



# HM TREASURY

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## **Distribution as below**

*Dear Colleague*

### **THE FAIR DEAL FOR STAFF PENSIONS: FURTHER GUIDANCE**

It is now five years since the Treasury published the 'Fair Deal for Staff Pensions' in June 1999, setting out a standard for the protection of occupational pensions for public service staff transferred compulsorily to private sector partners. As many of you will know, the Treasury has been reviewing the application of that guidance and we are grateful to all those who have contributed to our discussions. I am pleased to tell you that Ministers have now confirmed that the original guidance remains in force and that supplementary guidance should now be issued to clarify those aspects of its practical application which have been queried since it was originally issued.

A copy of the new supplementary guidance is attached to this. I should be grateful if you would give it the widest possible circulation amongst those involved – in public sector bodies, private sector businesses and public service trades unions - in projects and transactions involving staff transfers from the public sector to the private sector. Copies are also available from the Treasury website, and the Public Service Pensions Team here will be happy to answer any queries about it.

The main points are set out in the Summary in the new document. I would in particular draw your attention to the following points:-

- the original guidance published by the Treasury in June 1999 and subsequently incorporated into the Cabinet Office Statement of Practice on Staff Transfers published in January 2000 remains applicable and this



new guidance does not detract from the standard of staff protection which was set out then;

- this standard of staff protection will continue to apply after the statutory minimum protections in TUPE are revised to cover occupational pension scheme membership, where this guidance provides a higher standard than the new minimum;
- the protection continues to apply to staff who, after initial transfer from the public sector, are involved without break of service in further compulsory transfers which are integral to the delivery of the service to the public sector contracting body;
- public sector bodies controlling second and subsequent generation contract rounds should consider and clarify the treatment of staff involved in the transfer but not covered by this guidance, because they were originally transferred from the public sector before the Fair Deal applied or because they were recruited in the private sector and not transferred from the public sector; and
- as previously, the onus is on the public sector contracting body to apply this guidance or to explain to staff and their representatives why the guidance is not being applied, what alternative standard of protection is to be implemented, and to give staff and their trades unions an opportunity to make representations, if necessary to a Minister nominated as responsible for the project and prospective staff transfer.

The new guidance sets out a best practice model for the procurement of pensions bulk transfer agreements to give staff options for the treatment of their past service pension rights, and it highlights the importance of making secure arrangements about the responsibility of private sector partners to co-operate in appropriate handling of pension issues in onward staff transfers on their exit from the contract. There are important value for money issues for public sector bodies in this. The new guidance also stresses the importance of maintaining and assembling the data on pension issues in time to allow efficient procurement of service delivery partnerships and to avoid unnecessary uncertainty for staff. There is also a discussion of the background to policies on admission of private sector contractors to public service pension schemes and the potential advantages of industry-wide schemes to provide continuity of pension scheme membership for out-sourced staff.

We hope that this new guidance will be helpful in addressing the practical concerns which have been raised since the original guidance was issued, but we shall be happy to continue to work with all the stakeholders to keep it under review in the light of any further developments and further experience.

Please let me know of any further issues which it would be helpful to address in central guidance, and of any ways in which we can work better with you to help to ensure that this guidance is seen and understood by all those involved with staff pension issues in projects and transactions giving rise to transfers to the private sector.

Copies of this are being sent for onward transmission to those listed below.

***Yours faithfully***

**BILL GUY**  
**Head of Policy, Public Service Pensions**

Copies to:

HM Treasury Public Spending and Financial Regulation and industry Directorates

Department of Health

Office of the Deputy Prime Minister

Department for Education and Skills

Office of Government Commerce

Cabinet Office Corporate Management Command (for distribution to Government Departments, Agencies and NDPBs)

Official Committee on Occupational Pensions (OCOP and MOCOP)

Treasury Solicitors

Government Actuary's Department; *and to*

Secretariat, Public Services Forum

TUC

Council of Civil Service Unions

Unison

Business Services Association

SERCO

Mercer

Hewitt, Bacon and Woodrow; *and*

Other trades unions, businesses, representative bodies and individuals consulted during review