



Minute

Meeting: NHSScotland 'Once for Scotland' Workforce Policies Programme Board
Date: Friday 5 April 2019, 14:00 – 16:30
Location: Conference Room A, St Andrews House, Edinburgh

Attendees:

Present: (SLR) Stephen Lea-Ross, Head of Workforce Practice, Scottish Government (Chair)
(JA) Jeff Ace, Chief Executive, NHS Dumfries & Galloway (via teleconference)
(JAn) Jane Anderson, Branch Secretary, Unison
(JB) Janis Butler, HR Director, NHS Lothian
(JJ) Jacqui Jones, HR Director, NHS National Services Scotland (NSS)
(JO'C) James O'Connell, Regional Officer, Unite (via teleconference)
(NP) Norman Provan, Associate Director (Employment Relations), Royal College of Nursing (RCN)

In attendance: (NC) Noreen Clancy, Head of Employee Relations, NHS Lothian
(CC) Colin Cowie, Senior Policy Officer, Scottish Government
(CH) Catriona Hetherington, Staff Governance Associate, Scottish Government
(LH) Lynn Hunter, Programme Manager, NHS NSS
(JP) Jessica Parish, Project Support Officer, NHS NSS
(CS) Colin Sanders, Principal Lead (Experience), NHS Education for Scotland
(RVZ) Roxanne Van Zyl, Project Manager, NHS NSS

Apologies: (AG) Anna Gilbert, Head of Staff Governance, Scottish Government
(SN) Sean Neill, Deputy Director Health Workforce, Scottish Government

1. Welcome and Apologies

Stephen Lea-Ross (SLR) welcomed those present and acknowledged apologies as mentioned above. Quorum requirements for the Programme Board are 2/3 of the representative group. Scottish Government Programme Board members had agreed in advance of the meeting that Stephen Lea-Ross would represent Scottish Government collectively.

2. Minutes and Actions from Meeting on 7 February 2019

The group agreed to approve the minutes and review actions electronically following the meeting.

Action: 01 (05/04/19) LH to re-circulate the minute and actions from the meeting on 7 February 2019 for review and electronic approval.

Given time restrictions for some members, the Programme Board agreed to reorder the agenda to address the Core Policies first.

3. Specific Policy Issues - SBARs

3.1. Phased Return to Work

CH introduced the SBAR outlining the need for a consistent 'Once for Scotland' approach for arrangements for phased return to work following a period of sickness absence. It was noted that whilst Boards approach to phased RTW are in line with Agenda for Change general principles of no financial detriment, the local application has resulted in variation in practice falling into two broad areas.

Discussion followed on whether this was a terms and conditions issue, as opposed to a policy issue, and therefore outwith the remit of this group. It was noted that the issue lies in how NHS Boards have interpreted the previous PIN. NP highlighted that one function of a phased RTW is to test an individual's ability to return to work and that the addition of annual leave could detriment this function. NC confirmed that the existing PIN (2003) does not provide a national position.

The Board agreed to refer to STAC Secretariat for consideration.

Action: 02 (05/04/19) SLR to reframe question on confirming a national position on the approach for arrangements for phased return to work following a period of sickness absence and submit to STAC Secretariat.

Post meeting note: In preparation for submission to STAC Secretariat an initial view has been sought from the Management Steering Group (MSG). There is concern about potential impact on timescales should this be referred to STAC. Dependent on the view of MSG the Programme Board may be asked to revisit the decision.

3.2. Status of Bank Workers

NC provided an overview of the SBAR highlighting concerns from a legal perspective on the applicability of policies, or elements of policies, in relation to workers. Following advice from Central Legal Office, three options were outlined in the SBAR.

Discussion followed on commitments and responsibilities under different contracts. The Board acknowledged that by not differentiating between workers and employees would have implications on employment rights and potential financial consequences.

In relation to the position of workers (bank, agency and sessional staff), the Board agreed that each policy should be considered in its own right and the necessary adjustments made to cover workers within it. It was noted that Central Legal Office will provide a response on the consultation and any further legal considerations will be addressed post consultation.

Action: 03 (05/04/19) NC/LH to work with PDG to update policies to include workers with specific reference to which elements do/ do not apply.

4. 'Once for Scotland' Workforce Policies – Core Policies Consultation Document

The Board noted that the outputs produced in a short timescale had been remarkable and commended the Policy Development Group on their work.

4.1. Questions for Programme Board

NC gave an overview of the questions asked of the Board on the draft consultation document. A note of comments and recommendations is as below.

Bullying and Harassment

1. *Is the section on bullying by patients appropriate in this policy or should it be separate?*

The Board agreed that bullying by patients should not be part of this policy. The employing organisation has a duty to safeguard staff, however bullying by patients would not be addressed through this route. Further consideration should be given to how bullying by patients is addressed out with the above policy.

2. *Is it reasonable to ask staff to approach patients etc. as “early resolution” as in the current PIN?*

In line with the above decision, the Board agreed to remove reference to asking staff to approach patients.

3. *Can the outcome “insufficient evidence” be removed given it leaves all parties dissatisfied and the expectation that “reasonable belief” applies, implies a judgement should be reached?*

The Board agreed to remove “insufficient evidence” as an outcome.

Capability

1. *Is the addition of the process to deal with cases of staff who lose their registration (as opposed to lapsed registration) or driving licence appropriate?*

The Board agreed that the above was a useful addition to address a current gap, together with clarification that the process is not applicable to lapsed registration.

NP noted that the SWAG guidance on nurse registration was slightly different to the above process and this would need reviewed to ensure consistency.

Action: 04 (05/04/19) NP to progress any amendments required to the SWAG guidance on nurse registration as a future consideration in line with the additional process to deal with cases of staff who lose their registration under the refreshed Capability Policy.

2. *Is the amendment to stage 1 to be a continuation by the existing manager reasonable to ensure a person centred approach?*

The Board supported the amendment to stage 1 to be a continuation of the existing manager, noting the need to balance a person-centred approach and a ‘fresh pair of eyes’.

3. *Should notice and redeployment run concurrently at stage 3 with a confirmation meeting before the end of the 12 weeks?*

It was noted that there was differing practice on this. A position would need to be agreed for the Redeployment Policy. It was agreed that the above should form a question within the consultation.

Grievance

1. *Is the refreshed wording on status quo acceptable?*

The Board agree that, in theory, as staff should be involved in the decisions that affect them that this gave scope to stop a proposed change and therefore there should not be a need to revert back to prior arrangements. However, it was noted that there are situations where necessary consultation has not taken place. It was agreed to expand on the definition of status quo to cover the scenarios discussed.

Attendance

1. *In light of payroll system advances should part-days absences be recorded as actual hours?*

The Board agreed that part-day absences should be recorded as actual hours. However, the Board requested that the guidance for managers reference the need for reasonableness on when to add as an occasion, as opposed to where it might demonstrate an absence pattern in itself.

2. *How should phased returns to work be managed?*

The Board referred the issue of payment for phased returns to the STAC Secretariat on the basis that Terms & Conditions make reference to the payment issue and the current Promoting Attendance PIN does not cover the payment issue (see Action: 02 (05/04/19) above).

3. *Should industrial injury leave be disregarded for the triggers unless there is contributory negligence?*

The Board agreed to reword to not include reference to contributory negligence and for triggers to be reviewed on a case by case basis.

4. *In light of the level of fraud cases related to staff working while on sick leave, is it appropriate to include the section on secondary employment?*

The Board agreed that it was appropriate to include a section on secondary employment.

4.2. Approval of Content

The Board reviewed each section of the document and advised on minor amendments which were marked up in the document.

The Board approved the content of the consultation document, with the caveat that amendments discussed be made.

4.3. Approval of Consultation Questions

The Board approved the consultation questions with the caveat that amendments be incorporated and the following question to be added to the capability section:

- Where redeployment is the outcome at Stage 3, should notice of termination run concurrently with the 12 week redeployment period?

LH advised that an analytical colleague had reviewed the consultation questions and had provided guidance on structure to enable the results to be analysed more effectively. These amendments will be incorporated.

Action: 05 (05/04/19) NC/LH to make amendments to draft core policies and consultation questions as agreed by the Programme Board.

It was acknowledged that to have a 'Once for Scotland' approach, there will be change for all NHS Boards to some extent. The consultation provides opportunity for organisations to provide feedback on the draft policies. Final policies will be reviewed and approved through the established governance structure.

5. Digital Development Update and Demonstration

CS provided a presentation on the progress of the digital work and a demonstration on the wireframes developed. CS highlighted the functionality that could be available as part of the minimum viable product (MVP) for July 2019 and further developments post MVP and sought views from the Programme Board.

LH noted that the flowcharts for each policy will be completed during the consultation period. These will be available in PDF format initially and further developed to become interactive.

CS confirmed that the MVP will be ready for the SWAG Committee to review the draft core policies on 25 July 2019.

The Board commended the development of the digital pages and progress made. Members requested that a paper detailing proposed MVP functionality for the launch of the core policies in July 2019 be circulated to the Board for comment.

Action: 06 (05/04/19) CS/LH to work with Digital Team to develop a short paper on minimum viable product (MVP) for review and comment by Programme Board.

7. Risk Register

The Board discussed the following risks:

Red Risk – reference there is a risk that failure to ‘get it right first time’ with clear, consistent and user friendly national policies, where local Boards are engaged and support the process

Update: Risk is noted as red as work on post programme monitoring and benefits realisation has been delayed due to capacity issues. This work will now commence with additional project management resource in place from April 2019. NP confirmed that he would be the named owner for this risk.

Amber Risk – reference there is a risk that specific skills and/or resources are not made available to inform the work of the Development Groups

Update: JB/JJ are currently progressing the identification of two additional employer representatives for Phase 2. LH noted that the programme has been unable to make contact with one of the two additional staffside representatives for Phase 2. NP advised that the nominee is no longer in role and that a further representative would be requested.

Action: 07 (05/04/19) LH to contact Norman Provan’s Office to request another staffside representative nominee to support Phase 2.

Green Risk – reference there is a risk that timescales for the review of 17 policies in three groupings over 18 months will not be met (Oct 2018 - Mar 2020).

Update: Noted that timetable on track. However, this is due to additional time made available by PDG members to prioritise this work. There are a number of lessons from Phase 1 which will inform the planning and delivery of Phase 2.

Green Risk – reference there is a risk that there is disconnect between work already underway in relation to the “Promoting Attendance” policy following on from the Agenda for Change (AfC) pay deal for NHS staff, and the specific ‘sickness absence AfC group that had been set up and the ‘OFS’ Workforce Policies Programme

Update: The Board agreed to close the risk following publication of the NHS Circular PCS(AFC)2019/2.

8. Any Other Business

NP suggested that the 'Once for Scotland' Workforce Policies Programme should ensure that there is a write up/ publication and promotion of the work done. In the past, exemplar work undertaken in Scotland has not been widely promoted resulting in a lack of recognition about what has been achieved. It is important that we maximise opportunities to showcase this work.

JAn raised the issue of backfill being made available for Staffside representatives to undertake the work of the Policy Development Group. This has been escalated previously and JAn noted conflict within the employing Board regarding the nature of the role. JAn advised that it is not a partnership role from which 2 days per week have been released for 'Once for Scotland' work and this has pressures on the team. JAn requested that the Board ask questions of the system to ensure that backfill arrangements are in place.

Action: 08 (05/04/19) SLR to agree with the Chair the approach to contacting Employer/Partnership in respect of backfill to release Staffside representation to undertake the work of the Policy Development Group.

LH advised that correspondence had been received from the Joint Chairs of STAC to the Joint Chairs of SWAG Committee to formally pass the work of the STAC *Policy on Management of Sickness Absence (Promoting Attendance)* Group to SWAG. The Joint Chairs of SWAG Committee have asked that the 'Once for Scotland' Programme Board progress and provide a written update to SWAG Secretariat in May 2019 for discussion and response for the June meeting of STAC. LH agreed to provide a written update for the SWAG Secretariat on the programme of work which will include promoting attendance.

Action: 09 (05/04/19) LH to prepare a written update on the 'Once for Scotland' Workforce Policies programme, including Promoting Attendance, for the SWAG Secretariat in May 2019.

LH noted that several members of the Programme Board are members of the SWAG Committee and asked if an invitation should be extended to all Programme Board members for the purposes of the extraordinary meeting of the SWAG Committee on 25 July 2019 to discuss the 'Once for Scotland' Workforce Policies. It was agreed that it would be helpful to have the Programme Board in attendance to present and answer any questions on the work.

Action: 10 (05/04/19) LH to arrange for invitation to be issued to all Programme Board members for the extraordinary meeting of the SWAG Committee on 25 July 2019.

9. Date of Next Meeting

The next meeting of the Programme Board will be held on Tuesday 28 May 2019 from 10:00 – 12:00 at St Andrews House, Edinburgh. An additional date will be arranged toward end of June 2019 in advance of the SWAG Committee.