



Minute

Meeting: NHSScotland 'Once for Scotland' Workforce Policies Programme Board
Date: Thursday 11 July 2019
Location: Meeting Room GR.09, St Andrew's House, Edinburgh

Attendees:

Present: (SN) Sean Neill, Deputy Director Health Workforce, Scottish Government (Chair)
(JAn) Jane Anderson, Branch Secretary, Unison
(JB) Janis Butler, HR Director, NHS Lothian
(AG) Anna Gilbert, Head of Staff Governance, Scottish Government
(JO'C) James O'Connell, Regional Officer, Unite (via teleconference)
(SLR) Stephen Lea-Ross, Head of Workforce Practice, Scottish Government

In attendance: (NC) Noreen Clancy, Head of Employee Relations, NHS Lothian
(LH) Lynn Hunter, Programme Manager, NHS NSS
(PJ) Paul James, Project Support Officer, NHS NSS
(AT) Anne Thomson, National Officer, Royal College of Nursing (RCN)

Apologies: (JA) Jeff Ace, Chief Executive, NHS Dumfries & Galloway
(JJ) Jacqui Jones, HR Director, NHS National Services Scotland (NSS)
(NP) Norman Provan, Associate Director (Employment Relations), Royal College of Nursing (RCN)

1. Welcome and Apologies

Sean Neill (SN) welcomed those present and acknowledged the apologies above.

2. Minutes and Actions from Meeting on 28 May 2019

The Minutes were approved as a true reflection of the meeting. Actions were discussed and updates added to the Action Log.

3. Consultation Summary and Recommendations

The paper summarising the key themes and responses for the five policies and investigation process was circulated in advance of the meeting. Appendices included a breakdown of the analysis and recommended amendments that had been agreed by Policy Development Group (PDG).

The Board noted the consultation analysis and the robust process undertaken. Members agreed that the data on % respondents who found each policy easy to read etc. will provide a baseline for the programme to track as part of the benefits management process.

Members noted the changes agreed in partnership to the policy documents. Jane Anderson (JAn) requested that a further appendix be added detailing the feedback from the consultation that was considered but where no change was made to the draft policies.

The Board agreed that with the inclusion of the additional appendix and further graphs in the main body of the text that the Consultation Summary and Recommendations Report would be shared in

full as part of the papers for Scottish Workforce and Staff Governance (SWAG) Committee meeting on 25 July 2019.

Action 01: (11/07/19): Programme Team to update Consultation Summary and Recommendations to include further graphs within the main body of the document and an additional appendix detailing consultation feedback where no change was made to the draft policies.

4. Final Draft Policies

4.1. Attendance Policy

The PDG had highlighted two issues in relation to attendance which required a steer from the Programme Board.

Prior to the meeting, the Scottish Terms and Conditions Committee (STAC) had confirmed that the varied practice in the use of paid leave and/or annual leave as part of phased return to work was a terms and conditions issue and that they would be producing a paper for further discussion. The Board agreed that the suggested statement: "Phased return to work will be paid in line with terms and conditions" would be included in the Attendance Policy section 6.5.16.

The Board requested that confirmation be sought from STAC on the meeting and date for the paper to be discussed and the process thereafter, e.g. guidance note, in order that this detail be added to the SWAG Committee papers.

Action 02: (11/07/19): LH to confirm with STAC the meeting and date for the paper on the use of paid leave and/or annual leave as part of phased return to work to be discussed.

The second issue highlighted through the consultation related to the application of 8 working days as a trigger or prompt and potential inequity dependent on the number of days worked. The Board agreed that in policy terms to be fair and equitable, and align with other policies, that the application of 8 working days as a trigger or prompt should be on a pro-rata basis. The Board recognised links to Pay Reform and requested that the issue is raised with the STAC Secretariat.

Action 03: (11/07/19): LH to request STAC Secretariat confirm if it is appropriate for 8 working days as a trigger or prompt to be applied on a pro-rata basis for less than WTE staff.

4.2. Bullying & Harassment

Action 04: (11/07/19): Remove wording "for up to a day" from Section 2.3.3. NC to engage with mediation colleagues prior to confirming wording.

There was discussion on the reference to "vexatious behaviour" being removed from the policy and instead reference to "bad faith". It was agreed that where there was evidence of vexatious behaviour that this would be a conduct issue and dealt with through the Conduct Policy. Furthermore, the inclusion of vexatious behaviour could deter staff from reporting bullying and harassment issues.

4.3. Capability

The Board noted that consultation responses to Question 6 – "Where redeployment is the outcome at Stage 3, should notice of termination run concurrently with the 12 week redeployment period?" - were split with no clear consensus. The Programme Board is of the view that this is a terms and conditions issue and requires informed discussion to reach an agreement.

The Board requested that clarity be sought from STAC on whether STAC consider this to be a terms and conditions issue. If so, the Board asked that STAC consider this now in preparation for the refresh of the Redeployment Policy in Phase 2. For the time being, extant NHS Board practice

would apply where redeployment is being considered at Stage 3 of the 'Once for Scotland' Capability Policy.

Action 05: (11/07/19): LH to seek clarity from STAC on whether the issue of notice of termination running concurrently with the 12 week redeployment period, where redeployment is the outcome at Stage 3 of the Capability Policy, is a terms and conditions issue. If deemed a terms and conditions issue, request consideration is given now by STAC in advance of the refresh of the Redeployment Policy.

Action 06: (11/07/19): NC to revisit 3.5.1. in relation to "paid as if at work" for workers / bank.

The Board noted that the timescales contained in the policies reflect the average number of days currently applied by NHS Boards. For consistency, the draft policies state that correspondence to staff should be issued within 7 calendar days and where inviting a response or action 14 calendar days is given.

4.4. Conduct

It was noted that section 4.5.9.5 of the Conduct Policy reflects wording used in PIN. It notes that expired warnings must be disregarded. The justification for remaining on file relates to identifying patterns of behaviour, if they existed.

4.5. Grievance

It was noted that the Aim of the policy had been thoroughly discussed and the wording was considered to be accurate.

Action 07: (11/07/19): Programme Team to separate out Section 5.5 Status Quo to make it easier to reference.

4.6. Workforce Policies Investigation Process

There was discussion regarding what information is shared at the investigation stage. In the interests of transparency and natural justice the Board agreed with sharing of all documentation, however recognised that this was contrary to practice in much of NHSScotland. Central Legal Office have advised that in order for the three outcomes to be properly assessed the employee would require access to the information which would allow them to respond to the case to answer. On this basis, the Board agreed that the process should state that the employee will be provided with all documentation which apply to the allegations.

There was a discussion regarding the manager's responsibility to inform witnesses that they may be required to participate in an investigation. It was noted that the PDG have written the process with the intention to make the manager responsible for engaging with the member of staff.

Discussion followed on HR support on investigations. Through the consultation, a few NHS Boards questioned the need for HR support in investigations at every level. The Board agreed that it was good practice for HR involvement and advice at all stages of investigation.

The Board discussed the issue of training. The request for training to ensure consistent application of policies was raised by a number of respondents to the consultation. The Board agreed that training was outwith the scope of the programme and that this should form part of NHS Board implementation.

Members recognised that training requirements would include both awareness raising and soft skills. It was agreed that this should be part of the local implementation plan developed in partnership at an NHS Board level. HR Directors will be responsible for managing the implementation of the refreshed workforce policies in their respective Boards.

It was suggested that nationally the programme could produce overall guidance and highlight the key updates to PIN e.g. a change in terms of focus on 'early resolution'. This could take the form of a written communication and slide deck.

Janis Butler (JB) noted that there was a requirement for each NHS Board to review the approved policies and identify what the key changes are for them. It was agreed that organisations needed time to prepare once the final policies had been approved. The Board supported 'early bird' access to the digital solution for HR Departments and Staffside to allow NHS Boards to make preparations prior to launching with staff and managers.

It was agreed that a 'soft launch' would allow a period e.g. 2-3 months for the refreshed policies to be implemented in Boards with oversight provided by the Programme. The Scottish Government will then formally publish the refreshed policies.

Action 08: (11/07/19): LH to include preparation for implementation, including training and responsibilities, in submission to SWAG Committee.

Action 09: (11/07/19): JB to continue to work with HRD Group to ensure that each NHS Board develops a local implementation plan in partnership which includes training.

5. Supporting Documentation

Noreen Clancy (NC) introduced the supporting documentation prepared for Grievance. This was developed to provide a flavour of the work in progress for all policies. On approval this documentation will be included on the test site for the digital platform made available to SWAG Committee on 25 July 2019.

NC noted the significant number of supporting documents and work underway to produce the Standard Sections. A timetable has been developed to produce these items for approval by the Programme Board and allow the complete set to be available as part of the 'soft launch' / 'early bird' access planned for late September 2019.

The Programme Board approved the Grievance Policy Supporting Documentation.

SN requested that the project plan is submitted to the next Programme Board detailing the final steps required to complete Phase 1 and rescheduled timeline for Phase 2.

Action 10: (11/07/19): Programme Team to develop Project plan detailing the final steps required to complete Phase 1 and rescheduled timeline for Phase 2 to be reviewed at Programme Board on 29 August 2019.

6. SWAG Committee submission

The Board requested that the papers for the SWAG Committee meeting be structured in three parts: 1. Process undertaken (Lead - SN) 2. Refreshed draft policies for review (Lead - JB and JO'C) and 3. Implementation and approach to delivery (Lead – SLR).

Action 11: (11/07/19): Programme Team to circulate draft SWAG Committee submission papers to the Programme Board by 17 July 2019. Programme Board Members to advise on any final amendments by 18 July 2019.

7. Highlight Reports

The Board noted that, subject to SWAG Committee approval of Phase 1 policies, the pre-engagement events for Phase 2 could commence November 2019. The full project plan will be reviewed at the next meeting.

8. Any Other Business:

None.

9. Date of Next Meeting

The next meeting of the Programme Board will be held on Thursday 29 August 2019 from 10 -12 pm.