

NHS Lothian

Staff Governance Committee

Minutes of the meeting of the Staff Governance Committee held at 9.30 on Wednesday 1 March 2023 via Microsoft Teams.

Present:

Mr W. McQueen, Non-Executive Board Member (Chair); **Mrs J. Butler**, Director of Human Resources and Organisational Development; **Miss T. Gillies**, Medical Director; **Mr A. Fleming**, Non-Executive Board Member; **Ms F. Ireland** Executive Board Member.

In Attendance:

Mr C. Campbell Chief Executive; **Mr J. Crombie**, Deputy Chief Executive; **Mrs R. Kelly**, Deputy HR Director; **Mrs A. MacDonald** Executive Nurse Director; **Mrs A. Langsley**, Associate Director of OD & Learning; **Mrs G. McAuley**, Nurse Director, Acute; **Mr D. Thompson**, Board Secretary; **Ms J. Clark**, Partnership Representative; **Ms. A. McGowan**, Healthcare Assistant; **Mrs L. Barclay**, The Whistleblowing Programme and Liaison Manager; **Ms H. Fitzgerald**, Partnership Representative; **Mr D. Low**, Clinical Nurse Manager, Mental Health; **Ms. L Buchanan**, Clinical Nurse Manager, Community Health Visitors; **Mr N. McAlister**, Head of Workforce Planning, Human Resources (Item 7.1); **Mrs N. Clancy**, Head of Employee Relations (Item 7.1); **Mrs J. Duncan**, Head of Recruitment (Item 7.5); **Ms. B. Wilson** Programme Manager Falls, AHPs (Item 2) and **Mr G. Ormerod**, Committee Administrator (minutes).

Apologies: **Ms N. Akta**, Non-Executive Board Member; **Ms K. Kasper**, Non-Executive Board Member; **Mrs T Miller**, Employee Director; **Mrs J. Campbell** Chief Officer, Acute **Mrs M Carr** Service Director, DATCC **Mr S. Chandran** Non-Executive Board Member; and **Ms M. Campbell** Director of Facilities.

Chair's Welcome and Introductions

Members were reminded that they should declare any financial or non-financial interests they had in the items of business for consideration, identifying the relevant agenda item and the nature of their interest. No interests were declared. The Chair also welcomed as observers some of the participants in the Talent Management and Succession Planning programme.

47.0 Declaration of Conflicts of Interest

47.1 No interests were declared.

48.0 Presentation – Women's Staff Network

48.1 Ms Wilson provided an update on the Women's Staff Network that launched in December. The network provides peer support, encourages talent, skill development, and collaboration, and promotes and celebrates achievement and success.

48.2 The current focus is on the start-up phase and administration, and the communications team has recently designed a logo for the network. The network is open to all staff.

- 48.3 The network meets quarterly, with the next meeting on International Women's Day, March 8th, focusing on the gender pay gap and featuring guest speakers who will provide information on how to try to address the gender pay gaps.
- 48.4 Ms Wilson confirmed that a survey will be distributed this year in order to collect feedback from staff and gain insight into the membership. We hope to continue with coffee roulette and learn more about our job families through a book and walking group, with each network working collaboratively.
- 48.5 The Chair congratulated the network for accomplishing so much in such a short period of time. He asked what the issues were that had been brought to their attention, and if career advancement was one of them. Ms Wilson confirmed that this was a key topic for development in the medical and clinical directorates, with women interested in progress. There are currently no other boards with women's networks.
- 48.6 The Director of HR and OD thanked Ms Wilson for her presentation and confirmed that the women's network is a "trailblazer," with some areas just getting started. She inquired as to what assistance senior leaders could offer the network.
- 48.7 Ms Fitzgerald inquired whether the network was available in all areas. Ms Wilson stated that men are welcome to help advance the network, but this has not been mentioned thus far. These are staff-maintained networks, but we would welcome new members and support.
- 48.8 The Committee agreed to revisit the women's network in a year's time. **RK**

49.0 Minutes and Action Note of the Previous Meeting of the Staff Governance Committee held on 14 December 2022

- 49.1 The minutes of the previous meeting were approved as an accurate record. All actions are up to date.

50. Matters Arising

- 50.1 There were no further matters arising.

51.0 Staff Experience

51.1 Advancing Equalities Action Plan 2022/23 – update

- 51.1.1 The Deputy HR Director provided an update on the Advancing Equalities Action Plan, which was launched in April of last year, and confirmed that Appendix 1 shows the status of actions to date, with the majority now completed.
- 51.1.2 The Lothian Partnership Forum accepted the Reasonable Adjustments Guidelines following the last Committee meeting in December 2022, with an awareness campaign beginning in March 2023.
- 51.1.3 The Deputy HR Director confirmed that the CMT and the Lothian Partnership Forum approved a statement of intent (Appendix 2) to be included with our recruitment materials as part of the review of our recruitment, employability, and career materials to ensure that they are fully inclusive and used as appropriate.

51.1.4 The following areas have also been progressed:

- Coffee Roulette continues to be rolled out across the organisation.
- Equality and Diversity data is being pulled on our HR processes and will be presented at the May Committee meeting as part of the annual Equality and Diversity Monitoring Report.
- LGBT work continues, although with difficulty due to work commitments; leaflets are being distributed by the National Network Group as an interim measure.
- The new Equality, Human Rights and Inclusion Strategy has a strong focus on education and training for both employment and service delivery; the training planned as part of the Action Plan this year, will be carried forward into next year as part of a new strategy led by Laura Hutchinson.
- The Disability passport disability work will be picked up in the coming year to supplement Reasonable Adjustments Guidance.
- The work on Disability Confident status has progressed, allowing the Board to apply for Level 3 status. A meeting with Disability Confident Scotland is being planned for March to finalise the arrangements and to seek assistance from an external sponsor to support our level 3 application.

51.1.5 The Chair suggested that all non-executive board members participate in Coffee Roulette during their first year. The Director of HR and OD confirmed that this was a reasonable plan to implement.

51.1.6 Ms Fitzgerald left the meeting.

51.1.7 The Deputy Director of HR confirmed that we are working closely with the Staff Networks to see if things are making a difference, with the monitoring report due out in April with comparison data. She also confirmed that we are working on BME and disability issues, but that staff must have the confidence to tell people so that we can get a better picture of the population's makeup.

51.1.8 The Committee accepted moderate assurance about progress in implementing the actions outlined in the Advancing Equalities Action Plan 2022-23.

51.2 Whistleblowing

51.2.1 The Director of HR and OD provided an update on the Whistleblowing report, which is a standard report that comes to this Committee.

51.2.2 She confirmed that one case has been with the Independent National Whistleblowing Officer (INWO) since August 2022, along with a complaint about the Board's handling of a specific case. We are still discussing how the INWO intends to proceed with these investigations.

51.2.3 The Board was made aware of a second whistleblowing complaint received by the INWO in January regarding the Board's handling of another case. The INWO requested a number of documents in order to conduct their investigation. These documents have been provided, but we have yet to receive any further correspondence from the INWO regarding their preferred course of action.

51.2.4 The Director of HR and OD confirmed that we had previously agreed to share communications from whistleblowing reports with the services. She explained that while there is a need to protect whistleblowers, we also want to be open about any investigations and their outcomes. Appendix 3 describes and demonstrates the communication process.

51.2.5 New questions about whistleblowing and raising concerns will be added to iMatter surveys. The questions will ask if you feel comfortable raising concerns with the board, and if so, are you confident that they will be addressed appropriately? The Director of HR and OD confirmed that we lack data on this, but when we publish the reports, we always include a communications piece to raise concerns, either through whistleblowing or a "Speak Up" campaign.

51.2.6 The Chair approved the confidentiality processes but expressed interest in knowing what they were and that we had not breached anyone's confidentiality. The Director of HR and OD confirmed that only a few people are aware, and this is one of the INWO questions. The Whistleblowing Programme and liaison manager usually check in with the whistleblower, but this information is only shared with those who need to know.

51.2.7 The Committee accepted moderate assurance that the current process provides staff with assurance and noted that no cases have occurred since the last report.

51.3 Mini Z Survey Tool – update

51.3.1 The Associate Director of OD & Learning provided the Committee with an update on the Mini Z Survey Tool. She explained that colleagues are aware of the wellbeing work and burnout scales, and that the Mini Z was developed as a result of this work; Z stands for zero burnout and ranks employees across seven core domains.

51.3.2 Appendix 1 shows the dashboard after the team has run the data. We're currently collaborating with Women's and Children's Services to run tests of change in April and May.

51.3.3 The Associate Director of OD & Learning confirmed that the tool will be used to help reduce burnout and understand whether employees had a positive or negative experience. There are 17 questions divided into seven domains: work enjoyment, burnout, autonomy and control, meaning and purpose, physical and psychological safety, teamwork and camaraderie, and wellness and resilience.

51.3.4 The Committee accepted moderate assurance that this work is now in the testing phase.

51.4 Agile Working update

51.4.1 The Director of HR & OD provided a brief update on the Agile Working Model and confirmed that the Waverley Gate evaluation framework is underway, with a current hybrid working model in place for services located at the building. She confirmed that we are currently reviewing what is needed going forward, as well as the future of Waverley Gate, as the lease is set to expire in May 2025.

52.0 Assurance and Scrutiny

52.1 Corporate Risk Register

52.1.1 3455 –Management of Violence and Aggression

- 52.1.1.1 The Executive Nurse Director provided an update on Violence and Aggression (V&A) and confirmed that the program's main focus would be the output of an internal audit. The audit compliance resulted in a number of actions, and when the Programme Board met, it was agreed to pursue a broader range of actions and embed these actions to keep people safe.
- 52.1.1.2 The report requested overall limited assurance and moderate assurance on individual aspects of the programme, with some of this work taking longer than anticipated in terms of compliance. The Executive Nurse Director stated that one of the most pressing issues is training, and she confirmed that a training review took place in December and a workshop in January. Training materials will be updated, and a business case is expected by the end of March in terms of resources required.
- 52.1.1.3 Training for purple packs and risk assessments is now done electronically, allowing the team to focus on areas where training is most needed.
- 52.1.1.4 The Chair asked what the business case would achieve. The Executive Nurse Director confirmed that this will demonstrate compliance in terms of staff training and reduction of violence and aggression. We already know we can demonstrate compliance throughout the organisation, but this will fall under the remit of each local Health and Safety Committee (H&S) to link into each local committee. Electronic recording will make it easier to report to committees both locally and across Scotland.
- 52.1.1.5 The Chair confirmed that local Health and Safety Committees are providing a lot of assurance. The Executive Nurse Director confirmed that the business plan is based on the resources required to deliver the training; we are relocating resources that are currently in use and on training strategy.
- 52.1.1.6 Mr Fleming inquired about the timeline for the rollout of these devices. The Medical Director stated that there were challenges when the devices were rolled out, but cohorts one and two are complete and there are four cohorts.
- 52.1.1.7 The Committee agreed with the recommendations and findings, noting that the overall risk remained high.

52.2 3828 – Nurse Workforce – Safe Staffing Levels

- 52.2.1 The Executive Nurse Director provided an update on the Safe Staffing Levels and confirmed that this is a regular report that is provided to the Committee in order to provide an update on nurse staffing across the organisation. She confirmed that we still have a large establishment gap but that this has decreased with the appointment of the newly qualified staff.

52.2.2 The following updates on safe staffing levels were provided:

- A Nursing and Midwifery subgroup was formed to share knowledge and develop a nurse recruitment structure for the workforce planning and development board.
- Four subgroups have been formed, each led by one of the nurse directors, and a fifth group for corporate nursing, including IPCT, is to be established.
- Two groups have been formed to investigate the overall recruitment and supplementary staffing control groups. The recruitment team has concentrated on the general recruitment of Band 2-5 nurses and the enhancement of that team in order for us to return to our pre-Covid positions. 1 application, 1 interview, and 1 job
- Local recruitment is taking place at SJH and REAS to match people with jobs.
- We want to reduce supplementary staffing, including agency staffing, and hire our own people instead of paying high agency fees. The group is working on a collaborative approach for Scotland, local systems are in place to support the national focus.
- International recruitment is still ongoing, with 20 people already hired, and with another 6 expected before the end of March 2023 and 14 expected in the first quarter of next year.
- Developed a Band 4 access route with local colleges for the September intake and continue to work with colleges for a Band 2 skills boost.

52.2.3 The Chair thanked the Executive Nurse Director for the update. He mentioned that sickness absence in January was 50% higher than the previous year. The Executive Nurse Director stated that many employees are exhausted after Covid, which is a concern because stress is presenting itself more than usual. We are focusing on employee well-being and listening to their suggestions for being more flexible with different levels of leave and a different approach to working hours.

52.2.4 Ms Clark left the meeting.

52.2.5 The Committee agreed that the risk was still very high and accepted the actions and recommendations.

52.3 5020 – Water Safety

52.3.1 The Medical Director provided an update on water safety and confirmed that the risk remains the same, but there is an increase in control of actions from facilities that are following up on letters to third-party contractors, with two-thirds of these completed. Legionella tests are still being conducted in areas where it has been identified.

52.3.2 The Committee noted that the Health and Safety meeting agreed to have the water safety group sign off on the SOP for removing British Standard (SMTF01) water filters, which will be reported through the Health and Safety group. It was decided that changing the SOP was less risky than waiting for national direction. At the next meeting in May, an update and report will be presented.

52.4 3328 – Traffic Management

- 52.4.1 The Chair confirmed that the Director of Facilities had sent her apologies for today's meeting, but that the traffic management update had not changed. A report would be presented at the next meeting in May.

52.5 Health and Safety Assurance

- 52.5.1 The Medical Director provided an update on the Health and Safety Assurance and confirmed that the report includes a summary of the minutes from the local committees, as well as risks that will be reviewed over the next year to support the framework and ensure that we are discussing the right things.
- 52.5.2 The following have been an area of focus:
- The Purple Pack action will be reopened in order to ensure that the risk assessment is adequate and that teams can complete it easily.
 - A fire officer has been appointed, and an updated fire safety paper, as well as a local review of management teams and the reintroduction of face-to-face fire training, have been produced.
 - A review of 12 risk areas is currently underway, with a higher level of clarity required in comparison to standard reporting. Due to the high level of temporary staff and the risk of longer-term patients using devices, REAS has been identified as a fire risk area. The risk can be reduced, but only with appropriate planning and training.
- 52.5.3 The Medical Director asked the Committee to accept the assurance levels generated by the local Health and Safety Committee, as evidenced by minutes and the assurance overview.
- 52.5.4 The Chair stated that there are major compartmental issues in wards and that it is unclear from the report how quickly these will be resolved, as well as whether areas are comfortable with their current evacuation, training, and safety arrangements.
- 52.5.5 The Medical Director confirmed that compartment sleeping is an infrastructure issue, and that structural reviews will take place over the next 12 months. The problem is with Estates and Facilities, as well as Consort for RIE. There is an increased risk to evacuations, but we keep the policy up to date, and this is discussed at local meetings.
- 52.5.6 The Deputy Chief Executive advised this is a work programme that is currently underway in non-patient and service department areas. An audit of the work completed is satisfactory, and the work completed is appropriate. The following steps will involve ward areas, decanting, and clearing space for wards to be cleared; we hope to do parts of wards rather than clearing all wards, and this work is expected to take six months. Consort is required to have L1 fire; we are currently at L2+. A formal letter was sent to Consort requesting L1 fire safety in all areas. George McGrandles is reviewing evacuations and compartment areas, which may result in a change in fire routes.
- 52.5.7 Estates and Facilities Risk Assessment has confirmed that work at SJH will be completed soon and work at WGH has begun, but survey work will take 3-6 months

and is subject to capital investment. Acute leadership continues to prioritise fire training.

52.5.8 The Medical Director emphasised one point of clarification for the report, namely that the comments from the East Lothian Care Partnership pertain to Belhaven Hospital. Patients in Belhaven are cared for by carers rather than hospital personnel.

52.5.9 Mr Crombie left the meeting.

52.5.10 The Committee took note of the report's updates and approved the assurance levels and key risks for Q3.

52.6 Employment Tribunal Annual Update Report

52.6.1 The Deputy Director of HR confirmed that at the most recent Committee meeting, we provided an update on Employee Tribunal cases that go to the Remuneration Committee, detailing any cases involving financial settlement.

52.6.2 The purpose of this report is to provide an update on the Employment Tribunal cases filed against the board in 2022-23. There were 17 employment tribunals in total, with 8 settled or withdrawn, 2 awaiting judgement, and 7 currently ongoing.

52.6.3 The Deputy Director of HR provided an update on the following cases:

- Case 1: Unfair dismissal and discrimination on the grounds of sexual orientation: The tribunal found in favour of the claimant in that the process of his dismissal had been unfair but awarded no financial settlement as the claimant was culpable for the breakdown in the working relationships that led to their dismissal.
- Case 13: Flexible Working Request: A small financial settlement of c£3k was made to the claimant prior to any ET hearing due to a breach in process in considering their original application, and their application will now be reconsidered and a final outcome provided.
- Case 4 (Judgement): Unfair Dismissal and Disability Discrimination, currently going through an employment tribunal, was unsuccessful in one area and failed to provide a reasonable adjustment. Settlement of £11k.
- Case 12 (Judgement): Constructive Dismissal due to Bullying and Harassment: Claimant did not have the relevant 2 years' service needed to raise an ET case as they previously worked on a self-employed basis before taking up a contract of employment on 1 November 2020, which is less than 2 years from their date of resignation.

52.6.4 Reasonable adjustment guidance has been developed and will be implemented during March. That will be beneficial as a key piece of learning.

52.6.5 The Chair acknowledged the report and stated that another annual report would be issued the following year. The Committee welcomed the paper for providing detailed information about each case and emphasised reasonable adjustment as good practise.

52.7 Ethical Recruitment

- 52.7.1 The Director of HR and OD provided an update on ethical recruitment and confirmed that the Corporate Management Team (CMT) has agreed not to proceed with any recruitment from red listed countries.
- 52.7.2 She confirmed that we had received a number of applications from Nigeria for single positions, but that the decision had been made not to recruit from African countries. The Scottish Government has stated that this is a decision for individual boards and has expressed support for NHS Lothian's position even although another Board has agreed to recruit passively from red-listed countries.
- 52.7.3 Mr Fleming questioned whether or not we were indirectly discriminating against their race. The Director of HR and OD confirmed that many of the nurses are not NMC registered and do not meet the job requirements.
- 52.7.4 The Committee agreed and supported CMT's decision not to undertake any recruit from countries on the red list.

53.0 **Sustainable Workforce**

53.1 Workforce Report

- 53.1.1 The Deputy HR Director confirmed that the Workforce Update is a standard report that comes to this Committee, and the workforce report for February 2023 is attached. This month's report focuses on sickness absence.
- 53.1.2 The Head of ER provided an update and confirmed that the ER Team are working with specific areas and cases on a referral basis, with a strategic approach to problem areas that includes on-site drop-in sessions and regular calls with managers for difficult cases.
- 53.1.3 Monthly training delivered by advanced practitioners had low attendance, but ER bite size lunch sessions were set up and are well attended; sessions are being recorded for sharing, and sessions are being targeted for service area support focusing on return to work and attendance management.
- 53.1.4 The Lothian Work Support Service for Rehabilitation is being piloted for staff in Health and Social Care at St John's Hospital, with the innovative project offering self-referral case management and assisting staff who are suffering from long Covid.
- 53.1.5 Ms Fitzgerald inquired as to whether there was a link between sick leave and reasonable adjustment and/or flexible working. The Head of ER emphasised the organisation's generosity in terms of the number of policies in place to help employees manage their work-life balance, as well as its "one for Scotland" approach. The most common reasons for absence are parental and special leave, but we are now aware of employees taking sick leave as an alternative.
- 53.1.6 The Head of Workforce Planning reported that leavers and turnover are up over the last three years and up from last year. The percentage of nurses who retire and return has increased from 20% to 30%, and the number of registered nurses has increased to 47%, which is helping to fill the gaps until the next output in September.

53.1.7 Mr. Fleming noted that staff appraisal compliance, at 43%, appears to be low. The Director of HR and OD agreed, but noted that this is a "wicked issue" and that more conversations are taking place to make things easier for staff. She confirmed that reducing this work during Covid was also necessary at the time to alleviate system pressures.

53.1.8 Mr. Fleming highlighted the decrease in bullying and harassment cases. The Head of ER explained that while there was a drop in cases in February 2022 this could be due to a number of staff raising concerns about the same issue.

53.1.9 The Committee approved the report's recommendations, and the Chair praised the report's excellent layout and structure, which detailed complex information and trends.

53.2 COVID Workforce Recovery

53.2.1 The Director of HR and OD provided the Committee with an update on the Covid workforce recovery plans.

53.2.2 She confirmed that the fixed term contracts in the TAP service had come to an end, but she also stated that there is no financial risk to the workforce because employees will be redeployed. The action is being processed by a financial workstream and will be presented to the Finance and Resource Committee (F&R).

53.3 Industrial Action update

53.3.1 The Director of HR and OD provided an update on the industrial strike action and as confirmed at our last meeting three trade unions had rejected the 2022/23 pay offer following a consultative ballot.

53.3.2 As a result of the potential for industrial action, an attempt has been made to resolve through the 2023/24 pay offer in order to manage the outstanding actions. This process is being led by the Scottish Government. Trade Unions are currently consulting on the 2023/24 pay offer..

53.3.3 The Chief Executive highlighted the direct and indirect financial costs in relation to the proposed work around the band 5 roles, and also the proposed the reduction in the working week. Management has been advised to work through the details, but is currently unable to sign this off without assessing the implications. He confirmed that this will be discussed with Scottish Government because it is a significant indirect pay cost to Boards.

53.4 Education Governance Board update

53.4.1 The Associate Director of OD & Learning provided an update on the Education Governance. The Board's task is to oversee standards and improve NHS Lothian's quality of education and training.

53.4.2 The work plan for 2022-23 currently includes two actions: the first is to develop guidance and a toolkit to support de-escalated Recognition of Prior Learning (RPL), and the second is to develop a new line manager induction programme.

53.4.3 The Associate Director of OD & Learning confirmed that the Committee's request for 2022-23 was to accept a limited level of assurance and proceed with the need to establish an Employability Programme Board. She confirmed that, based on the memberships of both groups, there is likely to be some overlap with the Education Governance Board (EGB), and it was therefore agreed to move towards a new Terms of Reference and form an Education and Employability Programme Board (EEPB).

53.4.4 The Education and Employability Programme Board (EEPB) will continue to collaborate with schools and the organisation's younger workforce while focusing on NHS Lothian as an anchor institute for education governance.

53.4.5 The Committee agreed to provide limited assurance that the education governance board fully met its remit in 2022-23.

53.5 East Region Recruitment Service update

53.5.1 The Head of Recruitment provided an update for the East Region Recruitment Service, confirming that the service is now operational.

53.5.2 Recruitment levels have remained high, and a number of staff changes have occurred but the Team continue to focus on the delivery of core recruitment activities and the improvement of standards and practises. She confirmed that while progress has been slower than expected, we are still aiming for core business in April and closing workforce gaps.

53.5.3 The East Region Recruitment Performance Oversight Group was formed in January 2023 to oversee the regional service's performance in relation to the shared service agreement. Group meetings will be held monthly for the first six months, then quarterly, with individual meetings with each board for performance delivery.

53.5.4 The Head of Recruitment confirmed that currently the workforce is focusing on their own health board recruitment; teams are still working in their original alignment, but there has been some staff movement, with the plan to move to a shared pool for the shared service.

53.5.5 Mr Fleming suggested a Gateway 5 review and asked if it would be helpful to revisit the original business plan in the transition from business plan to business as usual. The Head of Recruitment confirmed that we have benefit realisation plans, which we will review to see how we are progressing so that we do not lose focus.

53.5.6 The Chair acknowledged the progress and suggested that a one or two-page summary of the expected benefits and an assessment of where we are now be provided at the October meeting.

53.5.7 The Committee took note of the recommendations and the progress made thus far.

54.0 For Information and Noting

54.1 Staff Governance Work Plan 2022-23

54.1.1 The Committee noted its work plan for the current financial year.

54.2 Staff Governance Assurance Statement 2022-23

54.2.1 The Committee accepted the updated Statement of Assurance for 2022/23.

54.3 NHS Lothian Internal Audit Report - Statutory and Mandatory Training

54.3.1 The Committee accepted the Internal audit report for statutory and mandatory training.

55.0 Reflections on the Meeting

55.1 Matters to be highlighted at the next Board meeting

55.1.1 There were no further matters arising.

55.2 Matters to be highlighted to another Board Committee

55.2.2 There were no further matters arising.

56.0 Any Other Competent Business

56.1 There were no further matters arising.

57.0 Date of Next Meeting: Wednesday 31 May 2023