**CONSULTATION ON PROPOSED STAFF TRANSFER AND PROTECTIONS AGREEMENTS**

**FOR CRC TO NPS TRANSFER**

**and**

**CRC TO DYNAMIC FRAMEWORK PROVIDER (DFP) TRANSFER**

1. **INTRODUCTION**

UNISON is now balloting all our directly employed CRC members, including ex-KSS CRC staff who transferred to NPS Wales in December 2019, over proposed staff transfer and protection terms for the staff transfers due to take place next year.

If agreed by trade union members, these are the terms which will apply to directly employed CRC staff when they transfer, either to the National Probation Service (NPS), or to one of the Dynamic Framework Providers (DFPs), on 25 June 2021.

The NPS transfer terms will apply to ex-KSS CRC staff who transferred to NPS Wales on 1 December 2019 and will be backdated to that date.

**Our ballot opens on 16 September and will close at midday on 5 October 2020.**

The proposed staff transfer and protection terms have been negotiated by UNISON and the other probation unions with HMPPS over the last 12 months.

This is a very important ballot relating to your future pay and conditions. All UNISON CRC members are therefore strongly encouraged to participate.

Please note that the following proposals, and the ballot, do not apply to members who are employees of CRC parent companies, CRC sub-contractors, or CRC supply chain employees, even though some may transfer to the NPS or a DFP in June next year. Please see more details at the very end of this briefing if you belong to one of these employee groups.

**UNISON’s CRC Committee is recommending that directly employed CRC members vote to accept the proposals for the reasons set out below.**

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1. **BALLOT ARRANGEMENTS**

UNISON’s ballot starts on Wednesday 16 September and runs until midday on Monday 5 October 2020. The ballot is being conducted electronically, and information and your voting instructions are enclosed with the email sent to the address nominated by you to receive information from UNISON. Full details on the transfer and protections proposals and the ballot is also available on the UNISON website here: <http://bit.ly/CRCTransfer>

1. **WHY UNISON RECOMMENDS YOU VOTE TO ACCEPT THE STAFF TRANSFER AND PROTECTIONS PROPOSALS**

UNISON believes that the staff transfer and protection proposals represent the best achievable by negotiation, because they give:

1. A guarantee that all directly employed CRC staff will transfer, either to the NPS, or to a DFP, on 25 June 2021
2. A two year no compulsory redundancy guarantee post-transfer for both NPS and DFP transferees
3. An enhanced voluntary redundancy/voluntary severance package for any staff offered voluntary redundancy, or voluntary severance, within two years of the transfer, for both NPS and DFP transferees
4. Protection for members currently in the Local Government Pension Scheme (LGPS), or those eligible to join the LGPS, to retain their existing pension in the NPS, or a DFP
5. NPS pay and conditions from day 1 following the transfer for CRC staff transferring to the NPS
6. Auto-enrolment of all CRC staff who are currently in a CRC pension scheme into the Local Government Pension Scheme (with a small number of potential exclusions – see section 5 h iii below)
7. Standard TUPE protection for CRC staff who transfer to a DFP, which means that your continuity of employment and your CRC contractual pay and conditions are protected, with the addition of benefits as set out in a, b, c & d above, which go above and beyond what TUPE protects by law.
8. HMPPS has equality impact assessed the transfer and protections proposals. It has indicated to the unions that it does not believe that there are any adverse equality implications in the proposals themselves, as staff will:
   * 1. either all transfer onto the same NPS terms and conditions if they move to the NPS, or
     2. keep their existing terms and conditions if they move to a DFP

If it transpires that there are any adverse individual, or collective, equality issues raised during, or following, the transfer UNISON will take these up on members’ behalf.

1. **A SUMMARY GUIDE TO THE CRC TO NPS TRANSFER & PROTECTIONS PROPOSALS**

The following pay and conditions proposals, if agreed by trade union members in the ballot, will be incorporated into the contracts of employment of all directly employed CRC staff who transfer to the NPS on 25 June 2021.

1. **Transfer**
2. Will take place via a statutory transfer order under 2007 Offender Management Act.
3. Supported by Cabinet Office Statement of Practice on Staff Transfers in the Public Sector
4. All CRC staff assigned to NPS will automatically transfer to NPS unless staff object to the transfer. UNISON strongly advises members that they **should not object** to the transfer, because to do so will terminate the employee’s contract with no redress for unfair dismissal etc.
5. CRC staff to be mapped/matched onto NPS job descriptions
6. Redeployment/retraining for CRC staff who do not fit into an NPS job description, either in NPS, HMPPS, MOJ, or wider civil service
7. **Continuity of employment protected post transfer**

This will include all previous continuous service with:

1. CRC
2. Former Probation Trust (s) and their predecessors (e.g. Probation Boards)
3. Former employers on the Redundancy Modifications Order (for the calculation of redundancy benefits only). Please see: <https://www.legislation.gov.uk/uksi/1999/2277/schedule/1/made>
4. **Job Security/Voluntary Exit**
5. 2-year no compulsory redundancy guarantee from date of transfer
6. 2-year time limited enhanced voluntary redundancy/voluntary severance package from date of transfer with the following terms:
   * + - Based on continuous service
       - 4.5 weeks’ pay for each year of service
       - Up to max of 67.5 weeks
       - Immediate payment of unreduced pension if over 55
7. Please note that:

* The voluntary redundancy/severance package will not be widely available and is likely only to be offered to senior managers and some corporate services staff
* The government plans to introduce limits on public sector exit payments later this year which could seriously erode the terms of the voluntary redundancy/severance package. More information on this to follow when available.

1. **Continuity of trade union recognition**
2. Napo, UNISON and GMB/SCOOP will continue as the recognised trade unions.
3. **Pay & Conditions Harmonisation for Transferees from day 1 following the transfer as follows:**
4. **Full NPS pay and conditions**
5. **NPS job descriptions and pay bands**
6. **Your basic CRC salary (excl. premium pay and/or allowances) will move across to, either to the same NPS pay point, or to the next highest NPS pay point** if your CRC salary point does not match an exact NPS pay point, as applicable, in the NPS pay band to which your job is mapped/matched. See below for pay protection if your CRC salary is above the maximum for your NPS job.
7. **NPS pay progression system,** with automatic pay progression guaranteed for the first 12 months, pending agreement to a new NPS competency related pay progression scheme. At this stage, there is no indication as to when this scheme will be negotiated, or implemented, but it will be required to run for 12 months before it has any link to pay progression for any NPS staff.
8. **NPS 37 hour working week**

Please note that there will be an impact on your basic CRC salary for assimilation purposes if your CRC contractual hourly working week is less, or more, than 37 hours.

* + 1. If you are currently a full-time employee who whose contract of employment is for less than 37 hours/week for your CRC (pro-rata for part timers) your CRC basic salary will be increased for assimilation purposes.
    2. If you are currently a full-time employee and work more than 37 hours/week for your CRC (pro-rata for part-timers), your CRC basic salary will be reduced for assimilation purposes.

Full details of these adjustments are available in *PRP Terms and Conditions on Transfer to HMPPS (NPS)* document in the information pack sent to you by e-mail and available on the UNISON website.

1. **NPS allowances will replace all CRC allowances**
2. **NPS does not provide, and will not pay protect, or buy-out, any of the following** **CRC allowances** (list is not exhaustive):

* Housing (employer-provided or employer-paid) furnished or not, with or without free utilities (unless a formal relocation commitment was made by the former employer);
* Group or individual insurance (health, dental, life etc.);
* Private medical care;
* Disability income protection;
* Lease cars;
* Day care;
* Tuition reimbursement;
* Profit sharing;
* Employer student loan contributions;
* Conveyancing
* Car parking charges for parking at normal place of work

1. **Annual leave**

* CRC staff in post on/pre 31.08.17: 33 days after 7 years
* CRC staff in post on/after 01.09.17: 31 days after 5 years

1. **Sick Pay**

No change to current arrangements for most CRC staff

1. **Mileage Allowance:** 45p/mile up to 10,000 miles/year

25p/mile over 10,000 miles/year

1. **London Allowance** £3,889 per annum
2. **Prison Supplement**  £675 per annum
3. **Standby**  £42.61 per shift
4. **Sleeping-In Duty** £39.63 per shift
5. **Unsocial Hours Payments**

Can be claimed when, as part of normal working hours, work is required for operational reasons to be carried out at the following times:

* Monday to Friday 7pm to 8am
* Any time worked on Saturday, Sunday, or Bank and Public Holidays.

Unsocial hours pay enhancements are as follows:

* Monday to Friday 7pm to 8am – Premium payment of 30%
* Weekend (8am Saturday to 8am Monday) – premium payment of 50%
* Public/Bank Holidays – Premium payment of 50% as well as TOIL taken at plain time.

1. **Excess Hours Payments (Overtime)**

Full time employees up to and including Pay Band 3 who work in excess of contracted hours will be compensated with TOIL (paid at plain time) or, where this is not possible, excess hours payments:

* Excess hours Monday to Saturday – premium payment of 50% (i.e. time and a half)
* Excess hours Sunday and Bank/Public holidays – premium payment of 100% (i.e. double time)

Hourly rates are based on basic salary, excluding any other payments and allowances.

Staff in Pay Bands 4-6 working excess hours will be compensated with TOIL at plain time.

1. **Pay Protection**

For staff who transfer into an NPS job/NPS pay band which has a lower salary maximum than their current CRC salary, and who stand to lose salary as a result, or who transfer into an NPS job with lower allowances, the following pay protection will apply:

1. For a period of three years from the date of transfer:
   * + For most transferees this will be three years from 25 June 2021
     + For ex-KSS CRC staff who transferred to NPS Wales on 1 December 2019 this will be three years from 1 December 2019.
2. On an erodable mark time basis:

* ‘Mark time’ means that staff on pay protection will not receive any pay rises or incremental progression during their pay protection period, until or unless the maximum pay point of the pay band of the NPS post they are mapped/matched to catches up with their protected salary
* ‘Erodable’ means that any pay increases which apply over the three year pay protection period to the maximum salary point of the NPS post into which the employee on pay protection has been placed, will erode (i.e. catch up with) the CRC salary on pay protection. It is possible that the CRC salary which is protected might be caught up by the top of the relevant NPS job pay band during the three year pay protection period, but …
* If the pay protection has not been fully eroded by the end of the three year pay protection period, it will be removed and the employee on pay protection will drop to the highest pay point of the NPS pay band which applies to the NPS job in which they were placed on transfer

1. Pay protection covers basic pay and the following contractual payments/allowances: market forces payments, geographical supplements, London Allowance, Prison Supplement, regular non-contractual overtime, contractual overtime, unsocial hours, standby and sleeping-in allowance and all other contractual payments if these are payable on a regular basis, but see 5g. above for exclusions
2. **Car Mileage Allowance Buy Out**

For CRC staff who were eligible for higher car mileage allowances in their CRC compared to the NPS mileage allowances, the NPS will offer the following one-off buy outs of the difference in allowance rates:

1. Casual car users on 65p/mile: £410
2. Casual care users on 52-64p/mile: £150
3. No protection, or buy-out, of car parking charges incurred at normal place of work
4. An limited appeal process is available if staff believe that they have not been awarded the correct buy out.

The NPS does not pay an essential car user allowance, so any CRC employees who currently receive this allowance will have this bought out by a one off payment of £1,000.

1. **Pension**
2. Continued membership of the Local Government Pension Scheme (LGPS), or Civil Service Pension Scheme (CSPS), for all CRC staff in either scheme prior to transfer to the NPS, or eligible to join either scheme prior to transfer
3. Auto-enrolment into the LGPS of CRC staff who were in a CRC pension scheme prior to transfer
4. NPS status within the LGPS and the CSPS allows for it to designate which staff can join the LGPS/CSPS and it can exempt staff under specific circumstances. The NPS may choose to exempt a small number of very high earning CRC employees from membership of the LGPS, or the CSPS, and has confirmed to the unions the regulatory basis on which it can do this. The NPS has a responsibility not to discriminate unlawfully when making such exclusions.
5. **Mobility**

Under civil service rules, all NPS staff can be compulsory permanently transferred to any civil service post within the UK and abroad - if deemed reasonable taking into account individual circumstances.

This means that staff can be asked to relocate workplaces. This would be done in consultation with staff and their trade union and any decision would have regard for the circumstances of each member of staff’s personal life, i.e. what would be deemed reasonable under the circumstances.

The NPS has a Detached Duty’ scheme which allows it to compulsorily direct staff to work in a location of its choosing if there are extenuating recruitment and retention problems in recruiting staff to work at certain locations. This has not been used frequently.

1. **A SUMMARY GUIDE TO THE CRC TO DYNAMIC FRAMEWORK PROVIDER TRANSFER & PROTECTIONS PROPOSALS**
2. **Transfer**
3. All staff assigned to a DFP will transfer under the Transfer of Undertakings (Protection of Employment) Regulations (TUPE), unless staff object to the transfer. UNISON strongly advises members that they **should not object** to the transfer, because to do so will terminate the employee’s contract with no redress for unfair dismissal etc.
4. The Transfer of Undertakings (Protection of Employment) Regulations (TUPE) is a law designed to protect the rights of employees when a business transfers from one owner to another.
5. TUPE protects your working rights when you transfer to your new employer.
6. If you are involved in a transfer that is covered by TUPE, you are guaranteed that your job and employment terms and conditions transfer over.
7. The CRC to DFP transfer is also underpinned by the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector, which protects any existing members of public sector pension schemes among transferring staff, and will require the DFP to continue to offer these staff, either the Local Government Pension Scheme, or the Civil Service Pension Scheme as appropriate
8. Under TUPE your DFP will be required to consult with UNISON in your CRC over any measures the new employer intends to put in place after the transfer, e.g. change of pay date. Measures consultation cannot alter your contractual terms and conditions, only employment procedures.
9. **Continuity of Employment**

This will include all previous continuous service with:

1. CRC
2. Former Probation Trust (s) and their predecessors (e.g. Probation Boards)
3. Former employers on the Redundancy Modifications Order (for the calculation of redundancy benefits only). Please see: <https://www.legislation.gov.uk/uksi/1999/2277/schedule/1/made>
4. **Job Security/Voluntary Exit**
5. 2-year no compulsory redundancy guarantee from date of transfer
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* Based on continuous service
* 4.5 weeks’ pay for each year of service
* Up to max of 67.5 weeks
* Immediate payment of unreduced pension if over 55

1. Please note that:

* Although the government plans to introduce limits on public sector exit payments later this year, it is possible that these limits will not apply to exit payments made by DFPs, as they are unlikely to be classified as public sector employers. However, this will be confirmed once the government has laid the necessary regulations in Parliament later this year. More information on this to follow.

1. **Trade Union Recognition**

If, following the TUPE transfer, the transferred work and employees of the CRC maintain a distinct identity from the remainder of the DFP’s operations, UNISON and the other probation unions will be deemed to be recognised by the DFP. HMPPS has agreed to encourage the DFPs to recognise the probation unions.

UNISON will be asking all existing CRCs which are bidding for DFP contracts to give an undertaking that they will continue to recognise UNISON if they are successful in winning any of the contracts. The more members UNISON has among the staff due to transfer to the DFPs, the stronger we can make this case. If you are in scope of a transfer to a DFP and are not already in a trade union, we encourage you to join UNISON now. UNISON will continue to look after your interests if you transfer to a DFP. Your UNISON membership has never been more important.

1. **Pay & Conditions**
2. Your CRC pay and conditions will be protected in line with the Transfer of Undertakings (Protection of Employment) Regulations (TUPE) which is a law designed to protect the rights of employees when a business, or part of a business, transfers from one owner to another.
3. This means that if you transfer from a CRC to a DFP, all your CRC contractual employment terms and conditions are protected when you become an employee of the new employer.
4. Following amendments to the TUPE Regulations which came into force on 31 January 2014, regulation 4(5B) of TUPE permits a DFP to seek agreement to vary terms and conditions incorporated into individual contracts that are from a collective agreement a year after the transfer. All current CRC terms and conditions derive from collective agreements.
5. However, changes to contracts that are from a collective agreement can only take place if the proposed terms overall are no less favourable than their current terms. This means that some terms can be less favourable as long as some are more favourable and considered altogether the previous terms and conditions and the current terms and conditions balance out.
6. **Pensions**
7. Continued membership of the Local Government Pension Scheme (LGPS) for CRC staff in LGPS prior to the transfer, or eligible to join the LGPS pre-transfer.
8. Membership of the DFP’s own pension scheme for staff who were in their CRC’s own pension scheme prior to the transfer.
9. **A SUMMARY GUIDE TO THE CRC PARENT COMPANY/CRC SUB-CONTRACTOR/CRC SUPPLY CHAIN STAFF TRANSFERS TO THE NPS, OR A DFP**

UNISON provides the following information for members who work for CRC parent companies, sub-contractors, or supply chain.

Employees of CRC parent companies, CRC sub-contractors or CRC supply chain may transfer, either to the NPS, or to a DFP, if their work is in scope of the transfer. UNISON understands that these transfers will be undertaken by way of statutory transfer orders.

HMPPS has provided authority guidance to CRC parent companies for them to undertake the same assignment process for their own staff, sub-contractor, or supply chain, staff which the CRCs are carrying out for their directly employed staff. This process will determine whether staff are in scope of transfer to either the NPS, or a DFP.

The transfer and protection proposals for directly employed CRC staff do not cover employees of CRC parent companies, CRC sub-contractors, or supply chain. This is because the three probation unions are not recognised for the purposes of collective bargaining by any of these employers, so we have not been able to negotiate transfer terms on your behalf yet.

The proposal from HMPPS is therefore that CRC parent company, CRC sub-contractor, or supply chain, staff who are in scope of the transfer of work to the NPS, or a DFP, will transfer to one, or other, of these employers on 25 June 2021 on their existing terms and conditions.

UNISON expects that these terms and conditions will then be harmonised with NPS terms and conditions at some point after the transfer. However, this will not happen on day 1 of the transfer and will require negotiation with the NPS trade unions, and the agreement of the staff involved.

CRC parent company, sub-contractor or supply chain staff who transfer to the NPS can expect to be auto-enrolled into the Local Government Pension Scheme upon transfer, as this is the default pension scheme for new entrants. See exceptions at 5 h iii above.

UNISON aims to continue looking after the interests of members in this group of transferees following the transfers. If you are not already in a trade union, please join UNISON now to protect your interests going forward.