

**BY EMAIL**

John Beanland, DTUS Chair,  
Karen Didovich, Senior Employment Relations Adviser,  
Royal College of Nursing, and  
Christina McAnea, Unison National Secretary for Health

31 October 2011

I am writing to seek the views of those you represent on the proposed establishment of two Special Health Authorities (SpHAs) – the NHS Trust Development Authority (NTDA) and Health Education England (HEE) and would welcome your response by 31 January 2012.

The NTDA is intended, as one of its functions, to provide governance and accountability for NHS trusts which means it will bring NHS trusts to account regarding their performance and their use of public funds to deliver services and to support them in their application for Foundation Trust (FT) status following the proposed abolition of Strategic Health Authorities (SHAs) in April 2013. Its other proposed functions are set out in Annex A.

HEE is intended to provide national oversight of effective workforce planning and the provision of high quality education and training to the health care workforce, and to support planned provider led local arrangements for the commissioning and planning of such education and training.

A SpHA is established by an order made by the Secretary of State. In addition, the Secretary of State will make regulations governing how the SpHA is to operate, and will make Directions which will set out its detailed functions. The order and regulations must be laid before Parliament at least 28 days before the date of establishment. It is intended that both the NTDA and HEE will be established early summer 2012, with the intention that the order and regulations for both would be made and laid approximately 6 weeks before the date for establishment. Any consultation on establishment needs to have been conducted before the establishment order is made.

The NTDA

The Command Paper, *Liberating the NHS: Legislative framework and next steps* described how the Government developed its plans in the light of the consultation on the White Paper, *Equity and Excellence: Liberating the NHS* and gave further detail on the NHS reforms.

It set out the arrangements for the transition period which is the period from the date of the Government's response to the Listening Exercise (June 2011) until the full functions are conferred on the NTDA in April 2013. It is intended that the **NTDA** (previously intended to be called the Provider Development Authority) will be established in early summer 2012 to provide governance and oversight of NHS trusts following the proposed abolition of SHAs in 2013. This will include performance management of NHS trusts, are financially

accountable, and intervention in cases of poor performance by NHS trusts. The need for central support for NHS trusts will continue until all organisations are FTs in their own right, merge with an existing FT or take another organisational form. The continued need for the SpHA will be reviewed three years after it is established.

### Health Education England

The consultation document "*Liberating the NHS: Developing the Healthcare Workforce*" was published on 20 December 2010 and set out proposals for a new framework for workforce planning, education and training. The new framework proposed in the consultation would see healthcare providers – with their local clinical leadership – taking a lead role in planning and developing their workforce, and taking on responsibility for many of the workforce functions currently carried out by the SHAs.

It is intended that HEE will be established as a new SpHA to support healthcare providers and provide national leadership for workforce planning, education and training. It is envisaged that HEE will become an Executive Non Departmental Public Body (NDPB), set up by means of primary legislation, in the future.

I am formally seeking your views, in accordance with section 28(7) of the NHS Act 2006, on these proposals, as representatives of those who may be transferred to the proposed SpHAs or affected by such transfers. In particular, I am seeking your views on:

- the functions it is proposed the special health authorities will carry out;
- whether we have identified the appropriate staff groups to transfer: and
- the potential implications for those staff and others who may be affected by the transfer.

The staff groups to transfer, and other staff who may be affected by the transfer, are identified in Annexes A and B to this letter. If you are aware that I have inadvertently overlooked any recognised Trade Union, which represents any affected staff, could I please ask that you make me aware of this or forward this letter on to them.

The NHS, Department of Health and Arm's Length Body (ALB) Unions along with the Human Resource (HR) Transition Partnership Forum have been formally consulted about the respective HR Frameworks and the all encompassing Transition Framework. I know you have raised issues via these consultations, which HR colleagues have taken on board. All parties (Management Side and Union Side) have been engaged in this process on the understanding that these frameworks would govern the HR changes arising from the *Equity and Excellence; Liberating the NHS* White Paper and the report on the ALB Review.

Given these wider issues, which you have already been engaged on, I hope it is clear that this letter is seeking your views on proposals only around these two SpHAs and not on:

- the People Transition Policy for each new organisation that will set out the detail of how staff will be appointed to any SpHA throughout the transition period;
- the establishment of HEE as an NDPB;

*From Richard Douglas  
Director-General Policy, Strategy & Finance, Department of Health  
& Head of the Government Finance Profession, HM Treasury*

- the broader proposals for a new framework for workforce planning, education and training;
- the wider proposals for NHS reform.

### Summary

In accordance with the NHS Act 2006 and in the spirit of the partnership principles of the HR framework, I am seeking the views of those you represent on the proposals for two SpHAs, the NTDA and HEE, as set out in this letter. Further detail on the proposals for the establishment and functions of these SpHAs can be found in the annexes to this letter.

I would appreciate your response as soon as possible and by no later than 31 January 2012.

If anything in this letter is not clear to you or you would like the opportunity to discuss any of the establishment proposals, please do not hesitate to contact:

**NTDA:** [Leticia.Thomson@dh.gsi.gov.uk](mailto:Leticia.Thomson@dh.gsi.gov.uk) and 0207 210 4393

**HEE:** [Lindsey.Proctor@dh.gsi.gov.uk](mailto:Lindsey.Proctor@dh.gsi.gov.uk) and 0113 254 5811

I am copying this letter to Sir David Nicholson who will ensure that the relevant NHS organisations are aware of this consultation and to Andrea Sutcliffe in relation to Appointments Commission staff.

I look forward to hearing your thoughts with regard to these proposals.

Yours sincerely



**RICHARD DOUGLAS CB**  
**Director-General Policy, Strategy & Finance, DH**  
**Head of the Government Finance Profession, HM Treasury**

## **Annex A - Proposals for the NHS Trust Development Authority (NTDA) Special Health Authority (SpHA)**

The Government plans to establish a SpHA, the NTDA, in early summer 2012 under section 28 of the NHS Act 2006 to prepare for the Secretary of State to confer the functions of making appointments of chairs and non executives to NHS trusts and trustees of certain NHS bodies on the NTDA in October 2012, and for the Secretary of State to confer the full operational functions relating to NHS Trusts (currently carried out by the Department of Health and SHAs) on the NTDA from April 2013.

The Government plans to review the continued need for the NTDA within three years of the NTDA taking up its full complement of functions.

Functions that we anticipate being taken on by the SpHA in early summer 2012 to April 2013 include:

**Business preparation** including agreeing discharge of functions, agreeing the organisation design, and practical issues concerned with the establishment of a new organisation, e.g. estates, IT, governance, finalising HR processes and limited recruitment of staff.

**Planning for 2013/14** including the preparation of the operating model for the organisation and detailed business planning.

**Making appointments of NHS trust chairs and non-executive members and to bodies of trustees appointed by the Secretary of State for certain NHS bodies**, to take over from the Appointments Commission from October 2012.

The role of the NTDA from April 2013:

The role of the NTDA will be to provide governance and accountability for NHS trusts in England and delivery of the Foundation Trust pipeline, bringing together a number of functions that support NHS trusts and ensuring that services to patients are of the highest possible quality. In particular, these functions include:

- performance management of NHS trusts;
- management of the Foundation Trust pipeline;
- monitoring clinical quality, governance and risk in NHS trusts; and
- public appointments to NHS trusts and NHS charities where the Secretary of State has a function to appoint.

Staff will be directly employed by SHAs, DH and the Appointments Commission where their functions are about delivery of the Foundation Trust pipeline and will transfer to the NTDA as operational functions are conferred on the NTDA in October 2012 and April 2013.

It is estimated that this will be between 120 and 150 staff as the organisation builds to full operation. Provision may be needed for some staff to perform functions in existing

organisations (e.g. Department of Health or SHAs) alongside their SpHA responsibilities during the transition period.

It is expected that the SpHA will directly employ or second the following groups of staff:

- senior team including non executives, and executive directors;
- support staff for the senior team;
- staff to work on policy and corporate development, including both on design of functions and on practical establishment issues;
- staff currently working in the Foundation Trust (FT) and NTDA implementation team in the Department of Health;
- staff who are currently working on the functions which are intended to be conferred on the NTDA in future in the NHS, Department of Health and the Appointments Commission.

The legislation and our proposed arrangements would allow for those who take up permanent positions to transfer from their existing organisation into the SpHA when the functions transfer, in accordance with section 28(7) of the NHS Act 2006. It is the intention that staff are transferred in three tranches into the NTDA:

- Senior and support staff from June 2012;
- Appointments Commission staff in October 2012; and
- DH and NHS staff in April 2013

Current plans suggest that the NTDA would have its main base in Leeds with an additional presence in London to reflect the geographic spread of NHS trusts who have yet to achieve FT status.

Prior to establishment of the SpHA, we intend to have published proposals for the top tier structure of the NTDA and the people transition policy.

**If you have any queries, please do not hesitate to contact**  
**[Leticia.Thomson@dh.gsi.gov.uk](mailto:Leticia.Thomson@dh.gsi.gov.uk)**  
**(0207 210 4393).**

## **Annex B - Proposals for the Health Education England (HEE) Special Health Authority (SpHA)**

The Government plans to establish HEE as a SpHA in early summer 2012 to prepare for the conferral of functions by the Secretary of State on HEE from October 2012 to April 2013. These functions are currently carried out elsewhere within the NHS framework – by the Department of Health, SHAs and Medical Education England (MEE) which is an Advisory NDPB. The proposed functions to be conferred are set out below.

The Government plans to establish the SpHA under section 28 of the NHS Act 2006. It is envisaged that HEE will become an Executive Non Departmental Public Body (NDPB), set up by means of primary legislation, in the future. We intend to legislate for this as soon as Parliamentary time allows.

It is proposed that HEE as a SpHA would be accountable for delivering the following main functions:

- Provide national leadership on planning and developing the workforce;
- Ensure strong partnerships across the wider system;
- Support local provider-led partnerships;
- Hold[local provider-led partnerships] to account if they fail to discharge their functions effectively;
- Promote high quality education and training responsive to the changing needs of patients and local communities;
- Allocate and account for NHS education and training resources and the outcomes achieved.

Following establishment, the SpHA will focus on making key appointments and building operational capacity with a view to becoming fully operational from April 2013 once the SHAs have been abolished. Key initial tasks will include:

- preparing a clear operational plan for executing the start-up from October 2012 to April 2013;
- establishing its corporate governance arrangements, once the Chair and Non-Executive Directors have been appointed by the Secretary of State;
- recruiting a full senior team;
- designing the detailed structure and shape of the new organisation and finalising the People Transition Policy and any other necessary HR processes;
- securing staff and providing appropriate induction;
- establishing the new organisation's ethos, culture and style;
- designing the governance and contracting regime for HEE and the local provider led bodies in line with HEE's accountability for the national education and training budget and outcomes;
- developing relationships with partners and designing new partnership working arrangements;
- taking on the advisory functions of MEE and the professional advisory boards;
- building relationships with the SHAs and emerging bodies;

- supporting transition and authorisation of the local provider led bodies;
- developing new financial governance arrangements, including processes for allocations to local provider led bodies and the development of a robust financial risk management strategy; and
- finalising its business plan for 2013/14.

It is expected that the SpHA will directly employ or second the following groups of staff:

- senior team including non executives and executive directors;
- support staff for the senior team;
- staff currently carrying out functions relating to education and training in the Department of Health, SHAs and MEE secretariat and operational staff;
- further staff will be recruited to work on policy and corporate development, including both on design of functions and on practical establishment issues.

It is estimated that HEE will have between 120 and 150 staff as the organisation builds to full operation. During transition, provision may be needed for some staff to perform functions in existing organisations (e.g. Department of Health or SHAs) alongside their SpHA responsibilities.

The legislation and our proposed arrangements would allow for those who take up permanent positions to transfer from their existing organisation into the SpHA when the functions transfer, in accordance with section 28(7) of the NHS Act 2006. The timeline for staff transfers to HEE is not yet finalised, but it is anticipated that this will take a phased approach with some staff transferring following the establishment of the SpHA, and all transfers completed by April 2013.

The current plan is for HEE to have its main base in Leeds with an additional presence in London.

Prior to establishment of the SpHA, we will publish further proposals for the top tier structure of HEE and the people transition policy.

**If you have any queries, please do not hesitate to contact  
Lindsey.Proctor@dh.gsi.gov.uk  
(0113 2545811).**