



HM TREASURY

Reform of the Fair Deal policy

Presentation to the Association
of Consulting Actuaries

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UNCLASSIFIED

Introduction

- Fair Deal policy was introduced in 1999 to provide pension protection for staff compulsorily transferred out of the public sector
- *“The guiding principle should be that the new employer offers transferring staff membership of a pension scheme which though not identical is ‘broadly comparable’ to the public service pension scheme which they are leaving”*
- Further guidance issued in 2004 set out further details about how bulk transfers should be carried out when contracts were retendered, to ensure the protection of accrued rights on transfer

Background to the reform

- Independent Public Service Pensions Commission found in 2011 that the policy was a barrier to plurality in public service provision, and recommended that the policy be reviewed
- HM Treasury consulted stakeholders in 2011 on how the policy should be reformed to provide staff with pension protection, while delivering value for money and removing barriers to plurality of public service provision
- Further consultation on the treatment of staff that have already been transferred out under Fair Deal

New Fair Deal – new transfers from the public sector (1st generation transfers)

- Chief Secretary to the Treasury confirmed in 2012 that would be reformed by allowing transferred staff to remain in their public service pension scheme
- New guidance published on 7 October sets out how the policy will be implemented

New Fair Deal – scope and timing

- Policy applies to staff eligible for a public service pension scheme in:
 - central government departments and agencies;
 - the NHS,
 - maintained schools, including academies (except when covered by other arrangements for local govt);
 - any other parts of the public sector under the control of Government ministers.
- New guidance is effective immediately, with caveats:
 - No requirement to disrupt ongoing procurement;
 - Not all of the schemes have regulations/procedures in place to admit new employers under Fair Deal yet.

New Fair Deal – implementation

- Contracting authorities will be required to ensure that staff who have been compulsorily transferred are able to access the relevant scheme, including on any subsequent transfer
- Rights should be **enforceable by individuals**
- A **participation agreement** will be required to ensure that contractors fulfill their obligations as employers in the scheme
- Schemes may charge different **contribution rates**, require **bonds/indemnities**, or charge **exit payments** where necessary to protect the funding of the scheme
- Full details of how the policy will operate for each scheme will be set out in each scheme's own guidance

Fair Deal – retendering of existing contracts (2nd generation transfers)

- When contracts involving staff already transferred under Fair Deal are retendered, there will be a presumption that staff will be offered
 - access to a public service pension scheme; and
 - a bulk transfer of accrued rights.
- Flexibility to continue to provide broadly comparable schemes will be available only for legal reasons:
 - If the contracting authority would be unable to offer a “level playing field” for the retendered contract; or
 - If an incumbent contractor has a contractual obligation to provide a broadly comparable scheme to staff.
- These will be the only circumstances in which broadly comparable schemes continue following a retender of a contract

Broad comparability assessments

- New Fair Deal includes updated guidance on broad comparability assessments
- Core principle remains the same – schemes must satisfy the condition that:
“there is no identifiable group of employees who would overall suffer material detriment in terms of their future accrual of pension benefits”
- Additional guidance added on the principles to be used when setting assumptions to be used for broad comparability assessments
- May be carried out by any actuary

Bulk transfers under the reformed Fair Deal

- Eligible staff must be offered a bulk transfer of existing pension rights to their new scheme when contracts are retendered
- Intention is to protect staff entitlement to have pension benefits linked to future salary increases (in final salary schemes), or to benefit from more generous active service revaluation rates (in CARE schemes)
- New guidance contains detailed provisions setting out how bulk transfers should be dealt with when contracts are retendered.

Further information and contact details

New guidance available at:

<https://www.gov.uk/government/publications/fair-deal-guidance>

Further information available from individual pension schemes
or from:

Sarah Deacon – Sarah.Deacon@hmtreasury.gsi.gov.uk

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