

## General

Coronavirus (COVID-19) remains an unprecedented challenge for the country and the health and care sector. The incredible response by the NHS is achieved because of its people and the strong and supportive partnership working at all levels. The devastating loss of life and health has affected us all. The changes in our services and ways of working will last longer than was initially anticipated, re-starting services safely while maintaining capacity to treat COVID-19 is a new and more complex challenge for us all.

More planning is being done in regions and in local systems for restarting services (phase two, May to August) and opening up the NHS while managing COVID-19 (phase three, July to March 2021). To do this optimally it is important that there are strong social partnership arrangements at all levels to engage trade unions in this planning and implementation.

This statement aims to provide practical support on how we work in partnership at a local and ICS level during the next phases. The partners recognise that the situation remains uncertain and we will therefore review these temporary provisions by Wednesday 30 September 2020.

## Partnership working

**Partnership principles:** Our partnership principles of no surprises, transparency, finding common ground and mutual respect remain paramount.

**Revising ways of working:** Partnership working practices were streamlined during the initial response, with formal meetings replaced with more regular discussions, often just between leaders and staff side chairs. These streamlined arrangements were needed for rapid emergency decision making.

Partners should now review their arrangements, include full staff side membership, and consider the gradual return to normal ways of working.

Staff side chairs may still need to take a lead role on behalf of trade unions, where emergency issues arise, in supporting their partnership colleagues and providing feedback on issues that span organisations into system, regional and national forums, where appropriate.

**Facilities time:** As conditions remain unprecedented and with more focus on health and safety, trade union and other staff representatives may still require additional time and facilities in order to best support staff. Employers should ensure representatives are allowed the time and facilities needed to carry out their duties and to be fully involved in the local partnership arrangements.

Trade union representatives for their part will recognise and respond to the context in which they are working with sensitivity and with the care of patients as a clear and shared priority.

**Restarting services and maintaining the response to COVID-19:** In many areas, we need to keep temporary arrangements in place, alongside developing plans for restarting services safely. The partners agree that the safety and wellbeing of all staff in the workplace should be the focus of this planning and based on the evidence particular attention must be paid to our BAME colleagues. Engagement should now be done through formal partnership arrangements rather than the temporary arrangements used at the start of the emergency.

### **Managing change during the pandemic**

Employers and trade unions locally should monitor equality and wellbeing. They should ensure that no member of staff or group of staff is disadvantaged by the working arrangements in place during the pandemic.

**Local agreements:** Variations to existing local trust policies and protocols may need to continue during the next phase. Any extension to these variations should be agreed in partnership, unless covered by emergency plans or protocols.

**System change:** Where an Integrated Care System is reviewing services in their geography, staff representatives should be engaged in partnership discussions at the earliest opportunity.

**Temporary changes to working practices:** The trust and confidence of staff in the temporary nature of changes has been paramount. It is important that any extension to temporary changes follows consultation with staff and trade union/professional body reps. Changes need to take account of staff health, safety and wellbeing and have clear review points. Employers should review working practices so that they are in line with the latest national guidance on scope of practice.

Homeworking for staff who can work from home, should be facilitated and expected as normal during this period.

**More substantive changes to working practices:** Where employers and trade unions agree that some changes are beneficial and in line with Long Term Plan and Interim People Plan, they may wish to use normal processes to make temporary changes more permanent. Contractual variations should be made in the normal way through agreement.

**Organisational change:** The SPF wants to avoid potential disputes and unnecessary distraction to service delivery during this period. Employers, in consultation with their unions, should review proposals for significant organisational change (both inside an employer and between employers, e.g. where staff are transferring). Unless partners agree otherwise, changes should remain paused where they are:

- not necessary for the response to the pandemic and the safe re-start of services, or
- not required for a statutory reason, or
- contentious or likely to lead to disputes

Where changes do proceed partners may agree to extend normal prescribed consultation periods to enable full and proper staff engagement given the challenges we are operating under.

**Industrial disputes:** Avoiding industrial disputes, and the potential causes of them, remains a high priority in the next three months for both employers and unions. Parties should aim to resolve disputes quickly or consider pausing disputes, through preserving the status quo.

### **Disciplinary matters, grievances, and other procedures**

**Reviewing cases:** Where these matters were paused because of the emergency, employers should review resultant caseloads using principles agreed with their local staff side to manage any backlog fairly and thoroughly. Factors to consider include whether a formal process is needed taking account of just and learning culture principles, the seriousness of the case, getting staff back in work and the health and wellbeing of the employee.

Pragmatic outcomes without the need for formal processes, with agreement of the employee, and after consultation with trade union representatives, should always be considered first. This is consistent with the learning lessons to improve our people practices [letter](#).

Lower level casework (for example, sickness and capability triggers) could continue to be paused during this period, particularly where there are capacity shortages. Casework should be progressed, however, where the union representative/employee requests to proceed to end uncertainty or anxiety.

**Hearings and procedures:** The principles of natural justice and the employer's policies should continue to apply where hearings and procedures do go ahead, especially the right to union representation. Partners recognise the following adjustments need to be considered:

- **Timescales:** These may need to be extended beyond those set out in local policies, by agreement and on the basis of no detriment. Extra preparation time may also be needed. Urgent grievances or concerns, for example, around health and safety, should be a priority and every effort made for these to meet the normal timeframes in local policies.
- **Virtual meetings:** Given social distancing rules and restrictions on travel, virtual meetings can be used following a joint assessment of all the relevant factors for the employee, their representative and the employer. For example, considering the equalities impact or whether the hearing is likely to result in dismissal. Also relevant are meeting platforms allowing employees to confer privately with their representative, protocols and training on equipment use, ensure the full visibility and audibility of participants and limits on screen time with regular breaks. ACAS has produced [guidance](#) which you may want to use as a resource.

## National Social Partnership Forum (SPF) statement on industrial relations during the pandemic – UPDATE effective from 1 July



- **Physical meetings:** It may be necessary to hold a meeting physically. Strict social distance rules must be observed. Parties should agree with the arrangements put in place following an appropriate risk assessment. If these arrangements are not in place on the day, parties have the right to withdraw.

### Other COVID-19 guidance to the workforce community

Employers, managers and trade unions should read and follow the national guidance on [health and wellbeing](#) and on [staff terms and conditions](#) on the COVID-19 section of the NHS Employers website.