2015 Health Education Wessex
Recruitment Complaints Process
1) Introduction

This document sets out the Health Education Wessex process for complaints relating to recruitment into specialty training.

Operational responsibility for recruitment and selection into Wessex specialty training programmes rests with the postgraduate dean who is in turn accountable to the Wessex Local Education and Training Board.

Responsibility for employment rests with employing bodies, usually trusts or other health organisations. Whilst employers are involved in the selection process and have agreed to its use for appointing trainees who will become employees in their health organisations, they are not responsible or accountable for the selection process itself.

If an applicant is selected and offered a placement on a training programme through Health Education Wessex recruitment process, the employing body ultimately has the right not to offer employment but must be able to offer robust reasons for failing to do so, taking into account existing employment legislation etc.

However hard we try to respond to the wishes and aspirations of the healthcare professionals accessing our recruitment services, we do recognise that, on occasion, our service may fall short of expectations. If you believe this has happened to you, you can use this complaints procedure, which tells you how to make a complaint and how it will be handled.

It is inevitable that some applicants will be disappointed by the outcome of the recruitment process, as it is a competitive process. The recruitment and selection process to Wessex specialty training aims to have methods that are fair, transparent and free from discrimination. Final decisions regarding complaints made will be made in accordance with the relevant MDRS and national policies, employment legislation and any other statutory requirements.

Your complaint, and all accompanying statements and records, will be kept confidential as far as is possible in facilitating a fair and thorough investigation. Whilst your privacy and confidentiality will be respected, this needs to be balanced with:

- The need for an open and fair investigation
- Appropriate remedial action to be taken
The outcome of the investigation to be reported appropriately
Action to be taken to improve our processes and quality of service.

Your complaint may therefore need to be shared with others who have been involved with the recruitment process and responsible for their design and delivery.

Throughout the process the privacy and confidentiality of the complainant will be respected. It is important that an open and fair investigation takes place and for the outcome to be reported appropriately. The complaint will need to be shared with others who have been involved in the recruitment process. It is Health Education Wessex’s intention to protect the privacy and to protect all involved with the complaint.

2) **Scope of Policy**

You can complain about how any of the offices have managed your recruitment application if you have evidence that:

(a) published processes or procedures pertaining to the recruitment episode have not been followed correctly; or

(b) the objectivity of decision making is called into question, which has a significant adverse effect for you/your application; or

(c) you provided the correct requested documentation in order to meet a required published deadline, but the recruiting officer rejected your application at any stage because it stated that you did not meet that deadline; or

(d) you submitted a Data Subject Access Request under the Data Protection Act that was not processed within the 40 day statutory limit.

**If you have the evidence to proceed with a complaint you must:**

- Raise the complaint in writing with the relevant Programme Manager in the first instance.

- If you are not satisfied with the response or you believe the issue is more serious you may submit a formal complaint to the Recruitment and Workforce Manager.
• You will receive an acknowledgment of your letter within 2 working days of receipt and a response within 15 days.

• The Postgraduate Dean and Business Manager will be informed about all formal complaints and their resolution.

• If you are not satisfied with the outcome of the investigation you may submit an appeal in writing and will be invited to a panel hearing.

• The decision of the panel hearing is final.

3) **Limits of the Policy**

MDRS excludes the following issues from its complaints process:

(a) if you disagree with the principle or content of the recruitment process, or its outcomes;

(b) if you allege unfairness of practice and process but do not supply evidence to substantiate your allegation;

(c) if you were judged not to have performed well enough to merit appointment to a training post purely on the basis of your score or rank in shortlisting or interview;

(d) if you wish to appeal against any decisions the recruiting officer is obliged to take to remain within the appropriate legislative framework;

(e) subject to Section 2, paragraph (c), if you have not followed national, local and MDRS guidance regarding timeliness, provision of documentation, demonstrating eligibility criteria and accepting offers;

(f) if you wish to complain about an operational issue that occurred on the day of your interview or assessment centre;
N.B If an issue happens on the day of your interview or assessment centre, you should speak to the Lay Advisor or the senior manager on duty. These individuals can be identified either by the presentation displayed in the waiting area or by approaching any member of staff.

As a general rule, if a complaint or an appeal is upheld, then the results of the relevant assessment cannot be altered –though the outcome may be amended (e.g. someone with a low shortlisting score might be given an interview if a mistake in process can be demonstrated).

If the applicant simply disagrees with the principle of the process or the result of the panel interview, that is not sufficient for a complaint to be considered. Complaints will only be considered where the candidate has raised an issue concerning the way in which the process was carried out e.g. potential discrimination.

Therefore where processes or procedures have not been followed, or there is evidence of unfairness in how the process has been implemented, and the objectivity of decisions is called into question, applicants may request a review by an ‘investigating officer’.

4) Your Responsibilities

You must follow Health Education Wessex rules about recruitment. We cannot register and investigate your complaint if you have not followed the rules which have been communicated at various stages throughout the recruitment process:

- Provide a reliable email address.
- Submit your fully completed application form before the deadline. Late applications will not be accepted.
- Fulfil eligibility criteria as outlined in the national person specification.
- Provide promptly any requested documentation, such as allocation preferences with Health Education Wessex deadlines.
- Respond to job offers within 48 hours or as directed by Health Education England Guidance, otherwise you will be deemed not to have accepted the job.
5) **What is excluded from the complaints process?**

Specialty recruitment is highly competitive and operates within the tight time constraints and to the guidance set by Health Education England. Therefore you cannot submit a complaint on the following grounds:

- If you have not followed the rules set out under ‘your responsibilities’.
- Disagreement with the principle of the process, judgments or outcomes that have been made by the shortlisting and interview panels.
- Alleging unfairness of practice and process but do not supply evidence to substantiate your allegation.
- Disagreement with any decisions, Health Education Wessex is obliged to take in accordance with appropriate employment law and procedures. This includes national recruitment procedures.

6) **Complaints Procedure**

Health Education Wessex aims to resolve complaints as quickly as possible and minimise the impact on all parties involved. Therefore you should raise issues as early as possible. Complaints can be submitted to Health Education Wessex either formally or informally.

Wherever possible complaints should be resolved informally. However if the complainant is not satisfied that the complaint has been resolved satisfactorily then the complainant should proceed to the formal process.

**Informal process**

You should raise your complaint with the relevant Programme Manager in the first instance. Where possible, complaints will be dealt with through a mediation process which will usually be facilitated by the Programme Director and Programme Manager.
The Programme Manager will make a record of the complaint on a central database outlining the nature of the complaint and the action taken to resolve the complaint.

**Formal process**

If the complainant wishes to make a formal complaint or if the complainant is not satisfied that the complaint has been resolved satisfactorily under the informal process s/he should write to the Recruitment and Workforce Manager.

If you do not write to the Recruitment and Workforce Manager your complaint cannot be investigated.

The complaint letter must be received within 28 days of the outcome of the recruitment decision being received by the candidate.

All letters and complaints from the BMA or from a solicitor on behalf of a trainee must be passed to the Recruitment and Workforce Manager. The letter/complaint will be acknowledged in writing within two working days and then passed to the Postgraduate Dean and Business Manager.

There are two stages to the complaints process:

**Stage one**

The Recruitment and Workforce Manager will investigate the complaint. The Postgraduate Dean (or deputy) will be informed but will not be involved with the investigation as he may be required to participate in the stage two process.

The complainant should receive a response to the complaint in writing within fifteen working days of the complaint having been received.

**Stage two**

If complainants are not satisfied that their complaint has been responded to adequately, they may subsequently pursue stage 2 of the process in order to have the process considered independently.

If the complainant wishes to go to a stage two complaint, a further formal written request must be received by Health Education Wessex within seven working days of the response to the initial complaint being received.
The Postgraduate Dean will arrange for a panel to consider the second stage complaint. The panel should consist of 4 panel members plus a note taker. These will be:

- Lay Advisor (Non Deanery Employee)
- The Postgraduate Dean (or nominated deputy),
- HR Specialist from a local NHS organisation
- Head of School (if not already involved in the process)

All panel members will have received up to date training in equal opportunity in recruitment and selection. The panel should meet within thirty working days of the stage two complaint being lodged. No member of the panel should have been involved in the stage one process.

The panel will share all documentary evidence with the applicant at least five working days before to the panel meeting.

The panel will invite the applicant to attend a face to face panel hearing. The applicant has the right to be accompanied to this meeting.

The panel will inform the applicant of the outcome of its deliberations in writing as soon as they are available and normally within fifteen working days. This will be accompanied by the written record of the meeting.

The decision of the panel is final.

7) Introduction

The initial document was produced in October 2009 and is reviewed before each main recruitment round.