

**NHS BOLTON CLINICAL COMMISSIONING GROUP
Public Board Meeting**

AGENDA ITEM NO:10.....

Date of Meeting:23rd March 2018.....

TITLE OF REPORT:	Greater Manchester Health & Social Care Partnership – Continuity of Service Protocol	
AUTHOR:	Greater Manchester Health & Social Care Partnership	
PRESENTED BY:	Melissa Laskey, Director of Service Transformation/Deputy Chief Officer	
PURPOSE OF PAPER: (Linking to Strategic Objectives)	<p>This Protocol recognises that staff play a vital role in the delivery of high quality public services and that high quality employment in public services plays a vital role in the functioning of the Greater Manchester economy and society.</p> <p>During 2017, the Workforce Engagement Board articulated its commitment to a proposal for recognition of continuity of service on a voluntary change of employer between Local Authorities and NHS Employers within Greater Manchester. It should be noted that changes through restructure or transformation already have the protective rights of TUPE.</p> <p>The protocol has been subject to discussion with employers through the various governance structures in GM and, whilst adoption of the protocol is voluntary, the Workforce Engagement Board has strongly recommended adoption by all local authority and NHS organisations from 1 April 2018.</p> <p>The attached reports detail the work undertaken so far and the request from GM that all GM CCGs and Local Authorities sign up to the protocol from 1st April 2018.</p> <p>This request to adopt the protocol does not include General Practices in Greater Manchester.</p>	
LINKS TO CORPORATE OBJECTIVES (tick relevant boxes):	Delivery of Year 1 Locality Plan.	
	Joint collaborative working with Bolton FT and the Council.	√
	Supporting people in their home and community.	
	Shared health care records across Bolton.	
	Regulatory Requirement	√
	Standing Item	

RECOMMENDATION TO THE BOARD: (Please be clear if decision required, or for noting)	<p>The Board is recommended to approve to fully implement the Greater Manchester Continuity of Service Protocol with effect from 1st April 2018.</p> <p>Our major partner organisations in Bolton, Bolton Council and Bolton NHS FT are also supportive of this protocol and are taking it through their own approvals processes.</p>
COMMITTEES/GROUPS PREVIOUSLY CONSULTED:	<p>GM Provider Federation Board. GM Association of CCGs. Strategic Partnership Executive. Workforce Engagement Board. Directors of HR across GM.</p>
REVIEW OF CONFLICTS OF INTEREST:	<p>Conflicts of Interest are reviewed at every meeting.</p>
VIEW OF THE PATIENTS, CARERS OR THE PUBLIC, AND THE EXTENT OF THEIR INVOLVEMENT:	<p>Patient views are not specifically sought as part of this report.</p>
EQUALITY IMPACT ASSESSMENT (EIA) COMPLETED & OUTCOME OF ASSESSMENT:	<p>EIA and an assessment is not considered necessary for the report, although it is recognised that the protections within this policy would have benefit to all staff.</p>

GREATER MANCHESTER CONTINUITY OF SERVICE PROTOCOL

INTRODUCTION

The Greater Manchester Combined Authority and health and Social Care Partnership Board agreed a GM Protocol for Joint Working on Workforce Matters in December 2015.

This Protocol recognises that staff play a vital role in the delivery of high quality public services and that high quality employment in public services plays a vital role in the functioning of the Greater Manchester economy and society.

Flexibility of employment across public services is an ambition shared by the organisations and recognised trade unions. Portability of accrued service is a key consideration for employees which must be addressed to secure such flexibility.

There is no reason in law why an employer cannot introduce express terms into its contracts of employment, or do so by means of a change of policy, which are more advantageous than the statutory rights already afforded to its employees, provided it ensures those terms are applied fairly and in accordance with its equalities duty. What it cannot do is seek to limit or take away those rights except in the most exceptional of justified circumstances or where permitted by law.

A public body must also ensure its rationale for such action makes economic, social and environmental sense for them and their communities, and is of benefit to the public purse.

Any change in terms and conditions of employment to employees of a public body would be subject to consultation.

PURPOSE

As a first step this protocol provides a mechanism for recognition of service where an individual employed within local government or the NHS in GM moves employment between those sectors on a voluntary basis.

Adoption of the protocol by the GM local authorities, GMCA and NHS organisations would be voluntary and would be a decision for each individual organisation within their respective governance arrangements.

This protocol applies to the employers listed below and does not seek to extend such an agreement to the wider employer group comprising commissioned providers e.g. third sector parties, at this point in time.

Local Authorities:

GM Local Authorities	GM Combined Authority (GMCA)
<ul style="list-style-type: none">• Bolton• Bury• Manchester• Oldham• Rochdale• Salford• Stockport• Tameside• Trafford• Wigan	Including: <ul style="list-style-type: none">• GM Fire & Rescue Service• GM Core Investment team (as employees are hosted/seconded by Local Authorities)• GMPSR team (as employees are hosted/seconded by Local Authorities)• GM Integrated Support Team (as employees are hosted/seconded by Local Authorities)

NHS Bodies:

Association of GM CCGs	GM NHS Provider Trusts
<ul style="list-style-type: none">• NHS Bolton CCG• NHS Bury CCG• NHS Central Manchester CCG• NHS Heywood, Middleton and Rochdale CCG• NHS North Manchester CCG• NHS Oldham CCG• NHS Salford CCG• NHS South Manchester CCG• NHS Stockport CCG• NHS Tameside and Glossop CCG• NHS Trafford CCG• NHS Wigan Borough CCG	<ul style="list-style-type: none">• Bolton NHS FT• Central Manchester University Hospitals NHS FT• Greater Manchester Mental Health NHS FT• Pennine Acute Hospitals NHS Trust• Pennine Care NHS FT• Salford Royal NHS FT• Stockport NHS FT• Tameside Hospital NHS FT• The Christie NHS FT University Hospital of South Manchester NHS FT• Wrightington, Wigan and Leigh NHS FT

Other Public Sector Partner Organisations:

<ul style="list-style-type: none">• GM Health & Social Care Partnership• Transport for Greater Manchester (TfGM)

The accrued service will be used for the calculation of contractual entitlements and for redundancy purposes in accordance with the policies and terms and conditions of the relevant participating employer, except where statute does not permit.

This protocol does not apply to pension arrangements.

DEFINING CONTINUITY OF SERVICE

The calculation of an employee's "continuous service" and/or "reckonable service" is extremely important in determining the qualification for and value of 'time served' entitlements.

It determines access to statutory entitlements such as making a claim for unfair dismissal at an Employment Tribunal and the application of the statutory redundancy scheme. It will also commonly determine access and value of contractual entitlements such as annual leave, occupational sick pay, occupational maternity pay and contractual redundancy or severance schemes.

Individual employers can decide how their contractual entitlements will be applied and there is some discretion to the calculation of redundancy beyond the statutory scheme.

BENEFITS OF RECOGNISING CONTINUITY OF SERVICE

The benefits of a flexible workforce, facilitated by the adoption of this protocol, are summarised below: -

- Having a geographically and organisationally mobile workforce at a GM level will benefit both organisations and individuals. Employee movement within and between these organisations flexibly can help movement of staff into priority areas ensuring delivery at local level.
- A flexible GM workforce will strengthen cross organisational cultural understanding, enhance professional links and increase partnership working. Learning best practice from each other can only improve the totality of approaches adopted individually by each organisation.
- Employees, in turn, gain opportunities for personal and professional growth which can enhance their career opportunities. This increases staff morale and a motivated workforce, within a potentially shrinking public services sector, which is critical in delivering the challenges of devolution.
- A flexible workforce could support the deployment of staff across sectors during periods of organisational downsizing and service redesigns, increase GM ability to attract and retain staff with specialist skills and improve workforce and succession planning on a wider scale.
- Organisations can cut staff turnover costs and fill specialist roles more easily e.g. social workers moving from local authorities into local integrated care organisations under the NHS.
- Organisations can save on redundancy costs as there would be a wider pool of reasonable, suitable redeployment opportunities.
- Staff with cross-sectoral experience and understanding are essential for delivering new transformed services and redesigned roles in integrated services. The easy movement of staff between the NHS and local authorities will increasingly be needed going forward. A flexible workforce will aid the development of a shared language to describe capabilities required in all roles, with accompanying tools and resources.

CHANGES TO EMPLOYER POLICIES

Organisations who wish to be party to this protocol will need to make amendments to local policy and terms and conditions in respect of entitlement for contractual purposes. In respect of recognition of service for the purpose of redundancy the steps to be taken within each sector are set out below.

Local Government

- Local Authorities who wish to be party to this protocol will need to amend their policies in respect of application of the 2006 Discretionary Compensation Regulations to incorporate recognition of continuous service with NHS bodies and PHE. Reference may also be included in the annual Pay Policy Statement.
- It is recognised that policy amendments can be made with one months' notice and therefore authorities cannot make advance guarantees that certain redundancy compensation payments will be paid.
- If the employees are in the NHS Pension Scheme under a Directions Order, the local authority will need to check whether the terms of the Direction Order means they can pay redundancy benefits under the NHSPS.

NHS

- Section 16 of the Agenda for Change Handbook (NHS Terms and conditions of service) outlines entitlement to redundancy pay. Employees dismissed by reason of redundancy must have at least 2 years of continuous full-time or part-time service. To qualify for a redundancy payment the employee must be working under a contract of employment for an NHS employer as defined in Annex 1 of the AfC Handbook (national agreement) and any predecessor or successor body.

- NHS organisations who wish to be party to this protocol have some flexibilities in national agreements and to act outside the national agreements if they opt to do so. The test must always be one of 'acting reasonably' in relation to resources/use of public money i.e.: redundancy payment should not be more than is necessary unless justified and agreed.

CONCLUSION

This protocol marks a significant step for Greater Manchester in achieving reform of public services. A competent, engaged workforce is a key enabler to successful reform and it is important to facilitate not only retention of skills and knowledge but to ensure that the sector is seen as attractive and rewarding to future generations.

The protocol applies in the first instance to the voluntary movement of employees between local government/identified public sector bodies and NHS employers as a proof of concept. The Greater Manchester Workforce Engagement Board will monitor the application and success of this protocol and will make recommendations for any further revisions as appropriate.