From the Office of David Flory CBE
Deputy NHS Chief Executive

Richmond House
79 Whitehall
London
SW1A 2NS
Tel: 020 7210 5014
David.flory@dh.gsi.gov.uk
8 November 2011

Gateway 16818

10 November 2011

Email

To: SHA Cluster Chief Executives
PCT Cluster Chief Executives

Cc: SHA Cluster Directors of Finance
Lyn Simpson, Director of NHS Operations

Dear Colleague,

Planning for Contract Transfer

Implementation of the Health and Social Care Bill will require PCTs to transfer approximately 75,000 clinical service contracts or agreements. Whilst recognising that the Bill remains subject to Parliamentary approval, PCT clusters need to start planning now to ensure that contracts will be safely and effectively transferred to new contracting authorities by April 2013.

Following a detailed assessment of contract transfer risk with a small sample of PCTs, we have developed a national framework and timescale for contract transfer and some supporting tools to assist PCT and SHA clusters to manage this process.

The process of transferring contracts should be underpinned by a set of core principles:

- Continuity of clinical care must not be threatened during contract transition
- A consistent and objective approach is required
- There will be openness, transparency and visibility of progress
- Management action should be proportionate to the risks identified
- It is the responsibility of the current contracting authorities to prepare contracts for transfer and ensure no ‘net gain’ or ‘net loss’ due to the transfer process

- It is the responsibility of new contracting authorities to establish the management controls and operational processes to receive contracting responsibilities and maintain continuity of service with any clinical, financial and legal risks addressed.

PCT clusters will be expected to lead three phases of work to assure a smooth transfer of healthcare service contracts:

Stocktake – identify agreements held by existing contracting authorities, profile them, and perform a risk assessment on each one. The risk assessment will identify areas of improvement required before contracts are transferred to new authorities

Stabilise – address identified risks with targeted actions to safeguard transition

Shift – operationally and formally transfer contracts and contracting responsibilities to the new contracting bodies.

Each of these phases is explained in more detailed below.

Stocktake

The stocktake is designed to discover the full set of agreements held by contracting bodies and undertake a risk assessment on each agreement, assigning targeted actions to improve management controls in preparation for transfer.

Existing contracting authorities (PCT clusters and SCG Clusters) should:

- Identify the full set of agreements for which they are the responsible contracting authority, by reconciling agreements to budgets

- Bring together all electronic and paper-based documentation relating to each agreement, including those with lead commissioners who are managing contracts on their behalf

- Perform a consistent risk assessment on each agreement.

Agreements need to be identified, located, profiled and risk assessed to cover 100 per cent of healthcare service spend, independently of the legal form of the provider (NHS body, independent or voluntary), or lead contractor (PCT or Local Authority)

The Stocktake takes place in a two stepped approach:

By 31 January 2012. All primary medical care, dental services, pharmacy, primary ophthalmic, diagnostic services, continuing healthcare, individual patient agreements, grants to third sector for delivery of health services, public health, lifestyle contracts, drug / alcohol services, prison health services, jointly funded healthcare services, service agreements with local authorities underpinned by section 75, section 256 and section 10 agreements, transferred National Offender Management Services contracts, funding to networks providing healthcare services, personal health budgets, bespoke arrangements, contracts for specialised services and all other contracts not covered by the step below

By end March 2012. All contracts covering acute, mental health/learning disabilities, community healthcare services and ambulance services which are commissioned using the NHS Standard Contracts including Care Homes and High Secure Hospital Services but excluding specialised services

PCT Cluster chief executives formally sign off the output of the two Stocktake steps. This will be in the form of a contract register, with the whole contract portfolio identified, located, profiled and risk assessed to cover 100 per cent of clinical service spend. SCG Cluster activities will be signed off by host PCT. Each organisation is responsible for carrying out the stocktake process for those contracts they currently manage.

We will provide contracting authorities, through SHA clusters, with a number of tools to support the stocktake process:

- A PCT Implementation Plan, with detailed information and plans on stocktake activities

- A self assessment readiness tool, to support self assessment of management controls including documentation management

- A tool to capture soft knowledge that is required to transfer to successor bodies

- An excel-based data capture tool and user guidance. This allows for the consistent capture of contracts, their objective profiling and quality/risk assessment, and the reporting up to Clusters for transition assurance purposes. It includes a risk assessment framework that will be produced during the Stocktake phase. PCT Clusters are required to make use of this standard tool for all contracts and agreements.

Throughout the transition period, any new contracts, or material changes to existing contracts, should be updated in the database.

Stabilise

The Stabilise phase will use the risk assessment, produced during Stocktake, and address actions in the deficiency of documentation and management controls so that agreements can be transferred to the new contracting bodies. The activities required within the stabilise phase will be:

- Provide notification to providers of the changes required in documentation to address risks identified through the Stocktake

- PCT Clusters, SCG Clusters and providers will determine which of these changes can be introduced: 1) immediately through normal contract variations, because no further negotiation or dialogue is required; 2) through 2012/13 contract agreements; or 3) partially addressed in the 2012/13 contract discussion and concluded in year during 2012/13 or in highly exceptional cases in the 2013/14 discussion (the latter to be by exception only).

Where PCT Clusters and SCG Clusters have combined contracts, the PCT Cluster and the SCG Cluster will identify the expected division of the existing activity and expenditure within existing agreements into the new contracting authorities.

Current contracting authorities, supported by SHA Clusters, will be required to ensure that the transfer of agreements and strengthening of management controls does not result in unjustified financial gains or losses for either contracting party. Transparency of contracting relationships and financial projections will be used to ensure that parties have confidence in the reconciliation of ‘before’ and ‘after’ positions and proposals.

SHA Clusters will monitor progress of addressing actions through the stabilisation phase. The objective will be to ensure there is transparency of progress so SHA Clusters can identify exceptions against the national timetable. The monitoring will also provide the confidence to new contracting authorities that preparations for transition are progressing.

Shift

The Shift phase will complete the operational and legal transfer of contracting responsibilities from current to future contracting authorities. It will be the responsibility of current contracting authorities to prepare the handover packs of paper and electronic documentation and archives for the new contracting authorities and it will be the responsibility of new contracting authorities to secure the management arrangements to enable them to receive the handover packs and assume responsibilities for contract management. Further guidance on this final phase of contract transfer will be published in the new year.

Roles and responsibilities

PCTs

PCTs are the statutory contracting authorities until dissolution.

PCT Clusters

PCT Clusters are the accountable organisations for the contract transition activities and outcomes, across all phases. They are expected to develop resource plans, carry out the core transition activities, making use of the tools published with this guidance, monitor progress and sign off the register of contracts at the end of the stocktake phases.

SHA Clusters

SHA Clusters will nominate a lead to work with the DH, the nominated lead will monitor progress and intervene where appropriate until March 2013. They will have a key role in ensuring that the transition activities are carried out in a consistent way across their area. SHA Clusters will be held to account for delivery by the DH.

Department of Health

The DH will publish further guidance on stabilisation and shift activities, and standard variations and any incidental documentation to the Standard Contracts. This would include advice for handling legal issues, particularly around the types of contracts and services that require most stabilisation during January-March 2012. To provide assurance around the contract transfer process we may commission an external audit on a sample of PCT Clusters' contract registers.

The DH will begin planning the activities required to enable an effective and efficient transfer of the primary contracts and the specialised services contracts to the NHS Commissioning Board.

Primary Care

The primary care workstream of the NHS Commissioning Board development programme has a developed a checklist for the assessment of primary care contracts. PCT clusters will be asked, through their primary care leads, to use this checklist to assess the readiness for transfer of their primary care contracts and to

identify risks and mitigating actions required in relation to the transfer of these contracts.
PCT clusters are asked to pay particular attention to the following issues that will need to be addressed in relation to the transfer of primary care contracts and secondary and community dental contracts:

- PCTs should divest themselves of any remaining PCTMS contracts by summer 2012. This will require that tendering exercises have commenced no later than December 2011

- Information on secondary care dental services must be sufficiently detailed to support the separation of activity and cost from secondary care contracts

- Similarly, PCTs should divest themselves of any remaining salaried dental services and established alternative contracting arrangements using a PDS agreement by summer 2012

- An exercise will be launched shortly to catalogue existing arrangements around GP premises reimbursement in preparation for the NHS CB taking on this responsibility.

Specialised Services

SCG Clusters will be responsible, on behalf of PCTs, for the completion of the three phases of the transition of contracts for specialised services commissioned by SCG Clusters. This will be overseen by the Host PCT of the respective SCG Cluster with regard to formal sign off.
NHS London (who formally hold the national contracts for highly specialised services) will be responsible, through the National Specialised Commissioning Team (NSCT) for completing the transition exercise.
PCT clusters/NHS London are asked to pay particular attention to the following issues that will need to be addressed in relation to the transfer of specialised services contracts to the NHS CB by March 2013:

- The stocktake phase for all specialised services activity to be completed by 31 January 2012

- SCG Clusters should divest themselves of any non-specialised services contracts by March 2012

- All PCT clusters to ensure there are arrangements in place to establish single separate SCG Cluster contracts for specialised services by March 2012 (this might require a change to the SCG Cluster establishment agreement)

- All SCG Clusters to work closely with their PCT Clusters and providers to separate out specialised services activity (using the national information algorithm) for the agreed 'minimum take' list of services agreed by the Transitional Oversight Group for specialised services for March 2012.

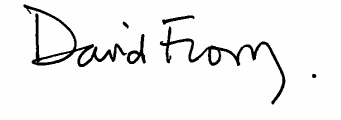
Conclusion

Ensuring that NHS funded clinical contracts are transferred smoothly to new contracting authorities will be a key responsibility of PCT and SHA clusters during the transition period. The framework and milestones set out in this letter, and the supporting tools that will be made available through SHA clusters, are intended to support this work and provide a level of national over-sight and consistency to

provide assurance to the system, including emerging Clinical Commissioning Groups, that this aspect of transition is being effectively managed.

Within the DH, the NHS Standard Contracts team will provide advice to the identified SHA cluster leads. Working arrangements will be agreed once SHA cluster leads are identified.

Yours sincerely



David Flory
Deputy NHS Chief Executive

Appendix: Transition plan actions and timescales

1.1. **October-November 2011**

- DH issues transition guidance and tools to SHA and PCT Clusters
- PCT Clusters / SCG Clusters perform a readiness assessment for each legacy PCT, and develop project plans to be reviewed by SHAs Clusters
- Risks are identified in Cluster-owned registers as part of the database
- PCT Clusters / SCG Clusters begin Stocktake according to local project plans and governance

1.2. **December 2011**

- DH receives reports from SHAs on the SCG Cluster Stocktake
- PCT Clusters establish arrangements for bringing together paper-based and electronic documentation and archives
- PCT Clusters alongside commissioning pathfinders will consider the case and 'footprint' for implementation of shared contract and commissioning management systems [Further guidance will follow from DH as needed]

1.3. **By 31 January 2012**

- The Stocktake is completed for agreements covering the following services:
- Primary medical care
- Dental
- Pharmacy
- Primary ophthalmic
- Continuing healthcare
- Grants to third sector for delivery of healthcare services
- Public health
- Lifestyle contracts
- Drug / alcohol services
- Prison health services
- Jointly funded agreements with local authorities (section 75 and 256)
- Individual patient agreements
- Transferred National Offender Management Services contracts
- Funding to networks providing healthcare services
- Personal health budgets
- Bespoke arrangements
- Specialised Commissioning services
- All other contracts, excepted those non-specialised services covering acute, mental health/LD, community services, ambulance services
- PCT Cluster Chief Executive signs off the output of Stocktake
- National naming conventions for Primary Care contract documentation is launched

1.4. **January 2012 – March 2012**

- Providers receive proposals for stabilisation from current authorities
- 'Stabilisation' phase guidance issued from the DH
- SHA Clusters oversee PCT Clusters splitting financial and activity schedules
- SHA Clusters will ensure co-ordination, particularly in relation to the multilateral arrangements, and consistency, such as ensuring agreed contract descriptions for all categories of contracts
- PCT Clusters and SCG Clusters complete stabilisation for all contracts where possible

1.5. **March 2012**

- Stocktake for acute, mental health/LD, community and ambulance services is completed

- PCT Cluster chief executives sign off the output of this Stocktake

1.6. **April 2012 – October 2012**

- PCT Clusters agree in-year variations with providers, alongside receiving contracting authorities, for remaining stabilisation activities
- Receiving contracting authorities establish management controls in readiness for receipt of contracting responsibilities
- Providers implement new information flows for contract management information and parallel run
- SHA Clusters monitor transition stabilisation process by exception

1.7. **By April 2013**

- Providers and PCTs have exchanged templates confirming the position of contracts and whether there were any adverse effects as a result of transition
- Final stabilisation activities complete
- New contracts prepared for new contracting authorities
- New contracting authorities formally accept management responsibilities for contracts
- Assignment of contracts is completed where existing agreements extend beyond April 2013
- New contracts are signed by providers and new contracting authorities and should be recorded on the database