Enhanced Medical Staff Support (EMSS) Toolkit

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Introduction to the Toolkit

The purpose of this toolkit is to provide information to members of the medical staff and medical staff leaders who may be asked to attend to concerns raised regarding professionalism or performance of medical staff. The disciplinary process, as set out in the Medical Staff Rules, is also outlined in this document as a reference.

The majority of concerns are able to be successfully resolved at an early stage, through dialogue and support. In circumstances in which the concern is serious and/or there is potential for corrective action, Island Health is committed to processes that are safe, objective and fair to all involved. This includes ensuring that individuals have an opportunity to understand the concerns raised and an opportunity to respond in a fulsome manner. Such processes will occur in a timely manner and will be as transparent as is reasonably practicable.

The overarching philosophy behind this Toolkit is to encourage early and informal resolution of concerns and to create a culture of respectful communication and constructive management of differences. All members of the medical staff contribute to workplace culture and thus have an important role. Medical leadership have the additional responsibility for ensuring that concerns raised are given attention and addressed fairly and appropriately and to support medical staff in their development. This Toolkit provides information and tools to assist in this work. Further support and guidance can be sought by connecting with a member of the Enhanced Medical Staff Support (EMSS) team.

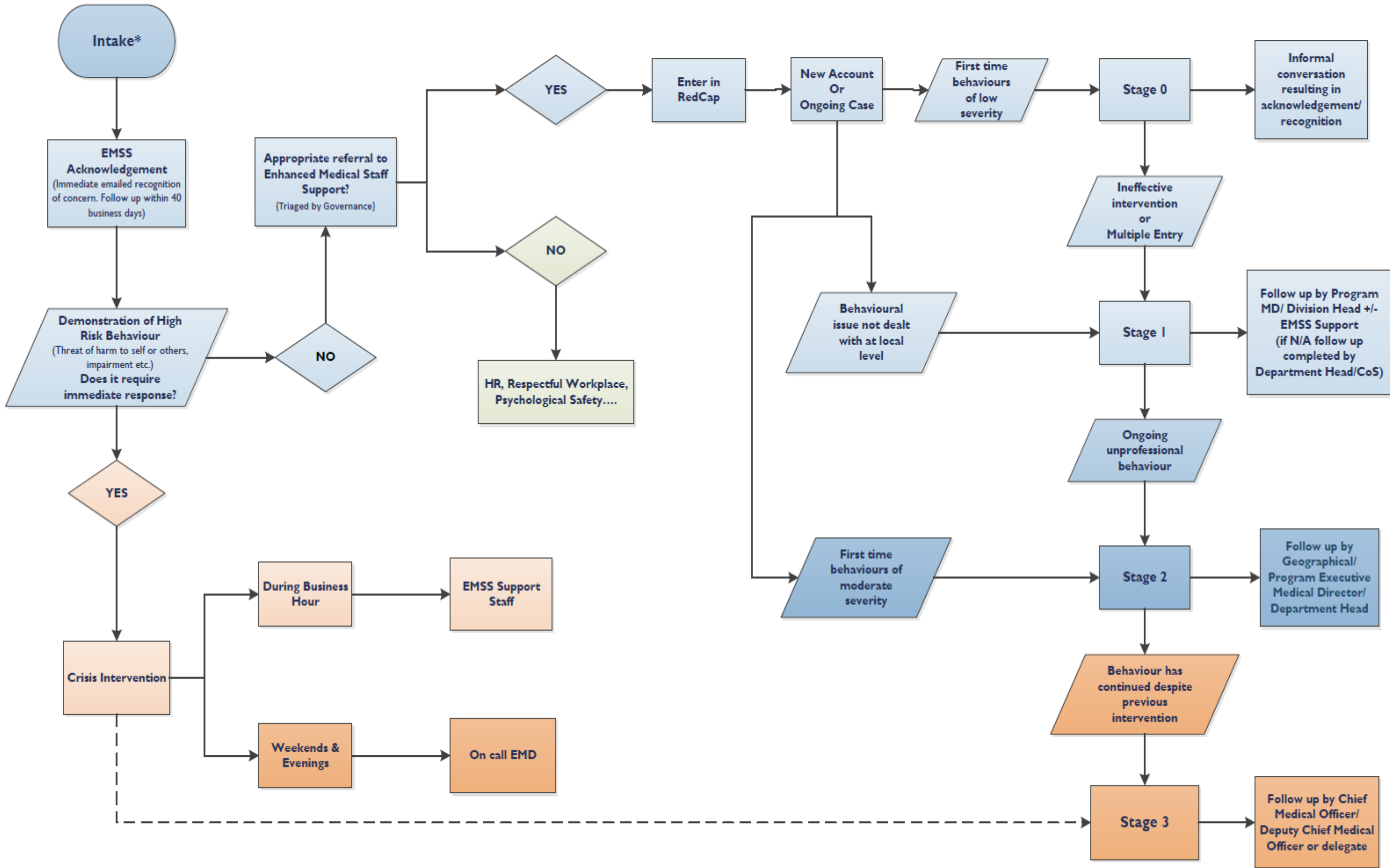
Process Overview

Interventions will generally follow a staged approach with the goal of remediation:

a) Stage Zero: first time incidents of unprofessionalism that are of low severity.
b) Stage One: incidents of unprofessionalism that are of moderate severity or where Stage Zero intervention has been ineffective.
c) Stage Two: ongoing unprofessional behaviour which has continued despite previous intervention.
d) Stage Three: ongoing unprofessional behaviour that has continued despite Stage One and Stage Two interventions and/or incidents of unprofessional behaviour which present a serious problem or potential problem which adversely affects or may adversely affect the care of patients; or the safety and security of patients or staff but does not require immediate action to protect the safety and best interests of patients or staff.
e) Stage Four/Crisis Intervention: the sudden appearance of behaviour that is too egregious for a staged response and/or where a serious problem or potential problem which adversely affects or may adversely affect the care of patients or the safety and security of patients or staff and immediate action is required to protect the safety and best interests of patients or staff. Such situations will be addressed in accordance with Article 11 of the Medical Staff Bylaws.

The above process does not preclude members of the medical staff from resolving interpersonal conflict or other concerns directly. Direct, early and informal resolution is encouraged to support healthy communication and working relationships amongst colleagues. Should a situation that requires a response be brought to the attention of the Medical Staff Leader, the above outlined process will be followed.

Incident Management Flowchart



* Intake can be via email, telephone, In-person etc. from HR, Respectful Workplace, PSLS, PCQO, Medical Staff, Island Health Employee etc.

Incident Management (Staged Intervention)

Stage 0

If report or observation is of a concern that can be resolved in an informal manner, an Informal (Coffee Cup) Conversation may take place. Any member of the medical staff may take the following steps:

a) meet with the Medical Staff member involved to describe the report/observation;
b) provide the Medical Staff member with an opportunity to speak to the concern;
c) if appropriate, discuss with the Medical Staff member how others have interpreted or received the behaviour, what the impact has been and expected standards of behaviour/performance;
d) provide supportive counselling or other assistance either personally or through a third party, as appropriate;
e) in collaboration with the Medical Staff member, decide the format and substance of a resolution, including a possible response to the reporter if relevant.

In addition to the above, if the Division Head, Department Head or Chief of Staff/Site-Medical Director is addressing the concern, they will document the conversation and send a copy to EMSS for storage. Documentation should reflect this as a Stage 0 intervention.

Stage One

If report is of behaviours of moderate severity or where the behaviours are repeated after a Stage Zero intervention, The Division Head, Department Head or Chief of Staff/Site Medical Director will follow the steps as outlined in Stage 0 above. Documentation should reflect this as a Stage 1 intervention and will be stored in the Medical Staff member's file and in EMSS.

If the Medical Staff member disputes the conduct complained of or is not prepared to work collaboratively with the Division Head, Department Head or Chief of Staff/Site Medical Director to resolve the concern, then the Division Head, Department Head or Chief of Staff/Site Medical Director will inform the CMO and Chair of HAMAC who will schedule a review by the Discipline Subcommittee of the HAMAC.

Stage Two

If report is of ongoing unprofessional behaviour that has continued despite previous intervention, the Division Head, Department Head or Chief of Staff/Suite Medical Director will follow steps a-c as outlined in Stage 0 above.

The Division Head, Department Head or Chief of Staff/Site Medical Director will also work with the Medical Staff member to develop a contract between the Medical Staff member and Island Health which will include the following elements:

i) method of redress (counselling, psychological or other medical assessment, leadership training, substance abuse therapy, written project, tutorial sessions, etc.) including consideration of referring the Medical Staff member to an external resource such as the

Practitioner Health Program with regular reports to be received by the Department Head and EMSS

ii) method of monitoring for change/progress
iii) description of behaviour benchmarks
iv) time frame within which progress must be demonstrable
v) consequences for lack of progress or non-compliance

Documentation should reflect a Stage 2 intervention and should notify the Medical Staff member that future incidents may result in review by the Discipline Subcommittee of the HAMAC in accordance with the Medical Staff Bylaws and that impact to Medical Staff privileges may result. Documentation will be stored in the Medical Staff member's file and in EMSS.

If the Medical Staff member disputes the conduct complained of or is not prepared to work collaboratively with the Division Head, Department Head or Chief of Staff/Site Medical Director to resolve the concern, then the Division Head, Department Head or Chief of Staff/Site Medical Director will inform the CMO and Chair of HAMAC who will schedule a review by the Discipline Subcommittee of the HAMAC.

Stage Three

If report is of ongoing unprofessional behaviour that has continued despite previous intervention and/or incidents of unprofessional behaviour which present a serious problem or potential problem (such as an allegation of a significant violation of the Respectful Workplace policy) which adversely affects or may adversely affect the care of patients or the safety and security of patients or staff (but does not require a crisis intervention), the Division Head, Department Head or Chief of Staff/Site Medical Director will ensure an investigation is completed, and, should there be findings of unprofessional behaviour, will immediately inform the CMO and Chair of HAMAC who will schedule a review of the complaint by the Discipline Subcommittee of the HAMAC.

The Discipline Subcommittee will:

a. Review any findings arising out of the investigation;
b. Review the behavioural history of the Medical Staff member; and
c. Recommend rehabilitation strategies or recommend corrective action as appropriate.

Corrective action that may be recommended includes but is not limited to:

a. a modification, refusal, suspension, revocation or failure to renew a Medical Staff member's privileges to practice within Island Health; and
b. setting conditions, such as a requirement to complete a course or other remedial training, or a requirement to undergo an audit, or external reviews of the Medical Staff member's practice.

Documentation should reflect a Stage 3 intervention and will be stored in the Medical Staff member's file and in EMSS.

Stage Four/Crisis

Where behaviour is warranted to require a Stage Four/Crisis Intervention, the Division Head, Department Head or Chief of Staff/Site Medical Director will request the CMO to consider immediately suspending the Medical Staff member's privileges in accordance with the Medical Staff Bylaws.

Circumstances in which a crisis intervention may be warranted may include but are not limited to:

- Abandonment of a patient admitted to an Island Health facility under the care of the practitioner;
- Allegations of significant violations of the Respectful Workplace Policy, which, if confirmed, could place at risk the psychological or physical safety of others within Island Health;
- The alleged commission by the practitioner of a criminal offense related to the exercising of the practitioner's privileges, as evidenced by the laying of criminal charges;
- The provision of clinical care, the exercising of clinical privilege, or the fulfillment of contractual arrangements for the provision of patient care by the practitioner while impaired, including but not limited to impairment by drugs or alcohol.

In such circumstances, the Division Head, Department Head or Chief of Staff/Site Medical Director will:

- Arrange for an alternative practitioner to provide care for the suspended practitioner's patients as necessary; and
- Arrange security within Island Health as required.

An investigation into the reported concerns will commence as soon as is reasonably possible and, should there be findings of unprofessional behaviour, the Division Head, Department Head or Chief of Staff/Site Medical Director will inform the CMO and Chair of HAMAC who will schedule a review of the complaint by the Discipline Subcommittee of the HAMAC. The Discipline Subcommittee will follow the steps outlined in Stage Three above.

Documentation should reflect a Stage 4 intervention and will be stored in the Medical Staff member's file and in EMSS.

Appendix A: Documentation Standards

The Department Head, Division Head, Chief of Staff/Site-Medical Director with the aid of EMSS will maintain as documentation:

a. the original complaint and/or description of the behaviour;

b. notes of the discussion with the Medical Staff member, including the Medical Staff member's response to a concern/complaint;

c. any conclusions reached regarding the concern/complaint

d. any mitigating factors that have been considered;

e. specific resources offered or mandated as part of any remediation or otherwise;

f. reports from other professionals (therapists, coaches, mentors etc.), if applicable, who have been engaged as part of any remediation; and

g. confirmation that the consequences of continued unprofessional behaviour have been openly and clearly outlined to the Medical Staff member.

This documentation will be securely maintained in the Medical Staff member's file and will also be forwarded through EMSS for secure inclusion in an EMSS file.

Appendix B: Behavioural Expectations

Individuals are responsible for conducting themselves in a respectful manner in the workplace and at work-related activities. Behaviour can be seen on a spectrum ranging from Acceptable, such as respectful disagreement, to Unacceptable, such as engaging in bullying or harassment, or to Critical, such as violence. Examples of behaviours are listed below. See Island Health's Respectful Workplace policy for more information.

Acceptable

- Expressing differences of opinion in a respectful manner or questioning respectfully for learning purposes.
- Offering constructive feedback, guidance or advice in a respectful manner about work-related behaviour and performance.
- Making a good-faith complaint about someone's conduct through established procedures.

Unacceptable

- Personal harassment - any behaviour by a person directed against another person that a reasonable person would know or ought to know would cause offence, humiliation or intimidation, where the conduct serves no legitimate work-related purpose. Such behaviour includes but is not limited to: making derogatory comments to or about another person, swearing, yelling, inappropriately interfering in another person's work, derogatory gestures, embarrassing practical jokes, ridicule, gossip, heedless disregard or denial of another's rights, improper use of power or authority, stalking or physical assault.
- Gossip can include slander, which is defined as making false and damaging statements about another individual.
- Bullying - any repeated or systematic behaviour – physical, verbal or psychological including shunning – which would be seen by a reasonable person as intending to belittle, intimidate, coerce or isolate another person.
- Discrimination - unfair differential treatment of an individual or group, whether intended or not, on the basis of race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, gender identity, gender expression, age or unrelated criminal conviction. Discrimination of this nature imposes burdens or obligations on an individual or group that serves no legitimate work purpose.
- Discriminatory harassment - a form of discrimination where abusive, unfair, offensive, or demeaning treatment of a person or group of persons under any of the above categories has taken place, and:
    - Has the effect of interfering with an individual's work or participation in work-related activities; or
    - Creates an intimidating, hostile or offensive environment for work or participation in a work-related activity.
- Sexual harassment - Includes:
    - Conduct or comment of a sexual nature made by a person who knows or ought reasonably to know that such conduct or comment is unwanted or unwelcome; or

  - Expressed or implied promise of a reward for complying with a request of a sexual nature; or
  - Actual reprisal or an expressed or implied threat of reprisal for refusal to comply with such a request; or
  - Conduct or comment of a sexual nature which is intended to, or has the effect of, creating an intimidating, hostile or offensive environment.

Passive Behaviours Also Considered Unacceptable

- Chronic refusal to work collaboratively with colleagues, staff and patients.
- Failure to meet responsibilities without legitimate reason.
- Failure to respond to calls for assistance (when on-call or expected to be available).
- Persistent lateness with no legitimate reason.
- Repeated refusals to comply with known and accepted practice standards.

Critical Behaviours – Violence

- To co-workers, staff, patients or self

Appendix C: Communication Skills

Successful resolution begins with people knowing their concerns are heard. There are several active listening techniques that can be used to achieve this.

Technique	Why You Do It	How You Do It
Paraphrasing the content Example: “So, you weren’t consulted on this.”	- to show the other person you have been listening - to check meaning and interpretation	- restate basic ideas and facts in your own words
Reflecting the emotion Example: “You sound disappointed.”	- to show you understand how the person feels - to reflect what you are observing as well as what you are hearing - to help the person evaluate their own feelings after hearing them expressed by someone else	- listen to voice tone and watch for non-verbal cues that indicate feelings - listen to what the person tells you about what they feel - state back your sense or hunch of what they are feeling
Open Questioning Example: “What happened after you spoke with her?”	- to get more information - to avoid making assumptions about what the other person is thinking - to encourage the person to talk - to indicate you are open to hearing more information	- ask questions that begin with “what”, “how”, “when”, and “where” - avoid asking questions that begin with “why” (or use “why” questions cautiously)
Summarizing Example: “Let’s see if I’ve got this right…” “So basically what is most important to you is…”	- to review progress - to pull together important ideas and information - to establish a foundation for further discussion	- restate the central ideas and feelings you have heard
Acknowledging Example: “Very frustrating – we need to address this.”	- to convey that you appreciate the other person’s perspective - to acknowledge the worthiness of the other person **Note:** this is not intended to show agreement of the perspective but rather to show acknowledgement that they *have* that perspective or emotion	- acknowledge the value of their issues and feelings - show appreciation for their efforts and actions - be cautious that your tone is not condescending
Framing *Rather than:* “Why are you telling me all this? I don’t have time to deal with trivial things like that! You should be talking to your supervisor about it!” *A Different Frame:* “I think it would be useful for them to hear about these concerns directly.”	- to communicate your message in a way the listener will be more open to hearing - to increase the opportunity of meeting the speaker’s goals	- present your message in a hopeful, non-judgemental and open-ended way - point to common ground and away from differences
Reframing *Concern:* “She always gossips to	- to help the other person see their concerns in a new light	- recognize underlying needs - re-word concerns from:

everyone else but me when there's a problem." *Reframe:* "So you'd like more direct communication to resolve concerns."	- to broaden the meaning of an issue to identify needs or interests - to diffuse negative feelings - to establish the focus for resolution	past future negative neutral/positive problem opportunity positions interests either/or both/and one truth many truths interpersonal system rights/wrongs impacts
Non-verbal Behaviour	- to be aware of how your own non-verbal behaviours may impact/facilitate the communication	- be aware of the message your body language can convey - have an open posture - match eye contact - match pacing, use silence

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Appendix D: Engaging in Resolution Conversations

Engaging in a resolution conversation can be broken down into three parts:

1) Preparing for a conversation
   a) Deciding to engage in a resolution conversation
   b) How do they get clear on what they need to resolve, and
   c) How will they prepare to have this conversation (mentally, self-care, practice)
2) Inviting a conversation – how do they initiate a resolution conversation
3) The conversation itself – what does this look like

1. Preparing for a Conversation

a) Deciding to engage

Consider the following questions:

- What are your options here? (Engaging with the other person directly or letting it go. If choosing not to engage, that is a decision in itself.)
- What are the risks to engaging in a resolution conversation? What are the benefits?
- What are the risks to not engaging in a resolution conversation? What are the benefits?
- What will change for you if you don't have this conversation? What will change if you do?

b) Getting clear on what needs to be resolved

It's important to gain clarity about what needs to be resolved. Questions to consider are:

- What is most important to you about this issue?
- What are you hoping for from the resolution conversation?
- What do you need from the other person?
- What are some options for resolution? (keeping in mind this is a mutual conversation –don't get stuck on what you want as a resolution)
- What assumptions might you have made about the other person or their actions? What have you told yourself about them?

c) Preparing to have the conversation

Individuals benefit from mentally preparing themselves for a resolution conversation. This includes practicing good self-care (i.e. sleeping, eating), practicing what they would like to say in a conversation and how they will say it (with the understanding that this is a 2 person dialogue, not a rant) and also thinking about self-management.

It may be helpful to think about triggers as well. There are internal triggers and external triggers that may provoke a response. An internal trigger would be something like a memory and an example of an external trigger might be someone yelling at you. Trigger responses help us to identify what we perceive as 'danger'. If the thoughts and feelings that we have when we are triggered are not checked, we may find ourselves reacting inappropriately based on the trigger rather than based on what is occurring.

Some common triggers might be:

- Being interrupted.
- Being blamed for someone else's mistake.
- A friend refusing to talk to you but won't say why.
- Trying to complete an assignment by a deadline and someone nearby having a loud personal conversation.

Consider the following when you notice you are being triggered:

- What do you feel in your body?
- Where do you feel it?
- Is there something you are doing that is helping you hold onto that feeling?
- What perceptions or assumptions do you have that might influence your response?
- What is the underlying issue for you?

Tips when in a trigger state:

- If we are struggling to manage our reaction – then now is not the time to engage in a conversation.
- We have to consciously think about something to carry that emotion in our bodies.
- When we stop thinking about it it's really hard to maintain that feeling. In order for us to continue to feel a response/reaction to something, we have to actively engage with it. We are doing something internally to reinforce this. We often add to it in our head by having these" conversations" by ourselves.

Being triggered is not necessarily always a bad thing. A wealth of information can be gleaned when we realize we have been triggered by something. In addition to recognizing when you are bring triggered, it is also important to recognize what is being triggered. This is commonly referred to as 'buttons'. When our buttons are pushed, we can learn about our needs and interests.

Some common buttons might be:

- Fear for our physical, emotional or psychological safety.
- Fairness - concern that someone is not being treated fairly.
- Frustration about not being able to get our needs met.
- A need to feel like we belong.
- A need to be treated in a respectful manner.

Recognizing both triggers and buttons is an important piece to help you decide if the response you are having is appropriate for the immediate circumstance and understand what it is really about for you. You can then use that information to either adjust your response or more accurately reflect what you need to resolve with the other person.

Some strategies to manage in the moment:

- Be Calm. Deep breathing may be a helpful strategy.

- Watch for warning signs. Elevated heart rate, temperature rise, hearing a rushing sound in ears. What's important here is for people to recognize their own warning signs and take action to interrupt the response to triggers.
- Positive thoughts and imagery e.g. try thinking of a positive thought or image in the moment or try thinking of a positive aspect of what you are experiencing.
- If all else fails in the moment - Walk away and re-engage or reconvene at another time. This is not a strategy to run away or avoid but it is a strategy to be used when everything else you have tried in the moment is not working.
- Call on previous strategies that have worked for you in the past. If you can find ways to practice when you are not in the moment (e.g. deep breathing) may provide you a strategy you can rely on when you need it.

2. Inviting the Conversation

When inviting a conversation, consider:

- Timing. Ensure both parties are available without distraction

- Place – the conversation should occur in private.

3. The Resolution Conversation

The LEARN approach is one model which provides a step by step process to engaging in a conversation with another person in order to resolve a concern.

LISTEN

If someone approaches you with something they would like to discuss, use active listening skills. Active listening skills allow you to hear and reflect back not only the content of what the person is saying to you, but also the feelings being expressed. If you are approaching someone about an interaction you would like to talk about, you can also start with Listen, by asking the other person to tell you what was going on for them in that interaction and listening to their perspective.

EXPLORE/EXPLAIN

When exploring an issue with another person, it is useful to use 'I' language. Be mindful of how you express yourself to ensure you are doing so in a way that the other person can hear. Describe what you experienced (what you saw/heard) in specific, observable terms, using neutral language. Explain the impact on you. Remember that this is intended to be a two way dialogue, so it will be important to explore with the other person their perspectives as well. Talk about what's important to each of you; are there any underlying needs, hopes, expectations, fears?

ACKNOWLEDGE/ASK

This is an opportunity to check out any assumptions you may have or information you don't know by asking some questions of the other person. You can also acknowledge any new understandings that you have now that you have had a chance to explore. It's also helpful to acknowledge the feelings or emotions that the person is expressing as this helps to demonstrate that we have 'heard' them. You may find that

you have some things in common with one another in terms of what you hope or need. It's helpful to acknowledge those shared interests as it can be a foundation for your resolution.

REVIEW

Has the conversation shifted your perspective in any way? Do you see things differently now? Take a moment to reflect on the conversation and review what you'd like to see going forward.

NEGOTIATE

Brainstorm with the other person a resolution to the situation. This may be quite simple, or more involved depending on how complex the issue is. The important piece here is that the conversation you have engaged in has the purpose of coming to an understanding and agreement for future. This does not mean you have to agree on everything that happened or agree on what it meant to each of you. It is a chance to reach a solution that allows both people to move forward, hopefully with a new understanding.

Appendix E: Receiving a Report

Initial steps for Medical Leaders when a report is made about a member of the medical staff's conduct or behaviour:

1. Seek Clarification about Report

Gather information about the concern being raised. Meet with the individual raising the concern. It is helpful to frame this in specific, observable terms, such as 'What did you see?', "What did you hear?', 'How was it said?'

2. Discuss Any Resolution Attempts Already Tried

Island Health encourages early and informal resolution whenever possible and appropriate. If the individual has not spoken to the other person and it would be appropriate for them to do so, coach them and ask them to take that on. Once this has occurred, debrief with them. The EMSS office is available for consultation.

3. Understand What is the Desired Resolution

Most often, individuals are seeking behaviour change or for a specific behaviour to stop. It is not within the role of an individual to seek that another be fired.

The information gathered in the above steps will support a decision about appropriate process, such as supporting the individual to resolve independently or meeting with the medical staff member for a staged intervention.

Appendix F: Report Checklist

To be used by Medical Leaders when meeting with an individual reporting a concern regarding a member of the medical staff.

- ☐ **Introduction**
- ☐ **Confidentiality and its limitations**
- ☐ **Purpose/goal of the conversation**
- ☐ **Receiving concerns** – *What has led you to reach out for support? Specifics – what was said/done, how was it said/done, who was present, where, etc.*
- ☐ **Timelines –** When did these incidents occur?
- ☐ **Resolution attempts** – Has the individual tried speaking about the concerns that have arisen with the individual?
    - If no, (and if appropriate, based on the nature of what has been reported) remind the individual caller that it is an expectation of our organization that we first speak with the individual - prior to escalation. Get clear on why the individual may be hesitant and provide support.
    - If yes, when and what occurred? What specifically did the individual say to the other person and what was said in response? Was an understanding reached on what was needed/going to change?
- ☐ **Resolution sought**
- ☐ **Permission to disclose information –** If the Medical Leader will be meeting with the medical staff member to discuss what has been reported, ensure permission is received to disclose.
- ☐ **Get clear on the agreement about next steps -** Review any follow up items each of you may have regarding next steps.

Appendix G: Report Template

Name of reporter - Date of report-

Incident #1 reported-   **Date of Incident - ______________** **Witnesses to event -** **Specifics words and specific actions being reported** (terms like "disrespectful" or "aggressive" and "yelling" are descriptions of behaviors and the interpretation of the individual. It is important to get a specific description.)
Incident #2 reported-   **Date of Incident - _______________** **Witnesses to event -** **Specifics words and specific actions being reported** (terms like "disrespectful" or "aggressive" and "yelling" are descriptions of behaviors and the interpretation of the individual. It is important to get a specific description.)
Incident #3 reported- **Date of Incident - ______________** **Witnesses to event -** **Specifics words and specific actions being reported** (terms like "disrespectful" or "aggressive" and "yelling" are descriptions of behaviors and the interpretation of the individual. It is important

to get a specific description.)
Resolution attempts: **Resolution sought:**

If numerous incidents are being reported, each having fulsome details, the individual may be asked to provide their concerns in writing, to ensure fulsome receipt of information.

Appendix H: Investigation Process

At times, it will be necessary to investigate complaints relating to allegations of disruptive behaviour or concerns with medical staff member professionalism. In these circumstances, medical staff leaders are encouraged to seek support from EMSS in following the steps outlined below:

1. Collaborate with other departments as appropriate (i.e. Psychological Safety, Human Resources), particularly if complaint involves an Island Health staff member.
2. Meet with relevant parties to conduct investigation in a timely, objective manner. Interview all relevant parties such as complainant, witnesses and respondent and review evidence.
3. Make determination regarding what occurred and measure against policies and expectations to determine any findings/conclusions (i.e. did what occur constitute a violation of the Respectful Workplace policy or the Medical Staff Rules?).
4. Communicate findings/conclusions to complainant and respondent, if appropriate (if one of the parties is an Island Health staff member, this may be done by their manager). All parties to a complaint will be reminded about the requirement of confidentiality regarding the complaint process and outcome.
5. Communicate and implement any outcomes and/or interventions (facilitation/mediation, acknowledgement, referral to counseling, assessments or treatments by the Physician Health Program of BC, etc.). Decisions regarding specific outcomes for respondents (i.e. corrective action, etc.) will only be shared with those who need to know (the individual subject to the outcome and appropriate leadership). This information will not be shared with a complainant.
6. All documentation should be kept in a secure location and copies sent to EMSS for storage.

Considerations

- Cross program investigations – it may be appropriate for the leaders of both programs to conduct investigation jointly. When meeting with the complainant, the leader of the complainant would lead the interview and the other leader would take notes. When meeting with the respondent, the leader of the respondent would lead and the other leader would take notes. This allows for both leaders to hear the same information at the same time and reduces the likelihood of a conflict escalating to a leadership level.
- Ensure representation is provided as appropriate.
- Crafting interview questions – questions should be open and allow for a fulsome response. It is best not to word them 'interrogation style'. Typically, questions would begin broadly and narrow down to specifics. It is also important to ensure the respondent has an opportunity to understand and speak to any specific allegations being made. It is also important to include a general question inviting the individual to share any other information they would like you to know.

Making Conclusions Following Investigation

- **Intention v Impact coupled with the Reasonable Person Test** – It is important to consider the impact of the behaviour. Intent is not required to prove discrimination under the human rights code. If a reasonable person would know that the impact of the action/behaviour would cause offense/harm, then the behaviour may be seen as not complying with the expectations of the Respectful Workplace policy.

- **Balance of Probabilities** – this is the test used to determine whether we believe something occurred. Is it more likely to have occurred than not? This test differs from the test of ‘beyond a reasonable doubt’.
- **Assessment of Credibility** – credibility may need to be assessed as well, particularly in situations where there were no witnesses or there is no other evidence that can be relied on to make a determination. It is not sufficient to simply determine that it is a ‘he said she said’ situation. Factors to consider include whether there are any conflicting statements when the person recalls the incident, have they changed specifics over the course of the interview or in subsequent interviews, does their chronology of events relate or differ greatly from information provided by others interviewed, was the person forthcoming in the investigation interview, etc.
- **Legitimate Work Purpose** – Consider whether the actions by the individual serve a legitimate work purpose. For example, if an individual engages in gossip about others, their behaviour serves no legitimate work purpose and should be addressed.