
**Manchester City Council
Report for Resolution**

Report to: Personnel Committee - 30 May 2018

Subject: Greater Manchester Continuity of Service Protocol

Report of: Director of HROD

Summary:

This report describes the GM Combined Authority on GM Continuity of Service Protocol and commends an approach to adopt the protocol on a discretionary basis.

Recommendations:

It is recommended that the Committee:

1. Notes the report to the GM Combined Authority on GM Continuity of Service Protocol dated 29 March 2018.
 2. Agrees that Council adopt this protocol on a discretionary basis to allow continuity of service with the organisations described in paragraph 4.1 of this report to be extended to individuals in respect of service-based workforce terms, conditions and policies to support flexibility of movement and/or recruitment to difficult to fill posts.
 3. Delegates authority to apply the GM Combined Authority on GM Continuity of Service Protocol on a discretionary basis to the Director of HROD in conjunction with the relevant Strategic Director.
 4. Delegates authority to the City Treasurer in consultation with the Executive Member for Finance and Human Resources to determine discretionary payments for redundancy in appropriate cases.
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Wards affected: All

Financial implications for the revenue and capital budgets: None

Contact Officers:

Name: Lynne Ridsdale

Position: Director of HROD

Telephone: 0161 600 8380

E-mail: l.risdale@manchester.gov.uk

Background documents (available for public inspection): None

1. Introduction

- 1.1 The purpose of this report is to outline the Continuity of Service Protocol agreed by the GM Combined Authority on 29 March 2018, and to set out the Council's position in relation to this protocol.

2. Background

- 2.1 Except where there is an enforced move across sectors (e.g. TUPE), at present there are no regulations that allow for continuous service to be recognised for voluntary moves across the various public sectors i.e. voluntary moves between local authorities and the NHS.
- 2.2 Given that continuous service determines the qualification for, and value of some employment related entitlements, this is a key factor which may impede the flexibility of employment across the public sector workforce in Greater Manchester.
- 2.3 On 29 March 2018, the GM Combined Authority agreed a protocol on Continuity of Service amongst defined organisations within Greater Manchester, to provide 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. The GM Combined Authority on GM Continuity of Service Protocol is attached as Appendix 1.
- 2.4 Adoption of the protocol by the GM local authorities, GMCA and NHS organisations is being progressed on a voluntary basis hence the Council needs to determine its position and make arrangements accordingly.

3. Continuity of Service Arrangements

- 3.1 Continuity of employment is a statutory concept that gives certain statutory rights to employees, including the right to bring a claim for unfair dismissal at an Employment Tribunal, as well as qualification for:
- maternity pay
 - flexible working requests
 - redundancy pay
- 3.2 In general, continuity of employment that an employee builds up working for one employer is lost, where the employee moves to another organisation, unless the new employer is an 'associated employer', which is generally another company in the same company group structure.

Local Government

- 3.3 In a local authority context, continuity of employment is preserved for the purpose of calculating qualifying service for a redundancy payment and the amount of the statutory redundancy payment, where the former employer and the new employer are both types of organisations listed in the Redundancy Payments (Continuity of Employment in Local Government etc) (Modification)

Order 1999. The effect of the Redundancy Modification Order is to make different local authorities and certain other organisations 'associated employers' for redundancy purposes.

- 3.4 The Redundancy Modification Order does not apply in the case of movement between local authorities and most health bodies.
- 3.5 Although there is no statutory continuity of employment (except as regards calculation of redundancy payment entitlement) when staff move from one local authority to another, Local Government National Conditions of Service provide for some continuity in respect of other specific rights. Under the provisions, service for the purpose of calculating certain entitlements "follows" employees from one authority to another if there is no break in service:
- annual leave;
 - entitlement to sick pay;
 - entitlement under the occupational maternity scheme,
- 3.6 When a local government employee is transferred to another employer under TUPE, his or her continuous service continues to run from the start of employment with the transferor. The transferee effectively steps into the shoes of the transferor as if the contract of employment had originally been made with the transferee. The transferee is obliged to honour the past continuous service with the transferor. Rights accrued under local government service also apply if an individual who was the subject of a TUPE transfer to a non-local authority employer returns voluntarily to local authority employment without a break in employment. This provision is subject to the return to service being within five years of the original transfer, however such a return does not count for the purposes of continuity of employment for the calculation of redundancy pay.

Reckonable' service within the NHS

- 3.7 Staff in health enjoy a similar arrangement to local government in respect of continuous employment, in that previous service with any NHS employer is counted as reckonable service in respect of NHS agreements on redundancy, maternity, sick pay and annual leave. It is also worth noting that a further provision in NHS terms and conditions give employers discretion to take into account any period or periods of employment with employers outside the NHS, where these are judged to be relevant to NHS employment.

4. GM Protocol

- 4.1 The GM Protocol extends to include staff employed by the bodies listed below, however it should be noted that it is for each local authority and health organisation to decide whether to adopt the protocol on an individual basis.
- GM CCG organisations
 - GM NHS bodies
 - GM Councils (but initially excluding staff employed by schools)
 - GM Combined Authority and its constituent bodies
 - Greater Manchester Health & Social Care Partnership

- Transport for Greater Manchester (TfGM)

4.2 It is important to note that the aim of the Protocol is not to change terms and conditions of service within individual organisations; all local agreements, employment benefits and terms and conditions will be retained within the employing organisation, however, any local arrangements specific to each Council that refer to continuity of service would need to be amended to take previous service with an 'associated' organisation into account for the calculation of service-based contractual entitlements.

5. Analysis of the Protocol

Whilst the Protocol simplifies movement between different arms of the public sector, there are some risks in adopting this protocol wholesale:

Advantages

- 5.1 A flexible workforce can have both economic and social benefits, having a direct impact on engagement and turnover, while providing increased development, motivation, and job satisfaction for the employees.
- 5.2 There is growing demand for recruitment of skilled people with ever more specialised knowledge, or recent knowledge and experience across public sector roles. Staff with varied experience and understanding in all sectors, are essential for delivering new transformed services and redesigned roles in integrated services.
- 5.3 Recognition of continuous service would provide options that suit both the employer and the employee, and enable greater flexibility and choice for public sector employees.
- 5.4 The Protocol will raise the profile of working within GM public sector roles and may provide a more attractive recruitment proposition than the private sector, or indeed other public sector organisations outside of GM.
- 5.5 Organisations will cut staff turnover costs and have a greater opportunity to fill specialist roles more easily e.g. social workers moving from local authorities into local integrated care organisations under the NHS (where the care organisation is an NHS entity).

Disadvantages

- 5.6 Not all GM organisations, in particular health organisations, are intending to adopt the Protocol. For the benefits listed above to be realised in full, there needs to be reciprocity across all organisations. If the Council were to adopt the protocol we would be taking on staff with immediately accrued benefits, with the related financial liability, whereas Council staff leaving to join other organisations would not have the same benefits or security.

- 5.7 Employees' continuous determines entitlement to and the value of 'time served' entitlements such as occupational sick pay, maternity pay, and annual leave, therefore recognition of longer service may have an impact on direct costs for these contractual elements.
- 5.8 The statutory requirement to have two years continuous employment with the same employer before a claim for unfair dismissal can be submitted at an Employment Tribunal remains unchanged, even where the Redundancy Modifications Order and/or the GM Protocol apply, therefore the perceived 'security' of employment is over-valued.

Redundancy - calculation of redundancy payments for staff joining from Health

- 5.9 The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 govern payments made to employees on redundancy and in cases of early retirement. Regulation 7 of the Local Government (Early Termination) Regulations requires each local authority to formulate a policy that it applies in the case of discretionary payments and to keep it under review. Regulations 5 and 6 allow the Council to increase the statutory redundancy payment of a person, and base the calculation on an employee's actual pay, on the termination of employment.
- 5.10 A local authority will not be able to recognise continuous employment gained with a body that falls outside of the Redundancy Modification Order for the purpose of increasing statutory redundancy payment under regulation 5. However, a local authority has the power to pay discretionary compensation under regulation 6. In effect, the Council may use regulation 6 of the Local Government (Early Termination) Regulations to pay an amount equivalent to a redundancy payment, had the employee been employed continuously by the Council, or joined from another local authority of other organisation listed in the Redundancy Modification Order.
- 5.11 Any such payment made would be discretionary. The Council should not fetter its discretion by adopting a policy that continuous service from a health service employer will always be treated as though it is equivalent to continuous service with another local authority.
- 5.12 The effect of adopting the GM policy on a discretionary basis is that the Council can choose to make enhanced severance payments, recognising continuous service. For example, where a new entrant with five years' continuous service in another recognised organisation is made redundant after one year, the Council would have a discretion to recognise up to six years' continuous service for the purpose of calculating the discretionary payment to be awarded under the Local Government (Early Termination etc) Regulations.
- 5.13 In the case of voluntary early retirement, the Council delegates the authority to determine discretionary payments and awards to the City Treasurer in consultation with the Executive Member for Finance and Human Resources. It is recommended that determination of discretionary payments to joiners from

GM health service bodies is also delegated to the City Treasurer in consultation with the relevant Executive Member, subject to the proviso that Personnel Committee would need to make a recommendation to Council where any proposed severance package is valued at £100,000 or more.

- 5.14 The proposal is in line with the Council's existing policy on the application of the Local Government (Early Termination etc) Regulations, which is set out in PC1447. No amendments are required to the existing policy.

6. Trade Union Comments

To follow

7. Comments of the Director of HROD

- 7.1 I support the proposals set out in this report as the most appropriate way of reflecting the GM Continuity of Service Protocol by the Council as an important part of support the overall health and social care integration programme.

8. Conclusion

- 8.1 At present recognition of continuity of service within local government staff is governed through and provided by the Redundancy Modifications Order (RMO), which can facilitate career development opportunities, and enable greater movement of local authority staff from across the country. To ensure we continue to attract the right talent, the Council could choose to adopt the principles of the GM Continuity of Service Protocol on a case by case basis to support flexibility of movement and/or recruitment to difficult to fill posts.
- 8.2 'Time served' benefits such as occupational sick pay, maternity pay, annual leave and access to discretionary severance payments, may have an impact on direct workforce costs however the extent cannot be foreseen. Furthermore any cost risk is outweighed by diligent application of the protocol.
- 8.3 In circumstances where the business case for applying the protocol is founded upon recruiting to a difficult to fill post and/or securing an exceptional candidate, the case will be considered by the relevant Strategic Director and the Director of HROD.
- 8.4 Recognition of previous service within the health sector for the purposes of calculating redundancy entitlement would be determined on a case by case basis by the City Treasurer in consultation with the Executive Member for Finance and Human Resources.

GM COMBINED AUTHORITY

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Date: 29 March 2018

Subject: GM Continuity of Service Protocol

Report of: Councillor Jean Stretton, Portfolio Lead for Equality, Fairness & Inclusion, inc Active Ageing and Carolyn Wilkins, Portfolio Lead for Strategic Workforce

REPORT

The purpose of this report is to outline the proposal and implementation plans in relation to the GM wide Continuity of Service Protocol for recognition of service where an individual voluntarily changes employer between Local Authorities and NHS employers within Greater Manchester.

The Protocol extends to include all staff outlined within Appendix A and employed by

- a GM CCG organisations
- a GM NHS body
- a GM Council (but initially excluding staff employed by schools)
- GM Combined Authority and its constituent bodies
- Greater Manchester Health & Social Care Partnership
- Transport for Greater Manchester (TfGM)

RECOMMENDATIONS

The GMCA are asked to:

1. Approve adoption and implementation of the Continuity of Service Protocol except in relation to redundancy and pensions and recommend adoption to all parties outlined within the Protocol with effect from 1 April 2018.
2. Note that the Protocol will be subject to a review after 12 months and regularly re-asked on a tri-annual basis and/or before any major staffing review to ensure that it operates within best value and fiduciary duty principles.

CONTACT OFFICERS

Carolyn Wilkins, Chief Executive, Oldham MBC – carolyn.wilkins@oldham.gov.uk, 0161 770 4190

Tracy Brennand, Assistant Director HR & Workforce Development, Tameside MBC, tracy.brennand@tameside.gov.uk, 0161 342 3279

1. CONTEXT AND BACKGROUND

- 1.1 In February 2015 the 37 NHS organisations and local authorities in Greater Manchester signed a landmark agreement with the Government to take charge of health and social care spending and decisions in our city region. This included a commitment to produce a comprehensive plan for health and social care.
- 1.2 The final draft of this plan 'Taking Charge of our Health and Social Care in Greater Manchester' was endorsed by the Health and Social Care Strategic Partnership Board on Friday, 18 December 2015. It details the collective ambition for the region over the next five years, setting out our direction of travel.
- 1.3 In December 2015, the Greater Manchester Combined Authority and Health and Social Care Partnership Board agreed a GM Protocol for Joint Working on Workforce Matters. This Protocol recognises the vital role of our workforce in delivering high quality public services and that high quality employment in public services is crucial in the functioning of the Greater Manchester economy and society.
- 1.4 It was recognised that 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 and must be addressed to secure such flexibility. It was agreed that a mechanism for the recognition of service would be further explored in circumstances where an individual employed within local government, the Combined Authority, or the NHS in Greater Manchester moves employment between those sectors on a voluntary basis.
- 1.5 Unless there is an enforced move across sectors (e.g. TUPE) this means that currently continuity of service is lost where an employee voluntarily moves from one public sector to another. Given that continuous service determines the qualification for, and value of employment related entitlements (statutory and contractual), annual leave, occupational sick pay etc, this is a key factor which may impede the flexibility of employment.
- 1.6 There are no regulations that allow for service to be recognised for voluntary moves across the different areas of the public sector. To this end, the concept and possibility of voluntarily recognising continuous service across the GM NHS, Council and GMCA organisations has been discussed and progressed at the GM Workforce Engagement Board (WEB) and Strategic Partnership Board. A Continuity of Service Protocol was subsequently developed and is attached at Appendix A.
- 1.7 The Localism Act 2011 allows new freedoms and flexibilities for local government to make decisions, and allow elected Mayors to focus on long-term strategic decisions, such as bringing together different agencies to make public services work better, and attracting jobs and investment to the city. The new, general power gives councils more freedom to work together with others in new ways to drive down costs of competence. It gives them increased confidence to do creative, innovative things to meet local people's needs.
- 1.8 The Localism Act includes a 'general power of competence' for district councils. Instead of being able to act only where the law says they can, local authorities will be freed to do anything - provided they do not break other laws or do something that is specifically prohibited (such as increasing taxes). The Act also gives the Secretary of State the power to remove unnecessary restrictions and limitations where there is a good case to do so, subject to safeguards designed to protect vital services.

2. SCOPE OF THE PROTOCOL

- 2.1 The Protocol extends to include all staff employed by:
 - a GM CCG organisation

- a GM NHS body
- a GM Council (but excluding staff employed by schools)
- GM Combined Authority and its constituent bodies
- Greater Manchester Health & Social Care Partnership
- Transport for Greater Manchester (TfGM)

Organisations not in scope of this Protocol

- 2.2 At this time those employed within GM Police GP practices and the third sector are not in scope. However, it is expected that the breadth of the Protocol will be expanded to include these organisations after a period of monitoring, review and evaluation.
- 2.3 Whilst it is not recommended that individuals working within the range of schools and further education establishments across GM are currently included within the Protocol, there is a commitment to further extend the Protocol following full adoption by the parties identified in this first phase.
- 2.4 The Protocol represents the first step towards implementing greater flexibility and opening up opportunities for employees of a wide number of Greater Manchester public sector organisations, and it is hoped that this will be extended into other GM public sector organisations in the future.

Local arrangements

- 2.5 It is important to clarify that the aim of the Protocol is not to change terms and conditions of service for each individual organisation in scope; all local agreements, employment benefits and terms and conditions will be retained. However, any local arrangements that refer to continuity of service may need to be reviewed to ensure that these are cognisant of the Protocol and ensure that this is applied in all relevant aspects of employment. It is important that the accrued service will be used for the calculation of contractual entitlements in accordance with the policies and terms and conditions of the relevant participating employer.

3. BENEFITS

- 3.1 Maintaining increased service related employment benefits for those moving between public sector services is a ground breaking decision.
- 3.2 The Protocol will raise the profile of working within GM public sector roles and may provide a more attractive recruitment proposition than the private sector, or indeed other public sector organisations outside of GM.
- 3.3 This commitment will put working within GM on the map and will support our ability to attract, recruit, develop, motivate and retain our workforce.
- 3.4 Whilst retention of existing, high performing staff is crucial, there is growing demand for recruitment of skilled people with ever more specialised knowledge, or recent knowledge and experience across public sector roles.
- 3.5 It is widely documented that replacing employees is a costly and laborious process and often, there is either not enough interest generated for a vacancy, or too much interest from people without the necessary skills, resulting in no appointment and a costly re-advertising and selection process.
- 3.6 The adoption of the Protocol would enable parties to the Protocol to be an employer of choice by not only assisting with the retention of existing skilled employees, but also by attracting new employees into the organisation and across GM.

- 3.7 Recognition of continuous service will immediately mean that the identified partner organisations across GM will have a wider pool of potential applicants to provide effective staffing solutions to ever increasing demands, and the savings can be considerable: lower recruitment costs, a reduction in overtime, and less staff absence, all important considerations in today's efficiency climate.
- 3.8 Recognition of continuous service would provide options that suit both the employer and the employee, and enable greater flexibility and choice for public sector employees.
- 3.9 A flexible workforce can have both economic and social benefits, having a direct impact on engagement and turnover, while providing increased development, motivation, and job satisfaction for the employees. Employees 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 and opportunities of devolution.
- 3.10 This is likely to lead to more creative solutions for vacancies, greater career development opportunities, and enable greater movement across public sector organisations to ensure skills can be utilised and retained across GM. Employee movement within and between these organisations flexibly can help movement of staff into priority areas ensuring delivery at local level.
- 3.11 Organisations will cut staff turnover costs and have a greater opportunity to fill specialist roles more easily e.g. social workers moving from local authorities into local integrated care organisations under the NHS.
- 3.12 With greater collaborative working, it is possible that those organisations needing to reduce the size of their workforce could reduce the cost of redundancy by enabling the transfer of staff between organisations without impacting on continuity of service.
- 3.13 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.
- 3.14 Staff with varied experience and understanding in all sectors, 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.
- 3.15 Having a geographically and organisationally mobile workforce at a GM level will benefit all organisations and individuals, and will expedite the integration of social care and health across GM.

4. FINANCIAL/RISK CONSIDERATIONS

- 4.1 While the benefits to a flexible workforce are undeniable, there are some challenges and risks to organisations in adopting this Protocol.

Conditions of service

- 4.2 It is important to clarify that the aim of the Protocol is not to change terms and conditions of service for each individual organisation in scope. All local agreements, employment benefits and terms and conditions will be retained, however, any local arrangements that refer to continuity of service will need to take account of, and be consistent with the Protocol. This will include accrual of service for the calculation of contractual entitlements in accordance with the policies and terms and conditions of the relevant participating employer.

- 4.3 Where appropriate Local Authorities will need to consider amending their policies in respect of application of the 2006 Discretionary Compensation Regulations, to incorporate recognition of continuous service with NHS bodies and Public Health England for exit payments, excluding statutory redundancy. Employers should consider including a reference to the Protocol in the annual Pay Policy Statement.
- 4.4 If employees are in the NHS Pension Scheme (NHSPS) under a Directions Order, Councils will need to check whether the terms of the Directions Order means they can pay redundancy benefits under the NHSPS.
- 4.5 NHS organisations will need to be mindful that Section 16 of the Agenda for Change Handbook (NHS Terms and conditions of service) outlines entitlement to redundancy pay and specifically refers to NHS service. However, NHS organisations have some flexibilities in national agreements and have discretion to act outside of these if they choose to do so. It is suggested that the NHS organisations who are party to this Protocol use this discretion when considering continuous service for anyone who meets the Protocol requirements for contractual benefits.

Increased Costs

- 4.6 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 as this commonly determines access and value of contractual entitlements such as occupational sick pay, maternity pay, and annual leave schemes. Therefore, longer service normally allows for elevated and extended entitlements where previously this may not have been the case. This may therefore have an impact on direct costs (sick pay costs, maternity pay etc).
- 4.7 Any dismissal with contractual notice payments will be based on the increased paid notice period, or increased pay in lieu of notice entitlement, as a result of recognising continuous service.
- 4.8 The requirement to have 2 years continuous employment with the same employer before a claim is submitted at an Employment Tribunal remains unchanged. As is currently the case, an employee will need to demonstrate 2 years continuous employment with the same employer before an Employment Tribunal claim can be made (except discrimination claims).
- 4.10 The entitlement to, and the application of voluntary severance scheme, is perhaps the area that may realise the most substantial impact on direct costs, although this would be limited to the powers set out in regulation 5 and 6 of the Local Government (Early Termination of Employment)(Discretionary Compensation)(England and Wales) Regulations 2006. It should be noted that those organisations that have already applied the Continuity of Service Protocol on a voluntary basis so far have not experienced significant increases in direct costs as a result of this approach.
- 4.11 There may be occasions where an employee, previously employed by a GM organisation in scope of the Protocol, has left voluntarily through a settlement agreement involving a financial compensation award, and is then subsequently re-engaged by another GM organisation in scope. The Continuity of Service Protocol would not apply in these circumstances, however, any statutory entitlement to continuity of service will continue to apply.
- 4.12 Tighter methods of identifying these circumstances must be implemented during the recruitment process to allow the GM organisations to explore this further. There is a financial obligation upon all public sector organisations to protect the public purse and organisations will also want to re-assure themselves that no settlement agreement that may have been entered into is inadvertently breached, or continuity of service has been inappropriately applied.

Risk of all organisations not signing up

- 4.13 In the event that not all GM organisations adopt the Protocol, this is likely to result in an imbalance of approach between the GM public sector organisations. Whilst this may lead to this organisation becoming an employer of choice over other neighbouring organisations, this inconsistency may result in delaying or impeding the integration of health and social care across the region which is a primary reason for implementing the Protocol.

5. IMPLEMENTATION

- 5.1 During January and February 2018, discussions have been held with CCG Leaders (AGG), Provider Federation Board and Wider Leadership Team to encourage support and adoption of the Protocol. All groups have indicated their support for this and have agreed in principle subject to full adoption within their own organisational governance processes.
- 5.2 It is proposed that the relevant governance processes are put in place within all organisations outlined as within the scope of the Protocol to enable full adoption from 1 April 2018. This approach will ensure that all relevant organisations within GM will have the Protocol in place and continuity of service recognised from 1 April 2018. The GMCA Heads of HR and Joint GMCA/NHS HRD leads will ensure that the detailed implementation and communication plan is put in place once all organisations have adopted the Protocol.

6. MONITORING AND REVIEW

- 6.1 Feedback and progress from each partner organisation will be sought during February/March 2018 to establish the level of Protocol adoption and understand any issues or difficulties that may have arisen which will need to be overcome.
- 6.2 An update report will be provided to the GM Workforce Engagement Board in April 2018 providing an update on adoption of the protocol across GM. This will be followed by a more detailed review after 12 months to consider how the Protocol has enabled greater flexibility of the workforce and impacted on our ability to attract, recruit and retain our public sector workforce, along with any on-going difficulties/challenges that may be faced.
- 6.3 It is envisaged that the evaluation and review will be shared with other public sector organisations, and associated organisations, including Schools to aid future discussions about extending the employers in scope.

7. COMMUNICATION AND ENGAGEMENT

- 7.1 It will be necessary to have a proactive and coordinated approach to the communication and engagement process across GM. It has been agreed that this will be led by the GMHSCP HR team and a detailed communication plan is currently being developed. Individual organisations will also need to consider appropriate communication and engagement with their current workforce and ensure that recruitment websites and communication materials reference adoption of the Protocol.

8. FUTURE POSSIBILITIES

- 8.1 The Protocol is proposed to the organisations outlined in scope above. In the future there may be the opportunity to include/invite more employers in scope and extend this to include GMP, schools, further education establishments and GP practices. This will provide greater opportunities to redeploy or deploy skills to a wider pool of individuals, across different public sector areas.

- 8.2 The successful implementation and integration of this approach to continuity of service across employers within GM will enable and encourage discussions to be held with Government regarding the potential to change legislation to reflect this way of working nationally, not just within GM. Initial conversations have already been held with colleagues from NHS Employers and the Local Government Association (LGA) who are following progress and implementation of this Protocol on behalf of national employers.
- 8.3 Further consideration may also be available regarding the approach to public sector pensions and how these may be more accessible across public sector organisations.

9. CONCLUSION

- 9.1 The GM Continuity of Service Protocol applies in the first instance to the voluntary movement of employees between the organisations identified as in scope. It is a ground breaking concept, and marks a significant step for Greater Manchester in achieving reform of public services.
- 9.2 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.
- 9.3 It is recognised that adoption of the Protocol will assist in the retention and deployment of a flexibility workforce with a breadth of skills and knowledge that enables GM to transform, lead and develop new models of care for the benefit of all residents in GM.

10. RECOMMENDATIONS

- 10.1 As set out at the front of this report.

APPENDIX A

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
<ul style="list-style-type: none"> • Bolton • Bury • Manchester • Oldham • Rochdale • Salford • Stockport • Tameside • Trafford • Wigan • GMCA

NHS Bodies:

Association of GM CCGs	GM NHS Provider Trusts
<ul style="list-style-type: none"> • NHS Bolton CCG • NHS Bury CCG • NHS Manchester CCG • NHS Heywood, Middleton and Rochdale CCG • NHS Oldham CCG • NHS Salford 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)
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The accrued service will be used for the calculation of contractual entitlements 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. However, continuous service recognised through this Protocol will not be taken into account when determining service for unfair dismissal or statutory redundancy. The recognition of continuous service within this Protocol

will determine access and value of contractual entitlements such as annual leave, occupational sick pay, occupational maternity pay and contractual severance schemes. Individual employers can decide how their contractual entitlements will be applied.

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 are party to this protocol may need to make amendments to their local employment policies and procedures in respect of entitlement for contractual purposes.

Local Authorities 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 others party to this Protocol. Reference may also be included in the annual Pay Policy Statement.

NHS organisations 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/ and the use of public money.

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.