

# Terms and conditions for staff transferring into Public Health England



## Our approach

On day one of Public Health England's establishment on 1 April 2013, the majority of the Public Health England workforce will be staff who have transferred from over 70 different employers across the country.

Reflecting this diversity, staff who will move to Public Health England are currently employed on a wide range of contracts, each with their own variations in terms and conditions.

In line with the policy being followed across the people transition programme as a whole, and as set out in the national guidance, Public Health England will provide specific protections for the terms and conditions of staff who transfer to it through the provisions of transfer schemes or orders.

Where applicable, transfers will be effected in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE).

In circumstances where TUPE does not apply in strict legal terms, the Cabinet Office Statement of Practice, January

2000 (Revised November 2007) ("COSOP") will be followed.

In COSOP the employees involved in such transfers will be treated no less favourably than if TUPE applied in relation to protecting statutory continuity of employment and transferring on current terms and conditions including any contractual redundancy or severance entitlements.

In addition, principles contained within the Fair Deal Annex of COSOP relating to occupational pensions will be adhered to.

Discussions on the national position on TUPE/COSOP and post transfer protections are currently ongoing.

Obligations relating to provisions about benefits for old age, invalidity or survivors in employees' occupational pension schemes do not transfer under TUPE.

However, the provisions of the Pensions Act 2004 sections 257 and 258 do apply.

In summary, if the previous employer provided a pension scheme then the new employer has to provide some form of pension arrangement for its new employees who were members of the old employer's scheme.





It will not have to be the same as the arrangement provided by the previous employer but will have to be of a certain minimum standard specified under the Pensions Act.

### **What this means for staff**

In practice, this means that staff transferring to Public Health England who:

- are in “lift and shift” functions, or
- secure a post in Public Health England through being matched to a job, either through a straightforward “slot-in” or through a competitive slotting exercise, or
- are redeployed into suitable posts

will have their contractual pay and continuity of service protected at transition. We have also sought to maintain continuity for staff in terms of their membership of their pension scheme at transition, wherever practical, in order to minimise disruption at the point of change. Staff will move onto Public Health England’s policies and procedures for all non-contractual matters.

Following conclusions of discussions with health, education and the Civil Service trade unions, the Treasury has announced details for public sector pension schemes<sup>6</sup> that are planned to be introduced in April 2015.

Current Civil Service pension schemes will be reformed with a move to a new career average scheme.

Public Health England intends, at that stage, to align the pension membership arrangements for the majority of its staff by undertaking a transfer of its workforce

to the new Civil Service pension scheme being introduced.

More detail on what this means for different groups of staff moving into Public Health England is outlined below for:

- staff who are currently on Civil Service terms and conditions
- staff who are currently on NHS terms and conditions
- staff who are on neither NHS nor Civil Service terms and conditions.

Where protection exists for groups of staff for relevant pension schemes, those protections will continue to be respected.

### **Staff who are currently on Civil Service terms and conditions**

If you are currently on Civil Service terms and conditions and you move to Public Health England you will see no change to your terms and conditions at that point. You will remain in your current Civil Service pension scheme (Classic, Classic Plus, Premium or Nuvos) and your salary will be unchanged (as determined by current grade). For non-contractual matters you will move onto Public Health England’s policies.

If you are subsequently promoted or make a voluntary move within Public Health England then you will normally be expected to move onto Public Health England terms and conditions.

We will seek to ensure that any Civil Servants are not disadvantaged against those on NHS terms and conditions if promoted in Public Health England. We would need to address any unintended





disincentive to promotion.

The Department of Health, Public Health England and trade unions will discuss these issues and further information will be shared once discussions are concluded. Details of the new Public Health England terms and conditions are shown in a separate factsheet.

When the Civil Service Pension arrangements are reformed in 2015 your pension arrangements will be affected in the same way as applies for other Civil Servants in Department of Health. Details of the proposals can be found under Civil Service Reform<sup>7</sup>.

#### **Staff who are currently on NHS terms and conditions**

If you are currently employed on NHS terms and conditions you will see no change to these at the point of transfer. Your salary will be unchanged including any rights you have to contractual pay. For non-contractual matters you will move onto Public Health England's policies.

You will be able to remain in the current NHS pension scheme for up to two years following transfer.

If you are subsequently promoted or make a voluntary move within Public Health England then you would normally be expected to move onto Public Health England terms and conditions including the Civil Service Pension scheme. Details on the new Public Health England terms and conditions are shown in a separate factsheet.

However, as a transitional measure, you will be able to choose to remain in the NHS Pension scheme until 2015 if you wish. Information will be made available to staff in this position to support them to make an informed choice.

If you have not already moved on to Public Health England terms and conditions as a result of a transfer or voluntary move, you will normally move into the Civil Service pension scheme at April 2015 in line with reforms.

At that date there are planned changes both to the Civil Service and NHS pension schemes, and members of both schemes will move on to reformed arrangements.

Public Health England will provide further information to staff in good time ahead of the changes about how the transfer will take place.

There are some exceptions to this for staff in a "ring-fence" group (see the separate factsheet on terms and conditions for further explanation) who will be in Public Health England roles that attract terms and conditions analogous to those applying in the NHS, including pension arrangements.

#### **Staff who are on neither Civil Service nor NHS terms and conditions**

If you are on neither NHS nor Civil Service terms and conditions you will see no change to your pay and general terms and conditions at the point of transfer. For non-contractual matters you will move onto Public Health England's policies. If you are subsequently promoted or



## *People Transition Policy for Public Health England: Terms and conditions for staff transferring into Public Health England*



make a voluntary move within Public Health England then you will normally be expected to move on to Public Health England terms and conditions.

As an executive agency, Public Health England has been given permission by the Cabinet Office to operate both the Civil Service and the NHS pensions schemes. If you are not currently in either of these schemes, you will have the option to join a broadly comparable Civil Service pension scheme operated by Public Health England under Fair Deal arrangements. There are a range of different schemes and staff in those schemes will be contacted individually concerning their pensions options.

A simple flowchart to help understand the different implications of transfer from different routes into Public Health England is shown in the separate "Transfer chart" factsheet.

### **Future integration of terms and conditions**

Public Health England will begin with the majority of staff transferring on NHS terms and conditions, but over time, the proportion of staff on Public Health England terms will grow.

Public Health England will look at options to pursue integration of terms and conditions over time. This process will involve discussion through partnership arrangements in the usual way as stated above.

### **Changes to location**

As part of the establishment of Public Health England, the principle is that, where possible, there should be minimal disruption from day one.

Public Health England's Shadow Executive Group has confirmed that no one will be relocated from their existing accommodation before 1 April 2013, unless they are being asked to move by their current "host" due to any disposal of accommodation unrelated to Public Health England's establishment or other circumstances.

A Public Health England estates plan is being developed with input from national Directors and Regional, Centre, Screening and Evidence and Intelligence Directors, the aim of which is the co-location of Public Health England functions in single locations, where appropriate.

This process will be undertaken in a controlled way, most likely over the next three to five years.

Where property is currently provided by a strategic health authority or primary care trust and is being disposed of because it is surplus to their future requirements, the individuals affected will be consulted concerning any move to alternative accommodation.

Any changes to location that are made either prior to or at the point of transfer will normally be made under the employee's current terms and conditions, and if the paragraph above applies, would





mean that any relocation or excess fares policies that might apply would be the current employer's.

### **Working patterns**

Public Health England will continue to operate flexible working policies in line with those adopted across the Civil Service. In terms of on-call arrangements, we do not expect that any significant changes to working patterns will be required for the great majority of staff transferring to Public Health England, bearing in mind most will move in "lift and shift" functions.

However, if a need for a change to working patterns is identified prior to transfer then it will be discussed with the staff affected and administered under the sender employers' arrangements taking account of necessary consultation as required.

<sup>6</sup> <http://www.civilservice.gov.uk/pensions/reform>

<sup>7</sup> <http://www.civilservice.gov.uk/reform>



*Produced: November 2012*

*Gateway reference: 18439*

© Crown copyright 2012

Produced by the Department of Health

[www.dh.gov.uk/publications](http://www.dh.gov.uk/publications)