

Meeting minutes: NHSScotland 'Once for Scotland' Workforce Policies Programme Board

Date: Thursday 18th of July 2024

Location: MS Teams

Attendees:

- (AG) Anna Gilbert, Head of Workforce Practice, Scottish Government (Chair)
- (NC) Noreen Clancy, Head of Employee Relations, NHS Lothian (PDG Chair)
- (CH) Catriona Hetherington, Programme Lead, Scottish Government
- (JB) Janis Butler, HR Director, NHS Lothian
- (GM) Gordon McKay, UNISON Health Committee
- (NP) Norman Provan, Associate Director (Employment Relations), Royal College of Nursing (RCN)
- (SN) Sasha Neradna, Project Manager, NHS National Services Scotland
- (RB) Ryan Bradley, Project Support Officer, NHS National Services Scotland

Apologies:

- (JJ) Jacqui Jones, HR Director, NHS Lanarkshire
- (SL) Steven Lindsay, Employee Director, NHS Grampian (PDG Vice-Chair)
- (JO'C) James O'Connell, Regional Officer, Unite

1. Welcome and apologies

AG welcomed members to the meeting.

2. Minute and Action points from previous meeting

The Programme Board confirmed they were content, and the minutes were agreed.

Action 02 (31/05/2024) about the correspondence from David Paul, Employment Relations Officer at the British Dental Association (BDA) is not yet complete. A response letter has been drafted by Zac Deponio. This will be shared with Programme Board members for consideration prior to issue.

Action 07 (31/05/2024) about workforce policy implementation is now closed as a letter has been sent out to Health Boards asking them to ensure that NHSScotland workforce policies are being implemented consistently.

Action 01 (31/05/2024) regarding proposals for miscarriage leave provisions was covered under Agenda Item 3.

3. Miscarriage Leave

CH Referred to the paper that recommended that miscarriage should be added to the pregnancy related illness section of the NHSScotland Attendance Policy. CH also referred to the provision in the Special Leave Policy Manager Guide that employees who have experienced a miscarriage, and their partners should be given consideration for compassionate leave.

CH confirmed that the changes agreed at the last Programme Board meeting regarding neonatal loss provisions have been passed to the NES Digital team to make changes to the maternity and associated policies.

GM advised that he was not content with the Special Leave Policy Manager Guide provision and suggested that the wording 'consideration should be given to' does not go far enough. The NHS England policy states 'Special leave must be offered' which is not reflected in this guide. GM pointed out the use of the term 'consideration' could be open to interpretation.

JB proposed that the wording be changed to 'Special leave should be offered' to give staff the reassurance that all managers understand this is the position rather than being subject to a manager's discretion.

NP also felt that the word 'offer' should be used.

This change was unanimously agreed by the PB.

DECISION 01: It was agreed that miscarriage should be added to the pregnancy related illness section of the NHSScotland Attendance Policy.

ACTION 01: The wording in the Special Leave Policy Manager Guide around special leave being 'considered', is to be changed to 'will be offered'. CH will circulate a note of the amendment to the group before progressing this change.

4. Updated Policies and Manager Guides Overview

NC referred to the key issues for review paper highlighting the following:

- **Employment checks**

The Employment checks policy defines essential pre and post-employment checks and there is no linear process, so no requirement for a flowchart. An employment checks risk assessment tool to support managers with the decision-making process will be developed as advised in the consultation document. In addition, it is more appropriate to have one single guide than separate employee and manager guides.

NC sought views on including the HPAN (Healthcare Professional Alert Notice) system which is being used in the rest of the UK but not NHS Scotland. In 2022 NHSScotland was looking at potentially contributing to this system, but no decision has been made. Health Boards have access to all the information on the system submitted from the rest of the UK, so it was suggested to check with the National Recruitment Group if it should be standard practice to check this system when recruiting.

DECISION 02: It was agreed that the policy does not need to be accompanied by a flowchart and one guide would be more appropriate for this policy.

ACTION 02: PDG to check with the National Recruitment Group if HPAN is used by NHSScotland Boards in pre-employment checks, before adding it into the policy.

- **Equality Diversity and Inclusion (EDI)**

Clarification is being sought from the Central Legal Office regarding the policy approach that advocates that procedural issues (Grievance) are separate from behavioural (Bullying & Harassment). This is because the PDG recognise that all bullying, harassment, discrimination and victimisation can be described as discrimination.

A guide on race is currently being developed and will be brought to the Programme Board meeting on 30 August 2024.

In response to feedback from consultation, sections have been added to the guidance explaining discrimination by perception and discrimination by association. There is also a section that explains indirect discrimination. These are newer elements that managers may not currently be aware of, but these additions will help managers understand their role and how to respond appropriately to staff that feel they have been discriminated against or victimised.

NP asked why the definition of disability had been removed from the guide.

NC indicated that the other eleven protected characteristics are not defined. The Definition of disability will be defined in the reasonable adjustments guide.

- **Gender Based Violence**

NC noted that under definitions in the GBV policy there is a section covering 'signs that somebody might be subject to gender- based violence'. It was agreed that this should be in the guide rather than the policy.

NP suggested that the managers guide should iterate the need to be mindful of the individual's situation and suggest the appropriate gender to approach a member of staff to initiate what may be a very sensitive conversation.

NC confirmed that this had been included.

AG raised a point about the possibility of friends coming forward to disclose knowledge of GBV to an employee. She asked whether 'friends' should be added as the policy currently states 'patients that know the employee outside of the workplace'.

JB explained the challenges of being able to act on information received from a third party outside of the workplace,

AG suggested in this instance we would recommend that the third party contact the police.

ACTION 03: PDG to move the 'signs that somebody might be subject to gender- based violence' section in the Policy to the GBV Manager Guide.

- **Personal Development Planning and Performance Review (PDPPR)**

NC explained that this policy was reviewed in view of any changes related to non-pay elements of the pay deal that are currently being worked through. NC proposed that the policy did not require any further amendment in view of Protected Learning Time (PLT).

NP commented that the PDPPR process should include a record of all the training that has happened in the previous year and all the training that is upcoming for the year ahead.

However, training that is listed into PDPPR cannot be marked as complete until all training is completed. NP recognised that it will be some months until the PLT group has completed its work. This can be added when the Protected Learning Time (PLT) group has finished its work.

JB agreed that ultimately the policy will need to reference PLT but more clarity is needed before this is reflected in the policy.

AG summarised for clarity that the PB members were in agreement that this should be brought back to the next meeting.

DECISION 03: It was agreed that, once the work of the Protected Learning Time (PLT) Group has concluded, the PDG should revisit the PDPPR policy to check if any adjustments are required.

ACTION 04: All update- work on Protected Learning Time to be considered in view of PDPPR Policy at the next meeting.

- **Secondment**

NC referred to comments from the consultation analysis about whether external secondees—those coming into an NHSScotland Board on a secondment, were in scope of this policy. NC suggested that this policy was only applicable to employees that were already part of the organisation and seconded from other parts of NHS Scotland, but not someone that was seconded into the organisation from out with the NHS.

NP indicated he was content but referred to the situation where an individual's secondment lasts for a number of years before their return to their organisation. He highlighted that secondees do not have the same rights as those on a fixed term contract. For example, longer term secondments don't get the same treatment as a long-term fixed term contract. After 4 years in a post as a fixed term contract you would need to be offered a permanent position. This is not the case for secondment.

JB referred to the situation where employees are returning from a long secondment in Scottish Government to find their substantive role is no longer available, meaning they need to go onto a redeployment list. It was felt that long term secondment is bad practice and a maximum time limit for secondment should be considered, however, it was questioned if anything could be done if this were breached? Furthermore, the length of secondment/Service Level Agreement (SLA) and their impact on the application of policy needs to be considered in more detail.

AG informed that the length of secondments and service level agreements in Scottish Government were currently being considered and that she would establish the current position and feed this back at the next meeting.

GM suggested that the seconded should be informed if their substantive post is going to be advertised while on secondment.

JB agreed that the seconded should be offered the opportunity to come back to their substantive role before it is advertised.

The Programme Board agreed that should be made clear in the policy and/or supporting documents.

NC stated that no changes or updates to the policy shall be made until we have an update from Scottish Government regarding secondments/SLAs.

ACTION 05 - AG to reach out to Chief People Officer, Fiona Hogg and Health Workforce Directorate Deputy Directors to enquire what progress is being made regarding the use and length of SLAs in Scottish Government.

ACTION 06 – PDG to reflect in the policy that where a secondees substantive post is to be filled permanently, the secondee must be advised that their substantive role is going to be advertised to allow them the opportunity to return to that position.

- **Redeployment**

NC referred to the Redeployment Referral Form that is currently being developed by the PDG and will be shared with members ahead of the next Programme Board. She proposed that it would be more appropriate for this to be two separate forms and explained the proposal to have a Skills Profile Form as a separate form. This helps ensure the protection of data for the redeployment employee, as the information in part 1 of the redeployment referral form does not need to go to the recruiting manager.

DECISION 04: it was agreed that the redeployment form should be split into 2. One will be the referral form, the other will be the skills profile.

5. Programme Highlight Report

SN provided an update on Programme progress. The current overall status of the programme is still amber. All 8 policies and manager guides have updated drafts, with additional documentation in the process of being drafted (employee guides, forms, and flowcharts)

The drafting of the guidance on sexual harassment, transitioning and race are all in progress.

Planning for the next phase of the Programme is underway with SN drafting an options paper for the next stage/s will be shared with the Programme Board at its meeting on 30th August.

A newsletter was issued, through SWAY, to all health boards at the beginning of July.

All milestones are now on target.

A risk workshop in June resulted in new risks being identified, these are all now captured in the risk register.

An extraordinary SWAG committee meeting for approval of policies and documents in this tranche will be arranged for October. Date to be confirmed.

There were no questions or follow up questions in relation to the highlight report.

6. Risks and Issues:

New risk surrounding loss of key people from the Programme Development Group, was discussed. Ros Shaw and Matthew Pay will also be leaving by November (Staff side and employer side).

NP said that replacing Ros from RCN or wider staff side is in hand.

JB indicated that there is difficulty sourcing someone to replace the employer side position but will look at the time and capacity required, although her main concern is NCs replacement.

7. Programme Board Membership

Due to the small Scottish Government Team involved in this work, it was agreed that CH and Zac Deponio, who are both Scottish Government representatives on the PDG, will join AG as Scottish Government representatives on the Programme Board. The potential of conflict of interest was discussed, but it was agreed that the Governance structure of the PB could address this as the PB reports to SWAG Committee, where any conflict of interest could be considered if this arose.

DECISION 05: It was agreed that the Scottish Government representation on the PB will be Anna Gilbert, Catriona Hetherington and Zac Deponio. The PB indicated that they were content.

8. Any Other Business

DECISION 06: AG proposed that the name of the next stage of the programme is 'Phase 3' rather than Phase 2.3'. PB members agreed.

JB suggested there may be a need for a phase 4 to consider local policies that could benefit from a national, 'Once for Scotland' approach.

SN agreed to factor this into the option paper that is being drafted for the next meeting.

AG announced that SN will commence maternity leave on the 23rd of August, and that this Programme Board is her last meeting. A replacement Project Manager has been identified and they will shadow SN until she commences maternity leave. On behalf of the PB, AG thanked SN for her contribution over the last few months and wished her well for the future.

ACTION 07 – SN to incorporate proposals on local policies into the options paper.