

# NHS Commissioning Board

## People Transition Policy





## Foreword by Sir David Nicholson

1. **Welcome to the NHS Commissioning Board**
  2. **Introduction to the People Transition Policy**
  3. **Working for the NHS Commissioning board**
  4. **How transfers and appointments to the NHS Commissioning Board will be made**
  5. **What you can expect**
  6. **How will this affect you?**
  7. **Appointments process**
  8. **Questions and answers**
  9. **Glossary**
  10. **Other resources**
- Appendix A:  
NHS Commissioning Board  
redeployment policy for transition**
- Appendix B:  
NHS Commissioning Board  
relocation policy principles**

# People Transition Policy

## Foreword by Sir David Nicholson

Establishment of the NHS Commissioning Board gives us a major opportunity to develop a brand new organisation that has the culture, style and leadership to truly improve outcomes for our patients. In *Developing the NHS Commissioning Board* I set out my vision for the operation and design of the NHS Commissioning Board, but achieving that vision and improving outcomes for our patients will depend on those people who become part of the NHS Commissioning Board team.

My aim is to retain the great talent we already have across the current system and to ensure all those affected by the creation of the new system, are treated consistently and fairly, through transparent recruitment processes.

This People Transition Policy sets out how we propose the principles of the HR Transition Framework will be used to transfer and appoint staff to the NHS Commissioning Board. This is a complex picture – the NHS Commissioning Board will take on functions from across the NHS and Department of Health as well as becoming responsible for newly created functions, such as authorisation of clinical commissioning groups.

Work on the detailed structures for the whole organisation will be complete by the end of 2011, but we do already have detailed proposals about how the senior team will be organised and which functions we would need to establish as a priority in 2011, such as the support staff for that senior team. This People Transition Policy is the document that will guide that first phase of appointments. Once these teams are in place we will be able to finalise the detailed structural design and use the experience of the first phase to improve our procedures for the second, more extensive phase of transfers and appointments that will take place throughout 2012.

The People Transition Policy has been developed in partnership with employers and with trade unions representatives and I am grateful for their sound advice and commitment to helping us support all of our staff through this transition period.

I have said before that this document is essential reading for anyone who thinks their future may be with the NHS Commissioning Board. I hope that you will find it answers many of the questions I am sure you have and that it sets out clearly the direction of travel for the establishment of the NHS Commissioning Board.

Yours sincerely

Sir David Nicholson



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:  
NHS Commissioning Board  
redeployment policy for transition**
- Appendix B:  
NHS Commissioning Board  
relocation policy principles**

## 1. Welcome to the NHS Commissioning Board

- 1.1. Subject to the passage of the Health and Social Care Bill the NHS Commissioning Board (NHS CB) will be established initially as a Special Health Authority in October 2011 and subsequently as an Executive Non-Departmental Body in October 2012, taking on its full suite of responsibilities in April 2013. The NHS CB's overarching role is to ensure that the NHS delivers better outcomes for patients within its available resources. The NHS CB can fulfil this role through its leadership on delivering the *NHS Outcomes Framework*, supported by its accountability framework for clinical commissioning groups, its framework for choice and competition, and its framework for emergency planning and resilience.
- 1.2. The NHS CB will play a vital role in providing national leadership for improving outcomes and driving up the quality of care. At its simplest, the purpose of the Board will be to work with clinical commissioning groups and the wider system to use the commissioning budget of around £80bn a year to secure the best possible health outcomes for patients and communities.
- 1.3. As a single national organisation, the NHS CB should be responsible for ensuring that services are commissioned in ways that support consistency not centralisation; consistency in ensuring high standards of quality across the country, for maintaining the 'N' in NHS.
- 1.4. The Board should also act as a champion for patients and their interests. To do this, the Board will need to engage consistently with patients and have access to high quality insight into what patients, carers and the public want and expect from NHS services. The Board will also oversee the extension of patient choice and the expansion of information available to patients. The Board will promote innovative ways of demonstrating how care can be made more integrated for patients and will lead the way in engaging patients and the public in decisions about self care. It will promote the use of technology to create more accessible and personalised services with fewer bureaucratic processes and to improve the relationship between patients and the service.
- 1.5. This is a huge task and to be successful we will need a dedicated, professional and committed workforce working collaboratively and flexibly to achieve our objectives.
- 1.6. We want the NHS CB to be an exciting and innovative place to work at the forefront of best practice in terms of the experience of staff at work.
- 1.7. We have written the People Transition Policy in advance of the establishment of the Special Health Authority and the Board when it is in place, will be asked to ratify this policy.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:**  
**NHS Commissioning Board redeployment policy for transition**
- Appendix B:**  
**NHS Commissioning Board relocation policy principles**

## 2. Introduction to the People Transition Policy

- 2.1. The establishment of the NHS CB is just one of the many changes currently taking place in the national health and social care system. These changes involve the creation of new bodies, the closure of existing organisations, the transfer of functions between bodies and the introduction of some new activities. The changes affect staff across the system – working in Strategic Health Authorities (SHAs), Primary Care Trusts (PCTs), the Department of Health (DH) and its Arm's Length Bodies (ALBs).
- 2.2. With so many different organisations and groups of staff involved, it is vitally important that staff are treated consistently and fairly. The Department of Health has issued the Human Resources (HR) Transition Framework that outlines the principles applying to the HR and employment processes supporting the potential transfer of functions and roles and appointments to the new and affected bodies. The Framework can be accessed **here** and was developed in collaboration and agreed with the HR Transition Partnership Forum comprising employers and union representatives from the NHS, the DH and the ALBs.
- 2.3. Each new organisation, including the NHS CB, should apply the principles and guidance set out in the framework in their own People Transition Policy (PTP). This is the PTP for the NHS CB, and it has also been developed in collaboration with the HR Transition Partnership Forum. We will continue to work in partnership with staff and their trade union representatives as we establish the NHS CB, including consultation at a local level as required.
- 2.4. The PTP is essential reading for anyone in the NHS, DH, an ALB or beyond who thinks that their future employment may be in the NHS CB. You might work for a function that will be undertaken by the NHS CB in the future so your employment may transfer to the NHS CB; you may be at risk and want to seek a redeployment opportunity with the NHS CB; or perhaps you have specific talents and experience that you feel are best suited to the new opportunities that the NHS CB may offer. Whatever your current situation and future prospects, the PTP is here to explain what working for the NHS CB would be like and how transfers would be managed and how appointments would be made.
- 2.5. Following the publication of the Future Forum report and the Government's response, the timetable for the development and establishment of the NHS CB was extended. This has had an impact on the timings for the agreement of the functions and detailed structures of the NHS CB and the recruitment of staff. This PTP published in July 2011 should be used to guide appointments during the first phase focusing on the senior team and their support, the establishment team and any priority functions. We will monitor the implementation of the PTP in



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:**  
**NHS Commissioning Board redeployment policy for transition**
- Appendix B:**  
**NHS Commissioning Board relocation policy principles**

## 2. Introduction to the People Transition Policy

partnership with the Trade Unions via the HR Transition Partnership Forum (HRTPF) and will formally review it at the end of the first phase. The HRTPF will also work together with the NHS CB to resolve issues arising during this phase. By the end of Phase One we will have much more information about the functions, activities and proposed structures for the NHS CB and will be able to use this information as well as the experience of the first phase of appointments to improve the PTP for the second, more extensive phase of appointments in 2012.

- 2.6. This PTP for the NHS CB does not cover arrangements for staff who may transfer or choose to apply to other organisations in the national or local health and social care system. These will be covered either by the relevant HR Framework or the PTPs of other new organisations.
- 2.7. While we have made every effort to write the PTP in a simple, clear way we do have to provide a lot of complex information to help you make informed decisions about your future, so we have also included a Question and Answer section and a Glossary. We will also provide information and guidance for your local managers and HR department so that they can answer any immediate queries you may have.

### 2.8. Section by Section Guide:

This guidance includes the following sections:

**Section 3:** Working for the NHS Commissioning Board – key information you need to know about working for the NHS CB, including terms and conditions, locations, pension arrangements (as currently understood in July 2011).

**Section 4:** How the transfers and appointments to the NHS Commissioning Board will be made – the process we will follow to identify whether functions and staff will transfer into the NHS CB or where new appointments are made; the approach and expected timetable for this process.

**Section 5:** The transfer or redeployment process – what you can expect from your current employer; from the Transition Resourcing Team which will administer the initial appointments and selection processes for all the new national organisations; and from the NHS CB.

**Section 6:** How will this affect you? – there are many different routes that you could follow to be appointed



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:**  
NHS Commissioning Board redeployment policy for transition
- Appendix B:**  
NHS Commissioning Board relocation policy principles

## 2. Introduction to the People Transition Policy

to a role in the NHS CB. This section sets out the detail of how transfers, redeployment, open competition or secondments will happen; how you will be identified for which category (or categories) and what steps you may take along the way.

**Section 7:** Appointments process – step-by-step guide to how appointments will be made, what you may need to do at what stage and the information you will receive throughout the process

**Section 8:** Questions and Answers – this section will cover a range of specific issues which you may want to explore further

**Section 9:** Glossary – all the key acronyms we have used and the organisations we have referred to are explained

**Section 10:** Other resources – a list of all the documents referred to throughout the PTP together with other useful information and the web links so that you can access them easily.

**Appendix A:** NHS CB Redeployment Policy – redeployment policy and procedure for the transition period only and is specifically for transferred employees who may be unsuccessful through any selection process

**Appendix B:** NHS CB Relocation Policy – the NHS CB will promote flexible working but if you do need to relocate then this policy explains what you may be entitled to.

2.9. The PTP may not answer every question that you have. If you require further information or would like to discuss what this means for you, please speak in the first instance to your current line manager or HR Department. If you are a member of a trade union, you may also want to speak with your local representative who will also be able to offer you help and support. This PTP and the guidance developed for your local employers on the process of transfer to the NHS CB stresses the requirement to consult with staff and their trade unions throughout.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
2. Introduction to the People Transition Policy
3. Working for the NHS Commissioning board
4. How transfers and appointments to the NHS Commissioning Board will be made
5. What you can expect
6. How will this affect you?
7. Appointments process
8. Questions and answers
9. Glossary
10. Other resources

**Appendix A:  
NHS Commissioning Board  
redeployment policy for transition**

**Appendix B:  
NHS Commissioning Board  
relocation policy principles**

## 3. Working for the NHS Commissioning Board

### 3.1. Overview

- 3.1.1.** This section sets out what we propose at the moment about what working for the NHS CB will be like. Obviously, the organisation has not yet been set up and we do not have a Board in place to make policy decisions. When the Special Health Authority is established, the Board will be asked to ratify this PTP and will agree the new version that will apply to the second phase of transfers and appointments.
- 3.1.2.** If TUPE applies your current terms and conditions are preserved by law at the point of transfer. If the transfer is not within TUPE it is our intention to apply COSOP where there is a transfer of function and the principles of TUPE will be adhered to. These arrangements will all be explained in detail in the consultation your local employers will undertake about the transfer so you will have plenty of opportunity to understand what this specifically may mean for you.
- 3.1.3.** If in the future the NHS CB plans to make any changes to these arrangements, whether you have transferred or been appointed through redeployment or open competition, then the new Board will consult with you and your trade unions about their proposals at the appropriate time.

# People Transition Policy

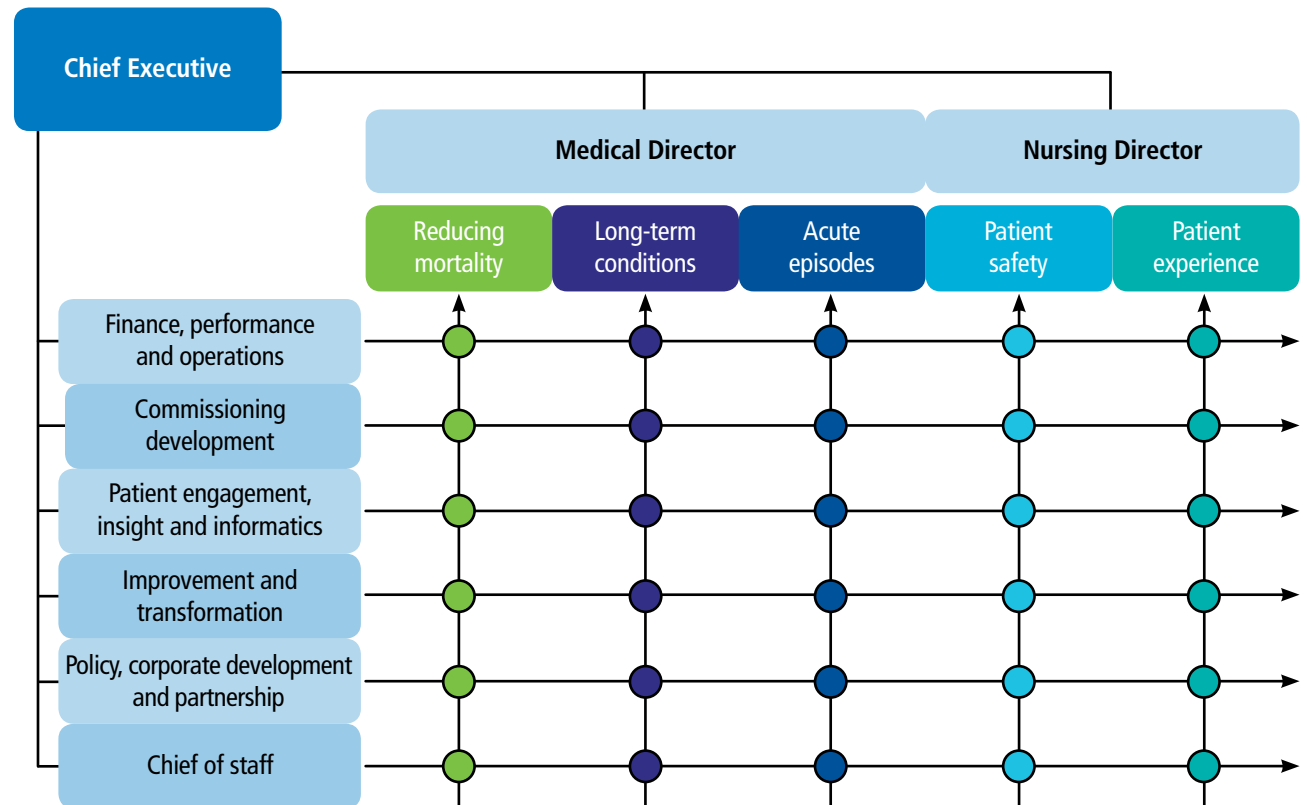
## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:**  
NHS Commissioning Board redeployment policy for transition
- Appendix B:**  
NHS Commissioning Board relocation policy principles

## 3. Working for the NHS Commissioning Board

### 3.2. Structure

**3.2.1.** On 8 July we published *Developing the NHS Commissioning Board* setting out our initial thoughts on the culture, style, leadership and design of the NHS Commissioning Board. This document also outlines the senior structure of the NHS CB and the portfolios that each of the Directors will manage. The proposed structure of the NHS CB at a national level is set out below (Source: *Developing the NHS Commissioning Board*):







# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
2. Introduction to the People Transition Policy
3. Working for the NHS Commissioning board
4. How transfers and appointments to the NHS Commissioning Board will be made
5. What you can expect
6. How will this affect you?
7. Appointments process
8. Questions and answers
9. Glossary
10. Other resources

### Appendix A: NHS Commissioning Board redeployment policy for transition

### Appendix B: NHS Commissioning Board relocation policy principles

## 3. Working for the NHS Commissioning Board

**3.2.2.** Work is continuing to clarify the structures that will support the delivery of these functions and activities. The detailed information on these arrangements will be developed throughout 2011 and will be the basis for discussion and consultation about potential transfers of functions with sending organisations, their staff and their Trade Union representatives. This information will also be used to inform the review of this People Transition Policy at the end of Phase One of the transfers and appointments to ensure that it is appropriate for the second, more extensive phase.

**3.2.3.** The DH set out in its letter consulting on the establishment of the Special Health Authority (you can find more information **here**) the groups of staff that the special health authority expects to directly employ or second. These are:

- 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 NHS Commissioning Board transition team in the DH;
- Staff developing clinical commissioning groups and commissioning support;
- A limited number of staff across the remaining portfolios to undertake business preparation and the functions outlined above

**3.2.4.** We estimate that around 150 people may be included in the first phase of recruitment in 2011 undertaken in accordance with the arrangements set out in this PTP. We will be clearer by the end of the year about the detailed structures and the timetables for transfers and appointments in the second phase of recruitment and we will make sure this information is shared with you.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:  
NHS Commissioning Board  
redeployment policy for transition**
- Appendix B:  
NHS Commissioning Board  
relocation policy principles**

## 3. Working for the NHS Commissioning Board

### 3.3. Location

- 3.3.1. The central headquarters of the NHS CB will be in Quarry House in Leeds. We expect that around 900 staff will work in Leeds for the national functions of the NHS CB. We will also have offices in London in Maple Street, W1. This space will be used flexibly and some staff may have their permanent base in London. These details will be confirmed as the detailed design of the organisation is developed as explained in 3.2.2 above.
- 3.3.2. The NHS CB will deliver some very important functions at a more local level and the majority of staff will be based across the country operating out of a number of different locations throughout England. The precise locations for these teams have not yet been agreed but will be confirmed before Phase Two of transfers and appointments commences.
- 3.3.3. The NHS CB will be open to relocating posts and supporting flexible working arrangements where appropriate. We will maximise the use of technology to support flexible working arrangements wherever possible and appropriate to ensure opportunities are available to staff across the country. The principles that will guide reimbursement for relocation if that is required are set out in Appendix B.

### 3.4. Salaries

- 3.4.1. The NHS CB will use NHS salary structures for staff. This will mean that the relevant Very Senior Managers (VSM) pay structure will be used for senior staff, Medical and Dental Pay, Terms and Conditions for appropriate staff and Agenda for Change (AfC) for all other staff, including the Agenda for Change job evaluation system. Any proposed changes in the future will be negotiated with staff and recognised Trade Unions.
- 3.4.2. If you are transferring from an organisation that does not use the NHS salary structure, your contractual terms and conditions will be protected so that you do not suffer any detriment in the transfer. This will include honouring existing pay uplifts and progression.
- 3.4.3. If you apply for a new post in the NHS CB at any time following the transfer of your employment you will normally move onto the terms and conditions applicable to the post you have applied for; this includes side-ways moves as well as any promotions. However, the NHS CB is committed to ensuring TUPE like

**Foreword by Sir David Nicholson**

- 1. Welcome to the NHS Commissioning Board**
- 2. Introduction to the People Transition Policy**

**4. How transfers and appointments to the NHS Commissioning Board will be made****5. What you can expect****6. How will this affect you?****7. Appointments process****8. Questions and answers****9. Glossary****10. Other resources****Appendix A:  
NHS Commissioning Board  
redeployment policy for transition****Appendix B:  
NHS Commissioning Board  
relocation policy principles**

### 3. Working for the NHS Commissioning Board

principles are applied where there is a reorganisation post transfer, which is directly related to that transfer. This means that affected staff will retain their existing terms and conditions (those which they carried with them in the transfer process to the NHS CB). In any event reorganisations post transfer will only be considered where there is a genuine organisational requirement to do so and staff affected by the change and their Trade Unions will be fully consulted on the impact on them and their terms and conditions. Where required protection arrangements will be negotiated with the relevant Trade Unions.

**3.4.4.** The department is developing a new senior pay framework for ALBs. The primary aim of this work is to secure a pay framework that will be established as part of the NHS reform programme. It is also important that the proposals comply with the Government's response to Will Hutton's recent review of Fair Pay and the Senior Salaries Review Body's recommendations on NDPB CEO pay. The aim is to develop the framework during the summer engaging relevant stakeholders and unions in this process so that it can be added to the PTP in due course, consulting on issues where necessary.

**3.4.5.** Where required posts in the NHS CB will be evaluated in accordance with the arrangements set out in the respective national guidance – for example, the AfC job evaluation system. Where there is a slot-in (including competitive slot-in) there will normally be no requirement to evaluate the post at the point of transfer. Exceptions to this may include posts covered by the senior pay framework for ALBs, which is currently being reviewed.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
2. Introduction to the People Transition Policy

4. How transfers and appointments to the NHS Commissioning Board will be made

5. What you can expect

6. How will this affect you?

7. Appointments process

8. Questions and answers

9. Glossary

10. Other resources

### Appendix A: NHS Commissioning Board redeployment policy for transition

### Appendix B: NHS Commissioning Board relocation policy principles

## 3. Working for the NHS Commissioning Board

### 3.5. Pension

- 3.5.1. All Staff that are employed by the NHS CB will have access to the NHS Pension Scheme.
- 3.5.2. If you are transferring from an organisation that offers a different pension scheme, you are currently entitled to a broadly comparable pension through the *Cabinet Office Statement of Practice on Staff Transfers in the Public Sector (COSOP)*. COSOP references the Treasury guidance *A Fair Deal for Staff Pensions*, which is currently under review. It is not clear what impact (if any) the review will have on transfers protected by COSOP, although an outcome is expected in late summer.
- 3.5.3. Based on the application of Fair Deal, you would be granted access to the section of the NHS Pension Scheme that most closely mirrors the pensionable age in your current scheme. You may also receive upwards pay adjustments to reflect variations in value between the schemes, for example variations in contribution rates. There will not be any downward pay adjustments.
- 3.5.4. If you are a member of a 'final salary' scheme (such as the Classic or Premium Civil Service Schemes) then you are currently entitled to 'day-for-day' service credits (or an equivalent recommended by the Government Actuary's Department as a suitable reflection of differences in benefit structures between the schemes) if you decide to transfer your service into the NHS Scheme. This means you would receive benefits of equivalent value to the service you have already accrued in your previous scheme. There is no requirement to provide similar arrangements for members of the NUVOS Civil Service Scheme as these benefits are not linked to final pay.
- 3.5.5. You should also be aware that the Independent Public Service Pension Commission under the chairmanship of Lord John Hutton published its final report in March 2011. The final report outlined 27 recommendations for reform to all public service pension schemes. These include a move to career average revalued earning schemes (CARE) as opposed to a final salary arrangements, and the alignment of the normal retirement age with the state pension age. Lord Hutton recommended that the new schemes should be introduced before the end of this Parliament.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
2. Introduction to the People Transition Policy

## 4. How transfers and appointments to the NHS Commissioning Board will be made

## 5. What you can expect

## 6. How will this affect you?

## 7. Appointments process

## 8. Questions and answers

## 9. Glossary

## 10. Other resources

### Appendix A: NHS Commissioning Board redeployment policy for transition

### Appendix B: NHS Commissioning Board relocation policy principles

## 3. Working for the NHS Commissioning Board

**3.5.6.** The Government has accepted Lord Hutton's recommendations as a basis for consultation with public sector workers, trade unions and others. Discussions with the TUC and other trade unions are ongoing, and the Government has said that it intends to set out proposals in the autumn that are affordable, sustainable, and fair to both public sector workers and other taxpayers. It is too early to say at this stage what impact this will have for NHS CB staff.

### 3.6. Induction

**3.6.1.** We want to make sure that all staff working for the NHS CB are supported in their own personal development and the contribution they can make to the success of the organisation. This would start with your induction programme – whatever the type or level of post you are in we would make sure that you have a comprehensive introduction to the new organisation so that you understand right from the outset how the NHS CB will be different and how you can contribute to building a new and distinct culture.

**3.6.2.** Your induction will be the first step along a development path. You will have regular assessments to identify how we can help you to enhance the contribution to your role and perhaps more importantly to the improvement of quality and outcomes for patients and the public.

**3.6.3.** As part of the NHS CB's commitment to your personal development, you will be invited to attend development programmes relevant to you as you progress in your career.

### 3.7. Looking After You

**3.7.1.** The NHS CB will be an organisation that cares for its staff and is committed to their health and well-being. This will mean putting in place appropriate policies – covering issues like flexible working, parental and emergency leave, whistleblowing, and harrasment – and working with trade unions to implement relevant Partnership for Occupational Health and Safety in Healthcare (POSH) standards, which support good health and safety management as specified in the NHS Constitution.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
2. Introduction to the People Transition Policy

## 4. How transfers and appointments to the NHS Commissioning Board will be made

## 5. What you can expect

## 6. How will this affect you?

## 7. Appointments process

## 8. Questions and answers

## 9. Glossary

## 10. Other resources

### Appendix A: NHS Commissioning Board redeployment policy for transition

### Appendix B: NHS Commissioning Board relocation policy principles

## 3. Working for the NHS Commissioning Board

**3.7.2.** All NHS CB staff will have access to occupational health services and an employee assistance programme. The organisation will also work to facilitate staff access to other well-being services. Above all, the NHS CB will strive to be a great place to work, with well-designed office accommodation, IT systems that foster efficiency and flexibility, and a culture that supports staff to excel without sacrificing work-life balance.

### 3.8. Equality and Diversity

**3.8.1.** The NHS CB will be an organisation that values and promotes equality and diversity in the way we conduct our business and the way we treat our staff.

**3.8.2.** We want to make sure that the NHS CB is an inclusive organisation which recognises difference so that employment practices are personal to staff, where staff feel valued for who they are and the contributions they make, staff are fairly treated, afforded equal opportunity, are drawn from all sections of our society and a wide variety of professional backgrounds creating a diverse workforce who feel welcome and able to build their careers with us.

**3.8.3.** The NHS is founded on a common set of principles and values. The NHS CB has an important role in upholding the NHS Constitution and we want our staff to model these values in their behaviours and in the way we do business. Our procedures, where appropriate, will support diversity in the workforce.

**3.8.4.** The NHS CB will ensure, in common with all other Public Sector employers and in line with the Equality Act 2010 Public Sector Equality Duty, that we will:

- Eliminate discrimination, harassment and victimisation
- Advance equality of opportunity
- Foster good relations

The NHS CB will ensure that we have the appropriate skills and competencies within the workforce to deliver these equality duties.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
2. Introduction to the People Transition Policy

## 4. How transfers and appointments to the NHS Commissioning Board will be made

## 5. What you can expect

## 6. How will this affect you?

## 7. Appointments process

## 8. Questions and answers

## 9. Glossary

## 10. Other resources

### Appendix A: NHS Commissioning Board redeployment policy for transition

### Appendix B: NHS Commissioning Board relocation policy principles

## 3. Working for the NHS Commissioning Board

**3.8.5.** The NHS CB intends to be an inclusive leader where 'everyone counts', ensuring participation from staff at all levels of the organisation, and which systematically removes barriers to participation in leadership for talented people from all backgrounds.

**3.8.6.** The NHS CB recognises that engaged and valued staff, supported by a committed leadership, promotes better outcomes for patients and communities.

**3.8.7.** This important role will be reflected in the Mandate and Framework Agreement between the NHS CB and DH, which will set out our responsibilities for promoting equality through the NHS commissioning system and ensuring our own and NHS compliance with the Equality Duty and all aspects of the Equality Act.

### 3.9. Human Resources (HR) Policies

**3.9.1.** The NHS CB Transition team will develop in partnership with the relevant trade unions the organisational HR policies and processes we will need to support you and your managers after you have been appointed.

**3.9.2.** If you are working in a function that will transfer to the NHS CB, as part of the transfer process, we will consult with you and your representatives about any changes we propose making; such changes will be referred to as 'measures'. Our working assumption is that arrangements, for example, as part of AfC will remain unchanged.

### 3.10. Trade Union Recognition

**3.10.1.** The NHS CB will have a Trade Union recognition agreement with the main unions representing the staff working for the NHS CB. We will be agreeing the appropriate scope and membership of the recognition agreement with the unions. The recognition agreement will be critical in supporting effective partnership working and will underpin our commitment to effective staff engagement and consultation.

# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
2. Introduction to the People Transition Policy
3. Working for the NHS Commissioning board
4. How transfers and appointments to the NHS Commissioning Board will be made
5. What you can expect
6. How will this affect you?
7. Appointments process
8. Questions and answers
9. Glossary
10. Other resources

**Appendix A:**  
NHS Commissioning Board redeployment policy for transition

**Appendix B:**  
NHS Commissioning Board relocation policy principles

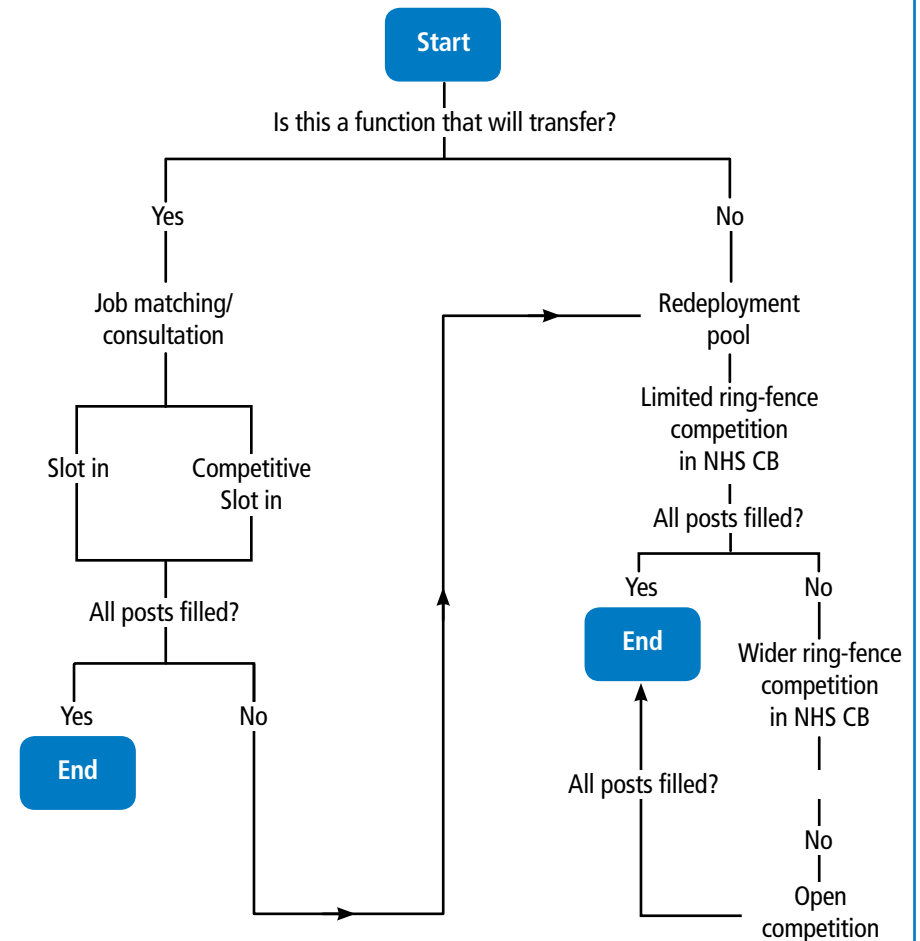
## 4. How transfers and appointments to the NHS Commissioning Board will be made

### 4.1. Overview

**4.1.1.** The NHS CB is a new organisation but will be taking on some functions that are currently delivered in the health and social care system at the moment as well as the new functions set out in the Health and Social Care Bill.

**4.1.2.** We are committed to making appointments in a fair, transparent and rigorous way respecting the rights of staff who may be working in functions that will transfer and ensuring that opportunities for redeployment are available to staff formally at risk of redundancy or affected by change.

**4.1.3.** The simple flowchart, right, gives you an overview of the approach the NHS CB will take in appointing staff to posts (**see section 6.1 for the journey an individual may make**).







# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  - 4. How transfers and appointments to the NHS Commissioning Board will be made**
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:  
NHS Commissioning Board  
redeployment policy for transition**
- Appendix B:  
NHS Commissioning Board  
relocation policy principles**

## 4. How transfers and appointments to the NHS Commissioning Board will be made

### 4.2. What is new and what is a transfer?

- 4.2.1.** Establishing the NHS CB is a complex process. The Health and Social Care Bill sets out the key functions of the NHS CB, some of which are new, for example, authorising Clinical Commissioning Groups and some of which are being delivered by different parts of the current system, for example, primary care commissioning. It is important that we understand exactly what is 'new' and what is 'a transfer' to the NHS CB as this affects how we will make appointments to the NHS CB.
- 4.2.2.** Transfers can be made under either, or both:
- The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) which protects employees' terms and conditions when a business or undertaking, or part of one, is transferred to a new employer. TUPE is a *matter of law* or
  - The Cabinet Office Statement of Practice on Staff Transfers in the Public Sector 2000 (COSOP) sets out policy in relation to transfers, which the Government expects public sector organisations to follow. It protects the rights of public sector staff involved in transfers, ensuring continuity of employment and of terms and conditions. COSOP is a *matter of policy* which applies the principles of TUPE.
- 4.2.3.** It is our intention to apply COSOP where there is a transfer of function and the principles of TUPE will be adhered to. This PTP has been written on this basis.
- 4.2.4.** The detailed design of the NHS CB is being developed. This will identify the functions and activities of the NHS CB and how we expect to deliver them in the future. We will use this information to work with your current employers to clarify what functions or activity will transfer and if so, the legal basis of the transfer (e.g. TUPE and / or COSOP), and how many people are affected. We will be seeking legal advice throughout this process to ensure that all legal obligations and processes are followed.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:  
NHS Commissioning Board  
redeployment policy for transition**
- Appendix B:  
NHS Commissioning Board  
relocation policy principles**

## 4. How transfers and appointments to the NHS Commissioning Board will be made

**4.2.5.** If you are working in a function that will transfer, your employer and the NHS CB will consult with you and your representatives about the transfer, in good time, before starting the transfer and appointments process.

### 4.3. Approach

**4.3.1.** It is expected that the NHS CB will become fully operational as an Executive Non-Departmental Public Body (ENDPB) by October 2012. So that the NHS CB can begin working effectively from the start, we will be using the time from the establishment of the SpHA to make as many appointments as we can. This will include transfers and new appointments. To support this process, final proposals for the functions and design of the NHS CB will be published by the SpHA in December 2011.

**4.3.2.** The NHS CB will be created as a Special Health Authority in October 2011 to help facilitate the formal establishment of the organisation. This will allow us to employ staff in advance of October 2012 through a phased approach to transfers. It will also mean that some of the work we will have to do can be undertaken before the ENDPB is formally established.

**4.3.3.** The Department of Health will consult with your trade union representatives on the establishment of the Special Health Authority, explaining what functions the SpHA is expected to deliver. This consultation commenced on 5 July 2011 and will end on 18 August 2011.

**4.3.4.** Permanent appointments will only be made to the Special Health Authority where the function and posts will continue when the ENDPB is formally established. Employees appointed to these posts will have their employment transferred to the ENDPB with the associated employment protection, including terms and conditions and continuity of service. It is therefore not the intention of the NHS CB to change the terms and conditions adopted by the SpHA when it is established as an ENDPB. Other staff will be seconded to the SpHA on a short-term basis to support its establishment (**see 6.9**). The process will adhere to the HR Transition Framework and the NHS Commissioning Board People Transition Policy.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  - 4. How transfers and appointments to the NHS Commissioning Board will be made**
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:  
NHS Commissioning Board  
redeployment policy for transition**
- Appendix B:  
NHS Commissioning Board  
relocation policy principles**

## 4. How transfers and appointments to the NHS Commissioning Board will be made

- 4.3.5.** Given the complexity of the NHS CB and the different organisations from which staff may transfer, it will not be possible to phase the transfers and make appointments in a sequential, hierarchical way. Nor will it be possible to complete all transfers of functions and employees before the appointments for new functions are made, as some of the activity of those new functions will need to be delivered early – in some cases, by the Special Health Authority. Any new appointments to any new functions will not undermine any employment rights of employees affected by transfers and appointments will be made in accordance with the ring-fencing provisions set out in the HR Transition Framework. We are, however, committed to ensuring you will understand how and when appointments, which impact on your own employment, will be made, so that you can make the most appropriate decision in relation to your employment situation.
- 4.3.6.** Despite the complexity, we want to manage this process to maximise employment opportunities for all employees affected by the transfer and those affected by change in a way that minimises the number of redundancies and enables us to retain talented and committed employees to ensure the future success of the NHS CB and the wider, reformed system. Key to this will be providing you with information about timescales and progress.
- 4.3.7.** The immediate priorities for appointments will be:
- a. Senior team and their support staff
  - b. Transition functions
  - c. Functions that have early deadlines
  - d. Transfers from organisations that may not be sustainable until October 2012



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:**  
NHS Commissioning Board redeployment policy for transition
- Appendix B:**  
NHS Commissioning Board relocation policy principles

## 4. How transfers and appointments to the NHS Commissioning Board will be made

### 4.4. Timetable

**4.4.1.** The table below sets out the timetable we are expecting to follow to make appointments to the NHS CB.

Date	Activity
July 2011	Publication of NHS CB Design Document and People Transition Policy
18 August	Consultation on establishment of the Special Health Authority ends
August - October	Finalise staffing structures for Phase One
18 August onwards	Commence consultation on transfer for senior and other priority posts as required
18 August onwards	Following consultation, commence job matching process for senior and other priority posts where there is a transfer
18 August onwards	Commence recruitment of senior and other priority posts where the posts are defined as 'new' posts and there is no transfer
31 October	Establishment of Special Health Authority. Senior and other priority posts begin to take up their positions
October - December	Complete recruitment of senior and other priority posts in Phase One
October - December	Finalise structures for Phase Two
December – March 2012	Review and agree People Transition Policy for Phase Two of transfers and appointments
January 2012 to March 2013	Undertake consultations with local staff and trade unions on the transfer process. Transfers and appointments to remaining posts, including consultations as required
October 2012	Establishment of Executive Non-Departmental Public Body
April 2013	ENDPB assumes full powers

**4.4.2.** This timetable will be subject to change but we will keep you up-to-date with progress through regular communications with you via your local employer and your Trade Union representatives



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
2. Introduction to the People Transition Policy
3. Working for the NHS Commissioning board
- 4. How transfers and appointments to the NHS Commissioning Board will be made**
5. What you can expect
6. How will this affect you?
7. Appointments process
8. Questions and answers
9. Glossary
10. Other resources

### Appendix A: NHS Commissioning Board redeployment policy for transition

### Appendix B: NHS Commissioning Board relocation policy principles

## 4. How transfers and appointments to the NHS Commissioning Board will be made

### 4.5. Working in Partnership with Staff and Trade Union Representatives

- 4.5.1.** Undertaking early engagement with employees and their Trade Unions to enable effective and sustainable change is another important principle set out in the HR Transition Framework. This People Transition Policy has been developed with the HR Transition Partnership Forum. The Forum includes officers from the trade unions with members across the NHS, DH and ALBs.
- 4.5.2.** The aims of the HR Transition Partnership Forum are set out in the terms of reference (you can find the full terms of reference **here**):
- To provide a single national forum for the discussion and development of HR policies and supporting processes to support transition across the NHS, DH and ALBs. This will include developing such guidance as the People Transition Policies for new ALBs
  - To develop and agree national level HR frameworks and other supporting guidance as agreed with the HR Strategy Group. The principles of the HR Transition Framework should be the basis of this work
  - To provide oversight and assurance that due diligence and consultation are undertaken as required by current and new employers
  - To monitor implementation and make recommendations where further guidance is needed across all areas (e.g. NHS, DH and ALB transition)
  - To provide advice on HR policy implementation including the interpretation of policy and resolution of policy in partnership
  - To support effective transition and ensure that HR policies are fair, clear and transparent
- 4.5.3.** The NHS CB PTP has been developed by the NHS CB People Transition Team in partnership with the HR Transition Partnership Forum (HRTPF). The implementation of the PTP will be monitored by the People Transition Team and the HRTPF and will be reviewed and updated by these groups as required to ensure that it remains fit for purpose.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  - 4. How transfers and appointments to the NHS Commissioning Board will be made**
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:  
NHS Commissioning Board redeployment policy for transition
- Appendix B:  
NHS Commissioning Board relocation policy principles

## 4. How transfers and appointments to the NHS Commissioning Board will be made

- 4.5.4.** This model of working will continue at both a national and local level throughout the transition period. The HR Transition Partnership Forum and the PTP and associated guidance aims to ensure that there is effective consultation at local level, so that you and your trade union representative are consulted on all issues, that will impact on your employment, pay, terms and conditions.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:**  
NHS Commissioning Board redeployment policy for transition
- Appendix B:**  
NHS Commissioning Board relocation policy principles

## 5. What you can expect

### 5.1. Overview

- 5.1.1.** These are complex changes and we are very conscious that they will impact on the careers and lives of many individuals working in the NHS, DH and ALBs. The HR Transition Framework sets out the principles to guide the way we will manage these changes and the cornerstone of our approach will be to consult and engage with everyone affected, ensuring that you are kept fully informed and supported throughout the process.
- 5.1.2.** The detailed procedures that will apply are set out in section 6 but it will be important for you to know what to expect during the process and from whom.
- 5.1.3.** To make this section as clear to you as possible, we have made a distinction between the support you can expect if you are designated to transfer and the support you can expect if you are in a redeployment situation.
- 5.1.4.** Where this section sets out proposed policies for the NHS CB, these will be subject to ratification by the Board when it is in place.

### 5.2. From your current employer

- 5.2.1.** We will work with your employer so that they have sufficient information to develop and share with you a clear transition plan, which should map out the organisational changes that are likely to impact on you during transition. You should expect your current employer to establish robust communication and engagement arrangements, which include regular staff briefings and updates on progress. Dependent on your employer's current arrangements, you may have the right to have a trade union representative at all meetings with your employer, should you so wish, and in particular those meetings where decisions about your future employment might be taken.

### 5.2.2. Transfers:

- a)** If your function is designated to transfer, you will transfer with that function (unless you object). The NHS CB will send detailed job descriptions for the identified posts in the NHS CB to your CEO who will work with the senior managers in your organisation and your line manager to confirm whether your role and the NHS CB role matches. Your line manager will have discussions with you during this process. If you do not agree with the decision on the job matching, you have the right to appeal.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:**  
NHS Commissioning Board redeployment policy for transition
- Appendix B:**  
NHS Commissioning Board relocation policy principles

## 5. What you can expect

- b) It is your employer's legal duty to consult with you and your representatives about your transfer. Before formal consultation commences your employer will provide you with regular updates on the proposed changes, the timeline for these and the impact on you of the establishment of the NHS CB.
- c) Once your function and post have been confirmed as transferring and the formal consultation process has begun you will continue to receive regular communications from your employer about the change process. You will also be consulted on the impact of any proposed changes to your current working arrangements. You will have an opportunity throughout this process to raise any concerns through your employer's normal grievance procedures.
- d) If your function is designated to transfer, but you have been unsuccessful in being appointed to a matched job, you will still be included in the transfer process (unless you object), though you will be at risk of redundancy. Your line manager will discuss this with you and you will receive formal confirmation in writing explaining what the next steps will be.

### 5.2.3. Redeployment:

- a) If your post is not one of those designated to transfer your line manager will discuss this with you and you will receive formal confirmation in writing explaining what the next steps will be.
- b) Your employer is responsible for trying to secure suitable alternative employment for you through the appropriate redeployment processes and / or exits. You will already have a local policy that explains this for you.

**5.2.4.** Your employer should provide you with support using 1:1 meetings, reviews and appraisal to identify your key skills that may be in demand and opportunities to address your personal development needs; preparing you for change, including information on pensions and benefits; providing opportunities to discuss career options.

**5.2.5.** Whilst every effort will be made to manage the transition period well, you may have concerns about the change process, decisions that are taken about your future employment or the way you have been treated. If this is the case, your current employer has the responsibility to set out the appropriate grievance





# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:**  
**NHS Commissioning Board redeployment policy for transition**
- Appendix B:**  
**NHS Commissioning Board relocation policy principles**

## 5. What you can expect

and appeals arrangements you should follow. You have the right to seek representation from your trade union throughout this process.

### 5.3. Support during the appointment process

- 5.3.1.** The Transition Resourcing Team (TRT) has been established as an independent central resourcing team and is contactable on [Transitionresourcing@appointments.org.uk](mailto:Transitionresourcing@appointments.org.uk). This team will be running all the selection processes for the establishment of the NHS CB and other new bodies and will ensure the process meets the public sector duties and is fair, simple, transparent and consistent. The TRT will administer the appointments using a dedicated e-recruitment system, and apply best equal opportunities practice in recruitment, selection and appointments including effective data collection, monitoring and reporting.
- 5.3.2.** All candidate information, including the application form will be on the e-recruitment system and you will be able to apply to vacancies on-line.
- 5.3.3.** Each vacancy will be managed by a named individual in the TRT who will provide their contact details. Any questions you might have can be directed to this individual at any point through the process.
- 5.3.4. Transfers:**
- a) If you have been designated to transfer, you have the right to transfer to the NHS Commissioning Board.
  - b) Where possible, the selections process, where there is competition for posts, will be conducted prior to your transfer, though no appointments will be made until after the transfer date. Staff will be made aware of the NHS CB's intention to appoint during this period. This is because we want to enable you to make informed decisions about your future employment given the significant reduction in overall posts. Conducting the selection process prior to your transfer will allow you to be clear about the post you will be transferring to in the NHS CB or any alternative opportunities available to you should you chose to transfer your employment or not.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
2. Introduction to the People Transition Policy
3. Working for the NHS Commissioning board
4. How transfers and appointments to the NHS Commissioning Board will be made
5. What you can expect
6. How will this affect you?
7. Appointments process
8. Questions and answers
9. Glossary
10. Other resources

### Appendix A: NHS Commissioning Board redeployment policy for transition

### Appendix B: NHS Commissioning Board relocation policy principles

## 5. What you can expect

- c) You will be kept fully informed by the NHS CB, the TRT and your current employer about where you are in the process and the options available to you at all times. These options may include (there will be a sender framework to support sender organisations in determining the detail behind these decisions. It is anticipated that this document will be available from September 2011):
  - Allowing you to opt out of a transfer where there is no identifiable post in the NHS CB, without resigning;
  - Giving you prior consideration for posts in the NHS CB through redeployment processes if you are unsuccessful in securing a post through a competitive slot-in (refer to Q27 in Section 9);
  - Relocating posts or allowing flexible working arrangements.
- d) If your current role and the identified role in the NHS CB are substantively the same; and you are the only person undertaking that role or there are the same or fewer people currently undertaking the role compared to the future there will be no selection process required and your employer will confirm your slot-in to the role in the NHS CB.

### 5.3.5. Redeployment:

- a) Your employer will provide you with the appropriate support and skills development you might require to help you including:
  - Developing and using networking arrangements – supporting you to develop and make use of formal and informal networks
  - Developing CVs and successful job applications
  - Accessing alternative employment opportunities
  - Accessing job search arrangements
  - Preparing for interviews.
- b) The TRT will alert you to vacancies for which you may be eligible to apply as they arise.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
2. Introduction to the People Transition Policy
3. Working for the NHS Commissioning board
4. How transfers and appointments to the NHS Commissioning Board will be made
5. What you can expect
6. How will this affect you?
7. Appointments process
8. Questions and answers
9. Glossary
10. Other resources

### Appendix A: NHS Commissioning Board redeployment policy for transition

### Appendix B: NHS Commissioning Board relocation policy principles

## 5. What you can expect

### 5.4. From the NHS CB when you are appointed

**5.4.1.** The NHS CB as your new employer will confirm the practical arrangements including your contract of employment, email and other IT systems, payroll and your pay day, pensions, security access arrangements, etc. There will be a comprehensive induction process, which will focus on the core purpose of the NHS CB and its ways of working as well as more traditional practical and functional issues. You will also be given information about plans for performance management, staff development and staff communications.

**5.4.2.** The NHS CB will also develop a comprehensive range of HR policies, which will be shared with you.

#### 5.4.3. Transfers

- a) Your appointment will be formally confirmed on the transfer date.
- b) If you have opted to transfer without a post, your transfer will be confirmed at the transfer date.
- c) You will transfer on your existing pay and terms and conditions of service (excluding pensions – though the NHS Pension scheme will be offered to NHS CB staff) but will receive a comparable pension under the requirements of COSOP<sup>1</sup> and you and your trade union representatives will have been fully consulted over any proposed measures prior to your transfer.

#### 5.4.4. Redeployment

- a) The NHS CB will offer continuity of service to employees it offers posts to who are on different terms and conditions in order to facilitate effective redeployment and mitigate against redundancy.

<sup>1</sup> If you are transferring from an organisation that offers a different pension scheme, you are currently entitled to a broadly comparable pension through the *Cabinet Office Statement of Practice on Staff Transfers in the Public Sector* (COSOP). COSOP references the Treasury guidance 'A Fair Deal for Staff Pensions', which is currently under review. It is not clear what impact (if any) the review will have on transfers protected by COSOP, although an outcome is expected in late summer.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
2. Introduction to the People Transition Policy
3. Working for the NHS Commissioning board
4. How transfers and appointments to the NHS Commissioning Board will be made
5. What you can expect
6. How will this affect you?
7. Appointments process
8. Questions and answers
9. Glossary
10. Other resources

### Appendix A: NHS Commissioning Board redeployment policy for transition

### Appendix B: NHS Commissioning Board relocation policy principles

## 6. How will this affect you?

### 6.1. Introduction

There are many different routes that you could follow to be appointed to a role in the NHS CB. This section sets out the potential routes, how you will be identified for which category (or categories) and what steps you will take along the way. These categories represent the pooling arrangements for the purposes of transfers, redeployment and appointments and follow the approach set out in the national HR Transition Framework. The routes are:

#### 6.1.1. TRANSFERS

- A. You are working in a function that will transfer; there is a job in the new structure that substantially matches yours and you can slot-in to it without competition
- B. You are working in a function that will transfer; there is a job in the new structure that matches yours but there are others who are eligible too so you will have to compete for the post
- C. You are working in a function that will transfer but because you were unsuccessful in the competitive slot-in you will be 'at risk'. You will have priority for any suitable remaining vacancies with other NHS CB employees who are also 'at risk'. You will have transferred to NHS CB on your existing terms and conditions of employment, excluding pensions and your appointment will be made on the same terms.
- D. You are working in a function that will transfer but there is not a matched job for you in the new structure because one does not exist so you will be 'at risk'. You will have priority for any suitable remaining vacancies with other employees who are also 'at risk'. You will have transferred to NHS CB on your existing terms and conditions of employment, excluding pensions and your appointment will be made on the same terms

#### 6.1.2. LIMITED RING FENCING

- E. You are working in a function that will not transfer but you are 'at risk' of redundancy from the NHS, DH or an ALB and there are vacancies in the NHS CB that may offer you alternative employment, e.g because they are at the grade of your current post and require the same or similar skills sets. As this is not a transfer you will be appointed on the terms and conditions applicable to the post you have applied for. There may be discretion in certain circumstances to allow you to retain your continuity of employment.
- F. You are 'at risk' or affected by change in the NHS, DH or ALBs and could apply for any of the available roles in the NHS CB, for example, this could be a promotion



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:**  
NHS Commissioning Board redeployment policy for transition
- Appendix B:**  
NHS Commissioning Board relocation policy principles

## 6. How will this affect you?

### 6.1.3. WIDER RING FENCING

G. You are working anywhere in the NHS, DH or ALBs and would like to apply for an available role in the NHS CB. These opportunities will only be made available following the limited ring fencing process.

### 6.1.4. OPEN COMPETITION

H. You apply for a vacant role in the NHS CB via an externally advertised open competition

### 6.1.5. SECONDMENT

I. You are seconded into a role in the NHS CB, for example, to assist in the establishment of the new organisation and will remain employed by your current employer at your substantive grade. It is important to note that these roles are for transition only, i.e. fixed term. If a transition post is later assessed to be needed as a permanent post in the new NHS CB structure, it will be appointed to following the routes 1 to 8 above. Secondments or fixed term posts will not be deemed Suitable Alternative Employment for staff, who are on permanent contracts and find themselves at risk of redundancy.

### 6.1.6. *In addition:*

J. You may be in a function and role that will transfer but you do not want to do this.

**6.1.7.** As a result of the significant reduction in overall posts NHS CB wants to enable staff to make informed decisions about their future employment. Conducting the selection process prior to your transfer will allow you to be clear about the post you will be transferring to in the NHS CB or any alternative opportunities available to you should you chose to transfer your employment or not.

**6.1.8.** Whilst it will not always be possible for sender organisations to retain staff who choose not to transfer, for example because the sender organisation no longer exists, the general principle supporting transfers to the NHS CB is that staff should, where possible be redeployed in the sender organisation. You should seek advice from your trade union before making any decision to object to a transfer.

**6.1.9.** Where this section sets out proposed policies for the NHS CB, these will be subject to ratification by the Board when it is in place.

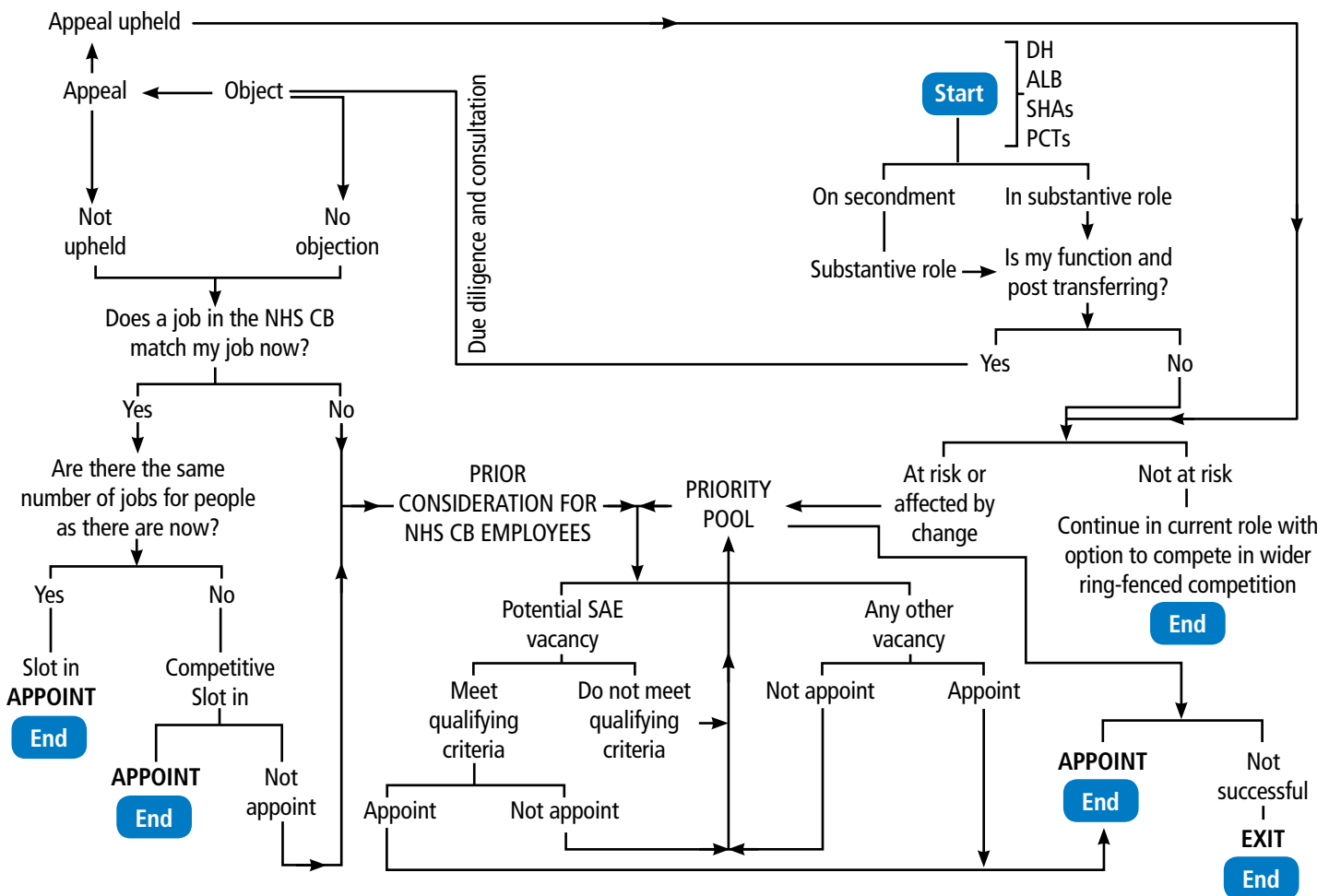
# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:  
NHS Commissioning Board redeployment policy for transition
- Appendix B:  
NHS Commissioning Board relocation policy principles

## 6. How will this affect you?

The following diagram explains how steps 1-7 may affect you





# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:  
NHS Commissioning Board  
redeployment policy for transition**
- Appendix B:  
NHS Commissioning Board  
relocation policy principles**

## 6. How will this affect you?

### 6.2. Transfer and slot-in

#### Description

You are working in a function that will transfer to the NHS CB; your current role and the identified role in the NHS Commissioning Board (NHS CB) are substantively the same; and you are the only person undertaking that role or there are the same or fewer people currently undertaking the role compared to the future.

#### The process

##### Step 1:

Once it has been confirmed that your function will transfer the NHS CB Transition Team will confirm the posts that will be transferring with that function into the NHS CB to the Chief Executive and Trade Unions of your organisation.

##### Step 2:

Job descriptions will also be sent to your CEO who will work with the senior managers in your organisation to identify and confirm that you should be designated to transfer with your post and that the roles match. Your line manager will have discussions with you during this step.

##### Step 3:

The proposals sent forward will be reviewed and agreed between your employer and the NHS CB Transition Team with legal and HR advice being taken as necessary.

##### Step 4:

Your employer will write to you to confirm the proposed transfer of your employment and the legal basis for the transfer. It will also set out the consultation process and how your employer will work with you and your Trade Unions.

If you disagree with any decisions made about your designation to transfer, you should raise your concerns through the agreed arbitration process (see Question 13 – Q&A). Where this decision has been made by your employer, your objection should be handled through your internal appeals process

##### Step 5:

You and your employment will transfer into the NHS CB at the agreed transfer date.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  - 6. How will this affect you?**
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:**  
NHS Commissioning Board redeployment policy for transition
- Appendix B:**  
NHS Commissioning Board relocation policy principles

## 6. How will this affect you? 6.2.

### Support for you prior to transfer

Before formal consultation and confirmation of your being designated to transfer your employer will provide you with regular updates on the proposed changes, the timeline for these and the impact on you of the establishment of the NHS CB.

Once your post has been confirmed as transferring and the formal consultation process has begun you will continue to receive regular communications from your employer about the change process. You will be informed of the legal, economic and social implications of the transfer. It is our intention to apply COSOP where there is a transfer of function and the principles of TUPE will be adhered to. On this basis your terms and conditions of employment, continuity of service and other contractual terms will be protected (see para 3.4) and you should be offered broadly comparable pension rights as part of Fair Deal (see para 3.5). There may however be measures NHS CB might wish to take, which will be consulted on through your recognised trade unions. You will have an opportunity throughout this process to raise any concerns through your employer's normal grievance procedures.

### What you can expect at the point of transfer

Prior to your transfer the NHS CB will confirm your contract of employment, policies and processes as part of the consultation process. At the point of your transfer NHS CB as your new employer will also confirm the practical arrangements including your email and other IT systems, payroll and your pay day, pensions, security access arrangements, etc. There will be a comprehensive induction process, which will focus on the core purpose of the NHS CB and its ways of working as well as more traditional practical and functional issues. You will also be given information about plans for performance management, staff development and staff communications.





# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:**  
NHS Commissioning Board redeployment policy for transition
- Appendix B:**  
NHS Commissioning Board relocation policy principles

## 6. How will this affect you?

### 6.3. Transfer and successful competitive slot-in

#### Description

You are working in a function that will transfer to the NHS CB; your current role and the identified role in the NHS CB are substantively the same; but the overall number of existing post holders is higher than the number required in the NHS CB. You are successful in securing a role through the selection process.

#### The process

##### Step 1:

The NHS CB Transition Team will confirm the posts that will be transferring into the NHS CB to the Chief Executive of your organisation.

##### Step 2:

Job descriptions will also be sent to your CEO who will work with the senior managers in your organisation to identify and confirm that you should be designated to transfer with your post and that the roles match. Your line manager will have discussions with you during this step.

##### Step 3:

The proposals sent forward will be reviewed and agreed between your employer and the NHS CB Transition Team with legal and HR advice being taken as necessary.

##### Step 4:

Your employer will write to you to confirm the proposed transfer of your employment and the legal basis for the transfer. It will also set out the consultation process and how your employer will work with you and your Trade Unions representatives.

##### Step 5:

The Transition Resourcing Team will email you asking you to register your details on the e-recruitment system. They will then invite you to participate in a selection process prior to transfer with the other people in competition for the relevant post. This will be a straight forward process meeting equality and diversity standards where you will be required to fill in an application form, which you will then be assessed against. There will be an initial assessment process to create a short list of candidates who will be invited to an interview facilitated by the Transition Resourcing Team. You will be notified of the outcome of the selection process in writing, subject to consultation on the transfer of your employment (see the support you can expect below).



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:**  
NHS Commissioning Board redeployment policy for transition
- Appendix B:**  
NHS Commissioning Board relocation policy principles

## 6. How will this affect you? 6.3.

### Step 6:

You and your employment will transfer into the NHS CB at the agreed transfer date.

### Support for you prior to transfer

Before formal consultation and confirmation of your being designated to transfer your employer will provide you with regular updates on the proposed changes, the timeline for these and the impact on you of the establishment of the NHS CB.

Once your post has been confirmed as transferring and the formal consultation process has begun you will continue to receive regular communications from your employer about the change process. You will be informed of the legal, economic and social implications of the transfer. It is our intention to apply COSOP where there is a transfer of function and the principles of TUPE will be adhered to. On this basis your terms and conditions of employment, continuity of service and other contractual terms will be protected (see para 3.4) and you should be offered broadly comparable pension rights as part of Fair Deal (see para 3.5). There may however be measures NHS CB might wish to take, which will be consulted on through your recognised trade unions. You will have an opportunity throughout this process to raise any concerns through your employer's normal grievance procedures.

Specifically, the competitive slot-in process will be managed through the Transition Resourcing Team, which is independent from the NHS CB Transition Team and is contactable on [Transitionresourcing@appointments.org.uk](mailto:Transitionresourcing@appointments.org.uk). This team will be running all the selection processes for the establishment of the new bodies and will ensure the process is fair, simple, transparent and consistent. If you have any complaints about the approach or process undertaken by the TRT, you should follow the complaints procedure the TRT will provide.

### What you can expect at the point of transfer

Prior to your transfer the NHS CB will confirm your contract of employment, policies and processes as part of the consultation process. At the point of your transfer NHS CB as your new employer will also confirm the practical arrangements including your email and other IT systems, payroll and your pay day, pensions, security access arrangements, etc. There will be a comprehensive induction process, which will focus on the core purpose of the NHS CB and its ways of working as well as more traditional practical and functional issues. You will also be given information about plans for performance management, staff development and staff communications.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
2. Introduction to the People Transition Policy
3. Working for the NHS Commissioning board
4. How transfers and appointments to the NHS Commissioning Board will be made
5. What you can expect
6. How will this affect you?
7. Appointments process
8. Questions and answers
9. Glossary
10. Other resources

### Appendix A: NHS Commissioning Board redeployment policy for transition

### Appendix B: NHS Commissioning Board relocation policy principles

## 6. How will this affect you?

### 6.4. Transfer and competitive slot-in (unsuccessful)

#### Description

You are working in a function that will transfer to the NHS CB; your current role and the identified role in the NHS CB are substantively the same; but the overall number of existing post holders is higher than the number required in the NHS CB. You are unsuccessful in securing a role through the selection process.

#### The process

##### Step 1:

The NHS CB Transition Team will confirm the posts that will be transferring into the NHS CB to the Chief Executive of your organisation.

##### Step 2:

Job descriptions will also be sent to your CEO who will work with the senior managers in your organisation to identify and confirm that you should be designated to transfer with your post and that the roles match. Your line manager will have discussions with you during this step.

##### Step 3:

The proposals sent forward will be reviewed and agreed between your employer and the NHS CB Transition Team with legal and HR advice being taken as necessary.

##### Step 4:

Your employer will write to you to confirm the proposed transfer of your employment and the legal basis for the transfer. It will also set out the consultation process and how your employer will work with you and your staff representatives or Trade Unions.

##### Step 5:

The Transition Resourcing Team will email you asking you to register your details on the e-recruitment system. They will then invite you to participate in a selection process prior to transfer with the other people in competition for the relevant post. This will be a simple process where you will be required to fill in an application form, which you will then be assessed against. There will be an initial assessment process to create a short list of candidates who will be invited to an interview facilitated by the Transition Resourcing Team. You will be notified of the outcome of the selection process in writing prior to the transfer of your employment (see the support you can expect below).



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:**  
NHS Commissioning Board redeployment policy for transition
- Appendix B:**  
NHS Commissioning Board relocation policy principles

## 6. How will this affect you? 6.4.

### Step 6:

As you are unsuccessful in the selection process and you have not yet transferred, your employer will discuss a number of options with you. These could include:

- i. Agreeing to opt out of the transfer, (see also 6.11) in which case your employer will formally put you at risk of redundancy and you will be invited to participate in a redeployment process, involving limited ring-fenced competition or wider ring-fenced competition for any remaining vacancies across the sector.
- ii. Opting to transfer to the NHS CB without a post, in which case you will be given prior consideration for remaining vacancies at your grade in the NHS CB alongside any other staff who have also opted to transfer without posts.
- iii. Opting to transfer to the NHS CB without a post and being unsuccessful in securing a suitable alternative post. In this case, you will be formally put at risk of redundancy by the NHS CB after your employment has transferred and your redeployment activity will commence at this point.
- iv. Exploring whether any post secured as part of redeployment activity in an organisation that is not your current employer constitutes suitable alternative employment. In this event it is not a transfer of employment.
- v. Exploring relevant options for exiting your employing organisation and the support available to you.

If you disagree with any decisions made about your designation to transfer or selection process, you should raise your concerns through the agreed arbitration process (see question 13 – Q&A).

### Support for you prior to transfer

Before formal consultation and confirmation of your being designated to transfer your employer will provide you with regular updates on the proposed changes, the timeline for these and the impact on you of the establishment of the NHS CB.

Once your post has been confirmed as transferring and the formal consultation process has begun you will continue to receive regular communications from your employer about the change process. You will be informed of the legal, economic and social implications of the transfer. It is our intention to apply COSOP where there is a transfer of function and the principles of TUPE will be adhered to. On this basis your terms and conditions of employment, continuity of service and other contractual terms will be protected (see para 3.4) and you should be offered broadly comparable pension rights as part of Fair Deal (see para 3.5). There may however be measures NHS CB might wish to take, which will be consulted on through your recognised trade unions. You will have an opportunity throughout this process to raise any concerns through your employer's normal grievance procedures.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  - 6. How will this affect you?**
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:  
NHS Commissioning Board redeployment policy for transition
- Appendix B:  
NHS Commissioning Board relocation policy principles

## 6. How will this affect you? 6.4.

Specifically, the competitive slot-in process will be managed through the Transition Resourcing Team, which is independent from the NHS CB Transition Team and is contactable on [Transitionresourcing@appointments.org.uk](mailto:Transitionresourcing@appointments.org.uk). This team will be running all the selection processes for the establishment of the new bodies and will ensure the process is fair, simple, transparent and consistent. If you have any complaints about the approach or process undertaken by the TRT, you should follow the complaints procedure the TRT will provide.

The redeployment process will be managed by your employing organisation in line with their redeployment policy and the HR Transition Framework.

### What you can expect at the point of transfer where applicable

Prior to your transfer the NHS CB will confirm your contract of employment, policies and processes as part of the consultation process. At the point of your transfer NHS CB as your new employer will also confirm the practical arrangements including your email and other IT systems, payroll and your pay day, pensions, security access arrangements, etc. There will be a comprehensive induction process, which will focus on the core purpose of the NHS CB and its ways of working as well as more traditional practical and functional issues. You will also be given information about plans for performance management, staff development and staff communications.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:  
NHS Commissioning Board redeployment policy for transition
- Appendix B:  
NHS Commissioning Board relocation policy principles

## 6. How will this affect you?

### 6.5. Transfer but no role and 'at risk'

#### Description

You are working in a function that will transfer to the NHS CB and your current role is not substantively the same as a role in the NHS CB.

#### The process

##### Step 1:

The NHS CB Transition Team will confirm the posts that will be transferring into the NHS CB to your CEO.

##### Step 2:

Job descriptions will also be sent to your CEO who will work with the senior managers in your organisation to identify and confirm that you should be designated to transfer with your post. Your line manager will have discussions with you during this step.

##### Step 3:

The proposals sent forward will be reviewed and agreed between your employer and the NHS CB Transition Team with legal and HR advice being taken as necessary.

##### Step 4:

Your employer will write to you to confirm the proposed transfer of your employment and the legal basis for the transfer. It will also set out the consultation process and how your employer will work with you and your staff representatives or Trade Unions.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:**  
NHS Commissioning Board redeployment policy for transition
- Appendix B:**  
NHS Commissioning Board relocation policy principles

## 6. How will this affect you? 6.5.

### Step 5:

If you are working in a function that will transfer to the NHS CB and your current role is not substantively the same as a role in the NHS CB and you have not yet transferred, your employer will discuss a number of options with you. These could include:

- i. Agreeing to opt out of the transfer, in which case your employer will formally put you at risk of redundancy and you will be invited to participate in a redeployment process, involving limited ring-fenced competition or wider ring-fenced competition for any remaining vacancies across the sector.
- ii. Opting to transfer to the NHS CB without a post, in which case you will be given prior consideration for remaining vacancies at your grade in the NHS CB alongside any other staff who have also opted to transfer without posts.
- iii. Opting to transfer to the NHS CB without a post and being unsuccessful in securing a suitable alternative post. In this case, you will be formally put at risk of redundancy by the NHS CB after your employment has transferred and your redeployment activity will commence at this point.
- iv. Exploring whether any post secured as part of redeployment activity in an organisation that is not your current employer constitutes suitable alternative employment. In any event it is not a transfer of employment.
- v. Exploring relevant options for exiting your employing organisation and the support available to you.

If you disagree with any decisions made about your designation to transfer, the selection or redeployment process, you should raise your concerns through the agreed arbitration process (see question 13 – Q&A).

### Support for you

Before formal consultation and confirmation of your being designated to transfer your employer will provide you with regular updates on the proposed changes, the timeline for these and the impact on you of the establishment of the NHS CB.

Once your post has been confirmed as transferring and the formal consultation process has begun you will continue to receive regular communications from your employer about the change process. You will be informed of the legal, economic and social implications of the transfer. It is our intention to apply COSOP where there is a transfer of function and the principles of TUPE will be adhered to. On this basis your terms and conditions of employment, continuity of service and other contractual terms will be protected (see para 3.4) and you should be offered broadly comparable pension rights as part of Fair Deal (see para 3.5). There may however be measures NHS CB might wish to take, which will be consulted on through your recognised trade unions. You will have an opportunity throughout this process to raise any concerns through your employer's normal grievance procedures.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:  
NHS Commissioning Board redeployment policy for transition
- Appendix B:  
NHS Commissioning Board relocation policy principles

## 6. How will this affect you? 6.5.

Specifically, the competitive slot-in process will be managed through the Transition Resourcing Team, which is independent from the NHS CB Transition Team and is contactable on [Transitionresourcing@appointments.org.uk](mailto:Transitionresourcing@appointments.org.uk). This team will be running all the selection processes for the establishment of the new bodies and will ensure the process is fair, simple, transparent and consistent. If you have any complaints about the approach or process undertaken by the TRT, you should follow the complaints procedure that the TRT will provide.

The redeployment process will be managed by your employing organisation in line with their redeployment policy and the HR Transition Framework.

### What you can expect at the point of transfer where applicable

Prior to your transfer the NHS CB will confirm your contract of employment, policies and processes as part of the consultation process. At the point of your transfer NHS CB as your new employer will also confirm the practical arrangements including your email and other IT systems, payroll and your pay day, pensions, security access arrangements, etc. There will be a comprehensive induction process, which will focus on the core purpose of the NHS CB and its ways of working as well as more traditional practical and functional issues. You will also be given information about plans for performance management, staff development and staff communications.





# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:  
NHS Commissioning Board  
redeployment policy for transition**
- Appendix B:  
NHS Commissioning Board  
relocation policy principles**

## 6. How will this affect you?

### 6.6. No transfer but 'at risk' and NHS CB role offers alternative employment at your equivalent pay grade and skill set

#### Description

Your current function and role do not transfer to the NHS CB and you have formally been put at risk of redundancy by your employer. Vacancies are available in the NHS CB that offer you alternative employment and you meet the qualifying criteria for the post.

#### The process

##### Step 1:

Your post is not one of those designated to transfer and your employer will write to you to confirm this and to put you at risk of redundancy.

If you disagree with this decision you should raise your objections through your current employer's normal grievance or appeals procedure. We would encourage you to seek advice from your trade union (if you belong to one) on this issue.

##### Step 2:

You will be invited to participate in a redeployment process, involving limited ring-fenced competition or wider ring-fenced competition for any remaining vacancies across the sector (see Q&A reference for definitions). The Transition Resourcing Team will email you asking you to register on the e-recruitment system. They will then alert you by email to relevant vacancies as they become available. If you are the only applicant for the relevant post who meets the person specification, the selection process may involve an informal conversation only with the recruiting manager.

##### Step 3:

If you are successful through the redeployment process you will be appointed to the relevant post in the employing organisation. This is not a transfer of employment and you will need to work with your HR adviser to agree whether it constitutes alternative employment.

If you are unsuccessful in securing suitable alternative employment your employer will explore relevant options for exiting your employing organisation and the support available to you.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  - 6. How will this affect you?**
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:  
NHS Commissioning Board  
redeployment policy for transition**
- Appendix B:  
NHS Commissioning Board  
relocation policy principles**

## 6. How will this affect you? 6.6.

### Support for you

Before formal consultation and confirmation of your not being designated to transfer your employer will provide you with regular updates on the proposed changes, the timeline for these and the impact on you of the establishment of the NHS CB.

The redeployment process will be managed by your employing organisation, in line with their redeployment policy and the HR Transition Framework.

The limited and wider ring-fenced processes will be managed through the Transition Resourcing Team, which is independent from the NHS CB Transition Team and is contactable on [Transitionresourcing@appointments.org.uk](mailto:Transitionresourcing@appointments.org.uk). This team will be running all the selection processes for the establishment of the new bodies and will ensure the process is fair, simple, transparent and consistent. If you have any complaints about the approach or process undertaken by the TRT, you should follow the complaints procedure that the TRT will provide.

### What you can expect if appointed

If the NHS CB is your new employer they will confirm the practical arrangements including your new contract of employment, email and other IT systems, payroll and your pay day, pensions, security access arrangements, etc. There will be a comprehensive induction process, which will focus on the core purpose of the NHS CB and its ways of working as well as more traditional practical and functional issues. You will also be given information about plans for performance management, staff development and staff communications.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
2. Introduction to the People Transition Policy
3. Working for the NHS Commissioning board
4. How transfers and appointments to the NHS Commissioning Board will be made
5. What you can expect
6. How will this affect you?
7. Appointments process
8. Questions and answers
9. Glossary
10. Other resources

### Appendix A: NHS Commissioning Board redeployment policy for transition

### Appendix B: NHS Commissioning Board relocation policy principles

## 6. How will this affect you?

### 6.7. No transfer but 'at risk' and NHS CB role is an opportunity for alternative employment

#### Description

Your current function and role do not transfer to the NHS CB and you have formally been put at risk of redundancy by your employer. Vacancies are available in the NHS CB for all staff at risk or affected by change. This may include opportunities for promotion.

#### The process

##### Step 1:

Your post is not one of those designated to transfer and your employer will write to you to confirm this and to put you at risk of redundancy.

If you disagree with this decision you should raise your objections through your current employer's normal grievance or appeals procedure. We would encourage you to seek advice from your trade union (if you belong to one), regarding this issue.

##### Step 2:

You will be invited to participate in a redeployment process, involving limited ring-fenced competition or wider ring-fenced competition for any remaining vacancies across the sector (see Q&A reference for definitions). The Transition Resourcing Team will email you asking you to register on the e-recruitment system. They will then alert you by email to relevant vacancies as they become available. If you are the only applicant for the relevant post who meets the person specification, the selection process may involve an informal conversation only with the recruiting manager.

##### Step 3:

If you are successful through the redeployment process you will be appointed to the relevant post in the employing organisation. This is not a transfer of employment and you will need to work with your HR adviser to agree whether it constitutes suitable alternative employment.

If you are unsuccessful in securing suitable alternative employment your employer may confirm your position as potentially redundant and will explore relevant options for exiting your employing organisation and the support available to you.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:  
NHS Commissioning Board redeployment policy for transition
- Appendix B:  
NHS Commissioning Board relocation policy principles

## 6. How will this affect you? 6.7.

### Support for you

Before formal consultation and confirmation of your not being designated to transfer your employer will provide you with regular updates on the proposed changes, the timeline for these and the impact on you of the establishment of the NHS CB.

The redeployment process will be managed by your employing organisation in line with their redeployment policy and the HR Transition Framework.

The limited and wider ring-fenced processes will be managed through the Transition Resourcing Team, which is independent from the NHS CB Transition Team and is contactable on [Transitionresourcing@appointments.org.uk](mailto:Transitionresourcing@appointments.org.uk). This team will be running all the selection processes for the establishment of the new bodies and will ensure the process is fair, simple, transparent and consistent. If you have any complaints about the approach or process undertaken by the TRT, you should follow the complaints procedure that the TRT will provide

### What you can expect if appointed

The NHS CB as your new employer will confirm the practical arrangements including your new contract of employment, email and other IT systems, payroll and your pay day, pensions, security access arrangements, etc. There will be a comprehensive induction process, which will focus on the core purpose of the NHS CB and its ways of working as well as more traditional practical and functional issues. You will also be given information about plans for performance management, staff development and staff communications.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:**  
NHS Commissioning Board redeployment policy for transition
- Appendix B:**  
NHS Commissioning Board relocation policy principles

## 6. How will this affect you?

### 6.8. Wider ring-fenced competition in the NHS, DH, ALB family

#### Description

Your current role is not an identified role in the NHS CB and you have not formally been put at risk of redundancy by your employer.

#### The process

##### Step 1:

The Transition Resourcing Team will confirm the vacancies it has not been able to fill through limited ring-fencing with people who are already at risk or affected by change.

##### Step 2:

These vacancies will be advertised to staff in the NHS, DH and ALBs and you will have the option of applying for these posts.

##### Step 3:

A simple selection process will be managed by the Transition Resourcing Team and you will be informed in writing about the outcome of your application. If you are the only applicant for the relevant post who meets the person specification, the selection process may involve an informal conversation only with the recruiting manager.

##### Step 4:

If you are successful you will be appointed to the relevant post in the employing organisation. This is not a transfer of employment.

#### Support for you

The wider ring-fence process will be managed through the Transition Resourcing Team, which is independent from the NHS CB Transition Team and is contactable on [Transitionresourcing@appointments.org.uk](mailto:Transitionresourcing@appointments.org.uk). This team will be running all the selection processes for the establishment of the new bodies and will ensure the process is fair, simple, transparent and consistent.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:  
NHS Commissioning Board redeployment policy for transition
- Appendix B:  
NHS Commissioning Board relocation policy principles

## 6. How will this affect you? 6.8.

### What you can expect if appointed

The NHS CB as your new employer will confirm the practical arrangements including your new contract of employment, email and other IT systems, payroll and your pay day, pensions, security access arrangements, etc. There will be a comprehensive induction process, which will focus on the core purpose of the NHS CB and its ways of working as well as more traditional practical and functional issues. You will also be given information about plans for performance management, staff development and staff communications.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:  
NHS Commissioning Board  
redeployment policy for transition**
- Appendix B:  
NHS Commissioning Board  
relocation policy principles**

## 6. How will this affect you?

### 6.9. Open competition

#### Description

Vacancies remain unfilled in the NHS CB following limited and wider ring fence processes.

#### The process

##### Step 1:

The Transition Resourcing Team will confirm the vacancies it has not been able to fill through transfers or limited and wider ring-fence competitions.

##### Step 2:

These vacancies will be advertised externally and you will have the option of applying for these posts.

##### Step 3:

An external selection process will be conducted by the Transition Resourcing Team and applicants will be informed in writing about the outcome of their application.

##### Step 4:

If you are successful you will be appointed to the relevant post in the employing organisation. This is not a transfer of employment.

#### What you can expect if appointed

The NHS CB as your new employer will confirm the practical arrangements including your new contract of employment, email and other IT systems, payroll and your pay day, pensions, security access arrangements, etc. There will be a comprehensive induction process, which will focus on the core purpose of the NHS CB and its ways of working as well as more traditional practical and functional issues. You will also be given information about plans for performance management, staff development and staff communications.

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:**  
NHS Commissioning Board redeployment policy for transition
- Appendix B:**  
NHS Commissioning Board relocation policy principles

## 6. How will this affect you?

### 6.10. Secondment

#### Description

There are posts in the NHS CB supporting transition/set-up, which will be filled through secondments. These posts will not be offered as suitable alternative employment to any staff who are on permanent contracts and at risk of redundancy.

#### The process

##### Step 1:

The NHS Commissioning Board Transition Team will confirm the non-permanent transition posts required for establishing the NHS Commissioning Board. These will be offered as secondments because of the short-term nature of the role.

##### Step 2:

These opportunities will be made available to suitable staff in the NHS, DH and ALBs and you will have the option of applying for these posts. It should be noted that if your post is designated to transfer, you cannot opt for a secondment rather than transfer your employment.

##### Step 3:

If more than one person applies, a simple selection process will be managed by the NHS CB Transition Team and you will be informed in writing about the outcome of your application.

##### Step 4:

If you are successful you will be temporarily seconded to the relevant transition / set-up post in the NHS CB. Your current employment status will remain unchanged.

#### Support for you

The secondment process will be managed between your employer and the NHS CB Transition Team.

It will be the responsibility of your employer to work with you throughout your secondment to identify opportunities for suitable alternative employment at the end of your secondment to the NHS CB.





# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
2. Introduction to the People Transition Policy
3. Working for the NHS Commissioning board
4. How transfers and appointments to the NHS Commissioning Board will be made
5. What you can expect
6. How will this affect you?
7. Appointments process
8. Questions and answers
9. Glossary
10. Other resources

**Appendix A:**  
NHS Commissioning Board  
redeployment policy for transition

**Appendix B:**  
NHS Commissioning Board  
relocation policy principles

## 6. How will this affect you? 6.10.

### What you can expect at the end of your secondment

1. You will remain employed by your originating organisation for the duration of your secondment. Responsibility for return to permanent work remains with your employer. Secondments can only apply where it is possible to return to your originating employer.
2. You will not be seconded to a transition role for any longer than a maximum of 12 months without a formal renewal of the secondment arrangement. The NHS CB will agree to foreshorten your secondment period to allow you to take up a permanent post in your employing body should one arise during your secondment to the NHS CB.
3. You will remain on your current terms and conditions including those of performance related pay for the duration of the secondment.
4. The NHS CB will expect to work within your current employer's relevant secondment policy and procedure in relation to any negotiated changes of pay, during your secondment, but in all cases you will return to your original employer on your substantive salary and grade. Standard template agreements will be used
5. Your performance will continue to be managed through your employer's performance management policy and process.
6. For tax purposes expenses must be claimed from your employer and not the NHS CB.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
2. Introduction to the People Transition Policy
3. Working for the NHS Commissioning board
4. How transfers and appointments to the NHS Commissioning Board will be made
5. What you can expect
- 6. How will this affect you?**
7. Appointments process
8. Questions and answers
9. Glossary
10. Other resources

### Appendix A: NHS Commissioning Board redeployment policy for transition

### Appendix B: NHS Commissioning Board relocation policy principles

## 6. How will this affect you?

### 6.11. Don't want to transfer

#### Description

Your function or role has been formally designated to transfer to the NHS CB, but you do not want to transfer.

#### The process

##### Step 1:

Informal discussions with your line manager or HR about the proposed transfer of your employment to the NHS CB and concerns you might have about it.

##### Step 2:

Your employer will write to you to confirm the proposed transfer of your employment and the legal basis for the transfer. It will also set out the consultation process and how your employer will work with you and your staff representatives or Trade Unions.

It is at this stage that you can formally object to the proposed transfer of your employment through the agreed arbitration process (see question 13 – Q&A). Opting out of a transfer implies objecting to the transfer, which is in effect resigning. In this case you should always seek advice from your HR Adviser and your trade union representative about your reasons for objecting and the likelihood of success through the appeals process.

##### Step 3i:

If your appeal is upheld you will be formally put at risk of redundancy and you will be invited to participate in a redeployment process, involving limited ring-fenced competition or wider ring-fenced competition for any remaining vacancies across the sector (see Glossary for definitions).

##### Step 3ii:

If your objection is not upheld and you decide not to transfer your employment, you will be deemed to have resigned.

#### Support for you

Before formal consultation begins you will receive confirmation of your role being designated to transfer. Your employer will provide you with regular updates on the proposed changes the timeline for these and the impact on you of the establishment of the NHS CB.

If your objection to transfer is upheld, your redeployment process will be managed by your employing organisation in line with their redeployment policy and the HR Transition Framework.

# People Transition Policy

## Foreword by Sir David Nicholson

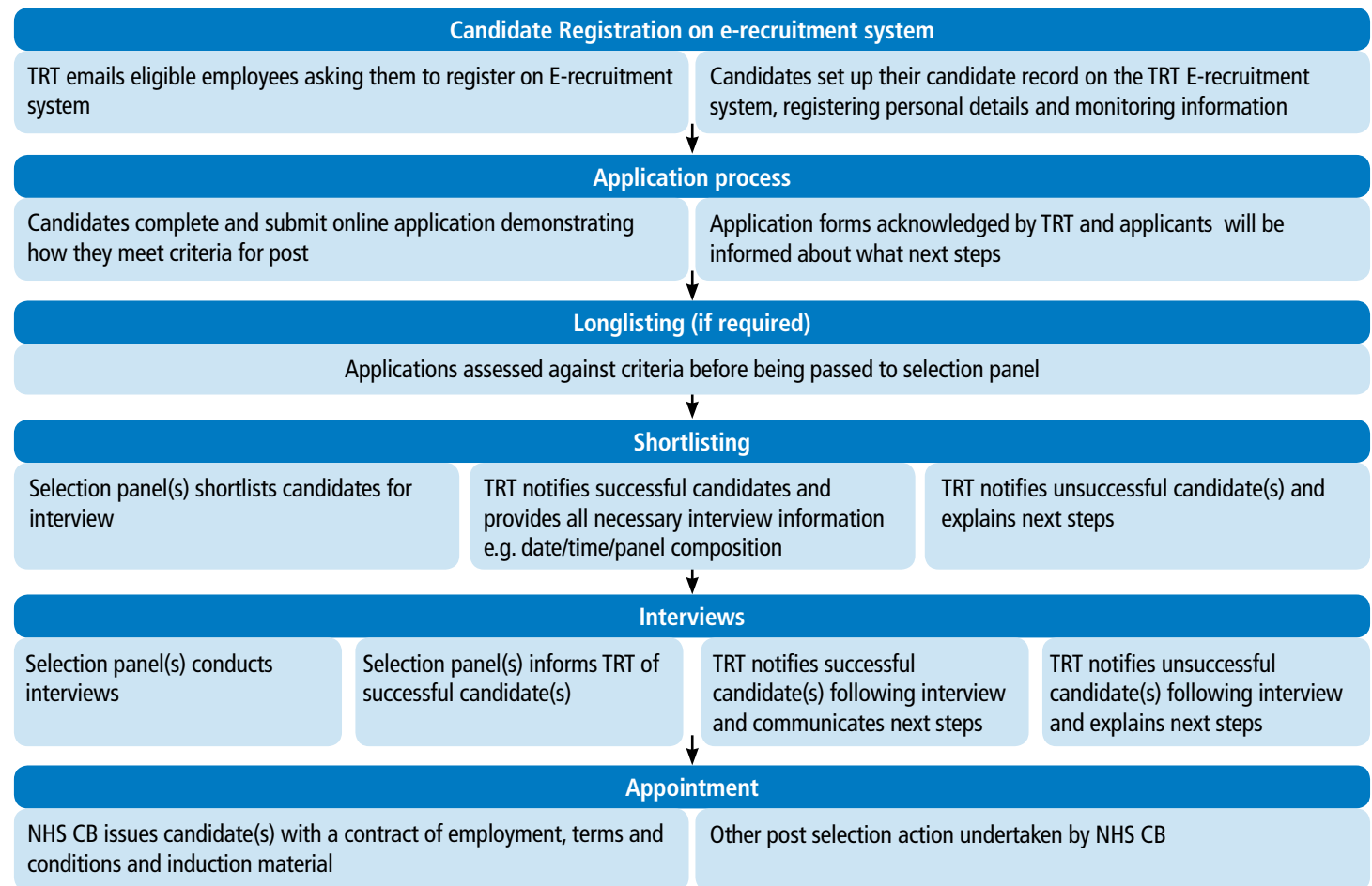
1. Welcome to the NHS Commissioning Board
2. Introduction to the People Transition Policy
3. Working for the NHS Commissioning board
4. How transfers and appointments to the NHS Commissioning Board will be made
5. What you can expect
6. How will this affect you?
7. Appointments process
8. Questions and answers
9. Glossary
10. Other resources

### Appendix A: NHS Commissioning Board redeployment policy for transition

### Appendix B: NHS Commissioning Board relocation policy principles

## 7. Appointments process

If at any stage you need to go through a competitive appointments process, the following standard steps will apply. For each recruitment exercise, the candidate information pack will provide more detail about how these steps will be conducted.





# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:  
NHS Commissioning Board  
redeployment policy for transition**
- Appendix B:  
NHS Commissioning Board  
relocation policy principles**

## 8. Questions and answers

### General

#### 1. I hear a lot about TUPE and COSOP? What's the difference?

The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) protects employees' terms and conditions when a business or undertaking, or part of one, is transferred to a new employer, or there is a service provision change. TUPE is a *matter of law*.

The Cabinet Office Statement of Practice on Staff Transfers in the Public Sector 2000 (COSOP) sets out policy in relation to transfers, which the Government expects public sector organisations to follow. It protects the rights of public sector staff involved in transfers, ensuring continuity of employment and of terms and conditions. COSOP is a *matter of policy*.

#### 2. Which one applies to NHS CB?

The establishment of the NHS CB is a complex process as it will include new functions as well as the transfer of functions from different parts of the Department of Health, NHS and Arm's Length Bodies. It is therefore not possible to specify exactly what will apply in each circumstance.

However, it is our intention to apply COSOP where there is a transfer of function and the principles of TUPE will be adhered to. We will seek legal advice on this question as we are required to do and any decisions made will be clearly explained in the specific consultation that will take place for each transfer.

#### 3. Will employee terms and conditions be affected by a transfer to the NHS CB?

NHS CB staff will have access to the NHS pension scheme.

Employees will receive employment protection and will transfer on their existing terms and conditions of service (excluding pensions).

Where employees transfer under COSOP (whether or not TUPE also applies) they currently benefit from the added protection of the Cabinet Office – 'A Fair Deal for Staff Pensions' (HM Treasury, 1999). Fair Deal requires that the new pension must be broadly comparable to the old one. Fair Deal is currently under review and how pensions are managed will depend on the outcome of that review in Summer 2011.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
2. Introduction to the People Transition Policy
3. Working for the NHS Commissioning board
4. How transfers and appointments to the NHS Commissioning Board will be made
5. What you can expect
6. How will this affect you?
7. Appointments process
8. Questions and answers
9. Glossary
10. Other resources

### Appendix A: NHS Commissioning Board redeployment policy for transition

### Appendix B: NHS Commissioning Board relocation policy principles

## 8. Questions and answers

### 4. What about continuity of service?

Employees will transfer with continuity of service.

### 5. What does “designated to transfer” mean?

If you have been told that you have been designated to transfer, this means, subject to formal consultation, your employment will transfer with your work to the NHS CB. This is because your post sits within a function that is transferring to the NHS CB.

### 6. What happens if my duties are divided between two or more areas of work and one area is designated to transfer whilst the other isn't?

Generally, the guidance is that if someone spends more than 50% of their time on duties in the undertaking immediately before the transfer, it is reasonable to include them for possible transfer to the NHS CB. However, it is recommended that these are dealt with on a case-by-case basis.

### 7. What will happen to staff who transfer, where there is a duplication of roles; a reorganisation, which results in the transferring role disappearing; or there is no post to transfer to?

The NHS CB will work with sender organisations and their staff to ensure that they get best possible outcome through the transfer process with the underlying aims of minimising redundancies and unnecessary transfers. To this end, we will work with trade unions and individual staff to help them make informed choices about their future by keeping them fully informed about where they are in the process and the options available at all times. These options will include:

- Where at all possible undertaking selection processes prior to transfer.
- Allowing staff to opt out of transfers where there is no identifiable post in the NHS CB without resigning.
- Giving staff who are unsuccessful in securing a post through job matching prior consideration for posts in the NHS CB through redeployment processes.
- Relocating posts or allowing flexible working arrangements.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  - 8. Questions and answers**
  9. Glossary
  10. Other resources
- Appendix A:  
NHS Commissioning Board  
redeployment policy for transition**
- Appendix B:  
NHS Commissioning Board  
relocation policy principles**

## 8. Questions and answers

### 8. Will there be any reorganisations prior to transfer?

It may be that your current employer is required to reorganise to meet set efficiency targets, in which case you will be fully consulted with about the proposed changes and their likely impact on you.

### 9. Why are NHS CB running a selection process prior to transfer?

As a result of the significant reduction in overall posts NHS CB wants to enable staff to make informed decisions about their future employment. Conducting the selection process prior to your transfer will allow you to be clear about the post you will be transferring to in the NHS CB or any alternative opportunities available to you should you chose to transfer your employment or not.

### 10. What happens if I'm not currently at work, e.g. on maternity leave or long term sick, or if I work flexible hours?

Staff in the following situation in posts designated to transfer would normally be eligible to transfer on a permanent basis:

- Staff with various working patterns, i.e. part-time, part-year, etc.
- Women on paid or unpaid maternity leave
- Staff on career breaks, or special leave without pay where their post has been kept open for them
- All staff on sick leave where their post has been held open for them
- Staff on secondment to another employing body, where their job has been held open for them in the area where the work is being transferred. These staff transfer to the new employer when they return to their original role.

### 11. What happens if I'm seconded to a post that's designated to transfer?

Secondees (from other employing bodies) would not normally transfer under TUPE as a matter of law as their contract of employment remains with their original employer. However, the new employer may accept that the secondee will work in



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
2. Introduction to the People Transition Policy
3. Working for the NHS Commissioning board
4. How transfers and appointments to the NHS Commissioning Board will be made
5. What you can expect
6. How will this affect you?
7. Appointments process
8. Questions and answers
9. Glossary
10. Other resources

### Appendix A: NHS Commissioning Board redeployment policy for transition

### Appendix B: NHS Commissioning Board relocation policy principles

## 8. Questions and answers

their organisation until the end of their secondment when they will return to their original employer. The new employer is free to consider a fresh secondment opportunity for such staff subject to agreement between the employee and their substantive employer. This should be agreed on a case-by-case basis.

### 12. Will I have to take a cut in pay if my post is re-evaluated?

If there is a reorganisation or re-evaluation of existing posts, post transfer and your role is for whatever reason downgraded, you and your Trade Unions will be fully consulted and you will receive the appropriate pay protection in line with relevant policies at the time.

### Objections to transfers/appeals

### 13. What is the process I should follow if I want to object to the transfer of my employment?

Staff affected by a transfer have the right to object.

- Where a decision relating to your transfer has been made by your current employer, your objection should be handled through your employer's relevant appeals or grievance process
- If your complaint is about the administration of the appointments process by the TRT, that will be handled by the TRT complaints procedure, which the TRT will provide

### 14. What happens if my appeal is upheld/overtaken?

There is no obligation for staff to transfer to the NHS CB (see question 7 above). However if a member of staff chooses not to transfer, their contract of employment will be treated as terminating on the date of the transfer. This will be treated as a resignation and not a dismissal. You should always seek advice before making such decisions.

### Resourcing/Appointments Process

### 15. How will I find out about vacancies in the NHS CB?

The Transition Resourcing Team (TRT) will alert staff affected by the establishment of the NHS CB and who are eligible to apply for vacancies about relevant opportunities as they arise.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:  
NHS Commissioning Board  
redeployment policy for transition**
- Appendix B:  
NHS Commissioning Board  
relocation policy principles**

## 8. Questions and answers

### 16. How will I apply for vacancies in the NHS CB?

All candidate information, including the application form will be on the e-recruitment system and you will be able to apply to vacancies on-line.

### 17. At what stage and who will inform me about the outcome of my application?

The TRT will write to you following each stage of the relevant assessment process to let you know the outcome of your application. No appointments will be formally confirmed until after the transfer date and these will be made in writing to you by your employer.

### 18. Can I appeal against any decisions made during the selection or appointments process?

Yes, please refer to the answer at question 13 above.

### 19. How do I raise any questions I might have about the selection or appointments process?

Each vacancy will be managed by a named individual in the TRT who will provide their contact details. Any questions you might have can be directed to this individual at any point through the process.

### 20. Can I raise a complaint at any stage about the selection or appointments process?

Yes, please refer to the answer at question 13 above

### 21. Is there any support for me to draft my application and prepare for any interviews?

All staff who are affected by change will be offered support by their employer under the 'managing your career' activity set out in the HR Transition Framework.

### Consultation

### 22. What role did unions play in developing this PTP?

The national trade unions on the HR Transition Partnership Forum have been engaged in and have participated in the development of this guidance and will continue working closely with all stakeholders to ensure there is effective monitoring





# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
2. Introduction to the People Transition Policy
3. Working for the NHS Commissioning board
4. How transfers and appointments to the NHS Commissioning Board will be made
5. What you can expect
6. How will this affect you?
7. Appointments process
8. Questions and answers
9. Glossary
10. Other resources

### Appendix A: NHS Commissioning Board redeployment policy for transition

### Appendix B: NHS Commissioning Board relocation policy principles

## 8. Questions and answers

of the implementation of this guidance. The unions will also be involved in the development of further guidance for Phase Two and on the guidance for sender organisations.

### 23. Who is responsible for consulting with me about my transfer?

As set out in the nationally agreed HR Transition Framework, your current employer is responsible for consulting with you about any proposed transfer and its impact on your future employment. They will work closely with the NHS CB Transition Team to determine any proposed changes (referred to as measures) to your existing arrangements and give you every opportunity to discuss these proposals in light of your own personal circumstances.

### Redeployment and Staff Support

### 24. How will staff who lose their roles as a consequence of the establishment of the NHS CB be supported?

You will be given the opportunity to participate in limited and wider ring-fenced competitions for posts in the NHS CB along with relevant redeployment opportunities arising throughout the sector. The Transition Resourcing Team will manage all job matching and appointment processes into new bodies and your current employer will be responsible, with you, for managing your redeployment schedule.

Outplacement services have been agreed for the NHS, ALBs and DH and details are set out in the relevant employer group HR Framework.

### 25. How prescriptive is the redeployment process; will there be a format for the NHS CB to handle this?

Individual organisations would be expected to follow the relevant HR framework.

The NHS CB will appoint a Key Manager to any of its staff who are formally at risk of redundancy. NHS CB employees who are formally at risk will automatically be considered for any post within the NHS CB in their pay band or equivalent, prior to it being advertised to the wider ring fence. The Key Manager in association with the relevant contact in the Transition Resourcing Team need to ensure this takes place.

### 26. Will there be a National Clearing House?

There will not be a central clearing house for the purposes of redeployment. The Transition Resourcing Team will provide a central resourcing unit for the establishment of the NHS CB.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
2. Introduction to the People Transition Policy
3. Working for the NHS Commissioning board
4. How transfers and appointments to the NHS Commissioning Board will be made
5. What you can expect
6. How will this affect you?
7. Appointments process
8. Questions and answers
9. Glossary
10. Other resources

### Appendix A: NHS Commissioning Board redeployment policy for transition

### Appendix B: NHS Commissioning Board relocation policy principles

## 8. Questions and answers

### 27. If I am displaced and looking for alternative employment, will the NHS CB be expected to appoint me where alternative employment is identified?

The NHS CB will ensure that they are taking every step to maximise opportunities available for displaced staff from other organisations who may have been affected by the establishment of the Board.

### 28. What is the difference between being designated as being affected by change; at risk of redundancy; and being under notice of termination by reason of redundancy?

The 'affected by change' designation should be used where it is known that organisational change will take place, which will have a direct impact on the numbers and/or type of staff employed, but where the overall timescales and milestones are not yet clarified, or where there is a significant lead-in time before the changes are finalised and staff are subsequently formally declared as being 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 declared as affected by change in advance of this, where the lead-in time has been sufficient to allow for this.

A termination notice tells you when the last day of your employment will be (the day you will be made redundant). This notice cannot be issued until after the consultation has been completed. During this period you may be offered suitable alternative employment. You will need to check your contractual redundancy processes for further information.

### 29. What happens if I reject a post offered to me because I do not think it counts as alternative employment?

If you refuse an offer of alternative employment you will need to establish that it is not suitable for you. We would encourage you to seek advice from your trade union (if you belong to one), regarding this issue.

Any factors that you identify for refusal must be clearly stated, a simple refusal for no reason at all would be classed as unreasonable. The NHS CB will look at both the suitability of the job it has offered you, and the reasons for your refusal of the alternative job separately and come to separate decisions respectively. Again, we would encourage you to seek advice from your trade union (if you belong to one).



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
2. Introduction to the People Transition Policy
3. Working for the NHS Commissioning board
4. How transfers and appointments to the NHS Commissioning Board will be made
5. What you can expect
6. How will this affect you?
7. Appointments process
8. Questions and answers
9. Glossary
10. Other resources

### Appendix A: NHS Commissioning Board redeployment policy for transition

### Appendix B: NHS Commissioning Board relocation policy principles

## 8. Questions and answers

### 30. Is there a way that I can try out the new post to see whether it is suitable for me or not?

You are entitled to ask for a trial period if the job offered is of a different nature. The statutory trial period of four weeks requires you to be under notice of termination of contract by reason of redundancy and must be offered as Suitable Alternative Employment before the expiry of the notice. The trial period can be extended for retraining purposes only. All the conditions of the trial period will be set out in writing prior to the trial period commencing.

If you work beyond the end of the 4-week trial period, or a jointly agreed extended period, it will be deemed that you have accepted the alternative employment. This should be confirmed in writing and at this point, the entitlement to any redundancy payment will cease.

Where the trial period is unsuccessful, you will continue looking for alternative employment for the remainder of your notice period.

### 31. What is the definition of a slot-in?

Where the functions and associated roles are substantively the same and where the overall number of posts at each level is unchanged, employees should be transferred into posts in the receiving organisation and their employment should transfer at the agreed transfer date.

### 32. What is the definition of competitive slot-in?

Where the function transfer is confirmed and you have been designated to transfer, but where the overall number of posts in the receiving organisation is lower and a simple selection process is required.

### 33. What is the definition of limited ring-fenced competition?

This covers the appointment arrangements for any outstanding vacant roles in the NHS CB, after slot-in and competitive slot-in processes have been completed. The vacancies remaining will be offered to the following groups of employees in the following priority order:

- i. Employees who have transferred to the NHS CB and are at risk of redundancy as they have not been successful at competitive slot-in.
- ii. Employees who are formally at risk of redundancy from the NHS, DH or ALBs for whom the post may offer suitable alternative employment.
- iii. Any remaining vacancies should be made available to other NHS, DH or ALB employees who are affected by change.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  - 8. Questions and answers**
  9. Glossary
  10. Other resources
- Appendix A:**  
NHS Commissioning Board redeployment policy for transition
- Appendix B:**  
NHS Commissioning Board relocation policy principles

## 8. Questions and answers

### 34. What is the definition of wider ring-fencing?

This covers any outstanding vacancies not filled through slot-in, competitive slot-in and limited ring-fencing. These vacancies will be ring-fenced for all other employees in the DH, ALBs and the NHS to apply for through the TRT selection process. This will ensure that such potential opportunities for progression or development are brought to the attention of other DH, ALB and NHS staff before open competition takes place.

### Redundancy

### 35. What will the voluntary (and compulsory) redundancy packages be?

All employers have a duty to try to avoid redundancies and this key principle will underpin the processes that are developed to manage the change. There are a number of ways of ensuring this happens and where redundancies do take place staff will be entitled to the packages and notice periods that are relevant to their contracts of employment at the time the redundancy is affected.

### 36. How will redundancies be minimised?

The HR Transition Framework and employer group HR frameworks set out a checklist of key processes to help organisations identify the practices they should follow to ensure that compulsory redundancies are minimised.

### Emerging FAQs

A process for collecting emerging questions relating to the establishment of the NHS CB will be agreed between the NHS CB and relevant sender organisations' People Transition/HR Directors and national trade unions



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
  2. Introduction to the People Transition Policy
  3. Working for the NHS Commissioning board
  4. How transfers and appointments to the NHS Commissioning Board will be made
  5. What you can expect
  6. How will this affect you?
  7. Appointments process
  8. Questions and answers
  9. Glossary
  10. Other resources
- Appendix A:  
NHS Commissioning Board  
redeployment policy for transition**
- Appendix B:  
NHS Commissioning Board  
relocation policy principles**

## 9. Glossary

TUPE	The Transfer of Undertakings (Protection of Employment) Regulations 2006
COSOP	The Cabinet Office Statement of Practice on Staff Transfers in the Public Sector 2000
HR Transition Framework	The HR Transition Framework provides the guiding standards relating to employee movement from “sender” (current) to “receiver” (new or changed) organisations at a national and sub-national level. It is intended to ensure consistency in the handling of employee matters going forward, and will evolve through the transition process. It primarily affects employees in transition between senders and receivers across the key employer groups; these are the NHS, the ALBs and the DH
PTP	People Transition Policy
TRT	Transition Resourcing Team - will administer the appointment process
NHS CB	NHS Commissioning Board
ENDPB	Executive Non-Departmental Public Body
SpHA	Special Health Authority
AfC	Agenda for Change
HRTPF	Human Resources Transition Partnership Forum
SAE	Suitable Alternative Employment
ALB	Arm’s Length Body
CCG	Clinical Commissioning Group
NHS CB Transition Team	Responsible for the set up the NHS CB



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
2. Introduction to the People Transition Policy
3. Working for the NHS Commissioning board
4. How transfers and appointments to the NHS Commissioning Board will be made
5. What you can expect
6. How will this affect you?
7. Appointments process
8. Questions and answers
9. Glossary
10. Other resources

### Appendix A: NHS Commissioning Board redeployment policy for transition

### Appendix B: NHS Commissioning Board relocation policy principles

## 10. Other resources

The following are links to other useful resources some of which we have referred to in this document.

HR Transition Framework	The HR Transition Framework provides the overarching guiding standards for the Department, NHS and Arm's Length Bodies (ALBs) relating to the movement of employees to the new or changed bodies proposed in the Health and Social Care Bill 2011.	<a href="http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_126234">http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_126234</a>
Developing the NHS Commissioning Board	Developing the NHS Commissioning Board describes the Board's potential culture, style and leadership. The document aims to give a sense of direction to stakeholders, partners, pathfinders and staff who may work for the Board.	<a href="http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_128118">http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_128118</a>
DH HR Framework	The DH HR Framework details HR policies and processes for transition and includes chapters on organisational design, restructuring and selection, displacement and redeployment, transfers, staff support, and leaving the Department of Health.	<a href="http://delphi.dh.gov.uk/delphi/HumanResources/DHHRFramework/index.htm">http://delphi.dh.gov.uk/delphi/HumanResources/DHHRFramework/index.htm</a>
ALB HR Framework	The ALB HR Framework details the processes for delivering transition in the Department of Health's Arm's Length Bodies. The framework includes information about the support that will be available for staff and managers as ALBs work towards their transition either as organisations exiting the system or continuing.	<a href="http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_128777">http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_128777</a>



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
2. Introduction to the People Transition Policy
3. Working for the NHS Commissioning board
4. How transfers and appointments to the NHS Commissioning Board will be made
5. What you can expect
6. How will this affect you?
7. Appointments process
8. Questions and answers
9. Glossary
10. Other resources

### Appendix A: NHS Commissioning Board redeployment policy for transition

### Appendix B: NHS Commissioning Board relocation policy principles

## 10. Other resources

NHS HR Frameworks	This page will include the regional HR or Employment Frameworks developed by each of the Strategic Health Authorities in England. As this page is being developed in early August, please direct any enquiries in the meantime to the HR lead at your Strategic Health Authority.	<a href="http://www.socialpartnershipforum.org/CurrentWorkProgrammes/SupportingStaffThroughChangeAndTransfer/ManagingTheTransition/Pages/ManagingTheTransition.aspx">http://www.socialpartnershipforum.org/CurrentWorkProgrammes/SupportingStaffThroughChangeAndTransfer/ManagingTheTransition/Pages/ManagingTheTransition.aspx</a>
Special Health Authority Consultation Letter	This letter from the Department of Health was sent to trade union representatives on the establishment of the Special Health Authority, explaining what functions the SpHA is expected to deliver.	<a href="http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/Dearcolleagueletters/DH_128703">http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/Dearcolleagueletters/DH_128703</a>
HR Transition Partnership Forum Terms of Reference	The HR Transition Partnership Forum comprises employers and union representatives from the NHS, the DH and the ALBs	<a href="http://www.socialpartnershipforum.org/CurrentWorkProgrammes/SupportingStaffThroughChangeAndTransfer/Pages/SupportingStaffThroughChangeAndTransfer.aspx">http://www.socialpartnershipforum.org/CurrentWorkProgrammes/SupportingStaffThroughChangeAndTransfer/Pages/SupportingStaffThroughChangeAndTransfer.aspx</a>
The Transfer of Undertakings (Protection of Employment) Regulations 2006	Useful information on the Transfer of Undertakings (Protection of Employment) Regulations (TUPE) which protect employees' terms and conditions of employment when a business is transferred from one owner to another.	<a href="http://www.direct.gov.uk/en/Employment/Employees/BusinessTransfersandtakeovers/DG_10026691">http://www.direct.gov.uk/en/Employment/Employees/BusinessTransfersandtakeovers/DG_10026691</a>



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
2. Introduction to the People Transition Policy
3. Working for the NHS Commissioning board
4. How transfers and appointments to the NHS Commissioning Board will be made
5. What you can expect
6. How will this affect you?
7. Appointments process
8. Questions and answers
9. Glossary
10. Other resources

**Appendix A:**  
NHS Commissioning Board  
redeployment policy for transition

**Appendix B:**  
NHS Commissioning Board  
relocation policy principles

## 10. Other resources

Cabinet Office Statement of Practice on Staff Transfers in the Public Sector 2000	The Cabinet Office Statement of Practice on Staff Transfers in the Public Sector 2000 (COSOP) sets out policy in relation to transfers, which the Government expects public sector organisations to follow. It protects the rights of public sector staff involved in transfers, ensuring continuity of employment and of terms and conditions.	<a href="http://www.civilservice.gov.uk/about/resources/employment/codes.aspx">http://www.civilservice.gov.uk/about/resources/employment/codes.aspx</a>
NHS Staff Passport	The NHS Staff Passport is an online toolkit for staff in the NHS who are transferring from a job either within the NHS or from a job in the NHS to another organisation.	<a href="http://www.socialpartnershipforum.org/StaffPassport/Pages/StaffPassport.aspx">http://www.socialpartnershipforum.org/StaffPassport/Pages/StaffPassport.aspx</a>
Pay Frameworks	Most jobs in the NHS are covered by the Agenda for Change pay scales. This pay system covers all staff except doctors, dentists and the most senior managers.	<a href="http://www.nhsemployers.org/PayAndContracts/AgendaForChange/Pages/Afc-Homepage.aspx">http://www.nhsemployers.org/PayAndContracts/AgendaForChange/Pages/Afc-Homepage.aspx</a>
NHS Pension Scheme	NHS Pensions administers the NHS Pension Scheme which is the largest centrally administered public service pension scheme in Europe.	<a href="http://www.nhsbsa.nhs.uk/pensions">http://www.nhsbsa.nhs.uk/pensions</a>
Agenda for Change handbook	The Agenda for Change system allocates posts to set pay bands, using the Job Evaluation Scheme.	<a href="http://www.nhsemployers.org/SiteCollectionDocuments/AfC_tc_of_service_handbook_fb.pdf">http://www.nhsemployers.org/SiteCollectionDocuments/AfC_tc_of_service_handbook_fb.pdf</a>





# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
2. Introduction to the People Transition Policy
3. Working for the NHS Commissioning board
4. How transfers and appointments to the NHS Commissioning Board will be made
5. What you can expect
6. How will this affect you?
7. Appointments process
8. Questions and answers
9. Glossary
10. Other resources

## Appendix A: NHS Commissioning Board redeployment policy for transition

## Appendix B: NHS Commissioning Board relocation policy principles

## Appendix A: NHS Commissioning Board redeployment policy for transition

*Please note this policy will be subject to ratification by the NHS CB Board when it is in place.*

### 11.1. Purpose

- 11.1.1.** The NHS CB Redeployment Policy and procedure detailed below has been developed for the transition period only and is specifically for employees who have transferred to the NHS CB and who may be unsuccessful through any selection process.

### 11.2. Responsibilities

- 11.2.1.** Day to day management responsibility rests with the Chief of Staff. The Chief of Staff will, wherever practicable appoint a key manager to support displaced staff. They will be responsible for the following:

- Meeting with the individual to ensure they understand their position and the responsibilities set out in this document;
- Providing appropriate day to day work for the individual until they have secured a permanent post;
- Managing the individual until they have been successfully redeployed to a new area of work;
- Identifying appropriate training and development opportunities particularly where this will increase their ability to secure a permanent post;
- Holding regular update meetings with the individual to discuss posts they have applied for and feedback received;
- Giving priority to the individual for any permanent or short-term posts that arise in their division;
- Networking with other managers and the relevant contact in the TRT and other employing bodies across the health and social care sector.

- 11.2.2.** For individuals this responsibility includes:

- Applying for all posts in the relevant geographical location advertised on the payband where you meet the essential criteria (whether in the NHS Commissioning Board or not);
- Accepting any other offer of a post within your payband (or one payband below where pay is protected) at a similar geographical location, unless there are compelling reasons why you cannot;



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
2. Introduction to the People Transition Policy
3. Working for the NHS Commissioning board
4. How transfers and appointments to the NHS Commissioning Board will be made
5. What you can expect
6. How will this affect you?
7. Appointments process
8. Questions and answers
9. Glossary
10. Other resources

### Appendix A: NHS Commissioning Board redeployment policy for transition

### Appendix B: NHS Commissioning Board relocation policy principles

## Appendix A: NHS Commissioning Board redeployment policy for transition

- Being positive and flexible in the opportunities that you consider;
- Preparing adequately for and attending job interviews in a positive manner;
- Seeking and acting upon feedback from any unsuccessful job application;
- Maintaining a record of your applications and outcomes for discussion.

### 11.2.3. For the recruiting manager this includes:

- Accepting any surplus staff who meet (or show the potential to develop quickly) the minimum essential criteria for posts;
- Giving honest and constructive feedback where this is not the case;
- Being prepared to give priority to surplus staff ahead of other employees;
- Discussing the surplus member of staff's suitability with the key manager;
- Managing any selection process in line with the NHS CB's commitment to valuing diversity

### 11.3. Process

**11.3.1.** When the need arises for an individual to be redeployed they will automatically be considered for any post within the NHS Commissioning Board in their payband or equivalent, prior to it being advertised more widely. The Key Manager in association with the contact in the TRT will ensure that this takes place.

**11.3.2.** Those returning to the NHS Commissioning Board on a certain date, e.g. from maternity leave, where no post is immediately available, will be allocated on a supernumerary basis to a *named* "key manager" who will assume management responsibility and support until permanent arrangements can be made.

**11.3.3.** The key manager will alert all recruiting managers and the TRT, that a member of staff is available and of the requirement for them to be considered for the next available post in their payband or equivalent where they meet the essential criteria to a satisfactory standard. The individual should be notified that this has



## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
2. Introduction to the People Transition Policy
3. Working for the NHS Commissioning board
4. How transfers and appointments to the NHS Commissioning Board will be made
5. What you can expect
6. How will this affect you?
7. Appointments process
8. Questions and answers
9. Glossary
10. Other resources

### Appendix A: NHS Commissioning Board redeployment policy for transition

### Appendix B: NHS Commissioning Board relocation policy principles

## Appendix A: NHS Commissioning Board redeployment policy for transition

happened and be kept fully up-to-date with progress.

- 11.3.4.** The key manager will also write to the individual to explain their responsibilities as set out above.
- 11.3.5.** Records must be kept of all posts the individual is considered for together with reasons for non-selection if they are unsuccessful.
- 11.3.6.** The key manager will, in discussion with the individual, consider any feedback received; identify whether any further training and development opportunities may be appropriate. A trigger for a review of the case will normally take place 4 weeks after the transfer date or where the individual has been considered for 3 posts whichever is the sooner and the redeployment period will normally end after 3 months unless agreed otherwise. At the end of the agreed redeployment period, if no suitable alternative post has been identified the individual will be issued with formal notice of termination of their contract on the grounds of redundancy. Notice periods are contractual and individuals who have transferred to the NHS CB will be entitled to their current contractual notice period.
- 11.3.7.** If a post becomes available and you have been issued with notice of termination of your contract you are entitled to a 4-week trial period for retraining purposes. The new line manager should hold reviews with the individual during the trial period to discuss any key issues. If following discussion between the individual and the manager, the trial is considered unsuccessful the case will need to be considered further.
- 11.3.8.** If at any stage it becomes apparent that the possibility of redeployment within NHS Commissioning Board is unlikely, the key manager will consider the individual's capability and decide, in discussion with the individual, what options are available for the future – for example, in wider ring-fenced posts advertised by other organisations across the health and social care system in line with the National HR Framework or alternatively the individual may match the criteria for flexible early retirement or severance. The case should also be discussed with the Chief of Staff.
- 11.3.9.** Refusing an offer of suitable alternative employment without good reason may mean that a member



# People Transition Policy

## Foreword by Sir David Nicholson

1. **Welcome to the NHS Commissioning Board**
2. **Introduction to the People Transition Policy**
3. **Working for the NHS Commissioning board**
4. **How transfers and appointments to the NHS Commissioning Board will be made**
5. **What you can expect**
6. **How will this affect you?**
7. **Appointments process**
8. **Questions and answers**
9. **Glossary**
10. **Other resources**

## Appendix A: NHS Commissioning Board redeployment policy for transition

## Appendix B: NHS Commissioning Board relocation policy principles

### Appendix A: NHS Commissioning Board redeployment policy for transition

of staff loses any entitlement to a redundancy payment. The job must be suitable in terms of its content, status and terms and conditions. The reasonableness of the refusal could also focus on the employee's personal circumstances, for example travel arrangements, health or childcare commitments. If all the above redeployment routes have been exhausted and the employee has taken all reasonable steps to secure suitable alternative employment, including accepting reasonable alternative posts the employee will be made redundant. We would encourage any member of staff who belongs to a trade union to seek advice from their union, before rejecting any offer of alternative employment.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
2. Introduction to the People Transition Policy
3. Working for the NHS Commissioning board
4. How transfers and appointments to the NHS Commissioning Board will be made
5. What you can expect
6. How will this affect you?
7. Appointments process
8. Questions and answers
9. Glossary
10. Other resources

### Appendix A: NHS Commissioning Board redeployment policy for transition

### Appendix B: NHS Commissioning Board relocation policy principles

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### Introduction

As part of the NHS CB transition programme, relocation will be considered as a way of avoiding redundancies, as long as it is in the best interests of the NHS CB and the individual concerned. There may be instances where staff affected by the establishment of the NHS CB would be willing to consider relocation, and, where appropriate, this will be encouraged by offering prospective and existing employees appropriate financial support to change their place of residence as a result of accepting a post.

#### 1. Purpose

This section sets out the agreed principles for the NHS CB undergoing organisational change where there is a requirement for posts to be relocated.

#### 2. Scope

This guidance applies to all staff affected by the establishment of the NHS CB on a permanent contract. Staff on temporary or fixed term contracts will not normally be eligible.

Most sender organisations will already have negotiated and agreed relocation policies and procedures, or subject to Agenda for Change and Civil Service policies and these should be followed. There is no intention to provide guidance on what is a reasonable travelling distance, as this should be part of sender organisations' policy arrangements.

#### 3. Principles

- To provide appropriate means for reimbursement of reasonable additional costs necessarily incurred on permanent relocation to a new location;
- To make proper use of public funds, exercising due economy consistent with what is necessary to progress the business;
- To ensure consistency of treatment for all staff;



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
2. Introduction to the People Transition Policy
3. Working for the NHS Commissioning board
4. How transfers and appointments to the NHS Commissioning Board will be made
5. What you can expect
6. How will this affect you?
7. Appointments process
8. Questions and answers
9. Glossary
10. Other resources

### Appendix A: NHS Commissioning Board redeployment policy for transition

### Appendix B: NHS Commissioning Board relocation policy principles

## Appendix B: NHS Commissioning Board relocation policy principles

- Compliance with all statutory and contractual requirements, e.g. equal opportunities, discrimination legislation relating to race, sex, disability, religious belief and sexual orientation, the Data Protection Act 1998 and Inland Revenue rules for reimbursement of relocation and travel expenses;
- To provide clarity about tests of reasonableness based on:
  - increased travel costs and time
  - differences in the housing market, specifically prices between the old and new locations
  - impact on individual staff circumstances, e.g. family situation, like having dependents or their children's education
- Payment of relocation expenses must be made against valid receipts and, where appropriate on the basis of an agreed quotation and set time limit
- Relocation expenses are provided when relocation is occurring as a consequence of organisational change

### 4 Determining Eligibility

Both the sender organisation and the NHS CB will work together to jointly identify posts that attract relocation removal expenses and relocation support through the sender's existing relocation policies and governance arrangements.

Relocation support should normally only be granted in circumstances where;-

- The relevant CEO and HR Director in both the sender organisation and the NHS CB can show that a move of home is essential and where such a move would make an appreciable difference to the ability of the employee/prospective employee to fulfil the requirements of the job
- The economic case for relocation support to avoid compulsory redundancy is compelling.



# People Transition Policy

## Foreword by Sir David Nicholson

1. Welcome to the NHS Commissioning Board
2. Introduction to the People Transition Policy
3. Working for the NHS Commissioning board
4. How transfers and appointments to the NHS Commissioning Board will be made
5. What you can expect
6. How will this affect you?
7. Appointments process
8. Questions and answers
9. Glossary
10. Other resources

**Appendix A:  
NHS Commissioning Board  
redeployment policy for transition**

**Appendix B:  
NHS Commissioning Board  
relocation policy principles**

## Appendix B: NHS Commissioning Board relocation policy principles

### 5 Levels of Financial Support

The sender organisations and the NHS CB will need to ensure they have agreed in advance which organisation will be liable for the relocation costs. In normal circumstances the originating employer will be liable for relocation costs.

The level of relocation expenses will be dependent on local policies, but will normally be no higher than £8,000 for individual claims other in exceptional circumstances.