

BOARD PAPER - NHS COMMISSIONING BOARD

NHSCB/1/10/2012/3

Title: Becoming an executive non-departmental public body: the impact on employees and other staff

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Purpose of Paper:

- to inform the Board of the legal obligations associated with transferring employees and other staff from the NHS Commissioning Board Authority (a special health authority) to the NHS Commissioning Board (an executive non-departmental public body) on 1 October 2012.

Key Issues and Recommendations:

- to note that all affected employees and other staff at the NHS Commissioning Board Authority will be informed in writing of the transfer of their employment and/or loan arrangements to the NHS Commissioning Board. Directly employed staff will be notified in writing prior to the transfer date in line with legal requirements.
- to note that the transfer of employees and other staff is covered by the NHS Commissioning Board Authority (Abolition and Transfer of Staff, Property and Liabilities) and the Health and Social Care Act 2012 (Consequential Amendments) Order 2012 (“the Abolition and Transfer Order”), which provides protection that is equivalent to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE).

Actions Required by Board Members:

- to note the process to be taken to meet the legal obligations to employees and all other staff affected.

Becoming an executive non-departmental public body: the impact on employees and other staff

Executive summary

1. On 1 October 2012, the NHS Commissioning Board Authority (NHS CBA), a special health authority (SpHA), becomes the NHS Commissioning Board (NHS CB), an executive non-departmental public body (ENDPB).
2. The purpose of this paper is to inform the Board of the impact on employees and other staff who are working for the NHS CBA of the ENDPB being established on 1 October 2012.
3. This paper informs the Board of the legal obligations to be met for transferring employees and other staff.
4. The Board is asked to note the approach detailed in this paper.

Context

5. The NHS CBA will be abolished on 1 October 2012 when the commencement order establishing the NHSCB as an ENDPB comes in to force.
6. As part of the process of abolishing the NHS CBA and the transfer of its employees and other staff to the NHS CB, the Department of Health (DH) was required, in accordance with section 28(7) of the NHS Act 2006, to consult representatives of those staff whose employment may be transferred, or who may be affected by such transfers. This consultation was completed and reported during July 2012.
7. The Abolition and Transfer Order protects the terms and conditions of employees and other staff members employed on various loan arrangements as if the transfer were governed by Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE).
8. We have employees and other members of staff in four distinct categories. Each category will require notification in writing, which is set out below:
 - employees directly employed by the NHS CBA must be informed in writing in good time before 1 October 2012;
 - staff on loan or secondment arrangements to the NHS CBA have had their assignments reviewed to confirm whether extensions are required beyond 1 October 2012. In cases where the loan or secondment has been extended, these staff and their employers

will be informed in writing of the transfer and confirmation of their extended loan or secondment arrangements in good time before 1 October 2012;

- new staff joining the NHS CBA on loan or secondment before 1 October 2012 will be notified in writing of the impending change of organisational form to the NHSCB as part of the assignment details; and
- new employees joining the NHS CB after 1 October 2012 will be appointed to the NHS CB.

Next steps

9. The Board is asked to note the approach detailed in this paper.

Jo-Anne Wass
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