

## Collective Grievance – Band 2 Regrading Claim

### East Cheshire NHS Trust Framework

#### 1. Background

- On 5<sup>th</sup> May 2023, East Cheshire NHS Trust received a collective grievance from UNISON – the core purpose of this grievance was to register a re-grading claim for Band 2 Health Care Assistant (HCA) colleagues.
- Upon receiving the grievance, and in line with Trust policy, East Cheshire NHS Trust has been working with UNISON colleagues to try and resolve it at the informal stage. They formed a partnership working group that meets regularly and has representatives from management, trade union officials and selected staff representatives (elected via staff side).
- The purpose of the following framework is to provide a structure and transparency to the joint response to this collective grievance.

#### 2. Principles

- Our joint key aims are the following:
  - That staff in scope of the collective grievance response receive equal and fair treatment.
  - To negotiate and agree an implementation framework that is evidence-based and can be locally managed, working jointly with local union representatives.
- The Framework will apply to all eligible Band 2 Health Care Assistant (HCA) staff working in all clinical areas and departments. This may include those holding the job titles of Band 2 Theatre Support Workers, Band 2 Maternity Support Workers, and Band 2 Radiology Department Assistants, referred to collectively as HCAs.
- To be eligible, you need to be a Band 2 HCA who has been employed substantively and continuously by East Cheshire NHS Trust from 1<sup>st</sup> April 2018 to **[date to be agreed]**.
- For the purposes of the back pay arrangements that are covered in this agreement, this applies to colleagues who have been employed substantively and continuously and have moved roles within the Trust. This also includes colleagues who have retired and returned under Trust policy.

- Any colleagues who have left the Trust or have had any break in employment with the Trust are not eligible, with the exception of colleagues who have retired and returned under Trust policy as per above.
- For the purposes of responding to this collective grievance, the two national profiles for HCAs (band 2 and band 3) will be used.
- To provide further clarity, consistency and transparency, the Director of Nursing and Quality will provide in draft, for discussion and agreement with union colleagues, the following:-
  - a) Trust job description for Band 2 HCA and Band 3 HCA roles.
  - b) A list of personal care and clinical duties that they believe differentiates the Band 2 and 3 roles. These will be appended to job descriptions.
  - c) Qualification, training and experience that would be considered equivalent of a base level of theoretical knowledge and clinical competency assessment that would align to NVQ level 3 or equivalent.
- It is noted that status of duties in the context of NHS national job profiles is a question determined by the NHS Job Evaluation Scheme. Job Descriptions are subject to local agreement between employers and trades unions through the established job matching and job evaluation process.

### **3. Determining and implementing Back Pay arrangements**

- This step applies to post holders who have expressed an interest in undergoing a review of their underpinning skills, competencies, training, qualifications, and experience, where they feel back pay is due, via an East Cheshire online form.
- Post holders will be asked to evidence that, at the time of or prior **[date to be agreed]**, they routinely undertook one or more Band 3 clinical duties. They will also be asked to provide evidence that they have had their competencies to perform these duties formally signed off.
- Acceptable auditable evidence would include training certificates or other evidence of completion of relevant training, appraisal documentation confirming completion of competency or clinical skills sign-off by a Ward Manager or an alternative nominated registered practitioner (for example a member of the medical profession or Allied Health Professional). For the avoidance of doubt, it is not considered acceptable to access patient records or any patient information system for the purpose of gathering competency data. This is due to Trust policy relating to the requirements of patient confidentiality and adherence to GDPR regulations.

- It is an individual's responsibility to obtain the required evidence; line managers will support HCAs and the individual is welcome to have trade union support in the completion of this process.
- Once this process is complete, and if it can be demonstrated that an individual has undertaken at least one Band 3 clinical duty on a regular, consistent and on-going basis, evidenced as above, then the qualifying date for any back pay owing will be determined. Back pay calculations will apply from the date the evidence they present demonstrates their additional duties and their competency to perform these additional duties began. The earliest possible date for back pay to be retrospectively applied will be 1<sup>st</sup> April 2018.
- Regrading would be to the point on the scale which would ensure no detriment from an NHS pay perspective. In this respect, the Trust will adhere to Paragraph 1.18 of the Agenda for Change handbook.
- Any back pay will be calculated starting at entry level Band 3 and progress incrementally as per Agenda for Change (AfC) terms and conditions, with enhancements calculated at Band 3, as per AfC.
- Payroll will make mandatory deductions in accordance with regulatory requirements which includes but is not limited to tax, national insurance and pensions.
- As with any regrading claim, it will be for individual colleagues to determine their own interest in applying for the above step; the Trust will not be liable for any personal financial detriment incurred as a result of seeking regrading. The final decision to express an interest in undergoing a review for back pay purposes will be the sole responsibility of the individual colleague.

#### **4. Determining and implementing re-grading arrangements**

- Colleagues who can evidence they undertake three or more Band 3 clinical duties will be offered the opportunity of a Band 3 Senior Clinical Support worker role within their own area or directorate where possible. There is an expectation that all Band 3 Senior Clinical Support colleagues (new and existing), work towards the full set of core competencies as set out in agreed job descriptions. Ongoing personal development will be provided to enable staff to work to their full potential.
- Colleagues who can evidence they undertake less than three Band 3 clinical duties, but want to continue with Band 3 duties, will be supported, under pay protection, on a Band 3 development programme over the following 12 months. Once the required competencies have been achieved and signed-off, then colleagues will be able to apply for any future vacant Band 3 posts. In order to support this, over the next 12 months, all vacant band 3 Senior Clinical Support Worker posts will be advertised internally to the ECT family in the first instance.

- If the colleague wishes to not develop their skills to meet the Band 3 criteria, then they will stop undertaking any Band 3 duties and remain a Band 2.
- Timescales for implementation will be established when an agreement is reached, and the effective date of that agreement is confirmed.

## **5. Support and communications**

- The Trust will ensure colleagues and Ward Managers are fully supported throughout the process, including the development of FAQs and briefing sessions for both colleagues and Ward Managers.
- The Trust will ensure that well-being support is available to colleagues involved in the selection process. This includes making available independent financial advice and support.
- The Director of People & Culture, or their nominated deputy, will work collaboratively with trade union colleagues to maintain communication to oversee the implementation of this framework.
- Engagement with staff and trade union representatives will be maintained through the lifecycle of the project. A project group consisting of management, staff and UNISON representatives will work in partnership to create and agree the process for implementation and ensure that the management of change to a new model of working is enacted in a timely, fair, transparent and consistent manner.

## **6. Appeal Process**

- Appeals against the outcome of the retrospective process will be considered via the agreed Trust Grievance Procedure. Grounds of appeal will consider:
  - Process failings
  - Failure to consider relevant material information.
  - Operational issues that have prevented completion of aspects of the selection criteria.
- Professional practice and HR input will be provided to the appeal panel. Post holders will have the right to be represented by recognised local trade union representatives or accompanied by a work colleague. Appeals will be as per the Trust policy, requiring submission within 10 working days of the outcome of the re-banding.

## **7. Future Developments**

- East Cheshire NHS Trust wants to support all of our people to fulfil their potential. The Trust is committed to working in partnership with staff-side colleagues to further develop a clear career framework and will work closely with all key stakeholders to deliver this for the organisation.

- The Director of Nursing and Quality, or their nominated deputy, will be responsible for leading a workforce skill mix review using the safer nursing care tool which considers current and future patient dependency and acuity.
- The Director of Nursing and Quality, or their nominated deputy, will lead a future focussed skills and competencies exercise to identify the future skill mix and roles and responsibilities. This will be undertaken in accordance with Annex 24 of Agenda for Change. The reprofiling of roles will be undertaken with the engagement of staff and involvement of trade union representatives. Re-profiling is defined by the Agenda for Change Handbook as 'a means of examining the content of job roles... to determine the most efficient distribution of bandings needed to deliver the required service' including any resultant consideration of the 'skills, tasks and responsibilities needed to carry out roles'. The national agreement outlines that reprofiling should be undertaken 'as a joint exercise between the managers and staff working in that function and with the involvement of their trade union representative(s)'.
- Recognised methodology will continue to be used in determining future workforce requirements, including through safer nursing care assessments which reflect the dependency and acuity of patients. This is current practice within the Trust and underpins the bi-annual nurse staffing reviews presented to the Trust Board. Whilst it is recognised that the Director of Nursing and Quality has the professional responsibility and accountability to determine the nursing skill mix and staffing requirements within East Cheshire NHS Trust, the Trust adopts an inclusive approach to this critical issue. In this respect, the Trust commits to working with front line staff and local trade union representatives in determining future establishments. This acknowledges the need to engage with colleagues at ward or community team and departmental level across the Trust. As part of determining the workforce requirements, the content of HCA job roles will be examined to understand the most efficient distribution of bandings required to deliver the service. This will be undertaken in accordance with Annex 24 of Agenda for Change terms and conditions.

**31 January 2024**

Signed on behalf of East Cheshire NHS Trust:

Name: Rachael Charlton

Job Title: Deputy Chief Executive / Director of People & Culture

Date:

Signed on behalf of UNISON:

Name:

Job Title:

Date:

## Appendices: Band 3 Competencies

| <b>Band 3 Competencies:</b>   |
|---|
| ANTT Principles   |
| Undertake Bladder Scanning  |
| Blood Glucose Point of Care Testing (POCT) monitoring   |
| Undertake 12 lead ECG recording   |
| Undertake Peripheral Cannulation insertion (following ANTT principles)  |
| Removal of Peripheral Cannula (following ANTT principles)   |
| Post catheterisation / Care of catheter competency  |
| Undertake Simple Wound observations & Dressing (following ANTT principles)  |
| Undertake wound Swabbing using ANTT   |
| Swabs (nasal/MRSA screening)  |
| Undertake and record Urinalysis   |
| Urine Sampling (for lab samples)  |
| Undertake Venepuncture following ANTT principles  |
| Undertake physiological observations (including input into VitalPac, and manual calculation of NEWS2 score)   |
| A range of duties consistent with the Band 3 'Higher clinical support worker' national AfC profile' which may include, but is not limited, to elements of the listed duties or additional duties. |