



**Proposed Acquisition of Trafford Healthcare NHS Trust by
Central Manchester University Hospitals NHS Foundation Trust**

**Transfer of Undertakings (Protection of Employment)
Regulations 2006 (TUPE)**

TUPE CONSULTATION DOCUMENT

**Consultation on the Practical Aspects
And
Proposed Arrangements Associated with the TUPE Transfer**

ISSUED: Monday 20 February 2012

CLOSE OF CONSULTATION: Thursday 29 March 2012

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Introduction

We announced on 3 December 2010 that we wanted to become part of a larger organisation, as we are too small to remain viable by ourselves.

When we launched our search for a partner foundation trust (FT) last year, our commissioners (NHS Trafford and the clinical commissioning group) told us that in future they wanted to commission a number of our services from a community healthcare provider instead of an acute trust. The services are:

- Child Health Management
- Child Health Information
- Child & Adolescent Mental Health Service (CAMHS)
- Child protection
- Children's community nursing team
- Community paediatric medical service
- School nursing
- Health visitor liaison service
- Welfare Foods
- Family planning
- Orthodontics
- Restorative dentistry

The intention was that these services would be located alongside the community health teams that are part of Trafford Provider Services, and which have been hosted by Bridgewater Community Healthcare NHS Trust (Bridgewater) since April 2011. For that reason, the acquisition prospectus indicated that these services might not be transferred with the rest of Trafford Healthcare NHS Trust to the successful bidder (Central Manchester University Hospitals NHS Foundation Trust (CMFT)) in April 2012.

The commissioners have decided that Trafford Provider Services should remain with Bridgewater for a further 12 months until April 2013 and that the services listed above should also be hosted by Bridgewater from April 2012, alongside Trafford Provider Services. Over the next year, the commissioners will carry out a formal tendering exercise to select a long-term home for TPS and the THT services listed above.

As a result of this decision, the employees transferring from THT to CMFT in April 2012 will exclude those who are assigned to the provision of the services above (See Appendix A) within THT.

This paper seeks to inform and consult the employees transferring to CMFT on the practical aspects and proposed arrangements associated with the TUPE transfer of their employment from Trafford Healthcare NHS Trust to Central Manchester University Hospitals NHS Foundation Trust with effect from 1 April 2012.

Background

At the Board meeting on 26 July 2011, our Board selected CMFT as our preferred partner, i.e. the organisation that we wanted to acquire us.

As part of the acquisition process, CMFT evidenced that they provide safe and high-quality care, manage their resources well, have a strong track record of innovation, have ensured the smooth transfer of services they have previously acquired from other organisations, and other related information.

They also demonstrated that they have the ability to work successfully with local health commissioners, patients, staff, the wider public, GPs and partner organisations (e.g. the council) to develop proposals that will ensure services in Trafford are local, high-quality and financially viable for years to come.

The acquisition process is ongoing and involves carrying out all the background preparations for the 'transaction' by which Trafford Healthcare NHS Trust will become part of the Central Manchester University Hospitals NHS Foundation Trust.

Various workstreams have been looking at how best to optimise the configuration of services to reflect the new business model together with what practical changes need to take place, following the transfer of staff, to facilitate us becoming part of their organisation.

Processes are also in place to ensure that we are registered as one organisation with the Care Quality Commission and have sought permission from relevant bodies (Monitor and the Cooperation and Competition Panel), with final confirmation of the acquisition coming from the Secretary of State for Health.

Proposed Change

It is proposed that the transfer to CMFT will take place on 1 April 2012 and will be covered by TUPE. This means that the employment contracts and continuous service of the transferring staff (i.e. excluding those assigned to the services identified above (see Appendix A) employed by THT at the date of the transfer, will transfer to CMFT.

Staff terms and conditions of employment and continuous service will not be affected by the transfer. As the proposed transfer is to CMFT, transferring employees will retain their current pension rights and entitlements.

The full list of the THT policies and procedures that will be protected on transfer to CMFT is attached as Appendix B. These include policies and procedures that represent collective agreements (locally negotiated staff terms and conditions of service), for example the Protection of Pay and Conditions of Service Policy and our Special Leave Policy. A list of other collective agreements that will be protected on transfer is attached as Appendix C.

Staff Transfers

As part of the transfer process, THT must provide CMFT with a specific set of information which will assist them in understanding the rights, duties and obligations in relation to the transferring employees. This is to help CMFT prepare for the 'arrival' of staff and ensure that they are also aware of any inherited obligations that they may have to the workforce or individuals. All information that is made available is done so in line with Data Protection legislation. The specified set of information is as follows:

- Personal details – your name, age, and information in your contract of employment (or statement of main terms and conditions).
- Information relating to any collective agreements which apply to you.
- Information on any disciplinary proceedings that may have applied to you within the two years before the transfer.
- Information on any grievances you may have raised within the two years before the transfer.
- Information on any legal action that you have raised against your old employer in the two years before the transfer.
- Information relating to any potential legal actions that you may bring, where the old employer has reasonable grounds to believe that these actions may occur.

Staff should be aware that if they do not wish to transfer they should inform the Trust in writing. Such action would be deemed as resignation and there would be no right to claim unfair dismissal or redundancy payment.

Further information on TUPE can be found in Appendix D - TUPE Question and Answer.

Practical Aspects of the Transfer

Joint working groups are looking at the practical aspects of the transfer and in particular, operational elements directly affected by the acquisition. Examples include email address, our intranet arrangements and documentation flows.

Some of these practical aspects involve services like for example recruitment where, in discussion with staff, interim arrangements are being put in place. These are required at this time so that any employees whose employment commences on or after 1 April 2012 are recruited as a CMFT employee.

Arrangements

The arrangements for consultation on the practical aspects and proposed arrangements associated with the TUPE transfer are set out below. This consultation is with a view to clarifying any issues that arise and to minimise any disruption and uncertainty for transferring staff.

Issues that are raised will be incorporated within a 'Frequently Asked Questions' (FAQ) document. This document will aim to support staff and managers in understanding and following any practical/process changes that are required as a result of the transfer of staff, and the transfer of responsibility for services to CMFT.

Consultation Process

To facilitate consultation on the practical aspects and proposed arrangements associated with the TUPE transfer, staff briefing sessions with management, HR representatives and Trade Union Representatives have been arranged. These will provide staff and their representatives with the opportunity to raise any queries they may have relating to the TUPE process and associated arrangements.

All views will be considered and a formal response will be given via an ongoing frequently asked questions document (FAQ).

The schedule of TUPE staff briefing sessions is set out below:

Boardroom, TGH	21 February	16.00 – 17.00
Boardroom, TGH	23 February	10.00 – 11.00
Stamford Room, AGH	23 February	12.30 – 13.30
Boardroom, TGH	1 March	10.00 – 11.00
Stamford Room, AGH	1 March	12.30 – 13.30
Boardroom, TGH	2 March	14.30 – 15.30
Cherry Manor Centre, Cherry Lane, Sale	8 March	09.00 – 10.00

Staff Affected by Any Proposed Practical Changes Pre-Transfer

Staff that are directly affected by any proposed practical changes will be offered the opportunity to discuss these via an individual 1:1 meeting. Staff will be entitled to be accompanied by a friend, work colleague or trade union representative. Individual meetings will be supplemented with meetings with groups of staff affected by any relevant change and their trade union representatives.

Timetable

→ Issue consultation paper and start consultation	20/02/12
→ Notification of transfer arrangements to staff	20/02/12
→ TUPE staff briefing sessions	w/c 20/02/12
→ Meetings and discussion with staff	Ongoing
→ Communication and updates for staff	Ongoing
→ Close of consultation	29/03/12
→ Clarification of issues for staff	Ongoing
→ Formal transfer letter sent to staff	29/02/12
→ Transfer of personal data to CMFT	29/02/12
→ Welcome pack issued to staff by CMFT to home address	w/c 05/03/12
→ Staff transfer to CMFT	01/04/12

Comments

Comments on these proposals are sought and invited from affected staff and their representative organisations. Comments should be submitted **by 29 March 2012** in writing to:

Communications
Trust Headquarters
Trafford General Hospital
Moorside Road
Urmston
Manchester, M41 5SL

Email: communicatins@trafford.nhs.uk

If you have any concerns about how these proposals affect you personally, please speak to your line manager in the first instance. Confidential advice and support is available from Occupational Health on 746 2443. You can also contact your Staffside representative. Details of the nominated representative for your area of work can be obtained from the Staffside Office on 746 2219.

Circulation

- All Trafford Healthcare NHS Trust transferring to Central Manchester University Hospitals NHS Foundation Trust
- Full-time Trade Union Representatives
- Dr Bill Stephens, Chair LNC, THT
- Margaret Roberts, Chair Staff Representatives Committee, THT
- Derek Welsh, Executive Director of Human and Corporate Resources, CMFT

Position Titles of Staff Transferring to Bridgewater

Service Area	Position Title
Child and Adolescent Mental Health Services - CAMHS	ADHD Nurse Administrator Art Therapist Assistant Psychologist Back up Programme Supervisor MST Birth Family Therapist Clinical Manager/Spec.Chld.Mental.H Clinical Psychologist Community Psychiatric Nurse Consultant Clinical Psychologist Consultant Psychiatrist Family Partnership Worker Head of Service CAMHS Keep Programme Worker Lead Nurse ND Pathway Me2 Clinical Psychologist Medical Secretary MST Therapist Perinatal Clinical Psychologist Play Therapist Primary Mental Health Worker - Schools Secretary Senior Clinical Psychologist Senior Primary Mental Health Practitioner Specialist Support Worker Systemic Family Therapist Team Secretary Tier 3 Mental Health Worker
Child Health Management	Director of Children's Services Personal Assistant
Child Health Information	Clerk Deputy Administrator Information Clerk
Community Children's Nursing Team	Community Paediatric Nurse - RSCN Nurse Manager Paediatric Diabetes Nurse Staff Nurse Support Worker Team Administrator
Orthodontics and Restorative Dentistry	Clinical Assistant Consultant Dental Nurse Team Leader* Dental Surgery Assistant* Hospital Practitioner

	Locum Consultant Medical PA*
Medical Staff - Child Health	Foundation House Officer 2 Locum Consultant Personal Secretary Specialty Doctor in Paeds Medical Secretary*
Safeguarding Children	Admin/Clerical Staff Community Practitioner Health Visitor - Liaison Healthcare Support Worker Nurse Safeguarding Children Secretary Senior Nurse - Clin/Man Specialist Health Co-Ordinator Specialist Nurse Children in Care Staff Nurse
School Health - Nursing	Band 7 School Nurse Immunisation Lead School Hlth. School Health Team Leader - Family Support Team West School Nurse - Immunisation School Nurse Band 5 Senior Health Care Support Worker Senior School Nurse Sister/C. Nurse GEN Specialist Comm.Public Health Student Staff Nurse GEN - Community
Trafford Centre For Sexual Health	Clerk/Receptionist Family Planning Nurse
Well Adult Services	Admin Assistant/Secretary Clerk Family Planning Nurse Healthcare Support Worker Lead Nurse Family Planning Medical Officer Senior Clinical Medical Officer
Other Associated Services	Procurement Admin Officer*

*The organisation to which these staff (or some of the staff with this position title) will transfer is subject to ongoing discussions involving THT, Bridgewater and CMFT due to there being a split in the work undertaken by these postholders.

Trafford Healthcare NHS Trust Policies and Procedures/Agreements
that will transfer to CMFT

POLICY	DATE LAST RATIFIED
Alcohol and Substance Misuse Policy	09.07.10
Annual leave policy for consultants, medical staff, SAS doctors	15.03.10
Attendance Management - Management Guidance	N/A
Attendance Management Policy and Procedure	27.05.08
Attendance Reward Policy	13.09.10
Buying and Selling annual Leave Policy	28.09.10
Capability Policy	14.02.11
Career Break Policy	12.01.09
Consultation and Negotiation Policy	01.02.05
CRB / Employment checks policy	27.09.10
Dignity at Work – Bullying and/or Harassment at Work	07.11.11
Disciplinary Policy	15.03.10
Disputes Procedure	21.03.06
Doctors Disciplinary Policy	25.11.08
Equal Opportunities Policy	14.02.11
Exit Interview Policy	13.09.10
Flexi Time Policy	12.01.09
Flexible Working Policy	16.03.09
Grievance Procedure	15.03.10
Induction Policy	Nov-09
Job Evaluation Policy	11.04.11
Leave Policy	16.03.09

Maternity Policy	Apr-07
Mutually Agreed Leavers Scheme	28.09.10
No Smoking Policy	20.10.11
Notice, Periods of	12.01.09
Paternity, Parental & Adoption Leave	11.05.09
Personal Development Review	15.03.10
Professional Registration	20.10.11
Protection of earnings policy (Staff Retention and Redeployment Policy dated 2005)	01.02.05
Redeployment and Redundancy Policy (previously Retention & Re-deployment Policy for Staff)	16.03.09
Relocation and expenses policy for medical staff	15.03.10
Retirement Policy	12.07.10
Secondment Policy	29.07.08
Single Equality Scheme	April 2007
Statutory and Mandatory Training	13.06.11
Stress Policy	09.12.11
Stress Management Guidance Policy	09.12.11
Support for Time off for Training & Development Activities	12.07.10
Support for Training and Development Activities Policy (Consultant, Medical Staff and SAS Doctors)	28.11.11
Temporary Staffing Policy	27.09.11
Time off for Trade Union duties	01.02.05
Trade Union Recognition Agreement	01.02.05
Whistleblowing Policy (Procedure for Expressing Concern) Public Interest Disclosure	11.04.11
Working Time Regulations Policy	01.02.05

Trafford Healthcare NHS Trust Collective Agreements
that will transfer to CMFT

Collective Agreements

Local on-call arrangements for the following staff groups:

- Chemical Pathology
- Clinical Technology
- Computer Section
- Endoscopy
- Estates Managers
- Executives on-call
- Haematology
- Maintenance
- Microbiology
- Pharmacy
- Radiology
- Senior Managers on-call
- Sexual Health
- Theatres

TUPE – Staff Q&A

What is TUPE?

TUPE stands for Transfer of Undertakings (Protection of Employment) Regulations. These came into force initially in 1981, and were slightly amended in April 2006.

What does TUPE mean for me?

Ultimately, TUPE exists to protect the rights of employees who are affected by the transfer of a business or undertaking (a body of work) from one employer to another. This will be the case when the proposed transfer of Trafford Healthcare NHS Trust (THT) to Central Manchester University Hospitals NHS Foundation Trust (CMFT) takes place.

TUPE aims to ensure that the transfer should not have any effect upon the employment situation for staff employed by the organisation being transferred. In other words, when the proposed transfer of THT to CMFT takes place, staff employed by THT will transfer to the new organisation and they will retain the same terms and conditions that they have with THT. It will be as if your contract of employment had originally been made with CMFT on your existing terms and condition.

Who will transfer?

Any employee (whether full or part-time, temporary or permanent) who works wholly or mainly in connection with THT at the time of the transfer.

Do I have to do anything?

Affected employees within Trafford Healthcare NHS Trust (THT) will automatically become employees of CMFT with effect from the date of transfer. The proposed date for the transfer is 1 April 2012.

We will consult with Trade Union Representatives and affected staff on the transfer arrangements and each affected member of staff will receive a personal letter informing them of the date of transfer to CMFT.

Can I object to the transfer?

You can object, and to do this you need to inform either the new or the old organisation. However, the objection will terminate your employment contract, as it amounts to a resignation. As such (i.e. a resignation), you would not be entitled to any redundancy payments.

What does TUPE actually do?

The main effects of TUPE are that:

- Employment contracts of employees will be transferred to the new organisation.
- All the rights, duties, powers and liabilities to these employees of the old employer – in our case, THT will pass over to the new employer – in our case, CMFT with limited exceptions.

What are the exceptions that do not transfer?

The main exception is that occupational pension schemes do not automatically transfer under the regulations. **However**, this is not an issue with transfers between different NHS organisations as the same pension scheme and rights apply across the NHS.

This means that employees transferring to CMFT will retain all the current pension rights and entitlements.

Can CMFT change my terms and conditions?

Your terms and conditions cannot be changed if the only reason for making the change is because you have transferred.

What are the changes that CMFT can make?

All organisations have a right to make changes to their employees' terms and conditions if they need to for genuine business needs, as long as they properly consult and given appropriate notice.

It is possible that following the proposed transfer this may `entail changes in the workforce' affecting the newly `pooled' workforce. These changes are normally for what are termed Economic, Technical or Organisational (ETO) reasons which necessitate a change in the numbers employed or changes in the functions undertaken by employees. For example, this could mean a member of staff being asked to move to the main CMFT site. As per above, any such changes are subject to consultation.

What am I entitled to in terms of redeployment and redundancy?

If following the transfer a redundancy situation arises, employees will have the right to be consulted and informed about proposals that affect their employment.

Organisations are also obliged to look for suitable alternative employment for you, as an alternative to redundancy. There is no legal definition of suitable alternative employment; however, the employee has to be able to undertake the duties with a reasonable amount of training. Other issues taken into consideration when assessing if alternative duties are suitable are: hours of work; change in rates of pay and amount of protection being offered; and type of duties being offered.

If an employee refuses a suitable alternative, then they will be redundant but without any rights to redundancy payments.

If you are made redundant, then you are entitled to redundancy payments in line with your terms and conditions of service.

Most staff at THT are employed under Agenda for Change terms and conditions of employment. For Agenda for Change staff, to qualify for redundancy payments you need to have two years' continuous NHS service and you will then receive one month's pay for every completed year of service up to a maximum of 24 years.

Can CMFT harmonise the terms and conditions (includes policies and procedure) of THT staff to those of its existing workforce?

Not if those are directly related to the transfer, i.e. the only reason for the changes is the transfer itself. CMFT will take over any policies or collective agreements that are in force at the date of the transfer. **However**, as per above, where there are changes for ETO reasons and they are agreed by the employees and by their union representative on their behalf, these

changes may be valid. If there is not a valid reason for the changes then those variations are rendered void by the TUPE Regulations.

Will my continuous service date stay the same?

Yes. All of your employment rights (some of which depend on your length of service) transfer over to the new employer with you, so your continuous service date remains the same.

Will information about me transfer to the new employer?

THT must provide CMFT with a specific set of information which will assist them in understanding the rights, duties and obligations in relation to the transferring employees. This is to help CMFT prepare for the `arrival' of staff and ensure that they are also aware of any inherited obligations that they may have to the workforce or individuals. All information that is made available is done so in line with Data Protection legislation. The specified set of information is as follow:

- Personal details – your name, age, and information in your contract of employment (or statement of main terms and conditions).
- Information relating to any collective agreements which apply to you.
- Information on any disciplinary proceedings that may have applied to you within two years before the transfer.
- Information on any grievances you may have raised within the two years before the transfer.
- Information on any legal action that you have raised against your old employer in the two years before the transfer.
- Information relating to any potential legal actions that you may bring, where the old employer has reasonable grounds to believe that these actions may occur.

When will this information be exchanged?

This information will be given to the new employer not less than fourteen days before the transfer.

What if there are employment matters that are being dealt with at the time of the transfer?

These will transfer to CMFT and continue as per the normal arrangements. THT will ensure that there is a smooth handover where this is necessary because of a workforce change. The majority of staff will continue to be managed through their existing arrangements.