

Nottingham Roman Catholic **Diocesan Education Service**



TUPE Transfer

FREQUENTLY ASKED QUESTIONS

11th May 2018

Updated 4th June 2018

TUPE - General

1. What is 'TUPE'?

"The Transfer of Undertakings (Protection of Employment) Regulations 2006" (TUPE) as amended by the "Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014". The TUPE rules apply to organisations of all sizes and protect employees' rights when the organisation or service they work for transfers to a new employer.

TUPE places obligations on the employer who is making the transfer (also known as the **outgoing employer** or the transferor) and the employer who is taking on the transfer (also known as the **incoming employer**, the 'new employer' or the transferee) – in our case each of the four large Catholic Multi-Academy Trusts (CMATs) will be the new employers.

TUPE protects employees' terms and conditions of employment when their employment is transferred from one employer to another. For Voluntary Aided Schools the employment of staff will transfer from the governing body of the school to the receiving CMAT. For staff already in a stand-alone academy or MAT their employment will transfer to the receiving CMAT.

All staff whose employment contracts extend beyond 31st August 2018 will transfer to their respective CMAT on their existing terms and conditions of employment.

The Board of Directors of each CMAT will be the employer of all staff employed within each academy in the CMAT.

2. How will the TUPE process be managed across the Diocese?

NRCDES has agreed with the Trade Unions that consultation will take place as a single exercise on behalf of each and every school, academy and Academy Trust which is transferring employees to the CMATs. We have obtained consent from each Chair of Governors or Chair of Board of Directors to this approach.

3. Who will the TUPE transfer process apply to?

TUPE will **only apply** to those staff employed in schools or academies on 31st August 2018 whose roles are transferring to one of the new CMATs on 1st September 2018. This includes staff on permanent contracts and staff on fixed term or temporary contracts whose contracts extend beyond 31st August 2018, for example maternity covers (but see exceptions below)

Exceptions

TUPE will **not apply** to any staff already employed by one of the CMATs as there is no change to their employer. Therefore staff in the academies listed below will not be subject to TUPE.

CMAT [existing and new names]	Academy
St Robert Lawrence Catholic Academy Trust [St Ralph Sherwin CMAT]	St John Houghton Catholic Academy, Kirk Hallam English Martyrs Catholic Academy, Long Eaton The Priory Catholic Academy, Eastwood St Joseph's Catholic Academy, Matlock
South Nottingham Catholic Academy Trust [Our Lady of Lourdes CMAT]	The Becket School, West Bridgford Blessed Robert Widmerpool Catholic Academy, Clifton Our Lady and St Edward's Catholic Academy, Nottingham St Edmund Campion Catholic Academy, West Bridgford St Patrick's Catholic Academy, Wilford
NoLCAT [St Therese of Lisieux CMAT]	St Bede's Catholic Academy, Scunthorpe St Augustine Webster Catholic Academy, Scunthorpe St Bernadette's Catholic Academy, Scunthorpe St Mary's Catholic Academy, Brigg St Norbert's Catholic Academy, Crowle St Mary's Catholic Academy, Grimsby St Joseph's Catholic Academy, Cleethorpes
Blessed Cyprian Tansi Catholic Academy Trust [St Thomas Aquinas CMAT]	De Lisle College, Loughborough Holy Cross Catholic Academy, Whitwick Sacred Heart Catholic Academy, Loughborough St Clare's Catholic Academy, Coalville St Winefride's Catholic Academy, Shepshed St Mary's Catholic Academy, Loughborough

TUPE will **not apply** to any staff appointed to a post in one of the new CMAT central teams as they will have a new contract starting on or before 1st September 2018 with the CMAT on the terms and conditions of the CMAT. Anyone appointed to a post in one of the CMAT central teams will receive a letter shortly setting out their terms and conditions.

TUPE will **not apply** to any staff whose posts are no longer required in a school or academy after 31st August 2018. These staff will not transfer. These will include temporary or fixed term contracts in finance, admin or HR roles as these will have been terminated on or before 31st August 2018, staff who may have resigned or staff who hold posts which may have been made redundant.

3. What is the TUPE process?

In order to comply with the regulations we will be taking the following steps:

- a) The TUPE consultation period started on Friday 4th May and will end on Friday 22nd June 2018
- b) We have met with the Trade Unions on 26th April 2018 to discuss the TUPE consultation and share the draft FAQ and letter
- c) We have written to the Trade Unions setting out the intention to transfer employment to the new CMATs – the letter was issued on Friday 4th May 2018
- d) We are meeting with the Trade Unions on 20th June 2018 to receive and consider issues raised by the Trade Unions on behalf of their members
- e) We have notified staff of the terms of the transfer and provided information for staff in the form of an FAQ and information meetings
- f) Staff details will be checked and verified by the current employer before being passed to the CMAT
- g) After transfer the CMAT will write to each member of staff confirming that the transfer has taken place to the new employer.

4. What is the transfer date?

All staff who have a right to transfer under TUPE will have their employment transferred to their respective CMAT on 1st September 2018.

5. How will staff find out what is happening?

Under TUPE, the current employer must firstly inform any recognised trade unions or elected employee representatives that a transfer is to take place, when it is to take place and the reasons for it. We have held initial discussions with the Trade Unions and this was followed by a formal consultation letter which set out in more detail the rationale and terms of the transfer and the timing and details of how we are intending to inform staff. We then published the letter which was sent to the Trade Unions together with this FAQ which will be updated in response to additional questions raised by the Trade Unions or by staff, and the dates and venues for forums for staff.

Impact on staff where TUPE applies

6. What happens to terms and conditions?

For staff in schools and academies that are transferring employer to one of the new CMATs their terms and conditions of employment are protected. This means that, on the day employment transfers to the CMAT staff will transfer to the employment of the CMAT on their existing terms and conditions.

7. I am not on a CES contract currently – what will happen when I transfer to the CMAT?

All staff employed in Catholic Schools and Academies must be employed under the terms of a Catholic Education Service contract supported by CES policies and procedures. This has always been the case and the requirement to be employed on a CES contract is not related in any way to this TUPE transfer or to academisation. For the few staff who may not be on a CES contract the CMAT will review this after the transfer and there will be a process to move everyone to a CES contract in due course. This will not affect your pay, grading or other contractual terms and benefits. There is no necessity for schools to move staff onto a CES contract prior to the transfer date.

8. What happens to continuity of service?

When staff transfer in to one of our CMATs, their continuity of service is maintained.

Redundancy

For all staff, continuity of service for the purpose of redundancy payment calculations is protected by the 'Redundancy Modifications Order'. This regulation amends the employment regulations so that if you move employment between bodies in a specified list of public employers, then your continuity of service is retained for redundancy. Local Authorities and CMATs are on this list so continuity of service is retained for staff moving back and forth between these employers for redundancy purposes.

Non-teaching staff – the Green Book

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

Teaching staff – the Burgundy Book

No equivalent amendment has been made to the Burgundy Book yet. This means that teachers moving away from employment in one of our CMATs back to LA employment or employment in another academy are not automatically protected. Most Local Authorities and MATs will honour continuity of service and staff are advised to ask about this at interview.

9. Are pensions affected?

Staff will not see any impact on their pensions because of the transfer of their employment to the CMAT. Continuity of service and pension provision is retained when the staff transfer. The funding agreement (which is the contract between the CMAT and the Secretary of State) requires that the CMAT ensures that all staff employed at the academy have access to the Teachers Pension Scheme or the Local Government Pension Scheme (as applicable).

10. What about union recognition?

Trade union recognition will transfer to the MAT under TUPE.

11. Impact on present pay and grading for posts transferring across?

Staff transferring in their present post to the new CMAT will transfer on their existing terms and conditions and their existing pay and grading structure will apply to that post. As mentioned at 6. above, staff who have been appointed to central team posts will be on CMAT pay and grading.

12. Will I have access to the current benefits available from my current employer?

We are aware that there are a wide range of benefits currently available to employees only through local authority or other traded services and we know that some staff do currently benefit from these which include salary sacrifice schemes such as Childcare Vouchers, cycle schemes, staff welfare benefits to name a few. The CMATs are committed to offering staff equivalent benefits which may mean accessing these benefits through the current provider or an alternative provider. The CMAT will assess demand for these benefits and provide them where appropriate.

Personal Data and TUPE

13. When and how will staff data be collected for the purpose of TUPE

The current employer is obliged under TUPE to provide staff details to the new employer and the CMAT will be asking for this information for all staff prior to May half term. Current employers will ask their HR/payroll providers to populate a due diligence staffing template which the current employer will check to ensure that only those staff transferring under TUPE are included. The data is then transferred securely to the CMAT. This will enable the CMAT to carry out the due diligence as required under TUPE. This is a standard process and requirement which applies to all TUPE transfers and the CMAT has a privacy notice in place which covers the collection of data for the purpose of TUPE and this will be made available to staff.

Further queries



If there are any issues that are not covered by this version of this FAQ please email your questions to academies@nottingham-des.org.uk
Queries will be responded to and the FAQ will be amended to capture any new questions.