



**Scottish Workforce & Staff Governance Committee
Wednesday 19 June 2019
Noble Room, Victoria Quay, Edinburgh
Minute**

Present:

Confirmation of attendees at time of writing:

Name	Organisation
Caroline Cooksey	NHS Dumfries and Galloway
Emma Currer	Royal College of Midwives
Joyce Davison	BMA
Stewart Donnelly (for Adam Palmer)	Royal College of Nursing
Anna Gilbert	Scottish Government
Heather Gilfillan	Unite
Gordon Jamieson (VC)	NHS Western Isles
Scott Keir	British Dietetic Association
Stephen Lea-Ross	Scottish Government
Robin McNaught	The State Hospitals Board for Scotland
Sean Neill (Chair)	Scottish Government
Norman Provan	Royal College of Nursing
Susan Robertson	Unite
Susan Russell	Scottish Government
Deborah Shepherd (TC)	Society of Radiographers
Lorna Sim	Unison
Anne Thomson	Royal College of Nursing
Linda Walker	GMB
Simon Watson	Unison
Dorothy Wright	NHS Education for Scotland

In attendance:

Name	Organisation
Gerard Hart	Disclosure Scotland
Colin Lindsay	Strathclyde University
John Malone (Minute)	Scottish Government
Elizabeth Reilly	Scottish Government
Robert Stewart	Strathclyde University

Apologies have been received from:

Name	Organisation
Jane Anderson	Unison
Julie Collins	Chartered Society of Physiotherapy



Lynne Douglas	NHS Lothian
Donald Harley	BMA
Pauline Howie	Scottish Ambulance Services
Jacqui Jones	NHS National Services Scotland
Steven Lindsay	Unite
Caroline McDowall	College of Podiatry
Gordon McKay	Unison
Gerry McLaughlin	NHS Health Scotland
Jackie Mitchell	Royal College of Midwives
Sam Mullin	GMB
Diane Murray	Scottish Government
Adam Palmer	Employee Directors Group
Claire Ronald	Chartered Society of Physiotherapy

Agenda Item 1 – Welcome, introductions and apologies

1. The Chair welcomed everyone to the meeting. Members were informed of the list of apologies (noted above) and that the meeting was quorate.

Agenda Item 2 – Minute and Action Points from the meeting held on 25 January 2019

2. The minutes were agreed as an accurate reflection of the meeting.
3. It was confirmed that the action points from the last meeting were now complete.

Agenda Item 3 – Trade Union Act 2016

4. Caroline Cooksey referred to the paper which had been circulated prior to the meeting which gave proposals on the Recording and Reporting Requirements of the Trade Union 2016 Act. The following points were highlighted:

- The Trade Union Act 2016 was passed on 4 May 2016 but not all of its provisions came into force immediately as some required further legislation in the form of regulations before they could be implemented. A number of the Act's provisions therefore came into force on 1 March 2017. The Scottish Workforce and Staff Governance Committee commissioned a Short Life Working Group (SLWG).
- The requirement for NHS Boards to collate and report internally and to the Scottish Government as required in their compliance with the PIN requirements has not changed as a result of this new legislation. The new legislation has thus created an additional requirement to publish data in relation to Trade Union (TU) / Professional Organisations (PO) activities as specified within the legislation. The SLWG have



worked together to prepare recommendations for how best to achieve this with the minimum of additional resource impact on both the NHS Board and the TU/PO's

- It was recommended that the best method of recording the trade union duties and activities and associated costs is via the SSTS payroll system which requires to be fit for this purpose. This would also facilitate the reporting of the other provisions such as the percentage the cost of activities represents in relation to the total pay bill. However, the SLWG have not yet had the opportunity to assess the state or readiness of SSTS to immediately capture the information as recommended, nor to ascertain each Boards state of readiness to record this information via SSTS, and so this work will need to be undertaken as part of the implementation of these proposals.
- The SLWG created a form which is adopted for all Boards to enable NHS Scotland Employers and TU/PO Representatives to capture the 'Trade Union duties and activities out with partnership working' to comply with the reporting requirements of the Trade Union Act 2016.
- The SLWG requested that SWAG Committee endorse the work progressed so far and agree the recommendations to allow for a swift implementation of the reporting arrangements and enable NHS Scotland Boards to comply with the legislative reporting requirements of the Trade Union Act 2016. The recommendation is for the recording to be live by July 2020.

5. The Chair gave SWAG Committee members the opportunity to ask questions and offer feedback. During the discussion the following points were covered.

- Members thanked Caroline for the presentation. It was raised whether Local Medical Committees (LMC) activities would also be recorded within the proposed form. It was confirmed that LMC activities should be included. It was also raised whether NHS Scotland would be compliant with the Act for this year (2018/19). It was confirmed that HR Directors are aware and will be recording similar information to that which was recorded within last year submission. This will be more accurately recorded in July 2020 going forward.
- SWAG Committee members agreed with the recommendation proposed and the template form which will be used in 2019/20.

Outcome: SWAG Committee members agreed with the proposed recommendations.



Agenda Item 4 – John Sturrock Report

6. Stephen Lea-Ross referred to the paper which had been circulated prior to the meeting which gave an overview of John Sturrock's report and Scottish Government's response. The following points were highlighted:

- Over the past months, there has been continued press coverage about a bullying culture in NHS Highland. This was instigated by four senior clinicians who blew the whistle claiming that there is a 'systematic culture of bullying' and that 100 health workers had come forward as 'victims'.
- The Scottish Government offered external, independent support to help NHS Highland understand and address any concerns raised and this was accepted. On Friday 23 November 2018, the Health Secretary announced that John Sturrock QC would conduct an independent review into the bullying allegations. The scope of the review was to:
 - Create a safe space for individual and/or collective concerns to be raised and discussed confidentially with an independent and impartial third party.
 - Understand what, if any cultural issues have led to any bullying, or harassment, and a culture where such allegations apparently cannot be raised and responded to locally.
 - Identify proposals and recommendations for ways forward that will help to ensure the culture within NHS Highland in the future is open and transparent and perceived by all in this way.
- Mr Sturrock held a series of private meetings and took evidence from over 200 individuals, including current and former staff, who contacted him to raise concerns. The final report was published on 9 May 2019 and the Health Secretary made a statement to parliament and has published the Scottish Government's response.
- The Review identified a number of significant cultural issues that have potentially contributed to a variety of situations and circumstances in which there has been behavior that might reasonably be described as bullying, or at the very least, inappropriate.
- Scottish Government expect the Board of NHS Highland to carefully consider this substantive report and actively engage with staff at every level to consider its conclusions and recommendations and how these can be positively applied in NHS Highland. Scottish Government acknowledges that there is important learning and



reflection here for other NHS Scotland health boards and for the Scottish Government.

- The Health Secretary has written to all health boards in Scotland to consider the Review and look again at the effectiveness of their own internal systems, leadership and governance. There will also be consideration on how the Scottish Government works to improve its existing relationships with health boards, reflecting on a number of the observations made in the Review in relation to board governance, and noting the programs of work already under way to reform health board selection, appointments and training.
- The Health Secretary will convene a Ministerial led Short-Life Working Group (SLWG), with representation from employers, staff-side, the Royal Colleges and the Professional and Regulatory bodies, to examine how we collectively take forward measures that support open and honest workplace cultures. In particular, we will be tasking this group to look specifically at what more we need to do to effectively deliver the behavioral and attitudinal approach to leadership and management that is at the heart of the Sturrock Review.

7. The Chair gave SWAG Committee members the opportunity to ask questions and offer feedback. During the discussion the following points were covered.

- SWAG members thanked Stephen for the update. It was acknowledged that the quality of John Sturrock's report was extremely helpful yet challenging and that this type of thing could have happened within any of the Health Boards. Following publication of the Report a lot of discussion is happening within Health Boards to enable and ensure that individuals have the confidence to speak up and challenge behaviours.
- It was questioned if SWAG Committee members would be involved within the Ministerial lead SLWG. It was acknowledged that the group are still to set their terms of reference, agenda and remit, but that the membership of the SLWG will be decided by the Cabinet Secretary. It is anticipated that there will be representation from SWAG, SPF, ED's and Staff side.
- Norman Provan, as chair of National staff-side, mentioned the membership of the SLWG was at the discretion of the Cabinet Secretary. Norman was invited as Chair of SWAG, Lilian Macer was invited as Chair of SPF. Norman will be seeking nominations for two seats from unions other than RCN and Unison, in order to ensure as broad a range of staff-side partners as possible is represented at the SLWG.

Outcome: SWAG Committee members welcomed the update.



Agenda Item 5 – Strathclyde University Academic Staff Experience Evaluation

8. Colin Lindsay lead a presentation and referred to the final report which had been circulated prior to the meeting. The following points were highlighted:

- The research review of the implementation of iMatter was commissioned by the Scottish Government. The aim of the research was to provide evidence to support and inform ongoing work to ensure that there is a meaningful, effective and cost-effective approach to staff engagement in health and social care.
- The research broad aims were to:
 - Consider validation and response rate issues associated with iMatter and the Dignity at Work Survey (D@W).
 - Review the presentation and utility of iMatter report data.
 - Gather and analyse evidence on the acceptability of iMatter and D@W.
 - Gather and analyse evidence on facilitators of the implementation of iMatter and areas of best practice.
 - Identify ongoing challenges and areas where more work is needed.
- The research used multiple methods of data collection at national and local levels, including analysis of the current literature on staff engagement and the relevant documentation covering the development, operation and output of iMatter; semi-structured interviews with 29 representatives of national and local stakeholders, with the latter drawn from 6 Boards (Geographic and National), selected by size and their iMatter experience in 2017; gathering the views of Health Board Chief Executives and senior Scottish Government personnel; and 12 focus group/interview sessions with managers and staff across the 6 Boards. All data were analysed thematically according to the research objectives.
- The report noted that iMatter was viewed overwhelmingly as an acceptable model of staff engagement by the national and local interviewees. There is a comprehensive recognition of, and commitment to, the principles to the iMatter model across all national and local stakeholder groups. The overwhelming majority of the respondents spoke very positively about the merits of the iMatter approach. The key benefits of iMatter are:
 - Team-based approach and data provision on the experience of staff working relationships
 - Co-produced 'bespoke' instrument and measure of staff experience
 - iMatter as a measurement of NHS Staff Governance Standards (SGS)
 - Localised feedback with teams developing an Action Plan to address component measures issues
 - A tool with the potential for team ownership and empowerment. Problems are solved by teams then by management



- High levels of staff response. Data is more representative of staff views
 - Quick to complete, easy to interpret and largely phrased in positive and/or neutral terms
 - Utility to be used alongside other management tools and approaches and wider staff engagement
 - Transferability to other settings such as Health and Social Care Partnerships (HSCPs) and other public sector workforces
- The key findings of the evaluation is that iMatter has proved effective and has made substantial progress in achieving the original goals of the model. It is important that investment and support for the iMatter process is maintained and strengthened so that the progress made on staff engagement is built upon and consolidated.
 - An additional key finding of this research is that staff and managers across a range of teams, HSCPs and Boards find that current iMatter model and content to be relevant and useful in exploring staff experience, engagement and continuous improvement. There was also support for iMatter from trade union respondents and non-executive Board members. There is a comprehensive recognition of, and commitment to, the principles of the iMatter model across all national and local stakeholder groups. For NHSScotland, it represents an effective means of capturing staff experience and engagement in line with established Staff Governance Standards. The report concluded with 12 recommendation for the future of iMatter.

9. The Chair gave SWAG Committee members the opportunity to ask questions and offer feedback. During the discussion the following points were covered.

- Members thanked Professor Colin Lindsay and Dr Robert Stewart for producing the NHS Scotland Staff Experience and Continuous Improvement Model report. It was highlighted that areas which have small teams could potentially be identifiable and this was unfair for them. It was acknowledged that we want staff to make their own decision to complete iMatter in order for their voice to be heard on their experience of working within NHS Scotland. It was also acknowledged that there were existing principles around small teams, one to have a direct report and be aggregated up to the team above and two for the Boards need to improve this area of choice and voice.
- Within the report it was acknowledged there is room for improvement going forward. The report does highlight 12 recommendations that need to be considered to improve employee's opinion. This work, when developed, should be presented to SWAG Secretariat in the first instance for consideration. It was questioned if it could be identified whether any Health Boards were facing problems with teams in their area to allow support to be offered. It was confirmed that those that participated in the review did so in the strictest confidence. Sharing good practice within each and every Health Board was welcomed as a way to go forward.



Outcome: SWAG Committee members welcomed the report and suggested that SWAG Secretariat should consider how to respond to the report and take forward the recommendations.

Agenda Item 6 – Whistleblowing / INWO update

10. Anna Gilbert gave a verbal update on Whistleblowing and the Independent National Whistleblowing Officer (INWO). During the update, the following items were covered:

- Legislation was introduced to parliament on 29 April 2019 to establish the role and function of the INWO. A consultation on the draft order – which was circulated to all Health Boards and internal stakeholders, including whistleblowers known to the Scottish Government – will close on 28 June 2019. Following this appropriate changes will be made to the Order. It will then be laid for a further 60 days to allow for further scrutiny in September 2019.
- This will then allow an implementation period of 6 months before the Order comes into force in the summer of 2020. This gives sufficient time for Boards to implement the Whistleblowing Standards which will be reflected in the new 'Once For Scotland' whistleblowing policy.
- The Whistleblowing Standards have been independently developed by the SPSO. They are currently being consulted upon so they may be considered alongside the draft Order. This consultation will also close on the 28 June 2019 and we would encourage Committee members to contribute to the consultation.
- On 8 October 2018, the Cabinet Secretary for Health and Sport announced that she would appoint Whistleblowing Champions (WBC) and that these would be dedicated roles. The role will include the ability for the WBC to directly access the Health Secretary should they feel the Health Board is not acting appropriately when a Whistleblowing concern is raised.
- The SLWG who previously developed the role for the current WBC has reconvened to consider the new dedicated role. The role is intended to provide a level of local scrutiny and assurance independent of the direct management or handling of whistleblowing concerns. The current role has been strengthened and includes the standard role and responsibilities of all non-executive Directors. These are core responsibilities.
- Scottish Government is clear that this will further support the role of the WBC as it will provide a mechanism for strategic assurances and governance in the Board more broadly. The appointment process will be undertaken by Scottish Government's Public Appointments Team and a panel has been identified. It is



anticipated that the role will be advertised mid July 2019. We are asking that Health Boards use their current mechanisms to promote and advertise this role. A letter describing the role and the appointment process will be circulated to all Boards shortly.

11. The Chair gave SWAG Committee members the opportunity to ask questions and offer feedback. During the discussion the following points were covered.

- Members thanked Anna for her update.

Outcome: SWAG Committee members welcomed the update and look forward to future updates

Agenda Item 7 – Disclosure Scotland

12. Gerard Hart referred to a paper that was circulated prior to the meeting. The following items were covered:

- It has been just over eight years since the PVG Scheme commenced. During this time, Disclosure Scotland has communicated with stakeholders and customers and has identified a number of areas where the PVG Scheme can operate more effectively, more proportionately and where modernisation measures are appropriate.
- A public consultation on the disclosure regime in Scotland was undertaken last year following pre-consultation engagement with over 300 individuals and organisations and an online survey which generated over 800 responses. The consultation ran from 25 April 2018 until 28 July 2018 and received 353 responses from a range of organisations and individuals. The consultation and the Scottish Government's analysis of the responses can be found at - <https://consult.gov.scot/disclosure-scotland/protection-of-vulnerable/>
- The results of this consultation and engagement with stakeholders has shaped the development of the Disclosure (Scotland) Bill that was laid in Parliament on 12 June 2019. This bill aims to deliver a more proportionate and simpler disclosure regime that suits the needs of Scotland's People.
- The key policy aims of the Bill are to: strengthen safeguarding, reduce the stigma people with previous convictions experience when seeking jobs, and simplify the disclosure system to make it easier for individuals and organisations to use.



- The Bill will:
 - Afford the individual more control over their PVG membership and full control over sharing information with organisations.
 - Reduce the number of Disclosure Scotland products to simplify the system.
 - Introduce time limited membership of 5 years to ensure that people are only subject to monitoring whilst they are doing the kinds of work that justify it.
 - Propose no additional charge for the individual for PVG Disclosures in the five year membership, reducing cost to them and any employers choosing to reimburse.
 - Improve access to fairness by allowing disclosure subjects to much more easily appeal disclosure information and provide for an independent reviewer to make final decisions in the public interest.
 - Make the PVG Scheme mandatory for those undertaking a regulated role, simplifying the picture on who needs to be a member of the PVG Scheme.
 - Transition from the concept of 'regulated work' to 'regulated roles' to ensure that those with power over vulnerable groups are always captured in the Scheme.
 - Deliver a digital-by-preference service but retain alternatives for those unable to use a digital system.
 - Introduce a minimum age of 16 for obtaining disclosure products, with exceptions made where cause is shown (however there will be no circumstances where an individual under the age of 16 can be a member of the PVG Scheme).
 - Shorten the period of time that certain spent convictions appear on Disclosure Scotland products to achieve the right balance between safeguarding and enabling people with convictions to move on with their lives.
 - Propose new powers for police and local authorities to refer individuals for consideration for barring under PVG.
 - Provide the ability, where appropriate, for Scottish Ministers to impose conditions on those under consideration for barring, such as restricted duties during the period before a decision is made on barring. The conditions will be subject to confirmation by a sheriff, on application by Disclosure Scotland.
 - Provide individuals with the opportunity to challenge the inclusion of police Other Relevant Information before the disclosure is viewed by a third party, such as an employer.
 - Introduce a separate process for the disclosure of convictions received while the individual was under 18. It is disproportionate for early childhood behaviour to be automatically released on a disclosure certificate, however we recognise that it will be vital for safeguarding reasons to be able to disclose information about certain child and adolescent behaviour.

- The Bill balances greater safeguarding and a real tightening of the system with a mandatory scheme, new referral powers and a new model for deciding who is to be



in the scheme strengthening protection, whilst other provisions introduce greater capacity for qualitative consideration of fairness issues in disclosure and a specific protection afforded to those between age 12 and 17 years which ensures that young people can leave all but the most serious and concerning matters in the past when they attain maturity.

- Now the Bill is published there will be another round of even more focused engagement and interventions with key stakeholders including unions and employers to begin to craft how we will implement the Bill in due course in a way that works for organisations and individuals. We are committed to a user-research driven approach to implementation so that what we design and deliver has the best chance of successful adoption and integration with the requirements of our stakeholders.

13. The Chair gave SWAG Committee members the opportunity to ask questions and offer feedback. During the discussion the following points were covered.

- Members asked what the proposed cost of the new PVG scheme would likely be. It was confirmed that the costs will be affordable however, this has not been decided yet and is not contained within the bill laid in Parliament. Costs will be agreed in due course.
- When it comes to recruitment within NHS Scotland, it would be helpful for timelines to be considered as there are sometimes issues with disclosures taking a considerable time to arrive. It was also raised when it is expected for the date of implementation. It was confirmed it will be passed as law in 2020.

Outcome: SWAG Committee members welcomed the update.

AOB

14. It was raised by Norman Provan if Staffside could have Pre-Staffside meeting at all upcoming SWAG Committee meetings from now on.

It was agreed that Pre-Staffside meetings would be arranged by John Malone and for the remainder of 2019, the meetings would be for 30 minutes. The duration of the meetings would increase to 1 hour.

Date of Next Meeting

The next SWAG Committee meeting will be held on 25 July 2019 in 4ER, St Andrews House, Edinburgh from 13.00 to 16.00.