



Healing the Workplace Culture: Implementing a Restorative Approach

Report of the Medical Staff Respectful Workplace Working Group

June 18, 2024



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As the facilitator of the process and on behalf of the Medical Staff Respectful Workplace Working Group, I am pleased to offer "***Healing the Workplace Culture: Implementing a Restorative Approach***", a Report of the Medical Staff Respectful Workplace Working Group (MSRWWG). It is the culmination of more than two years of Island Health and medical staff representatives working together to reimagine the Island Health medical staff disciplinary process.

This report has been accepted in principle by Kathy MacNeil, President and CEO of Island Health - "*I have received and read this report. It resonates with the principles and objectives of Island Health. I look forward to its implementation, which will be under the purview of our Vice President of Medicine, Quality, Research and Chief Medical Officer, Dr. Ben Williams.*"

As the representative for Medical Staff Association (MSA) Presidents on the MSRWWG, as well as the President of the Health Authority MSA, Dr. Catherine Jenkins has been deeply involved in the work. She comments, "*The medical staff voice has been central to all discussions and decisions of the Medical Staff Respectful Workplace Working Group. If this proposal is to be successful, it is essential that physicians continue to be fully engaged in its implementation.*"

The publication of this report triggers its implementation, including the promotion of and education about the recommendations outlined. There is much work ahead for medical staff and Island Health to make not only the process changes, but also, and more importantly, the cultural changes necessary for this shift. The Working Group will meet again in November 2024 to review the implementation progress and to tweak the proposed approach to best fit the Island Health context.

Please share this report with your colleagues, your groups, and your teams. It is through the collective actions of Island Health and medical staff that, together, the workplace culture will become healthier for all those who work at Island Health.

Sincerely,

Jane Morley, KC
Restorative Solutions
Facilitator of MSRWWG process

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Executive Summary

Funded through the Island Physician Health and Safety group, the Medical Staff Respectful Workplace Working Group (MSRWWG) is a collaborative table of Island Health and physician representatives whose mandate is to review and make recommendations related to Island Health's disciplinary and respectful workplace policies and procedures applicable to medical staff.

Working together since April 2022, the MSRWWG considered the current culture that impacts the relationship between Island Health and medical staff, for whom employee policies do not apply. Together the MSRWWG imagined an ideal way to respond to Island Health respectful workplace concerns and explored how to achieve this ideal in policy and practice. This involved challenging conversations, but over the course of nine virtual meetings and four in-person retreats, the members of the MSRWWG developed significant trust and were able to reach consensus on a refreshed "restorative" approach to respectful workplace issues.

In this report, the MSRWWG makes and explains the following big four recommendations, with detailed sub-recommendations:

- 1. Adopt a restorative approach to promoting a respectful workplace and responding to respectful workplace concerns and issues involving medical staff.** In a restorative approach, concerns are treated not only as requiring responsive processes, but also as opportunities to improve the overall capacity for managing workplace conflict in a healthy way. Applying a restorative approach means most responses to respectful workplace concerns will be non-disciplinary. In the rare cases when discipline is considered to be the appropriate response, the goal will still be restoring the workplace to good health. That includes being clear about expectations, consequences and process; following the principles of fair process; and offering support to all those involved in the disciplinary process. A restorative approach shifts responsibility for responding to respectful workplace concerns to the local medical staff community.
- 2. Use education and communication to change culture.** The MSRWWG agreed that changing the culture of the workplace and the relationship between Island Health and medical staff is a primary objective of adopting a restorative approach. Culture change does not happen easily or quickly. Still, it is worth pursuing. It is the changed culture that will allow the workplace to function optimally, in a way that aligns medical staff and Island health employees around common patient-centred goals, while respecting the diversity that is so central to a healthy organization. The report makes a number of practical recommendations for using education and communication as tools to effect culture change and to promote healthy conflict management.
- 3. Adopt a new Restorative Medical Staff Respectful Workplace Policy.** To support a restorative approach and culture shift, the MSRWWG concluded that a new Policy is needed that includes restorative purposes, guiding principles, and revised processes. The highlights of this new Policy are outlined in the report itself and the Policy is described in

detail in Appendix B. Appendix D makes a comparative analysis between the proposed Restorative MSRW Policy and the current RW Policy and Procedures applying to Medical Staff. A key feature of the Restorative MSRW Policy is an initial assessment of the nature of the respectful workplace concern and its context, and a determination of the appropriate process or processes to respond to it. The proposed new Policy includes a presumption that the best response is non-disciplinary. At the same time, it offers greater clarity of process in those exceptional cases when discipline is deemed appropriate. The Local Medical Leader, supported by a newly formed Medical Staff Respectful Workplace Office to replace the EMSS, will play a key role in making the initial decision about the appropriate process or processes, and in managing the processes as they unfold. Discretionary decision-making will be reviewed if necessary by a locally constituted Review Group.

- 4. Develop and adequately fund an implementation plan to roll out the new Restorative Medical Staff Respectful Workplace policy.** How the new Restorative MSRW policy is implemented will impact the extent of its acceptance at all levels of Island Health and among the medical staff, and its ultimate success at changing the current culture and improving the relationship between Island Health and medical staff. Some of the changes, particularly the proposed proactive educational and communications recommendations and the enhanced role of the Local Medical Leader will require substantial resourcing. The MSRWWG believes that this resourcing will be a fruitful investment in bringing about the cultural shift that the report envisions.

List of Recommendations

1. Adopt a restorative approach to promoting a respectful workplace and responding to respectful workplace concerns and issues involving medical staff.
2. Make changing culture the primary strategic objective and work on it through increased education and communication.
 - a. Develop and implement a major educational campaign as part of the roll-out of the new policy, including team-building group events.
 - b. Develop an ongoing educational program that includes regular educational and team-building events for existing and new medical staff.
 - c. Integrate Medical Staff Respectful Workplace (MSRW) policy education into the orientation of new medical staff at Island Health, including introduction to the restorative approach and Island Health culture.
 - d. Develop a comprehensive section on the medical staff website as a central repository for all Medical Staff Respectful Workplace information, education, and resources.
3. Write and adopt a Restorative MSRW policy in accordance with [Appendix B](#) of this report.
 - a. Bring all aspects of policy and procedures into one document or code.
 - b. Incorporate the current Respectful Workplace Policy 5.5.2P as the statement of what constitutes a respectful workplace, bullying and harassment, discrimination, discriminatory harassment, and sexual harassment.
 - c. Identify a clear and separate process for standards of care issues that are not RW Concerns.
 - d. Manage respectful workplace concerns as locally as possible.
 - e. Make the presumed response to RW Concerns a non-disciplinary, not a disciplinary, process.
 - f. Clearly distinguish between a non-disciplinary process and a progressive disciplinary process.
 - g. Create a discipline file for discipline cases, with the opportunity to expunge in certain situations.
 - h. Introduce an Initial Assessment Step in which the RW Local Medical Leader determines the appropriate process for responding to RW Concerns.
 - i. Create in-house capacity for Investigations.
 - j. Provide supports throughout the process for all the people involved in RW Concerns.
 - k. Enhance the role of the RW Local Medical Leader in managing workplace conflict involving Medical Staff, and create a distinct “Respectful Workplace (RW) Local Medical Leader” position.
 - l. Provide the appropriate compensation, and necessary support and training for RW Local Medical Leaders, including the introduction of a local RW Mentor role.
 - m. Create a collaborative process to identify appropriate RW Local Medical Leaders in advance of respectful workplace issues arising.

- n. Introduce an *ad hoc* Review Group mechanism to legitimize certain key discretionary decisions of the RW Local Medical Leader.
 - o. Create the Medical Staff Respectful Workplace Office as a replacement for the EMSS and make its core mandates to promote the Restorative MSRW policy and support the RW Local Medical Leaders and the Review Group.
4. Develop and adequately fund an implementation plan, to roll out the new Restorative MSRW policy that includes:
- A major, multi-faceted educational campaign at the time of roll out of the new policy (see [Section D](#)),
 - A RW Local Medical Leader training program and compensation plan (see [Section E13](#)),
 - A process to identify RW Local Medical Leaders across Island Health, (see [Section E14](#)),
 - Phased implementation of the policy in diverse locations,
 - An adequate budget to fund an effective implementation process,
 - A commitment to longer-term increased funding to support an enhanced RW Local Medical Leader role and for ongoing proactive education, team building, and communication activities (see [Section D](#)), and
 - A feedback and review process to learn from experience and modify processes and practices accordingly.

Report

A. Introduction

Managing and experiencing respectful workplace issues involving medical staff can be challenging and stressful for all involved. The processes themselves can be a source of stress for medical staff either experiencing disrespect or having allegations made against them of being disrespectful. It can also be stressful for others in the workplace, who may be asked to take sides or know something is happening that is negatively affecting the workplace but feel powerless to do anything about it. The stress for medical leaders trying to manage respectful workplace issues often leads to avoidance or burnout. All these stresses contribute to a reduced sense of psychological safety and well-being in the workplace.

The Medical Staff Respectful Workplace Working Group (MSRWWG) concluded that, to create the desired 'Culture of Safety and Wellness' (Priority #4 in Island Health's Vision Statement), something more than tinkering with the existing Medical Staff Respectful Workplace policy and procedures was called for. An approach was required that, like Priority #4, focuses on culture and includes a paradigm shift in thinking that could open up the possibilities of a transformed relationship between Island Health and its medical staff. The report calls this a Restorative Approach to respectful workplace concerns.

This Restorative Approach incorporates many of the aspirations of the current Respectful Workplace Policy, and recognizes, as does the current policy, that harassment, bullying, and discrimination should not be tolerated in a workplace. However, it is different from the current policy because it shifts from seeing the problem as entirely about individual conduct to seeing it more broadly as about the health of the workplace as a whole. There is still a recognition of the importance of safety for individuals working in the Island Health environment, and protection from the negative impacts of disrespectful conduct. Yet, when deciding on the appropriate response, it also takes into account other factors that contribute to a healthy workplace. These other factors could include lack of an individual's capacity to manage conflict in a healthy way, interpersonal tensions that have gotten out of hand, persisting unhealthy group dynamics, or systemic issues that increase the likelihood of disrespectful conflicts.

While medical staff are an integral and important part of the Island Health community, they are not Island Health employees: They are granted privileges to work at an Island Health facility, and those privileges bring with them workplace obligations. Responsibility for the workplace is also part of the professional obligations of medical staff, independent of their relationship with Island Health. The additional regulatory rules that apply to medical staff, and the fact that they are not employees, lead to a set of medical staff policies and procedures that are connected to but different from the policies and procedures applying to employees.

Medical staff have an autonomy that is important to them and needs to be respected. The MSRWWG was clear in its deliberations that their goal was not to find ways to reduce accountability of medical staff for the health and safety of the Island Health workplace. Responsibility for the workplace is part of the professional obligations of medical staff,

independent of their contract with Island Health. Instead, the MSRWWG was looking for ways to support medical staff in individually and collectively taking on this responsibility so that the processes related to respectful workplace concerns could contribute to rather than undermine the health of the work environment for medical staff and the entire Island Health community.

Island Health and Doctors of BC are to be congratulated for together creating and supporting the Medical Staff Respectful Workplace Working Group. This was an important step toward Strengthening Pillar II of Island Health’s Vision Statement – *improving the experience, health and well-being of Medical Staff and other staff and people at Island Health*. It engages medical staff in systemic reform.

The MSRWWG believes that implementation of the recommendations in this report will assist in achieving Island Health’s Goal #12 “*Staff and Medical Staff report they feel safe at work & Island Health cares about their well-being with specific focus on...Medical Staff*”.

B. Medical Staff Respectful Workplace Working Group (MSRWWG)

1. Background – how the MSRWWG came to be

MOA focus on psychological and physical safety

As part of the [2019 Physician Master Agreement \(PMA\)](#)⁴, Doctors of BC and the provincial Ministry of Health entered into a [Memorandum of Agreement \(MOA\)](#)³ that focused on psychological and physical safety for physicians in their workplaces. Through this MOA, funding is allocated to each health region for projects to improve physician physical and psychological safety at work. The [2022 PMA](#)⁵ included an updated [MOA](#)⁶, which built upon the foundation created by the 2019 agreement.

Island Health Physician Health and Safety Working Group

The Island Health Physician Health and Safety Working Group was created to identify, review, and discuss issues related to health and safety, as well as conceive, vet, and monitor regional projects in support of those issues and allocate funding to them. It is a collaborative table that includes Island Health, Doctors of BC, Physician Health Program, and the physician community. While all members of the Working Group vet project ideas, three signatories (representatives from each of Doctors of BC, Island Health – Medical and Academic Affairs, and Island Health – Occupational Health and Safety) are responsible for approving requests for funding.

Focus Groups

The Island Health Physician Health and Safety Working Group’s first project was to seek confidential physician feedback on the Respectful Workplace and EMSS Policies. Data was collected from 27 physicians across the region and their feedback was captured in an April 2021 report that highlighted four key themes of concern:

1. due process,
2. psychological safety,
3. gaps in knowledge, and
4. training.

Also, physicians identified they did not feel they had a confidential or safe way to provide feedback to the health authority on the rules that govern physician actions in their working environments.

2. Creation and mandate of the Medical Staff Respectful Workplace Working Group (MSRWWG)

Focus Group report recommendation

The primary recommendation in the focus group report was that:

Representatives from Island Health, the Medical Staff, and Doctors of BC form a Working Group, whose mandate will be to review and reform policies and procedures to better reflect the perspective of the medical staff while maintaining the requirements of the health authority. The goal will be to collaboratively reform the policies that directly impact physicians at work.

The Medical Staff Respectful Workplace Working Group (MSRWWG) was created in late 2021 to implement this recommendation, and started its work in early 2022.

Purpose of the MSRWWG

The MSRWWG was conceived as a safe space for a small group of physicians and Island Health representatives to come together for conversations around concerns reflected in the Physician Focus Group report. In particular, the MSRWWG's mandate is to review and make recommendations related to Island Health's disciplinary and respectful workplace policies and procedures applicable to medical staff.

Connection to the Legislative Committee

The MSRWWG was intended to supplement, not duplicate, the work of the Legislative Committee (Medical Staff Rules for the Island Health Authority s.2.5.9.31-35.) The Legislative Committee makes recommendations to the Health Authority Medical Advisory Committee (HAMAC) on the development, implementation, monitoring, and revision of the VIHA Medical Staff Bylaws, Rules and Policies. In contrast, the MSRWWG is an ad hoc, time-limited working group that reports to the Island Health Physician Health and Safety Working Group. If the recommendations of the MSRWWG are accepted, changes will need to be made to the Medical Staff Rules under the mandate of the Legislative Committee. While [Appendix B](#) outlines considerable detail about the proposed new Restorative MSRW Policy and would guide new draft legislation, it is not intended itself to be draft legislation.

3. Membership of the MSRWWG

The MSRWWG consists of 13 members. There was some change of membership over the two years that the MSRWWG met, but for the most part, membership remained stable.

In the selection of members of the committee, an effort was made to reflect the diversity of contexts within Island Health, to ensure a breadth of knowledge and experience of the respectful workplace policy and procedures, and to continue the collaboration between Island Health, Medical Staff, and Doctors of BC in addressing the issues.

Island Health appointed five members of the committee including:

- the Executive Medical Director Medical Affairs (Dr. Ian Thompson),
- the Executive Director, Occupational Health and Safety (John Fitzgerald, Glen Rose),
- the Medical Director of the Enhanced Medical Support Services (EMSS) (Dr. Bruce Campana),
- a Department Head (Dr. Stephen Hentschel to October 2023), and
- the Medical Director of the North Island geographical area (Dr. Nicole Bennett-Boutillier)

The Island Health Physician Health and Safety Working Group set up a selection process for six physician members of the MSRWWG. This started with an invitation to physicians across Vancouver Island to submit letters of interest and CVs for consideration to fill the following positions:

- three members at large (Dr. Anne Crawford – South; Dr. Martin SuttonBrown – Central; Dr. Henry Jiang – North),
- one Medical Leader (Dr. Jody Anderson),
- one Medical Staff Association (MSA) Executive member (Dr. Catherine Jenkins), and
- one Legislative Committee representative (Dr. Joe Foster).

Applications were vetted by the project manager and approved by the Island Health Physician Health and Safety Working Group. Physician representatives were selected to ensure gender, geographical, specialty, and site size diversity, as well as their interest and experience.

Doctors of BC representatives on the MSRWWG include:

- the Regional Advisor and Advocate (Alanna Black, Christine Strang), and
- an MSA Project Manager (Erica Kjekstad).

Jane Morley KC, an outside consultant, facilitated the process and all the meetings.

Over the lifetime of the MSRWWG, some personnel changes have taken place:

- Alanna Black changed roles from the role of Regional Advisor and Advocate with Doctors of BC to the Director of Partnership and Communication with Medical and Academic Affairs, Island Health in July 2023.
- John Fitzgerald was seconded from Island Health, with Mr. Glen Rose serving in his place as of September 2023.
- Dr. Stephen Hentschel stepped down from the MSRWWG in October 2023 because of work demands.

4. The MSRWWG at work

Developing trust and joint problem-solving approach

Since the MSRWWG started its work in April 2022, it met nine times virtually and had four in-person retreats. Over time, trust developed within the group that made the meetings a safe place for the expression of diverse, sometimes controversial, views. Much of the conversation involved using a Circle approach – each person having their turn to answer the question that the group was addressing, and allowing a space for deeper listening. While initially there was concern that

opposing camps would develop, that did not happen, and the group increasingly took a joint problem-solving approach to the issues raised at the meetings. Rather than get stalled debating different perspectives on the past, the group focused on a future rooted in commonly held goals of a respectful and high-functioning workplace, in which everyone felt psychologically safe and valued.

Laying the foundations

The initial sessions laid the foundations by developing Principles of Engagement and objectives for the MSRWWG that all members agreed to. From/to statements were developed to capture perceptions of the current state and a description of the preferred state of the future. The group asked itself – “what would an ideal Island Health respectful workplace policy look like?” – and their answers revealed a level of consensus that was perhaps not expected.

To make sure everyone understood the current policy, a video done by the Medical Director of EMSS for Medical Leaders was watched by all MSRWWG members and from that written clarifying questions were developed that were answered in writing by the EMSS Medical Director and the Executive Medical Director – Medical Affairs.

Working with scenarios at the first retreat

In advance of the first in-person session on November 19, 2022, realistic scenarios were developed that resonated with the members of the group. These scenarios were used to identify pain points and opportunities for change. There were small group discussions about:

- how to keep the process non-adversarial and avoid escalation,
- what support was needed to allow the early stage to work better and prevent escalation, and
- how to bring about the needed culture change in the context of the current stressful environment.

The Circle reflection at the end of the day revealed an interest in taking a restorative approach, and recognition that that meant working at three levels: a paradigm shift, innovations, and policy changes.

Adopting a Restorative Approach in principle

In early 2023, the group made a deeper dive into the restorative approach and in a straw vote all but one of the members of the group voted to adopt a restorative approach as a primary recommendation. Nobody voted against it but one person remained uncertain. It was decided to move ahead on the assumption that this would be the recommendation, but that it would be revisited once the other recommendations were worked through using this lens.

Moving towards consensus on recommendations and final draft report

To focus further discussion, a set of recommendations was drafted based on the group discussions, and in March 2023, the members of MSRWWG were asked to fill out a questionnaire to capture their thinking about the recommendations. For each recommendation, they were asked to identify whether they liked, did not like, or were not sure of it. They also shared what they liked and what their concerns were about the recommendations, and what was missing.

This process revealed a considerable degree of consensus and highlighted certain issues requiring further group discussion.

To make the theoretical discussions more concrete (“the devil is in the detail” as one cautious member of the group said), the focus of the May 6, 2023 retreat was on process, assuming an overall restorative approach. Again, realistic scenarios were developed to focus the discussion. As a result of that retreat, a straw dog report was drafted, with particular focus on the processes for determining whether a concern about disrespectful conduct should be treated as non-disciplinary or disciplinary, and if disciplinary, what the process would look like.

At the retreat on July 15, 2023, the group considered, in detail in small groups, the “straw dog” processes and flow chart, and the roles in these processes of:

- the Local Medical Leader,
- a group suggested in the first retreat that later would come to be called the Review Group, and
- a newly constituted EMSS.

A new draft of the process parts of the earlier draft report was prepared, and the group met virtually and then again at a final “in person” retreat November 24 and 25, 2023, to flesh out issues that had not been fully discussed at the summer retreat. Those discussions led to the detailed Restorative MSRWWG Policy outline in [Appendix B](#) to this report. At that final retreat, there was also a discussion about implementation, capacity building for Local Medical Leaders, and culture change through proactive education.

A redrafted report was sent to the group for discussion and final approval at a virtual meeting on February 8, 2024.

C. Restorative Approach

Recommendation #1: Adopt a restorative approach to promoting a respectful workplace and responding to respectful workplace concerns and issues involving medical staff.

Adopting a restorative approach is the overriding recommendation of the MSRWWG. It flows from a collective conviction of the group that reforming the processes and structures applying to medical staff is a part of what needs to be done, but is not enough alone to achieve a respectful workplace at Island Health. A culture shift is required that includes shifts in thinking, in the way things are done, and in relationships. Ultimately, adopting a restorative approach is expected to impact the way that Island Health leaders and medical staff conduct themselves in their interactions with each other and in the workplace, and to result in an improved level of organizational health and medical staff well-being.

It is noted that a restorative approach is consistent with the general statements in the current Respect Workplace Procedures for Medical Staff (1.0):

These procedures are underpinned by Island Health’s desire for all individuals, wherever possible, to be supported in working through their differences together, maintaining an environment of respectful disagreement and constructive management of conflict. The ultimate goal is greater shared understanding and respect, and a productive, rewarding work environment that supports our mission, vision and values.

What the MSRWWG has done is take those aspirations and values and ask how they can become the reality in Island Health in terms of interactions with medical staff. The conclusion is that it will not happen easily or speedily, but that it can be achieved if collaborative work is done at three levels:

- A paradigm shift in thinking that insists on applying a restorative lens consistently by:
 - emphasizing prevention and education,
 - creating conditions for early, local and constructive management of conflict and resolution of disputes,
 - paying attention to workplace issues that underlie disputes, and
 - making formal discipline processes more transparently fair.
- Changes in policy (detailed proposal for changes are outlined in [Appendix B](#))
- Innovation – This report is only the beginning. Change does not happen unless risks are taken by trying things out, and learning from mistakes as well as successes. This will be discussed in the Implementation section F of this report.

1. Key objectives and strategy underlying of a restorative approach

The overall goal of a restorative approach is to restore the workplace to good health and optimum functioning. It has three interrelated objectives:

- promoting a sense of common purpose – focusing on the mandate of **the whole** of the organization
- creating conditions that promote the safety and agency of individual employees/contractors – valuing **the diverse parts** of the organization
- improving **relationships** in the organization, and recognizing their importance.

A longer list of the purposes and guiding principles of a restorative approach can be found in [Appendix B Sections A 2 and 3](#).

A key strategy in taking a restorative approach is to consistently think about how to build organizational, leadership, and individual capacity to manage conflict well.

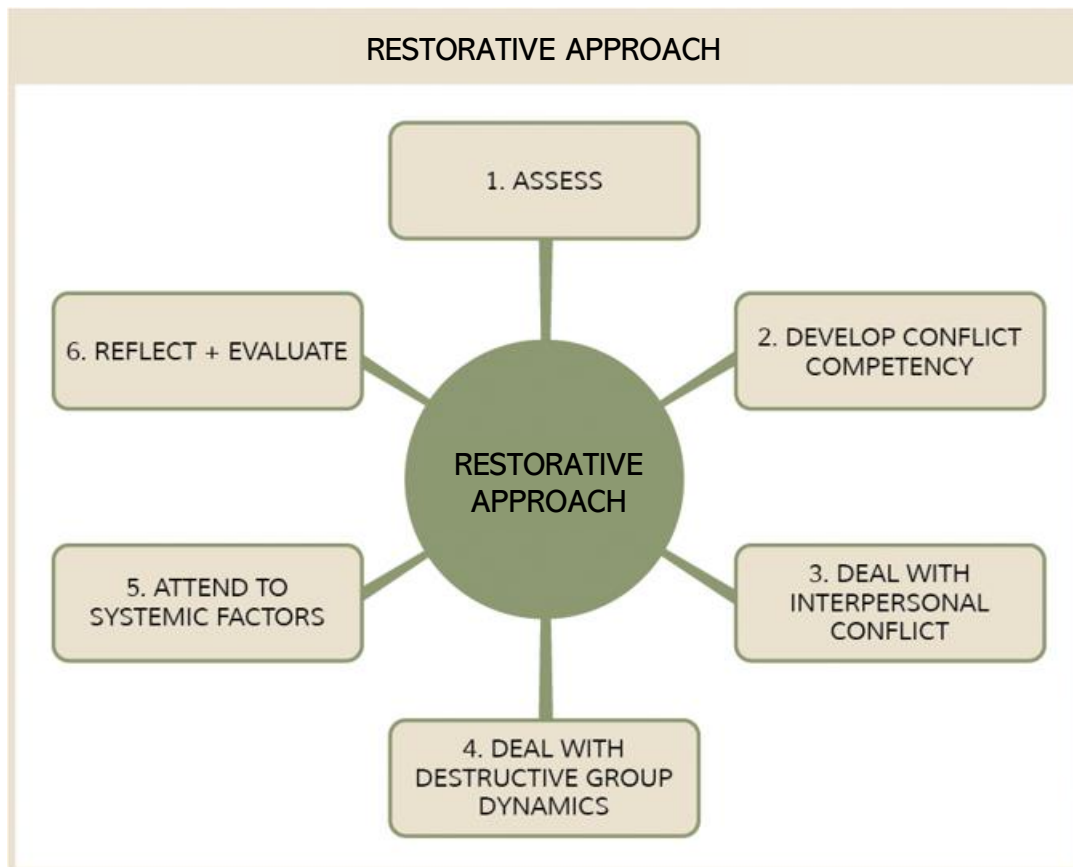
2. The Theory behind a restorative approach

The theory behind why a restorative approach works best rests on the following assumptions:

- It is individuals in relationship with others that achieve organizational goals, so creating conditions for those relationships to be healthy and not destructive is an important organizational objective.
- In an organization that deals with complex problems, the more diversity among individuals working in the organization, the better the organization functions. Diverse perspectives lead to better solutions.

- Conflict is not inherently bad. It is inevitable, even desirable, in diverse workplaces. Still, it needs to be managed constructively.
- The objective of a restorative approach is not the elimination of conflict but the promotion and management of healthy, constructive conflict.
- Disrespectful conduct and interpersonal disputes in the workplace often reflect an organization’s incapacity to manage healthy conflict and have underlying causes that are not being addressed.
- These incidents can be turned into opportunities to increase capacity for healthy conflict at the organizational, leadership and individual levels, and to uncover underlying causes that can be addressed.

3. A Practice Model for a restorative approach



Above is the practice model for a restorative organization that the MSRWWG considered in coming to its recommendations about process.

There are six interrelated elements to the practice of a restorative approach outlined in this model and they are reflected in the process recommendations in this report. Of particular importance are the initial assessment and triage process that is incorporated in [Appendix B Section G](#), and the Reflect and Evaluate component that is discussed under Implementation ([Section F](#)) of this report

4. Implications of adopting a restorative approach

The MSRWWG expects that adopting a restorative approach will involve a paradigm shift that in turn will lead to questioning current assumptions and thus potentially transform organizational culture.

It will make a difference in terms of how the Medical Staff Respectful Workplace policy and procedures are framed, what language is used, what emphasis is placed on guiding purposes and principles rather than rules, and where resources are allocated.

Reframing

While the “restorative” word appears in the current Respectful Workplace Procedures for Medical Staff (s.2.1), it is used to denote an “informal” process that is alternative to the formal discipline process, which is the primary focus of the Procedures. The MSRWWG recommendation to take a restorative approach is more all-encompassing. It is an approach to be applied in disciplinary and non-disciplinary responses alike.

Also, the defined problem that the current Respectful Workplace policy is directed at, and limited to, is conduct in interpersonal relationships. A restorative approach broadens the focus to include looking at underlying causes, and considers processes to address those causes so that the conduct will not be repeated. These processes may be at the individual level, but could also include work at the group or organizational level. A restorative approach sees individual disputes more as symptoms and potential opportunities for prevention and conflict management capacity building.

It will become a matter of course to ask the following questions before an appropriate response is decided on:

- What are all the factors at play?
- What do those suggest about the appropriate responses that will restore the health of the whole and the individuals involved and their relationships?
- What opportunities are there for responses that will maximize individual and organizational learning about how to manage conflict constructively?

Language

In a restorative approach, a “complaint” is called a “concern”. The language of “complainants” and “respondents”, which assumes an adversarial, legalistic policy, is dropped. The raising of concerns is encouraged and being labeled a “complainant” could be a deterrent. Besides, the person raising the concern in a restorative approach may or may not be the person who is the object of the conduct considered to be disrespectful. ([See Appendix B Section F3](#)) If disciplinary processes are used, the respondent is referred to as the “person against whom allegations are made”.

The current reality is that many “complaints” are managed without resorting to discipline, but adopting a restorative approach will make that more explicit. Non-disciplinary responses will be

understood to be the default, and disciplinary responses the exception that require a clear analysis of why a disciplinary response is needed to restore the workplace.

Guiding purposes and principles rather than rules

A restorative approach embraces the reality that these disputes are complex, and that, therefore, guiding principles are more helpful than black letter rules. This is why [Appendix B](#) starts with a statement of the purposes and principles of a restorative approach. The Respectful Workplace (RW) Local Medical Leader given the task of making discretionary decisions about process will be referring regularly to these for guidance.

Reallocation of resources

An ongoing organizational implication of adopting a restorative approach is the need for a reallocation of resources for organizational capacity building, including for proactive group educational activities, training, and ongoing support for RW Local Medical Leaders who will be at the forefront of applying a restorative approach, and for non-disciplinary process alternatives.

D. Changing Culture through education and communication

Recommendation #2: Make changing culture the primary strategic objective and work on it through increased education and communication.

- **Develop and implement a major educational campaign as part of the roll-out of the new policy, including team-building group events.**
- **Develop an ongoing educational program that includes regular educational and team-building events for existing and new medical staff.**
- **Integrate Medical Staff Respectful Workplace (MSRW) policy education into the orientation of new medical staff at Island Health, including introduction to the restorative approach and Island Health culture.**
- **Develop a comprehensive section on the medical staff website as a central repository for all Medical Staff Respectful Workplace information, education, and resources.**

Changing culture is both a prerequisite for, and an expected result of, successfully adopting a restorative approach. Significant culture change does not happen easily or quickly. Still, over time, it is the changed culture that will allow the workplace to function optimally, in a way that aligns medical staff and Island Health employees around common patient-centred goals while respecting the diversity that is so central to a health organization.

As noted above, adopting a restorative approach involves a paradigm shift in thinking. Paradigm shifts in thinking can stimulate culture change. The restorative paradigm shift will need to be intentionally pursued, and will happen one person at a time, in various ways, at different levels

and locations of Island Health, and among the diversity of medical staff connected to the organization. Education and communication are key.

In addition to conveying new information, educational events also open up the possibility of building stronger relationships and an increased sense of team in the workplace – overcoming distrust and fostering the idea of common goals that transcend differences. At the same time, the messages of the restorative approach reinforce respect for individuals and diversity.

1. A major roll-out educational campaign and an ongoing educational program

The roll out of a new MSRW policy is a major opportunity to intentionally pursue the restorative approach paradigm shift. The MSRWWG recommends that, as part of the implementation of the new MSRW policy, the concept of a restorative approach (and concrete information about how it is reflected in the new policy) be introduced at regional and local levels.

Such an initial educational campaign will be important to get people’s attention and plant the seed for a culture shift. Ongoing educational opportunities will be needed to help the new perspective take root and thrive in concrete ways. Also, new members of the medical staff will need to be oriented to the changing culture and educated on how it works in practice.

Purposes of an educational campaign and programming

In designing an educational campaign and ongoing programming, it will be important to keep the purposes in mind. The MSRWWG identified the following purposes:

1. Introduce, promote and sustain the paradigm shift in the MSRW policy to a restorative approach
2. Create and foster a positive work culture where people feel valued, safe and happy to come to work and participate/engage by:
 - a. normalizing conflict - Conflict happens in diverse workplaces, and diversity is needed to achieve the institutional goals. So, conflict is OK, AND it should be functional, which means not causing harm.
 - b. encouraging people to speak out and make sure they feel heard, and reducing fear of reprisal for expressing a contrary view and for reporting concerns
 - c. working on relationship and trust building
 - d. promoting identification with the group, feeling part of the organization and responsible for its functioning well – being part of the solution. “We are all in this together.”
 - e. inviting collaboration across disciplines
3. Provide clarity of responsibilities, roles, and processes
4. Impact individual conduct

Where does the campaign leadership come from?

Leadership in championing the new restorative MSRW policy will need to be exerted by many, including the following:

- The Executive of Island Health

- Medical and Academic Affairs (MAA), who would lead the rollout strategy and educational campaign
- The Medical Staff Respectful Workplace Office (MSRWO), whose ongoing role it will be to own, implement, and promote the restorative MSRW policy as it works with RW Local Medical Leaders, Department/Division heads, and members of the medical staff across the Island
- Local Site/Team/Service leaders
- Medical Staff Associations, both at the regional and local levels.

Specific ideas

Ideas for an effective educational campaign as part of the roll out, plus ongoing educational activities, were brainstormed by a sub-group of the MSRWWG. Many of these ideas would be started during the initial educational campaign and then continued as regular events for existing medical leaders and staff. Education would also be integrated into the orientation of new medical leaders and staff, including:

- Hold meetings and information sessions:
 - Who? MAA Executive, Department Head Council, Departments, Divisions, Medical Leader Townhalls; Island Presidents Network, MSA Executives, MSAs, Medical Staff Townhalls.
 - What? Standardized, comprehensive information packages to explain and promote the restorative approach, and deliver key messages and address concerns, such as transparency. Share informational resources. directly with teams as well as links to individual resources.
 - When? Strategic and cascading schedule during initial rollout of updated MSRW Policy.
- Teambuilding/Group Educational events:
 - Who? Medical Leader learning events, MSAs, Department retreats, Island Health-offered learning events
 - What? Selection of resources, videos, and exercises suitable for in-person interaction. Include facilitation notes or contacts, as well as link to individual resources
 - When? Initial rollout of updated MSRW policy includes multiple group educational events at each site. Events continue to be offered on a regular basis by site, department, MSRWO.
- Work with Medical Leaders
 - Develop an “Are you a Medical Leader?” curriculum, and have medical leaders work through it
 - MSRWO offer regularly scheduled information, coaching, and peer support sessions for real-time practice and guidance about how to implement the MSRW policy as a RW Local Medical Leader.
 - Include scenarios
 - Get feedback
- Work with Medical Staff

- Develop an “Are you a member of the Medical Staff?” curriculum, and have all medical staff members work through it.
- MSRWO supports teams, sites, MSAs, or groups to offer ‘Our Culture’ workshops on effective communications, healthy conflict, communication styles, what a respectful workplace feels like.
- MSRWO offers annual workshops for medical staff at large
- Develop and make accessible local lists of medical leaders, other medical staff, MSA Executives as mentors/peer supporters.
- Beyond the Medical Staff
 - MSRWO partners with Island Health Human Resources (HR) to offer broad educational activities about the Island Health culture
 - Multidisciplinary committee develops educational events, for example: investing in your team, creating a functional workplace.

Constraints to overcome

It is recognized that executing an initial big campaign and ongoing educational, team-building events requires overcoming several constraints, including:

- Human resources – Medical leaders responsible for operational rollout already face significant time and work burdens. To successfully implement this important cultural change, new priorities will need to be set and resources allocated or it will not happen.
- Medical staff vs non-medical staff dichotomy – While this restorative culture work is beginning with the medical staff, policy alignment with the corporate Respectful Workplace requirements will need to take place. Culturally, it would be ideal for a restorative approach to be undertaken by all of Island Health (staff and medical staff), though differing cultures can co-exist when there is a respect for each.
- Geo divides and site/site-specific differences – Each region and site within Island Health has its own culture. As the restorative approach work is rolled out, recognizing and adapting the rollout to existing site-specific ways of being and norms will be essential.
- Lack of compensation for this work – Pots of money (Island MOA, Facility Engagement, Island Health) will need to be strategically targeted to compensate medical staff for their time to undertake educational activities related to this cultural change.

2. Highly visible and easily accessible repository for educational materials

Another idea that came out of the MSRWWG sub-group on this issue was to create a central repository for all the information and resources related to the restorative approach and the specifics of the MSRW policy. The recommendation is that it be located on the medical staff website where its development could be fluid, and the image less corporate, hopefully increasing, among medical staff, the legitimacy of the educational drive.

The subgroup brainstormed what this repository would look like, and envisioned a page with many live links and sub-pages dealing with particular issues. It would be available 24/7,

maintained for current accuracy, approachable, not corporate, with information that is easy to use and access.

The repository would:

- Help spur culture change. “Here is how we work with each other at Island Health.”
- Be a central repository for valuable common information
- Promote everyone’s accountability for a respectful workplace
- Showcase Island Health as a leader in using a restorative approach in healthcare (recruitment, knowledge sharing)

Website content would include:

- Information about the proposed change:
 - How did the change come about – the story of the MSRWWG
 - Why is this shift taking place? What is it trying to fix?
 - Value Proposition – What’s in it for us? What’s in it for me?
 - What does success look like?
- Key basic messages
 - Everybody contributes to a safe and high-functioning workplace and to its culture.
 - We can create the kind of culture we want to work in.
 - Healthy conflict is a sign of a healthy workplace.
- Information specific to medical staff, medical leaders and Allied Health Providers
 - What a restorative approach means for the organization and for you
 - How concerns are handled
 - What the new process looks like, including a flow chart and examples
 - What to expect in the process if you are raising a concern or the subject of a concern).
- A clear statement of everyone’s roles and responsibilities in the MSRW policy, including bystanders (e.g. gossip policy)
- Clear definition of what expected behaviour is
- Resources such as:
 - Templates for communications
 - Checklists
 - Guiding questions
 - Videos
 - One-pager for people who are the subject of a concern (normalize emotions and experience, the focus will be on the issue)
- Information about the supports available, e.g. Physician Health Program, Peer Support, MSAs, Regional Advocates and Advisors.

E. New Medical Staff Restorative Respectful Workplace Policy

Recommendation #3: Write and adopt a Restorative MSRW policy in accordance with [Appendix B](#) of this report.

The MSRWWG discussed in detail what a restorative approach would look like in practice and translated that into proposed changes to the Respectful Workplace policies and procedures applicable to Medical Staff. [Appendix B](#) of this report is intended as a very detailed description of the Restorative MSRW Policy it is recommending. This is not a draft policy, but, if the recommendations of this report are accepted, will serve as a clear statement of what a new Restorative MSRW policy would look like.

[Appendix B](#) forms an important part of this report. This section highlights aspects of the proposed new Restorative MSRW Policy, including some key differences from the current Policy. Appendix D is a more detailed Comparative Analysis between what is proposed and the current Policy.

The following are particular recommendations related to the new Restorative MSRW policy:

- a. **Bring all aspects of policy and procedures into one document or code.**
- b. **Incorporate the current Respectful Workplace Policy 5.5.2P as the statement of what constitutes a respectful workplace, bullying and harassment, discrimination, discriminatory harassment, and sexual harassment.**
- c. **Identify a clear and separate process for standards of care issues that are not RW Concerns.**
- d. **Manage respectful workplace concerns as locally as possible.**
- e. **Make the presumed response to RW Concerns a non-disciplinary, not a disciplinary, process.**
- f. **Clearly distinguish between a non-disciplinary process and a progressive disciplinary process.**
- g. **Create a discipline file for discipline cases, with the opportunity to expunge in certain situations.**
- h. **Introduce an Initial Assessment Step in which the RW Local Medical Leader determines the appropriate process for responding to RW Concerns.**
- i. **Create in-house capacity for Investigations.**
- j. **Provide supports throughout the process for all the people involved in RW Concerns.**
- k. **Enhance the role of the RW Local Medical Leader in managing workplace conflict involving Medical Staff, and create a distinct “Respectful Workplace (RW) Local Medical Leader” position.**
- l. **Provide the appropriate compensation, and necessary support and training for RW Local Medical Leaders, including the introduction of a local RW Mentor role.**
- m. **Create a collaborative process to identify appropriate RW Local Medical Leaders in advance of respectful workplace issues arising.**
- n. **Introduce an *ad hoc* Review Group mechanism to legitimize certain key discretionary decisions of the RW Local Medical Leader.**
- o. **Create the Medical Staff Respectful Workplace Office as a replacement for the EMSS, and make its core mandates to promote the Restorative MSRW policy and support the RW Local Medical Leaders and the Review Group.**

Recommendation 3a: One document

Currently there are a number of documents that together make up the policy and procedures related to a respectful workplace that apply to medical staff. (Respectful Workplace Policy 5.5.2P, Respectful Workplace Procedures for Medical Staff, Resident Doctors and Medical Students 5.5.3PR, Medical Staff Bylaws, Medical Staff Rules, EMSS Toolkit) In addition, there are separate Respectful Workplace Procedures for Employees that do not apply to medical staff, though many but not all of the sections are repeated in the Medical Staff Procedures. This has led to a degree of confusion about just what the policy and procedures are, even among some who deal with them regularly.

The MSRWWG recommends that for the sake of clarity, all applicable documents be brought into one document. This does not preclude the development of a Toolkit or Guide.

Recommendation 3b. Incorporation of Respectful Workplace Policy 5.5.2P

The MSRWWG had consensus that medical staff should be held accountable for a respectful workplace. The group did not explore what does and does not constitute a respectful workplace, and by implication accepted the definitions in current policy.

Recommendation 3c. Scope: clear process distinction from standard of care issues

The Respectful Workplace Policy 5.5.2 applies to all medical staff, Island Health employees, and contractors. The MSRWWG is clearly intended to make recommendations with respect to the processes for alleged breaches of the Island Health's respectful workplace policy (Section 1.1 of the Medical Staff Rules). The MSRWWG explored whether these recommendations were intended to cover standards of care issues as well.

Confusion arose, in part, because Sections 4.5 and 4.6 Medical Staff Rules cover unprofessional behavior, clinical competence and failure to meet appropriate standards of care.

Also, it was recognized that clinical competency and unprofessional behaviour, including conduct disrespectful of staff, may be interrelated. Clinical competency issues often lead to respectful workplace issues, and disrespectful conduct impacts patient care and staff safety. In both cases, the issues need to be dealt with expeditiously to avoid collateral impacts.

While the two types of issues (respectful conduct and clinical competence) are overlapping, the processes dealing with them have different purposes, and require different considerations and expertise. There can be different good faith views about practice, and decisions should be made by those with the necessary clinical expertise.

Historically, cases that are purely about standards of care have, in fact, been dealt with in a different way, generally without the involvement of the EMSS. The EMSS has been involved when the medical staff member's conduct is questionable, whether or not clinical competency is an issue.

The rewriting of the RW policy for medical staff might be a good time to distinguish the two processes.

Recommendation 3d. Policy principle: keep the management of conflict at the local level

Restorative purposes are best served if conflict is managed by those in conflict, or, if not, by those who know the context and have relationships with those in conflict. For this reason, the Restorative MSRW Policy developed by the MSRWWG has been designed to keep the response to the majority of Concerns at a local level, rather than escalating them to a health authority-wide body. Key features that reflect this approach include: a clear expectation on medical staff to deal directly with the issue, unless it is unsafe to do so; an enhanced role for the RW Local Medical Leader; and the introduction of a Review Group whose members will be local, when possible. These two changes will be expanded on below.

Outline of Process

Figure 1 represents the process as detailed in [Appendix B](#). A larger version of this figure is included in [Appendix C](#).

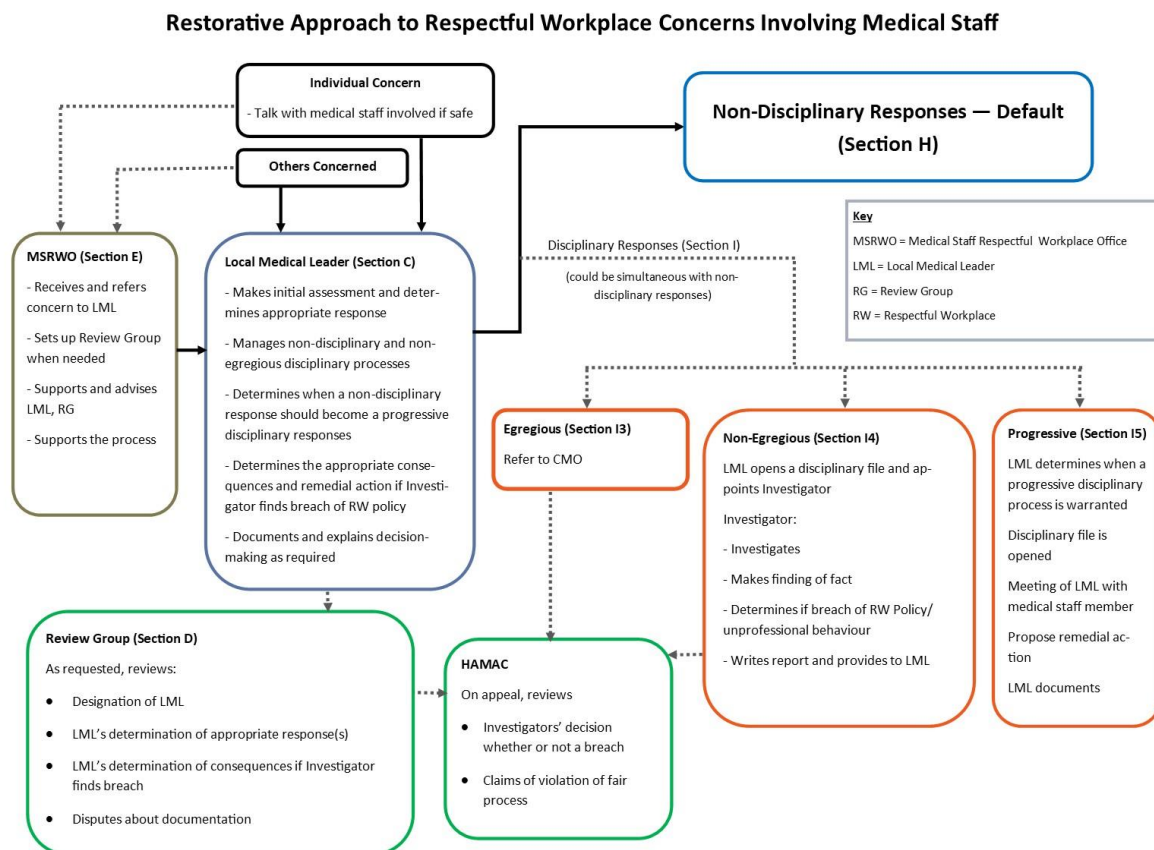


Figure 1: Proposed Process to handle Medical Staff Respectful Workplace Concerns

Recommendation 3e. Non-disciplinary responses the presumption

In the Restorative MSRW policy, the presumed response will be non-disciplinary, and it is anticipated that the vast majority of cases will be dealt with outside of any discipline cases.

While a disciplinary response will be exceptional, a restorative approach does not preclude the use of discipline. A disciplinary response may be appropriate when a formal accountability is necessary to restore a healthy workplace.

The implications of a Concern being designated as disciplinary is that heightened obligations of fair process apply, and there are different documentation requirements and implications, as described below.

It is also possible that more than one response is needed to restore workplace health – one disciplinary and the other not.

Recommendation 3f. Distinction between non-disciplinary and progressive disciplinary responses

If the Concern is about egregious conduct, or, if not egregious, then conduct that, if proven, should clearly best be responded to by discipline, the distinction from non-disciplinary responses is clear. The distinction between a non-disciplinary response and progressive discipline is less clear. It is possible that a Concern that starts with a non-disciplinary response may, because of subsequent behaviour, become appropriate for possible discipline.

Because of the heightened obligations for fair process when discipline is a very real possibility, it will be important for a clear distinction to be made, and the Restorative MSRW policy makes that distinction. As soon as the decision is made to treat the Concern as appropriate for progressive discipline, a discipline file will be opened and the person against whom the allegations are made will be made aware of the nature of the allegations and the potential consequences, and given a formal chance to respond. (See [Appendix B, Section I](#))

Recommendation 3g. Create a discipline file for discipline cases, with the opportunity to expunge in certain situations

Documentation was discussed and the conflicting tensions of confidentiality, fair process, and accountability were balanced. This leads to the recommendation that a distinction be made between working files and a discipline file, and that the opportunity be allowed for a medical staff member to seek the expunging of all or part of a disciplinary file after a prescribed period of time. The factors to be considered are set out in the Restorative MSRW policy. (See [Appendix B, Section J](#))

Recommendation 3h. Assessment Step to determine the appropriate response

Consistent with the Restorative model, the proposed new process starts with an assessment of what is the appropriate response. The Restorative MSRW Policy provides a lot of guidance for that key decision. Factors that support a RW Local Medical Leader's decision-making as to whether a Concern follows a non-disciplinary process, a disciplinary process, or a combination of the two are outlined in the [Appendix B, Section G2](#).

Recommendation 3i. In-house capacity for investigation

In the rare case where the Concern is not egregious, but a disciplinary process is deemed appropriate, the presumed process in the Restorative MSRW policy is an investigation by an investigator. The MSRWWG considered whether that investigator should be internal or external, and preferred the internal option. It is recognized that Island Health may not currently have that capacity, so it would have to be developed. This is an example of a recommendation that may need to be tested, and reviewed after it has been used.

The thinking behind the recommendation was that external investigations are very formal, are expensive, and potentially can cause significant delay. A quicker investigation might be preferable, especially when the consequences of a finding of breach of the MSRW policy are not likely to be too serious. It is not uncommon for long delays in investigations to cause widespread harms to the person raising the Concern, the person against whom allegations are made, and the rest of the workplace.

Recommendation 3j. Supports

A restorative approach to responding to respectful workplace concerns is about healing a workplace that is experiencing a lack of good health, both for the whole and for the individuals involved, who are important parts of the whole. For this reason, having supports available for all individuals involved in respectful workplace concerns is an important aspect of both minimizing harm and promoting healing.

This is particularly true of disciplinary processes. Institutional responses of a disciplinary nature almost always add to the stress that the individuals involved are already experiencing. Supports should be offered and provided throughout a disciplinary process. This involves protocols to offer the support at the appropriate times in the process, and resources to provide support when an individual needs and wants it.

The person who has been experiencing the conduct of a medical staff member as disrespectful will be suffering emotionally from the conduct itself, but also from the stress of bringing the concern forward. In a disciplinary situation, the allegations must be shared with the medical staff whose conduct is the subject of the concern. Fear of reprisal is not an uncommon or unreasonable fear. Real or perceived power imbalances are often a factor and, from the perspective of someone who is experiencing disrespectful conduct, having to stand up to power requires courage. Supports at key moments can help sustain that courage throughout the process.

Often the anxiety about negative consequences, including being labeled a “complainer”, causes individuals not to bring forward the concern in the first place. A well-functioning RW policy needs to break down those barriers of anxiety, and well-publicized offers of support will help encourage people to bring concerns forward and promote the larger goal of a healthy workplace.

The person against whom allegations are made will also be experiencing high levels of stress, especially if the response is disciplinary. That stress is often a barrier to informal handling of an issue. When emotions are high, self-awareness and capacity for collaborative engagement diminishes. Keeping things local and providing clarity about the process and its potential consequences will help, but so will the offer of support.

Often disrespectful conduct and processes to respond to allegations of disrespectful conduct creates stress for others in the workplace. If the incidents alleged in a RW Concern are part of larger tensions in the workplace, others will be taking sides or feeling cross-pressured, or avoiding interaction with certain colleagues. General anxiety will impact the well-being of more than those directly involved, and that anxiety is made worse by the requirements of confidentiality that are not uncommonly breached, leaving misinformation unchallenged that makes the situation worse. It will be important to acknowledge the impact of workplace disputes on bystanders and to find ways of offering support to those who are particularly affected.

Support resources may already be available, for example, the Physicians Support Program for medical staff or the Employees Assistance Program for Island Health employees, and it may be just a question of providing all involved with that information.

The individual involved should be able to choose their own support person. Often the best support comes from trusted colleagues who act as informal coaches or mentors. Consideration should be given to make this peer support more explicit and to identify potential coaches or mentors and offer training for those interested.

Recommendation 3k. Enhanced RW Local Medical Leader Role and New Position

An enhanced role for the RW Local Medical Leader is at the core of the Restorative MSRWO policy, and is a key strategy to avoid escalation in the response to Concerns about workplace conflict involving medical staff.

Under the Restorative MSRWO policy, the RW Local Medical Leader is responsible for managing the process. This includes making the initial assessment and deciding on the appropriate response or responses to the Concern. It is the RW Local Medical Leader who decides when a situation warrants the beginning of a progressive discipline process. If there is a formal discipline process for non-egregious cases, the RW Local Medical Leader chooses the Investigator and decides on the appropriate consequences if the Investigator makes a finding of a breach of the RW policy.

In playing this key role, it is envisioned that the RW Local Medical Leader will be fully supported by the MSRWO, who can advise and do a lot of the leg work or arrange to bring in other resources. The key point though is that the RW Local Medical Leader, and not the MSRWO, exercises the discretionary decision-making in managing the Concern.

The reasoning behind this recommendation is an assumption that a respected local leader is in a better position to understand the context, underlying causes and relationship issues of the dispute, and to manage the Concern in a less-threatening way that avoids escalation.

In recognition of the importance of this role, the MSRWWG recommends that a distinct position be created “Respectful Workplace RW Local Medical Leader”. This would only be a part-time position. It might be taken on by medical staff filling other RW Local Medical Leader positions, such as Chief of Staff or Department, Division or Section Head, but it might also be filled by a medical staff member not holding any other medical leadership roles within Island Health.

Recommendation 3l. Compensation, Support and Training for the RW Local Medical Leader

Enhancing the role of the RW Local Medical Leader will only work if RW Local Medical Leaders are compensated appropriately for the work they are being asked to do. Too often managing workplace conflict is done off the side of a very busy desk. That will not work if the RW Local Medical Leader is managing the file with restorative purposes in mind.

The MSRWO will act as the supportive secretariat to provide administrative assistance and process advice, but it will be important not to fall back into a pattern where the RW Local Medical Leader downloads the conflict management work to the MSRWO, particularly the discretionary process decision-making and relationship building work.

The RW Local Medical Leaders throughout the region will be key individuals for the Restorative MSRW Policy, who hold knowledge of its purposes and practice. It is suggested that a Community of Practice be developed to provide a time and space for RW Local Medical Leaders to support each other through sharing information and insights.

One support idea that emerged was making available to the RW Local Medical Leader a RW mentor – a retired or semi-retired, wise physician who has knowledge of the dynamics and could serve as a sounding board and coach for the RW Local Medical Leader.

Support might also come from external contractors with particular expertise in conflict management.

Conflict management is challenging work and RW Local Medical Leaders will need assistance to understand the Restorative MSRW Policy through initial training and develop their skills through ongoing educational opportunities.

Recommendation 3m. Identifying and recruiting appropriate RW Local Medical Leaders

Because of the importance of the RW Local Medical Leader in the Restorative MSRW policy, RW Local Medical Leaders need to be identified, recruited, and trained in advance of having to deal with a Respectful Workplace Concern.

This is a challenge as historically being a RW Local Medical Leader has not been a sought-after responsibility, particularly with respect to the aspects of the job that touch on discipline and

interpersonal relationships. Part of making the job attractive will be the degree of compensation and support provided. Another factor will be developing a sense of local ownership of the Restorative MSRW Policy.

It is recommended that the process for identifying and recruiting RW Local Medical Leaders involve the local medical staff. As part of the implementation process, communities of medical staff should identify the appropriate RW Local Medical Leader for their community. This may be relatively easy in some locations, but in others, who should fill the position may not be so obvious, and could involve a lengthier process that fully engages local medical staff in the selection process. This could simultaneously be an opportunity to get local buy-in for the Restorative MSRW policy.

The MSRWO can play an important supportive role in the recruiting process, but the responsibility to identify the RW Local Medical Leader should not devolve to them. The involvement of local medical staff in choosing the RW Local Medical Leader will enhance the ability of the incumbent RW Local Medical Leader to manage conflict in their community.

Turnover of RW Local Medical Leaders is inevitable, so there would also have to be an ongoing selection process at the local level.

The most appropriate RW Local Medical Leader will vary depending on the community involved. For the RW Local Medical Leader to be effective, it is important that they are respected by the medical staff community in which the Respectful Workplace Concern arises. That community will most often be defined geographically, but not always. Because the issue is about relationships and not clinical issues, it is not crucial that the RW Local Medical Leader be from the same specialty as those involved. That said, in the bigger centres, like Victoria, the medical staff community may be defined by specialty as well as locality.

Geographical proximity is important because it allows for in-person communication, always preferable with sensitive relationship issues. It is also important that the person in the role of RW Local Medical Leader understands the context and has already developed relationships within the community.

As suggested above, the appropriate RW Local Medical Leader could be the Chief of Staff, Section Head, Division Head, or Department Head, but the skills and aptitude required for managing Respectful Workplace Concerns may rest elsewhere. A local medical staff member not already holding a medical leadership role within Island Health, who has the necessary aptitude and interest might, in some circumstances, be the most appropriate person to take on this local leadership role of managing Respectful Workplace Concerns.

In any given case, the usual RW Local Medical Leader may not be appropriate: for example, there may be a reasonable apprehension of bias. In these cases, the Restorative MSRW policy provides that the MSRWO will, in consultation with local medical staff and medical leadership, identify a replacement. One possibility might be the person holding the person in the local RW mentor role

The decision is reviewable by the Review Group. In these circumstances, the principle will be to choose a medical leader who has been trained in the Restorative MSRW policy and processes, and who is closest to the community involved. This might be another RW Local Medical Leader, or a Section or Division Head from a nearby community. For this reason, it will be important for Section, Division, and Department Heads to receive training in the Restorative MSRW Policy.

It is understood that recruiting RW Local Medical Leaders with the skill and capacity to do this kind of work is challenging, and will be a key implementation issue. It is hoped that the new Restorative MSRW policy, plus adequate compensation and training, will attract the right people.

Recommendation 3n. Review Group and appeals

The Restorative MSRW policy introduces a new ad hoc review mechanism, the **Review Group**, intended to review contentious discretionary decisions on the part of the RW Local Medical Leader or MSRWO, in a way that keeps issues local and is seen as legitimate because of its tripartite nature.

A Review Group is only created if needed and will have three members: one appointed by Island Health, a second appointed by the local Medical Staff Association, and a third, the Chair, who would be chosen from a small roster agreed to in advance by Island Health and the Medical Staff Association, of people knowledgeable about the Restorative MSRW Policy and processes. (For more detail, see [Appendix B, Section D3.](#))

The issues that the Review Group will review are outlined in [Appendix B, Section D4.](#)

The MSRWWG considered Local Medical Advisory Committees (LMACs) or a sub-committee of an LMACs as potential Review Group for respectful workplace issues, and there was no consensus as to their suitability. Recognizing that the role of LMACs is in a state of flux, it was decided to leave this option for future discussion after the Review Group innovation has been tried.

Given that the Restorative MSRW policy is primarily non-disciplinary, there is very limited need for an appeal process. In egregious disciplinary cases, the existing appeal processes will prevail. In non-egregious disciplinary cases the only reviewable issues are whether the Investigator made a correct determination of violation of the RW policy, or a violation of the principles of fair process.

The Respectful Workplace Appeals Committee remains the appeal body for employees of Island Health and HAMAC for medical staff.

Recommendation 3o. Medical Staff Respectful Workplace Office (MSRWO)

The MSRWWG recommends that the Restorative MSRW policy be supported by a newly created **Medical Staff Respectful Workplace Office (MSRWO)** that will replace Enhanced Medical Staff Support (EMSS), with some similarities but important differences. One reason for this recommendation is that some significant confusion existed about the role of EMSS, and for a start, it was agreed that a renaming of the office would be needed. There was no agreement

about the extent to which EMSS made discretionary decisions in the current system, but a perception exists among a significant number of medical staff that it is the disciplinary arm of Island Health in its relationship with contracted medical staff.

Under the Restorative MSRW policy, the mandate of the MSRWO is clearly to be impartial as between Island Health and medical staff, and to instead to promote and advocate for the Restorative MSRW policy. Its main function will be to support the RW Local Medical Leader and the Review Group, and to facilitate education of medical staff.

The MSRWO does not have ultimate responsibility for case management decisions. That responsibility will rest with the RW Local Medical Leader, although the MSRWO, based on its knowledge of the process, will provide advice to RW Local Medical Leaders.

F. Implementation

Recommendation #4: Develop and adequately fund an implementation plan, to roll out the new Restorative MSRW policy that includes:

- **A major, multi-faceted educational campaign at the time of roll out of the new policy,** (See [Section D](#) above.)
- **A RW Local Medical Leader training program and compensation plan,** (See [Recommendation E3l](#) above.)
- **A process to identify RW Local Medical Leaders across Island Health,** (See [Recommendation E3m](#) above.)
- **Phased implementation of the policy in diverse locations,**
- **An adequate budget to fund an effective implementation process,**
- **A commitment to longer-term increased funding to support an enhanced RW Local Medical Leader role and for ongoing proactive education, team-building, and communication activities,** (See [Section D](#)) and
- **A feedback and review process to learn from experience and modify processes and practices accordingly.**

How the new Restorative MSRW policy is implemented will impact the extent of its acceptance at all levels of Island Health and among medical staff, and its ultimate success at changing the current culture and improving the relationship between Island Health and medical staff.

Implementation will be a significant project and should be planned as such. Effective implementation will require the application of good change management practices and principles.

1. Phased introduction of new policy and processes

The MSRWWG recommends that the Restorative MSRW Policy first be piloted in a small number of diverse locations in Island Health. This will provide an opportunity to test out some of the innovative ideas in the policy, and to learn from experience, with the idea of making modifications to improve the Restorative MSRW Policy before applying it generally.

By choosing diverse locations for piloting – perhaps a rural remote location, a larger centre, and a division of one specialty at one location – adaptations can be made for varying contexts. Because a restorative approach put such an emphasis on context, the Restorative MSRW Policy will inevitably be practiced somewhat differently in different medical communities.

While it makes the challenge greater, it would make sense to choose for piloting communities where trust is low in the relationship between medical staff and Island Health, or where there have been more respectful workplace incidents. The restorative approach will be less of a change in locations where conflict is already managed well locally. A challenging community will test the Restorative MSRW policy better and provide more opportunities to focus on the longer-term goal of a culture shift.

During the pilot phase, it will be important to have strong feedback loops so that process issues can be quickly discovered and addressed.

Once the pilot implementation is complete, the feedback obtained and processed, and the Restorative MSRW Policy modified accordingly, it will be ready for general application across Island Health. So as not to lose momentum, it is recommended that a reasonable but tight timeline be decided on in advance.

2. Adequate budget for implementation

Any change process done well has transitional costs, including for project management, increased communications, education and training, and learning from experience (feedback mechanisms, opportunities for reflection and making responsive changes).

The MSRWWG did not have the expertise to develop a realistic budget for the implementation project it envisions, and recommends that a first step, after acceptance of the recommendations in this report, should be to develop a realistic budget for implementation.

While the MSRWWG is not in a position to put a price tag on implementation, it is expected that a substantial expenditure will be necessary to do it properly. The MSRWWG is of the opinion that a significant expenditure is warranted because the impact of an effective implementation process will be felt in an immediate culture shift and relationship improvement.

It is assumed that Island Health will bear responsibility for resourcing the implementation process, but not necessarily all of it. Given that this Restorative MSRW Policy review process emerged from a collaborative table, those same collaborative tables might be brought into discussion about funding for implementation.

3. Funding commitment for the longer-term

There are also longer-term budgetary implications of implementing the Restorative MSRW Policy. In particular, for the success of the Restorative MSRW Policy, significant new or reallocated funding will be needed for:

- Adequate compensation and support for RW Local Medical Leaders in their enhanced role, and
- The ongoing proactive education, team-building and communication activities recommended in [Section D](#) above.

4. Process Review

In addition to the feedback and review process incorporated into the pilots themselves, the MSRWWG recommends that the MSRWWG be reconvened in-person in six months and 12 months from the date of this report, to review progress on implementation and consider any issues arising. This would require securing MOA funds to cover the costs. Additional check-ins may well be identified as helpful at other times during implementation. These review times should be included in the implementation plan.

Appendix A: References

1. Island Health. Respectful Workplace Policy [Internet]. Available from: <https://www.islandhealth.ca/sites/default/files/respectful-workplace-policy.pdf>
2. Island Health. Enhanced Medical Staff Support Toolkit [Internet]. Available from: <https://medicalstaff.islandhealth.ca/sites/default/files/onboarding/medical-leader-onboarding/emss-toolkit-islandhealth.pdf>
3. British Columbia Ministry of Health. Memorandum of Agreement: Physical/Psychological Safety [Internet]. Vancouver: The Ministry; 2019 [cited 2021 March 9]. Available from: <https://www2.gov.bc.ca/assets/gov/government/ministries-organizations/ministries/health/moa-2019-physical-psychological-safety.pdf>
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7. Medical Staff Rules for Island Health. Available from: <https://medicalstaff.islandhealth.ca/sites/default/files/organization/MSR/msr-2023.pdf>

Appendix B: Description of Restorative Medical Staff Respectful Workplace Policy

It was not part of the mandate of the Medical Staff Respectful Workplace Working Group (MSRWWG) to draft a policy or procedures. If the recommendations in this report are accepted that will need to be done as part of the implementation process. That said, the MSRWWG did consider, in some detail, what the new Restorative MSRW Policy would look like. This Appendix reflects this detailed work. It is intended to form the basis for the drafting of a new policy consistent with the recommendations of the report. It is understood that not all issues that might need to be covered in a complete policy document are included in the following. While the MSRWWG was given the opportunity to review the detail and to raise issues, it cannot be said that every aspect of what is set out here was agreed to by all members of the MSRWWG. It is an attempt to bring some specificity to what the MSRWWG is thinking when it recommends taking a restorative approach to respectful workplace issues.

A. Restorative Approach, Purposes and Principles

1. The Restorative Approach to respectful workplace issues (the primary recommendation of the MSRWWG) is intended to apply to both non-disciplinary and disciplinary processes involving medical staff.
2. The purposes of the restorative approach are:
 - a. To promote and sustain a safe, healthy, and well-functioning workplace
 - b. To minimize psychological and physical harm
 - c. To educate and support, not assign blame and punish
 - d. To instill individual accountability and responsibility for a safe, healthy, and well-functioning workplace
 - e. To prevent reoccurrence of unacceptable conduct, primarily by maximizing willingness to change
 - f. To quickly resolve the immediate problem
 - g. To repair broken relationships that are interfering with the workplace
 - h. To address dysfunctional group dynamics
 - i. To consider systemic contributors to the reported incident(s).
3. The guiding principles of the Restorative Approach are:
 - a. With the exception of egregious disciplinary cases, Respectful Workplace Concerns will be handled as locally as possible, by the identified RW Local Medical Leader with Island Health, Medical Staff Respectful Workplace Office (MSRWO), or external support as needed.
 - b. Facilitating direct communication between the individuals involved will be the preferred response, unless there are compelling reasons for not facilitating direct communication.
 - c. The needs of all those going through the process will be attended to. For example, meetings will be scheduled at convenient times and places; timeliness will be valued to alleviate emotional stress; supports will be provide as needed.
 - d. The process and what can be expected will be explained as clearly as possible, and when clarity is not possible, it will be explained why not.

- e. The situation will be normalized, to the extent appropriate. Conflict happens in diverse workplaces, and should be seen as an opportunity for learning and improving relationships, and making sure everyone feels safe in the workplace.
- f. An effort will be made to create a safe space for everyone. The question will be asked: what does safety mean for the individuals involved?
- g. When there is a possibility of future discipline, everyone will be made aware of the risks that informality might be prejudicial down the road, and precautions taken.
- h. Fair process is important, particularly in disciplinary cases when an individual's reputation or livelihood is at stake. The degree of process required to ensure procedural fairness is proportional to the potential sanction.

B. Definitions

Respectful Workplace is defined in section 1.2 of Island Health's Respectful Workplace Policy 5.5.2P (RW Policy) and that definition is incorporated into the Restorative MSRW Policy. It is characterized by: polite behavior; diversity and inclusion; freedom from disrespectful, discriminating, bullying, and harassing behaviour; and constructive management of differences.

Respectful workplace concern (Concern) in this policy is a Concern, involving medical staff, that: a respectful workplace is being undermined; differences are not being managed constructively; or a medical staff member has breached the RW Policy or engaged in unprofessional conduct.

Medical Staff are the physicians, dentists, oral surgeons, midwives, and nurse practitioners who have been appointed to the Island Health medical staff and who have privileges to practice medicine, dentistry, midwifery, or nursing as a Nurse Practitioner in the Facilities and Programs operated by Island Health. Employee policies and procedures do not apply to privileged Medical Staff, and so separate agreements are required.

Unprofessional behaviour is behaviour that contravenes the code of professional conduct of a practitioner's regulatory college or professional association.

Restorative approach is an approach to responding to all Respectful Workplace Concerns that is directed to the overall goal of restoring the workplace to good health and optimum functioning, and has three interrelated objectives:

- promoting a sense of common purpose - focus on the mandate of the whole of the organization
- creating conditions that promote the safety and agency of individual employees/contractors and value the diverse parts of the organization
- improving relationships in the organization, and recognizing their importance.

Non-disciplinary, Disciplinary, Egregious Conduct and Progressive Discipline

- A **non-disciplinary** response is one in which discipline of the medical staff member is not the objective, and as a result of which the conditions of the medical staff member's working relationship with Island Health will not be involuntarily changed. It includes but is not limited to:
 - An informal conversation between the RW Local Medical Leader (or other appropriate person) with the medical staff member who is the subject of the Concern
 - Offering the medical staff member educational materials or referral to appropriate educational, support, or medical services
 - A facilitated conversation or conversations between the individuals in conflict
 - Bringing in someone from outside to do a workplace assessment and make recommendations to improve the workplace environment
 - Group work to address group dynamics, workplace and systemic issues
 - Group educational sessions.
- A **disciplinary** response is one in which the process could result in:
 - a finding that the medical staff member had engaged in conduct that is not respectful as defined by the Island Health Respectful Workplace Policy or unprofessional conduct, and
 - a potential direction to the medical staff member or action that could impact the conditions of the medical staff member's work relationship with Island Health.

A disciplinary response will be appropriate when the alleged conduct of the medical staff member is egregious, and may be appropriate if conduct is not egregious but is unacceptable and not amenable to informal resolution, or when a medical staff member exhibits a pattern of unacceptable behaviour and an unwillingness to take responsibility and modify behaviour. Note: In certain circumstances, Island Health may be under a statutory or contractual obligation to take disciplinary action or to report to the College of Physicians and Surgeons or to another regulatory body.
- **Egregious conduct** is conduct that, if proven, would warrant suspension of the medical staff member's privileges.
- **Progressive discipline** is discipline intended to curb a potential pattern of disrespectful conduct and to provide a structured opportunity for the medical staff member concerned to rectify the consequences of their conduct and to change it in the future.

C. The RW Local Medical Leader

1. The Respectful Workplace (RW) Local Medical Leader is the medical staff member who has responsibility for deciding the appropriate responses to respectful workplace Concerns and for managing the responses, with the support of the MSRWO and outside expertise as required.
2. RW Local Medical Leaders will be identified prior to Concerns being raised, through a process involving local Medical Staff.
3. If, with respect to a specific Concern, a reasonable apprehension of bias exists, or for any other reason the identified RW Local Medical Leader is not the appropriate person to manage the Concern, the MSRWO will direct the Concern to another appropriate RW

Local Medical Leader, in consultation with local Medical Staff and medical leadership. A key principle in the selection of an alternative RW Local Medical Leader will be to find someone with knowledge of the local context.

4. The MSRWO decision as to who the appropriate RW Local Medical Leader is with respect to a specific Concern may be appealed to the Review Group, by the person raising the Concern and by the person against whom allegations are made.

D. The Review Group

1. The Review Group is a group constituted to review certain discretionary decisions of the RW Local Medical Leader or the MSRWO.
2. The Review Group will not be a standing group, and will not be required with every Respectful Workplace Concern. It will be created on an *ad hoc* basis as needed.
3. The Review Group will be made up of three members:
 - a. An Island Health representative, chosen by the MSRWO from a pool of possible people trained in the Restorative Medical Staff Respectful Workplace Policy, and as local as possible to the location of the Concern,
 - b. A local Medical Staff Association representative chosen by the local MSA executive from a pool of possible people trained in the Restorative MSRW Policy and processes,
 - c. A Review Group chair from a small Review Group Roster developed through a process agreed to by the Medical Staff Association and Island Health. The Roster members will be trained in the Restorative MSRW Policy and processes. The Chair of a particular Review Group will be chosen from the Review Group Roster by the MSRWO, in consultation with local medical staff.
4. At the request of the MSRWO or a party with a legitimate interest, the Review Group will review the following:
 - a. Disputed issues of a reasonable apprehension of bias or other disqualifier of the RW Local Medical Leader in the circumstances of a particular Concern
 - b. The RW Local Medical Leader's decision about the appropriate process, including whether or not:
 - i. the case should be responded to in a non-disciplinary way,
 - ii. the allegations are egregious, or
 - iii. an immediate Investigation should take place.
 - c. The RW Local Medical Leader's decision about appropriate consequences when an Investigator determines that there has been a breach of the Respectful Workplace policy or unprofessional behaviour.
 - d. Disputes between the RW Local Medical Leader and the MSRWO.
 - e. Disputes about documentation.
5. The Review Group will seek to make decisions by consensus. If a consensus cannot be reached, the decision of the Review Group will be by a majority vote.

E. Medical Staff Respectful Workplace Office (MSRWO)

1. The MSRWO is the Island Health entity responsible for the promotion and implementation of the Medical Staff Respectful Workplace policy, and replaces the former Enhanced Medical Staff Support (EMSS).

2. The MSRWO's mandate is to champion and support the restorative Medical Staff Respectful Workplace Policy. This involves supporting the RW Local Medical Leader and the Review Group in the fulfilment of their responsibilities.
3. The MSRWO, is not a decision-maker with respect to the appropriate response to a concern or, in the context of a disciplinary response, a finder of fact or a decision-maker as to whether or not a concern constitutes a breach of the Respectful Workplace Office or is unprofessional behavior.
4. The MSRWO will support and advise the RW Local Medical Leader and the Review Group with respect to implementing the Respectful Workplace policy.
5. The MSRWO's responsibilities include:
 - a. Identifying and, as necessary, recruiting RW Local Medical Leaders, in consultation with the local medical staff.
 - b. As required, arranging for the setting up of a Review Group, including selecting an Island Health Representative from the list provided and in consultation with Island Health.
 - c. Supporting the capacity development of the RW Local Medical Leader.
 - d. Providing process advice to and supporting the RW Local Medical Leader in managing the process.
 - e. Providing process advice to and supporting the Review Group, for example, by setting up meetings or possibly taking notes.
 - f. Handling and being custodian of Disciplinary files.
 - g. Helping to connect the parties involved to appropriate supports.
6. The MSRWO may refer disputes it has with the RW Local Medical Leader to the Review Group.

F. Raising Concerns

1. **Individual responsibility to manage the conflict**
 - a. An individual who perceives themselves to be subjected to a breach of the RW policy or unprofessional conduct by a medical staff member is expected to make reasonable efforts to manage the conflict directly with the medical staff involved, if it is safe and reasonable to do so.
2. **Concerns go the RW Local Medical Leader**
 - a. If the individual feels unsafe managing the conflict directly with the medical staff member or if the effort to do so is unsuccessful, they should raise their concern with the RW Local Medical Leader, with reasons as to why a direct approach to the medical staff member is not appropriate in the circumstances or was unsuccessful.
 - b. If there is uncertainty about who is the RW Local Medical Leader or reason to believe that the RW Local Medical Leader is not the appropriate one to manage the Concern, the Concern should be directed to the MSRWO office, who may assign another RW Local Medical Leader.
 - c. Any concerns received by the MSRWO will be forwarded by them to the RW Local Medical Leader.

3. **Who can raise a Concern:** Anyone can raise a respectful workplace Concern, including about a breach of the respectful workplace policy or unprofessional behavior, including, but not limited to:
 - a. An individual who is an Island Health employee, medical staff, resident doctor or medical student, and who experiences or observes conduct by a medical staff member that is reasonably viewed to be in breach of the Respectful Workplace Policy or unprofessional conduct, including bullying, harassment or discrimination
 - b. A representative of a union or a group of individuals who are concerned about a psychologically unsafe workplace
 - c. An Island Health or local leader to whom a Concern has been expressed, or who themselves are concerned that the workplace is psychologically unsafe.

G. Initial assessment as to appropriate response

1. Initial Assessment

- a. When a Concern is raised with, or directed to, the RW Local Medical Leader, they will, as expeditiously as possible, conduct an initial assessment of the nature of the Concern and decide on the appropriate response or responses.
- b. In making the decision about the appropriate process, the RW Local Medical Leader may seek advice from the MSRWO or request access to external expertise.
- c. The RW Local Medical Leader's assessment of the appropriate response is not in itself a disciplinary process. It does not require the RW Local Medical Leader to make formal findings of fact or determinations of whether a breach of the Respectful Workplace policy or unprofessional behavior has occurred.
- d. The RW Local Medical Leader either directly, or through a delegated person, may conduct whatever enquiries they deem necessary to assist in making the assessment.
- e. The RW Local Medical Leader will explain to anyone they interview the purpose of the interview, and possible outcomes of the enquiries.
- f. When the assessment is completed, and the decision made about process, the RW Local Medical Leader will inform the affected individuals of decisions made.
- g. The individual presenting the Concern, the medical staff whose conduct is at issue, the MSRWO, or an individual with direct responsibility for a safe and respectful workplace in Island Health, may ask the Review Group to review the RW Local Medical Leader's decision about the appropriate process.
- h. The decision of the Review Group is binding and not reviewable.

2. Factors to consider re appropriate response:

In determining the appropriate response or responses, the RW Local Medical Leader will consider the following:

- a. What processes are most likely to improve the safety, health and well-functioning of the workplace
- b. What are the underlying causes of the Concern, including whether personal health issues (physical challenges, mental health or substance use issues), interpersonal conflict, group dynamics or systemic issues, and how those causes will most effectively be addressed
- c. What response is in proportion to the seriousness of the behavior alleged

- d. Whether power issues are in play, impacting the parties and the dynamics, and what can be done to counter the power dynamics
 - e. In particular, whether allegations against a medical staff member are being used as a power tool in a larger dispute over policy or systemic issues
 - f. Whether there is a factual dispute about what happened, or just different perspectives on the same facts, and whether resolving the factual differences is necessary to move forward
 - g. Whether there is a clinical competence or standard of care issue present, and if so, how that issue would most effectively be handled
 - h. Whether parallel processes may interfere with each other, and if so, what precautions can be taken to minimize the possible interference
 - i. What resources are available to conduct the appropriate processes
 - j. What constitutes a safe space for the people involved in the processes
 - k. What supports are needed for the people involved, and how best to provide those supports.
3. **Presumption:** The presumption will be that the most appropriate response is non-disciplinary, unless compelling reasons justify a decision to treat the Concern as a disciplinary matter. Compelling reasons to choose a disciplinary response include:
- a. The likelihood that the allegations, if proven would result in discipline
 - b. The need for a clear statement in the workplace that the alleged conduct is unacceptable
 - c. The likelihood that a voluntary, educative approach would be unsuccessful in changing the conduct of the medical staff involved
 - d. The medical staff member's past history of similar conduct
 - e. The risk of repeat behavior unless clear expectations with consequences are set.
4. **Reasons for decision to proceed with a non-disciplinary response:** Even if discipline is possibly an appropriate response in the circumstances, there may be reasons why a non-disciplinary response is chosen instead, at least initially. Those reasons could include, but are not limited to:
- a. The individual who may have committed the disciplinable act may be unwell (mentally or physically) or be suffering from substance use issues, and the more humane response may be to address the health issues or substance use issues first
 - b. The individual who may have committed the disciplinable act may be remorseful and willing to make amends and change their conduct
 - c. The incident that might give rise to discipline is part of a bigger picture of an unhealthy interpersonal relationship and the problematic conduct is not one-sided
 - d. The incident that might give rise to discipline is the tip of the iceberg and under the waterline is a toxic workplace that will likely be made worse and certainly will not be healed by a disciplinary process involving one individual
 - e. The allegations are being used as a power play in the context of a political disagreement about system or policy issue.

5. **Both disciplinary and non-disciplinary responses:** If any or all of the contributory factors listed in section 4 above are present and the RW Local Medical Leader still decides that a disciplinary response is appropriate, the RW Local Medical Leader will identify the other factors and devise a plan to address them at the appropriate time. If the requirements of fair process make simultaneous processes problematic, then work on the other factors should be postponed until after the disciplinary process is complete.
6. **Categories of disciplinary responses:** If a disciplinary response is deemed to be appropriate, the RW Local Medical Leader will decide whether, if the allegations are proven, the conduct is:
 - a. Egregious
 - b. Not egregious but requiring a disciplinary hearing, or
 - c. Not egregious nor requiring an immediate disciplinary hearing, but potentially leading to discipline if repeated, and thus requiring a progressive discipline approach.

H. **Non-disciplinary responses** could include but are not limited to the following:

1. Referral to a standards of care process, or other relevant process within Island Health
2. An informal conversation between the RW Local Medical Leader (or other appropriate person) with the medical staff member who is the subject of the Concern
3. Offering the medical staff member educational materials or referral to appropriate educational, support or medical services
4. A facilitated conversation or conversations between the individuals in conflict, in the event interpersonal relationships appear to be a factor
5. Bringing in someone from outside to do a workplace assessment and make recommendations
6. Group work to address group dynamics and workplace issues
7. Group educational sessions.

I. **Disciplinary responses**

1. **Applicable Principles for all disciplinary processes:** Rules of fair process will be followed, including:
 - a. The innocence or good faith of the person against whom allegations are made will be presumed until proven otherwise.
 - b. The person against whom allegations are made will be given timely notice of the allegations against them.
 - c. The person against whom allegations are made will be provided the opportunity to respond to the allegations before findings of fact or determination of breach of the RW Policy or unprofessional conduct are made.
 - d. The decision-maker will have no bias, or there is no reasonable apprehension of bias.
 - e. Determinations of a breach of the Respectful Workplace policy or of unprofessional behavior, and disciplinary consequences will be applied consistently, accounting for variation in relevant circumstances.
 - f. The reasons for decisions will be explained to those affected.

- g. The experience of the person raising the concern, whether or not the allegations are proven, will be acknowledged not dismissed.
- h. Power imbalances will be considered and actions will be taken to address them.
- i. The physical and emotional safety of the people involved will be a paramount consideration in determining process.
- j. All those impacted by the process will be offered support.

2. **Disciplinary File**

- a. If the RW Local Medical Leader decides that a disciplinary process is the appropriate response, a Disciplinary file will be opened.
- b. The MSRWO will be that custodian of the Disciplinary file.
- c. The medical staff member involved has the right to review their Disciplinary file.
- d. See [Section J](#) below for what will be kept in the disciplinary file, confidentiality requirements, and the circumstances in which the file, or parts of the file, may be expunged.

3. **Egregious disciplinary response**

a. **Egregious conduct**

- i. Egregious conduct is conduct that, if proven, would warrant suspension of the medical staff member's privileges.
- ii. The paramount factor to consider is whether or not the safety of patients and staff is an overriding and immediate issue.
- iii. Egregious conduct includes but is not limited to:
 - Significantly violating the Respectful Workplace Policy in a way that places at risk the psychological or physical safety of others within Island Health, for example, intentional physical assaults, or extreme reckless behavior
 - Committing a criminal offence related to the exercise of the medical staff's privileges (evidenced by the laying of charges, including the police advising that laying charges would be appropriate)
 - Providing clinical care while significantly impaired, including but not limited to impairment by drugs or alcohol.

b. Fair Process: Because of the high stakes for the medical staff member involved, egregious disciplinary cases will be handled as expeditiously as possible and in accordance with the Restorative MSRWO Policy principles set out in [Section A](#) above.

c. **Process for egregious disciplinary cases**

- i. The RW Local Medical Leader will immediately refer an egregious disciplinary case to the Chief Medical Officer, or their delegate.
- ii. The provisions of Article 12 of the Medical Staff Bylaws apply.
- iii. Suspension or conditions may be imposed while the investigation and findings process is conducted.
- iv. The RW Local Medical Leader will not decide on but may make recommendations with respect to suspension or conditions.

- v. The RW Local Medical Leader will consider and decide if non-disciplinary processes are also required to address underlying causes and consequences, or if supports are needed for those involved in the process.
- vi. If so, the RW Local Medical Leader will consult with the Chief Medical Officer (or whomever is deemed appropriate) to ensure that non-disciplinary processes do not interfere with the expeditious and fair handling of the egregious disciplinary response.

4. **Non-egregious immediate disciplinary response**

- a. **A non-egregious immediate disciplinary response** is appropriate when there is no immediate risk to the safety of patients, employees or other staff, but an expeditious disciplinary process is the most likely way to restore the health of the workplace. Reasons for a non-egregious immediate disciplinary response could include the following:
 - i. If the facts alleged are proven, the conduct, though not egregious, clearly requires personal accountability and consequences
 - ii. The medical staff member against whom the allegations are made shows no sign of taking any responsibility, and is resisting voluntarily engagement in remedial action, including education or reconciliatory engagement with the person making the allegations, or
 - iii. A determination of disputed facts appears crucial to restoring workplace health.
- b. **Locally managed:** The RW Local Medical Leader will manage all non-egregious disciplinary cases, with the support of the MSRWO and outside consultants as required.
- c. **Notification:** As soon as the RW Local Medical Leader determines that the case is appropriate for immediate disciplinary action, but is not egregious, the RW Local Medical Leader will inform the medical staff member of the nature of the allegations and the possible consequences of the process.
- d. **Support:** The person making the allegations and the medical staff member against whom the allegations are made will be offered support as needed.
- e. **Formal Investigation:** As expeditiously as possible a formal Investigation will be undertaken by an Investigator in accordance with the Restorative MSRW Policy principles set out in [Section I1](#) above.
- f. **Choice of Investigator**
 - i. The RW Local Medical Leader, with advice from the MSRWO, will choose the investigator.
 - ii. An internal investigator will be chosen unless there is a compelling reason to choose an external investigator.
 - iii. Reasons for choosing an external investigator could include the following:
 - Whether the legitimacy of the outcome is likely to be disputed, and an outside Investigator could significantly enhance the legitimacy of the process

- Whether the crucial relevant facts are in dispute, and thus an investigator with a high level of process expertise is required
 - Whether there is consensus among the parties that an external investigator is necessary, or
 - Whether the cost of an external investigator is proportional to the seriousness of the workplace issues at stake.
- g. **Investigation process:** The Investigator will:
- i. Speak with the person who has alleged the disciplinable conduct, with support present as requested
 - ii. Speak with the person against whom the allegations have been made, with support present as requested
 - iii. Speak with anyone with direct knowledge of the allegations
 - iv. Circle back to the person making the allegations and the medical staff member against whom the allegations are made to raise any new points arising from subsequent interviews
 - v. Consider whether, and to what extent there can be an agreement of facts
 - vi. Write a report directed to the RW Local Medical Leader:
 - Summarizing the agreement of facts and making findings of fact where necessary
 - Determining whether or not the medical staff member breached the respectful workplace policy or engaged in unprofessional behaviour.
 - Explaining the reasons for the finding of any facts in contention and for the determination of a breach of the respectful workplace policy or unprofessional conduct.
- h. **Determination of appropriate consequences and remedial action:** On receiving the Investigator's report, the RW Local Medical Leader will:
- i. Share the Investigator's report with the person against whom the allegations have been made, and provide them the opportunity to write a response to the report.
 - ii. Determine what appropriate consequences or remedial action flow from the Investigator's findings and determination.
 - iii. Prepare a summary of the Investigator's findings of fact and determination of breach, and of the RW Local Medical Leader's determination of any appropriate consequences or remedial action or next steps, including reasons.
 - iv. Unless there is a compelling reason to the contrary, the summary in (iii) will be provided, on a confidential basis, to the person bringing the concern forward, and the person against whom the allegations are made.
 - v. The Investigator's report, any response to the report from the person against whom the allegations have been made, the RW Local Medical Leader's decision about consequences or remedial action, will be filed in the Disciplinary file and become part of the formal record.

5. Progressive disciplinary response:

- a. If the alleged conduct in a Concern appears to be a pattern that would, if repeated, warrant discipline and the medical staff involved appears unwilling to take responsibility, the RW Local Medical Leader may decide that a progressive disciplinary response is appropriate.
- b. As soon as the RW Local Medical Leader makes the decision to proceed with a progressive disciplinary response, a Disciplinary file will be opened, and the person against whom the allegations are made will be given notice that a disciplinary file has been opened.
- c. The RW Local Medical Leader will meet with the medical staff member involved to:
 - i. Explain the allegations against them
 - ii. Allow the medical staff to respond to the allegations
 - iii. Set out clear expectations for future conduct and any remedial action, including timelines and a plan for monitoring expectations
 - iv. Outline possible consequences if the expectations are not met
 - v. Refer the medical staff member to the available supports.
- d. Remedial action could include, and is not limited to:
 - i. Counselling
 - ii. Psychological or other medical assessment
 - iii. Communications training or other courses
 - iv. Substance use therapy
 - v. Written project
 - vi. Educational sessions.
- e. The RW Local Medical Leader will note in writing what is conveyed in the meeting, provide a copy of the note to the medical staff member and put it on disciplinary file along with any objections raised by the medical staff member.
- f. In the event of future similar concerns related to the medical staff member, these notes will form part of the record, and be considered by the RW Local Medical Leader in deciding the appropriate response, including further remedial action or a disciplinary Investigation.

6. Reviewability of disciplinary decisions and appeal process

- a. The Investigator's findings of fact are not reviewable.
- b. If the person alleging the disciplinable conduct is an employee of Island Health, they can appeal to the Respectful Workplace Appeals Committee (RWAC) on the following grounds:
 - i. The Investigator incorrectly determined that the conduct did not constitute a violation of the Respectful Workplace Policy
 - ii. The principles of fair process were not followed, in a way that substantively impacted the outcome.
- c. The medical staff member against whom the allegations were made may appeal on the same grounds to HAMAC.

J. Documentation

1. **Competing interests:** The handling of documentation requires a balancing of competing interests:
 - a. The value of managing respectful workplace Concerns in an informal, non-threatening way
 - b. The need for an institutional memory of past history of Concerns related to a medical staff member in order to see and prove unacceptable patterns of conduct
 - c. The privacy interests of those involved
 - d. The right to know the case against you when a decision is being made that could be against your interests
 - e. The value of transparency.

2. **RW Local Medical Leader and MSRWO working files:**
 - a. The RW Local Medical Leader and the MSRWO will have working files that are non-disciplinary in nature. Their purpose is to keep track of the management of the Concern.
 - b. These non-disciplinary files will be named to denote the Concern not the individuals involved, and protocols will be in place to protect the confidentiality of the individuals involved. A strict naming convention will be required to keep track of files not identified by person's name.
 - c. The content of the working files will not be used as proof of grounds for discipline.
 - d. The working files may include:
 - i. Notation of the Concern – when it was received, from whom and a summary of its nature
 - ii. Notation of key process events and communications, including email correspondence, or telephone, virtual or in-person communications related to the concern between:
 - the RW Local Medical Leader and the MSRWO
 - the MSRWO and the Review Group members
 - the RW Local Medical Leader or the MSRWO and the person presenting the concern, the staff member named in the concern, or witnesses
 - any other communications deemed necessary or helpful to record for purposes of managing the concern.
 - Any process decisions of the RW Local Medical Leader or the MSRWO and summary of reasons
 - Any process decisions of the Review Group and summary of reasons.

3. **Separate Disciplinary file:**
 - a. As soon as a decision is made that the appropriate response to a Concern is disciplinary, a disciplinary file will be created, identified by the name of the Medical Staff member against whom the allegations giving rise to possible discipline are.
 - b. The MSRWO will be the custodian of the Disciplinary file.

- c. Documentation in the disciplinary file may be formally relied upon in any disciplinary process.
- d. The medical staff member whose disciplinary file it is has the right to view the file.
- e. The content of the disciplinary file will be kept confidential from others, except on a need to know basis.
- f. The discipline file may include:
 - i. Notation of dates of steps taken in the formal disciplinary process
 - ii. Written summary of allegations
 - iii. Notices to the medical staff member against whom allegations are made
 - iv. Notes of formal disciplinary interviews with the medical staff against whom allegations are made, including any warnings
 - v. Records of past relevant conduct
 - vi. Investigator's report
 - vii. RW Local Medical Leader's summary of the Investigator's report and RW Local Medical Leader's determination of any appropriate consequences or remedial action or next steps.

4. Possible expunging of disciplinary records:

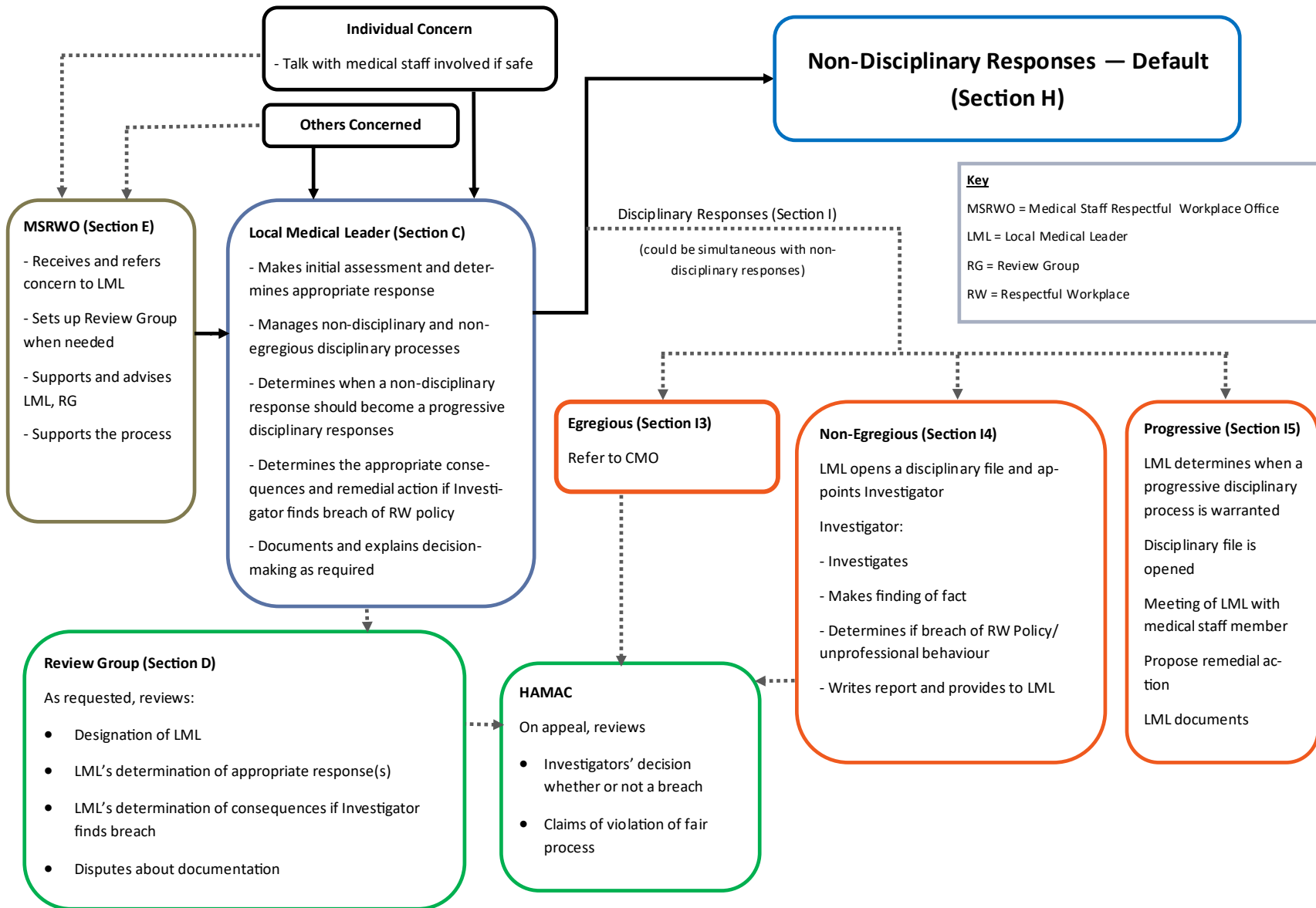
- a. A medical staff member with a disciplinary file may apply, after a prescribed period of time free of disciplinary activity, to the MSRWO to expunge all or some of their disciplinary file. [Note: The length of time will be determined based on advice as to legal requirements to retain documents.]
- b. In deciding whether to grant the application the MSRWO will consider the following factors:
 - i. The seriousness of the disciplinary matter
 - ii. The staff member's conduct since the matter in question
 - iii. Any overriding rules related to the retention of records
 - iv. Any other relevant factors.
- c. The MSRWO will make a decision and notify the medical staff member of the decision, with reasons.
- d. The medical staff member may appeal the decision to HAMAC, based on the factors set out in Section 4b above.

K. Roles and Responsibilities

- 1. **Medical Staff members** are part of the Island Health community and are responsible for:
 - a. Conducting themselves in a respectful manner in the workplace and at work-related gatherings
 - b. Attempting to resolve differences with other members of the Island Health community, including seeking assistance from the RW Local Medical Leader to do this
 - c. Approaching the RW Local Medical Leader with any respectful workplace Concerns
 - d. Participating fully in any processes under this policy.
- 2. **Island Health** is responsible for:
 - a. Maintaining a safe and respectful workplace

- b. Promoting the restorative approach envisioned in this report
 - c. Developing and implementing this policy
 - d. Establishing and maintaining the MSRWO to promote and support this policy.
3. The **RW Local Medical Leader** is responsible for:
- a. Assessing the nature of the Concern and determining the appropriate response or responses
 - b. Managing non-disciplinary and non-egregious disciplinary processes
 - c. Choosing an investigator and determining the appropriate consequences and remedial action if an Investigator makes a finding of breach of the respectful workplace policy or unprofessional conduct
 - d. Keeping written notes of process decisions made and reasons for the decisions, with the advice and support of the MSRWO and external support as necessary
 - e. Communicating with interested parties as recommended in this report, and as deemed appropriate to promote transparency.
4. The **Review Group** is responsible for reviewing certain discretionary decisions of the RW Local Medical Leader and the MSRWO as provided in [Section D](#) above, and consistent with the provisions of principles underlying this policy.
5. The **MSRWO** is responsible for championing the restorative Medical Staff Respectful Workplace policy and supporting its implementation, especially by supporting the RW Local Medical Leaders and the Review Groups.

Appendix C: Graphical Representation of Restorative Approach to Respectful Workplace Concerns Involving Medical Staff



Appendix D: Comparative analysis

Current (recent modified) Respectful Workplace policy and procedures for employees and for medical staff, and the Medical Staff Respectful Workplace Working Group (MSRWWG)'s proposed Restorative Medical Staff Respectful Workplace Policy (Restorative MSRW Policy) From Jane Morley, KC, January 2023

In reading this comparative analysis, it is important to note that it was not within the mandate or expertise of the MSRWWG to draft policy or procedures. That said, the MSRWWG got into considerable detail about how a restorative approach would be applied in practice. An appendix to the MSRWWG report will set out this detail in a form that looks like a policy and is meant to be helpful when a new policy is drafted to implement the MSRWWG report's recommendations. It is understood that the "policy" Appendix is not in the form that Island Health uses, and it may not cover all the issues required of such a policy.

This comparative analysis compares and contrasts the content of the Restorative MSRWWG policy with the current RW policy for medical staff as set out in:

1. The Respectful Workplace Policy 5.5.2P (RW Policy)
2. The Respectful Workplace Procedures for Medical Staff, Resident Doctors and Medical Students 5.5.3PR (RW Procedures for MS)

It is not a word-for-word comparison, but rather an attempt to highlight the differences and the similarities. I understand that the current applicable policy was last modified in November 2023. They were not available in time for the MSRWWG to study them before their final collective deliberations.

I also looked at the RW Procedures for Employees and note that it includes more detail than the RW Procedures for MS. That may be because some of that extra detail is covered in the Medical Staff Rules for the Island Health Authority and the Enhanced Medical Staff Support (EMSS) Toolkit. Much of this additional detail is in sync with the proposals of the MS RWWG. The MSRWWG report recommends that, for purposes of clarity, one document – the MSRW Policy - be created that is applicable to medical staff and include all relevant explanation and direction regarding process. That document would be a substitute for the current RW Procedures for MS and would incorporate into it the definition of Respectful Workplace, bullying and harassment in the current RW Policy. The current EMSS Toolkit would also need to be replaced.

A. Comparison with the RW Policy

1. The MSRWWG early on reached a consensus that having a healthy, respectful workplace was the goal of the policy they would like to promote, and that accountability for disrespectful or unprofessional behaviour conduct that undermines the health of the workplace was reasonable and necessary to attain that goal. So in that respect the two policies are consistent.
2. The focus of the MSRWWG in its deliberations was on promoting a shift in the framing of the Medical Staff Respectful Workplace policy and procedures, **from** what is currently understood by a significant number of medical staff members to be fundamentally a "disciplinary" process **to** one that has workplace restoration, not discipline, as its primary purpose, and which applies a restorative approach in responding to all concerns about

breaches of the RW Policy when members of medical staff are involved. In this framing, a disciplinary response is seen as quite possibly the most appropriate “restorative” response, in certain circumstances. At the same time, it sees a disciplinary response being the exception and a non-disciplinary response the default.

3. The assumption of the MSRWWG report is that the RW Policy will remain in place as is, subject to ongoing refinement and will continue to be the definitive statement of what constitutes a respectful workplace and how unacceptable conduct, including bullying and harassment and discrimination are defined. It is expected that the implementation of the Restorative MSRW policy will be an opportunity to educate and get buy-in from the medical staff for the aspirational goal of a respectful workplace, free of bullying, harassment and discrimination.
4. **Aspirational statements** in the RW Policy are in sync with the proposed shift to a restorative approach. For example, both the RW policy and the Restorative MSRW policy embrace the aspirational goal of fostering safe, healthy and inclusive workplaces, the stated shared core belief in valuing each individual, and the concept that differences are not themselves bad but need to be constructively managed. The Restorative MSRW policy starts with a statement of the purposes and guiding principles of a Restorative Approach.
5. The **Roles and Responsibilities** section, recently added to the RW policy, is consistent with the MSRWWG recommendation to be clear about roles and responsibilities, including the responsibilities of medical staff members. The MSRWWG recommends that roles and responsibilities of the different individuals and groups involved in the process applying to medical staff, including the responsibilities of individual medical staff members to manage conflict constructively, be stated in the Restorative MSRW Policy. (See [Appendix B, Section K.](#))
6. **Language:** Some of the language used in the RW Policy is different from that used in the Restorative MSRW policy. In some cases, this is more of a nuance than a substantive difference. An example is reference to “formal and informal” avenues at page 3, s. 1.7 bullet 1, 4th sub-bullet and 2nd bullet top of p 4 of the RW Policy. The Restorative MSRW policy avoids the formal/informal dichotomy and instead speaks of different “responses” – some non-disciplinary and some disciplinary. The latter are explicitly expected to be the exception in the Restorative Policy. Apparently, the current policy “formal” avenues are not as common as “informal” handling of complaints. The difference is in part recognizing this and reducing the anxiety created by explicitly labeling the response as “non-disciplinary”. Both the current “informal” and the proposed “non-disciplinary” responses reflect similar values of emphasizing prevention and resolution of interpersonal conflicts in ways other than holding formal investigations and making formal findings of fact and determinations of breaches of the RW policy.

B. Comparison with the RW Procedures for MS

1. **Use of the word “restorative”.** Restorative is used in section 2.1 of the RW Procedures for MS. It appears to denote “informal” processes that focus on rebuilding and repairing relationships. The Restorative MSRW policy recommends a “restorative” approach that applies to all responses to respectful workplace concerns. It is not framed as an alternative to the formal/disciplinary response. As mentioned above, a restorative

approach under the proposed policy does not preclude the use of discipline. In a restorative approach, disciplinary response may be appropriate; however, it is always secondary to the overall goal of restoring a healthy workplace. This goal may include rebuilding and repairing relationships, but is more than that.

2. **Other language differences:** The RW Procedures for Medical Staff refers to “complaints” and the person raising the concern as the “complainant”, and the Restorative MSRW policy calls them “concerns” and opens up to others the ability to raise a respectful workplace concern. The “complaint” language is deliberately avoided in the proposed new approach because it implies an adversarial complainant/respondent process. Non-disciplinary processes, which are the default under the Restorative MSRW policy, put a focus on the whole and the larger context in which personal disputes happen.
3. **Outcomes:** There is no equivalent section in the Restorative MSRW policy. Nothing in the Outcomes section would be untrue if the MSRWWG recommendations are accepted; however, if a similar section is drafted, it would appropriately include wording that recognizes a larger objective, beyond the resolution of concerns, to the restoration of overall workplace health. Rather than “remedies”, the restorative approach offers “appropriate responses” that may include group work or systemic changes, as well as the resolution of interpersonal conflicts.
4. Some of the **purposes and guiding principles** for taking a restorative approach in the first section of the Restorative MSRW policy are included in section 1.0 **General** of the current RW Procedures for MS. As in the RW Policy, the General section comments about the desire to support working through differences and constructive management of conflict, and the ultimate goal of a productive, rewarding work environment are in sync with the proposed restorative approach.
5. The Restorative MSRW policy includes **definitions**, which are not part of the RW Procedures for staff or medical staff.
6. **Individual Action s. 2.1** of the RW Procedures for MS places a similar emphasis as the Restorative MSRW policy on the responsibility of individuals to manage their own conduct. See [Restorative Approach Guiding Principle A\(3\)\(b\)](#), [Raising Concerns \(F1\)](#), and [Roles and Responsibilities \(K1\)](#) about physicians’ responsibilities.
7. **Reporting** is referred to as “raising a Concern” in the Restorative MSRW policy, and puts more onus on its being raised with the RW Local Medical Leader, though there are exceptions. Concerns will inevitably be raised in other ways, and that could include the Medical Staff Respectful Workplace, but the MSRWO is expected to direct the concern to the RW Local Medical Leader for managing with the support of the MSRWO.
8. The **Medical Staff Respectful Workplace Office (MSRWO)** replaces the EMSS in Restorative MSRW policy. Its role has some similarities but is different in that its main purpose is to promote and uphold the restorative approach, rather the current role, perceived by a significant number of medical staff as being Island Health’s agent in disciplinary matters. Section 2.5.5 of the RW Procedures for MS gives the EMSS the responsibility for case management. In the Restorative MSRW policy, that function is given to the RW Local Medical Leader with support from the MSRWO –a nuance but an important one.

9. **Role of the RW Local Medical Leader (LML):** In the Restorative MSRW policy, the LML is given a very central role in managing respectful workplace concerns. This is intended to encourage local management of respectful workplace issues. The MSRWWG report recognizes that this will only work if investment is made in supporting and building the capacity of the LML and compensating them appropriately, to the extent possible.
10. **The Review Group:** The Restorative MSRW policy introduces a new mechanism to potentially keep the issue local, to increase perceived process legitimacy and to review discretionary decisions on the part of the RW Local Medical Leader or MSRWO. A Review Group will only be created if needed. It will have three members: one appointed by Island Health, a second appointed by the local Medical Staff Association, and a third who would have special knowledge of the context. For example, the third member would be a nurse if the person bringing forward the concern was a nurse; or perhaps a surgeon if the person against whom allegations are made is a surgeon and the incident took place during an operation. This group would be experimental and tried out on a pilot basis to make sure it added to the process and did not cause undue delay and complication.
11. **Shift away from the “stages of intervention” framework:** The MSRWWG recommendation is to replace the stages of intervention as currently provided for in 2.6.1 of the RW Procedures for MS. Instead the Restorative MSRW policy sets out a different process framework, a key piece of which is an initial assessment by the RW Local Medical Leader who makes a decision about appropriate process or processes. The Restorative MSRW policy goes into considerable detail about the factors to be considered in that decision. Instead of applying the stages to all cases, a decision is made as to whether the response will be non-disciplinary or disciplinary with a presumption that it will be non-disciplinary. If it is disciplinary, and not deemed egregious or appropriate for an immediate investigation, then a staged approach might be deemed appropriate, with attendant formality for reasons of fair process. A clear distinction is made between a staged disciplinary and a non-disciplinary response.
12. **Possible appropriate responses:** the variety of approaches to resolution listed in 2.4 of the RW Procedures for MS are similar to the responses that the RW Local Medical Leader might opt for in the proposed new approach.
13. **Process for Egregious cases:** A case that is seen to be egregious is immediately referred to the Chief Medical Officer, or their delegate. I understand that this happens now in practice, and is referred to in the Medical Staff Rules as a Crisis Intervention. These cases are very exceptional and require immediate action that could have a big impact on reputation and financial interests of the Medical Staff member involved, and on the public and members of the care team.
14. **Process for other disciplinary cases** will be handled by the RW Local Medical Leader. As explained above, a distinction is made between disciplinary cases for which an immediate response is warranted and one suggesting a staged disciplinary approach might be more fruitful. The immediate discipline response goes right to an investigation. A staged approach disciplinary case is one in which discipline is deemed to be potentially required to compel a Medical Staff member to take the issue seriously, but where there is still reasonable hope that a staged approach will have the desired effect. This staged approach

requires transparent documentation and notice. There are provisions included about this in the Restorative MSRW policy.

15. **Investigations s.2.5.6:** there are similarities between the investigations contemplated in the Restorative MSRW policy I(4)(f) and what is set out in 2.5.6 of the RS Procedures for MS. More detail is provided in Restorative MSRW policy, including what constitutes Fair Process. The big difference is again that the RW Local Medical Leader plays more of a management role, with the support of the MSRWO. The Investigator makes findings of fact and determines breaches of the RW Policy or unprofessional conduct.
16. **Confidentiality requirements s.2.5.1 first bullet:** The MSRWWG did not directly consider confidentiality requirement, except with respect to documentation . Transparency was mentioned as an important value, and it was recognized that this clashes with the value of privacy and protection of reputation which underly confidentiality requirements. In accordance with Freedom of Information and Privacy legislation, “need to know” will be the primarily limitation for sharing personal information. Still, a restorative approach with its focus on the good of the whole may in certain cases suggest a different assessment of what constitutes a “need to know” in given circumstances. The MSRWWG discussed how not sharing information can lead to distorted view of reality that, if it remains unchecked, can lead to exacerbation of workplace tensions that are best remedied by some level of communication. Under the current confidential provisions, this might be viewed as a violation of the rules of confidentiality.
17. **Confidentiality of records:** This is a sensitive issue and the Restorative MSRW policy has a section (J) dealing with documentation. The group discussed the value of documentation as a memory aid for the RW Local Medical Leader, and for the institution if the RW Local Medical Leader changes. The solution was seen to be to distinguish between working files and disciplinary files that would be considered a formal part of the medical staff member’s record. The working files would remain confidential, as would, for the most part, the disciplinary file. For reasons of fairness, the medical staff member would have access to their own disciplinary files. The formal disciplinary file could be used in disciplinary proceedings, and shared on a “need to know” basis when inquiries are made by other health authorities. Obviously, relevant freedom of information and privacy legislation will prevail.
18. **Withdrawal of complaints:** Section 2.5.2 in the RS Procedures for MS does not fit well with a conceptual restorative approach and does not appear in the Restorative MSRW policy. Raising a concern in the context of a restorative approach is not the same thing as raising a complaint in the context of a code for discipline. In the scheme of the Restorative MSRW policy, it is the RW Local Medical Leader and not the person raising the concern who decides the appropriate response. For example, if the RW Local Medical Leader decides that the concern raised should be dealt with in a non-disciplinary way, then it makes no sense that the concern could be withdrawn. It needs to be responded to for the health of the workplace.
19. **Frivolous, Vexatious, Vindictive and Bad Faith Complaints:** S 2.5.3 and 2.5.4 in the RW Procedures for MS do not appear in the Restorative MSRW policy, and were not specifically discussed by the MSRWWG. If they were to be included in a policy document, they would require rewriting to be consistent with the MSRWWG recommendations.

20. **Reviewability and appeals:** The Restorative MSRW policy reflects the appeal process in the RW Procedures for MS, with the exception that the grounds of appeal that “there is new evidence not available at the time of the Investigation” has been removed. In the Restorative MSRW policy that could be treated as a new Concern and the RW Local Medical Leader would decide on the appropriate response.