Public health transfer from primary care trusts to local authorities

Staff working in public health are our greatest asset. In transferring primary care trust public health commissioning functions to local government, employers and trade unions are determined to ensure that staff are treated fairly and transparently.

Primary care trusts and local authorities will be responsible for developing public health transition plans and consulting with their constituent trade unions and staff on these and the associated workforce plans.

To support this, key guidance and support are being developed at national level, which outline the human resources (HR) processes and expectations on primary care trusts, councils, NHS and local government trade unions in managing this important change.

Public Health Human Resources Concordat
The Public Health HR Concordat, developed by the Department of Health with NHS Employers and the Local Government Association, and in partnership with NHS and local government trade unions, has been published.

This provides a best practice framework for organisational changes affecting staff as part of the transfer and sets out a range of principles and HR standards for managing the processes involved, complementing the HR Transition Framework.

The Concordat has the following objectives:
• provides guiding principles and HR standards for the transfer of primary care trust public health commissioning activity and functions (“senders”) to local authorities (“receivers”)
• provides a fair and consistent approach to managing the related detailed HR processes in a local context – advancing equality and promoting diversity
• outlines the indicative timescales for change and the requirements on NHS and local government employers and trades unions in managing this important change
• identifies where and when decisions will be made or where further detailed information can be obtained
• promotes effective partnership working and consultation with staff and trade unions across the NHS and local government.
It also sets out a series of agreed HR transition principles that should apply throughout the transition, including:

- consult and engage early with employees and their representatives, making sure they are kept fully informed and supported during the change process
- actively promote equality and diversity standards through all transfer, selection and appointment processes
- ensure professional behaviour towards all employees moving between organisations so they are treated with dignity and respect
- work with pace to minimise disruption and uncertainty for employees affected by change
- ensure the consistent treatment of employees at all levels
- ensure that all reasonable steps are taken to avoid redundancies to ensure that valuable skills and experience are retained
- highlight necessary compliance with relevant employment legislation.

It explains that it is the responsibility of all employers involved to ensure that the HR transition principles are applied and adhered to, and sets out the specific responsibilities of NHS and local authority employers.

It states that transfers of functions will be guided by the legal requirements of the Transfer of Undertakings (Protection of Employment) Regulations (TUPE) and/or Cabinet Office Statement of Practice on Staff Transfers in the Public Sector (COSOP) guidance, as appropriate. It should be noted that the Health and Social Care Bill contains general powers to effect TUPE-like transfer schemes.

The law relating to transfers is complex – each transfer is different and decisions are taken depending on the particular circumstances of the transfer. Each employer should take independent legal advice on these matters.

The Concordat is not intended to answer specific points about a particular detail of the transition and so some frequently asked questions have been developed to provide useful, practical answers and/or signposting. These FAQs will be regularly updated to keep the information available to staff and employers as fresh and as pertinent as possible.

The Concordat and FAQs are being followed by more detailed transition guidance, which is currently being developed for primary care trusts and local authorities as follows:

Primary Care Trust Transition Planning Guidance – this is being developed by the Department of Health for primary care trusts. This will be available in December 2011.

Local Government Transition Guidance – this is being developed by the LGA supported by NHS Employers and in consultation with local government and NHS union representatives. It is aimed at HR specialists in councils who will be managing the staff transfers. This will be available in January 2012.

These documents relate solely to the transfer of staff to local authorities. They do not relate to the transfer of staff and functions to Public Health England. This will be covered in the Public Health
England People Transition Policy, which will also be available in January 2012.

Sender guidance is also being developed by the Department of Health, providing practical advice, templates and guidance for sender organisations to implement the People Transition Policy(s) at local level. Items particularly relevant for primary care trusts and councils to use will be signposted.

These documents are designed to support primary care trusts, councils, trade unions and staff in the transition process. Any specific queries from employees about how the transfers affect them individually should be raised with their employer or trade union representative.

A Public Health Workforce Strategy will also be published in early 2012, accompanied by a formal public consultation. The strategy will seek to ensure the development and supply of a future professional public health workforce for all sectors.