

ICS Transition Partnership Group Evaluation report

Background

The ICS Transition Partnership Group (TPG) was established as a subgroup of the national SPF. The group included representation from NHS England (NHSE), Department of Health and Social Care (DHSC), NHS Employers, integrated care systems (ICSs) and clinical commissioning groups (CCGs), a commissioning support unit, and NHS trade unions. The aim of the group was to enable partners to get involved in the organisational change arising from the establishment of statutory ICSs, by minimising uncertainty and limiting employment changes, working to the principles of simple, local and evolution. Terms of reference for the group were agreed - see Annex A. At each meeting a set of key communications were agreed and shared through an agreed communications plan to stakeholders.

The group first met on 29 April 2021, meeting on a fortnightly basis for a total of 29 times. Its last meeting was on 30 June 2022, just before the integrated care boards (ICB) establishment date (1 July 2022). At the last meeting, members of the group agreed that the secretariat should carry out an evaluation of the role of the TPG in planning the safe transfer of 26 thousand staff from CCGs, and other organisations, to ICBs.

The following report covers the findings of this evaluation. It is made up of three parts. The first is a record of the activity undertaken by the TPG and its outputs. The second part features the findings of a survey of TPG members. The third part of the report sets out learning from the work of the TPG.

Part one - TPG activity and its outputs

Health and Care Bill

In early conversations in TPG meetings it was recognised that staff in organisations other than CCGs would be equally impacted by the transition. As a result, colleagues in DHSC and NHSE agreed to and successfully amended the Health and Care Bill so that it included non-CCG staff, such as staff working in NHSE and NHS trusts.

Following agreement in a TPG meeting in July 2021, an SPF news alert (see Annex B) went out in which NHSE confirmed that the Health and Care Bill, gave ICSs the freedom to determine staff pay and terms and conditions of service and that this replicates the freedoms currently in place for CCGs and foundation trusts. It went on to state that ICS staff will be covered by NHS pay and terms and conditions of service and their staff be represented on the NHS Staff Council. This news alert provided useful clarification on an issue of concern amongst some staff, which had been identified by trade union representatives.

Employment commitment and core principles

The TPG contributed to core principles for the workforce transition. These were used to illustrate what employment stability and minimising uncertainty might feel like for individuals. The TPG was also involved in the development of <u>Guidance on the employment commitment</u>. This gave details in respect of what the employment commitment was, its application in practice and how it affected staff. The purpose of the commitment was to provide staff in organisations directly



affected by the legislative changes, with employment stability throughout the transition period. The Guidance on the employment commitment was published 16 June 2021. The core principles were included as an annex in the guidance.

The TPG worked with members from NHS Clinical Commissioners HR and OD Network and NHSE leads to produce a set of answers to frequently asked questions on the Guidance on the employment commitment. These were published on the SPF website and promoted in the SPF bulletin in July 2021.

HR Framework for developing ICBs

The TPG worked closely with the ICS development team in NHSE to co-develop the HR Framework for developing ICBs. This was published 19 August 2021. The HR Framework set a clear national approach and principles for the handling the transition and provided practical support to complement regional and local change processes. Section 1 of the framework set the expectations in relation to staff engagement and partnership working during the transition. A joint statement from the TPG co-chairs on the launch of the HR Framework was published on the SPF website – see Annex C.

The group also produced an <u>updated version</u> of the HR Framework for developing ICBs, which was published in March 2022. This version reflected changes to the timescales for ICB establishment. The SPF website was updated to link to the revised version of the framework. The new version of the framework was promoted in the March 2022 SPF bulletin.

HR Framework FAQs

A TPG task and finish group developed FAQs to support the implementation of the HR Framework. Many of the questions were submitted and collated by trade unions through surveys of their members involved in the transfer. The FAQs were published on the SPF website. They were featured in an SPF news alert published in December 2021. The TPG also developed revised HR Framework FAQs which were promoted on the SPF website and in the April 2022 SPF bulletin (See Annex D).

New target date for ICBs

The new target date for new statutory arrangements to take effect and ICBs to be legally and operationally established was promoted in the January 2022 SPF bulletin. The bulletin shared a link to the revised establishment timeline, which was available on the Future NHS platform.

Trade union engagement in organisational change

The SPF sent out a TPG news alert in February 2022 to encourage active engagement with trade unions on any planned organisational change in the ICSs from April to July 2022. This stated:

The Transition Partnership Group (TPG) remains fully supportive of the employment commitment made for all colleagues below board level, and appreciate NHSEI extending this as part of the planning guidance. It is recognised that some systems may well have planned some change to take place after establishment, which is now impacted by the additional three months and the extension of the employment commitment. Systems in this situation are encouraged to work closely with trade union colleagues, to agree in partnership what limited change can be progressed in advance of transfer, without compromising the employment commitment to ensure the Integrated Care Board (ICB) is functional from day one.

The TPG also emphasised the need to ensure that any planned organisational change after the transfer, should be managed in line with best practice as set out in the HR Framework.

Establishing partnership forums in ICBs

Principles for ICB partnership machinery with recognised trade unions were developed and agreed in the TPG and published on the <u>SPF website</u>. These were publicised in the March 2022 SPF bulletin.

A template framework and agreement for ICB trade union partnership forums was developed and agreed by the TPG and published on the <u>SPF website</u> on 12 April 2022. This was promoted in the April 2022 SPF bulletin (see Annex D).

Supporting TUPE consultations

To enable CCGs to engage with trade unions as part of the TUPE consultation process - the addresses and contact details for trade union national offices were made available on the SPF website. This was promoted in the April 2022 bulletin (see Annex D) along with a message to further clarify that employers, as set out in the HR Framework, should treat the transfer as if TUPE applies.

Additional FAQs - May 2022

The TPG agreed a further set of FAQs to support the workforce element of the transition arising from the Health and Care Act 2022. These were based on feedback received from surveys of UNISON and MiP members, and issues identified at TPG meetings. The FAQs were published on the SPF website and featured in the May 2022 SPF bulletin.

Transfer schemes

From January to June 2022 there were discussions in the TPG meetings on the draft transfer schemes for the workforce transition. NHSE and DHSC made every effort to accommodate the request from trade unions for TUPE to be codified in the transfer schemes. Unfortunately, this was not possible as the issue was a broader than the health sector. Trade unions agreed to continue to raise this with the Department for Business, Energy and Industrial Strategy as this government department has oversight on this agreement. The agreement from the TPG was for all parties to act as if TUPE applied to the transfers and post transfer organisational change.

Meetings with Regional SPF co-chairs

There were seven meetings between the ICS TPG and co-chairs of the regional SPFs. These meetings enabled engagement on the ICS design framework, employment commitment, the HR Framework, the establishment timeline, the transfer schemes, ICB designate appointments, transition FAQs, and the connection sessions. Feedback from the meetings informed discussions in the TPG. Few issues were raised after the first few meetings which provided a level of reassurance that the support and communications from the TPG were effective.

Connection sessions

The trade union TPG co-chair supported NHSE's monthly ICS HR, People and OD connection sessions. These were targeted at CCG HR and were opened to trade union reps and focussed on the workforce elements of the transition. They were seen as open, transparent, and inclusive

¹ 21 July 2021, 1 September 2021, 11 October 2021, 22 November 2021, 10 January 2022, 22 February 2022, 18 July 2022

and the first of their type in a large-scale change process. The February 2022 connection session covered staff engagement and employer partnership working with trade unions in the ICBs.

Additional TPG transition policy engagement

TPG meetings enabled engagement in:

- People Impact Assessment
- Equality Health Impact Assessment
- NHSE talent management approach for the transition
- Suitable alternative employment in ICBs for board level staff.
- CCG exits
- ICB appointments and pay.

Part two - findings of a survey of TPG members

During the period 22 August to 16 September 2022, members of the TPG were requested to complete an online survey (see Annex E) which sought their views on the TPG and its role in the transition process. In total 13 responses were received. These were from representatives from NHS England, DHSC, CCG/ICS, NHS Employers, NHS trade unions and other.

Results of the survey

- 1. Eight fully agreed and four partly agreed that the TPG delivered against the agreed objectives as set out in its terms of reference².
- 2. Ten fully agreed and two partially agreed that TPG members were able to get involved, at an early stage, in the key workforce issues arising from the transfer of staff to ICBs.
- 3. Ten fully agreed and two partially agreed that TPG members were able to influence the workforce aspects of the transition process.
- 4. Six fully agreed, five partially agreed and one neither agreed or disagreed, that the employment commitment helped to de-risk the instability that change can create, and allowed more transformational discussions to take place at the TPG³.
- 5. Eight fully agreed, three partially agreed and two neither agreed or disagreed, that the TPG supported the smooth transition of staff to the ICBs through contributing meaningfully to relevant guidance and developing FAQs.
- 6. Six fully agreed, three partially agreed and two neither agreed or disagreed that the TPG communicated key workforce-related transition messages effectively and in a timely manner.

² In the text feedback a respondent stated that in the terms of reference it mentions advancing equality, diversity and inclusion which they were not sure whether this had been achieved. They acknowledged the group had limited opportunities to do this.

³ In the text feedback box one respondent stated that there may be differing views from staff around the employment commitment - although they thought all involved in TPG would probably agree it was introduced with good intent.

- 7. Eleven fully agreed and one neither agreed or disagreed that the TPG supported effective wider engagement on the transition through the NHS England ICS HR, People and OD connection sessions, and TPG meetings with the regional SPF co-chairs.
- 8. Eleven fully agreed and one neither agreed or disagreed that the TPG added value to the transition process.

Feedback in the survey included positive comments on the chairs and secretariat. A respondent highlighted the important role of the secretariat in following up on actions, prompting papers etc and generally keeping people focused. Another respondent advised that the TPG chairing from the trade unions was exemplary and a significant contributory factor in the success of the TPG.

A respondent advised that membership of the TPG was a significant time commitment, but they felt it was a helpful meeting to be involved in. Another respondent noted the significant commitment from all members to take part every two weeks and to do work outside of meetings, "this was a doing group not just a talking one."

There was seen to be good collaboration between all involved and how the group enabled cocreation and helped build positive working relationships. A respondent stated:

"The group was collaborative, well organised, and was able to deliver work that supported the relatively smooth transfer of staff."

Respondents identified how all on the group were able to get into the detail of issues and then find ways of resolving these and the group had a collective responsibility providing workforce related advice.

The group had a shared vision, good attendance and levels of contribution and there was openness and transparency, willingness to listen and understand other's perspectives. These were all seen as important components.

The key role of trade unions was emphasised in the following response:

"From the outset there was a clear commitment that the intention was to do this change differently, coproduction and a genuine commitment to partnership working with the unions demonstrated from the outset and trust was rapidly built. Staff side colleagues' commitment and suggestions led to better outcomes. Opening up the connection sessions to be done in partnership."

Another respondent noted that although co-production meant products were produced more slowly, the ownership of the resulting documents across all members was very valuable.

Respondents advised it was sometimes difficult to get answers to questions which then remained outstanding. This created uncertainty in the system. Examples included the wording of the transfer scheme and exit payment guidance.

Respondents noted that internal processes in NHSE could cause unhelpful delays, for example the time to approve and publish FAQs. A respondent identified that the timeliness of information sharing and decision making, due to external factors, did cause stress in the affected community.

Timeliness was identified as an issue with the late circulation of papers, giving members of the group limited time to read, consult and comment.

Communication was also seen as not always being as timely as it could be. It was noted that this was more due to other external factors and SPF comms channels were utilised, where possible to speed this up.

To address issues of long timelines, a respondent suggested NHSE's governance processes could have been adapted for a short period.

A respondent said a stronger contribution from DHSC colleagues in the meetings would have been helpful, and at times it was felt they were quite passive and quiet. It was however beneficial that they were part of the group.

Overall respondents identified that the TPG did great work, was an excellent model for partnership working and could fruitfully be used in future large scale change processes. A respondent identified that this process helped reinforce why social partnership working is so important and leads to better outcomes.

Part three - learning from the work of the TPG

- In future large scale nationally led service transformation, where there are not already strong social partnership mechanisms in place, a transition partnership group should be established.
- The group should include an appropriate management chair who is in a senior position in one of the key organisations involved in the transition.
- A senior national trade union representative should be identified as the staff side chair of the group and they should be responsible for co-ordinating the trade union input.
- Membership of the group should include representatives from the key interested parties and all should commit to attending meetings, actively contribute, and undertaking any agreed activity within timelines identified.
- A suitably resourced secretariat should be in place to ensure meetings progress as planned and actions are followed up on.
- Terms of reference should be agreed that give clarity on the objectives of the group and ways of working and should be evaluated against at the end of the process.
- Meeting agendas and papers should go out in sufficient time to allow appropriate consideration by members of the group.
- Task and finish groups could be used to undertake specific areas of work.
- Transition related products should be co-produced by the group.
- Relevant information should be communicated externally in a timely fashion.
- It may be necessary for governance arrangements in relevant organisations to be streamlined to ensure timely decision-making processes and key documents/messages are signed off and published promptly.
- Mechanisms should be established to ensure there is broader engagement in the transition process as and when required. This could be in line with the TPG meetings with the regional SPF co-chairs and the NHSE ICS HR, People and OD connection sessions.

SPF secretariat October 2022

Annex A

Social Partnership Forum – Integrated Care Systems - Transition Partnership Group Terms of Reference – April 2022

1. PROJECT TITLE	Integrated Care Systems – Transition Partnership Group (TPG)
2. SECRETARIAT	James Shepherd, SPF Programme Manager
3. MEMBERSHIP	CO-CHAIRS Helen Bullers, Director of HR & OD, NHS England Alan Lofthouse, National Officer, UNISON DHSC Philippa Baker, Deputy Director
	Denise Vanstone, Head of NHS Employment Services Lynn Slater, NHS Workforce Engagement Manager Rachel Markey/Sean Palmer (Job share) Lead on Implementation, Change and Engagement Yoshi Panwar, Senior Policy Advisor Nyla Cooper, Senior Policy Manager Ellie McCann, DHSC Legislation programme team
	NHS England Wayne Colthirst, ICS Development Programme HR & OD Lead Kerrie Montoute, Senior Advisor, ICS Development Samina Ladhani, Project Manager Ema Ojiako, Director of HR and OD Operations Peter Hall, Head of Employee Relations, Partnership and Policy Matt Neligan, Director for Primary Care Commissioning and Transformation Chris Gormley, Deputy Director Mandate, Legislation & Accountability Dan Rattigan, Senior Policy Lead
	NHS Employers/NHS Confederation Rebecca Smith, Director of Engagement (Deputy co-chair) Gayna Deakin, Assistant Director Naveed Ahmed, Senior Programme Officer (SPF) Nicola Syslo, SPF Admin and Comms Support Officer Syeda Munim, Policy and Delivery Officer for the ICS Network
	NHS employers - ICS/CCG/CSU Charles Summers, Dorset ICS Janet Wilkinson, Executive Lead for Workforce, OD and system leadership, Greater Manchester Health and Social Care Partnership Sarah Morgan, Director of Organisational Development & Interim Strategic Lead for the SEL ICS Workforce Mike Walker, Director of Business Services, Arden & GEM CSU Theresa Nelson, Director of HR for the Coventry and Warwickshire ICS
	Trade Union reps Rebecca Hall, Managers in Partnership Gill Morgan, Royal College of Nursing Nick Duckworth, British Medical Association Jacalyn Williams, Unite It is recognised that membership may need to be flexible to ensure that the
4. AIM	right people attend at the right time to enable work to progress. To effectively support staff, whether directly employed, assigned, or seconded to functions that will be impacted by organisational change arising from the 2021 Health and Care Bill, by minimising uncertainty and maximising

	employment stability, limiting employment changes and working to the principles of simple, local and evolution.
5. OBJECTIVES	 Have a clear focus on equality, diversity and inclusion and maximise opportunities to enhance diversity at a system level. To clarify which people are in scope for the transition and share data on that group and the sender organisations. Define what is meant by 'board level'. De-risk change for staff through protections to terms and conditions. Facilitate a strong staff and employer/ICS voice in the transition process. Provide a forum for candid conversations where members can raise issues arising at a local or national level in confidence. Shape the direction of travel for organisational change resulting from the ICS transition and provide clarity in relation to how this will relate to the legislative process and decisions on funding arrangements. Co-produce organisational change workforce related documentation to facilitate consistency of approach where this is needed nationally and enable sufficient local flexibility to accommodate the variation in circumstances across the country. To understand the transfer mechanism and ensure correct legal and organisational change processes are followed, for example staff consultations, at employer level. Communicate relevant messages on the transition process. Support timely and effective social partnership working (at a regional SPF, system, place, and organisational level) to inform the development and implementation of transition arrangements. Ensure a consistent and coordinated approach in delivery of workforce change between the national, regional, ICS, place, and organisational levels. Work together to identify opportunities for improving employment practices that the creation of 42 new statutory bodies provides. Consider the impact of the implementation of non-legislative arrangements. Support ICSs to create their own internal partnership structures and have them up and running from day one, sharing good practice and learning.
6. DELIVERABLES	 Work together to ensure all national guidance and process with workforce implications is supportive of the delivery of the transition in line with the core principles and intended approach. Support a smooth transition and minimise disruption.
7. LINKS AND DEPENDENCIES	This is a subgroup of the national SPF and reports to the SPF Wider Group and the SPF Strategic Group. Issues that cannot be resolved in the TPG can be escalated to the NHS Chief People Officer; NHS Employers, Chief Executive; and the Head of Health at UNISON. The TPG links to following: Regional SPFs Regional People Boards ICS People Boards NHSE/I System Transformation Board NHSE/I Executive NHS England and NHS Improvement's Partnership Forum.
8. POTENTIAL RISKS	 Complexities involved in transferring people from multiple organisations with different terms and conditions of service and organisational cultures into the new ICS statutory organisation. Co-creation is not achieved due to decisions being taken ahead of the meeting, or over-ridden after the meeting. An evolutionary approach results in change happening at different speeds in different places resulting in a detrimental impact on certain groups of staff, for example the employment commitment is not being adhered to.

	 A national approach which is too rigid or just replicates past organisational change processes may hamper positive innovation in the development of the ICSs. Conflicting roles of organisations/individuals impacted by change.
9. TIMING	 Frequency of meetings – 90 minutes fortnightly supported by detailed work off-line as required. These Terms of Reference will be reviewed periodically.

13 July 2021

Integrated Care Systems (ICSs) Transition Partnership Group (TPG) - update

The TPG, which is a subgroup of the national SPF, met on 8 July. The meeting allowed members of the group to engage with NHS England and NHS Improvement (NHSEI) on the process being used to appoint chairs and chief executives to statutory ICSs. The meeting also enabled TPG members to get involved in the development of the HR Framework. This will give a clear understanding on the mechanism of transfer for staff moving to statutory ICSs and will include expectations in relation to staff engagement and partnership working. The ambition is for the framework to be published by the end of July.

At the meeting, NHSEI representatives confirmed that the health and care bill, which was introduced to Parliament on 6 July, will give ICSs the freedom to determine staff pay and terms and conditions of service. This replicates the freedoms currently in place for CCGs and foundation trusts. ICS staff will be covered by NHS pay and terms and conditions of service and their staff represented in the NHS Staff Council. Staff transferring into ICSs already have the employment commitment which protects current NHS terms and conditions through the transfer.

The TPG worked with members from NHS Clinical Commissioners, HR and OD network and NHSEI leads for the ICS development programme, to produce answers to frequently asked questions on the <u>Guidance on the employment commitment: supporting the development and transition towards statutory Integrated Care Systems</u>. These FAQs are now available on the <u>SPF website</u>.

The TPG meets fortnightly and targeted communications from meetings, such as this, will go out as SPF news alerts or featured in the monthly SPF bulletin. To subscribe to receive these communications, please contact: webenquiries@socialpartnershipforum.org.

For more information on the TPG and its terms of reference, see the <u>SPF website</u>.

Follow us on twitter <u>@NationalSPF</u> and join the conversation #SPFnhs



Annex C - Joint statement from the co-chairs of the ICS TPG on the launch of the ICS HR Framework

We are pleased to have worked in partnership with colleagues through the ICS Transition Group (TPG), a sub group of the National SPF in developing the ICS HR Framework. The TPG membership consists of national trade unions, NHS Employers, Clinical Commissioning Group (CCG), ICS HR Directors and senior leaders from NHS England and NHS Improvement. The group was established in April 2021 to effectively support staff impacted by organisational change arising from the 2021 Health and Care Bill.

The HR Framework provides a mechanism of structured support for affected staff with professional advice, guidance and best practice, in relation to the human resource and employment law considerations required to enable the safe transfer of people to the new NHS Integrated Care Boards (ICBs). It also outlines key activities, responsibilities and/or considerations required at a national, regional, system and organisational level.

We ask that system leads, employers and HR and OD colleagues continue to engage with trade unions in regional, system and local partnership arrangements during the implementation of the framework, in order to support staff with a safe and supportive transition process with minimal disruption.

The ICS TPG will continue to support this work by ongoing monitoring of the framework through Regional SPF channels and ask that any general feedback or concerns our fed through your Regional SPF.

Annex D - April 2022 bulletin

ICS Transition Partnership Group (TPG) update

The TPG co-chairs have been in correspondence on the transfer scheme and ensuring staff involved in the transfer to integrated care boards (ICBs) receive TUPE equivalent protection. The position is clear in policy that employers should treat the transfer as if TUPE applies. The <u>HR Framework for developing integrated care boards</u> states: 'For all colleagues transferring their employment to ICBs, the mechanism of transfer should look and feel identical to a TUPE transfer, in terms of the process followed by their current employers and ICBs, regardless of whether TUPE applies as a matter of law.'

The TPG has also:

- developed a template for transfer consultation document which provides helpful
 wording for TUPE conversations and advice for consulting with trade unions on
 any post transfer measures the ICB intends to make.
- Co-developed updated HR Framework Frequently Asked Questions (FAQs), which
 now include clarification on the need to ensure TUPE provisions are followed and
 information on suitable alternative employment for board level colleagues
 displaced by the proposed establishment of ICB Boards. The FAQs are available on
 the SPF website.
- Begun work on a further set of FAQs based on the feedback received from surveys of UNISON and MIP members carried out earlier in the year.
- Supported work on oversight and assurance of CCG exits guidance.
- Launched <u>principles</u> for ICB partnership machinery with recognised trade unions
 to support pre- and post-transfer consultation with staff and their trade union
 representatives these set out best practice for ICBs to set up and run joint
 negotiating and consultative machinery.
- Developed a template framework and agreement that ICBs can use for their internal forums for working in partnership with trade unions, available on the <u>SPF</u> website.
- Updated the SPF's <u>supporting system change</u> web page to include addresses and contact details for national trade union offices to assist CCG TUPE consultations with trade unions.



Annex E - Survey of members of the TPG

TPG members, past and current, are requested to complete the following survey.

- 1. Whilst a member of the TPG, which organisation or organisation type did you work for (select one):
 - NHS England
 - DHSC
 - CCG/ICS
 - CSU
 - NHS Employers
 - NHS Trade Union
 - Other please specify

On the following scale of 1 to 5...

1=fully disagree

2=partly disagree

3=neither agree nor disagree

4=partly agree

5=fully agree.

...please indicate the extent to which you agree with the following statements:

- 2. Looking at the TPG's <u>terms of reference</u>, the TPG delivered against the agreed objectives. Give a score from 1 to 5.
- 3. TPG members were able to get involved, at an early stage, in the key workforce issues arising from the transfer of staff to ICBs.

Give a score from 1 to 5.

- *4. TPG members were able to influence the workforce aspects of the transition process.* Give a score from 1 to 5.
- 5. The employment commitment helped to de-risk the instability that change can create and allowed more transformational discussions to take place at the TPG.

 Give a score from 1 to 5.
- 6. The TPG supported the smooth transition of staff to the ICBs through contributing meaningfully to relevant guidance and developing FAQs.

 Give a score from 1 to 5.
- 7. The TPG communicated key workforce-related transition messages effectively and in a timely manner.

Give a score from 1 to 5.

8. The TPG supported effective wider engagement on the transition through the NHS England "ICS HR, People and OD connection sessions," and TPG meetings with the regional SPF co-chairs.

Give a score from 1 to 5.

9. The TPG added value to the transition process. Give a score from 1 to 5.

Please give any additional information as to why you gave the answers above. Open text box.

- 10. What do you think worked well in the TPG? Open text box.
- 11. Are there any areas where you think improvements could be made to how the TPG supported the transition process?

 Open text box.
- 12. Please leave any other comments you think would be helpful to inform the evaluation of the role of the TPG.

 Open text box.
- 13. Please add any ICB workforce transition related issues that you think need to be addressed by the TPG online or at the next TPF meeting on 5 October 2022.

 Open text box.