

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

Date: Friday 31st of January 2025 09:30am to 11:30am

Location: MS Teams

Attendees:

- (AG) Anna Gilbert, Head of Workforce Practice, Scottish Government (Chair)
- (RB) Ryan Bradley, Project Support Officer, NHS National Services Scotland
- (ZD) Zac Deponio, Senior Policy Officer, Scottish Government
- (MH) Magdalena Henderson, Project Manager, NHS National Services Scotland
- (CH) Catriona Hetherington, Programme Lead, Scottish Government (PDG Chair)
- (SL) Steven Lindsay, Employee Director, NHS Grampian (PDG Vice-Chair)
- (GM) Gordon McKay, UNISON Health Committee
- (NP) Norman Provan, Associate Director (Employment Relations), Royal College of Nursing (RCN)
- (JO'B) Jarrard O'Brien, Director of People and Culture, NHS Orkney
- (JO'C) James O'Connell, Regional Officer, Unite

Apologies:

- (JJ) Jacqui Jones, HR Director, NHS Lanarkshire
- (AB) Audrey Bevan, HR Manager, NHS Lanarkshire

1. Welcome and Apologies

AG welcomed attendees to the meeting and introductions were made. **AG** noted **JJs** apologies.

AG also advised that Janis Butler left the Programme Board and introduced **JO'B** as the newest member of the Programme Board. **JO'B** is the Director of People and Culture for NHS Orkney.

AG asked **JO'B** if he was content being the only employer side representative in the meeting as there are a few decisions being made in relation to the previous phase of the work. **JO'B** stated that he was content.

AG commented on the previous low attendance rate and asked all members to ensure appropriate representation and noted quorum requirements.

2. Minute from previous meeting and outstanding actions

The minute of the previous meeting was agreed as an accurate record.

In relation to Action 05 (18/7/24): Fiona Hogg noted that in relation to SLAs in the Scottish Government, this is an area for focus for the Health and Social Care DG and work is ongoing.

It was noted that new SLA's now undergo the same scrutiny as other forms of recruitment, which was not happening previously. Fiona Hogg noted this will help to pick up situations where an SLA is not appropriate and a civil service recruitment process is required. Fiona Hogg is happy to pick up with individual HRDs in relation to any challenges or concerns in relation to the SLAs who are hosted by their own boards.

AG clarified that this action is in relation to Scottish Government SLAs and it doesn't impact on the secondment policy.

In relation to Action 12 (25/04/24): **JO'B** advised that he is going to speak to JJ to confirm if Jeff Ace's replacement has been agreed.

Please refer to the action log for updates on all the other actions.

3. Phase 2.2 – Soft Launch Feedback

AG noted that following approval by the Scottish Workforce and Staff Governance (SWAG) Committee on 1 October 2024, the Phase 2.2. policies entered 'soft launch'. This was a preparatory period for HR Departments and Staffside to ensure NHS Board readiness for 'go live' in February 2025. The 'soft launch' ran from 15 October to 15 January 2025. Feedback has been reviewed by the Policy Development Group (PDG).

CH talked through her paper and provided the group with feedback from 'soft launch'. **CH** noted that the Policy Development Group received more than 100 pieces of feedback and the majority of these were implementation questions that the PDG duly considered to make sure that the guidance provided was sufficient. Some minor changes were identified and made.

Programme Board members agreed to the following:

Employment Checks Policy

1. There was an ask to include reference to specific systems such as 'Job Train'.

The PDG proposed that in view of house-style and to future-proof the policy, this should not be amended.

Decision 01: Employment Checks Policy: Programme Board members agreed not to include references to specific systems such as 'Job Train'.

2. The practicalities around the process of obtaining original or certified copies of documents, particularly photographic identification documents was questioned.

The PDG proposed that this should not be amended on the basis that that the process of obtaining original or certified copies of documents, particularly photographic identification documents is necessary to meet requirements to ensure a robust process.

Decision 02: Employment Checks Policy: Programme Board members agreed that the process of obtaining original or certified copies of documents, particularly photographic identification documents is necessary to meet requirements to ensure a robust process. The process will not be amended.

3. Comment received from NES about the impacts of the Employment Checks policy to how the onboarding of Trainees is done via national systems such as TURAS, how the impact of ID checking/documentation will affect current practices, as well

as needing to align with Home Office and Disclosure Scotland requirements. They requested more time to assess the impact on this cohort of employees.

Decision 03: Employment Checks Policy: Programme Board members noted the 3 month soft launch period and agreed not to add more time to assess the impact on this cohort of employees.

Fixed Term Contract Policy

1. Feedback noted that in the End of FTC letter redundancy there is currently no reference to employees being of retirement age and being able to access their pension.

The PDG proposed that the following wording should be added into the Manager Guide and Employee Guide, under the Redundancy and non-redundancy fixed-term contracts section: "A member of the NHS Pensions Scheme may meet the criteria for retirement. Further information is contained within the relevant terms and conditions of service."

Decision 04: Fixed Term Contract Policy: Programme Board members agreed that the proposed wording ("A member of the NHS Pensions Scheme may meet the criteria for retirement. Further information is contained within the relevant terms and conditions of service.") should be added into the Manager Guide and Employee Guide, under the Redundancy and non-redundancy fixed-term contracts section.

2. Feedback referred to Doctors and Dentists in training and practical challenges due to the complexity of the Lead Employer model.

PDG noted that this is similar to issues recently raised about Trainee Clinical Scientists which brought about additional wording referring to redundancy and non-redundancy situations. This was developed with legal advice. On this basis PDG propose no change.

Decision 05: Fixed Term Contract Policy: Programme Board members agreed that in view of legal advice, there should not be any amendments in relation to feedback referred to Doctors and Dentists in training and practical challenges due to the complexity of the Lead Employer model.

Gender Based Violence Policy

1. Feedback included the comment that some cases of GBV will include a threat to life and asked whether an escalation process should be included for when the victim assesses the risk as high or where the DASH RIC score indicates high risk. PDG are comfortable that this is appropriately covered in the following wording in the Manager Guide: "The employee's confidentiality should be maintained unless there are safety issues relating to themselves or others. In this situation, you should escalate to the appropriate agencies, such as: Child Protection, Adult Protection Services".

A suggestion that a link to the Reasonable Adjustment Guide and Difficult Conversations Guide is included in the Manager Guide has been agreed.

Decision 06: Gender Based Violence Policy: Programme Board members agreed that they were content with the wording that that: "The employee's confidentiality should be maintained unless there are safety issues relating to themselves or others. In this situation, you should escalate to the appropriate agencies, such as: Child Protection, Adult Protection Services".

Programme Board members also agreed that a link to the Reasonable Adjustment Guide and Difficult Conversations Guide should be included in the Manager Guide.

Racism Guide

1. Discrepancy identified in the purpose section of the Racism Guide. The guide included that the purpose was to: 'Provide advice and support for managers, employees subjected to racism, and alleged perpetrators'.

It was recognised that reference to perpetrators was a typo from the template used for Gender Based Violence guide. It is not within the scope of this guide so has been removed.

Decision 07: Racism Guide: Programme Board members agreed that the reference to providing advice and support to perpetrators should be removed, as is not within the scope of this guide, acknowledging that this was an unintended addition.

Reasonable Adjustment Guide

1. Feedback highlighted user challenges in locating the Reasonable Adjustments Guide.

PDG will liaise with digital colleagues to make the necessary amendments to make it easier to find stand-alone guides on the website.

Decision 08: Reasonable Adjustment Guide: Programme Board members agreed that PDG to liaise with digital colleagues to make the necessary amendments to make it easier to find stand-alone guides on the website.

There were enquiries around adjustments for other protected characteristics, **CH** noted that 'reasonable adjustments' refers to disabilities in line with the Equalities Act and adjustments for other reasons are workplace adjustments.

2. Feedback received that the guide should cover workplace adjustments.

The PDG is clear that this guide is to support reasonable adjustments as defined by the Equality Act and Workplace adjustments are included in the other policies as appropriate.

Decision 09: Reasonable Adjustment Guide: Programme Board members agreed the Reasonable Adjustment Guide is to support reasonable adjustments as defined by the equality Act. Workplace adjustments are included in the other policies as appropriate.

Redeployment Policy

1. Minor change to the flowchart to reflect that the skills profile form will be completed prior to the redeployment referral form.

PDG suggested to liaise with digital colleagues to make the necessary amendments.

Decision 10: Redeployment Policy: Programme Board members agreed to the change in the flowchart to reflect that the skills profile form will be completed prior to the redeployment referral form.

2. Questions over redeployee priority order list. PDG are comfortable that the list reflects legislative requirements.

Decision 11: Redeployment Policy: Programme Board members agreed that redeployee priority order list reflects legislative requirements.

Secondment Policy

1. A question was asked whether the secondment agreement as a contract document, should show salary, recharge arrangements and working pattern.

The PDG proposed that a change will be made to the Secondment Agreement template under 'Details of Secondment' to include salary. PDG note that the Secondment Agreement states: Your pattern of working will be agreed between you and the receiving manager.

Decision 12: Secondment Policy: Programme Board members agreed that a change will be made to the Secondment Agreement template under 'Details of Secondment' to include salary.

Sexual Harassment Guide

1. Feedback noted that there is no definition of rape or stalking included.

The PDG noted that rape is sexual violence /sexual assault rather than harassment and is out of scope of this guide. Stalking is included in the 'examples of harassing behaviour'.

Decision 13: Sexual Harassment Guide: Programme Board members agreed that there is no need to include a definition of rape or stalking. Rape is sexual violence /sexual assault rather than harassment and is out of scope of this guide. Stalking is included in the 'examples of harassing behaviour'.

2. Feedback noted that the guide purpose includes: 'Provide information and advice to alleged perpetrators and their managers' however, no clear advice given for managers about what to do if someone reports being a perpetrator of sexual harassment.

PDG identified 3 options:

1. No additional information is provided and the reference to perpetrator is removed
2. Add information at the beginning of the guide advising that it should be read in conjunction with the Manager Guide for Gender Based Violence
3. Mirror the section within the GBV Manager Guide and add this full section to the Sexual Harassment Manager's Guide.

Decision 14: Sexual Harassment Guide: Programme Board members agreed that Option 2 – to add information at the beginning of the guide advising that it should be read in conjunction with the Manager Guide for Gender Based Violence would be the most appropriate.

Transitioning Guide

1. Feedback suggested that the aim should focus on 'the experience' of colleagues.

PDG agreed to amend the wording to refer to understanding an employee's experience rather than understanding the employee i.e. This guide will help managers and employees understand *the experience of* colleagues who are considering, undergoing, or have undergone a gender reassignment process.

Decision 15: Transitioning Guide: Programme Board members agreed that the aim of the guide should focus on 'the experience' of colleagues. Guide to be updated.

2. Feedback noted that the guide did not mention transphobia or give sufficient specific guidance over the use of toilets and changing facilities.

The PDG note that by definition transphobia is a form of discrimination and will be in scope of the appropriate policy. The guide has been written with a person centred approach to make sure that no employee is disadvantaged. The guide will be reviewed in line with emerging case law in this area.

Decision 16: Transitioning Guide: Programme Board members agreed that the transphobia definition will not be included in the Transitioning Guide to keep it consistent with other guides.

Action 01: Phase 2.2 Policies - all the changes agreed by the Programme Board on 31 January 2025 in relation to Phase 2.2 policies will be added to the change log and shared with the Digital Group in advance of 'go live'.

NP raised that there is also an ongoing appeals case in the Supreme Court and the Transitioning Guide may need minor adjustments after the court case.

NP also noted that gender critical views are permitted as they are protected views under the equalities act.

CH noted that it was agreed that the launch of Phase 2.2 policies is planned for week commencing 17 February 2025.

Decision 17: It was agreed that Phase 2.2 policies will go live week commencing 17 February 2025.

Facilities Arrangements

It was noted that minor changes were identified through feedback.

4. Programme Highlight Report

MH talked through her Programme Highlight Report and provided the group with an update on progress made to date.

Please refer to the programme highlight report for the key milestones for Phase 2.2 and Phase 3.

5. Phase 3 Timeline

MH talked through her Timeline for Phase 3 – Managing Health at Work. **MH** noted that the Service Level Agreement that provides programme management will end on 31 March 2025. It was proposed that the one month public consultation will commence around 18 February. This will enable programme support to collate, sort and commence analysis of the consultation responses.

6. Phase 3 Draft Policies for Public Consultation

CH talked through her Phase 3 Managing Health at Work (MHAW) paper.

CH noted that the PIN policy that is being refreshed in Phase 3 was last updated in 2003.

Programme Board members received drafts of all the policies with the exception of the Control of Substances Hazardous to Health (COSHH) Policy. COSHH Policy took longer due to the large amount of feedback from SMEs. An updated draft of the policy will be discussed with

Health and Safety colleagues on the 4 February 2025. It is anticipated that a final draft will be shared with Programme Board Members on the 10 February for a final approval.

Chief Executive's responsibility

CH referred to SME feedback about including responsibility of the Chief Executive for the health and safety of employees in the workplace in line with legislative requirements. She proposed that this should be included in the overarching responsibilities section on the NHSScotland Workforce Policies webpage. The proposed wording will be added on the webpage.

Action 02: Programme Board members agreed that PDG will draft proposed wording in relation to Chief Executive's responsibility to be added to the responsibilities section on the webpage. This will be shared with the Programme Board members for an approval before publication.

Incident Management Policy

CH noted that the Managing Health at Work PIN Policy includes an incident management policy. **CH** noted parts of this policy were incorporated within the drafts of relevant policy. Any gaps will be considered and if required explore these further with subject matter experts.

Decision 18: Incident Management Policy: Programme Board agreed that there is no requirement for an Incident Management Policy.

Programme Board agreed changes to be made to the Phase 3 – Managing Health at Work policies as per below:

Adverse Weather Policy

CH noted that no feedback had been received from SMEs. Programme Board members discussed experiences of the recent red weather warning and noted that whilst the Adverse Weather Policy linked to the Special Leave Policy, that policy did not refer to adverse weather.

Decision 19: Adverse Weather Policy: It was agreed to wait for consultation feedback to see if there are any comments in relation to the Adverse Weather Policy. Any further feedback to be sought if needed.

Action 03: Wording to be agreed in relation to the Special Leave Policy linking it to the Adverse Weather Policy.

Alcohol and Other Substances Policy

CH noted that this was developed from the Model policy for alcohol issues in the Workplace PIN Policy and that the MHAW PIN also includes a guideline on tobacco, alcohol and other substances. This includes drug and other substance misuse, and drug testing at work. She proposed that drug misuse is covered in this policy. She referred to the 'Guiding Principles' for supporting employees with lived and living experience of problematic substance use' that are being developed by The Scottish Government for employers in Scotland and advised that this document had been considered in developing the NHSScotland policy.

Decision 20: Alcohol and Other Substances Policy: Alcohol and Other Substances Policy to include drug misuse.

Menopause and Menstrual Health Policy

CH noted that there were only minor amendments from the extant Interim Menopause and Menstrual Health Policy DL October 2023, to meet NHSScotland Workforce Policies house-style. She noted that some detail of DL will be included in the guides.

Decision 21: Menopause and Menstrual Health Policy/Guides: Some details of the Menopause and Menstrual Health Policy DL to be included in the guides.

Smoking and Vaping Policy

CH noted that the extant Tobacco Policy has been updated to include vaping and other nicotine products. No SME feedback has been received.

Work-related Violence and Aggression Policy

CH noted that the extant policy includes a sample checklist for Risk factors for workplace violence. Programme Board members agreed that that detail can be considered for inclusion in the guides.

A discussion took place around Criminal Compensation Scheme and support people to report incidents to the police. It was agreed to add the following text into employer and manager responsibilities

- Make sure that employees know they should report incidents to the police and they understand the importance of timely reporting for any potential compensation reasons.

Decision 22: Work-related Violence and Aggression Policy/guides: Information included in the sample checklist for Risk factors for workplace violence will be considered for the guides.

Action 04: Work-related Violence and Aggression Policy to be updated: add into employer and manager responsibilities “Make sure that employees know they should report incidents to the police and they understand the importance of timely reporting for any potential compensation reasons”.

Work-related Stress Policy

CH noted that the extant policy includes a Risk Management Approach to Stress Flowchart and a Model Organisational Stress Audit Policy. The following additions were agreed:

- Added into Employer responsibilities: Make sure that appropriate actions are taken to identify and address workplace stress
- Added to manager responsibilities: Make sure that appropriate actions are taken to identify and support individuals who may be experiencing workplace stress

CH noted that SMEs suggested to widen this into a wellbeing policy and proposed that this is out of scope of the policy refresh remit. The Programme Board agreed.

JO’C referred to the stress flow chart and the importance of a risk management approach at an individual and organisational level. **JO’B** also stated that employers’ responsibilities should possibly mention measuring and auditing with responding at an organisational level.

The Programme Board agreed that for clarification, it would be helpful to add wording to indicate that audits should be undertaken where required. It was agreed that this amendment could be added after consultation.

Action 05: Work-related Stress Policy to include the following:

- Added into Employer responsibilities: Make sure that appropriate actions are taken to identify and address workplace stress
- Added to manager responsibilities: Make sure that appropriate actions are taken to identify and support individuals who may be experiencing workplace stress

Decision 23: Work-related Stress Policy: It was agreed that Work-related Stress Policy will not to be widened to include wellbeing.

Decision 24: Work-related Stress Policy: It was agreed that the measuring and auditing with responding at an organisational level could be added after consultation.

Work-related Driving Policy

CH noted that some risks associated work-related driving may also be relevant for with lone working. This means that there may be two risk assessments for an individual who may be exposed to risks related to both to lone working and work-related driving.

Decision 25: Work-related Driving Policy: It was agreed that in order to address risks associated with driving alone, a risk assessment for driving and lone working would be combined into one document with relevant sections.

Manual Handling Policy

CH noted that the extant policy refers to specific roles of Manual-Handling Advisor or Co-ordinator and separates out responsibilities of service directors and managers. Given that roles will vary between Boards, it was proposed that the detail associated with these roles would be covered generically in the guides.

Decision 26: Manual Handling Policy: A Manual-Handling Advisor or Co-ordinator role details not to be included in the guide and to refer to the role detail associated with these roles in the guides.

Lone Working Policy

CH referred to decision 25. She noted that an SME had voiced a concern that the policy does not reflect policy development work undertaken by the Safety Advisors Network Group (SANG) commissioned by the NHS Scotland Heads of Safety. They noted that reference to the Hierarchy of Control has been replaced with a “person-centred approach to inform the necessary action”. They commented that this is very clinical/patient safety language and is ambiguous as to what it means in relation to lone working. Further comments from the same contributor highlighted the need for detailed risk assessment. She proposed that to reflect house style and a person centred and risk based approach, detail will be included in the guides and accompanying risk assessment.

Decision 27: Lone Working Policy: Lone Working Policy: Programme Board members agreed that the reference to the Hierarchy of Control to be included in guides. Risk assessment to be produced.

Decision 28: Programme Board approved draft Policies – Phase 3 – Managing health at Work for Public Consultation. Public Consultation is planned between 18 February and 18 March 2025.

7. Queries and Requests

NHSScotland Attendance Policy

CH talked through her NHSScotland Attendance Policy Query paper. CH noted that a concern was raised from a Chief Operating Officer about the NHSScotland Attendance Policy. Concerns highlighted included the wording used about ill-health retiral dismissal at the point of stage 3. Specifically, that its intensive to use the word 'dismissal' due to its connotations of ill-discipline which in none of these cases have been evident, and the word 'capability' without any recognition that this is present only because of a permanent debilitating health condition.

CH noted that the Policy Development Group are mindful that incapacity dismissals may also include those for frequent absence as well as ill-health retirals. The Attendance Policy does not distinguish between these and doesn't question the genuineness of the ill-health. Where a dismissal is challenged at a tribunal, the employer needs to be able to demonstrate the claimant was advised that they may be dismissed if their absence doesn't improve.

The policy advocates a person-centered approach, where managers can explain that the reason for the letter wording is that it is a dismissal process on the grounds that unfortunately the employee due to their situation, they are no longer able to fulfil the requirements of the role.

Programme Board members noted that the feedback but agreed that this the wording would not be changed. Those issues will be dealt with at local implementation.

Decision 29: NHSScotland Attendance Policy: Programme Board members noted that the feedback was acknowledged in relation to ill-health retiral dismissal at the point of stage 3. Policy will not be updated and issues will be dealt with at the local implementation.

National Recruitment Policy

CH noted that a paper on the Request for a National Recruitment Policy was shared with the members in advance of the meeting.

CH also noted that has been a request made by the Anchors Applicant Experience Task and Finish Group (a subgroup of the Anchors Workforce Strategic Group for a National Recruitment Policy. The policy would support a consistent and streamlined process and address challenges for those with protected characteristics.

CH confirmed that the Policy Development Group does not have any capacity to produce the policy. The principles are already covered in NHSScotland Policies e.g. Equality, Diversity and Inclusion Policy and in the Employment Checks Policy.

CH suggested that the document could be in a form of a supporting document and the Once for Scotland webpage or a DL document, but it would link to the other workforce policies in terms of the principles e.g. EDI Policy, Employment Cheques Policy etc.

JO'B agreed that there is no requirement for an additional policy.

Decision 30: National Recruitment Policy: Programme Board members agreed that there is no requirement to develop a full National Recruitment Policy and guide or DL document would be sufficient.

NP noted that we need to recognise some mechanism on how new policies are adopted and developed. **CH** advised that a proposal for Business as Usual, post Programme, is being developed.

Action 06: Draft of Business as Usual proposal to be shared in advance of the next Programme Board Meeting.

8. Risk and Issues

The Risk and Issue Register was circulated to the group in advance of the meeting.

In relation to Risk P2-15: **CH** noted that due to a reduction in available resource to support work of the Policy Development Group, there still have not been a replacement for an Employer representative. It was agreed that **JO'B** will liaise with HRDs.

Action 07: **JO'B** to liaise with HRDs to confirm if there is a replacement for Employer representative to join PDG.

In relation to Risk P2-21, it was agreed that the risk can be closed. This is a duplication with Risk P2-15.

In relation to Issue I004 **CH** note that the calculator has been updated and some small changes to be made.

9. Membership

MH noted that the last two Programme Board meetings were cancelled as there was not quorum. There was also a requirement that all the Board members to nominate their deputies if they are not able to join the meeting.

Action 08: Board members to nominate their deputies if they are not able to join the meeting.

AG suggested adding in a risk that the SRO for the programme Board is retiring in October, so a replacement will need to be found.

Action 09: **MH** to add an additional risk around **AG** retirement and a new SRO for the programme after October 2025.

10. Any Other Business

MH asked if Programme Board members can identify deputies to minimise disruption and avoid having to cancel Programme Board meetings, as December and November's meeting were cancelled due to availability.

Action 10: Board members to nominate their deputies.

Next Programme Board Meeting: Tuesday 25th of March 2025 from 13:00 until 15:00 via MS Teams.