

Minutes

Meeting: NHSScotland 'Once for Scotland' Workforce Policies Programme Board
Date: Tuesday 04 October 2022
Location: MS Teams

Attendees:

Present:

- (AG) Anna Gilbert, Head of Workforce Practice, Scottish Government (Chair)
- (JA) Jeff Ace, Chief Executive, NHS Dumfries & Galloway
- (JB) Janis Butler, HR Director, NHS Lothian
- (NC) Noreen Clancy, Head of Employee Relations, NHS Lothian (PDG Chair)
- (JJ) Jacqui Jones, HR Director, NHS National Services Scotland (NSS)
- (SL) Steven Lindsay, Employee Director, NHS Grampian (PDG Vice-Chair)
- (GM) Gordon McKay, UNISON Health Committee
- (JO'C) James O'Connell, Regional Officer, Unite
- (NP) Norman Provan, Associate Director (Employment Relations), Royal College of Nursing (RCN)

In attendance: (LH) Lynn Hunter, Programme Manager, NHS NSS

Apologies:

- (CH) Catriona Hetherington, Acting Head of Staff Governance, Scottish Government
- (DM) David Miller, Chief People Officer, Scottish Government
- (LZ) Laura Zeballos, Deputy Director Health Workforce Pay, Practice and Partnership

1. Welcome and apologies

Anna Gilbert (AG) welcomed members to the meeting. Apologies were noted from Catriona Hetherington, David Miller and Laura Zeballos. AG welcomed Gordon McKay as a new member of the Programme Board representing National Staffside.

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 Anna Gilbert would represent Scottish Government collectively. Jeff Ace (JA) and Janis Butler (JB) advised that they could only attend the first hour of the meeting. It was agreed that Jacqui Jones (JJ) would represent employers collectively in the second part of the meeting.

2. Minute from previous meeting and review of actions

Members approved the minute of the meeting held on 1 September 2022. The Board reviewed priority actions and updates were added to the Action Log.

Reference Action 06 (01/09/22) - review approach to responding to queries through the website and ensure appropriate redirection. LH confirmed that a digital solution was being sought to direct personal queries to NHS Board employee support and to clarify use of the contact form for feedback on site. This will be explored through user testing.

AG advised that there had been further discussion at SWAG which confirmed the approach to escalate issues of policy interpretation. A communication will be issued. Norman Provan (NP) reported challenges raised through National Staffside in relation to the application or interpretation of Phase 1 policies. Steven Lindsay (SL) will be conducting follow up calls with Staffside

colleagues to work through the issues raised. NP noted that clarity on the process for escalation is important. NHS Boards were previously asked to provide joint training by local HR teams and trade union representatives to managers on the refreshed policies. It was suggested that this should be revisited, and if queries remained these should be followed up through the escalation process.

3. Review Draft Consultation on the NHSScotland Workforce Policies - Supporting the Work Life Balance

Noreen Clancy (NC) introduced the draft consultation document and questions set out by the Policy Development Group. NC explained the endeavour to balance statutory, existing terms and conditions and the extant PIN together with readability, the 'Once for Scotland' style and ensuring inclusive language. The draft policies will be refined further through consultation feedback, and continued advice from Central Legal Office (CLO).

The Programme Board reviewed each policy in turn. Technical updates as advised in Item 3 – Draft Supporting the Work-Life Balance Consultation – Cover Paper were noted and the recommendations accepted. The following points were debated by the Programme Board and amendments requested:

Retirement Policy – Section 2.5.18 - Return to a different band or role. On advice received from CLO relating to obligations to support, for example, disabled employees by looking for alternative posts and preference for vacancies, the following wording has been added to the text approved by SWAG Committee, within the Interim National Arrangement on Retire and Return: “Unless there are statutory requirements to consider other employees first...” The Programme Board accepted this addition. Gordon Mackay (GM) requested that the Policy Development Group (PDG) ensure that employees on redeployment are also covered.

ACTION 01: PDG to revise wording to ensure that redeployment requirements, in addition to statutory requirements, are prioritised (section 2.5.18 Return to a different band or role).

Career Break – Section 3.5.29. The Programme Board debated the situation where if at the end of the career break there was no post for the employee to return to because the post had been filled, and there was no redundancy situation, what was the process and end point. Members were in agreement that there is a need for employees to fully understand the implications and potential risks of taking a career break at the outset. Members also agreed that the first avenue would be redeployment and every effort made to find the individual a suitable alternative post. Discussion followed on what the employer and employee may deem as a suitable alternative.

James O’Connell expressed his opposition to the potential termination of employment under Some Other Substantial Reason (SOSR). There was a recognition by the Programme Board that there needed to be a principle covered generically in the policy that would avoid an individual remaining on redeployment indefinitely. It was also recognised that such circumstances were likely to be rare. The extant PIN is clear that there is no guarantee of reemployment; however, it is silent on how the process would be brought to an end.

The Policy Development Group was asked to revise wording to cover the point that employees should be made aware that there is no guarantee of reemployment. However, every effort should be made to identify a suitable alternative post for the employee to return to. There would be further opportunity to cover scenarios within the manager and employee guides.

ACTION 02: PDG to revise wording to reflect that employees should be made aware that there is no guarantee of reemployment. However, every effort should be made to identify a suitable alternative post for the employee to return to. Revised wording to be circulated to the Programme Board for review.

Special Leave – Section 4.1.2. The Special Leave Policy is designed to largely reflect the statutory position. Feedback has suggested that it would be helpful to add in a position on specialist medical appointments (i.e. allocated as opposed to GP or dental). This provision has been added to the Special Leave Policy (as opposed to Attendance Policy) recognising that special leave is the classification for payroll. The Programme Board supported this addition. AG asked if the term “specialist medical appointment” would be understood by users. Members agreed that a description of the term “specialist medical appointment” should be added to the table with the guides detailing the situations where the manager may grant paid special leave and the amount of leave typically given.

ACTION 03: PDG to add to the Special Leave Policy Manager and Employee Guides a description of the term “specialist medical appointment” within the table on situations where a manager may grant paid special leave and the amount of leave typically given.

New Parent Support – The Programme Board reviewed the definitions within the policy. It was suggested that the “partner” definition should be reviewed to include “mother or birth parent”. Alternatively reference could be made to acknowledge that the policy is written in a way to reflect the legislative framework.

ACTION 04: PDG to amend definition of “partner” within the New Parent Support Policy to reflect mother or birth parent.

NP noted that the policy covers biological and adoptive parents, however queried whether there should be reference to fostering with a view to adopting. NC suggested that this link is made and referenced in the fostering section of the Adoption, Fostering and Kinship Policy. This point will be picked up later in the meeting.

Parental Leave – Section 8.3.2. Feedback received from the engagement events suggested that the Model Parental Leave PIN Policy was not equitable for step parents. The Programme Board discussed whether provision for paid parental leave should be extended to step parents, which would go beyond PIN. Members were in agreement that this was a policy position as opposed to terms and conditions. Overall, the Programme Board took the view that entitlement to paid parental leave should be extended to include step parents. It was agreed that a consultation question should be included on this. The response would form the basis for discussion at SWAG.

ACTION 05: PDG to draft a consultation question on whether paid parental leave entitlement should be extended to include step parents and invite views.

Breastfeeding – GM queried the use of the term “suspension” in relation to temporary redeployment to avoid risks to employee’s health and safety. Medical suspension is the classification, however the Programme Board agreed to amend the wording in the policy to “placed on leave and paid as if at work”.

ACTION 06: PDG to amend section on temporary redeployment in the Breastfeeding Policy to read “... the employee should be placed on leave and paid as if at work for as long as is necessary to avoid the risks to the employee’s health and safety.”

Adoption, Fostering and Kinship – linked to the earlier discussion on the New Parent Support Policy, the Board noted that whilst there is no statutory entitlement for fostering or kinship it is important to put a marker down that managers should be flexible and provide time off under the

other policies outlined. It was agreed that the New Parent Support Policy, as discussed earlier, should be referenced here.

ACTION 07: PDG to add new parent support leave to the bulleted list of leave that a manager may consider providing time off for fostering within the Adoption, Fostering and Kinship Policy.

The Programme Board approved the full suite of policies for consultation subject to the agreed amendments.

In relation to the Retirement Policy, AG advised that Scottish Government had received queries asking for clarity on the ability of an individual to retire and return on a full time basis. It was noted that the policy does not preclude this and states “On re-employment, the employer will offer a new contract for the part-time or alternate role.” Jacqui Jones (JJ) highlighted two potential issues with returning full time. The first is financial in terms of pay and pension. The second relates to health and wellbeing of the individual in terms of the pace and intensity of work. It was agreed that comments on retire and return on a full time basis should be submitted formally through the consultation process.

The Programme Board approved the consultation questions, with an additional question to the Parental Leave Policy to seek views on extending paid parental leave entitlement to include step parents [Action 05 (04/10/22)].

Lynn Hunter (LH) advised that CLO had requested to review the full suite of policies together. Feedback is expected by Thursday 06 October. The PDG will incorporate any final CLO advice together with the amendments agreed by the Programme Board. A final draft of the consultation will be issued to members by Monday 10 October 2022.

4. Programme Highlight Report and Risk Management

LH advised that the programme RAG status was green. The programme has delivered the draft consultation document to allow consultation on the full suite of Supporting the Work Life Balance policies to proceed at the end of October 2022. However, the volume of consultation responses is unknown and therefore the scale of the analysis required can only be assessed once the consultation is closed. Timescales for the next stage of work, accepting the current resource allocation, is dependent on the level of response to the consultation. The Programme Board will be updated on this at the next meeting following the close of the consultation.

NP highlighted that there was a very real risk of industrial action which would impact on systems and resources available to the Programme. Members agreed to monitor this risk as part of Risk P2-11 – risk that resources are not made available to support the work of the Policy Development Group.

ACTION 08: LH to update Risk P2-11 - risk that resources are not made available to support the work of the PDG - to reflect the risk of industrial action and impact on systems and resources.

5. Stakeholder Communication

LH noted that stakeholders had been advised in the August communication of the provisional dates for the consultation on the Supporting the Work-Life Balance Policies. The Programme Board agreed to proceed with the formal consultation from 26 October to 25 November 2022.

Members approved the draft communication with the following amendments:

- Additional line to request NHS Boards return a collated single organisational response
- Reference the significant work undertaken since restarting the programme in June 2022

ACTION 09: LH to amend the draft communication and issue to stakeholders to confirm that the consultation will run from 26 October to 25 November 2022 inclusive and request organisations put in place the necessary steps to respond in the timeframe.

6. Any Other Business

NP asked to formally minute the significant volume of work delivered at high quality in a short timescale since restarting in June 2022. Members of the Programme Board thanked the PDG for their hard work in preparing the 10 draft policies for consultation later this month.

7. Date of Next Meeting

Thursday 08 December 11:00-12:00