

Remediation Policy for Medical and Dental Staff

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DETAILS OF CHANGES MADE DURING THE REVIEW

Minor changes to reflect changes in departmental names, changes to linked policies and updating of the links at the end of the document

KEY WORDS

Remediation Policy; Policy for Remediation; Remediation; Concerns; Poor Practice.

1 INTRODUCTION AND OVERVIEW

- 1.1 This document sets out the University Hospitals of Leicester (UHL) NHS Trust's Policy and Procedures for Remediation of Medical and Dental Staff.
- 1.2 This Remediation Policy has been developed in order to support the management of performance of practitioners across UHL. The Trust recognises that the success of our service is dependent upon the effectiveness of our employees. Our aim throughout this Policy is to resolve situations which relate specifically to the lack of capability of an employee to perform the work which they are employed to do.
- 1.3 Remediation is the process of addressing concerns about practice (knowledge, skills, and behaviours) that have been recognised through assessment, investigation, review or appraisal, so that the practitioner has the opportunity to return to safe practice.
- 1.4 The policy is based on the NHS Resolution document 'Back on Track'. It is consistent with the capability and remediation procedures for practitioners covered in the Department of Health documents 'Maintaining High Professional Standards in the Modern NHS' and 'Tackling Concerns Locally'.
- 1.5 University Hospitals of Leicester NHS Trust (the Trust) is responsible for setting measurable, realistic and achievable standards of performance and behaviour for medical staff. The Trust has a responsibility to ensure that employees understand what is required of them as part of their role. This includes identifying areas of poor performance and managing these issues in a supportive and consistent manner.
- 1.6 This remediation policy should be read in conjunction with other UHL policies and guidance which relate to how concerns about doctors are addressed; including the Conduct, Capability, Ill Health & Appeals Policy for Medical Practitioners ^[6] (Trust Ref. A2/2005); and the Disciplinary Policy and Procedure ^[7] (Trust Ref. A6/2004) and the Protocol Between the University of Leicester and the University Hospitals of Leicester NHS Trust <https://Guidlelines for the Management of Medical Clinical Academics between UoL and UHL>.
- 1.7 Whilst the policies in 1.6 advise on the conduct of investigations, consideration of exclusions, and disciplinary processes, this policy deals with the process of remediating deficiencies in performance.
- 1.8 This Remediation Policy has been developed in order to provide a framework for situations which relate specifically to the lack of capability of a medical practitioner to perform the work which they are employed to do. It provides a framework to apply in order to address issues of remediation which arise in relation to an inability to perform to, and sustain, the required standard for a post.
- 1.9 The purpose of this policy is to support the delivery of a transparent and fair approach to the remediation of medical employees and to ensure that patient safety is the paramount consideration of any remediation programme.

2 POLICY SCOPE – WHO THE POLICY APPLIES TO AND ANY SPECIFIC EXCLUSIONS

- 2.1 This policy applies to all Consultants, Specialty and Associate Specialist (SAS) doctors, Specialty Doctors, Staff Grades and other doctors employed in non-training medical posts within UHL. It also applies to those with honorary contracts whose prescribed connection is to UHL as their designated body. In the case of honorary consultants, any remediation plan would need to be developed in consultation with their substantive

(main) employer.

- 2.2 The policy does not apply to doctors in training. They will be managed jointly with Health Education East Midlands (HEEM) and HEEM policies regarding remediation will be followed. In this situation the Director of Medical Education, the trainee's Educational Supervisor and Training Programme Director must be informed of the concern.

3 DEFINITIONS AND ABBREVIATIONS

- 3.1 **Remediation** is the process of addressing performance concerns (knowledge, skills, competency, understanding and behaviours) that have been recognised through assessment, investigation, review or appraisal, so that the practitioner has the opportunity to practice safely. This covers all activities which provide assistance, from the simplest advice through to formal mentoring, further training, reskilling and rehabilitation.
- 3.2 **Reskilling** is the process of addressing gaps in knowledge, skills and/or behaviours, where a doctor is performing below the required standard or as a result of an extended period of absence (usually over 6 months) so that the doctor has the opportunity to return to safe practice, e.g. following suspension, exclusion, maternity leave, career break or ill health.
- 3.3 **Rehabilitation** is the process of supporting the doctor who is disadvantaged by chronic ill health or disability and enabling them to access, maintain, or return to practice safely.

4 ROLES – WHO DOES WHAT

4.1 Medical Director and Responsible Officer (RO)

The Medical Director and Responsible Officer roles are often combined but may be separated. The RO will make a recommendation to the GMC about the doctor's fitness to practice (as a positive statement of assurance, not simply an absence of concerns), and has duties under the law relating to fitness to practice and remediation. When the roles are separated, the two will work closely together to ensure that there is proper evaluation of doctors to allow their safe return to the workplace within a clinical governance framework. As of the time of review of this policy, the roles are separated in UHL.

4.2 Clinical Directors

Clinical Directors have responsibility for escalating serious concerns about a doctor's capability to the Medical Director.

4.3 Heads of Service/Medical Leads/Senior Managers

Heads of Service, Medical Leads, and managers have a responsibility for escalating serious issues to the Clinical Director, who will where necessary raise concerns to the Medical Director.

4.4 Appraisees

Appraisees are responsible for ensuring that they are able to demonstrate through the appraisal process that they are meeting the described standards and identifying their development needs. If remediation is necessary, doctors are responsible for demonstrating that the concern, deficit or issue has been resolved.

4.3 Appraisers

Appraisers will be adequately trained and supported to undertake their role. Lead appraisers will determine whether a doctor needs to undertake remediation and they will need to be clear about their recommendations, the objectives and the evidence they will expect to see, and the timescales by which they expect to undertake a review.

4.4 Clinical Supervisors

Clinical supervisors may be asked to work with a doctor whose clinical skills or knowledge is giving cause for concern. As part of remediation, direct clinical supervision is unlikely to be necessary (it is more suitable following an extended period away from the clinical environment or when deficits have been identified through assessment) but may be occasional or 'professional'. Professional supervision in this context is defined as 'participation in regular and supported time-out to reflect on the delivery of professional care, to identify areas for further development, and to sustain improved practice'.

4.5 Mentors

Mentors will be an important element of any remediation programme, providing personal support, challenge and assistance in developing reflective skills. The mentoring relationship is not intended as a line management role. It does not include formal supervision, it is outside the direct reporting line, and has no formal input to the appraisal or revalidation process, except to confirm to the appraiser that mentoring has satisfactorily occurred.

4.6 Occupational Health Service

Occupational Health has a role when the doctor's health is giving cause for concern. Onward referral by line manager to more specialist services may be necessary.

4.7 Royal Colleges and Faculties

Royal Colleges and Faculties are responsible for setting standards for their specialties and have a direct role if the concerns relate to a clinical service or department. The Colleges will be involved in individual cases to provide advice about standards, courses and supervision.

4.8 Postgraduate Deanery – Health Education East Midlands

Their assistance is statutory for doctors in training posts only, but they may also offer assistance for medical practitioners in:

- planning remedial clinical training
- arranging clinical supervision
- arranging a mentor
- offering access to supportive interventions such as coaching, counselling, career counselling.

4.9 NHS Resolution (formerly NCAS)

NHS Resolution will provide (through its Professional Support and Remediation (PSR) service) advice and support in developing remediation, reskilling and rehabilitation programmes, monitoring progress and developing exit strategies. As part of the revalidation process NHS

Resolution will provide advice and support to the doctor, appraiser, responsible officer and employer/contractor.

NHS Resolution should be contacted to assist with remediation in consultation with the case manager, Medical Director or RO in cases where the Trust require additional advice or practical help in formulating a remediation plan.

4.10 General Medical Council (GMC)

The role of the GMC in revalidation is closely linked to the output of the appraisal process. A recommendation will be made to the GMC by the RO about the doctor's suitability for revalidation. If the concern identified (whether relating to performance, health or conduct) is so serious as to call into question the doctor's license to practice then the GMC's advice must be taken by the RO.

4.11 All Medical and Dental Staff

All medical and dental staff have a responsibility to raise genuine concerns with their Head of Service / Medical Lead. There will usually be a requirement to document concerns and where appropriate concerns can be raised through the Public Interest Disclosure Act 1998 (Whistleblowing in the NHS).

5. POLICY IMPLEMENTATION AND ASSOCIATED DOCUMENTS – WHAT TO DO AND HOW TO DO IT

5.1 The Responsible Officer has a statutory obligation with regard to remediation.

The following is taken directly from regulations The Medical Profession (Responsible Officer) Regulations 2010 Part 3 Regulation 16 (4) h ^[4]:

“In relation to ensuring that appropriate action is taken in response to concerns about medical practitioners' conduct or performance, the responsible officer must—...

5.1.1 identify concerns and ensure that appropriate measures are taken to address these, including but not limited to

5.1.2 requiring the medical practitioner to undergo training or retraining;

- (i) offering rehabilitation services;
- (ii) providing opportunities to increase the medical practitioner's work experience;
- (iii) addressing any systemic issues within the designated body which may have contributed to the concerns identified.”

5.2 UHL will consider early intervention when justifiable concerns emerge over the capability, conduct or health of a doctor, with the aim of remediation wherever possible. The following principles of best practice build on the experience of NHS Resolution and its guidance document “Back on Track” as referenced by the Remediation Work Group of the Academy of Medical Royal Colleges.

5.3 Principles relating to remediation: These principles are supported by UHL:

- Principle 1: clinical governance and patient safety - patient safety should be the paramount consideration in any return-to-work programme. The following key elements must act as a touchstone for the policies, procedures and practical arrangements:
 - a. The needs and safety of patients
 - b. The governance and integrity of the clinical service

- c. The needs and well-being of the practitioner.
- Principle 2: A single framework guiding individual programmes. The framework governing individual return to work programmes should use common principles and approaches and be applicable as far as possible across different organisational settings and types of case.
- Principle 3: A comprehensive approach – this will involve:
 - Clarifying and addressing the key stakeholders’ expectations and aspirations, taking into account the need at all times to protect patient safety
 - Addressing fully the practitioner’s training needs as well as all the factors that may be affecting performance, whether these focus on the individual, the immediate clinical team or the wider organisation.
- Principle 4: Fairness, transparency, confidentiality and patient consent. As far as possible, the confidentiality of the practitioner and the immediate clinical team should be protected. However, this need for confidentiality should be balanced against the need to ensure that information is passed to colleagues where appropriate, and patients are properly informed before giving consent to care from a practitioner undertaking a return-to-work programme.
- Principle 5: On-going and consistent support. Any return-to-work programme should include personal and professional support for the practitioner, for the team they are working in and for the organisation managing the programme.
- Principle 6: Success and failure. Any framework must recognise and address the possibility of failure as well as success.
- Principle 7: Local resolution drawing on local and national expertise. Local structures, policies and programmes should support local resolution of a case and provide opportunity for local sharing of expertise with access to national expertise.

5.3 Practical process for remediation: The step-by-step process for remediation will draw on the NHS Resolution “Back on track” guidance. The steps are expanded below, and the following will be considered:

Step 1: Identify the full range of concerns

Ensure that there is a clear understanding of the nature and range of concerns. If there is not already a clear understanding, further investigation or assessment may be necessary.

Step 2: Draft an action plan

Draft an action plan to outline the plan to address identified training needs. This provides an overview of the proposed plan for ‘in principle’ discussions. Please refer to <https://resolution.nhs.uk/resources/back-on-track-a-good-practice-guide/>

Step 3: Agree to proceed (or not)

Identify next steps for agreeing the plan, or to examine alternative actions if it is not possible to reach agreement on the outline framework.

Step 4: Develop the detailed plan

Once there is agreement on the framework, construct a detailed plan. This should include programme objectives, interventions, and use of placements, milestones and how these will be assessed, supporting information/evidence, funding estimates, cost-sharing arrangements and actions to be taken if progress exceeds or falls short of expectations at specified review points. <https://resolution.nhs.uk/resources/back-on-track-a-good-practice-guide/>

Step 5: Implement and Monitor

Through close monitoring and collection of pre-specified information, decisions can be made at planned review points about whether objectives have been met and whether the programme should continue. A reporting structure should be defined for collecting comments from clinical supervisors, specialist trainers and educationalists as well as from the practitioner.

Step 6: Complete the programme and follow up

Management actions will depend on whether concerns about the practitioner's performance have been resolved or only partially resolved. Follow up actions should normally be linked firmly with the appraisal process.

5.4 Action to be taken when a concern arises:

When a concern arises, the "Conduct, Capability, Ill-Health, and Appeals Policies and Procedures for Medical Practitioners" ^[6] (Trust ref. A2/2005) will be followed in response. That policy broadly follows the procedures from Maintaining High Professional Standards in the Modern NHS ^[2].

5.5 Funding the Costs of Remediation: A remediation programme should not commence until there is a clear agreement on how the costs will be met. The following costs must be considered (not all may apply, and there may be more):

- Reasonable adjustments to accommodate practitioner's health needs;
- Salary costs/remuneration for the practitioner undergoing further training;
- Locum cover costs to maintain normal patient services;
- External placement costs (if necessary);
- Travel and subsistence costs during courses or placements;
- Other educational costs – behavioural coaching, communication skills etc;
- Fees from external bodies who may be needed to support further training.

In line with NHS Resolution "Back on Track" guidance, the organisation and practitioner should discuss and understand the scale of spending and agree how each element will be covered. Options might include:

- The practitioner contributing to the educational elements of a programme, with the organisation funding the cost of maintaining services during study leave;
- The organisation funding educational activities, with the practitioner funding travel and subsistence;
- Study leave or special programmed activities time may be available to some practitioners;
- Practitioner payment for non-clinical educational activity such as behavioural coaching, language further training etc.
- Organisation funding of course/placement costs for a defined period with review and continued funding dependent on progress being made;

- Reduced number of programmed activities for the practitioner and re-directing the savings into further training.

The Trust will take into consideration the nature of the contract with the doctor in determining the level of support that will be offered, including whether the contract is temporary or permanent, the length of time in post, etc. refer to point 6.7 for additional support.

In certain circumstances, namely where it can be shown that the responsibility of the individual doctor flowing from professional and regulatory requirements to keep themselves up to date and fit to practise has not been met, the costs of any remedial programme may fall on the individual doctor. In most cases however, the Trust would expect to contribute towards the costs of remedial programmes, in line with its contractual and legal obligations.

- 5.6 Support Available: In development of a remediation plan, all parties should consider sources of support available. This will range from national organisations such as NHS Resolution and Royal Colleges, to more local sources. Locally available sources of support to consider might include: Amica, Occupational Health, Human Resources, Clinical Supervisors, Mentors, etc.
- 5.7 When Remediation Fails: In keeping with Principle 6 (section 6.3 above) any action plan must address the possibility of failure as well as of success. The action plan itself, developed in line with section 3.4 (4) above will allow for “actions to be taken if progress exceeds or falls short of expectations at specified review points”. The action plan must make it clear, from the start of the remediation programme, what action will be taken if progress falls short of requirements; when and how this will be assessed and the criteria by which remediation will be deemed to have failed together with what action would then be taken.

6 EDUCATION AND TRAINING REQUIREMENTS

- 6.1 There is no specific training regarding implementation of this policy, but advice and support can be sought from the People Services Department throughout all formal procedures under this policy.

7 PROCESS FOR MONITORING COMPLIANCE

- 7.1 Compliance with the policy is ensured through the HR support and advice provided throughout action taken under this policy.

7.2. All medical conduct and capability cases are monitored on a monthly basis via the Medical Conduct Meeting which is attended by the Medical Director, RO and the Chief People Officer.

8 EQUALITY IMPACT ASSESSMENT

- 8.1 The Trust recognises the diversity of the local community it serves. Our aim therefore is to provide a safe environment free from discrimination and treat all individuals fairly with dignity and appropriately according to their needs.
- 8.2 As part of its development, this policy and its impact on equality have been reviewed and no detriment was identified

9 SUPPORTING REFERENCES, EVIDENCE BASE AND RELATED POLICIES

¹ **NHS Resolution Service “Back on Track”**: Available at

<https://resolution.nhs.uk/resources/back-on-track-a-good-practice-guide/>

² **Maintaining High Professional Standards in the Modern NHS (DoH 2005)**: Available at: [\[ARCHIVED CONTENT\] \(nationalarchives.gov.uk\)](#)

Remediation and Revalidation: report and recommendations from the Remediation Work Group of the Academy of Medical Royal Colleges http://aomrc.org.uk/wp-content/uploads/2016/06/Remediation_and_revalidation_1209-1.pdf

³ **The Medical Profession (Responsible Officer) Regulations 2010**: Available at:

http://www.legislation.gov.uk/ukxi/2010/2841/pdfs/ukxi_20102841_en.pdf

⁴ **Tackling Concerns Locally (DoH 2009)**: Available at:

https://webarchive.nationalarchives.gov.uk/ukgwa/20100408040821/http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_096492

UHL Conduct, Capability, Ill-health, and Appeals Policies and Procedures for Medical Practitioners (Trust Ref. A2/2005). Available at: [http://insitetogether.xuhl-](http://insitetogether.xuhl-tr.nhs.uk/pag/pagdocuments/Conduct%20Capability%20Ill%20Health%20and%20Appeals%20UHL%20Policy.pdf)

[tr.nhs.uk/pag/pagdocuments/Conduct%20Capability%20Ill%20Health%20and%20Appeals%20UHL%20Policy.pdf](http://insitetogether.xuhl-tr.nhs.uk/pag/pagdocuments/Conduct%20Capability%20Ill%20Health%20and%20Appeals%20UHL%20Policy.pdf)

UHL Resolution Policy 2021 (Trust Ref. B39/2020). Available at:

<http://insitetogether.xuhl-tr.nhs.uk/pag/pagdocuments/Resolution%20UHL%20Policy.pdf>

10 PROCESS FOR VERSION CONTROL, DOCUMENT ARCHIVING AND REVIEW

10.1 This document will be uploaded onto SharePoint and available for access by Staff through INsite. It will be stored and archived through this system.

POLICY MONITORING TABLE

Element to be monitored	Lead	Tool	Frequency	Reporting arrangements Who or what committee will the completed report go to.
Compliance with the policy: appropriate identification of cases, use of NHS Resolution procedures and templates, follow-up, closure.	Medical Director / Responsible Officer	Case by case review	On-going (Monthly reviews of cases)	<p>Medical Conduct Committee (Monthly reviews of cases).</p> <p>Trust Board: In cases of exclusion from Trust regular reports to Trust Board in keeping with "Conduct, Capability, Ill- health, and Appeals Policies and Procedures for Medical Practitioners"(Trust Ref. A2/2005).</p>