

PUBLIC HEALTH HUMAN RESOURCES (HR) CONCORDAT

FREQUENTLY ASKED QUESTIONS

Q1: What is the Public Health HR Concordat, what does it cover and who has signed up to it?

A: The Concordat is focused specifically on the transfer of primary care trust public health commissioning functions to local authorities. For any transfers to Public Health England, staff should consult the “Building a PHE People Transition Policy”, which is likely to be published at the end of January 2012.

The Concordat is owned by the partners who signed the document. It was developed in conjunction with all the representative stakeholder groups listed at Annex A of the Concordat, including the NHS, the Department of Health, arms-length bodies and local authorities, as well as NHS and local authority trade unions.

Q2: I’m not clear whether the Concordat applies to me at this stage. Does the Concordat apply or the HR Transition Framework?

A: The Public Health HR Concordat (known as “the Concordat”) is focused specifically on the transfer of primary care trust public health commissioning activity and functions to local authorities. If you work in one of those functions at present, it is likely that the Concordat applies to you. It has been developed in partnership between NHS and local government employers and trade unions.

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 NHS bodies. The Concordat complements the HR Transition Framework in that it is based on that document, but it is specifically written for primary care trust public health commissioning activity and functions transferring to local authorities.

The principles and HR standards outlined in the Concordat support the specific development and implementation of more detailed HR transition guidance for public health function transfers to local authorities. The Concordat will be followed by more detailed HR transition guidance for local authority HR specialists in the Local Government Transition Guidance. This is currently being developed by the Local Government Association supported by NHS Employers working with trade union colleagues and will be issued in early 2012. The Local Government Transition Guidance will set out the issues that councils will need to address in making their local decisions and the options available to them, based on the principles in the Concordat.

There will also be sender guidance for NHS employers and managers providing details on their role during this process, which will include clear expectations on consultation with staff and trades unions.

Both sets of guidance are expected early in the new year.

Q4: 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 to public health are of a very different nature to those seen across the wider NHS, Department of Health and arms-length bodies 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 Concordat has been developed specifically to cover the primary care trust public health commissioning activity and functions transferring to local authorities

Q5: When will I know if I am likely to be transferred to a local authority as part of the new local public health system changes, and who decides on the transfers?

A: The functions transferring from primary care trusts to local authorities will be published by the Department of Health, with further information to follow. Information on whether your function is transferring will be made available to you by your employer. After this, they are obliged to consult with any staff affected through their representatives and set out the timescales involved.

This process is complex and we recognise that staff may be anxious about how they will be affected. Your first port of call should be your line manager, your HR department or your trade union representative.

Q6: If I am transferred, will my current NHS terms and conditions be protected?

NHS staff transferring from primary care trusts to local authorities as part of a Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) and/or the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector (COSOP) transfer will receive protection of NHS terms and conditions in line with the principles in TUPE and/or COSOP. Therefore, transferring employees will transfer on their current pay, terms and conditions of employment. If after the transfer, any changes are made which impact on pay, terms and conditions of employment for a reason connected to the transfer, those changes would only be effective if they were made in accordance with TUPE protection principles. This means the change would have to be for an economic, technical or organisational reason resulting in changes in the workforce.

However, where local authorities are creating substantially new roles after March 2013 to fulfil their public health responsibilities, then the terms and conditions will be a matter for local authorities to determine, in consultation with trade unions and subject to any national guidance/agreement.

Q7: Will my pension be protected and will I be able to remain in the NHS pension scheme?

A: The Concordat Steering Group have identified pensions as a priority and we are exploring the options available for staff regarding their pension provision. We will provide more information to you on this as soon as it is available.

Q8: What happens if I do not want to transfer to the local authority?

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 in practice, this will be deemed in effect to be a resignation and you may then forfeit your rights to any redundancy payment due, should that situation occur.

This is a serious step to take and you should consider this very carefully and take advice from your trade union.

Q9: When will the transfers take place and will I be consulted on the changes? Will there be a fair process?

A: Your employer remains the primary care trust until 31 March 2013. Clearly work on the transfer will be continuing during 2012/13 and will be dependent on local progress with transition plans and assurance from strategic health authority clusters. A consultation on TUPE transfers has no time limits, but must take place in good time. This will be initiated to engage staff and their representatives in a consultation process in which all questions and considerations are recorded and discussed.

During this time, your primary care trust will ensure that information is made available to you on a regular basis and that you have an opportunity to ask questions about the transfer to local authorities and the impact this will have on your job and ways of working. The consultation process will begin at an early stage and will be supported by the existing partnership working arrangements within your primary care trust, which includes consulting with you and your trade union representatives on matters related to the transfer. Please ask your manager or trade union representative how you can be engaged.

Q10: My primary care trust is currently going through a restructuring and I understand my job may be at risk. How does this fit with the public health transfers to local authorities?

A: There are likely to be further reorganisations not relating to the transfers going on in primary care trusts as part of the ongoing drive to reduce management and running costs prior to the proposed abolition of primary care trusts in March 2013.

Each local authority will also need to consider how it delivers public health functions and key responsibilities from April 2013. This may result in some changes in the number of staff employed and terms and conditions, or in the way in which work is delivered. Any potential changes after transfer will be discussed with staff and trades unions through formal consultation. The LGTG and forthcoming guidance for primary care trusts ("Sender Guidance") will provide more detail on how this will be taken forward.

Q11: 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 that 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.

If you are at risk of redundancy now, you will be provided with information and support to help you seek out and obtain a suitable post.

Q12: What role are the trade unions playing in the transition process?

A: The NHS and local government trade unions are integral partners in the transition process and have been involved, in partnership at the national level, throughout the process of drafting, discussing and finalising the Concordat. Trade unions are also involved at the local level in discussing the changes with primary care trusts and local authorities.

Q13: What kind of Public Health roles will be available in local authorities?

A: The role of local government in public health will be set out in a series of policy factsheets published by the Department of Health in December 2011. This is likely to vary from locality to locality but transition plans, which will influence and establish public health roles and workforce will need to meet the requirements set out in the Public Health Outcomes Framework, which will be published early in 2012.

As part of the local transition plan, the primary care trust cluster will work with staff, their trade unions and the local authority to agree the way in which the public health function will work in future and the role the public health workforce will have in delivering the public health function. Many local areas have already done some of this work and it will be finalised in the transition plan.

Q14: Who is making the decisions on which functions are affected?

A: The Health and Social Care Bill sets out local authorities' new roles. The policy factsheets will set out in more detail the roles and commissioning responsibilities. Locally, each primary care trust is currently pulling together information on their current workforce. This is called the people and functions map. The people and functions map will describe where staff are currently employed in the primary care trust.

This information is important, as it will help primary care trusts, local authorities and trade unions understand what staff and how many staff will be affected by the transfers of functions from the primary care trusts to local authorities.

Each primary care trust will have a functions map that explains how specific functions and staff in their primary care trust are affected.

Q15: I am a public health trainee. What do these changes mean for me - what's going to happen to me?

A: The public health workforce strategy is clear that specialist skills will be needed in the future public health system. All training contracts agreed will be honoured. Although there is the expectation that on completion of training, there will be a job for you to apply for, your training contract does not guarantee a job on completion of training.

We are exploring how public health trainee contracts will be managed in the future. We will be setting up a wider stakeholder group of professional bodies, trade unions, deaneries, Department of Health policy, and employers to develop a framework for supporting public health trainees.

Gateway number: 17001