

REMEDIATION POLICY (MD21)

If you require a copy of this policy in an alternative format (for example large print, easy read) or would like any assistance in relation to the content of this policy, please contact the Diversity & Inclusion Officer on 01803 656705.

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|---|--|--------------------------|------------|
| Date of Issue: | March 2021 | Next Review Date: | March 2023 |
| Version: | 1.1 | Last Review Date: | Feb 2021 |
| Author: | Appraisal Lead | | |
| Directorate: | Workforce and Organisational Development | | |
| Approval Route | | | |
| Approved By: | | Date Approved: | |
| JLNC | | November 2017 | |
| Medical Workforce | | March 2021 | |
| Links or overlaps with other policies: | | | |
| | | | |
| MD22 Appraisal and Revalidation Policy' | | | |
| MD29 Maintaining High Professional Standards Policy | | | |
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Amendment History

| Issue | Date | Reason for Change | Authorised |
|-------|------------|--|-------------------|
| 1 | Nov 2017 | New policy template | JLNC |
| 1.1 | March 2021 | Reference to NHS Resolution and Practitioner Performance Advice removal of NCAS as no longer exists. Change of job titles. | Medical Workforce |
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Rapid (E)quality Impact Assessment (EqIA) (for use when writing policies)

| | | | |
|---|---|---|---|
| Policy Title (and number) | Remediation | Version and Date | March 2021 v1.1 |
| Policy Author | Revalidation Lead | | |
| An (e)quality impact assessment is a process designed to ensure that policies do not discriminate or disadvantage people whilst advancing equality. Consider the nature and extent of the impact, not the number of people affected. | | | |
| Who may be affected by this document? | | | |
| Patients/ Service Users | <input type="checkbox"/> | Staff | <input checked="" type="checkbox"/> |
| Other, please state... | | <input type="checkbox"/> | |
| Could the policy treat people from protected groups less favorably than the general population? | | | |
| <i>PLEASE NOTE: Any 'Yes' answers may trigger a full EIA and must be referred to the equality leads below</i> | | | |
| Age | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | Gender Reassignment | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |
| Race | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | Disability | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |
| Gender | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | Pregnancy/Maternity | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |
| Sexual Orientation | | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | |
| Religion/Belief (non) | | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | |
| Marriage/ Civil Partnership | | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | |
| Is it likely that the policy could affect particular 'Inclusion Health' groups less favorably than the general population? (substance misuse; teenage mums; carers ¹ ; travellers ² ; homeless ³ ; convictions; social isolation ⁴ ; refugees) | | | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |
| Please provide details for each protected group where you have indicated 'Yes'. | | | |
| VISION AND VALUES: Policies must aim to remove unintentional barriers and promote inclusion | | | |
| Is inclusive language ⁵ used throughout? | | | Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input checked="" type="checkbox"/> |
| Are the services outlined in the policy fully accessible ⁶ ? | | | Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input checked="" type="checkbox"/> |
| Does the policy encourage individualised and person-centered care? | | | Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input checked="" type="checkbox"/> |
| Could there be an adverse impact on an individual's independence or autonomy ⁷ ? | | | Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input checked="" type="checkbox"/> |
| EXTERNAL FACTORS | | | |
| Is the policy a result of national legislation which cannot be modified in any way? | | | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |
| What is the reason for writing this policy? (Is it a result in a change of legislation/ national research?) | | | |
| outline, in the context of revalidation, how a need for remediation of a doctor's practice might arise, | | | |
| Who was consulted when drafting this policy? | | | |
| Patients/ Service Users | <input type="checkbox"/> | Trade Unions | <input checked="" type="checkbox"/> |
| Protected Groups (including Trust Equality Groups) | | <input type="checkbox"/> | |
| Staff | <input type="checkbox"/> | General Public | <input type="checkbox"/> |
| Other, please state...Revalidation Officer | | <input checked="" type="checkbox"/> | |
| What were the recommendations/suggestions? | | | |
| Does this document require a service redesign or substantial amendments to an existing process? <i>PLEASE NOTE: 'Yes' may trigger a full EIA, please refer to the equality leads below</i> | | | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |
| ACTION PLAN: Please list all actions identified to address any impacts | | | |
| Action | Person responsible | Completion date | |
| | | | |
| | | | |
| AUTHORISATION: | | | |
| By signing below, I confirm that the named person responsible above is aware of the actions assigned to them | | | |
| Name of person completing the form | Medical HR Manager | | |

Please contact the Equalities team for guidance: For Torbay and South Devon NHS Trusts, please call 01803 656676 or email pfd.sdhct@nhs.net This form should be published with the policy and a signed copy sent to your relevant organisation.

¹ Consider any additional needs of carers/ parents/ advocates etc, in addition to the service user

² Travelers may not be registered with a GP - consider how they may access/ be aware of services available to them

³ Consider any provisions for those with no fixed abode, particularly relating to impact on discharge

⁴ Consider how someone will be aware of (or access) a service if socially or geographically isolated

⁵ Language must be relevant and appropriate, for example referring to partners, not husbands or wives

⁶ Consider both physical access to services and how information/ communication is available in an accessible format

⁷ Example: a telephone-based service may discriminate against people who are d/Deaf. Whilst someone may be able to act on their behalf, this does not promote independence or autonomy

Contents

| | | |
|-----------|--|-----------|
| 1 | Policy Statement | 5 |
| 2 | Introduction | 5 |
| 3 | Scope | 5 |
| 4 | Equality and Diversity Statement | 5 |
| 5 | Roles and Responsibilities | 5 |
| 5.1 | The Trust..... | 5 |
| 5.2 | The Responsible Officer (RO)..... | 6 |
| 5.3 | The Appraisal Lead | 6 |
| 5.4 | Enhanced Medical Appraisers..... | 6 |
| 5.5 | The Clinical Lead | 6 |
| 5.6 | All Doctors..... | 6 |
| 6 | Definitions | 6 |
| 7 | Identifying Concerns | 7 |
| 8 | Remediation Procedure | 7 |
| 9 | Training and Awareness | 11 |
| 10 | References | 11 |
| 11 | Monitoring, Audit and Review Procedures | 11 |
| 13 | Appendix 1 – An Overview of issues affecting a doctor’s performance | 12 |

1 Policy Statement

- 1.1 This document outlines, in the context of revalidation, how a need for remediation of a doctor's practice might arise, how this need might be met and who might be involved in the delivery of remediation.

2 Introduction

- 2.1 Revalidation is the process by which licensed doctors will have to demonstrate to the General Medical Council (GMC) that they are up to date and fit to practise and that they are complying with the relevant professional standards. All licensed doctors will need to revalidate regularly, if they wish to keep their licence to practise. For most doctors, revalidation will take place every five years following the appraisal process.
- 2.2 This policy has been developed on the rare occasions where there are concerns arising about the practitioner's ability to meet the requirements of Revalidation.
- 2.3 This policy should be read in conjunction with MD22 Appraisal and Revalidation Policy'.

3 Scope

- 3.1 This policy applies to all Consultants, Associate Specialists, Speciality Doctors and other doctors employed in a non-training medical post by Torbay & South Devon NHS Foundation Trust, including those with honorary contracts, where they relate to the Responsible Officer for this Trust.
- 3.2 Doctors in Training will follow Health Education England's procedures for remediation.

4 Equality and Diversity Statement

- 4.1 The Trust is committed to preventing discrimination, valuing diversity and achieving equality of opportunity. No person (staff, patient or public) will receive less favourable treatment on the grounds of the nine protected characteristics (as governed by the Equality Act 2010): sexual orientation; gender; age; gender re-assignment; pregnancy and maternity; disability; religion or belief; race; marriage and civil partnership. In addition to these nine, the Trust will not discriminate on the grounds of domestic circumstances, social-economic status, political affiliation or trade union membership.
- 4.2 The Trust is committed to ensuring all services, policies, projects and strategies undergo equality analysis.

5 Roles and Responsibilities

5.1 The Trust

- 5.1.1 The Trust's primary responsibility is to ensure patient safety and to provide the highest quality of patient care. As an employer the Trust is also responsible for enabling its employees to meet their performance standards. This includes the provision of structures and processes to enable effective remediation to occur in line with local and national guidance.

5.1.2 Has a responsibility to ensure that all doctors have the opportunity to revalidate and will therefore support doctors in following the appropriate remediation process and programmes where there are concerns that the standards required for revalidation may not be met.

5.1.3 Will offer early intervention when justifiable concerns emerge over the capability, conduct or health of a practitioner, with the aim wherever possible of remediation, re-skilling or rehabilitation. All concerns should be dealt with quickly and appropriately. In all circumstances the safety of patients will be paramount and underpin any remediation programme.

5.2 The Responsible Officer (RO)

5.2.1 Is accountable for the quality assurance of the appraisal and clinical governance systems in the organisation. It is the responsibility of the RO to investigate, monitor and respond to concerns about a doctor's practice. They are also responsible for ensuring any follow-up action is taken, that comprehensive records are kept of all appraisals and for making recommendations for revalidation to the GMC.

5.3 The Appraisal Lead

5.3.1 Supports the RO in the quality assurance and reporting arrangements for the medical appraisal system.

5.4 Enhanced Medical Appraisers

5.4.1 Are responsible for conducting appraisals in accordance with the Appraisal and Revalidation Policy, and for alerting the RO of any significant concerns or patient safety issues arising within the appraisal.

5.5 The Clinical Lead

5.5.1 Has responsibility for enabling the early identification of performance issues and a role in providing a supportive environment which allows remediation to take place without putting patients, the public or the doctor at risk. They will be responsible for implementing any remediation programme and monitoring its outcome.

5.6 All Doctors

5.6.1 Are responsible for ensuring that they are able to demonstrate, through the appraisal process, that they meet the GMC's Good Medical Practice Standards. If remediation is necessary doctors will actively engage with the Trust in identifying and accepting support and working collaboratively to take the necessary steps to ensure resolution of any issues.

6 Definitions

6.1 For the purposes of this document the following definitions are adopted:

Remediation is the process of addressing performance concerns (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. It is an

umbrella term for all activities which provide help; from the simplest advice, through formal mentoring, further training, reskilling and rehabilitation:

Re-skilling is the process of addressing gaps in knowledge, skills and/or behaviours which result from an extended period of absence (usually over 6 months) so that the practitioner has the opportunity to return to safe practice. This may be, for example, following suspension, exclusion, maternity leave, career break or ill health (but see below):

Rehabilitation is the process of supporting the practitioner, who is disadvantaged by chronic ill health or disability, and enabling them to access, maintain or return to practice safely.

7 Identifying Concerns

- 7.1 For most doctors appraisal and revalidation will be a straightforward process. A small number of doctors, however, will find that the process raises concerns about their performance and/or ability to revalidate without participation in some remedial activity.
- 7.2 Concerns about a doctor's performance may be raised at any time and should be dealt with promptly. These may be of a varied nature (see Appendix 1- although this list is not exhaustive). A need for remediation might emerge through appraisal, formal 1-1s and/or by a clinical governance process including investigation and ensuing competency or disciplinary action or there might have been regulatory, NHS Resolution (Practitioner Performance Advice) or Royal College performance assessment or review.
- 7.3 Where concerns do arise through the appraisal process, both the appraiser and the appraisee need to recognise that as registered medical practitioners they must protect patients if they believe that a colleague's health, conduct or performance is a potential risk to patient safety. If, as a result of the appraisal process, the appraiser believes that the activities of the appraisee are such as to put patients at risk, then the appraisal should be stopped and the matter referred to the Responsible Officer. This would happen only on the rarest of occasions. However a doctor's appraisal for revalidation has to take place annually, arrangements should therefore be made as quickly as possible for the appraisal to be re-scheduled.
- 7.4 A situation may arise from a doctor having significant career/organisational break or other absence from practice. For example, this might have arisen through suspension/exclusion, a change in career path, ill health, maternity leave, carers leave or other types of statutory leave, or a period working outside the NHS or the UK. Whether a break is significant will be a matter for judgement by the RO (absence from practice for 3 months or more is a reasonable guide).
- 7.5 Where a decision is made that remediation is not deemed suitable (see 8.3 for further details) or where remediation does not resolve the issue then the Maintaining High Professional Standards in the Modern NHS Policy will be followed.

8 Remediation Procedure

- 8.1 The Trust will offer early intervention when justifiable concerns emerge over the capability, conduct or health of a practitioner, with the aim wherever possible of remediation, reskilling or rehabilitation.

- 8.2 Patient safety will be the paramount consideration in any remediation, re-skilling or rehabilitation framework.
- 8.3 Before agreeing whether or not to support Remediation the RO will consider all aspects of the situation including:
- The extent to which the doctor is able to acknowledge the difficulties identified;
 - The progress made in any previous attempts to improve practice;
 - The doctors demonstrated commitment to change;
 - Whether the doctor has any significant physical or mental health problems which impact on the doctors performance and/or patient safety and cannot be remedied;
 - The agreed remediation programme will be relevant to the work required of the doctor in line with their contract of employment with the Trust;
 - The seriousness and scope of the concerns identified and whether a more informal resolution may be appropriate.
- 8.4 Completing remediation is the responsibility of the doctor. They must understand what they need to achieve, the timescale and the methods involved so that they will be able to demonstrate that they successfully completed the remediation programme developed for them.
- 8.5 The principles and practical considerations to implement a step by step process for remediation, re-skilling and/or rehabilitation are outlined below:

8.5.1 **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 (advice and guidance is available from Medical Workforce).

Concerns may be identified through a review of (this is not an exhaustive list):

- Any recent performance investigation report
- The practitioner's job plan and or contract compared with current service requirements
- Most recent appraisals
- Advice from Occupational Health
- The practitioners confidence levels and expressed development needs

8.5.2 **Step 2- Draft an action plan**

Draft an outline plan setting out what can be done to address the identified needs. This outline can then inform discussions about decision making around engagement, reasonableness, proportionality, practicability and resourcing.

The outline plan should address:

- Areas of concern
- Possible interventions
- Resources needed

- Potential support
- Timeframes
- Sources of evidence/information needed to demonstrate progress
- The role to which the practitioner will return if the programme demonstrates that the identified concerns have been addressed
- The implications for the practitioner if concerns are not addressed

The practitioner should be encouraged to share the outline plan with a professional representative at an early stage.

Where possible, interventions should be developmental, providing the practitioner with constructive feedback to encourage reflection and build insight into the ways in which practice and performance can change.

Some of the interventions that might be considered include:

- Supervised practice
- Work based assessments (e.g. mini clinical evaluation exercises, simulation)
- Educational activities (e.g. Tutorials, courses, e-learning)
- Specialists interventions (e.g. coaching, counselling, cultural competence)
- Practitioner support (e.g. mentoring, career guidance)

8.5.3 **Step 3- Agree to proceed (or not)**

Identify the next steps for agreeing the plan or examine alternative actions if it is not possible to reach agreement on the outline action plan. The Clinical Service Lead or Associate Medical Director and Responsible Officer (with advice from Medical Workforce) should consider if it is reasonable to commit to the remediation plan.

The practitioner should be strongly advised to talk the options through with an experienced and independent adviser.

Once agreed in principle and while a programme is still being finalised, the practitioner could be encouraged to participate in non-clinical learning activities for example, behavioural coaching, CPD, audit etc, which could be integrated into the action plan retrospectively.

If an 'in principle' agreement cannot be reached, other measures will need to be explored to ensure that patient safety is not compromised. Options may include:

- Restrictions to practice to areas which do not cause concern
- Retraining or re-specialising
- Working at a lower grade
- Specialist careers advice to help the practitioner onto a more appropriate career path
- Capability/disciplinary procedures

8.5.4 **Step 4- Develop the detailed plan**

Once there is agreement on the outline action plan, construct a detailed plan. An action plan is different to a Personal Development Plan (PDP). An action plan is an 'extraordinary' process relating to achieving specific learning outcomes directed by a third party. The action plan should include objectives, interventions, use of placements, milestones, supporting information/evidence, and actions to be taken if progress exceeds or falls short of expectations at specified review points.

Practitioner Performance Advice (NHS Resolution) may be referred to during the process for support and may provide specific parts of the assessment if appropriate, such as an assessment of behavioural concerns, communicative competencies etc.

In drawing up the detailed plan the practitioner's welfare should also be considered. Objectives should be realistic and structured with timelines. Personal support, such as confidential mentoring, counselling or occupational health should be made available or accessible to the practitioner. Support may also be available from a defence organisation or professional association.

A remediation/ reskilling/rehabilitation programme may take place wholly or partly at the practitioner's usual workplace or might be arranged elsewhere. Remaining in the usual workplace will probably be the choice where working relationships remain good, where the team can absorb the additional workload and where an appropriate clinical supervisor can be found. Concerns raised through appraisal would normally be dealt with in this way, although a short period observing work in another organisation might be identified as a useful learning method.

Where further training at the practitioner's usual workplace is not appropriate an external placement may be necessary. External placements offer a number of benefits:

- Objective monitoring and reporting
- Experience of different ways of clinical and non-clinical working
- Temporary removal from a difficult working environment
- Fewer organisational commitments for the practitioner and more opportunity to focus on personal further training
- Practical demonstration of an organisations commitment to the remediation process.

The benefits of an external placement need to be balanced against resourcing external placements, the difficulty finding them and the difficulty they may create when the practitioner re-enters the original workplace. Use of a placement agreement is recommended in setting out an external placement.

8.5.5 **Step 5 Implement and monitor**

The practitioner is responsible for completing the remediation programme. The Clinical Service Lead is responsible for following up the programme.

Once an action plan has started there should be close monitoring and collection of evidence, as specified in the plan. The action plan template suggests a reporting structure for collecting feedback from clinical supervisors, specialist trainers as well as from the

practitioner who is expected to provide a portfolio of evidence supporting progress made. This will enable decisions to be made at the planned review points about whether objectives have been met and whether the programme should move on to the next milestone.

The monitoring process should involve regular meetings between the Clinical Director, the clinical/educational supervisor and the practitioner to measure progress formally against milestones. This will allow any lack of engagement with the process or lack of progress to be identified and dealt with quickly and effectively. This could include, if appropriate in the circumstance, rearranging activities, extending the deadlines, or potentially by early termination of the programme. If a programme is terminated early the matter should be referred to the Responsible Officer and the Trust Policy on Maintaining High Professional Standards in a Modern NHS should be followed.

8.5.6 ***Step 6 Complete the programme and follow up Remediation Policy***

If the concerns about the practitioner's performance have been resolved, the Clinical Service Lead should agree arrangements for the practitioner to return to practice under the terms agreed. If the progress intended has not been made, the matter should be referred to the Responsible Officer and the Trust Policy on Maintaining High Professional Standards in a Modern NHS should be followed.

The outcome should be confirmed in writing to all parties including the practitioner and any external stakeholders such as regulators or Practitioner Performance Advice (NHS Resolution).

9 Training and Awareness

9.1 Advice and support will be provided by the Medical Workforce team to support staff and managers in adhering to this policy and their understanding of dealing with Remediation.

- sdhct.medicalhr@nhs.net

10 References

10.1 NHS Resolution 'Did you Know? Being Fair

https://resolution.nhs.uk/wp-content/uploads/2019/07/NHS-Resolution_Being-fair-Website2.pdf

10.2 Practitioner Performance Advice NHS Resolution

<https://resolution.nhs.uk/services/practitioner-performance-advice/>

11 Monitoring, Audit and Review Procedures

12.1 This policy will be monitored and audited on a regular basis. A full review will take place every two years by the Directorate of Workforce and Organisational Development unless legislative changes determine otherwise.

13 Appendix 1 – An Overview of issues affecting a doctor’s performance



