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Guidance on the employment commitment

Supporting the development and transition towards statutory Integrated Care Systems

Version 1.0

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Equalities and health inequalities statement

"Promoting equality and addressing health inequalities are at the heart of NHS England's values. Throughout the development of the policies and processes cited in this document, we have:

- given due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality of opportunity, and to foster good relations between people who share a relevant protected characteristic (as cited under the Equality Act 2010) and those who do not share it;
- given regard to the need to reduce inequalities between patients in access to, and outcomes from, healthcare services and in securing that these services are provided in an integrated way where this might reduce health inequalities."

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1. Introduction

The NHS England and NHS Improvement [executive paper](#) *Integrating care: next steps to building strong and effective integrated care systems across England* and its [accompanying letter](#) to NHS leaders outlined an ‘employment commitment’ to colleagues directly affected by the proposed legislative change.

The purpose of this commitment was to provide those people in organisations directly affected by the proposed legislative changes with employment stability throughout the transition period while minimising uncertainty as much as reasonably possible.

A different approach is being taken with this transition towards integrated care: one characterised by care for our people without distracting them from the ‘day job’ and the critical challenges of recovery for the NHS and tackling population health management.

The ambition is to provide as much stability of employment as possible while Integrated Care Systems (ICSs) evolve and develop new roles and functions that not only improve health and care but also maximise the skills, experience and expertise of all our NHS people.

The employment commitment, therefore, sets the tone for all affected organisations to approach this transition.

2. Purpose of this guidance

This document provides guidance in respect of what the employment commitment is, its application in practice and how it affects people.

3. The employment commitment

3.1 What is the employment commitment?

The employment commitment as defined in the FAQs published on 11 February 2021 was:

“NHS people within the wider health and care system (below board level) affected directly by these legislative changes, including CCGs, NHS England and NHS Improvement and NHS providers, will receive an employment commitment to continuity of terms and conditions (even if not required by law) to enable all affected colleagues to be treated in a similar way despite a variety of contractual relationships. This commitment is designed to provide stability and remove uncertainty during this transition.”

The original aim of the employment commitment was set out in our [consultation paper](#) *Integrating care: next steps to building strong and effective integrated care systems* (paragraph 4.22), which stated that throughout the transition towards establishing the new ICSs, the commitment is:

- not to make significant changes to roles below the most senior leadership roles
- to minimise the impact of organisational change on current staff by focusing on the continuation of existing good work through the transition and not amending terms and conditions
- to offer opportunities for continued employment for all those who wish to play a part in the future.

Throughout the transition period, the employment commitment aims to ensure that the continuation of the good work being carried out by the current group of staff is prioritised by minimising disruption. In turn, it is hoped that this will support best practice to be promoted through engaging, consulting and supporting the workforce during a carefully planned transition that is free from the distraction of significant organisational change programmes.

3.2 Change approach and core principles

A set of core principles has been developed to support and guide the overall change approach. The aim of these principles is to provide a framework for a consistent approach to transition, including the employment commitment, but to enable local implementation, recognising the differences in systems across the country.

These are included at Appendix A along with some 'I' statements which set out what it might look and feel like for colleagues.

3.3 What does the employment commitment mean in practice?

It is envisaged that all functions of a clinical commissioning group (CCG) will transfer to the statutory ICS and therefore colleagues below board level should **lift and shift** from one organisation to the other, resulting in minimal change. The employment commitment seeks to provide stability **during the transition period**, particularly before the establishment of the statutory ICS.

To apply the commitment in practice, those organisations affected by and involved with the proposed changes should:

- ensure there is a continued and **sustained focus on the day-to-day delivery** that supports the restoration and recovery of services
- **avoid undertaking large-scale organisational change programmes** throughout the transitional period, wherever possible, and instead look to embed new ways of working through positive engagement and communication with the workforce
- where organisational change is identified and is unavoidable, confirm this to staff affected and their trade union representatives at the earliest possible opportunity and **only undertake change that is essential**
- **seek to retain talent** from affected organisations wherever possible by supporting the broadening of skills and capabilities
- maximise opportunities for the **development of the talent** by enabling the ongoing evolution and development of roles across the system

- **retain terms and conditions and continuity of service** of those staff affected by the transition
- **provide robust and proactive support** to those affected by the changes
- **communicate and engage with trade union representatives** at national, regional, system and place levels to support effective partnership working throughout the transition
- **engage regularly** with those affected by the changes and ensure an **open, transparent and constructive** approach to communication and engagement is adopted.

Colleagues in senior leadership/board-level roles are likely to be affected by the need to establish the designate executive/board-level roles of the ICS **ahead** of its establishment. It is therefore not possible to provide a commitment limiting organisational change ahead of establishment to this group of people.

‘Board-level’ in this context therefore means those colleagues who are likely to be affected by change following the confirmation of a statutory ICS executive/board-level structure.

Due the local determination of several roles on a statutory ICS board/executive and the variety of roles that currently exists at this level, this guidance is not intended to be prescriptive or definitive about the actual people determined as ‘board level’. Detailed people impact assessments will take place locally when the new executive/board level structures are confirmed, and these will identify specifically the colleagues affected.

However, it is anticipated that colleagues most likely to affected will be:

- chief executive officers of an ICS or accountable officers of a CCG
- director or executive-level roles that report to the chief executive officer of an ICS, or to an accountable officer of a CCG
- roles of a CCG governing body, as defined by the Health and Social Care Act (2012) and outlined in previous NHS Commissioning Board guidance, including GP board members

- senior posts within NHS England and NHS Improvement functions that are expected to be the responsibility/function of an ICS in the future
- other senior posts within the system that may or are expected to be the responsibility/function of an ICS in the future (eg senior provider collaborative posts).

Officer roles such as lay members or non-executive directors (see section 3.4) are not covered by the commitment.

All other employees, including those **engaged** in functions working in commissioning support units and clinical leads, are covered by the employment commitment.

3.4 Lay members and other office holders

Lay members and other office holders, while not employees, have played a significant role in the CCGs. While the statutory body will no longer exist when NHS ICS bodies are established, it is vital to retain their expertise and knowledge where possible.

For any current lay member or other office holder who is interested in continuing to support the NHS in a non-executive role, please contact Keely Howard at keely.howard1@nhs.net. You will be included in the talent database held by the NHS England and NHS Improvement non-executive talent and appointments team, who oversee appointments to all NHS trust chair and NED roles, and can also join a mailing list to receive notification of non-executive vacancies as these arise.

3.5 What does ‘even if not required by law’ mean?

The commitment to protect terms and conditions ‘even if not required to do so by law’ acknowledges the intention to minimise unnecessary disruption and uncertainty by providing assurance that irrespective of the mechanism of transfer and the technical protection afforded by the associated regulations, the employment and terms and conditions of staff will be protected and transferred to the new organisation.

Irrespective of contractual employer or contractual arrangement, if staff below board level are currently providing a function that is being transferred to the new ICSs their **employment or engagement** will transfer with it.

Examples of engagement include someone seconded from a provider into a CCG who could continue to be seconded if the function has transferred; the secondment agreement would move from being with a CCG to the statutory ICS. Colleagues from commissioning support units providing services under a contract for services should continue as the contract will transfer from the CCG to the ICS. GPs providing clinical lead roles should continue, as their contract for these roles will transfer from the CCG to the ICS.

This would also apply to other arrangements, such as hosting by a range of different employers. The commitment is designed to enable work to continue and to support the bringing together of colleagues from across the health and care landscape to deliver ICS functions as part of the 'one workforce' approach.

3.6 When does the employment commitment start?

The employment commitment was stated in the FAQs on 11 February 2021 and is therefore effective from that date until instructed otherwise or superseded by legislative changes or updated guidance.

3.7 When does the employment commitment expire?

Recognising that staff are expected to transfer by TUPE or COSOP, it should be noted that there is no end date on the legal protection provided to staff under these regulations.

However, the new ICSs will continue to evolve following their establishment, and it is therefore anticipated that they will want to review their operating models to deliver their new statutory requirements in the most effective way.

In doing so, ICSs will be expected to follow their own organisational policies on managing organisational change and crucially establish a robust economic, technical or organisational reason for changing any transferred colleagues' contractual terms and conditions of employment in the future. At this point the employment commitment would be superseded.

4. Supporting people through the transition

The employment commitment is made in the spirit of ensuring that our colleagues feel valued and supported during this transitional process.

It is recognised that any change can cause concern and anxiety for people. Support is available for all NHS colleagues to access in addition to that provided by organisations' employee assistance programmes. Please visit <https://www.england.nhs.uk/supporting-our-nhs-people/>.

Uncertainty can also increase where there is a lack of control, voice and information, and in a national change of this nature this can be compounded. All affected organisations are encouraged to take steps in the following ways:

- Maximise the availability of career conversations for all colleagues with the aim of supporting them to think about and understand where they are in their career and what their ideal next steps will be. Having good understanding of this at an individual level will help colleagues make good choices as this transition progresses and should increase a feeling of personal control over their careers.
- Enable staff voice, working closely with trade union colleagues to ensure that your trade union representatives are in a good position to provide support for colleagues and represent members in various partnership forums. Voices can also be heard in other ways through strong stakeholder engagement and involvement. Make engagement routes as transparent and visible as possible so that all colleagues can see how they can get their voice heard with the aim of resolving or addressing concerns and taking on board ideas and suggestions for the future.
- Regular provision of information: supporting this transition with robust communications and engagement strategies is key to ensuring colleagues are well informed about the current situation and developments in the transition.

4.1 Support for senior leaders and ‘board-level’ post holders

It is important to recognise that, while these ‘board-level’ roles are not covered by the employment commitment, it is critical that these colleagues are appropriately supported throughout the transition.

There is no distinction for board-level colleagues in the aim of the approach to minimise uncertainty and provide employment stability. However, there is a need to provide this in a different way, given the potential impact on colleagues in these roles.

The aim is to take a talent approach to this change. Our board-level leaders are colleagues who have led our organisations for many years and have achieved so much for patients and colleagues. It is crucial that, where possible, we retain our talented leaders and their experience and knowledge to ensure the future success of ICSs. A co-ordinated approach at national, regional and system level is being developed to provide this.

See **Appendix B** for details of the support available.

Appendix A

Core Principles

| People Centred Approach – in line with the People Promise | Compassionate and inclusive | Minimum disruption | Subsidiarity |
|---|---|---|---|
| <ul style="list-style-type: none">• Thinking about the needs of patients and the impact on our people as a first step and amending plans if necessary• Taking a supportive talent based approach with colleagues impacted by the changes• Seeking to provide stability of employment/engagement• 'One NHS workforce' inclusive change approach supported by the employment commitment• Working in partnership with trade union colleagues | <ul style="list-style-type: none">• Openness and transparency of process and actions• Taking action to increase the diversity of the new ICS workforce and particularly the leadership• Co-creation at the appropriate level• Individual behaviours• Supportive change approach | <ul style="list-style-type: none">• Taking the minimum position to enable the change to happen and setting the direction for future evolution by the new ICS NHS Bodies• Keeping policy as simple as possible and testing thinking against these principles• Working together to avoid unnecessary duplication of effort and achieve greatest value – based on the principle of subsidiarity• Implementing the employment commitment | <ul style="list-style-type: none">• Functions and accountability move based on the principle of where the work should be carried out to ensure the enablement of continuous improvement and partnership responsibility to the ICS ambitions, through a population health management approach across all functions• People follow the function in line with the employment commitment for people below board level• Organisation design at national and regional level should mirror the legislative approach and be as minimally prescriptive as possible |

These 'I' statements have been developed to illustrate what employment stability and minimising uncertainty might feel like for individuals.

As an employee (**at board level**) and not protected by the employment commitment this means:

- I have access to coaching support to enable me to understand what I need and want from this change for my own personal career
- I have had an open conversation with the 'receiver' about my skills, experience and aspirations so that they are clearly understood and acted upon
- I feel like my contribution to the NHS as a senior leader has been recognised and I am actively supported to be able to continue to contribute in the NHS where my skills and experience are most needed and develop new skills where appropriate

- I am supported to leave the NHS if this is the right outcome for me at this time

As an **employee (below board level)** working in a function/organisation/role that is impacted by the proposed legislative changes this means:

- my employer will change but my contractual terms and conditions will remain the same
- my pay date might change
- my line manager might change
- my place of work will mostly likely remain the same
- some of my day-to-day duties and responsibilities might change in line with my band
- I feel valued and part of the 'NHS One Workforce'
- I am confident that I am being engaged with openly and transparently and feel like I am being treated fairly
- I am supported to develop new skills and expertise to deliver the work needed to support our patients and population.

Appendix B – Executive Suite support

Executive Suite

The [Executive Suite – Our NHS People](#) has a range of offers to support the thinking and wellbeing of senior and executive leaders, including those affected by this change. In addition to wellbeing offers such as 1:1 psychological support, there are blogs, development programmes and thought-leading webinars to support you in refreshing and sustaining your leadership during this transition.

They are designed to support you to remain a resilient leader and continue to thrive in your current role while looking ahead to the next.

Our development support includes:

- mentoring from the Centre for Army Leadership
- access to career development resources
- 1:1 psychological support
- drop-in common rooms specifically for AOs and CCG governing body members
- Chief Executive Development Network: we are developing specific CCG/ICS reflective spaces for chairs and chief executives
- virtual actual learning sets
- workshops, masterclasses, and seminars.

1. Mentoring: [Coaching and mentoring registration form \(office.com\)](#)

Navigating the leadership challenges this transition will bring can often benefit from reflecting with an experienced mentor. The Centre for Army Leadership mentoring offer will support you in finding real-time solutions to move you forward and find positive ways to stay resilient and overcome immediate challenges. You will be matched with an experienced army leadership mentor who will support you in finding real-time solutions.

We are also in the process of developing a peer-to-peer support offer for chief executives and accountable officers to be released in the coming months.

2. Career development portal: [Career management online resources – Our NHS People](#)

Aimed specifically at senior leaders in health and care, our online career development resource portal brings together written tutorials, videos and tools to help support your career management, allowing you to reflect on your career, opportunities and next steps.

This would support any talent and career conversations you may be having as part of this transition.

3. One-to-one psychological support

We recognise that some of our senior leaders may be experiencing anxiety, depression or burnout for which they would value a brief psychological intervention. These sessions offer a confidential, expert ear and informed strategies to help with a wide range of issues. Clinical psychologists have training and expertise in evidence-based psychological support for a range of difficulties. They are skilled in recognising and supporting acute stress in the context of unusual demands, such as those experienced in hospital and service management. They can also help with problems and reactions such as anxiety, depression, obsessive compulsive disorder, post-traumatic stress disorder, burnout and the demands of managing complex and dynamic situations. To view available offers for psychological and mentoring support, networks and communities, see [Support in difficult times – Our NHS People](#) and [Connecting and developing – Our NHS People](#).

To register for one-to-one psychological support, please use this link: [Online Survey Software | Qualtrics Survey Solutions](#)

4. Common rooms

Drop-in common rooms specifically for AOs and governing body members are designed to support you during this transition. They will provide you with short (90-minute) online network meetings for a maximum of 15 participants. Each confidential meeting provides an opportunity to connect with colleagues, to make sense of and compare experience, to refresh and focus on whatever feels important in a context of mutual support.

5. Chief Executive Development Network (CEDN)

The [Chief executive development network – Our NHS People](#) is a network of both established and new chief executives/accountable officers. Membership naturally changes over time, meaning that every conversation is as different as its participants.

- CEDN content is member-led, meaning that our offers can be agile, responding to and grounded in chief executives/accountable officers' changing realities.
- The network offers both development and peer connection. Members tell us that they particularly value the opportunity to meet and interact with peers nationally rather than only regionally.
- CEDN is open to both established and new chief executives/accountable officers. Experienced chief executives/accountable officers often mention how they value the opportunity to continue their development, as so much is new even for them as health and care move towards integration.
- The network actively welcomes and continues to provide dedicated transitions support for newly appointed, first time chief executives/accountable officers.

Our current development support offer includes:

- themed sessions with expert speakers leading to facilitated communities of practice
- facilitated, mutually informative and developmental conversations with senior colleagues at national level to build their network while informing national thinking
- offers for specific members of the chief executive/accountable officer population such as ICS chief executives and separately CCG accountable officers
- topic-specific offers such as 'Implications of the White Paper', 'Beyond the fit and proper person test', 'New models of care' and 'Exploring the chair and chief executive relationship'

- developmental networking opportunities
- access to online chief executive/accountable officer resources
- drop-in chief executive/accountable officer common rooms
- transitions coaching for 'new-to-role' chief executives for up to two years
- we are in the process of developing CCG/ICS reflective spaces for chairs and chief executives.

6. Virtual action learning sets: [Virtual Action Learning – Our NHS People](#)

Virtual action learning sets (VALS) provide a safe, secure, and confidential space, through which individuals and collectives can explore the complexities of current leadership challenges and determine new and innovative ways forward. Action learning is a form of action research. VALS operate within a framework of 'high challenge' and 'high support', setting the context and conditions for sustained improvements in the experiences of both staff and the populations that we serve. VALS will enable you to focus on the real-world challenges of the upcoming changes and transitions with peers supported by an expert facilitator. Unlike brief virtual common rooms, they offer time out from the fast-moving challenges of leadership to focus on complex issues in depth, challenging ourselves to think differently and find better solutions.

You would come together in half-day sessions four times over eight months, at times defined and agreed within your action learning set.

7. Events and seminars

Where possible, recordings of the events that have taken place will be available on the Executive Suite.

a. Action for Change webinars: [Action for Change – Our NHS People](#)

Designed to catalyse collective action on current health and care priorities, the offer comprises an expert seminar series supported by half-day action learning sets,

which will be role-specific and will meet three times over six months to translate ideas into practice.

- **For ‘the politics of leading integration’** previous seminars have taken place with Jon Rouse, City Director, City of Stoke on Trent; Andy Burnham, Mayor of Greater Manchester; and Raj Jain, Chief Executive of Northern Care Alliance NHS Group with local authority colleagues
- **Health inequalities**, comprising seminars and three theme-related facilitated action learning sets. In light of the clear impact of inequalities on the incidence and outcomes of COVID-19, Sir Michael Marmot, Professor of Epidemiology at University College London, Director of the UCL Institute of Health Equity, talked about the radical leadership practice required to influence for health equalities.

To register to join a seminar please click on this link: [Join an AfC themed webinar – Our NHS People](#). Please note that from time to time, some seminars will only be open to chief executives/accountable officers and chairs, but many are open more widely, so please do check the Executive Suite website.

b. The King’s Fund Masterclasses

Following the success of the first series of Masterclasses run by The King’s Fund around leadership during the COVID-19 pandemic, the second series of Masterclasses will focus on the impact of the upcoming changes and integration and what it might mean for you and your leadership. There will be a series of three short, themed online masterclasses to support you in leading your organisations in these very particular circumstances.

The masterclasses will be led by two senior consultants of The King’s Fund faculty, drawing on current research and theory.

c. Racial justice seminar series

This seminar series supports you as an executive leader to gain a deeper critical understanding of how to practically progress the work of inclusion through the lens of racial justice, developing courage and confidence for leadership effectiveness in this complex area of practice. You will learn how to create cultures and systems where equity and justice are the foundation stones of decision-making, benefiting staff and the populations that we serve.

Previous speakers include:

- Robin DiAngelo – author of *White fragility*
- Professor Kehinde Andrews – Professor of Black Studies at Birmingham City University; you can view a recording of this session here: [Racial justice seminar series: In conversation with Professor Kehinde Andrews – Our NHS People](#)
- David Olusoga OBE – Professor of Public History at the University of Manchester; you can view a recording of this session here: [Racial justice seminar series: Confronting the remnants of historical myths and monsters – Our NHS People](#)

[Signposted bite sized learning](#)

Relevant and curated bite-sized learning and resources related to current appropriate subjects and themes.

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This publication can be made available in a number of other formats on request.

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