

## **Additional Annex to Sir David Nicholson's letter on 'Equity and Excellence: Liberating the NHS' – Managing the transition and the 2011/12 Operating Framework**

### **Appendix B**

#### **Frequently Asked Questions**

**This appendix is a living document that may be updated as appropriate following further discussions with partners and stakeholders.**

##### **1) When will I know the final detail on the proposed new organisations?**

The letter from Sir David Nicholson of 15 December<sup>1</sup> sets out a roadmap to the new organisations that provides more guidance to staff in helping them understand where they may work in the future. As new organisations begin to develop in shadow form, their future shapes will have even greater clarity. However, we will not have final, definitive information about the new organisations until the Bill has completed its parliamentary passage during 2011. This reorganisation is the most complex and organic the NHS has ever seen and requires thorough consultation with local trade unions and affected staff. Staff should start thinking now about how they can influence their own futures and what place they potentially see for themselves in the new NHS. Appendix A of the HR annex should help staff to start thinking about what they can do now to influence their own futures.

##### **2) What level of management costs restrictions will GP Commissioning Consortia have?**

The running cost allowances for the new GP Commissioning Consortia are outlined in the Operating Framework<sup>2</sup> published on 15<sup>th</sup> December 2010. Details of how much of these running costs will be spent on infrastructure and fixed costs and how much on staff costs or buying in expertise will be a matter for local determination.

##### **3) If I am assigned to a function within one of the new clusters, where might I be assigned to and will that mean I have an employment guarantee at least until the new GP consortium is established?**

Given the complexity of the changes, it is not possible to offer an employment guarantee as was the case under "Commissioning a Patient Led NHS". However, it may be the case that TUPE applies. Further advice and guidance will be issued in due course. During transition and subject to local consultation and a fair and transparent process, some staff may be assigned to different roles, for example, in support of PCT clusters, GP consortia or functions that will be carried out by the NHS Commissioning Board. As organisational

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<sup>1</sup>[http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/Dearcolleagueletters/DH\\_122740](http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/Dearcolleagueletters/DH_122740)

<sup>2</sup>[http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_122738](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_122738)

functions are clarified, so the need for assignments may change and some staff may no longer be required as SHAs and PCTs continue to reduce their management costs.

#### **4) What is the Provider Development Authority and when will it exist?**

The Provider Development Authority will provide a governance and performance management role for NHS Trusts not yet a Foundation Trust once SHAs cease to exist on 31 March 2012. This Special Health Authority will also have a lead role in supporting NHS Trusts through the Foundation Trust pipeline. The Authority will have been established by 1 April 2012 and will exist until 31 March 2014 - the deadline for NHS Trusts to become FTs.

#### **5) When do I have to decide whether I want to leave now or stay for the transition, or await the availability of roles in one of the new organisations?**

If you decide that you do not wish to stay for the transition period or that you are not interested in securing a role within one of the new organisations you could apply to leave your organisation during the transition voluntarily, through any of the routes that may become available to eligible staff during that period e.g. MARS. If you are interested in leaving under a MARS, you should discuss this with your manager on a 'without prejudice' basis. If you either wish to stay to the end of the transition period or are interested in working in the new structures you should discuss these options with your manager. However, it is important to recognise that SHAs and PCTs may still need to continue their efforts to reduce management costs and this may have an impact on individual posts. These changes will be consulted upon in the normal way.

#### **6) How often will the 1:1 meetings with my line manager take place?**

This is a matter for local determination and is likely to depend on individual circumstances, but it is our recommendation that managers are available to meet staff on a 1:1 basis whenever possible. However, we recommend an offer is made of a 1:1 meeting on at least a quarterly basis. We are committed to ensuring that each member of affected staff by the proposed changes should have a further 1:1 before the end of February 2011. More detail on this can be found in Appendix A.

#### **7) What support will be available to me during all these changes?**

We are determined to implement changes in accordance with the values and pledges set out in the NHS Constitution. To support this, NHS Employers has created a new web section on [managing the transition](#). It brings together useful resources for managers and staff including information on a new best practice guide on support services for staff. Support offered should include priority access to job opportunities on *NHS Jobs* and on-going 1:1 meetings with managers to discuss futures. It is expected that NHS organisations will develop other specific support such as, CV and interview preparation in

accordance with the best practice guidance. The Government wishes the creation of social enterprises and joint ventures to be options for staff so specialist advice will be made available where appropriate. All organisations have been asked to develop resources for supporting staff through this period of change. You should discuss what support is available within your organisation with your line manager or your HR department. If you are a member of a trade union your local representative may be able to offer advice and/or support.

**8) I decided not to apply to leave under MARS but I now wish I had – will I have a further opportunity to apply?**

The original national MARS has been re-opened and will run until the end of January in order for employers who were unable to run the scheme when first launched to have the opportunity to take part if they choose to do so. You should check with your employer to see if they are participating in the re-opened scheme. We are also investigating the possibility of another national scheme that could be offered across the NHS during the transition. This will be publicised and explained when and if another national scheme is launched.

**9) Why are the arrangements in my SHA area for clusters different to my neighbouring SHA?**

PCT cluster arrangements will be managed regionally in collaboration between PCTs and the responsible SHA to ensure they take full account of local circumstances including geography; management cost targets; scope and scale of emerging GP Commissioning Consortia; and accountability to local people in ensuring safe, effective and efficient services. This may mean different configurations in different areas. National guidance on the formation of PCT clusters will be issued in January 2011.

**10) When will we know where the new organisations will be based?**

This is likely to be an organic process as new GP Commissioning Consortia agree their own boundaries. Although the vision is for universal coverage of Consortia, they have the right to choose how they wish to deliver their commissioning responsibilities. Until consortia have made these decisions it will not be clear where staff providing that commissioning support will be based. This information will be made available locally as soon as decisions are made. We do know, however, that the new National Commissioning Board will be based in Leeds with a presence in London and representation at a sub national level in locations still to be agreed. Although the new economic regulator will have a London base, it is likely to require a further location outside of London as it expands. The location of the Provider Development Authority is still to be confirmed.

**11) I work across a number of different functions at the moment. How will I be assigned within a cluster?**

The people and function migration map we are working on in conjunction with SHAs and PCTs should be completed by the end of January 2011. This should help inform where the function you are currently working in may transfer. Some functions, however, may be discontinued and others may fragment to a number of destinations. As part of the assignment process, you will be able to discuss with your line manager where the work you are currently involved with sits within any proposed cluster arrangements and where it is most appropriate for you to be placed within available job pools. You should also take the opportunity to speak to your manager about where your function(s) might be placed within the people and function migration map. Your employer should also be able to provide you and/or your representatives with timely legal advice on relevant employment law issues.

**12) I'm not certain where my role will go under the changes; in fact, it looks like it will disappear. Does that mean I am redundant now?**

No. Decisions have not yet been made about what functions will cease or where other functions will be carried out in the new infrastructure. The current statutory functions of PCTs and SHAs will continue until they are abolished. If your role is still required by those organisations then it is likely (subject to the requirement to reduce management costs in the NHS) that you will continue in that role. Your contractual redundancy rights are detailed in Section 16 of the NHS Staff Terms & Conditions Handbook.

**13) How is being called “affected by change” any different from being ‘at risk’ of redundancy?**

There is a difference between these terms as explained below, but these are not legal definitions. It is proposed that during the transition to the new organisations that there will be three different levels of designation for staff. These levels of designation will be supported by consultation with trade unions and affected staff.

- **Affected by change** – where it is known that organisational change is planned. In these circumstances, there may be a long while before any staff would be formally declared as ‘at risk’ but nonetheless it is important that staff are given support and are given the opportunity to influence plans through a Consultation process. This is designed to give staff and employers a significant period of time to think about their futures and explore opportunities.
- **At risk of redundancy** – where a formal process of consultation on redundancy (or likely to lead to redundancies) has already commenced.
- **On notice of redundancy** – where formal notice of termination of employment has been given.

## **14) How will I find out about other job opportunities?**

Each SHA has put in place its own Human Resources Framework for managing the transition to new organisations, measures to avoid redundancy and maximise job opportunities and for dealing with the requirement to reduce management costs. This should include restricted access to vacancies as appropriate through regional redeployment arrangements facilitated by *NHS Jobs*. This process is designed to give staff at risk the opportunity to be considered for vacancies in advance of those currently employed within the local NHS. If you do not know how these jobs are being publicised or how to access them please contact your HR department for information.

As the transition to the new NHS continues, we will put in place procedures such as assignment and job pools to manage staff through to the new organisations which will be communicated clearly as they become effective.

However, you should take the opportunity of these reforms to explore with colleagues either by locality or by function about alternative models for providing the function you currently undertake.

## **15) What does ‘suitable alternative employment’ actually mean?**

This is a legal term within the context of employment law and redundancy provisions. It has a very specific meaning but by way of guidance, in determining whether a post offers suitable alternative employment, consideration will be given to a number of factors including but not limited to:

- **Locations:** in terms of whether additional daily travelling distances and length of travelling time are incurred. Additional travelling costs will normally be reimbursed for a period of up to four years.
- **Capacity:** the employee's qualifications, equivalent experience and their ability to perform the duties and any additional training or adjustments which may be appropriate.
- **Status:** in terms of the proposed post, grade and position within the organisation. A post carrying salary protection for the employee may be considered suitable.
- **Working hours:** should be similar to the employees existing hours or where different, acceptable to the employee.

In assessing suitability, a post will normally be considered to be suitable if broad equivalency is achieved. It will not always be possible to achieve an exact match.

## **16) Who should I go to for advice?**

Your line manager and your organisation's HR department should be able to answer your questions or at least ensure that your question is fed into those working on the national HR issues if there is not already an answer. Also, if

you are a member, you can contact your local trade union representative who may be able to provide advice. We remain committed to working with trade unions in partnership to ensure staff are treated fairly during this transition. You will also be entitled to a 1:1 with your line manager to discuss your future before the end of February 2011.

**17) I have a fixed term contract that expires in 2011. Are any fixed term contracts likely to be renewed or will those jobs be offered directly to permanent employees?**

Each SHA area has agreed an HR Framework to help to manage the workforce impact of major organisational changes, which includes action taken towards achieving the required reduction in management costs. These frameworks will address local arrangements for posts but this may mean that fixed-term contracts may not be renewed or extended as a consequence of the need to reduce overall management costs. You should contact your HR Department for advice regarding your own particular situation.

**18) Can SHAs run another round of MARS for themselves? Only PCTs and Trusts are mentioned.**

SHAs, PCTs and Trusts can participate in the current national MARS which has been extended until the end of January 2011. If a new national MARS is proposed, it will also apply to SHAs, PCTs and Trusts. It is open to SHAs, PCTs and Trusts to develop their own MARS providing they follow the national principles agreed by the NHS staff Council and get government approval for their local scheme.

**19) I would like to have the opportunity to change what I do - will I still have to be assigned according to my current role?**

If you are assigned, it will be in accordance with your current role to ensure fairness for staff. However, your current functions may be carried out differently in future and you may be able to help shape the process while in your assigned role.