



AGENDA ITEM

(3.3.7)

PEOPLE & CULTURE COMMITTEE

EMPLOYMENT RELATIONS UPDATE

Date of meeting

(13/10/2021)

FOI Status

Open/Public

If closed please indicate reason

Choose an item.

Prepared by

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Presented by

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Approving Executive Sponsor

Executive Director for People

Report purpose

FOR DISCUSSION / REVIEW

Engagement (internal/external) undertaken to date (including receipt/consideration at Committee/group)

Committee/Group/Individuals

Date

Outcome

(Insert Name)

(DD/MM/YYYY)

Choose an item.

ACRONYMS

ER

Employee Relations



1. SITUATION/BACKGROUND

- 1.1 Employee relations (ER) is about how the employer engages with its workforce, to foster good workplace relations, which enhances the psychological contract between them. The term psychological contract refers to an employee's expectations, beliefs, ambitions and obligations, as perceived by them and their employer.
- 1.2 To develop and maintain good ER in workplace, the employer and its employees, including trade union colleagues must engage constructively with each other, to resolve such matters. The management of the engagement is via the range of Workforce Policies and Procedures.
- 1.3 These Workforce Policies and procedures are developed to:-
- inform employees of their responsibilities and the organisation's expectations;
 - provide guidance to managers and employees on how a range of HR issues will be managed by the organisation;
 - provide structure, control, consistence, fairness and reasonableness of approach and action, within the workplace; and
 - ensure compliance with employment legislation.
- 1.4 Where an employee fails to meet their workplace role and or responsibilities, or is involved in an act or display of conduct etc. that is outside of the organisation's expectations, this may result in the matter being addressed and managed in accordance with the appropriate formal Workforce Policy and Procedure.
- 1.5 An ER case is an employment related issue, managed in accordance with an appropriate Workforce Policy and Procedure.
- 1.6 It is consider best practice for organisations to record and monitor ER activity as it provides a mechanism to review and examine current processes, to learn lessons and continually improve efficiency in the organisation's ER caseload. For example, quicker completion times reduced associated costs (suspension / exclusion, sickness absence, reduced Employment Tribunal Claims etc.).



2. SPECIFIC MATTERS FOR CONSIDERATION BY THIS MEETING (ASSESSMENT)

2.1 This report provides a formal update in respect of ongoing ER cases and trends within the Health Board. The activity figures relate to the period 1 October 2020 – 30 September 2021. This data was last reported to the People and Culture Committee on the 20 October 2020.

3. KEY RISKS/MATTERS FOR ESCALATION TO BOARD/COMMITTEE

3.1 Current ER Cases – As at 30 September 2021

3.1 There are currently 63 formal ER cases ongoing across the Health Board. The total number of cases has remained static when compared with the previous 12-month reporting period. These figures also includes ongoing Counter Fraud and Police investigations.

3.2 In this period the Health Board undertook 57 investigations, which is comparable with the number undertaken in the previous 12-month period.

3.3 There has also been a small increase in the number of suspensions / exclusions from work, disciplinary hearings, Counter Fraud cases and Employment Tribunal Claims.

3.2 The ongoing 63 ER cases are broken down into the following categories;

- Dignity at work cases
- Suspension / exclusions from work
- Upholding Professional Standard Wales (UPSW) (Medical Staff Disciplinary Policy) cases
- Formal Disciplinary Investigations
- Disciplinary Hearings
- Formal Stage 2 Grievances (In the future grievances will be referred to as formal resolution meetings)
- Appeals Hearings
- Policy Investigations
- Counter Fraud Cases

Due to low number of cases per category, the actual case numbers have not been included within the report. However the following trends are noted:



- The number of Dignity at work, UPSW and Counter Fraud cases have remained static over the past 12 months;
 - The number of Suspensions / exclusions from work, Disciplinary hearings, Police Investigations and Employment Tribunal Claims have increased.
 - The number of Disciplinary Investigations, Formal Stage 2 Grievances and Appeal Hearings over the past 12 months have decreased.
- 3.3 The number of formal ongoing disciplinary investigations has decreased from 28 to 23 cases since the last reported position (October 2020).
- 3.4 The timescales to conduct and complete investigations vary from 12 months plus, at one extreme to less than three months at the other. During the past 12 months:
- 6 investigations took in excess of 12 months to complete;
 - 24 investigations took between 6 – 12 months to complete;
 - 20 investigations took 3 – 6 months to completed; and
 - 10 investigations took less than 3 months to complete.
- 3.5 The time to complete an investigation will vary depending on the nature and complexity of the case. A simple case with few witnesses may take a few weeks, while cases that are more complicated can take several months. Investigation timescales are also influenced by factors such as the release time of the Investigating Officer, the availability of the individual being investigated (should they are off work on sick leave), availability of witnesses, police / counter fraud involvement etc. The Health Board therefore does not have any agreed investigation timescales, but it does expect the Disciplining Officer in the case, to manage and review the process on a regular basis, to ensure the process is completed, as soon as is reasonable possible.
- 3.6 With COVID-19 and other service pressures, the Health Board has seen an increase in the time taken to conduct and conclude investigations over the last 6 months.
- 3.7 Over the past 12 months, 49 formal ER cases have been fast-tracked via the Disciplinary Policy, compared to 32 cases in the previous 12-month period. Prior to a formal investigation being commissioned managers are required to consider the appropriateness of the fast-track option. The Health Board, supported by trade union colleagues are proactively encouraging the use of the fast-track procedure, when appropriate to do so.

- 3.8 The Workforce & OD Department continues to support all UPSW investigations. Over the past 12 months, the number of these cases have reduced significantly.
- 3.9 From October 2020 to date, the Health Board has concluded and closed 95 ER cases, in addition to continuing to manage the 61 ongoing live ER cases.
- 3.10 The actions taken by the Workforce & OD Teams over the past 12 months have made a significant impact on reducing the total numbers of potential ER cases. This has been facilitated through a combination of dealing with cases, where appropriate, using the disciplinary “fast-track” procedure, along with expediting the conclusion of cases, in partnership with trade union colleagues.
- 3.11 There are no particular patterns in the types or number of ER cases dealt with by the Health Board each year. The Heads of Workforce and OD and the Executive Director for people regularly review new and outstanding cases. These reviews seek assurance that these cases are managed proactively and appropriately, to a satisfactory and timely conclusion.
- 3.12 The Health Board is at the start of its journey to implement and embed Listening, Learning and Improvement principles, within the Disciplinary Policy and overtime, all other relevant Workforce Policies. Based on the experience of Mersey Care NHS Trust, the Health Board expects to see a notable decrease in the number of disciplinary and other ER related cases over the next 12 – 24 months.

4. IMPACT ASSESSMENT

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| Quality/Safety/Patient Experience implications | There are no specific quality and safety implications related to the activity outlined in this report. |
| Related Health and Care standard(s) | Staff and Resources If more than one Healthcare Standard applies please list below: |
| Equality impact assessment completed | No (Include further detail below) There if no requirement to EQIA the information contained within this paper. |
| Legal implications / impact | Yes (Include further detail below) The Health Board is required to manage the identified cases in accordance with the |



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|---|--|
| | legislative requirements and ACAS best practice. |
| Resource (Capital/Revenue £/Workforce) implications / Impact | Yes (Include further detail below) |
| | The cost of releasing staff to be involved in the investigation / management of these cases. There are also potential ET and settlement costs when ER cases are inappropriately managed. |
| Link to Strategic Well-being Objectives | Co-create with staff and partners a learning and growing culture |

5. RECOMMENDATION

- 5.1 The People and Culture Committee is asked to **DISCUSS** and **NOTE** the content of this report.