

Staff Transfer and Protections Agreement: Documents Covering the CRC to (HMPPS) NPS, and CRC to Dynamic Framework Provider, Transfers due to take place on 26 June 2021

Preface

This Agreement on Staff Transfer and Protection Terms was made on 8 October 2020 between HMPPS and its recognised trade unions Napo, UNISON and GMB/SCOOP as set out in the following documents;

1. Framework for Transfer of CRC Staff to HMPPS (NPS) and to Dynamic Framework Providers (DFPs)

This document provides:

- An overview of the terms that cover all CRC staff that transfer to HMPPS (NPS), or to Dynamic Framework providers;
- Additional points that apply to the transfer to Dynamic Framework providers only;
- Additional points that apply to the transfer to HMPPS (NPS) only;

2. Voluntary Redundancy / Voluntary Severance (VR/VS)

This document outlines a VR / VS scheme which will support transition to the new delivery model. It also sets out the terms that will apply to that scheme.

This document is applicable to CRC staff that transfer to HMPPS (NPS) or to Dynamic Framework providers.

3. CRC to HMPPS (NPS) Transfer Terms

This document outlines the NPS terms that staff will be aligned to upon transfer to HMPPS (NPS). It should be read in conjunction with the 'framework' document referred to in 1 above.

This document is only applicable to CRC staff that transfer to HMPPS (NPS) and does not apply to CRC staff that transfer to Dynamic Framework providers.

Framework for Transfer of CRC Staff to HMPPS (NPS) and to Dynamic Framework

This document provides an overview of the provisions that apply to CRC staff transferring to HMPPS (NPS) and Dynamic Framework Providers (DFPs) For transfer to HMPPS only this document should be read in conjunction with the National Agreement document.

Under the Ministry of Justice's Probation Reform Programme, it is intended to change the delivery model for Probation Services with effect from 26th June 2021.

Community Rehabilitation Companies (CRCs):

- Ceased to provide offender management services with effect from midnight on 30 November 2019 for Wales;
- Will cease to provide probation services with effect from midnight on 25th June 2021 (England & Wales);

The MoJ is running a competition for a Dynamic Framework for specialist rehabilitative and resettlement services. Contracts for these services will take effect on 26th June 2021.

It is envisaged that CRC staff employed on 25th June 2021 will transfer to either HMPPS (NPS) or Dynamic Framework providers on 26th June 2021.

This framework agreement is with the Probation Trade Unions only and extends to CRCs and their staff that transfer, either to HMPPS (NPS), or to Dynamic Framework Providers only. It does not extend to other employers and their staff: CRC parent organisations or CRC sub-contractor or supply chain employers. These groups will be subject to separate discussions and potential agreements.

Basis for transfer

The Ministry of Justice has determined that:

- Transfers of employment to HMPPS (NPS) will be undertaken by way of statutory Staff Transfer Scheme(s), supported by the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector (COSOP), rather than by transfers under the Transfer of Undertakings Protection of Employment Regulations (TUPE).
- Transfers of employment to Dynamic Framework providers will be undertaken by way of the Transfer of Undertakings Protection of Employment Regulations (TUPE).

The Principles within The HMT non-statutory policy: Fair Deal for staff pensions dated October 2013 ('New Fair Deal') will be followed for all transfers to HMPPS (NPS) and DFPs noting the requirements of the LGPS (Offender Management) (Amendment) Regulations 2014.

Principles

The Probation Reform Programme/ NPS and the Probation Trades Unions (Napo, Unison and GMB/SCOOP) have agreed that the key principles underpinning this agreement are:

- All CRC staff employed on 25th June 2021 will transfer either to the NPS, or to one of the DFPs, unless they object to the transfer.
- No compulsory redundancies for CRC staff who transfer to the NPS, or DFPs, for a duration of 2 years from 26th June 2021.
- Statutory continuity of employment will be protected upon transfer.
- Fair and equal treatment of transferring staff.
- Transparent and straightforward processes relating to re-organisation.
- Compliance with relevant employment (including equality) legislation
- Ensuring affected staff are consulted with and kept informed of progress.

These principles will be achieved by:

- MoJ / HMPPS working with the Probation Trades Unions under the auspices of the NPS JNC on employee transfer related processes necessitated by the Probation Reform Programme and transition.
- CRCs working with the Probation Trades Unions under the auspices of CRC JNC machinery will maintain robust local consultation arrangements on employee transfer related processes necessitated by the Probation Reform Programme and transition.
- Subject to any local operational considerations in respect of timing, trade union representatives will be provided with sufficient additional facility time to facilitate this process and with the necessary workload support.

Additional Points Applicable to Transfers to HMPPS (NPS) only:

- Staff Transfer Scheme(s) which explicitly sets out the terms of transfer including the terms and conditions of employment that are protected at the point of transfer.
- A consistent approach to the assignment process for CRC staff transferring to HMPPS(NPS) (Authority guidance provided).
- The NPS will seek to avoid the need to make redundancies and where due to restructuring or changes to the delivery model, they are necessary, will consult with recognised Trade Unions and work with them to mitigate the need for reductions in the workforce and use the 2-year VR scheme and terms as mitigation.
- Providing redeployment, and/or retraining opportunities within the NPS (in the first instance) for transferring staff without an NPS job placement before looking at options in the wider HMPPS / MoJ / Civil Service.
- Continuation of Trade Union recognition (Napo, UNISON and GMB / SCOOP) and local collective bargaining and consultation arrangements;

Additional Points Applicable to Transfers to DF Providers only:

- A consistent approach to the assignment process for CRC staff transferring to DFPs (Authority guidance provided).
- Managing the staff transfer in line with the requirements of TUPE;
- Bidders will be actively encouraged to consider continuing Trade Union Recognition;
- Bidders will be encouraged to engage with the probation Trade Unions at the earliest opportunity in the DF competitive process.

This Agreement has been produced to provide a clear and consistent framework which supersedes local organisational change policies.

Information and Consultation

The Probation Reform Programme/ Authority is committed to a robust information and consultation approach with trade union representatives of the affected employees over the transfer of their employment and will work with CRCs as the current employer and expect future employers to work with current employers to achieve this. It is envisaged that consultation will be meaningful, timely and undertaken at the earliest opportunity.

Information

- The fact of the transfer
- When it will occur
- Reasons for the transfer
- Legal, social and economic implications
- Details of any [measures/changes] which the current or a future employer envisage will be taken, in relation to the transfer. Measures are matters which are suitable for consultation not negotiation.
- The number of agency workers employed, the departments they are working in and the type of work they are doing if agency workers are used.

Consultation

- Consultation will take place regarding measures.

Equality Analysis

In accordance with the Equality Act, the NPS and the CRCs are required locally to analyse, and to publish the outcome of that analysis, the impact of any relevant aspect of the staff transfer process; there must be evidence that the relevant equality issues have been properly considered and mitigating actions taken.

Job Evaluation

Existing Probation Job Evaluation Schemes (Probation Service Job Evaluation System and Hay) will transfer; they are already recognized in the NPS and are unaffected by the transfers.

Redundancy

See separate document for voluntary redundancy / voluntary severance scheme and terms which will be in place for two years from 26th June 2021 to support the transition to the new model.