitate their attendance at the meeting.

If a colleague in training states they are too unwell to attend an investigation interview, and in circumstances whereby the absence exceeds 7 calendar days before making a decision as to how to proceed, MWL LE will seek advice from its Health Work and Wellbeing Department, the Colleague in training's GP or another specialist health professional. The Colleague in training is required to cooperate with such reasonable steps.

6.2.4 Right to be Accompanied / Represented

MWL LE recognises that colleagues in training may wish to seek advice and be represented by their trade union, professional body or a work based colleague. All colleagues in training have the right to be accompanied at all formal meetings under this policy by an accredited Trade Union (TU) or medical defence organisation (MDO) representative, or a workplace colleague, friend, partner or spouse.

Disabled employees may also wish to be accompanied by an additional person as a support worker, an advocate or someone with knowledge of the disability and its effects. The Trust may also agree to an employee being accompanied by an advocate as a reasonable adjustment if deemed appropriate to the circumstances.

6.2.5 Timescales and Updates

Any investigation should be completed in a timely manner. The length of time spent will depend on the nature and complexity of the allegation or incident, but in any case the case investigator should aim to complete the investigation, where possible within 4 weeks of appointment and submit their report to the appointed independent reviewing manager within a further 5 days. Circumstances may extend this period, for example annual leave or business critical activity.

During the course of the investigation the colleague in training will be kept up to date by the LE HR team on the progress of the investigation.

6.2.6 The Investigation Report

The Investigation Report should include:

Introduction:

- A brief overview of the circumstances that led to the investigation.
- The terms of reference of the investigation and if they were amended.

Process of the investigation:

- How the investigation was conducted.

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- What evidence was collected.
- Whether any pieces of evidence could not be collected and why.
- Names and job titles of all witnesses and why each witness was relevant to the matter.
- Whether any witnesses could not be interviewed and why.

The investigation findings:

- Summarise the findings from all relevant documents.
- Summarise the key evidence from each witness statement.
- What facts have been established.
- What facts have not been established.
- Whether there are any mitigating factors to consider.
- Whether there is any other relevant information to consider.

Conclusion:

- Overall summary of investigation findings.

Appendices:

- Witness statements, signed investigation meeting notes and any other relevant documents.

[6.2.7 Independent Reviewing managers review of the Investigation Report / Decision How to Proceed](#)

Once the investigation is complete, the Case Investigator will present their findings in a report, with all relevant evidence appended, to the independent reviewing Manager, who will review it in full. The Independent reviewing Manager will determine whether or not any of the concerns raised are upheld. The outcome of the investigation will be communicated to the colleague in training in writing. The outcome will also be shared with the relevant employer of the parties concerned in order to determine whether any further action is needed in line with their own policies and procedures.

[6.3 Appeals Process](#)

Colleagues in training have the right of appeal the outcome of their Respect and Dignity

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at Work complaint. If they wish to do this, they should appeal in writing to MWL LE Head of HR within ten calendar days of the date of being issued with the outcome.

The letter of appeal must clearly state their reasons for appeal including which of the following grounds their appeal is based on:

- Procedural errors where there is evidence the process was unfair or was incorrectly followed which has resulted in a detriment or unfairness.

The written appeal should also:

- Include all relevant new information or supporting evidence.
- Outline which elements of the process they feel have been unfair or incorrectly followed and why
- Clearly state their desired outcome from the appeal

Following a thorough review of the appeal letter, the Head of HR will determine whether or not there are sufficient grounds of appeal. Where it is decided that the reasons for appeal do not satisfy the required grounds as detailed above, the employee will be informed of this in writing as soon as possible and within fourteen calendar days of the date of receiving the appeal application.

Where the grounds of appeal meet the required criteria arrangements will be made to convene an appeal meeting.

Guidance on how to conduct an appeal hearing can be found at Appendix 4.

Appeals will be heard as soon as reasonably practicable but at least fourteen calendar days' written notice of the appeal meeting date will be given to the Colleague in Training to allow for appropriate preparation. A bundle including a copy of this policy and copies of any reports, statements or information that will be relied on or referred to at the meeting will also be provided no later than seven calendar days ahead of the appeal meeting.

If a colleague in training wishes to submit any further evidence to the appeal panel, this should be shared no later than 7 calendar days prior to the appeal hearing date.

The arrangements for the appeal meeting shall be managed by MWL LE's Appeal HR Support who will notify the colleague in training of any possible delays in setting up the appeal meeting and the reasons for the delay.

The purpose of the appeal meeting is to review the individuals grounds of appeal, not to reinvestigate their initial Respect and Dignity at Work Concerns, although this may be a recommendation of the Appeal Authority if deemed appropriate.

The Appeal Authority will be a Senior manager with no prior involvement in the case, appointed by MWL Lead Employer, and will be supported by a member of the Lead Employer HR Department who will attend the Appeal hearing in an advisory capacity. No one involved in the appeal decision, even in an advisory capacity, shall have had prior

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involvement in the case, but this does not mean that they must have no knowledge of the colleague(s) in training involved and they may have been involved with the colleagues in training in the course of their normal management duties.

A note taker will also be present at the meeting. A copy of the brief notes of the meeting will be provided to the colleague in training after the meeting. This will normally be included with a copy of the appeal outcome letter.

Witnesses may be called to the Appeal meeting by either the colleague in training or by the Appeal Authority, any witnesses will be confirmed with all parties no later than five working days ahead of the hearing. Witnesses may include, but are not limited to, the case investigator and the independent reviewer.

The Appeal Authority will endeavour to provide an outcome to the appeal during the appeal meeting and will confirm this in writing within fourteen calendar days. However, there may be circumstances whereby it is necessary to adjourn the meeting so that further information can be sought or to allow for further investigation to take place. If this is the case, an outcome will be provided as soon as practically possible, and the colleague in training will be kept updated by the Appeal HR support in this respect, including details of any delays. The Appeal Authority will agree with the colleague in training whether it is necessary to reconvene the appeal meeting or whether a written outcome only would be appropriate.

The Appeal authority can decide to uphold the colleagues grounds of appeal, to partially uphold the colleagues grounds of appeal or to uphold the original Respect and Dignity at Work investigation outcome. The Appeal authority may also wish to issue recommendations to any of the parties involved.

If a colleague has been unwell or is unsure if they will be fit to attend to the appeal meeting, the Trust will seek advice from Health, Work & Well Being if necessary.

If the colleague in training is unwilling or unable to attend the appeal meeting without good reason then the Appeal Authority will inform them that one further date for a meeting will be offered and if this is not attended the Appeal Authority will consider convening the meeting to make a decision in their absence based on the evidence available.

The decision of the Appeal authority is final and no further appeals are permitted under this policy.

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7. Training

MWL LE's HR Representatives will provide training, coaching and mentoring as required for Host Organisations.

In specific cases when training issues are identified through a review of a case, an individual training needs analysis will be carried out by an appropriate senior manager within the Host Organisation, supported by MWL LE HR Representative as required. Any training needs identified will be included in the relevant individual's personal development plan and should be documented in the colleague in training's e-portfolio to be managed educationally via the colleague in training's educational team,

8. Monitoring Compliance

The Head of HR and Business Partner team are responsible for the monitoring of compliance to ensure the effective use of the policy and enable action plans to be produced where are trends or specific remedial steps are required e.g. where concerns are raised through the grievance procedure, at appeals or from the trade unions that the processes are not being followed.

The MWL LE Board has responsibility for overseeing compassionate and appropriate use of the procedures in this policy and for ensuring appropriate decision-making is taking place under them. It must also ensure that appropriate resources are allocated to enable those working under the policy to deliver efficient, sound and fair processes.

8.1 Key Performance Indicators (KPIs) of the Policy

No	Key Performance Indicators (KPIs) Expected Outcomes
1.	Procedural documents on the intranet are in date
2.	Procedural documents on the intranet are in the correct style and format (according to approval date)
3.	Procedural documents contain all the appropriate sections
4.	All procedural documents are subject to analysis of the effects on equality
5.	Consultation process is appropriate
6.	Approval process is appropriate
7.	Archive process is appropriate

8.2 Performance Management of the Policy

Minimum Requireme	Lead(s)	Tool	Frequenc y	Reporting Arrangemen ts	Lead(s) for acting on
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nt to be Monitored					Recommendations
Audit of at least 3 procedural documents	Assistant Director of Governance / Policy Governance Group	Random review of procedural documents to be agreed by the Policy Governance Group	Monthly review of sample of 3 procedural documents	Policy Governance Group and Quality Committee	Author(s) Policy Governance Group Members
95% of procedural documents on the intranet are within review date	Quality & Risk Office Manager / Assistant Director of Governance	Monthly report to be submitted to Policy Governance Group showing compliance	Monthly	Policy Governance Group and Quality Committee (annually)	Author(s) Policy Governance Group Members Lead Executive Director(s)

9. References/Bibliography/Relevant Legislation/National Guidelines

No	Reference
1.	ACAS Code of Practice
2.	NHS England » A just culture guide
3.	NHS England » Sexual safety in healthcare – organisational charter
4.	Acas Code of Practice on disciplinary and grievance procedures Acas
5.	Equality Act 2010
6.	Maintaining High Professional Standards in the Modern NHS (MHPS)

10. Related Trust Documents

No	Related Document
1.	Lead Employer Handling Concerns Policy
2.	Lead Employer Resolution and Grievance Policy
3.	MWL Equality and Diversity Policy

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11. Equality Analysis Screening Tool

The EIA screening must be carried out on all policies, procedures, organisational changes, service changes, cost improvement programmes and transformation projects at the earliest stage in the planning process. Where the screening identifies that a full EIA needs to be completed, please use the full EIA template.

The completed EIA screening form must be attached to all procedural documents prior to their submission to the appropriate approving body. A separate copy of the assessment must be forwarded to the Head of Patient Inclusion and Experience for monitoring purposes via the following email, cheryl.farmer@sthk.nhs.uk. If the assessment is related to workforce a copy should be sent to the workforce Head of Equality, Diversity and Inclusion for workforce equality&diversity@sthk.nhs.uk. If this screening assessment indicates that discrimination could potentially be introduced then seek advice from either the Head of Patient Inclusion and Experience or Head of Equality, Diversity (Workforce) and Inclusion.

A full equality impact assessment must be considered on any cost improvement schemes, organisational changes or service changes that could have an impact on patients or staff.

Title of function	
Brief description of function to be assessed	
Date of assessment	
Lead Executive Director	
Name of assessor	
Job title of assessor	

Equality, Diversity & Inclusion

Does the policy/proposal:

- 1) Have the potential to or will in practice, discriminate against equality groups
- 2) Promote equality of opportunity, or foster good relations between equality groups?
- 3) Where there is potential unlawful discrimination, is this justifiable?

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	Negative Impact	Positive Impact	Justification/ evidence and data source
Age	Choose an item.	Yes	
Disability	Choose an item.	Yes	
Gender reassignment	Choose an item.	Yes	
Pregnancy or maternity	Choose an item.	Yes	
Race	Choose an item.	Yes	
Religion or belief	Choose an item.	Yes	
Sex	Choose an item.	Yes	
Sexual orientation	Choose an item.	Yes	

Human Rights

Is the policy/proposal infringing on the Human Rights of individuals or groups?

	Negative Impact	Positive Impact	Justification/ evidence and data source
Right to life	Choose an item.	Neutral	
Right to be free from inhumane or degrading treatment	Choose an item.	Yes	
Right to liberty/security	Choose an item.	Neutral	
Right to privacy/family life, home and correspondence	Choose an item.	Neutral	
Right to freedom of thought/conscience	Choose an item.	Neutral	
Right to freedom of expression	Choose an item.	Neutral	
Right to a fair trial	Choose an item.	Neutral	

Health Inequalities

Is the policy/proposal addressing health inequalities and are there potential or actual negative impact on health inequality groups, or positive impacts? Where there is potential unlawful impacts is this justifiable.

	Negative Impact	Positive Impact	Justification/ evidence and data source
Deprived populations	Choose an item.	Unknown	
Inclusion health groups	Choose an item.	Unknown	
5 child clinical areas	Choose an item.	Unknown	
5 adult clinical areas	Choose an item.	Unknown	

Outcome

After completing all of the above sections, please review the responses and consider the outcome.

Is a full EIA required?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Please include rationale: EIA screening has not identified any ED&I, Human Rights or Health Inequality risks.
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Sign off

Name of approving manager	Matthew Russell
Job title of approving manager	HR Business Partner
Date approved	23/04/2024

12. Data Protection Impact Assessment Screening Tool

If you answer **YES** or **UNSURE** to any of the questions below a full Data Protection Impact Assessment will need to be completed in line with Trust policy.

	Yes	No	Unsure	Comments - Document initial comments on the issue and the privacy impacts or clarification why it is not an issue
Is the information about individuals likely to raise privacy concerns or expectations e.g. health records, criminal records or other information people would consider particularly private?		X		
Will the procedural document lead to the collection of new information about individuals?		X		
Are you using information about individuals for a purpose it is not currently used for, or in a way it is not currently used?		X		
Will the implementation of the procedural document require you to contact individuals in ways which they may find intrusive?		X		
Will the information about individuals be disclosed to organisations or people who have not previously had routine access to the information?		X		
Does the procedural document involve you using new technology which might be perceived as being intrusive? e.g. biometrics or facial recognition		X		
Will the procedural document result in you making decisions or taking action against individuals in ways which can have a significant impact on them?		X		
Will the implementation of the procedural document compel individuals to provide information about themselves?		X		

Sign off if no requirement to continue with Data Protection Impact Assessment: Matthew Russell

Confirmation that the responses to the above questions are all NO and therefore there is no requirement to continue with the Data Protection Impact Assessment

Policy author

Date

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Informal Action Taken - Describe the informal undertaken taken to resolve the issue and any outcome(s).

Please include information around any meetings you may have attended including dates, names and job titles of those in attendance. You should also confirm what action was taken following informal resolution and any support that you may have received.

Examples of informal resolutions are outlined below. Please see **Appendix 1** for a summary of each.

- *Facilitated Conversation*
- *Restorative Practice*
- *Mediation*

Have you given consideration to these resolutions and have they been offered to you in order to resolve your concerns?

Yes / No

Outcome Sought - Detail the outcome(s) that you are seeking as a resolution to your workplace issue. Please note that you cannot request that another colleague be disciplined or dismissed.

PLEASE NOTE THAT THIS FORM SHOULD BE PERSONALLY SIGNED BY THE INDIVIDUAL RAISING THE REQUEST

Signed:

Date:

14. Appendix 2 – Facilitated Conversations Fact Sheet

Facilitated Conversation

A facilitated conversation is a more in-depth resolution process which is considered to be highly effective at resolving issues at an informal stage. It will be used where it is felt that a conversation involving advice from a trained facilitator (this will usually be somebody from within the Lead Employer, the Host Organisation or NHS England) would benefit the parties involved. If the issue is being dealt with under the informal process, all parties must agree to take part in a facilitated conversation before the issue / concern is discussed with a member of the HR team and it is agreed who the facilitator will be.

The facilitated conversation process is supported by the HR team member and involves;

- Having separate preliminary phone calls with all parties involved to explain the principles and processes of a facilitated conversation and get their initial thoughts on the issues
- Arranging and conducting a facilitated face to face meeting
- Facilitating an agreement between the parties involved and recording this in an informal resolution agreement

A facilitated conversation is usually completed in a couple of hours however, it may take longer if more than two people are involved.

The facilitator will help the parties have an open and honest dialogue with the aim of identifying an outcome that is agreed by both parties. If needs be, the facilitated conversation can be paused to discuss aspects with just one or other of the parties if it is thought this will benefit a positive outcome of the meeting. If this is the case, the facilitator will encourage parties to sign up to an informal resolution agreement.

Whilst facilitation and mediation remain voluntary, they are proven to be highly effective. The Trust expects all parties to give these processes serious consideration and not to rule them out without good reason.

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15. Appendix 3 – Mediation Fact Sheet

Mediation is a more in-depth resolution process which is proven to be highly effective at resolving workplace disputes, disagreements, complaints or concerns. If all parties agree to take part in mediation, the aggrieved colleague's issue will be referred to one of the Trust's internal accredited mediators. The mediator will contact all parties by phone and explain the principles and processes of mediation. The mediation process includes:

- Separate initial phone calls for each party with the mediator(s) to explain the principles and process and address any queries or concerns.
- Separate meetings for each party with the mediator(s) to discuss the substantive issues.
- A face-to-face meeting between the parties facilitated by the mediator.
- Reaching agreement and closing the meeting.

Most mediation will be completed in a day; it may take longer if more than two people / parties are involved. Mediation is a voluntary and confidential process.

The mediator will help the parties have an open and honest dialogue with the aim of identifying a mutually acceptable outcome. If this is the case, the mediator will encourage parties to draw up an agreement.

After mediation has finished the aggrieved colleague may agree that, if appropriate, others can receive a copy of the final written agreement. However, the Trust will not receive any other feedback from the mediator about issues raised and discussed or any other factors raised during the mediation process however, will feedback to the relevant parties if the mediation was successful or not.

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16. Appendix 4 - Guidance on How to Conduct an Appeal Hearing

The Appeal Authority will facilitate the introductions and state the findings from the Respect and Dignity at Work investigation that have led to the appeal. The Appeal Authority, HR support, the colleague-in-training and their representative will have had sight of the relevant documentation and copies of any reports, statements or information that were referred to within the original investigation. The Appeal Authority will therefore make it clear that these will be taken as read.

The colleague-in-training and/or their representative will present their case and call witnesses if necessary. NB Witnesses who provided evidence during the original Respect and Dignity at Work investigation should only be called again if they can provide significant additional evidence to that which was presented during the original investigation and that is relevant to the grounds of appeal.

The Appeal Authority and HR support will have the opportunity to ask questions of the colleague-in-training and these witnesses. Each witness shall withdraw after giving their evidence and answering questions but maybe invited back into the meeting if required by the Appeal Authority.

The Appeal Authority will then call the independent reviewing manager and case investigator from the original investigation. The Appeal Authority, the HR support, colleague-in-training and/or their representative will have the opportunity to ask questions of the independent reviewing manager and the case investigator.

The colleague-in-training or their representative may sum up their case if they so wish without introducing any new matter.

Nothing in the foregoing procedure shall prevent the Appeal Authority and HR support from inviting any witness, the colleague-in-training or a representative to clarify or amplify any statement they may have made.

The Appeal Authority may, at their discretion, adjourn the meeting in order that further evidence may be produced or for any other reason.

Following completion of the submission of all evidence and summing-up, the colleague-in-training and the representative shall withdraw.

The Appeal Authority and the HR support shall deliberate in private, only recalling the meeting to clear points of uncertainty on evidence already given. If recall is necessary, the colleague-in-training and his/her representative will be recalled, even where they are not concerned with the point in question. The final decision will be that of the Appeal Authority and the HR support will act in advisory capacity.

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17. Appendix 5 – MWL Values

OUR VISION

5 star patient care



Mersey and West Lancashire
Teaching Hospitals
NHS Trust



5 STAR PATIENT CARE

- Good outcomes
- High standards
- Learning culture
- Best practice
- High quality
- Excellent experience
- Planned
- Personalised
- Embedded
- Courteous
- Timely
- Inclusive
- Efficient
- Patient centred
- Reliable

OUR VALUES



We are
KIND

We:

- Treat every individual with respect
- Are compassionate in our support of patients and colleagues
- Are friendly and welcoming and always introduce ourselves
- Care for each other as we care for our patients
- Are polite and value each other's thoughts and ideas



We are
OPEN

We:

- Are always listening and learning
- Encourage and support two-way communication
- Are honest, fair and open with others
- Take responsibility for our actions and always aim to improve
- Develop our services in the best interests of our communities



We are
INCLUSIVE

We:

- Value everyone's cultural, social and personal needs
- Celebrate our differences and support each other
- Listen to all voices
- Work as a team and learn from each other
- Challenge prejudice and promote acceptance

#TeamMWL

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18. Appendix 6 - Responsibility and Policy Matrix

Responsibility and Policy Matrix for Guidance

Person Raising Concern	Person who is being complained about	Concern Raised under whose Policy?	Investigation/ Discipline/Exclusion or Suspension
Colleague in training	Another colleague in training	Lead Employer Respect and Dignity at Work Policy	Lead Employer Handling Concerns Policy
Colleague in training	MWL Employee as a representative of the Lead Employer	Lead Employer Respect and Dignity at Work Policy	MWL Disciplinary Policy
Colleague in training	Host organisation employee	Lead Employer Respect and Dignity at Work Policy	Host Organisation's Disciplinary or MHPS policy
Colleague in training	NHS England employee	Lead Employer Respect and Dignity at Work Policy	NHS England's Disciplinary or MHPS policy
MWL Employee as a representative of the Lead Employer	Colleague in training	MWL's Respect and Dignity at Work Policy	Lead Employer Handling Concerns Policy
Host organisation employee	Colleague in training	Host Organisation's Respect and Dignity at Work Policy	Lead Employer Handling Concerns Policy
NHS England employee	Colleague in training	NHS England's Respect and Dignity at Work Policy	Lead Employer Handling Concerns Policy