

<p>Scottish Workforce & Staff Governance Committee Minute Tuesday 28 September 2021 MS Teams</p>

Present:

Name	Organisation
Jane Anderson	Unison
Tracey Ashworth-Davies	NHS Education for Scotland
Jane Christie-Flight (on behalf of Ian Cant)	Employee Directors Group
Jasmin Clark	Royal College of Nursing
Caroline Cooksey	NHS Dumfries and Galloway
Julie Collins	Chartered Society of Physiotherapy
Emma Curren	Royal College of Midwives
Joyce Davison	BMA
Anna Gilbert	Scottish Government
Heather Gilfillan	Unite
Donald Harley	BMA
Pauline Howie – (Chair)	Scottish Ambulance Service
Gordon Jamieson	NHS Western Isles
Scott Keir	British Dietetic Association
Steven Lindsay	Unite
Jennifer Martin-Nye	Scottish Government
Gordon McKay	Unison
Robin McNaught	The State Hospitals Board for Scotland
Norman Provan	Royal College of Nursing
Una Provan	Unison
Susan Robertson	Unite
Linda Walker	GMB

In attendance:

Rosemary Agnew	Scottish Public Service Ombudsman
John Burns	Scottish Government
Noreen Clancy	NHS Lothian
Catriona Hetherington	Scottish Government
Lynn Hunter	Scottish Government
John Malone (Secretariat)	Scottish Government
Jacqueline McClure (observing)	Royal College of Nursing
Lynn Rance (Support)	Scottish Government
Fran Richards	Scottish Public Service Ombudsman
Ondrej Toloch	Scottish Government



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Roxanne Van Zyl	Scottish Government
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Apologies:

Anne Armstrong	Scottish Government
Victoria Bowman	Scottish Government
Ian Cant	Employee Directors Group
Eleanor Harley	Unison
Jacqui Jones	NHS National Services Scotland
Kathryn McDermott	Unison
Bob McGlashan	Royal College of Nursing
Sam Mullin	GMB
Yvonne Stewart	Society and College of Radiographers

Agenda Item 1 – Welcome, Introductions, Minutes and Summary of Action points of meeting held on 1 July 2021

The Chair welcomed everyone to the meeting and advised that the Committee was quorate. The minute of the meeting held on 1 July 2021 and summary of action points were agreed as an accurate record.

- Action point 1: Wellbeing presentation slides to be shared with SWAG members – **Completed**
- Action point 2: Share letter from Cabinet Secretary to Health Boards regarding vaccination of staff. **Completed**

Outcome: SWAG Secretariat agreed minutes as accurate and agreed action points.

Agenda Item 2 – Winter Plan

John Burns provided an update on the NHS Scotland Winter plan. The update covered the following:

- Scottish Government have created a system response group as part of the resilience arrangements which meets weekly. The group is working collectively with system leaders to look at what can be done to mitigate the challenges and pressures that are forecast during this winter period;
- The group are taking a whole systems approach reflecting on the challenges and pressures within hospitals, primary care, social care, the ambulance service, NHS24 and out of hours services;
- 4 key areas of focus have been identified: wellbeing, demand and capacity, workforce and public messaging;

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- Consideration is being given to planned care as there are ongoing challenges with capacity;
- There is also a focus on “what we do well”. There is a need to look at areas of good practice and share learning;
- There is a drive to employ 1000 new staff members in health boards which it is hoped will ease the pressure on the system during the winter period.

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

- Members welcomed the update and raised issues with staffing levels as some Boards currently have staff shielding and off sick. It was also raised that Boards are likely to struggle to employ new staff and felt there is a lack of apprenticeships.
- Members did recognise there is no easy solution to recruitment, no quick fix and that Scottish Government and NHS Boards are doing all they can during this challenging period. Members welcomed the inclusion of public messaging.

Outcome: The SWAG Committee members welcomed the update

Agenda Item 3 – Once for Scotland – Flexible Work Location Policy

Papers were circulated to members prior to the meeting regarding the Once for Scotland – Flexible Work Location Policy. Norman Provan led the conversation with members which included the following:

- The ‘Once for Scotland’ Workforce Programme Board were commissioned by SWAG Committee to review and refresh the existing workforce policies [previously known as Partnership Information Network (PIN) Policies] in line with the following vision:
 - ‘Once for Scotland Workforce policies will promote NHSScotland as a modern, exemplar employer; showcasing our core values, and promoting consistent employment policy and practice that supports the implementation of the Staff Governance Standard and effective recruitment and retention.’
- The programme was asked to prioritise the refresh of the Homeworking Policy within the extant Supporting the Work-Life Balance PIN. It will sit alongside the other elements of the Supporting the Work-Life Balance PIN as this is refreshed later in Phase 2.

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- The consultation on the refreshed Homeworking Policy ran from 28 June to 26 July 2021. This followed regional engagement events pre-policy (January 2020) and mid-policy development (March 2020).
- The policy is intended to support employees and managers in considering and agreeing options for flexible work locations. It is not a COVID-19 specific policy. The policy has been refreshed to reflect the changed working environment.
- The policy is not intended to directly address any terms and conditions issues as they are under the remit of the Scottish Terms and Conditions Committee (STAC). This was communicated as part of the consultation.
- However, consultation feedback included a number of terms and conditions issues. The following areas have been raised with, and remitted to, the Scottish Terms and Conditions (STAC) Committee:
 - Contractual base and commutable distance
 - Travel expenses¹ and travel time
 - Reimbursement for additional costs
 - Review (Section 33 of the Agenda for Change Handbook) and process to make changes to a permanently agreed arrangement
- STAC Secretariat have provided a consolidated response, noting that this is a very complex issue, and responses to the questions at this stage could have further ramifications and set precedents.
- It has been advised that a subgroup of STAC will be established shortly. This will include HRD and Trade Union representation to work through these issues in a measured and systematic way, to ensure that any changes to existing terms and conditions are appropriate and ensure fairness and equity across the workforce in NHS Scotland. Once convened, STAC will provide a timescale for the work to progress.
- SWAG was invited to approve the refreshed NHSScotland Flexible work location policy and accept delivery of the product commissioned for 'soft launch' with NHS Boards and staffside from 4 October.

¹ The extant Homeworking PIN states "Reimbursement of business travel costs will be based on the home address as the normal place of work and will be in line with organisational policy."

Discussion:

- Members welcomed the work that has been undertaken in refreshing the policy.
- Clarity was sought on that statement within the policy that references the employee's designated base, for contractual purposes, as the location where they spend the majority of their working time. It was noted that this veers into terms and conditions. It was advised that the extant PIN considers the home as base if the employee works from home for more than 50 days in a year. It was agreed that this section can be reviewed following the work of the STAC subgroup and an agreed terms and conditions position.
- Discussion followed on the wording included in the section on "Reasonable refusal of an employer request". It was agreed to retain reference to "reasonable", remove the bulleted list of areas to take into account, and add a line on exceptional circumstances, which must be detailed in writing.
- It was agreed that the change of wording would be electronically circulated to members following the meeting for final sign-off.
- The Flexible Work Location Policy was approved subject to electronic sign-off of the amended wording on "Reasonable refusal of an employer request".
- Members accepted delivery of the product commissioned and to enter 'soft launch' from 4 – 29 October.
- The 'soft launch' is a preparatory period for HR Departments and Staffside to ensure NHS Board readiness for launch with staff and managers. This provides an opportunity for NHS Boards to raise any interpretation issues or potential implementation challenges prior to 'go live'.
- **UPDATE:** Members agreed to the amended wording within the Flexible Work Location Policy on 29 September 2021 - *"Employees can reasonably refuse an employer request to change their work location to the employee's own home. It is only in exceptional circumstances, which the employer must detail in writing to the employee, that an employer should attempt to change the employees work location to home if the employee does not agree to work from home."*

Outcome: SWAG members, subject to electronic sign-off of the agreed amendment, approved the NHSScotland Flexible Work Location Policy to enter a 'soft launch' period.

Action Point: Scottish Government to circulate to members amended wording within the Flexible Working Location Policy. (Completed)

Agenda Item 4 – INWO

Rosemary Agnew & Fran Richards provided an update following SPSO took on the INWO powers on 1 April 2021. A paper was circulated to members prior to the meeting. The update covered:

- As of 31 August, Scottish Public Services Ombudsman (SPSO) have closed 55 cases. 51 of these were enquiries, and 4 were complaints closed at their initial assessment stage. Two of these were monitored referrals – a process of supported signposting, which enables engagement with the board and request updates to ensure the process is being appropriately followed. SPSO have not yet completed any full investigations.
- It is worth noting that many of the enquiries relate to HR issues, and around a quarter of the enquiries were signposted directly to HR (indicating that SPSO's initial discussions indicated that there were no whistleblowing elements to them). SPSO are not able to give details of any cases, as they could not confidently anonymise information.
- Between 1 April and 31 August SPSO also responded to 22 enquiries from boards with enquiries about the application of the Standards in specific circumstances, often relating to individual cases. To ensure independence of decision making in any subsequent investigation, this advice was provided by the SPSO's Improvement Standards and Engagement team, rather than from the INWO team.
- SPSO are planning to deliver a webinar event based on the role of union representatives in the Standards. We would welcome the SWAG's feedback on this.

Discussion:

- Members welcomed the update. It was suggested by Norman Provan that he would put Rosemary Agnew and Fran Richards in touch with an appropriate RCN rep to support the development of the webinar.

Outcome: The Chair thanked Rosemary & Fran for the update.

Action point: Norman Provan to liaise with Rosemary and Fran to source a rep to help support the development of the webinar.



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Agenda Item 5 - AOB.

There was no further business to discuss and the Chair closed the meeting

Date of Next Meeting

SWAG Committee – 18 November 2021 – 14:00 - 15:30