

Minutes

Meeting: NHSScotland 'Once for Scotland' Workforce Policies Programme Board
Date: Monday 24 April 2023
Location: MS Teams

Attendees:

Present:

(AG) Anna Gilbert, Head of Workforce Practice, Scottish Government (Chair)
(JB) Janis Butler, HR Director, NHS Lothian
(NC) Noreen Clancy, Head of Employee Relations, NHS Lothian
(JJ) Jacqui Jones, HR Director, NHS National Services Scotland (NSS)
(SL) Steven Lindsay, Employee Director, NHS Grampian
(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:

(JA) Jeff Ace, Chief Executive, NHS Dumfries & Galloway
(CH) Catriona Hetherington, Head of Staff Governance, Scottish Government

1. Welcome and apologies

Anna Gilbert (AG) welcomed members to the meeting. Apologies were noted from Jeff Ace and Catriona Hetherington.

AG advised that the primary purpose of the meeting was to review the policy revisions requested by the Programme Board and draft Manager Guides to accompany each policy. There will be one further meeting of the Programme Board on 30 May 2023 to approve all policies and supporting documentation for issue to SWAG Committee.

2. Minute from previous meeting and review of actions

Members approved the minute of the meeting held on 28 February 2023. AG noted that priority actions will be addressed as part of the agenda.

3.1 Cover Paper - Key questions

AG invited Noreen Clancy (NC) to speak to the paper previously circulated requesting direction from the Programme Board on key questions to allow the PDG to produce final drafts of the policy and supporting documents.

Flexible Work Pattern Policy

NC advised that a response had been received from the Scottish Terms and Conditions Committee (STAC) on terms and conditions considerations related to the flexible working policies. NC advised that not all issues have been addressed. In particular, a position on additional costs incurred by working from home in respect of heating, lighting etc and insurance and also the issue of review in terms of the permanency of the change and annual review.

Janis Butler (JB) advised that at the last STAC Secretariat there was an action for Scottish Government colleagues in the Pay Team to undertake a read across. AG agreed to follow up within Scottish Government.

ACTION 01: AG to follow up with Scottish Government colleagues in the Pay Team on outstanding terms and conditions considerations in respect of the flexible working policies. Specifically, the position on additional costs incurred by working from home and the issue of review and permanency of a change.

NC noted reference in the extant PIN to “Voluntary Reduced Working Hours”, which allows employees to request a reduction in their contracted hours for a temporary period. The Programme Board supported the recommendation to change the description title in the policy and guides to “Temporary Reduced Working Hours” as a more meaningful description.

Flexible Work Location Policy

NC advised that the Flexible Work Location Policy and Guides previously approved by SWAG Committee required updating to align with the refreshed Flexible Work Pattern Policy and the agreed terms and condition position. The Programme Board agreed that the Flexible Work Location Policy be submitted to SWAG Committee as part of the Supporting Work Life Balance package.

Retirement Policy

The Programme Board approved the additional wording drafted on Partial Retirement for inclusion in the Retirement Policy and associated Manager Guide. This allows an employee access to their pension when in work without having to resign.

Norman Provan (NP) noted concerns on the partial retirement route permitted by SPPA, and potential unintended consequences for leadership development and career progression. NP suggested that consideration be given to monitoring for an initial period to gather intelligence and provide feedback on how pension changes work in practice for NHSScotland. JB although supportive in principle advised that systems

were not set up to monitor requests made and uptake of partial retirement. NP agreed to no further action currently and to revisit if concerns materialised.

Career Break Policy

The Programme Board approved the policy wording drafted to clarify when redundancy would apply and make reference to the Redeployment Policy in the event that no suitable employment is found.

NC advised that following advice from Central Legal Office (CLO), the Organisational Change section in the policy has been amended to confirm that an individual on a career break should be considered along with the other affected employees, in terms of selection process/redeployment etc, and allowed to remain off work on the career break. The Programme Board noted this change.

The Board approved the additional detail added to the Manager Guide to provide guidance for managers in the situation where an employee has not engaged with the manager at the end of their career break regarding return to work.

Special Leave Policy

NC outlined the proposed wording in the Manager Guide that would allow step parents responsible for a child to access time off through the Special Leave Policy. The Board supported the section on Child Bereavement Leave which reflects wording in terms and conditions. Members debated the section on Planned Leave and reference to time off for partners, stepparents or kinship carers to undertake their parental responsibilities. It was agreed that further clarification was required to support managers to apply this.

Jacqui Jones (JJ) suggested additional clarification to the proposed text along the lines of the reasons for the leave should be exceptional and unusual and not already covered by this policy but consistent with the general approach to special leave to ensure equity for all staff within your area of responsibility. The Programme Board supported this approach and asked the PDG to draft and recirculate wording for members to approve.

ACTION 02: PDG to redraft wording in Planned Leave section of the Manager Guide to Special Leave to provide additional clarity that time off for partners, stepparents or kinship carers to undertake their parental responsibilities should be exceptional and unusual and not already covered by this policy but consistent with the general approach to special leave to ensure equity for all staff within your area of responsibility. Revised wording to be circulated to Programme Board for approval.

Maternity Policy

NC advised the Board that in respect of undertaking bank shifts whilst on maternity leave, employees are permitted to 10 KIT days in any role within their organisation. This can be bank. They must not exceed 10 days during their Maternity Leave. NC went on to explain that there is a distinction for those with secondary employment. An employee may be permitted to work with a second employer whilst on maternity leave.

In terms of KIT days, terms and conditions confirm that if a KIT day is worked in the full pay period, the employee will receive a day of paid leave in lieu once they have returned to work. If a KIT day is worked on a day of leave in the half pay period, the employee will receive a half day of paid leave in lieu once they have returned to work.

Members approved wording to clarify KIT days as per terms and conditions and to add a line on secondary employment. James O'Connell (JO'C) requested further explanation on the consequences of working more than 10 KIT days.

ACTION 03: PDG to add a qualification to the Maternity Policy / Guides that employees with another substantive post with another employer may be permitted to work with a second employer whilst on maternity leave. The general rule is limited to 10 KIT days. Further wording to be drafted to explain the consequences of working more than 10 KIT days.

New Parent Support Policy

NC advised the Programme Board that timescales for notification for new parent support and leave have been updated in the policy to reflect the statutory position. Members confirmed this amendment.

Parental Leave Policy

Following on from the earlier discussion on partners, stepparents or kinship carers accessing leave through the Special Leave Policy to undertake their parental responsibilities and the need for further clarification to guide managers in decision-making (Action 03), the PDG was asked to review wording in the Parental Leave Policy Managers Guide, Evidence Section.

ACTION 04: PDG to review wording in the Parental Leave Policy Managers Guide, Evidence Section (p2) to align with qualification in Manager Guide to the Special Leave Policy (Action 03).

Breastfeeding Policy

No issues raised on the Manager Guide to the Breastfeeding Policy.

Adoption, Fostering and Kinship Policy

NC highlighted a difference in terminology "date of adoption" (extant PIN) and "date of matching" (Terms and Conditions), which has potential implications for the employee on the duration of adoption leave available to spend with the child.

NP suggested that the employee should specify if they want to apply from date of matching or date of adoption. The right remains the same. Members agreed with this approach.

ACTION 05: PDG to update Guides on the Adoption, Fostering and Kinship Policy and Adoption Leave Form to allow the employee to specify if they want to apply for adoption leave from date of matching or date of adoption.

Pregnancy Loss Pledge

Members noted that following Programme Board support, Ministerial agreement has been given for the recommendation that Boards adopt the Pregnancy Loss Pledge.

Members supported the recommendation from the PDG to strengthen support for employees who have experienced a miscarriage and their partners by considering compassionate leave in the Manager Guide to the Maternity Policy and the Manager Guide to the Special Leave Policy.

NHS predominately female workforce

The Programme Board agreed to add wording to the Manager Guides stating that “NHSScotland wants to create an inclusive workplace where employees can thrive and feel confident about their ability to balance their personal and professional responsibilities. It is recognised that policies to support this are particularly important in NHSScotland given the predominantly female workforce who largely take on primary caring roles within the family.”

ACTION 06: PDG to add approved wording to the Guides on the importance of these policies in NHSScotland given the predominately female workforce and principally primary caring roles within the family.

Policy and Terms and Conditions of Service

The Programme Board debated the need to clarify rights as described in the refreshed policies and any difference between the policy and the terms and conditions of service.

Members agreed to add further wording within the standard section on the website relating to [Principles and Values | NHS Scotland](#) to qualify that the NHSScotland workforce policies may enhance the provision that employees are contractually entitled to.

ACTION 07: PDG to draft further wording for inclusion in the standard section on the website relating to Principles and Values to qualify that the NHSScotland workforce policies may enhance the provision that employees are contractually entitled to.

Letters

NC advised that there has not been capacity for the PDG to consider the development of a guide for managers on writing letters. This will be actioned on completion of the core policy work.

3.2 Manager Guides

AG invited further comment on the draft Manager Guides to the suite of Supporting Work Life Balance policies which had not been covered in the previous discussion.

Gordon McKay (GM) raised a query on Career Break previously highlighted by email. The draft Career Break policy states that a career break will continue to count as continuous service for statutory purposes but not for reckonable service towards service-based entitlements. However, the Terms and Conditions Handbook (section 12.1) states that continuous previous service with any NHS employer counts as reckonable service.

NC advised that the Guides sought to differentiate between “continuity of service” related to statutory e.g. scope to an employment tribunal or entitlement to statutory sick pay, and “reckonable service” for terms and conditions e.g. incremental credit or annual leave entitlement. The rationale being that it would be unfair for an individual on a career break for the last 3 years to accrue the same salary increments or annual leave. This reflects the original intent of PIN. Equally, superannuation provision does not recognise time periods unpaid.

GM disagreed with the position. It was agreed that advice would be sought from CLO in the first instance. If the CLO response does not resolve the debate, the issue would be raised with STAC.

ACTION 08: PDG to ask question of CLO on distinction made within the draft Career Break Policy and Manager Guide between “continuity of service” and “reckonable service” in respect of the Agenda for Change Terms and Conditions Handbook (Scotland).

JoC asked in relation to the flexible working policies if a manager was to refuse a request what the expectation is on the level of detail provided for refusing a request. For example, if a manager was to refuse on the basis of service need is this sufficient or should the manager provide detail on why the request cannot be supported. It was agreed that the expectation is that the manager would provide as full a response as possible on why the request was declined. Noting that the manager may require to present and justify their case if an appeal was made.

ACTION 09: PDG to review wording within the Manager Guide to the Flexible Work Location Policy and Flexible Work Pattern Policy to ensure the manager is aware that they should provide a full response detailing the reason for declining a flexible working request, and that they may need to justify the case in the event of an appeal.

4. Programme Highlight Report

Lynn Hunter (LH) spoke to the Highlight Report for the period February – March 2023. LH advised that following the agreed position and clarification provided at this meeting, the programme is on track to deliver the refreshed suite of Supporting Work Life Balance policies for SWAG Committee review at the end of June. It was noted that the three calculators developed with HR and payroll colleagues were now in testing and that a link would be shared with members to review.

ACTION 10: LH to share link to calculators developed to accompany the Supporting Work Life Balance policies with Programme Board members.

The next period of work will focus on the Employee Guides and remaining Manager Guide on Shared Maternity and Shared Adoption Policy; process flowcharts, EQIA and preparation of the test website.

5. Any other Business

The Programme Board once again thanked the Policy Development Group for the outstanding work undertaken in a short period of time.

AG advised that the team were looking to reschedule the extraordinary meeting of SWAG Committee to review the refreshed policies from 27 June to 29 June 2023. It was anticipated that this would be held via MS Teams.

6. Date of next meeting

The next full meeting of the Programme Board will be held on Tuesday 30 May 13:00-15:00. The purpose of this meeting is to review and provide final sign off on the refreshed policies and supporting documents for submission to SWAG Committee.