



AEP Local Representative Briefing: TUPE and staff transfer during Local Government Reorganisation

1. Local Government Reorganisation

Local Government Reorganisation (LGR) is likely to result in significant workforce change across many local authorities. Educational Psychology Services (EPS) may be affected by mergers, service redesign, changes to management structures and the creation of new unitary authorities.

The Government's guidance states that local government reorganisation should be delivered through TUPE-protected transfers, preserving employees' contracts, pay, terms and continuity of service. Trade unions should be informed and consulted throughout the process, and redundancies cannot be made simply because staff are transferring to a new authority. Find out more [here](#).

One of the most common questions raised by members concerns whether they will transfer to a new employer and what protections will apply. This briefing provides local representatives with an overview of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) and the key questions that should be raised with employers throughout the reorganisation process.

2. What is TUPE?

TUPE is legislation designed to protect employees when their employment transfers from one organisation to another.

The purpose of TUPE is to:

- Protect continuity of employment.
- Preserve contractual terms and conditions.
- Protect staff from dismissal solely because of a transfer.
- Require employers to inform and consult employees and recognised trade unions about proposed transfers.

3. What happens to my Pay and Conditions?

The government guidance confirms that staff affected by local government



reorganisation should transfer under TUPE provided they are employed immediately before the date the existing council is abolished, and their employment is contracted to continue beyond the transfer date. This means:

- Existing contracts transfer to the new employer.
- Pay is protected.
- Terms and conditions are protected.
- Continuous service is preserved.
- Employment rights transfer with employees.

Questions for Employers

- What legal mechanism is being used to transfer staff?
- Confirm TUPE regulations will apply to the transfer.

4. What happens to employment contracts?

Where TUPE applies, contracts transfer automatically to the new employer.

In most cases employees retain:

- Salary
- Annual leave
- Contractual sick pay
- Working hours
- Continuous service
- Most contractual terms and conditions

Employees should not normally be asked to sign a completely new contract simply because a transfer has taken place.

5. What happens to continuous service?

Continuous employment is normally preserved.

For employment law purposes, service with the former employer is treated as service with the new employer.

This is important because continuity impacts:

- Redundancy entitlements



- Unfair dismissal protection
- Family leave rights
- Long-service benefits.

6. Can the new council change staff terms and conditions?

Not automatically due to the transfer. Changes to terms and conditions where the sole or principal reason is the transfer itself are generally unlawful unless specific legal exceptions apply.

The guidance recognises that staff transferring from different councils may have different pay and conditions. New councils may wish to develop a single pay policy, but any changes must be consistent with legal requirements, consultation obligations, collective agreements and negotiations with recognised trade unions.

Local representatives should be aware that harmonisation is not, by itself, a sufficient legal justification for reducing contractual benefits or pay.

Local representatives should question:

- Removal of allowances
- Changes to working hours
- Reductions in annual leave
- Changes to flexible working arrangements
- Revised mobility requirements
- New contractual terms offered after transfer.

8. What consultation rights exist?

Employers are required to inform and consult recognised trade unions or employee representatives regarding:

- The fact that a transfer is proposed
- The reasons for the transfer
- The anticipated timing.

Any measures that may affect employees. Consultation should be meaningful and take place early enough to allow representatives and staff to influence proposals before decisions are finalised.



Employers must:

- Inform affected employees about the transfer
- Inform recognised trade unions and employee representatives
- Consult where changes or "measures" are proposed that may affect staff.

Examples of matters that may require consultation include:

- Changes to working arrangements
- Changes in office location
- Changes to working practices
- Changes to payroll dates.

9. What information should local representatives request?

Workforce information:

- Number of affected staff
- Staffing structures
- Establishment data
- Vacancy levels.

Consultation documents:

- Business cases
- Consultation papers
- Workforce plans
- Implementation timetables.

Risk and equality information:

- Equality Impact Assessments
- Workforce risk registers
- Service continuity plans.

Transfer information:

- Details of proposed transfers
- Job matching criteria
- Assimilation processes



- Redeployment arrangements.

10. What happens if there are fewer posts in the new structure?

Where authorities merge, there may be fewer management or specialist posts than existed previously.

Employers may use:

- Slotting-in arrangements.
- Job matching exercises.
- Ring-fenced competition.
- Assimilation processes.
- Redeployment procedures.

Local representatives should seek transparency and objective selection criteria at every stage.

11. Can employees be made redundant?

The government guidance states that staff cannot be dismissed because of the transfer itself.

Redundancies can occur only where:

- There is a genuine redundancy situation; and
- There is an economic, technical or organisational (ETO) reason involving changes to the workforce; and
- Appropriate consultation has taken place.

Councils may also choose to offer voluntary exit schemes.

Questions to ask regarding redundancy:

- What redundancy avoidance measures are proposed?
- Have voluntary exits been considered?
- Can redeployment opportunities be used?
- Are vacancies being protected for affected employees?
- Has workforce planning been undertaken?



Additional information: [Guide to Redundancy and Reorganisation | Association of Educational Psychologists](#)

Following reorganisation, employees may be asked to:

- Cover larger geographical areas.
- Work within revised management structures.
- Take on broader responsibilities.
- Work from different locations.

Local representatives should assess:

- Whether the changes are contractual.
- Whether consultation has taken place.
- Whether equality implications have been considered.
- The practical impact on workloads and service delivery.

14. EPS issues

Local representatives should ensure that employers consider the impact of reorganisation on statutory and professional functions.

Service delivery

Questions to ask include:

- Will EP services be merged?
- How will statutory SEND duties be delivered?
- What arrangements will exist for traded services?
- Will specialist teams remain in place?

Professional leadership

Local representatives should seek assurances regarding:

- Principal Educational Psychologist roles
- Senior EP leadership arrangements
- Professional supervision
- Quality assurance systems.

Workforce planning

Issues to explore include:



- Vacancies
- Retention risks
- Recruitment challenges
- Succession planning
- TEP & Assistant EP support.

Workforce retention and service sustainability have been identified as key risks during large-scale organisational change.

16. Local Representative checklist

During consultation:

- Seek advice from the AEP on enquiries@aep.org.uk
- Obtain all consultation documents
- Refer to employer policies on reorganisation and redundancy
- If the AEP is recognised it may be possible to seek additional facilities time for consultation process.
- Seek clarification regarding TUPE
- Liaise with other unions in the Local Authority through the joint consultative committee structures
- Organise members by holding member meetings
- Gather member concerns and identify key questions to the consultation
- Submit consultation responses both collectively and individually as appropriate
- Challenge inadequate engagement and ensure correct process is followed
- Review equality implications.

Engage employer:

- Request formal recognition of the AEP's involvement if this is not already the case.
[Model Trade Union Recognition Agreement | Association of Educational Psychologists](#)
- Establish consultation arrangements and establish the anticipated timetable.
- Confirm key employer contacts.
- Request regular consultation meetings.

Where new structures are proposed:

Request details



- Organisation charts.
- Job descriptions.
- Person specifications.
- Matching criteria.
- Assimilation arrangements.
- Selection procedures.

Review fairness

- Objective criteria.
- Transparent processes.
- Equality compliance.
- Appeals arrangements.
- Redeployment opportunities.

EPS

- Principal Educational Psychologist role identified.
- Senior leadership arrangements clarified.
- Professional supervision arrangements established.
- Specialist functions protected.
- How will statutory SEND functions be delivered?
- What is proposed for EP service structures?
- How will professional leadership be maintained?
- What arrangements are proposed for supervision?

Following reorganisation:

- Monitor implementation.
- Support affected members.

Local representatives should seek early involvement in any reorganisation process. The most effective protection for members is achieved through timely information, meaningful consultation, transparent workforce planning and robust challenge where employment rights or professional standards may be adversely affected.