

TUPE – Frequently asked Questions (Staff)

The following questions and answers have been compiled by Greenwich HR and The Compass Partnership as part of the staff TUPE consultation process.

What is TUPE?

The Transfer of Undertakings (Protection of Employment) Regulations (TUPE) protects employees' terms and conditions of employment when a business is transferred from one owner to another. Employees of the previous owner when the business changes hands automatically become employees of the new employer on the same terms and conditions. Continuity of service and any other rights are all preserved. Both old and new employers are required to inform and consult employees affected directly or indirectly by the transfer.

What will happen to my position?

The new provider has agreed a structure to provide the service and you will be transferred to their employment. The new provider will meet with collectively and individually you over the coming weeks to explain what the implications of the transfer are for you. We will also notify you of any proposed changes as we become aware of them.

Will my terms and conditions change?

No. The transfer is covered by TUPE legislation which means that your current terms and conditions i.e. pay, leave, sick pay etc are protected and can only be changed in certain circumstances.

Will changes be made to terms and conditions after the first year of the MAT?

Terms and conditions are protected upon conversion through TUPE. There is no intention for staff terms and conditions to be changed in the immediate future however if the MAT wanted to make changes this would need to be consulted on and negotiated with staff as per employment law. Any employer could make changes to terms and conditions.

Are terms and conditions protected for a certain period post transfer?

There is no indefinite period during which terms and conditions are protected however employment law would apply if changes were to be made in the future, and any changes would need to be consulted on and negotiated with staff.

What if I don't want to transfer?

Your role with the school will end on the transfer date and you will be transferred to the new provider. You can choose to seek another role outside of the school or with us but we cannot guarantee being able to offer you another position. You can choose not to join the new provider, and if you do so you will be effectively resigning from your position and will not be eligible for a redundancy payment.

I am in my probationary period, what does this mean for me?

Your probationary period will continue as normal and any outstanding review meetings will be undertaken by the new provider.

I am on a temporary contract, what will this mean for me?

It is most likely to continue to its end date. The new provider will meet you and confirm if there will be a position for you in the new structure.

I am off sick, what will this mean for me?

We will advise the new provider that you are off sick. You will be invited to a meeting to discuss the transfer and the new provider will look to support you back to work if you have not returned by the date of transfer.

I am pregnant/on maternity leave, what will this mean for me?

The transfer will not affect your maternity pay and benefits. You will be invited to meet with the new provider who will confirm maternity leave dates and your role when you return.

My Current employer is Greenwich Council, can you confirm who my employer will be under the Multi-Academy Trust (MAT).

Your employer will be the Trustees of The Compass Partnership of Schools (the MAT).

Will London Weighting continue to be paid?

Yes, all pay and benefits will be protected on transfer, including London Weighting.

Will the MAT recognise Trade Unions?

TUPE provides that both Union recognition itself and the agreements that have been made between the Union and the Employer also transfer.

Please outline what the TUPE (transfer of undertakings protection of employment) process and timescales will be if the School becomes an Academy.

The School has entered into the formal consultation process with the staff affected, which will conclude after 30 working days. During the process the employees and their Trade Unions have the right to be consulted. Once the consultation has closed, the conversion date will be 1st April 2018.

What will the MAT's position be on salary scales moving forward?

On the transfer the MAT will adopt the current salary scales, which they are committed to retaining for both teachers and support staff. Moving forward these will be decided upon by the Trustees of the Multi-Academy Trust (MAT), as to whether it will continue to adopt the salary scales.

Can pay scales be changed?

The MAT is committed to current staff terms and conditions. To be aware that any employer could change these but this would have to be for a technical reason, and whilst the scale could change, pay could not be decreased. TLRs can be removed however but only after 3 years.

Who will consider the salary scales in the new structure?

The Trustees will consider all salary increases for staff of the MAT.

When will salary reviews/increases be undertaken?

This will be decided by the Trustees of the MAT and will remain in-line with current performance management cycles.

Will the MAT's salary increases be in-line with the Government's?

Yes, the MAT is committed to observing national pay and conditions, including salary increases.

Will salaries continue to be paid on the 22nd of the month?

No, following conversion salaries will be paid on the 25th of each month for all staff. If the 25th falls on a weekend staff will be paid on the Friday before as they do currently.

Will support staff be paid on the 22nd of March and then the 25th April, and teachers on the 30th of March and then the 25th of April, following the change of pay date after conversion?

Yes, this date was chosen as it is the middle of both current pay dates.

Why is the pay date being changed?

This is to accommodate a request from RBG Payroll who will be building a new payroll system for the MAT. If any staff members have concerns about the impact of this in the first month they should speak with the leadership team of their school.

Will pay still be performance related?

Yes this will continue as the MAT will maintain current staff terms and conditions.

How will my pension be affected by the transfer?

The MAT will be a recognised Local Government Pension Scheme (LGPS) employer in its own right, and all members of staff will remain members of the LGPS and the Teachers' Pension schemes, with the same benefits and contributions.

Will teacher pensions transfer over?

Yes, the Teachers' pension scheme will not change.

What happens to superannuation?

It will transfer.

I have consolidated two separate pensions previously – will they transfer?

Yes.

Going forward, if there is a deficit in the pension scheme, where will the funding for the deficit come from?

The MAT will take on all liabilities for the funding of the pension scheme, including any deficits that may occur.

Will The Multi Academy Trust (MAT) continue to offer both the LGPS and the TPS for transferring staff?

Legislation places a statutory duty on academies and free schools to offer the Teachers' Pension Scheme (TPS) to all teaching staff and the Local Government Pension Scheme (LGPS) to non-teaching staff. These requirements are repeated in the model Funding Agreement.

On conversion the MAT will automatically become a scheduled body in the LGPS (RBG). The MAT as an employer in its own right will also register with

the TPS in order that they can administer the scheme in respect of their employees.

Can the MAT make future changes to the pension scheme and rates of contributions?

No. Contribution rates and bands are part of legislation.

The MAT will be responsible for on-going liabilities for the pension fund. However, what if the MAT gets into financial difficulties in the future? Who will be responsible for any potential deficit? Is there a central 'pot' of money either from local or central government that would cover such an eventuality?
The Department for Education are ultimately responsible if an Academy fails and there is a deficit to be recovered. The Department for Education would protect the pension rights for the employees of any academy that got into financial difficulty.

Will LPFA pensions also transfer?

If a person is currently an LPFA member they will start to have their benefits administered by RBG and we will advise LPFA and the service will be automatically amalgamated

Will there be any changes to current benefits i.e.: employee assistance, occupational health scheme, all employee policies (absence, redundancy, maternity, disciplinary, notice periods)

On transfer all employee benefits including contractual agreements such as notice periods, maternity, pay, annual leave, will remain protected.

If I leave the MAT and take up a position at another school, will my service be continuous?

Maintained schools and academies are associated employers, for the purposes of redundancy payments, therefore your service for the calculation of any redundancy payment will be based on all your continuous service.

If I transferred to another MAT or school at a later date would my terms and conditions transfer across again?

Yes

Would pensions transfer if I moved to a new MAT/maintained school at a later date?

Yes staff will remain members of the LGPS and Teachers' pension schemes, entitlements and benefits remain the same.

Will our contributions stay the same or alter?

Your contributions won't change unless your pay changes in the future (as is the case for maintained schools).

Now or in the future could an Academy / Free School ever opt out of the Teachers' Pension Scheme (TPS) or Local Government Pension Scheme (LGPS) and offer different ones?

Academies and Free Schools cannot opt out of the TPS or the LGPS. It is a statutory requirement for employers to provide access to these pension schemes.

If I ever moved to a school not offering the TPS/LGPS would my years of service still count?

All schools (including free schools and academies) have to offer the TPS and LGPS. Only private schools can opt not to offer this. If you were to leave the academy your pension benefits (if you have over 2 year's pensionable service,) will be frozen and increased in line with the consumer price index (this applies to both the LGPS and TPS).

Will I still receive pension statements?

Yes.

How will my entitlement to maternity/paternity/adoption benefits be affected?

On Transfer to an academy your entitlement to maternity, paternity and adoption benefits will transfer with you. You will not have to work a further minimum period to be entitled to these benefits. If you return to a maintained school or another academy, you will need to satisfy the qualification requirements to receive occupational maternity, paternity or adoption benefits. This means that you would need to check with the new employer what if any occupational maternity/paternity/adoption benefits are available and how you qualify for them.

Will service length still be recognised if an employee were to transfer from the MAT to another MAT/maintained school?

Yes, all schools and academies are associated employers, and length of service will still be recognised for redundancy purposes.

Will staff still have access to the iTrent system for payslips etc.?

Yes however upon conversion staff will not have access to previous pay information via iTrent. They will therefore need to take copies of previous payslips etc. before the transfer date.

What will I be issued with by RBG?

RBG will issue employees with a P45, which holds the same information as a P60. This is nothing to worry about but is automatically issued by RBG, as the outgoing employer.

Will Borough discounts still apply i.e. the Greenwich card?

Greenwich Leisure, who manage the Greenwich Card scheme, have confirmed that the scheme is now open to everyone (not just residents and employees), which means that the benefits will still be available to all employees of the MAT.

If there were issues that I wanted to raise about the leadership of any of the schools who would I go to now that it won't be the Borough?

Any concerns would be raised to the Board of Trustees of the MAT and if you were not satisfied with the outcome they would then go to the Members of the MAT.

Who will hold the MAT to account for the schools' progress now that they will no-longer be accountable to the Local Authority?

The Regional Schools Commissioner will hold the MAT to account for the progress of the schools in the MAT

Will staff be issued with new contracts and job descriptions?

No, staff will be issued with a variation to contract letter stating the change of pay date to the 25th of the month. They will be issued with a copy of their existing job description.

Will the schools in the MAT still follow the national curriculum?

Academies do not have to follow the National Curriculum, however over the past few years, The Compass Partnership has adapted the National Curriculum to follow its values and approach.

Continuity of service for employees leaving the MAT post-transfer

Redundancy

For all staff, continuity of service for the purpose of redundancy payment calculations is protected by the 'Redundancy Modifications Order', which provides that continuity of service is preserved between certain public sector employers for redundancy. Maintained schools and academies are on this list so continuity of service is retained for staff moving back and forth between these employers for redundancy purposes.

Unfair dismissal

There is no equivalent of the 'Redundancy Modifications Order' for unfair dismissal. This means that when a member of staff leaves the MAT to work for another academy or a maintained school, continuity of service is not preserved for unfair dismissal purposes. This is the same if an employee of Royal Borough of Greenwich moved to an academy or another school maintained by a different Local Authority.

Non-teaching staff when moving to a Local Authority – the Green Book

The terms under the Green Book were amended in 2003 to mirror the position explained above for redundancy so continuity of service for non-teaching staff for the purposes of annual leave, maternity, sickness etc. is maintained when members of staff move back to a maintained school.

Non-teaching staff when moving to another academy – the Green Book

Academy Trusts are not obliged to incorporate the terms of the Green Book into the employment contracts of non-teaching staff, and therefore they are not obliged to recognise previous continuity of service for the purposes of annual leave, maternity, sickness etc. Though most academies do honour continuity of service, it is not a guarantee.

Teaching staff – the Burgundy Book

No equivalent amendment has been made to the Burgundy Book. This means that teachers moving from the Compass multi-academy trust to a maintained school or another academy are not automatically protected. This would be the same if an employee was leaving a maintained school to work for an academy or a school maintained by a different Local Authority. It is our understanding that most Local Authorities and academies will honour continuity of service.

What happens if I am transferred again under TUPE?

Continuity of service

If there is a subsequent transfer under TUPE, your continuity of service would transfer in the same manner that it will transfer to The Compass Partnership. If you decide to leave after the subsequent transfer, the position on continuity of service is the same as above.

Terms and conditions

As with the transfer to The Compass Partnership, your terms and conditions will also transfer across in any subsequent transfer.