

Annex - Proposals for the transfer of directly employed staff by the NHS Commissioning Board Authority (Special Health Authority) to the NHS Commissioning Board (executive non-departmental public body)

The Government plans commence the provision in the Health and Social Care Act 2012 which establishes an NHS Commissioning Board (“the Board”) in October 2012, which will be an executive non-departmental public body. At this point the Board will take on some of its functions, including planning for 2013/14 and the authorisation of Clinical Commissioning Groups (CCGs). The Board will take on its full statutory functions in April 2013.

In preparation for this, the Government has established a special health authority under section 28 of the NHS Act 2006: the NHS Commissioning Board Authority (“the Authority”). The Authority has been acting and will continue to act as a preparatory body to prepare for the future establishment of the executive non-departmental public body, the Board. This includes:

- **Establishing the business model**, agreeing discharge of functions, agreeing the sub-national arrangements, and practical issues concerned with the establishment of a new organisation, e.g. estates, IT, governance, finalising HR processes and limited recruitment of staff.
- Working with DH on the **design of the commissioning landscape** including agreeing the method for establishing, authorising and running CCGs. The Authority will continue to support the CCG authorisation process until it is abolished by receiving and preparing summaries of CCG applications in preparation for authorisation decisions to be made by the Board once it is established.

Before the Authority is abolished it is expected that it will also have taken on some transitional functions, which will subsequently pass to the Board on establishment. These are:

- Patient safety, including the clinical interpretation and analysis of the patient safety incident data, patient safety leadership and oversight of the National Reporting and Learning System; and
- Initial work with Monitor on developing the tariff for 2014/15.

Most of the staff currently working for the Authority are undertaking time limited preparatory functions. These are staff on secondment or an NHS IMAS assignment from another NHS employer or from the Department. Their secondment or NHS IMAS agreements will end upon the abolition of the Authority, and they will return to their original employer. Some staff may then be offered a further period of secondment to the Board where time-limited functions continue in preparation for the Board taking on its full statutory responsibilities from April 2013.

It is also possible that some staff who are on secondment to the Authority may ultimately take up permanent employment in the Board. However, it is envisaged that this will be by virtue of a transfer of employment of their substantive post from another organisation to the Board or as a consequence of a person having applied for and been appointed to a post with the Board

through a standard recruitment process, in line with the People Transition Policy for the Board. No automatic right of employment with the Board will result from any period of secondment to the Authority that exists at the date of abolition.

Some staff have been or will be directly employed by the Authority where their functions relate to delivery. Our proposal is that the employment of all these permanently and fixed term employed staff will transfer from the Authority to the Board when it becomes an executive non-departmental public body and the Authority is abolished. The statutory instrument abolishing the Authority would specifically provide for this. The transfer would be effected in accordance with COSOP and subject to its principles of employment protection including terms and conditions and continuity of service.

It is estimated that this might mean the transfer of at least 200 employees, but it is not possible to forecast an accurate number at present, because it depends on progress with recruitment processes to be undertaken between now and the date the Authority is abolished. We will be able to confirm an accurate number nearer the time.

The process will adhere to the HR Transition Framework and the NHS Commissioning Board People Transition Policy. This was developed in partnership with the trade unions through the HR Transition Partnership Forum.

If you have any queries, please do not hesitate to contact stephen.anderson@dh.gsi.gov.uk (020 7210 2810).