

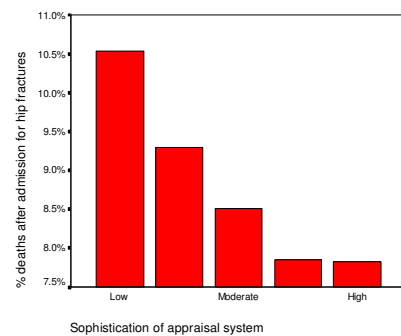
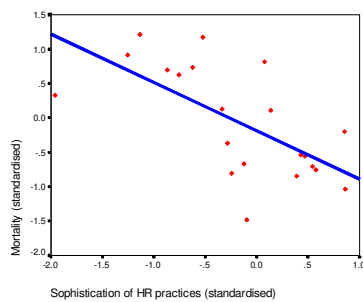
The NHS HR Agenda for the Laboratory Leader

Tues 20 August 2024

Geoff Lester
Federation of Clinical Scientists

Research Question

- What is the link between people management practices and patient mortality in hospitals?



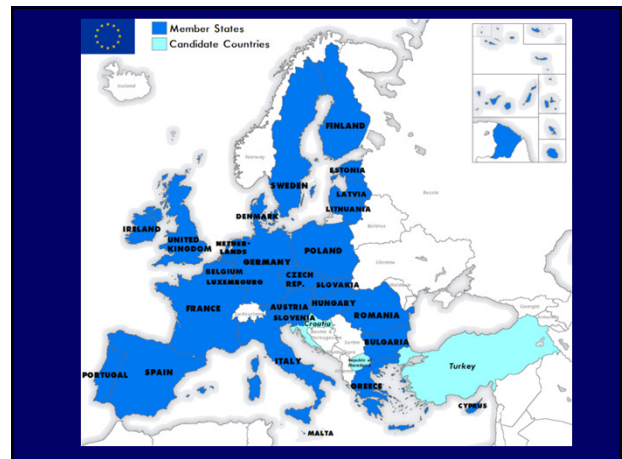
Scope of HR in the NHS

- 1.7 million employees (1.5m WTEs, 125k vacancies)
(33m total UK workforce, i.e. 4.5%)
Total Public sector = 6.0 m
Private sector employees = 27 m
- Est £71bn per year for England (46% of NHS budget)
- Average earnings £32,200 pa
(UK av. £29,700)
- 50% professionally qualified
- <https://www.nuffieldtrust.org.uk/resource/the-nhs-workforce-in-numbers>

The Issues

- Implications of employment legislation
- HR in the NHS – the current agendas

Where does employment law come from?



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did

European Directives
↓
UK Law
↓
Terms & Conditions
↓
Local Policies
& Procedures

Where does employment law come from?

European Directives ← European Parliament
↓
UK Law ← Govt Policy/Legislation
↓
Terms & Conditions ← Employers & staff
↓
Local Policies & Procedures ← Local negotiation

A word about your policies and procedures:

- They are agreed in the local negotiating machinery – ideally partnership
- They set the principles of how both the parties should behave. (*Public sector has additional duties.*)
- They are there not to be irritating or inhibiting but to ensure both staff and managers are protected and acting fairly. Following them secures everyone

Where does employment law come from?

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Terms & Conditions ← Employers & staff
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Local Policies & Procedures ← Local negotiation

Post Brexit ?

UK will be more self-determining but watch for the deals about equal trade.

Unlikely to be rapid radical reform but more slow attrition of historical rights.

UK Legislation arising from EU Directives

- Working time
- Part-time workers rights
- Equal pay
- Parental leave
- TUPE
- Anti-discrimination
- Professional Regulation
- Proof of professional indemnity

UK Legislation and EU Directives

- Working time Out of hours working
- Part-time workers rights Extended day,
- Equal pay AforC, Job Evaluation
- Parental leave National Ts&Cs
- TUPE **Path Networks, Private Sector**
- Anti-discrimination Equality Act 2010
- Professional Regulation
- Proof of professional indemnity HCPC

UK Legislation and EU Directives

Post Brexit – what has happened?

- Reduction in EU migrant workforce
- Increased rights around flexible working
- Paid and unpaid leave – buy and sell
- Carer's leave
- Protection against redundancy for pregnant employees
- Coming: stronger protection against sexual harassment
- In short – responses to pressures from workforce shortages

Equality Act 2010 Public Sector Equality Duty

Equality Act 2010
2010 c. 15 • Part 11 • Chapter 1 • Section 149

Table of Contents | Content | Explanatory Notes | More Resources

◀ Previous: Provision | Next: Provision ▶ | Plain View | Print Options

What Version

• Latest available (Revised)

• Original (As enacted)

Advanced Features

☐ Show Geographical Extent (e.g. England, Wales, Scotland, Northern Ireland)

☐ Show Timeline of Changes

Opening Options

☐ Original Print PDF

☐ Correction Slip: 34/02/2014

View more

Changes to legislation: Equality Act 2010, Section 149 is up to date with all changes known to be in force on or before 08 June 2017. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

149 Public sector equality duty

(1) A public authority must, in the exercise of its functions, have due regard to the need to—

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act,

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it,

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

(2) A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).

(3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic,

(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.

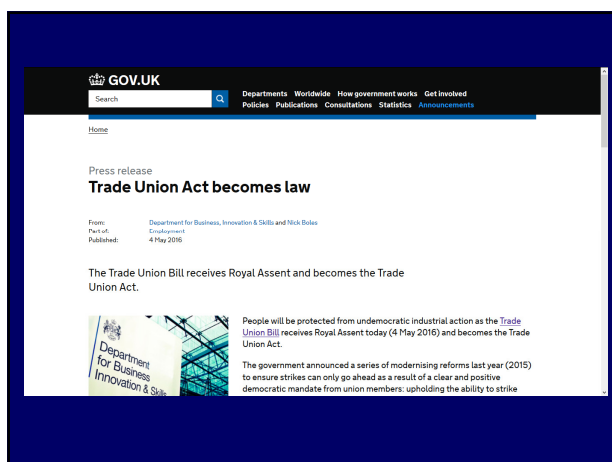
Equality Act 2010 Public Sector Equality Duty S149

- Importantly applies during all public sector organisational change.
- Equality Impact Assessments – Tool kits. EIAs not mandatory but attached to proposed Govt legislation. Required by Civil Service codes.
- Experience in UKHSA is they are poorly understood.

Dept BIS – Employment law reforms (since 2010)

A government programme to make the workforce more “flexible”:

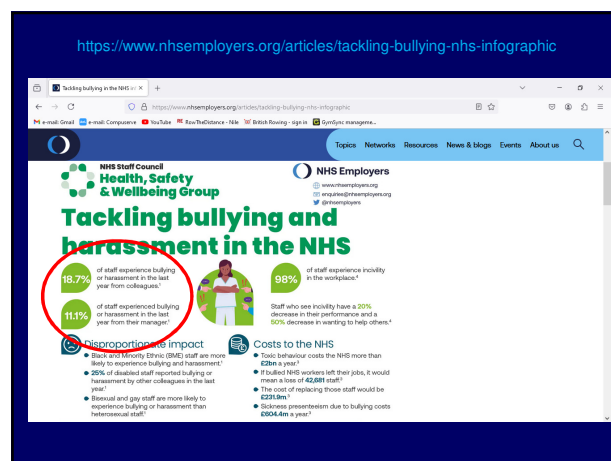
- Easier to end the employment relationship – dismissal
 - Less consultation on TUPE
 - More difficult to take ET cases (plus fees)
 - Facilitate “settlement agreements”
 - Conciliation as alternative to formal processes
 - Less consultation in redundancy situations
- Means employers can impose changes with less formal comeback
- Trade Union Act 2016



Bullying & Harassment

Paradoxically a significant issue for the
caring professions!

New emphasis in context of Francis Report



The Issues

- Implications of employment legislation
- HR in the NHS, the bigger picture – the current agendas
Its still about cutting costs & “efficiency” whilst responding to increase demands and workforce supply.
- Local, departmental issues for the clinical service leader

New and Changed Jobs

- New roles driven by patient and service requirements
Business cases, healthcare re-design, delivery at lower level.
- Reconsider role requirements when vacancies occur
Can the role be done by support rather than qualified staff?
- Assess scope for job redesign when service changes or develops
- Consider scope for cross disciplinary working
? deskilling
- Consider existing national profiles - revised 2016
- Share good practice and innovation in role redesign

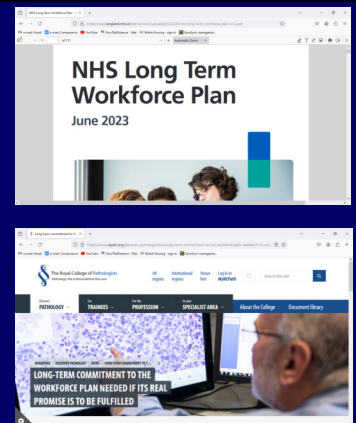
NHS workforce is big with big costs
hence always subject to interest:



BUT – NHS workforce
planning remains
chaotic

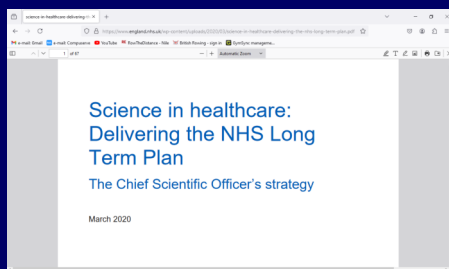
Long-term
workforce plan
(updated June
2023)

<https://www.england.nhs.uk/wp-content/uploads/2023/06/nhs-long-term-workforce-plan-v1.2.pdf>



Issues:

- Recruitment and retention
- Encouraging working longer
- Sustainability on the face of increasing workloads



Reviews completed of major features of NHS (Public sector) benefits:

- | | |
|-------------------------|--|
| • Pensions | Effective April 2008 |
| • Contributions reform | 2012, 2013 & 2014 |
| • 2015 scheme | Effective April 2015 |
| • Ill Health Retirement | Effective April 2008 |
| • Redundancy | Effective October 2006 |
| • Unsocial hours | Effective April 2008 |
| • On-call harmonisation | Effective April 2011 |
| • Public Sector Exit | 2019 consultation |
| • Flexible Working | Effective 2024 (AfC S33) |
| • Pensions flexibility: | Retire & Return
Partial Retirement (1995) |

But NHS employers want more! – Nicholson's Challenge

- Control pay progression – AfC reformed pay system
- Control "performance" – broad definition
- Control down cost of living increases
- Public sector pensions
- Banding at the lowest level for the job
- Level down public sector better terms. At risk:
 - Holidays
 - Redundancy arrangements
 - Sick pay
- Specifically for the NHS: uniform 7 day working

For the longer serving this all means
breaking the "social contract" when we
came into the NHS.

Entry to a healthcare professional career
tends to be a decision for life – undermines
focus on "retention". Issues are recruitment
& early retirements.

Misc Developments

The enduring impact of the Francis Report should not be under-estimated – but employers will be playing it down.

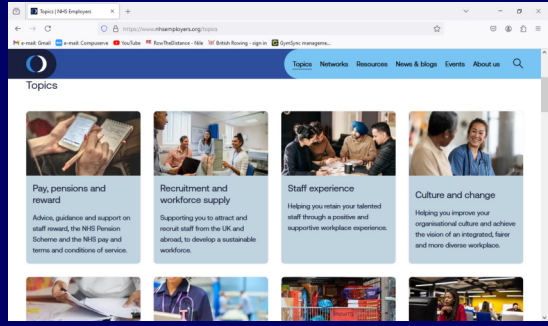
The new agenda – trying to cope with pressures:

- Service & Workforce reconfiguration
- Downsizing – without using redundancy or early retirement as these are expensive
- Severance arrangements – MARS
Public Sector Exit
- Transfer of services – e.g. GSTS, Networks, privatisation, joint ventures with private sector
- Reducing the public sector pensions bill

Sources of Information

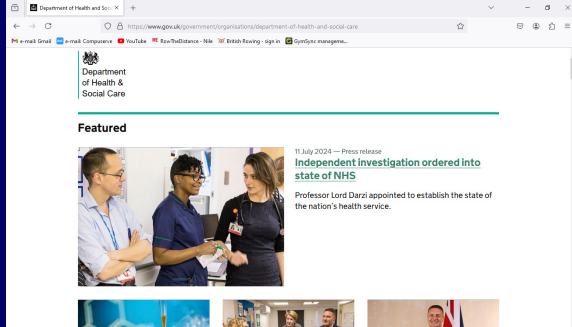
- NHS Employers: www.nhsemployers.org
- Government Departments publications etc: www.gov.uk/government

<http://www.nhsemployers.org>



Note: Ignore www.nhsemployers.org.uk – it is a scam site!

<https://www.gov.uk/government/organisations/department-of-health-and-social-care>



Department of Health & Social Care

Featured

11 July 2024 — Press release
Independent investigation ordered into state of NHS
Professor Lord Darzi appointed to establish the state of the nation's health service.

Issues you (as a clinical leader/manager) might come across yourself:

- Harassment, Bullying & Victimisation
- Capability and Professional Competency
- Public Interest Disclosure – “Whistle-blowing” (incl at appointment)
- Health, Safety & Welfare at Work
- Flexible working requests
- Organisational Change:
 - TUPE & necessity to consult (PFI, Pathology networks)
 - New roles and changing an employment contract
 - Redundancy & redeployment