

HUMAN RESOURCES (HR) TRANSITION FRAMEWORK

FREQUENTLY ASKED QUESTIONS

Q1: I'm still not clear whether the framework applies to me at this stage.

A: The HR Transition Framework is a national document that sets out key principles in relation to best practice HR during this period of change and reform. These principles apply to the HR and employment processes supporting the potential transfer of functions, roles and appointments to the new and affected national bodies.

For the establishment of each of the new national organisations (e.g. the NHS Commissioning Board) detailed People Transition Policies (PTPs) will also be published. Each PTP will be specific to the circumstances covering that organisation's 'set-up' – it will include a clear process by which staff will move from existing employers to any new employer.

Q2: Why are there so many different frameworks? I thought there would be one that covered all the changes, as has been the case with previous reorganisations.

A: These changes are of a very different nature to those seen across the wider NHS, the Department of Health (DH) and the arm's length bodies (ALBs) in the past. As such, it would be impossible to produce one 'catch-all' policy or framework to cover all of the organisations affected as both 'senders' or 'receivers' of staff.

The national HR Transition Framework has been published to promote best practice principles, against which all other frameworks and PTPs will be assessed. Your employer, the new receiving organisations and your trade union representatives will ensure that the appropriate framework is used in relation to any changes affecting your employment.

Q3: The PTPs will be very important documents – who is writing them and when will we get to see them?

A: These documents are being produced in partnership by employer and trade unions, drawing on appropriate legal and technical support where needed. The

documents will be published in due course with the NHS Commissioning Board's (NHSCB) being published first

Q4: What is the difference between being designated as 'affected by change' and 'at risk'?

A: The 'affected by change' designation should be used where it is known that organisational change will take place that will have a direct impact on the numbers and/or type of staff employed, but where the overall timescales and milestones are not yet clear, or where there is a significant gap before changes are finalised and staff are formally declared to be at risk of redundancy. In this context it is important that staff are given early support and have the opportunity to influence plans through formal consultation.

The 'at risk' designation should be used for the affected staff where a formal process of consultation on actual staff redundancies is about to begin or a consultation on a change which is likely to lead to redundancies. Staff will normally have been already declared as 'affected by change' in advance, where the lead-in time has been sufficient to allow for this.

Q5: I have a rough idea about what Transfer of Undertakings (Protection of Employment) Regulations (TUPE) means, as I've been in situations where this has applied previously, but I don't understand what Transfer Orders are and why are they mentioned?

A: A Transfer Order is a mechanism that is available to the Secretary of State to use where he/she deems it appropriate to do so, to transfer staff on TUPE terms in situations where TUPE itself may not necessarily apply. The intention of the policy is to ensure that, regardless of the mechanism to manage the transfer of staff from one organisation to another, TUPE principles will be applied. This means that wherever there is a transfer of staff from one organisation to another, those staff will transfer with their existing pay, terms and conditions and continuity of employment.

Q6: If I am transferred into a new organisation, do I have any choice about whether I transfer or not?

A: If the function in which you work transfers to a new organisation, then it is very likely that you will be expected to transfer too. You can object to a transfer, but this may be deemed a resignation and you may then forfeit your rights to any redundancy payment due, should that situation occur. PTPs will outline the relevant process in relation to objections to transfer, but you should always seek advice from your trade union representative or other adviser before making any decision.

Q7: Will there be reorganisations of staff before transfers to the new receiver organisations take place, or afterwards?

A: There are likely to be further reorganisations going on in the NHS, DH and the ALBs as part of the ongoing drive to reduce management and running costs. This is

not part of the reform programme.

Each new receiving organisation will need to consider how they deliver functions and key responsibilities – this may result in some changes in the number of staff employed or in the way in which work is delivered. Any potential changes will need to be discussed with staff and trade unions through formal consultation. The individual PTPs will provide more detail on how this will be taken forward.

Q8: I've been told that I'm at risk of redundancy now. Does this mean I won't be able to transfer or apply to a new organisation?

A: If there is a relevant transfer opportunity or suitable alternative post available, being at risk of redundancy should, in fact, guarantee that you have sufficient support to seek out and obtain a suitable post. Depending on the nature of your existing substantive employment you may also be able to apply for posts in one or more of the new organisations at the appropriate stage – as outlined in the relevant PTP.

Q9: How will posts in the new organisations be filled where there is no direct transfer?

A: Staff with the relevant skills and experience who are at risk or 'affected by change' will be given priority for any vacancies. Posts not filled through this process will then be advertised more widely and filled through open competition.

Q10: I am currently on secondment from my substantive role. Does the new framework apply to me?

A: The key factor is your substantive post. Regardless of where you are on secondment right now, it is your substantive post that will determine the point at which you may enter a particular process. The national HR Transition Framework will be used, however, to guide all transfer, selection and appointment activities and will be maintained and updated by the national HR Transition Partnership Forum.

Q11: What role have the trade unions played in writing this document?

A: The trade unions have been involved, in partnership, throughout the process of drafting, discussing and finalising the framework document.

Q12: Who do I speak to for advice? I'm confused by the number of possible scenarios that I'm facing at the moment.

A: Your first port of call should be your line manager, your HR department or your trade union representative.

Q13: What is happening about Public Health staff?

A: Specific work is being completed in relation to Public Health and this should cover public health staff at national, regional and local level. A PTP is being developed for Public Health England, and a new 'concordat' is being developed to cover the

proposed transfer of some functions and staff to local authorities. However, the best practice principles set out in the national HR transition Framework will still apply.

Q14: I work in DH and the function in which I work may transfer to one of the new organisations. What process applies to me?

A: You should refer to the PTP of the relevant organisation to which the function may transfer.

Q15: What is happening to informatics staff? I was expecting to see Health Informatics listed as one of the new receiving organisations.

A: As Sir David Nicholson has made clear, information will have a key role in facilitating the changes in patient care outlined in the White Paper. With the appointment of Katie Davis as the Managing Director for NHS Informatics, we are taking the opportunity to review the options for informatics to ensure that this function is best placed for the future. We expect to have further clarity by the autumn. In the meantime, we will of course keep you posted of any further developments.

Q16: I currently work in an ALB and I'm at risk of redundancy. How can I gain access to vacancies in the NHS or DH?

A: Accredited ALBs have access to vacancies on the CS vacancies website. We are working with colleagues in the NHS to build on the informal arrangements currently in place by developing protocols giving ALBs access to regional pool vacancies and reciprocal arrangements for NHS staff 'at risk'.

Q17: I work in a Primary Care Trust (PCT) and I thought I was covered by our regional HR Framework?

A: For commissioning PCT staff, regional and locally agreed frameworks will cover specific processes relating to the future appointment to posts in Clinical Commissioning Consortia and also for potential commissioning support functions.

Q18: I work in the regional Specialised Commissioning team, but we are hosted by a PCT. Does the new HR Transition Framework apply to me?

A: This is likely to be the case, as it is envisaged that Specialised Commissioning will be one of the functions transferring to NHSCB, and therefore both the HR Transition Framework and the PTP for the NHSCB will apply.

Q19: I work in an SHA and I think my post is going to be covered by the Retention and Exit Terms Scheme (RETS). Does that mean I won't have to consider or apply for any new roles when my organisation is abolished?

A: You cannot assume that your post will be designated as 'business critical' in relation to RETS. If your organisation offers you RETS and you accept, it is still possible that your organisation could place you at risk of redundancy and offer you suitable alternative employment before and up to the point at which you would

expect to exit via RETS. If you are offered and/or find suitable alternative employment up to the point at which you would expect to exit via RETS, you would move to that employment and would not be eligible for any agreed RETS payment. Equally, if you are offered and accept other alternative employment at any point during the agreed RETS period, you would exit the organisation without receiving any agreed RETS payment.

Q20: I work in a PCT and I've been assigned to a role working with one of our new Clinical Commissioning Groups. Does the national HR Transition Framework apply to me?

A: While the national HR Transition Framework outlines key principles of best practice, Commissioning PCT staff who have been assigned to a role in an emerging Clinical Commissioning Group would need to refer to the specific regional and local HR frameworks now in place. Local and regional Social Partnership Forums will be formally engaged in the employment and HR process.

However, if a Commissioning PCT employee wished to apply for a post in one of the new national organisations, they would need to refer to the specific and relevant PTP for that organisation for further information.

Q21: Where redundancies may occur resulting from the reorganisation, will consideration be given to exit schemes instead of compulsory redundancy?

A: It is our collective aim to minimise compulsory redundancies. When there is greater clarity about the functional structure of the new organisations, we will then be able to determine the staffing requirements and investigate all options available including voluntary exit schemes to mitigate the need for any compulsory redundancies.