

TUPE Factsheet – frequently asked HR questions (August 2022)

1. What will Leicestershire Partnership NHS Trust (LPT) bringing facilities services back ‘in-house’ mean for me?

UHL staff who are on permanent contracts (or fixed term contracts with an end date later than the transfer date) who are working exclusively (or at least very substantially) to deliver facilities services for LPT will transfer into LPT’s employment and that these transfers will be managed in line with the Transfer of Undertakings (Protection of Employment) Regulations (TUPE) regulations.

2. What are the ‘TUPE’ regulations’?

Transfer of Undertakings (Protection of Employment) Regulations (TUPE) are regulations that preserve the employment rights and terms and conditions of the staff engaged in providing services that are being transferred between organisations.

TUPE regulations provide that your basic pay, enhancements, contracted hours, sick pay and annual leave entitlements, continuous service and any service anniversary dates must be honoured.

3. When I am transferred to LPT, how long will my existing terms and conditions last?

As advised above, the TUPE Regulations mean that you transfer on your existing terms and conditions. Any changes to terms and conditions, if they are required at all, can only take place following formal consultation by LPT with staff and the recognised trades unions.

It is unlikely that LPT will seek to change any terms and conditions in the short term and, if there are good business reasons for considering any changes in the short-term, then this will be communicated to UHL prior to transfer, so that the recognised trade unions, staff and their representatives can be advised.

If following transfer LPT was propose changes to your terms and conditions this must be for a good business reason and through full consultation with yourself. There is no “rule of thumb” used by the courts or specified in the Regulations to define a period of time after which it is safe to assume that the transfer was not the reason.

4. I understand that because of TUPE my terms and conditions of

employment are ‘protected’, but what about other staffing and employment policies and procedures?

Where staffing and employment policies and procedures concern statutory provisions (such as maternity/parental leave) or Agenda for Change contractual provisions (such as occupational sick pay, annual leave), they are going to be substantially the same.

There are bound to be some process/procedural differences between the policies and procedures of UHL and LPT (for example reporting absences, requesting annual leave) and you will be supported to understand any differences once you move to LPT

Some employment policies are specifically mentioned in the UHL contract of employment (Promoting Wellbeing and Management of Sickness Absence Policy and Procedure, Grievance and Disputes Procedure, Disciplinary Policy and Procedure, Improving Performance (Capability) Policy and Procedure, Freedom to Speak Up (Whistleblowing) Policy). However, as the UHL contract allows for the variation of the employment contract in respect of policies and procedures, LPT will undertake an exercise to compare UHL and LPT employment policies with a view to moving incoming UHL staff onto LPT policies where there is no detriment to staff to do so.

5. Would I report to work as usual following the transfer?

Yes, absolutely. It will very much be ‘business as usual’.

6. What if I am not at work on the transfer date?

If you are not scheduled to work on the date of transfer, then you don’t need to attend. Just come in as normal on your first working day after that date. Your employment will still transfer, as will your existing terms and conditions and continuity of service.

If you are scheduled to work on the transfer date but you are unable to attend work for any reason, you must contact your line manager to let them know why you can’t attend. It is important you do this to ensure they know you have transferred and that you have not decided to opt-out of the transfer.

7. What will happen if I am on maternity, adoption, paternity, or parental leave on the transfer date?

You will transfer to LPT while remaining on leave and continue to receive any applicable payments, in line with your terms and conditions of employment. UHL will provide LPT with the relevant information and documentation (such as your MATB1 form for maternity leave) confirming your entitlements.

8. Will there be an induction programme when I transfer to LPT?

There should be no need for a formal induction programme because the work you do and the location in which you work will be unchanged. LPT will ensure that you are given all the information you need to support you after the transfer.

9. Will our uniforms change?

Not in the short-term. Existing uniforms are 'badged' as 'NHS Estates and Facilities', not as UHL, so apply equally well to LPT.

10. Will our equipment transfer with us?

We expect that the equipment you are using prior to transfer will be the same equipment you will be using after the transfer date

11. Will staff have to use up all their annual leave before they transfer?

No. UHL and LPT have the same holiday years. UHL will manage the carry-over of annual leave from the end of 31st March 2022 into the new holiday year starting 1st April and then manage annual leave until the transfer date in the usual way. Any leave accrued with UHL up to the transfer date will be transferred to LPT.

12. What training will be provided by LPT?

Given that the work being undertaken, using the same equipment, in the same locations will be unchanged, the provision of job-specific (or 'role-based') training is not expected to change in the short term.

As an NHS Trust, LPT has the same obligations to ensure that staff meet their statutory and mandatory training obligations.

13. What will happen to staff who are still on non-AfC contracts when they transfer?

UHL is aiming to move all estates and facilities staff currently on non-AfC contracts (Agenda for Change) to AfC contracts before they transfer. If this is not possible for any reason, staff will transfer on their non-AfC terms and conditions.

14. So what will actually change on the transfer date?

Not very much. The main change is that LPT will become your employer, but for the large majority of staff it will be 'business as usual'.

15. What is the LPT monthly pay date?

The LPT pay date is the same as UHL (27th of each month or the last working day before the 27th of the month).

16. What will happen to my pension?

Your pension will continue the same if you currently contributing into the NHS pension scheme. If you are not in the pension scheme or cannot join then LPT operate an alternative pension provision which is provided by the National Employment Savings Trust (NEST).

17. I am paid any enhancements/claims in arrears. Who will pay my enhancements/claims from the period immediately before the transfer?

We expect that enhancements/claims in arrears from before the transfer will be paid by UHL up to 31st October 2022, to help to ensure that tax and national insurance is calculated correctly. LPT will then take over responsibility for any payments from 1st November 2022.

18. Will my hours of work or shift pattern change?

No you will transfer over on your existing hours and shift patterns. LPT are currently exploring uploading staff onto Healthroster and thus removing paper timesheets. There will be training provided on any system to those affected and this can be completed prior to transfer.

19. What will happen to our work e-mails and documents held on UHL PCs?

Decisions on the retention and transfer of data have yet to be finalised. More information will be cascaded through line management in due course.

20. Will 'bank' staff TUPE to LPT?

No. Only substantive staff/posts will TUPE-transfer. 'Bank' staff are not in scope to TUPE-transfer.

Staff in substantive posts who also have 'bank' assignments with UHL will be able to retain their 'bank' posts with UHL to undertake work for UHL, but (post-transfer) UHL will be unable to offer them 'bank' work with LPT.

21. Does LPT have its own 'bank'?

LPT has its own bank (Centralised Staffing Solutions) and staff currently on the UHL bank will be given the option to have a 'bank' assignment with LPT.

22. I have a salary sacrifice scheme in place. Will this transfer with me to LPT?

No. Salary sacrifice agreements do not transfer with you as this agreement is specific to UHL and you.

23. Will staff be required to relocate to other sites?

Staff who are currently based in and working in LPT locations will continue to be based in and working in the same locations

It is possible that a small number of staff (i.e. management and administrative/support staff based in UHL locations) who are 'in scope' to transfer may need to be relocated and LPT will specify where this may happen during the transfer process.

24. When will LPT become responsible for the recruitment of its own estates and facilities staff?

UHL will cease active recruitment from 1st August 2022 however will continue with any onboarding that is in process. LPT will assume responsibility for the recruitment process for candidates expected to commence employment post-transfer.

25. I am member of a trade union. Can I speak with my representative about this?

Yes. Both UHL and LPT are committed to keeping the relevant trades unions fully informed and consulting with them about the proposed transfer of services, as and when more information becomes available.

26. Can I still maintain my trade union membership following transfer?

Yes, LPT operates a Trade Union Recognition Agreement similar to that which operates in UHL.

27. Could LPT dismiss me because of the transfer?

LPT cannot dismiss you because of the transfer. Following transfer any dismissal (if not for reasons of misconduct or incapability) would need to be for a defensible “economic, technical or organisational” reason involving necessary changes to the workforce.

28. What if I do not want to transfer to LPT?

If for any reason you are unhappy at the prospect of being transferred, you should raise your concerns with your line manager in the first instance.

If you are eligible to transfer but refuse to be transferred, however, then you could be deemed to have resigned voluntarily and there will be no obligation on UHL or LPT to offer you alternative employment. You will also not be eligible to a redundancy payment, notice pay or any other severance payment.

29. Is there a deadline for staff to decide whether or not they want to transfer to LPT?

Staff can object to being transferred right up until midnight of the night into the day of transfer. If you are considering rejecting transfer, however, you are strongly advised to raise any concerns with your line manager well beforehand.

30. Who can I contact if I have any further questions about the proposed transfer?

In the first instance, please let your current line manager know if you have any further questions. If your manager does not know the answer, he or she will refer these on for an answer (and to be added to these FAQs, if it is likely to be of wider interest).

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