

Respect and Resolution Policy FAQs

1. Who is “we” and who is “you”?

“You” refers to you; i.e. the employee making the request for resolution. “We” refers to the employer as a corporate entity; i.e. the organisation. “We” should not be confused with the manager who is conducting the meeting(s) i.e. the Chair.

2. Who is covered by this policy?

Only employees are covered by the formal resolution policy. Workers (either agency or bank) do not have recourse to the formal part of this policy. However, all staff (substantive employees and bank and agency workers) have recourse to the informal resolution stages and should be supported and encouraged to seek resolution using the various tools. Workers will have a separate right to raise issues via their contractual terms of engagement.

3. Does this policy apply after employment has ended?

This policy applies to employees only, and therefore would not ordinarily apply after employment has ended. There may be some circumstances where the employer may want to explore/investigate issues raised after the employment has ended such as if there is a concern over unpaid wages or unused annual leave. If there is such a request for resolution it may be that the matter can be resolved without the need to use the formal part of the policy. Best practice would be to consider each issue on a case by case basis and to try to seek a resolution that means that the matter is not escalated externally.

4. What constitutes an accurate record?

Depending on the employer’s normal practice an accurate record can be minutes taken by a note taker (supplied by the employer) or an audio recording. The employee raising the request for resolution should have an opportunity to comment on the accuracy of the record and access a copy of the record.

It is good practice to keep a written record of all stages in the process including investigation and meetings.

5. Are there any instances when status quo would not apply?

Status quo means that the existing state of affairs remains unchanged. The status quo will normally continue until the request for resolution has been resolved or the formal

procedure has been exhausted. There may be exceptional circumstances such as (but not limited to) a breach of legal requirements or clinical safety issues which may impact upon the status quo. In such exceptional circumstances early dialogue with the employee(s) and/or representative(s) should take place.

6. Does this policy apply if my complaint is about terms and conditions or working practices for instance?

Yes, this policy is the framework for any disagreement or issues at work. Some examples are provided in 2.1 of the policy. We would encourage and expect you to use discretion in deciding which is the most appropriate part of the toolkit to use to resolve your issue. You can seek advice from your Trade Union Representative or Human Resources should you require assistance in determining where to start with your particular issue.

7. Does this policy replace the Dignity at Work Policy and the Grievance Policy?

Yes, this policy is the framework for any workplace dispute. This policy replaces the previous Dignity at Work policy and the Grievance Policy. The aim of this approach is to encourage and support employees to use informal tools to resolve their workplace disagreements early and effectively in the first instance whilst still providing a clear formal procedure to follow if informal resolution is not possible.

We appreciate that this may be difficult in cases of bullying and harassment, where employees may not wish to 'tackle' the issues head on with the other individuals involved. Trade Union Representatives and Human Resources staff are able to assist should the issues involved be too sensitive to address directly.

8. I don't believe informal resolution is possible can I go straight to the formal part of the policy?

There may be circumstances where there is no other option than to go straight to the formal part of the policy however in most cases we would expect and encourage that the toolkits for informal resolution are used. We recognise that a positive working environment and good working relationships have a beneficial impact on employee wellbeing, engagement and patient experience.

9. Can witnesses be called to resolution meetings?

Witnesses can be called to resolution meetings but there is not an automatic right to this. Discussions should take place between you and the Chair depending on the issues involved and the particular relevance of a specific witness. Witnesses should be allowed where their evidence is specific to the events on which the request for

resolution is based. Where appropriate written witness statements should be encouraged.

The focus at resolution meetings should be on finding and achieving a resolution rather than arbitrating between conflicting evidence.

10. The time scales set out in the policy have been missed. What are the implications of this?

We will always try to comply with the time scales set out in the policy however there may be circumstances where this is not possible due to the complex nature of some of the issues raised. If it appears likely that time scales will not be met then this should be communicated to all parties.

11. How long should an investigation take to complete?

The length of an investigation will vary depending on the facts and nature of the circumstances. It is expected that an investigation should be completed within 28 days. In accordance with 5.3 of the policy, the parties should agree timescales and keep each other informed where possible.

12. What could happen if a malicious request for resolution is raised?

In circumstances where it becomes apparent that a request for resolution has been raised in a malicious manner the employer may decide to invoke disciplinary procedures against the employee raising the issue in a malicious manner.

This is unlikely to occur very often however it is important to recognise that accusations made against individuals can be very upsetting and cause distress. Where it becomes apparent that the accusations are either malicious, have no basis or are in effect a form of bullying then the employer reserves the right to take the appropriate course of action.

13. Should all documentation be fully disclosed?

An open and transparent approach is important with regards to resolving conflicts and therefore ordinarily it would be expected that all parties receive all the documentation related to the case. There may be certain circumstances where information about patients or third parties will need to be redacted or that the nature of the complaint (i.e. sexual harassment) requires a greater degree of discretion. In circumstances where full disclosure is not possible, employers will be expected to explain why.

14. Is the resolution process confidential?

Individual resolution processes should be regarded as strictly confidential by all parties involved. Details should only be shared with the parties involved which includes Trade Union Representatives. Breaching confidentiality will be treated very seriously and could result in disciplinary action.

15. What happens if there is an existing contractual process to resolve my complaint?

Where such processes exist they should be followed. Example of such situations include but is not limited to processes like Agenda for Change job re-evaluation, or Junior Doctor banding appeals. If such processes exist, the appropriate processes should be followed. The decision in those processes will be final. If an issue arises with the process, however, then the resolution policy can be used.

16. Are the informal steps (i.e. using the toolkits) mandatory?

Use of the toolkits to informally resolve any issues is strongly encouraged and is fundamental to developing healthy working relationships in the long term. There will of course be circumstances where this is not appropriate but in the majority of cases we believe that you will be able to resolve your issues far better if the informal steps are pursued in a sincere manner.

17. How long should the file relating to the process be kept for?

The significant documents and records of this process should be kept on your personnel file indefinitely. This includes the minutes of the meetings or the audio files (or the transcripts of the audio files). A record should be made on the relevant employees' files providing a summary of the process. This too should be kept indefinitely. No sanctions arise from the resolution process and in no way should this record be viewed as having negative connotations. By having accurate records it will allow us to identify where the process has been successful (or not) and identify patterns and trends that potentially warrant more work in order to build healthy working relationships.

18. What is harassment?

Harassment is any unwanted physical, verbal or non-verbal conduct that has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading,

humiliating or offensive environment for them. A single incident can amount to harassment.

It also includes treating someone less favourably because they have submitted or refused to submit to such behaviour in the past.

Unlawful harassment may involve conduct of a sexual nature (sexual harassment), or it may be related to age, disability, gender reassignment, marital or civil partner status, pregnancy or maternity, race, colour, nationality, ethnic or national origin, religion or belief, sex or sexual orientation. Harassment is unacceptable even if it does not fall within any of these categories.

Harassment may include, for example:

- (a)**unwanted physical conduct or "horseplay", including touching, pinching, pushing and grabbing;
- (b)**continued suggestions for social activity after it has been made clear that such suggestions are unwelcome;
- (c)**sending or displaying material that is pornographic or that some people may find offensive (including e-mails, text messages, video clips and images sent by mobile phone or posted on the internet);
- (d)**unwelcome sexual advances or suggestive behaviour (which the harasser may perceive as harmless);
- (e)**racist, sexist, homophobic or ageist jokes, or derogatory or stereotypical remarks about a particular ethnic or religious group or gender;
- (f)**outing or threatening to out someone as gay or lesbian;
- (g)**offensive e-mails, text messages or social media content; or
- (h)**mocking, mimicking or belittling a person's disability.

A person may be harassed even if they were not the intended "target". For example, a person may be harassed by racist jokes about a different ethnic group if the jokes create an offensive environment.

19. What is bullying?

Bullying is offensive, intimidating, malicious or insulting behaviour involving the misuse of power that can make a person feel vulnerable, upset, humiliated, undermined or threatened. Power does not always mean being in a position of authority but can include both personal strength and the power to coerce through fear or intimidation.

Bullying can take the form of physical, verbal and non-verbal conduct. Bullying may include, by way of example:

- (a)**physical or psychological threats;

- (b) overbearing and intimidating levels of supervision;
- (c) inappropriate derogatory remarks about someone's performance;

Legitimate, reasonable and constructive criticism of a worker's performance or behaviour, or reasonable instructions given to workers in the course of their employment, will not amount to bullying on their own.

Bullying and harassment can happen face-to-face, by letter, by email or online (i.e. social media) and by phone or text.

20. What should I do if I feel like I am being bullied or harassed?

If you are being harassed or bullied, with reference to the toolkit, consider whether you feel able to raise the problem informally with the person responsible. You could start by explaining clearly to them that their behaviour is not welcome or makes you uncomfortable. If this is too difficult or embarrassing, you should speak to your line manager, your Trade Union Representative or a member of Human Resources, who can provide confidential advice and assistance in resolving the issue informally.

21. I want to make a formal complaint about bullying and harassment – how?

If informal steps are not appropriate, or have been unsuccessful, you should follow the formal request for resolution procedure set out at clause 4 onwards in the policy.

If you wish to make a formal complaint about bullying or harassment, you should submit your request for resolution in writing in accordance with clause 4.2 so that it can be fully investigated.

As a general principle, the decision whether to progress a complaint is up to you. However, we have a duty to protect all staff and may pursue the matter independently if, in all the circumstances, we consider it appropriate to do so.

22. How will I be protected during this process?

Where your complaint is about another person, such as a colleague, patient or visitor, we will consider what action may be appropriate to protect you and anyone involved pending the outcome of the investigation, bearing in mind the reasonable needs of the organisation and the rights of that person. Where appropriate, we will attempt to discuss the matter with the third party.

We will also seriously consider any request that you make for changes to your own working arrangements during the investigation. For example, you may ask for changes to

your duties or working hours so as to avoid or minimise contact with the alleged harasser or bully.

22. Who would be at a formal meeting and who would be at a formal appeal?

Attendance should be limited to those who are required to attend. Ordinarily this means the person making the request for resolution, their representative (or colleague), the Chair and the Chair's HR support. Minute takers may be required. Additional attendees such as subject matter experts may also be invited but this will be agreed on a case by case basis by the parties. Observers are permitted for learning and development again if there is agreement by the parties. With regards to witnesses please see FAQ 9 and 5.4.

23a. Does a NHS Employee have the right to lodge a Formal Request for Resolution through the medium of Welsh?

Yes, a member of staff who wishes to lodge a Formal Request for Resolution may do so through the medium of Welsh. The member of staff should put the request for resolution in writing and submit it to their line manager (or a more senior manager if the issue involves their line manager) or a member of Human Resources.

Arrangements should be made to translate the letter from Welsh to English if required, and a response to the request should be made through the medium of Welsh if the request for formal resolution was made in Welsh. And should be treated confidentially.

23b. Does an NHS Employee have the right to respond through the medium of Welsh to a complaint or allegation made against them?

Yes, a member of staff who wishes to respond to a formal complaint or allegation made against them may respond to that complaint or allegation in Welsh, whether the original complaint was made in Welsh or not.

Arrangements should be made to translate the letter in response to the original complaint or allegation from Welsh to English. And should be treated confidentially.

23c. Does the complainant or the member of staff who is subject of a complaint or allegation made against them have the right to speak Welsh in the formal Resolution Meeting?

Yes, any member of staff who is required to attend a formal Resolution Meeting can declare that they wish to attend and represent themselves through the medium of Welsh in the meeting. If the facilitator of the meeting and other attendees at the meeting are not able to understand or speak Welsh, a simultaneous translator should be sought, through local arrangements with the Welsh language advisor.

Notes of the meeting should be made available to the relevant party through the medium of Welsh and should be treated as confidential when being translated.

Any subsequent correspondence or outcomes of meetings should be made available in Welsh and should be treated as confidential when submitting the correspondence or outcomes for translation.

23d. Does the complainant or the member of staff who is subject to a complaint or allegation made against them have the right to appeal through the medium of Welsh?

Yes, the complainant or the member of staff who is subject to a complaint or allegation made against them do have the right to appeal in Welsh. Any subsequent meetings, minutes of meetings, correspondence or outcome communications should be made available through the medium of Welsh.

Please note the same principles apply to Sections 8 and 9 of the Respect and Resolution Policy.