

## Transfer of your job to another employer

Your pension may be affected if you are a local authority employee, or you work for an employer who offers membership in the LGPS, and your job is transferred to a private sector employer.

If you are unsure about the impact of your job transferring to another employer, you should speak to your line manager or HR Department.



### Definition of TUPE

TUPE refers to the 'Transfer of Undertakings (Protection of Employment) Regulations 2006'.

The TUPE rules apply to organisations of all sizes and protect employee rights when the organisation or service they work for transfers to a new employer.

Employment rights covered by TUPE include pay and holidays etc. but **not pensions**.

However...there are measures which sit alongside TUPE to ensure that your Local Government Pension Scheme (LGPS) pension is protected when your job is transferred to another employer.

## When TUPE applies

There are 2 situations when the TUPE regulations may apply:

**Business transfers** – The TUPE regulations apply if a business or part of a business moves to a new owner or merges with another business to make a brand-new employer.

**Service provision transfers** – The TUPE regulations apply in the following situations:

- A contractor takes over activities from a client (known as outsourcing)
- A new contractor takes over activities from another contractor (known as re-tendering)
- A client takes over activities from a contractor (known as in-sourcing).

## How your pension can be affected

This depends on who you currently work for and where your contract is being transferred to:

1. If you currently work for an academy, free school, foundation, foundation special or voluntary aided school and your contract is being transferred to a private contractor, they must allow you to continue as a member of the LGPS.
2. If you currently work for a local authority and your contract is being transferred to an employer that already offers membership in the LGPS, you will be automatically admitted to the LGPS with your new employer at the date of transfer.
3. If you currently work for a school that is becoming an academy, you will be automatically admitted to the LGPS with your new employer at the date of transfer.

For options 1 to 3 above your LGPS record will be automatically moved to the new employer.

4. If you currently work for a local authority and your contract is being transferred to a private contractor, you must be offered either:
  - Continuing membership in the LGPS via an admission agreement. Your new employer arranges this agreement with the LGPS.
  - Membership of a broadly comparable pension scheme. This is a scheme which offers benefits which are broadly comparable with the LGPS. Your new employer organises this scheme.

If your current employer is not one of those detailed in 1 to 4 above, they are not obliged to offer one of the protections mentioned, although they may choose to do so.



## **Bulk transfers**

If your new employer is providing a broadly comparable pension scheme, then a bulk transfer may be undertaken.

A bulk transfer is when the two schemes agree to pay over an amount of money that represents the value benefits for all those who are transferring. This could mean that the benefits in the new scheme will be at a more beneficial rate.

You will be provided with the details in writing so that you can make a choice. This must be made within 3 months of the date that the option was given to you. If you decide not to transfer at this point, or did not respond within the deadline, you may be able to transfer later, but this would be calculated in the normal manner and not at the beneficial rate.

## **The TUPE process**

As part of the TUPE consultation requirements your current employer will ensure that your new employer has adequate pension arrangements.

Your current employer will tell you if your new employer will provide you with either:

1. A broadly comparable scheme, or
2. Continuing membership in the LGPS through an admission agreement.

If you have been offered a broadly comparable scheme you will be given details of that scheme and a form that allows you to tell your employer and East Sussex Pension Fund that you wish to:

- Transfer your LGPS pension rights to that scheme; or
- Retain your pension rights in the LGPS. If you have more than 2 years membership you are awarded a deferred pension in the LGPS which increases with the cost of living and is payable at your normal pension age. If you have less than 2 years membership you may receive a refund of your contributions less a deduction for tax and the cost of buying you back into the State Second Pension (S2P).

When all the forms are received a bulk transfer may be calculated. This can take some time but you will build up a pension in your new scheme while this process is being finalised.

If you have been offered continuing membership in the LGPS you do not need to take any action. Your pension record will be automatically transferred to your new employer.

## **Transfer of your job to another employer after this one**

In this scenario, the process starts again. Your future pension may be protected through the offer of further membership in the LGPS or through a broadly comparable pension scheme. You will be offered choices again regarding the pension you have built up.