



Scottish Partnership Forum

Partnership Working during the period impacted by the COVID-19 pandemic Updated on 17 November 2020

1. Introduction

The COVID-19 pandemic is having an unprecedented impact and it is important that in these challenging times, we continue to work together to meet the emergency faced by the country whilst at the same time protecting patients and staff. Ms Jeane Freeman, Cabinet Secretary for Health and Sport announced in Parliament on 11 September 2020 that NHSScotland will remain on an emergency footing until at least 31 March 2021.

The Scottish Government, NHSScotland Employers, Trade Unions and Professional Bodies recognise the importance and value of the Partnership Working approach to employee relations in NHSScotland.

Employers and unions agree that the workforce; their managers and union representatives, should not be distracted from meeting this emergency. We recognise that established partnership working groups may need to adopt different partnership working practices during this period.

This statement, on behalf of the Scottish Partnership Forum (SPF) aims to clarify current agreed arrangements to support and strengthen partnership working at this time.

Review

The Scottish Government, NHSScotland Employers, Trade Unions and Professional Bodies recognise the fast moving and uncertain nature of the situation. We anticipate that these temporary provisions will continue for the duration of the period that the Scottish Government is stood up on an emergency footing in response to Coronavirus (COVID-19) including the recovery strategy formulation phase. We will review these temporary provisions on an on-going basis taking account of any changes to the national position.

2. Partnership working

Supporting continued and strengthened Partnership Working

The Scottish Government, NHSScotland Employers, Trade Unions and Professional Bodies recognise the essential role of the emergency planning structures now in place across NHSScotland. It is important that these operate with our partnership principles of openness, honesty and a commitment to share information in a transparent manner at the centre.



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Streamlining

With the agreement of all parties, Partnership working practices may be streamlined during this period and formal meetings may need to be replaced with close and regular virtual working arrangements between employers and staff side representatives. However, the operating manner of extant Partnership Working groups will continue and negotiating positions will not be impinged.

Staff side chairs will support the engagement of and dissemination of information to their partnership colleagues and feed issues into the appropriate fora. These include the Coronavirus (COVID-19) Workforce Leadership Group and the Coronavirus (COVID-19) Workforce Joint Secretariat Group as well as extant groups. These are detailed in Appendix A.

Facilities time

During the period of the emergency, trade union and other staff representatives still require full support for time off and facilities to fully participate in local partnership processes. As outlined in the [Facilities Arrangements for Trade Unions and Professional Organisation PIN Policy](#), employers should ensure representatives are allowed the time and facilities needed to carry out their duties and be fully involved in the local partnership arrangements, in order to best support staff.

Trade Union representatives for their part will recognise and respond to the context in which they are working with even greater sensitivity with the care of patients during this time as a clear and shared priority.

3. Managing change during the emergency

The partners will aim to ensure that no member of staff or group of staff is disadvantaged by the emergency conditions arising from the pandemic. Employers and unions will continue to monitor issues of wellbeing and of equality and act as needed.

Local agreements

Employers will discuss, and where appropriate, agree changes to working practices with Trade unions locally or at a system level, again where appropriate. Variations to existing local Board level protocols for organisational change may be required during the outbreak and should be reached through agreement, unless these are covered by national protocols as part of the emergency plans.

Temporary changes to working practices

Within any changed approach, managers should still consult their staff and their trade union reps in line with the new ways of working before making significant decisions arising from COVID-19 that affect staff and their ways of working. Such discussions are especially critical around issues such as redeployment, changing the scope of practice, and health and safety and wellbeing. Contractual variations should



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be made in the normal way through agreement. Changes unconnected with COVID-19 should be postponed unless unavoidable.

Industrial disputes

During the pandemic it is more important than ever that we support continued partnership working and avoid industrial disputes. Parties should now urgently seek to resolve outstanding disputes or as a minimum agree to pause disputes, through preserving the status quo if a risk assessment informs this is a safe and suitable approach. This does not diminish the power of trade unions to progress legitimate concerns.

Organisational change

The previous iteration of the Partnership Statement issued on 7 May 2020 advised that to avoid potential disputes and distracting staff unnecessarily, significant organisational change and consultations relating to them should be paused.

The SPF recognise that effecting organisational change is an important part of ongoing service management, including winter planning, remobilisation and workforce redesign and modernisation across the NHS over the coming months. In view of this organisational change and consultations are no longer paused. However such programmes must be considered in view of capacity and managing realistic timeframes for change.

The present policy for Organisational Change within the workforce was advised in the letter issued by Scottish Terms and Conditions Committee (STAC) on 16 September 2020:

<https://www.stac.scot.nhs.uk/wp-content/uploads/STACOrgCh2020-Organisational-Change-Policy3467.pdf>, Boards must adhere to this if they are taking forward any significant change within their organisation.

4. Disciplinary matters, grievances and other procedures

The need to progress any on-going employment processes, such as absence management, capability, disciplinary and grievance procedures and appeals processes, must be considered using a risk based approach. Consideration must be given to the situation and personal circumstances of the case. This includes assessing cases pragmatically in view of the time lapse caused by the pandemic. In these cases it will be necessary to consider whether there is still a requirement to reconvene or progress the case or whether this is no longer appropriate. Employers must apply similar risk-based consideration to commencing new cases.

The decision to re-commence on-going cases should be made in consultation with the employee and their union representative. Realistic timescales must be agreed in view of capacity of all parties to attend meetings. Where outcomes cannot be agreed



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in this way and a clear rationale is offered, then processes may resume at a future date, without detriment or criticism of either side.

There are some particular issues to consider when assessing the risk, and determining if a case should be progressed or remain paused:

- Where the situation is very serious or urgent or where the employee requests proceeding as it would otherwise cause additional anxiety, processes should be progressed so long as it is reasonably practicable to proceed.
- Where there is a safety risk, members of staff may be placed on suspension or restricted or alternative duties pending the resumption of disciplinary proceedings.
- Where there are implications around an employees pay such as the final review meeting during long-term absence ([Agenda for Change Terms and Conditions of Employment Handbook, Section 14](#)), then these must be considered in the normal time frames set by agreed local policies.
- Where employees raise urgent grievances, for example, concerning health and safety, then these should be considered in the normal time frames set by agreed local policies.
- Any grievances, appeals and other procedures (and all relevant time frames) which remain paused should be done so on the understanding that they may be taken up at a later date by the employee without detriment.
- Where hearings and procedures go ahead then natural justice and the terms of the employer's policies should continue to apply, especially the right to union representation.
- Where it is agreed to proceed with formal meetings, the use of virtual meetings must be considered. The approach will be fully discussed and agreed with all participating parties.
- In circumstances where a virtual meeting is not possible or not consented to by the employee (for example as a result of Information technology constraints, or if the employee feels that they will not achieve a fair hearing or have adequate support from their representative through a virtual meeting) then a risk assessment will be undertaken to identify what reasonable adjustments are necessary for the safeguarding of all participants, which may result in a pausing of the process.



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5. Other COVID-19 guidance to the NHSScotland workforce

Employers, managers and trade unions should read the national guidance on employment policy and on terms and conditions that can be accessed through the COVID-19 section of the [NHSScotland Staff Governance](#) website.

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Appendix A

