



# Transforming community services

**Terms and conditions  
for different models of provider**



Dear colleague,

**The transforming community services agenda means that primary care trusts are separating their provider services from the commissioning part of the organisation. This may result in several different organisational forms for the new provider organisations being explored. Each organisational form will have a different impact on terms and conditions of employment. Therefore, it is important that you get involved in discussions which take place on this as soon as possible and that you contact your local RCN steward or regional office at the beginning of this process.**

**The RCN has developed this short guide to enable you to see the impact that different organisational forms may have on your terms and conditions of employment. There are also some questions you should ask about the proposed changes.**

**If you have any queries please do not hesitate to contact your regional RCN office who will be happy to help you.**

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## Different provider models and terms and conditions

	Existing staff automatically Guaranteed future access to NHS terms and conditions?	Existing staff continue to have access to NHS terms and conditions?	Existing staff covered by NHS negotiating machinery?	Existing staff continue to be employed by an NHS organisation?	Existing staff's access to NHS pension protected?	New starters appointed on NHS terms and conditions?	New starters entitled to join NHS Pension Scheme?
<b>Social enterprises:</b> Primary care trust (PCT) staff can use their 'right to request' to set up a social enterprise. PCTs will be obliged to consider requests and if approved by the strategic health authority (SHA), a contract for an initial three years will be given.	✗	✓ TUPE*	✗	✗	? <sup>1</sup>	? <sup>2</sup>	✗
<b>Arms-length provider services:</b> Commissioning PCTs may retain accountability for provider services by maintaining services in a 'provider unit' within the organisation. They will need to develop new governance arrangements that ensure a formal separation between their commissioning and provider functions. This could entail a provider services unit that hosts all PCT provider services, led by a strategic committee.	✓	✓	✓	✓	✓	✓	✓
<b>GP-led services including health centres:</b> these bring together family doctors, nurses, assistant health practitioners (AHPs), specialists and other services more usually associated with hospitals, such as diagnostic testing, minor surgery, blood tests and x-rays. These could be run by large private companies or consortia of GPs.	✗	✓ TUPE*	✗	✗	? <sup>3</sup>	? <sup>2</sup>	? <sup>3</sup>
<b>Community foundation trusts:</b> Community foundation trusts would provide those community services currently run by PCTs. It is likely that a community foundation trust will be established through a consortium of PCTs. Applications to establish a community foundation trust will need to be approved by the SHA.	✓	✓	✓	✓	✓	? <sup>4</sup>	✓
<b>Vertical integration:</b> This is where PCT provider arm function is integrated with a local acute service. It may involve the outright merger of an acute trust with a PCT provider arm or a looser alliance of primary and community services through multi-disciplinary team working and joint management.	✓	✓	✓	✓	✓	✓	✓
<b>Horizontal integration:</b> This is where more than one PCT provider arm function is integrated and may involve merger with one or a number of PCT provider arms. This may be a first step towards creating a community foundation trust	✓	✓	✓	✓	✓	✓	✓
<b>Integrated care services:</b> This is where joint health and social care services are established. This may be through joint management arrangements between health and social care functions or formally through integrated care organisations or the creation of a 'care trust' model.	✓	✓	✓	✓	✓	? <sup>5</sup>	? <sup>5</sup>
<b>Private sector or non-NHS/ independent sector:</b> This would be as a result of the PCT deciding to transfer individual services or bundles of services to a private company (or to a community or voluntary sector provider) through the process of tendering.	✗	✓ TUPE*	✗	✗	✗	✗	✗

\* Transfer of Undertakings (Protection of Employment) Regulations

1 NHS Pensions may be accessed in certain Social Enterprise Business models

2 Staff may be offered Agenda for Change (AfC) terms and conditions but it is not obligatory

3 A consortia of GPs may be able to access the NHS Pensions Scheme

4 Foundation trusts may choose to exercise their flexibilities and move away from AfC and national pay awards

5 May be local government terms and conditions

## **Questions to ask organisations about change**

### **Pay, terms and conditions**

- **What are the contractual procedures for ensuring that the Transfer of Undertakings (Protection of Employment) Regulations (TUPE) and the Code of Practice are implemented by new providers?**
- **What are the contractual procedures for ensuring that TUPE and the Code of Practice are monitored and enforced after the transfer has taken place?**
- **How will the provider commit to avoiding the two-tier employment arrangements, i.e. where new staff are on poorer terms and conditions to TUPE staff?**
- **Will the new provider honour future improvements to NHS pay and conditions of employment and other collective agreements for TUPE transferred staff?**
- **If not, how do they intend to ensure that TUPE staff remain on the same level as NHS staff?**

### **Pensions**

- **Will staff remain members of the NHS Pension Scheme, and still have access to injury benefits?**
- **How will the pension arrangements for other employees compare?**
- **Will the provider have a scheme similar to the NHS Injury Benefits Scheme?**
- **What mechanisms are the new provider putting in place to ensure that an appropriate pension is available for TUPE staff (if not NHS/GP/appropriate social enterprise organisation (SEO)) and what pension will be available for all other new starters?**
- **With respect to GP and SEOs – what is being put in place to ensure early retirement on redundancy is available?**

### **Human resources (HR) issues**

- **What impact will this transfer have on staff's place of work or pattern of work?**
- **What does their terms and conditions package for non-transferring staff look like?**
- **Does the new provider commit to Agenda for Change and the Knowledge and Skills Framework?**
- **What will be the budget and arrangements for supporting training and Continuing Professional Development (CPD)?**
- **What appraisal system will the new provider be implementing?**
- **Will the new provider play its part in taking students on placements and providing work for newly qualifying professionals, as well as inputting fully into local workforce planning?**
- **How will the provider access HR expertise?**
- **Will the provider offer full professional liability insurance?**
- **Does the new provider have a strategy for maintaining a safe working environment, which encompasses health and safety structures and risk assessments?**
- **Will the new provider continue to recognise the existing health trade unions and retain appropriate negotiation and consultation arrangements to ensure proper partnership working?**