

EPN 96

Compulsory Bulk Transfers of Staff – Employer Responsibilities

ISSUE Employer responsibilities for the handling of pension rights when staff move, on a compulsory basis, with their work.

This Notice will be of particular interest to:

- ◆ **HR staff involved in business transfers or machinery of government moves involving compulsory transfers**

ACTIONS To note: -

- employer responsibilities,
- communication routes, and
- timeliness of actions.

TIMING Immediate

***REFERENCE** EPN 72

Purpose

The purpose of this EPN is to provide information on the pension implications for the compulsory transfer of staff into and out of the civil service.

The attached pages should be inserted in the Employers' pension guide as a new section on Bulk Transfers, in Section 12.

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01256 846414

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***Reference**

All EPNs and forms may be found on the website:
www.civilservice-pensions.gov.uk
in the Employer and APACs section

Username: employers
Password: mc2fxqfy

13 April 2004

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12.1

Compulsory bulk transfers of staff Overview

Background

12.1.1 The **Cabinet Office** Statement of Practice 'Staff Transfers in the Public Sector' (www.cabinet-office.gov.uk/civilservice/2000/tupe/) outlines the requirements for public service employers for the handling of pension rights when staff are moved compulsorily with their work, either to or from a private contractor or another organisation within the public sector. This could arise from a machinery of government change, a Public Private Partnership arrangement, Private Finance Initiative, restructuring, privatisation, outsourcing, contracting-out or a re-tendering exercise. (If you would like a hard copy of the **Cabinet Office** Statement of Practice, please contact the Employer Helpdesk at **CSPD** by emailing employerhelpdesk@cabinet-office.x.gsi.gov.uk)

12.1.2 When **members** have to change their employer because of a machinery of government change, they may also be required to change their pension scheme. **Members** transferred to a private sector employer cannot stay in the **CSP arrangements**.

12.1.3 There are two main strands to the Statement of Practice which need to be satisfied.

- The new employer's pension arrangement for future accrual of pension benefits must be at least broadly comparable to their former public service pension arrangement.
- A bulk transfer arrangement for past service must be available for staff to transfer their accrued pension from the former employer's pension scheme to the new employer's pension scheme, and staff must receive day-for-day past service credits in the new employer's pension scheme (or actuarial equivalent allowing for the differences between the two schemes).

12.1.6 The Statement of Practice emphasises that broad comparability and a bulk transfer arrangement are a pre-condition of a business transfer or a machinery of government transfer. It is your responsibility to ensure that these two aspects are resolved at a sufficiently early stage so that staff can be consulted on the arrangements.

What is 'broad comparability'?

12.1.7 Schemes are 'broadly comparable' if they can be actuarially certified as providing benefits of equivalent value. The overall value of the benefits, net of employee contributions, must be equal to or greater than that of the current scheme.

12.1.8 You must ask **GAD** to confirm broad comparability for any compulsory transfer of employment of staff with their work either into or out of the **CSP arrangements**, or for any subsequent transfer of employment to a sub-contractor or a new contractor on re-let. To decide whether a scheme is broadly comparable, the value of the package of benefits offered to the staff, together with their structure, is assessed and compared to the **CSP arrangements**. **GAD** looks at the range and level of different benefits provided under the two schemes and also considers other issues, such as future safeguards for the transferring of the staff. It has published a Statement of Practice which sets out clearly the principles followed when certifying broad comparability.

GAD can provide formal certification, an analysis of the key differences between an employer's pension scheme and a public service pension scheme, and the ways in which the differences balance out.

12.1.9 You must contact **GAD** as soon as you are aware that a compulsory transfer is to take place. **GAD's** address can be found in Annex 12B.

Important note

GAD will charge you for any work you commission.

What is a bulk transfer?

12.1.10 A bulk transfer is a special arrangement whereby enhanced transfer terms are negotiated to allow one or more pension scheme **members** to transfer their pension benefits to the new employer's pension scheme and receive benefits of equivalent value.

A bulk transfer can be into or out of the **CSP arrangements** and is usually specific to the conditions of each transfer. Unless previously agreed, a bulk transfer arrangement for one exercise will not automatically apply to another exercise.

12.1.11 A bulk transfer arrangement specifies the basis for calculating the transfer payment and the credits for past service that the staff should receive in the new employer's pension scheme. Staff transferring their employment from the Civil Service under a bulk transfer arrangement will receive day-for-day past service credits in the new employer's pension scheme (or actuarial equivalent allowing for the differences between the two schemes).

12.1.12 A bulk transfer out of the **CSP arrangements** covers the accrued pension benefits in **classic**, **classic plus** and **premium**. A bulk transfer into the **CSP arrangements** would be into **premium**.

12.1.13 Separate arrangements exist for the transfer of **partnership** benefits. In these cases, please contact **CSPD** as soon as you are considering a bulk transfer exercise.

Who is involved with a bulk transfer?

12.1.14 **CSPD** must approve any transfer into or out of the **CSP arrangements**. **CSPD** manage the **CS Vote** and the transfer of monies, as a result of a bulk transfer, on the recommendation of the scheme actuary. The scheme actuary for the **CSP arrangements** is **HBW**. Their address can be found in Annex 12B.

12.1.15 The terms of any bulk transfer arrangement must be agreed before business transfer. The terms are agreed between **HBW** and the actuary acting for the other scheme. **HBW** will calculate and agree with the actuary

acting for the other scheme the monies to be transferred to or from the **CS Vote**.

12.1.16 The **Inland Revenue** Audit and Pension Scheme Services must give their approval before any money is transferred between the two pension schemes as a result of a bulk transfer arrangement. **HBW** will obtain **Inland Revenue** approval.

12.1.17 Your **APAC** will deal with some of the administrative aspects of the bulk transfer arrangement. Depending on your contract with your **APAC**, there may be a charge for this work.

Who should I contact?

12.1.18 As soon as a decision has been made that would lead to the compulsory transfer of staff with their work requiring a bulk transfer to or from the **CSP arrangements** you must contact the Employer Helpdesk at **CSPD** (employerhelpdesk@cabinet-office.x.gsi.gov.uk), your **APAC** and **HBW**.

Important note
You must use form HBW1 to commission **HBW**.

Public Sector Transfer Club arrangements

12.1.20 The **PSTC** arrangements are designed for individual transfers where an employee voluntarily resigns from one Club scheme and subsequently takes up employment and membership of another Club scheme. Club terms do not apply where one or more staff are transferred with their work between Club schemes. Staff may not elect to take a Club transfer in preference to taking part in the bulk transfer.

Subsequent transfers of staff

12.1.21 The Statement of Practice also covers the compulsory transfer of employment of former Civil Service staff with their work on second or subsequent re-tendering exercises or sub-contracting of a public service contract. The protection offered by the Statement of Practice is limited to staff who were originally transferred from the Civil Service in a primary transfer of staff and where those staff have been continuously employed under the public service contract since the transfer.

12.1.22 The protection given by the Statement of Practice may be lost if the staff move to different terms and conditions of employment. You are advised to seek guidance from HM Treasury.

12.1.23 The new employer must provide terms that are broadly comparable to the future pension rights a **member** would have received if they had stayed in the **CSP arrangements**.

12.1.24 A bulk transfer arrangement must be available for the former Civil Service staff to transfer their accrued pension from their current employer's pension scheme to their new employer's pension scheme.

12.2

Compulsory bulk transfers of staff Transfers into the Civil Service

Who is responsible for ensuring 'broad comparability' is achieved?

12.2.1 If the transfer of employment of staff and their work is a result of a machinery of government change between public service employers, the employer or department instigating the transfer is normally responsible for ensuring that broad comparability is achieved.

12.2.2 If the transfer of employment of staff and their work is from a contractor employed under a public service contract, you may be required to ensure that broad comparability is achieved and you should contact **GAD**. **GAD** will undertake an individual broad comparability assessment for the particular group of former public service staff transferring employment into the **CSP arrangements**. The protection in the **Cabinet Office** Statement of Practice is limited to staff originally transferred from public service employment in a primary transfer of staff where those staff have been continuously employed under the public service contract. The broad comparability assessment required will be with the **CSP arrangements** and the public service pension scheme that the staff were members of originally.

What happens?

12.2.3 When staff join the Civil Service they will automatically join **premium** (providing they are eligible to do so). They may elect to join **partnership** (providing they are eligible to do so). See Section 4 of the **EPG** for more information on pension choice options and employer procedures.

12.2.4 If you require **GAD** to undertake an assessment of broad comparability they will need to know which public service pension scheme the former public service staff were members of, together with data of the staff expected to transfer employment. **GAD** will

assess and confirm whether the **CSP arrangements** are broadly comparable to the former scheme. Broad comparability must be confirmed by **GAD** before the business transfer. You will find this assessment useful when you need to discuss issues with staff representatives.

Important note
GAD will charge you for this work.

Who should I contact?

12.2.5 As soon as a decision has been made which would lead to the compulsory transfer of staff with their work into the Civil Service you must contact the Employer Helpdesk at **CSPD** (employerhelpdesk@cabinet-office.x.gsi.gov.uk) and **GAD**, if confirmation of broad comparability is required. **GAD's** address can be found in Annex 12B

Bulk transfer of past service

When is a bulk transfer required?

12.2.6 A bulk transfer is required when staff are compulsorily transferred with their work into the Civil Service and join the **CSP arrangements** as a result of a machinery of government change; or where the Civil Service proposes to undertake 'in house' activities, or parts of activities, that had previously been carried out by a contractor under a public service contract.

What happens?

12.2.7 The terms of any bulk transfer arrangement must be agreed between **HBW** and the actuary acting for the transferring scheme. It is important to ensure that the terms are agreed before a business transfer. Failure to do so could lead to you being required to make additional payments to the **CS Vote** if, for instance, bulk transfer terms are not agreed later.

12.2.8 Bulk transfers must meet certain legal requirements. **HBW** and your **APAC** can help you.

12.2.9 The terms are negotiated by **HBW** and it may not always be possible to secure satisfactory terms that would enable the staff to receive day-for-day past service credits in the **CSP arrangements** (or actuarial equivalent allowing for the differences between the two schemes). In circumstances where staff have been promised service credits but the monies secured for this from the sending scheme are inadequate, you may be required to make additional contributions to the **CS Vote** in order to meet the shortfall.

12.2.10 Once the terms for the bulk transfer have been agreed, the transferring staff are given an option of transferring their accrued past service into the **CSP arrangements**. The staff (usually) have a period of three months in which to make their decision and after the end of this period they cannot change their decision although they may still apply for an individual transfer (see Section 4) at a later date. It is unlikely that an individual transfer will be as beneficial as bulk transfer terms. The transferring employer will administer the options exercise.

At the end of the option period the transferring employer will compile data on the staff who have opted to transfer their accrued pension benefits under the bulk transfer arrangement.

12.2.11 **HBW** will confirm that **Inland Revenue** Audit and Pension Scheme Services have granted approval for the bulk transfer.

12.2.12 The actuary acting for the transferring scheme will calculate the monies to be transferred to the **CSP arrangements** using the data compiled by the employer. **HBW** will agree the amount with the transferring scheme's actuary and recommend to **CSPD** that the money is paid to the **CS Vote**.

Important note

HBW will charge you for this work.

12.2.13 **HBW** will provide your **APAC** with details of the service credits to be granted in the **CSP arrangements** for those staff who have opted to transfer their benefits under the bulk transfer arrangement.

What do I do?

12.2.14 You must be aware of the Statement of Practice 'Staff Transfers in the Public Sector' (paragraph 12.1.1 outlines the requirements of the Statement of Practice). It is very important that you give early consideration to the pension issues arising from any proposed transfer and that you include them in the negotiations on the business transfer. You need to ensure there is sufficient time for this. Difficulties will follow if consideration of pensions is delayed.

12.2.15 As soon as a decision has been made which would lead to the compulsory transfer of public service staff with their work into the Civil Service you must contact **CSPD**, **GAD**, **HBW** and your **APAC**.

Important note

You must use form **HBW1** at Annex 12A to commission **HBW** to undertake work.

12.2.16 You must await confirmation from **CSPD** that the transferring staff are eligible to join the **CSP arrangements** and that there are suitable arrangements for the transfer.

12.2.17 In a machinery of government transfer it is normally the sending public service employer's responsibility to verify broad comparability. If the transfer of employment of staff and their work is from a contractor under a public service contract, you may need to verify that broad comparability is achieved. You may need to commission **GAD** to undertake an assessment of the new employer's pension scheme.

12.2.18 You will need to liaise with the transferring employer's pension scheme and arrange to send your **APAC** the details of the staff joining the **CSP arrangements**. Your **APAC** must enter these details on staff records through **PenServer**.

Important note

You must commission **HBW** to handle the bulk transfer arrangements.

12.2.19 You and your **APAC** must keep **HBW** informed about progress at all stages and any potential delays. The whole process may take a long time.

12.2.20 You must consult staff representatives throughout the transfer process.

12.2.21 You must tell your payroll centre to start paying **ASLCs** and **member** contributions

to the **CS Vote** for new staff as soon as they are on your payroll.

12.2.22 The work will continue after the staff have transferred employment and it can take several months to complete the bulk transfer.

Who should I contact?

12.2.23 As soon as a decision has been made which would lead to the compulsory transfer of former Civil Service staff with their work requiring a bulk transfer into the **CSP arrangements** you must contact the Employer Helpdesk at **CSPD** (employerhelpdesk@cabinet-office.x.gsi.gov.uk), your **APAC** and **HBW**. **HBW's** address can be found in Annex 12B.

Important note

You should use form HBW1 to commission work from **HBW**.

12.3

Compulsory bulk transfers of staff Transfers out of the Civil Service

Broad comparability for future service

How do I ensure the broad comparability requirement is met?

12.3.1 If the new employer is a private sector contractor they may hold a pre-qualification certificate (also known as a 'passport' certificate) issued by **GAD** certifying that their pension arrangements are broadly comparable to the **CSP arrangements**. The pre-qualification certificate must be valid at the date that the staff transfer employment. If the new employer has one, ask them for a copy.

12.3.2 Pre-qualification certificates do not cover staff who are entitled to superior or enhanced benefits within the **CSP arrangements**. A specific assessment will be required in respect of these staff and you must contact **GAD**.

12.3.3 If the new employer is a private sector contractor and they do not hold a pre-qualification certificate or if the new employer is another public service organisation, you must contact **GAD** as it will need to undertake a specific assessment for the particular group of staff transferring employment.

What happens?

12.3.4 If **GAD** are required to undertake an assessment of broad comparability they will need information on the new employer's pension proposals together with data of the staff expected to transfer employment. You, or your **APAC**, will need to compile data on the staff concerned.

12.3.5 **GAD** will assess the new employer's pension scheme and confirm whether it is broadly comparable to the **CSP arrangements**. Broad comparability must be confirmed by **GAD** before business transfer.

Important note

GAD will charge you for this work.

Who should I contact?

12.3.6 As soon as a decision has been made which would lead to the compulsory transfer of Civil Service staff with their work requiring broad comparability certification you must contact the Employer Helpdesk at **CSPD** (employerhelpdesk@cabinet-office.x.gsi.gov.uk), and **GAD**. **GAD's** address can be found in Annex 12B

Bulk transfer of past service

What happens?

12.3.7 **HBW** and the actuary acting for the receiving scheme will need to agree the terms of any bulk transfer. It is most important that you ensure the terms are agreed before the business transfer. Failure to do so could lead to difficulties in securing satisfactory terms for the transferring staff or, alternatively, you may be required to make additional payments to the **CS Vote**. It may not always be possible to secure satisfactory terms; you must, therefore, commission **HBW** to deal with the bulk transfer negotiations at an early and appropriate stage before the business transfer

12.3.8 Bulk transfers must meet certain legal requirements. **HBW** and your **APAC** can help you.

12.3.9 Once the terms for the bulk transfer have been agreed the transferring staff are given an option of transferring their accrued past service from the **CSP arrangements** into their new employer's pension scheme. The staff (usually) have a period of three months in which to make their decision and after the end of this period they cannot change their decision. Your **APAC** will administer the options exercise on your behalf. It is important that this process is started as quickly as possible after bulk transfer terms have been agreed. Any delay could create financial

problems for **members**, administrative problems for you and your **APAC** and consequent personnel problems.

12.3.10 At the end of the option period your **APAC** will compile data on the staff who have opted to transfer their accrued Civil Service pension benefits under the bulk transfer arrangement.

Important note

Your **APAC** may charge you for this work.

12.3.11 **HBW** will obtain **Inland Revenue** Audit and Pension Scheme Services approval for the bulk transfer and will calculate the monies to be transferred to the new employer's scheme using the data compiled by your **APAC**. **HBW** will agree the amount with the receiving scheme's actuary and recommend to **CSPD** that payment is made from the **CS Vote** to the receiving scheme.

12.3.12 The receiving scheme will grant the agreed past service credits in the scheme for those staff who have opted to transfer their benefits under the bulk transfer arrangement.

Important note

HBW will charge you for this work.

What do I do?

12.3.13 You must be aware of the Statement of Practice 'Staff Transfers in the Public Sector (January 2000) published by the **Cabinet Office**. (paragraph 12.1.1 outlines the requirements of the Statement of Practice). It is very important that you give early consideration to any pension issues arising from any proposed transfer and that they are included in the negotiations on business transfer. You need to ensure there is sufficient time for this. Difficulties will follow if consideration of pensions is delayed.

12.3.14 As soon as a decision has been made that would lead to the compulsory transfer of Civil Service staff with their work you must contact the Employer Helpdesk at **CSPD** (employerhelpdesk@cabinet-office.x.gsi.gov.uk), **GAD**, **HBW** and your **APAC**.

Important note

You must use the form HBW1 at Annex 12A to commission **HBW** to undertake work.

12.3.15 You must wait for **CSPD** to approve the transfer out of the **CSP arrangements**.

12.3.16 You will need to verify that the new employer's pension proposal is broadly comparable to the **CSP arrangements**. You may need to commission **GAD** to undertake an assessment of the new employer's pension proposal.

12.3.17 You will need to liaise with the new employer's pension scheme and arrange to send your **APAC** the details of the staff being transferred. Please contact your **APAC** for advice on what information they require.

12.3.18 You must commission **HBW** to handle the bulk transfer arrangements.

12.3.19 You must arrange for information to be issued to staff, possibly including presentations. Either **GAD** or **HBW** can assist you with this or you may commission another organisation to do so. The aspects to be covered should include:

- The security of benefits
- Staff's entitlement to redundancy terms after transfer
- Bulk transfer terms and comparison of schemes' structures and benefits
- Factors likely to have a bearing on the individual's choice
- Preservation of Civil Service pension benefits
- Options for staff in **partnership**
- The options for a **member** who returns to the civil service on a voluntary basis and the effect that this might have on their accrued benefits in the new employer's scheme
- Treatment of **CSAVCS** funds
- Treatment of **added years** purchased to date
- **Member's** responsibility to participate in the options exercise and the default option which will apply if individual does not exercise an option
- Confirmation that **PSTC** transfer will not be available

12.3.20 This list cannot be prescriptive. The information provided must enable the staff to understand their future pension provision with their new employer and make an informed choice on the transfer of their PCSPS service.

12.3.21 You and your **APAC** must keep **HBW** informed about progress at all stages and any

potential delays. The whole process may take a long time.

new employer's pension scheme) will accept them.

12.3.22 You must consult staff representatives throughout the transfer process.

12.3.23 You must tell your payroll centre to stop paying **ASLCs** to the **CS Vote** for staff as soon as they leave your employment.

12.3.24 The work will continue after the staff have transferred employment and it can take several months to complete the bulk transfer.

Who should I contact?

12.3.25 As soon as a decision has been made which will lead to the compulsory transfer of Civil Service staff with their work requiring a bulk transfer from the **CSP arrangements** you must contact the Employer Helpdesk at **CSPD** (employerhelpdesk@cabinet-office.x.gsi.gov.uk), your **APAC** and **HBW**. **HBW's** address is at Annex 12B

Subsequent transfers of staff

12.3.26 The **Cabinet Office** Statement of Practice extends the protection to former Civil Service employees on second and subsequent generation transfers and for transfers to sub-contractors. The protection under the Statement of Practice is limited to staff originally transferred from the Civil Service in a primary transfer and where those staff have been continuously employed under the public service contract.

12.3.27 You must ask **GAD** to confirm whether the new employer's pension proposal is broadly comparable to the public service pension scheme which the transferring former public service staff were originally members of.

12.3.28 Contracts let since the Statement of Practice policy was put in place should include a requirement for the current contractor to agree bulk transfer terms with the new contractor. There would be a similar requirement if staff are transferring from a pension scheme which **GAD** has previously certified as broadly comparable.

12.3.29 The bulk transfer is agreed between the contractors, their pension schemes and their advisors. Although the offer of a bulk transfer is made by the current employer there is no certainty that the new employer (and the

Annex 12A

12_A

Form HBW1

Commissioning work from HBW on bulk transfers

Employers taking forward a bulk transfer for staff moving from or to the Civil Service should complete the details set out below and e-mail the form to **HBW** at cspensions@hewitt.com.

When **HBW** receive the necessary information, they will assign a unique reference number to the task and a member of their team to work on the exercise. They will advise the employer of this by e-mail and also advise on the potential cost of the exercise.

HBW will discuss additional data requirements (including membership information) with the employer contact as work on the bulk transfer progresses.

Information
required

Name/address of employer

Name

Address

Details of contact at employer

Name

Telephone number

Fax number

Email address

Details of recipient for **HBW** invoices

Name

Address

Reference number (if any)

Details of employer's **APAC** contact

Name

Telephone number

Fax number

Email address

Brief details of the bulk transfer

Incoming or outgoing?

Where to/from?

Title of bulk transfer

Approximate number of employees involved

Timescales

Date of (anticipated) contract award

Target date for completion of pensions negotiations

Expected date of transfer of employees

Contact details of other party

Name of employer contact

Telephone / fax / email of above (if known)

Name of other party's actuary (if known)

Telephone / fax / email of above (if known)

Any other relevant information

Annex 12B

Useful addresses

Government Actuary's Department (GAD)

Finlaison House
15-17 Furnival Street
LONDON
EC4A 1AB

Tel: 020 7211 2600
E-mail: enquiries@gad.gov.uk

Scheme Actuary

Hewitt Bacon & Woodrow (HBW)
Parkside House
Ashley Road
EPSOM
Surrey
KT18 5BS

Tel: 01372 733 796
E-mail: Jonathan Teasdale or David Gardiner at cspensions@hewitt.com