
D I R E C T I O N S

[2026]

LOCAL GOVERNMENT, ENGLAND

The Best Value Authorities Staff Transfers (Pensions) Direction [2026]

The Secretary of State makes this Direction under section 101 of the Local Government Act 2003(a).

Citation, commencement, extent, application and interpretation

1.—(1) This Direction may be cited as the Best Values Authorities Staff Transfers (Pensions) Direction [2026].

(2) This Direction comes into force on [Date].

(3) This Direction extends to England and Wales and applies in relation to authorities in England.

(4) In this Direction—

“authority” means an authority listed in section 1 of the Local Government Act 1999(b);

“the TUPE Regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006(c) or any regulations replacing those regulations, as amended from time to time.

(5) Any term used in this Direction which is also used in the TUPE Regulations has the meaning given in the TUPE Regulations.

Pension protection for authority employees where the provision of services is contracted-out

2.—(1) Paragraph (2) applies where—

- (a) an authority enters into a contract with a person for the provision of services, and
- (b) those services are, in the period immediately before the contract is entered into, provided by the authority and carried out by employees of that authority.

(2) The contract must provide—

(a) 2003 c. 26. 2003 c. 26. Section 101 was amended by paragraph 3(9)(a), (c), (b) and (d)(i) of Schedule 7 and Part 8 of 18 to the Local Government and Public Involvement in Health Act 2007 (c. 28), regulation 5(7)(a) and (b)(i) and (ii) of S.I. 2021/296 (W. 73), paragraph 321 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 (c. 13) and regulation 21(2) of S.I. 2022/797 (W. 175).

(b) 1999 c. 27. Section 1 was amended by paragraph 91 of Schedule 1 to the Fire and Rescue Services Act 2004 (c. 21), section 136(1)(a) of, and paragraph 2(2)(c), (a), (b) and (d) and (3)(a) and (b) of Schedule 8 and Part 8 of 18 to, the Local Government and Public Involvement in Health Act 2007 (c. 28), paragraph 62(2) of Schedule 4 to the Local Transport Act 2008 (c. 26), paragraph 91 of Schedule 6 to the Local Democracy, Economic Development and Construction Act 2009 (c. 20), Schedule 4 to the Local Government (Wales) Measure 2009 (nawm 2), paragraph 242(3) and (2) of Schedule 16 to the Police Reform and Social Responsibility Act 2011 (c. 13), Part 32 of Schedule 25 to the Localism Act 2011 (c. 20), paragraph 6(30) of Schedule 13 to the Deregulation Act 2015 (c. 20), paragraph 15 of Schedule 5 to the Cities and Local Government Devolution Act 2016 (c. 1), paragraph 107 of Schedule 2 to the Policing and Crime Act 2017 (c. 3) and paragraph 121 of Schedule 4 to the Levelling-up and Regeneration Act 2023 (c. 55).

(c) S.I. 2006/246, amended by S.I. 2006/177, 2009/592, 2010/93, 2014/16, 2014/386, 2014/856 and 2023/1426.

- (a) that the contractor is required to secure pension protection for each transferring employee, and
 - (b) that the pension protection provided is enforceable by the transferring employee.
- (3) For the purposes of paragraph (2)—
- (a) “transferring employee” means an employee of the authority whose contract of employment becomes, by virtue of the application of the TUPE regulations in relation to what is done for the purposes of carrying out the contract between the authority and the contractor, a contract of employment with someone other than the authority, and
 - (b) “pension protection” is secured for the transferring employee if after that change in employer he has, as an employee of his new employer, rights to acquire pension benefits and those rights are—
 - (i) the same as, or
 - (ii) count as being broadly comparable to or better than, those that he had, or had a right to acquire, as an employee of the authority.
- (4) Where a transferring employee is provided with rights to acquire pension benefits under a public service pension scheme for local government workers in England and Wales under regulations made under sections 1 and 3 of the Public Service Pensions Act 2013^(a), those rights count as being broadly comparable to or better than the rights that transferring employee had, or had a right to acquire, as an employee of the authority for the purposes of paragraph (3)(b)(ii).

Pension protection for an employee of the authority in respect of a subsequent contract for the provision of services

- 3.—(1) Paragraph (2) applies where—
- (a) an authority has contracted with a person (“the first contractor”) for the provision of services;
 - (b) the application of the TUPE regulations or the Transfer of Undertakings (Protection of Employment) Regulations 1981^(b) in relation to what was done for the purposes of carrying out the contract between the authority and the first contractor resulted in employees of the authority becoming the employees of someone other than the authority, and
 - (c) the authority is contracting with a person (“the subsequent contractor”) for the provision of any of the services.
- (2) The contract between the authority and the subsequent contractor must provide—
- (a) that the subsequent contractor is required to secure pension protection for any transferring original employees, and
 - (b) that the pension protection provided is enforceable by the employee.
- (3) For the purposes of paragraph (2)—
- (a) “transferring original employee” means an employee of the authority—
 - (i) whose contract of employment becomes, by virtue of the application of the TUPE regulations in relation to what is done for the purposes of carrying out the contract between the authority and the subsequent contractor, a contract of employment with someone other than the authority and
 - (ii) whose contract of employment on each occasion when an intervening contract was carried out became, by virtue of the application of the TUPE Regulations or the Transfer of Undertakings (Protection of Employment) Regulations 1981 in relation

(a) 2013 c. 25. Section 3 was amended by section 94(2), (3), (4), (5) and (6) of the Public Service Pensions and Judicial Offices Act 2022 (c. 7).
 (b) S.I. 1981/1794

to what was done for the purposes of carrying out the intervening contract, a contract of employment with someone other than the existing employer;

- (b) “pension protection” is secured for the transferring original employee if after the change in his employer referred to in paragraph (i)(a) he has, as an employee of his new employer, rights to acquire pension benefits and those rights—

(i) are the same as, or

(ii) count as being broadly comparable to or better than,

those that he had, or had a right to acquire, before that change of employer.

(4) For the purposes of paragraph (3)(a)(ii) an “intervening contract” means a contract with the authority for the provision, at times after they are provided under the contract with the first contractor and before they are provided under a contract with the subsequent contractor, of the services to be provided under the contract with the subsequent contractor.

(5) Where a transferring original employee is provided with rights to acquire pension benefits under a public service pension scheme for local government workers in England and Wales under regulations made under sections 1 and 3 of the Public Service Pensions Act 2013, those rights count as being broadly comparable to or better than the rights that transferring original employee had, or had a right to acquire, before the change in employer for the purposes of paragraph (3)(b)(ii).

Revocation

4. The Best Value Authorities Staff Transfers (Pensions) Direction 2007 is revoked.

Signed by authority of the Secretary of State for Housing, Communities and Local Government

Name

Minister of State

Date

Ministry of Housing, Communities and Local Government