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| Meeting: | Board Meeting |
| Meeting date: | 12th September |
| Item Number: | 11 |
| Title: | Agenda for Change Non Pay Reforms |
| Responsible Executive: | Tom Power – Director of People and Culture |
| Report Author: | Philip Shipman – Head of People and Change |

1 Purpose and recommendations

This is presented to the Board for:

- Assurance
 - The Board is asked to confirm it is assured that the arrangements established for local implementation of the non-pay reforms are appropriate to the scope and scale of the programme.
 - The Board is asked to confirm it is assured that due consideration has been given to the potential impact of the reforms on the Board's strategic risks, and how to mitigate these.
 - The Board is asked to confirm it is assured that progress with implementation of the reforms to date is in line with expectations given the different degrees of clarity available nationally in respect of each.
- Decision
 - Noting that Performance Assurance, Finance and Infrastructure Committee (PAFIC) will receive quarterly updates on key performance indicators (KPIs) related to the reforms, and the Staff Governance Committee will also be appraised of progress at least every six months, the Board is asked to advise the frequency with which routine assurance updates are required.

This report relates to:

- Board Annual Delivery Plan deliverables:
 - Implement a reduction in the working week to 37 hours for colleagues on Agenda for Change (AfC).
 - Implement, as far as practicable, a review of Band 5 Nursing roles as part of Agenda for Change reforms.
 - Introduce Protected Learning Time component of AfC non-pay reform and adopt a Human Learning Systems approach in support of improving statutory and mandatory training compliance.
- Government policy/directive
 - 2023 Agenda for Change pay settlement

This aligns to the following NHSScotland quality ambitions:

- Effective
- Person Centred

2 Report summary

2.1 Situation

Detailed work has been progressing in NHS Grampian since the announcement by the Cabinet Secretary in March 2024 that recommended non-pay reforms to terms and conditions for colleagues on Agenda for Change would be implemented in full. Whilst their intent is laudable, these requirements and associated policy changes have generated a large and protracted programme of work that carries significant risks for the organisation in terms of maintaining service capacity, supporting staff engagement and achieving financial balance.

An anticipated gap between the costs of implementation (financial and opportunity cost) and the resources available (additional national funding and local capacity), as well as the relationship with other legislative and policy requirements (implementation of the Health & Care (Staffing) (Scotland) Act 2019, and the requirement to reduce the use and cost of Supplementary Staffing) present complex challenges, as well as potential opportunities in respect of service and workforce redesign. Given the scale of the reforms and potential impact on a number of our strategic risks, they were initially considered at a Board Seminar in May 2024.

2.2 Background

In March 2023, an agreement was reached between the Scottish Government and Trade Unions representing Agenda for Change staff which included pay and non-pay elements. Pay elements were implemented in April 2023 and shortly thereafter work commenced to agree details of the non-pay elements. These are intended to support improved attraction and retention through better terms and conditions, improved work-life balance and better access to continuing professional development.

Health Boards received communications from Scottish Government on 7th March 2024 indicating that the Cabinet Secretary had approved measures in respect of three of these that would come into effect as of 1st April 2024:

- reduce the standard working week for all Agenda for Change staff from 37.5 hours to 36 hours, with an initial reduction of 30 minutes in 2024;
- introduce protected time for learning to enable them to complete statutory, mandatory and profession specific training within working hours;
- review Band 5 nursing roles to enable nurses, should specific criteria be met, to be re-graded to Band 6.

Programme arrangements for progressing in Partnership the work required in NHS Grampian and the HSCPs to implement these reforms were established in April (Appendix A). These were deemed essential to help the organisation implement changes that in respect of the reduced working week and protected learning time directly affect over 90% of the workforce (14,913 individuals) and in respect of the Band 5 review for registered nurses, an as yet unknown proportion of the potentially eligible 2,633

registered nursing staff in substantive roles, and approximately 1,500 “bank-only” colleagues.

Nationally, there is significant collaborative work ongoing by employers to develop parameters, processes and guidance that mitigate the risks that could arise from inconsistent understanding and implementation of the reforms across Health Boards, and the use of the business systems required to implement them. This has included very significant work to prepare existing systems and provide guidance for a range of users on their appropriate use to ensure that changes are reflected in colleagues’ pay. There is strong input from NHS Grampian nationally through the respective professional groups and networks that local colleagues are part of.

Locally, in so far as national agreements and business systems functionality allows, good progress is being made in respect of the reforms, as per the 2024/25 ADP deliverables described in Section 1 above. A report of progress is attached in Appendix B, and it is noted here that:

- By mid-August, 62.4% of all Agenda for Change staff had moved to a 37 hour working week, a number equivalent to at least 81% of those non-rostered staff confirmed in June as a priority for implementation by end of August.
- Work to understand the statutory and mandatory to role learning requirements across job families is underway, pending publication of the national protected learning time work plan expected in September.
- Band 5 nurses have been encouraged to discuss with their line manager and, if agreed appropriate, submit applications for consideration to the national portal for these job reviews hosted by NHS Education for Scotland (NES).

There is however an issue with detail available locally from the national application portal about the number of Band 5 Nurses applying (by mid-August this was understood to be just over 1,000 nationally from a headcount of approximately 27,800 Band 5 nursing staff). A local Data Processing Agreement is being finalised with NES to allow sharing of this information.

Notwithstanding the progress above, the local implications of these changes remain potentially profound, particularly when elements that reduce core “plain time” capacity such as the reduced working week and protected learning time are set alongside the requirement to ensure safe staffing levels whilst also reducing supplementary staffing use. This is in a context where our system capacity already struggles to meet demand, and business systems modernisation affecting HR, Finance and Payroll is once again being progressed.

With reference to our strategic risks, these are summarised as follows:

Risk ID 3130 – Ability to deliver PFTF (Plan for the Future) due to financial constraints

To date, Scottish Government has committed £200m non-recurrently to fund the reforms, with NHS Grampian’s NRAC share amounting to £19.6m. We have shared with Scottish Government that our modelling indicates that this is likely to be insufficient given that (i) there is an immediate liability for providing back pay to any Band 5 Registered Nursing staff and (ii) any hours in excess of 37 worked by Agenda for Change staff are payable, including at overtime rates for full time staff.

A range of scenarios for the two primary cost drivers - reduced working week and Band 5 regrade – have been developed (Appendix C). Only a very conservative estimate of 25% of Band 5 Registered Nurses being re-graded to Band 6, and 50% of the hours lost from introduction of the initial 30 minute working week reduction requiring to be bought back in some way, would not add to our in-year deficit. A further 60 minute reduction in the working week from 2025 would add £1m annually. This assumes that levels of re-grading and capacity requiring to be recovered remain the same, and that there is a continuation of the £19.6m 'non recurrent' national funding provided in 2024/25. It is thus deemed at best a possible rather than probable scenario.

As a minimum, essential programme implementation support costs are expected to be £174k and £258k for the first two years respectively (Appendix D). This does not include the amount of "job matcher" capacity required for the Band 5 nursing review, which is still to be finalised for the reasons alluded to above.

Risk ID 3065 – Ability to deliver planned and unplanned clinical services

Given the potential impact on planned and unplanned service delivery in the short and medium-term, the lost workforce capacity arising as a result of these changes is a source of significant concern. Once the full reduction to 36 hours is taken in to account, total lost hours will equate to 516 x WTE (whole time equivalent), of which 250 x WTE will be registered nursing staff capacity. Even if there were the funding to do so, it is uncertain that this can be recouped on a like for like basis.

Added to the financial limitations described above, and the need to meet the requirements of the Health and Care Staffing Act, this degree of impact creates impetus and increased urgency for service redesign and / or further workforce diversification. However, this also carries risks in terms of the specialist capacity required to support change and ensure it is delivered in line with agreed policy.

Risk ID 3125 – Ability to maintain workforce engagement

Whilst there will clearly be some financial and working time benefits for many Agenda for Change staff from the reforms, the above illustrates that there could be negative impacts both for this cohort, and for colleagues on other terms and conditions whose work is interdependent with the directly affected group.

Additionally, there is concern at national level about the impact that the reform programme is having on specialist Human Resources, Payroll and Rostering teams. This is exacerbated by the national Business Services Transformation programme requirement for subject matter experts to support the commissioning, procurement and implementation of new Finance, HR and Payroll solutions. These are badly needed, but current capacity is struggling to support the work.

The above is in a context of parallel in-year pay negotiations for both Agenda for Change and medical staff, including reforms to Junior Doctors' terms and conditions following an acrimonious pay dispute in 2023.

Managing Risks and Opportunities

When discussing the reforms in May, and the risks and opportunities they present, the Board noted that:

- It is important to ensure the positive intent of the reforms, and the

potential long term benefits for attraction, retention and wellbeing, remain a focus when communicating with colleagues.

- The in-year pay negotiations for 2024/25 present an opportunity at national level to explore further the implications of the reforms, and what further agreements may be helpful in this respect.
- Due to recruitment and retention challenges, NHS Grampian could be an outlier in terms of the proportion of nursing staff eligible for Band 6 re-grade due to taking on additional responsibilities.
- It would be important for the Chief Executive Team to discuss the challenges of implementation with the NHS Scotland Chief Operating Officer at the six monthly sponsorship meeting in May.
- The implications of the reforms for transformation of services needs to be understood, and reflected in the planning and prioritisation at service and organisational level.

Given the potential impact on the three strategic risks described above, in addition to progress updates being shared with the Staff Governance Committee, it was agreed that the Board would receive periodic updates around the broader strategic picture for assurance purposes. This paper represents the first of these updates.

2.3.1 Quality/ Patient Care

Following the Board Seminar, the Chief Executive Team discussed the implications of the reforms in depth at a critical thinking session on 10th May. The gap between the five to ten year timeframe for system transformation and the near term impacts of the reforms was recognised as a risk. This was particularly apparent in relation to the reduction of the working week, and the implications of reducing to 36 hours from 2025, representing a cumulative 4% reduction in Agenda for Change staffing capacity.

In addition to highlighting the concerns about the impact of implementing the reforms with the NHS Scotland Chief Operating Officer, it was agreed that when appointed the programme manager would work with services to help them model the cumulative impact of the reforms in order to inform service planning and redesign. This role has now been appointed to, and the post holder will commence in September 2024.

2.3.2 Workforce

Whilst the long-term aims of the reforms are laudable, it is apparent from discussions at the Programme Board and Grampian Area Partnership Forum that there are concerns for some colleagues about the capacity and workload implications of a reduced working week, the deliverability of protected learning time on top of this, and the financial and workforce composition impacts of large numbers of band 5 nursing staff being re-graded to Band 6.

Monitoring through the programme board and regular discussions at Grampian Area PGAPF will help to determine the impact of those reforms that influence capacity for service delivery. This, in turn will inform ongoing assessment of our strategic risk on workforce engagement and efforts mitigate negative impacts. In respect of the band 5 review, the Chief Executive,

Executive Nurse Director and Director of People & Culture have all stated publicly that colleagues should not be deterred from applying by the financial impact on the organisation.

2.3.3 Financial

As far as they are known, the financial implications have been described above. The Deputy Director of Finance sits on the Programme Board, and there is a regular agenda item in respect of financial issues. All decisions on implementation infrastructure costs have been subject to Programme Board review, and fixed term posts proposed as part of these arrangements are also subject to scrutiny as part of vacancy control process.

It was agreed that in order to mitigate the risk of an above average proportion of Band 5 nurses being re-graded to Band 6, as identified above, being seen as unwarranted variation, another Board would be asked to act as a critical friend / to provide scrutiny of our local process, This has been proposed to North of Scotland HR Directors, who are supportive of a reciprocal support arrangement in this respect.

2.3.4 Risk Assessment/Management

As well as the assessment provided in this paper about the potential impact on NHS Grampian's Strategic Risks, which are the subject of periodic review by the Chief Executive Team, the Programme Board has also tasked all sub-groups with maintaining risk registers, and regularly reviews and updates an issues log relating to escalated risks and how these are being handled.

2.3.5 Equality and Diversity, including health inequalities

Not applicable to this update. Responsibility for Equality Impact Assessment of the reforms rests with Scottish Government,

2.3.6 Other impacts

As described above, other impacts of the reforms noted include the use and modernisation of Business systems, meeting the requirements of the Health & Care Staffing Act, and maintaining reductions in Supplementary Staffing use.

2.3.7 Communication, involvement, engagement and consultation

Corporate Communications colleagues sit on the Programme Board, and a standard agenda item agrees key messages to be shared via the Daily Brief. Regular updates are provided to and discussions held at GAPF. These have been supplemented by questions in the Ask Adam Chief Executive Q&A.

A broad and inclusive approach was taken to developing the programme management arrangements through an open invite steering group, modelled on the approach taken to planning for possible Industrial Action in 2023.

Rather than adopting a prescriptive approach from the outset, teams have been invited to make proposals once discussed in partnership. This has seen a positive response with the vast majority of staff required to have reduced their working week by August having done so at the time of writing.

2.3.8 Route to the Meeting

- Discussion at NHS Grampian Board Seminar – 9th May
- Discussion at Chief Executive Team Critical Thinking – 10th May
- Update paper to Staff Governance Committee 24th April
- Annual Delivery Plan Assurance paper to Staff Governance Committee 6th June
- Progress updates to CE Team Business Meetings - 26th June and 6th August
- Progress update at Staff Governance Committee – 22nd August

2.4 Recommendations

The Board is asked to:

- Confirm it is assured that the arrangements established for managing implementation of the non-pay reforms are appropriate to the scope and scale of the programme.
- Confirm it is assured that due consideration has been given to the potential impact of the reforms on the Board's strategic risks, and how to mitigate these.
- Confirm it is assured that progress with implementation of the reforms to date is in line with expectations given the different degrees of clarity available nationally in respect of each.

Future reporting

- Noting that PAFIC will receive quarterly updates on KPIs related to the reforms, and the Staff Governance Committee will also be appraised of progress at least every six months, the Board is asked to advise the frequency with which routine assurance updates are required.

3 List of appendices

The following appendix/appendices are included with this report:

- Appendix A - Programme Governance Arrangements – April 2024
- Appendix B – Staff Governance Flash Report on progress – August 2024
- Appendix C – Financial modelling scenarios – April 2024
- Appendix D – Essential implementation support costs – August 2024