

## Pandemic influenza – HR issues

The Department of Health (DH) has issued for comment guidance on HR issues that may arise if there is an outbreak of pandemic influenza in the NHS. NHS Employers has helped prepare this guidance on behalf of the DH. This *Briefing* summarises the main points of the guidance. NHS Employers urges all NHS organisations to take the opportunity to comment on the proposals. The guidance can be downloaded at [www.dh.gov.uk/en/PandemicFlu/index.htm](http://www.dh.gov.uk/en/PandemicFlu/index.htm)

### Key points

- Pandemic influenza will be a major challenge to the operation of the NHS.
- The evidence indicates that an outbreak would affect the population on an unprecedented scale, continue for at least two to three months and place the NHS under massive strain.
- NHS Employers, on behalf of the Department of Health, has helped develop a national framework for dealing with the HR issues of a possible pandemic, set out in a set of guidance which can be found at: [www.dh.gov.uk/en/PandemicFlu/index.htm](http://www.dh.gov.uk/en/PandemicFlu/index.htm)

### Foreword

An outbreak of pandemic influenza is one of the biggest potential challenges for the NHS. Experts tell us it is a matter of when rather than if, so we must make sure the NHS is prepared. NHS staff will be on the front line of combating this virus when it occurs.

NHS Employers was therefore delighted to be asked to chair a working group, to develop national guidance to assist local employers in handling the workforce issues that may emerge in the event of a pandemic. Our aim was to help ensure that the NHS can meet the needs of the population, even under the pressure of the pandemic. The working group was made up of employers, other stakeholders such as regulatory bodies, staff side representatives, and experts from the DH, and worked on a partnership basis. There was also input from the Social Partnership Forum.

NHS Employers is pleased that we have been able to develop guidance, on behalf of the DH, for local HR professionals on some of the key workforce issues that may arise. The guidance should be read alongside the range of other guidance that has been developed by the DH on pandemic-related issues.

I am pleased that we can now issue a draft set of guidance for comment and hope that all NHS employers will respond to its recommendations. In a number of areas we are seeking views on the right approach to be taken. We also need to know if there are areas we have not covered properly and, above all, if our proposals are workable.

I am aware that a huge amount of local planning has already taken place around the country – our guidance is designed to build on and supplement local preparations.

*Steve Barnett, Director,  
NHS Employers*

## National framework for responding to an influenza pandemic

The main elements of the national framework are to contain the pandemic's impact by treating as many infected people as possible in the community. A 'flu line', coordinated via NHS Direct, will distribute anti-viral drugs as appropriate and direct those with complications, or in vulnerable groups, into primary care. Primary care trusts (PCTs) will coordinate the response in the community, supporting general practice.

When the pandemic reaches a designated level, other NHS work will be suspended or reduced in order to concentrate resources and staff on pandemic-related work. It is anticipated that the pandemic will lead to increased demand for A&E services, for the treatment of some types of long-term conditions, and for the ambulance service, as well as for the treatment of those with pandemic-related conditions.

Detailed guidance on the operation of services, including the operation of primary and community-based services and 'surge management' in hospital services, can be found at: [www.dh.gov.uk/en/PandemicFlu/index.htm](http://www.dh.gov.uk/en/PandemicFlu/index.htm)

## HR guidance

The main workforce issues covered in the guidance are:

- identifying the potential impact on services and developing plans for sustaining services in the event of large-scale absences and increased demand
- the need to be able to redeploy staff into areas where demand will increase
- building a 'reserve pool' of staff who could be called on to assist
- the management of staff absence, including absence due to factors such as the closure of schools and the fear of infection
- asking staff to take on roles and responsibilities outside their normal job in order to sustain services
- working practices, including working hours and the Working Time Regulations
- health and safety, and support for staff.

## The developing picture

On some issues the guidance can only give an interim view based on current information. For example, a model absence survey has been developed to assist employers in assessing the potential impact of the pandemic on their workforce.

The impact on any particular employer will be affected by the overall level of infection in the population, known as the clinical attack rate, as well the rates of infection for staff. For example, it is anticipated that staff working in smaller or more closed institutions, such as nursing homes, may experience a higher rate of infection than in general. One of the measures proposed to limit the spread of infection is the closure of schools. The impact of this will depend on the number of staff with primary caring responsibility for school-age children and how they are likely to respond.

In other areas discussions are still ongoing. For example, NHS Employers and the DH have had discussions with the Retired Members Forum of the British Medical Association, which has indicated that its members would be happy to assist during the pandemic. This issue is still being explored and as an initial step employers are advised to build up a 'reserve pool' at local level by maintaining contact with their own retirees and other leavers.

In addition, the pandemic is likely to have a major impact on medical and other educational institutions. The General Medical Council is looking at what measures may need to be taken to address this, and further guidance will be issued on this. In the event that students are

## Recommendations for employers

The main recommendations of the guidance are:

- Employers should assess the likely impact of pandemic flu on their workforce.
- Employers should carry out a skills audit of their workforce and identify any gaps that could be filled.
- Employers should ask employees for a range of data which would assist in contacting staff during a pandemic and identifying those most at risk of being unable to attend work.
- Employers should assess how staff could be redeployed if normal working was suspended.
- Employers should set up a reserve pool of staff that could be drawn on in the event of pandemic.
- Employers should ask all staff who retire or leave the service from now on whether they would be available to assist during the pandemic.
- Employers should work with local staff side organisations to develop protocols on the treatment of staff who are absent in the pandemic. In particular, employers will need locally-agreed policies, developed in line with national guidance, on the treatment of staff who are absent due to childcare or other caring responsibilities and for those who are off sick due to flu. We are particularly seeking views on this issue.
- Employers should seek to increase the number of staff with key skills needed during the pandemic, especially prescribing and respiratory medicine.
- Employers should work with local partners to make arrangements to assist during the pandemic and, in particular, consider if staff could be deployed to assist in at-risk areas, such as nursing and care homes, to help prevent hospital admissions.
- PCTs should work with general practices to ensure primary care services can be sustained, in particular to support single-handed GP practices, and have arrangements for deploying locums. PCTs will also have overall responsibility for the 'flu line', although NHS Direct will have lead responsibility for the service, and for ensuring staffing is maintained.
- Employers will need arrangements for asking staff to work more flexibly during this period and for training staff to take on new tasks. If agreed, protocols will be needed for the use of healthcare students and volunteers. Supervisory arrangements in particular need to be in place and protocols for seeking advice understood.
- Managers will need advice on how to handle disciplinary and grievance issues in the event of a pandemic.
- Agreed communication arrangements and mechanisms for meeting with staff need to be in place.
- Mental health employers will need to have plans to concentrate their staffing on sustaining essential services and providing support for vulnerable groups.
- Employers will need arrangements for providing support to staff during this difficult period.
- Employers will need to identify those staff who will have to be asked to sign waivers under the Working Time Regulations, and have arrangements in place to monitor their working hours and maintain health and safety.
- Employers need a policy to deal with the potential for more than one wave and for a 'recovery period' after the end of the pandemic.

made available to be used for other roles during the pandemic, the guidance explores how they can best be used.

## Scope of the guidance

Some technical areas of health and safety policy such as the provision of anti-virals and vaccines, the use of protective equipment such as face masks, and other wider infection control procedures are outside the scope of the guidance. Guidance on these issues can be found on the DH pandemic web pages. In summary however, it is not currently intended to give priority to NHS staff in access to anti-virals as there should be enough stocks for all those affected. Decisions on vaccines will be taken at a later stage.

The guidance does not deal with staff employed by non-NHS employers such as those employed by general practice or by the private or voluntary sectors. It does recommend collaboration between all providers of NHS services and in some circumstances this may involve sharing staff to sustain services. It is intended that discussions take place on the issues for general practice staff. PCTs will have a role in supporting practices and in deciding on the deployment of PCT locums. The guidance does not deal with issues relating to other independent contractors such as pharmacy and dentistry.

There is a working group looking at issues around prescribing. This guidance has been developed on a partnership basis, and we recommend that decisions should take place locally with staff side representatives on the issues.

## Employer views

The DH is seeking employers' views on the following main points.

- **Does the guidance cover the main issues for employers at local level?** In particular, does it answer queries that have been raised at local level and does it complement existing local plans? The approach is to set out an overall national framework but with considerable local flexibility. Would employers prefer a more prescriptive approach?
- **Are the proposals for building up a local pool practicable?** It appears that there is not a large number of potential staff with appropriate skills who could easily be called on. But are there other groups beyond those identified in the guidance?
- **What scope is there for redeployment of staff within organisations?** In particular, how can specialist medical and nursing staff and allied health professionals be used

effectively in the pandemic? Some types of normal NHS work, such as elective surgery, are likely to be largely suspended during the pandemic and this may release staff to be redeployed. The guidance suggests that medical directors may be best placed to assess this. Is this the best approach or is more detailed national guidance needed?

- **The pandemic is likely to have a major impact on absence levels in the NHS.** As noted above, most of this may be due to staff becoming infected. If schools are closed the NHS will need to decide how it deals with those staff who have caring responsibilities for school-age children. Views are sought from employers on whether this should be left entirely to local discussion, using local policies such as carers' leave, or if there should be some national recommendations on making additional provision for special leave for staff who are affected.

The view of the working group was that the NHS should be supportive of staff who have such responsibilities, both as a matter of good employment practice and in order to avoid placing staff in an invidious position.

However, there is a need to sustain services in the

pandemic, and employer representatives in the working group generally favoured allowing for as much local flexibility as possible.

Employers are therefore encouraged to respond on this point in particular, in order to reach a consensus before final guidance is issued.

- **The guidance sets out some general principles for how discipline and grievance issues should be handled during the pandemic.**

Are employers happy with the tone of the advice in this area? The Litigation Authority has indicated that it would provide support to organisations that are faced with a legal challenge about decisions taken during the pandemic. In general, unless the employee has recklessly disregarded guidance, we are suggesting that employers take a supportive approach on disciplinary issues that may arise.

- **In general, it is proposed to keep NHS terms and conditions in place but look at how these are applied at a local level.** For example, shift patterns may need to be changed or additional hours offered under bank arrangements or to part-time staff. In some cases it may be necessary to take on staff on a temporary basis, and a suggested model contract is included in the

guidance. We welcome feedback on whether this is useful.

- **The guidance proposes that in order to sustain services it may be necessary to shift staff into different roles.**

This may be necessary, for example, to increase the scope for prescribing by nurses. Current legislation in this area is being looked at, but in the interim it is suggested that trusts should invest in training staff to take on this role under existing protocols. Views are welcomed on what more should be done in this area.

- **The Working Time Regulations remain in force but, in order to ensure services can be sustained, it is recommended that employers assess their own local policies on working time** – for example,

provisions for rest breaks and averaging-out hours worked. In some cases it may be necessary to ask staff to waive their right under the Regulations to not work more than 48 hours. Where this is identified, it is proposed that staff are asked to sign a waiver agreeing to opt out of this provision. It is not envisaged that this would be used on a widespread basis. Even where there is an opt out, hours should be monitored to avoid excessive

work and ensure risks are minimised. It is not proposed to have a blanket ban on taking annual leave during the pandemic, although some requests may need to be delayed in order to keep services running. Views are sought on the issues raised by these proposals.

- **The guidance suggests providing a range of support for staff to assist them in these extremely challenging circumstances** – for example, help with food, accommodation and in some cases counselling. Views are welcomed on whether the proposals are sufficient or whether more detailed recommendations are needed. There is mixed evidence on the impact that similar extreme circumstances have had on the mental health of staff in the past.

- **Finally, there is some discussion of the action that would be needed in the recovery period following a pandemic.** It would be useful to get the views of employers on what measures would be taken in this period. In particular, it is suggested that the service will need at least three months before a return to normal working. For example, staff would need to take any annual leave that had been held over.

## How to respond

Employers are encouraged to comment on the discussion document. All responses should be sent to the Department of Health via the email response box which is available on the Department's website: [www.dh.gov.uk/en/Consultations/Liveconsultations/DH\\_080737](http://www.dh.gov.uk/en/Consultations/Liveconsultations/DH_080737)

In addition, NHS Employers will be commenting on the proposals. If there are any issues or major concerns you wish us to raise or give a response on, please email Steven Weeks at [steven.weeks@nhsemployers.org](mailto:steven.weeks@nhsemployers.org)

## NHS Employers

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NHS Employers represents trusts in England on workforce issues and helps employers to ensure the NHS is a place where people want to work.

The NHS workforce is at the heart of quality patient care and we believe that employers must drive the workforce agenda. We work with employers to reflect their views and act on their behalf in four priority areas:

- pay and negotiations
- recruitment and planning the workforce
- healthy and productive workplaces
- employment policy and practice.

NHS Employers is part of the NHS Confederation.

## Contact us

For information on how to become involved in our work, email [getinvolved@nhsemployers.org](mailto:getinvolved@nhsemployers.org)

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