

FACT SHEET

TRANSFER OF UNDERTAKINGS (PROTECTION OF EMPLOYMENT) REGULATIONS – TUPE

Introduction

This fact sheet has been produced for Home Care workers who provide care to Service Users of Bedfordshire County Council, where the provider you work for has a block contract with the Council. It is intended to give general guidance and is not intended as a complete statement of the law.

Bedfordshire County Council has re-tendered their home care contracts and appointed 4 block providers to service the borough. The contracts are now geographically based and Plan Personnel has been awarded the areas covering **Bedford, Biggleswade, Sandy, Arlesey, Shefford, Shillington, Stotfold and the surrounding areas.**

This means that shortly your current employer will no longer have a block contract with the county council and therefore may not be in a position to continue to employ you or offer you work. However under the TUPE regulations your employment rights are protected. This document is intended to answer many of the questions which you may have.

Questions you may have

I thought TUPE only applied to employees and I think that I'm a temp or bank worker. What does that mean for me?

Employment law is very complex and the definition of an employee is not clear-cut. The fact that you are described as a bank worker or temp does not mean that you are not an employee. You may well find that you have the same rights as if you were an employee because the law regards you as an employee.

Am I going to lose my job?

No. Under TUPE your rights are protected. Although your employer may have been unsuccessful with their recent tender submission, your situation is different – you are entitled to transfer to the new company which has secured the contract.

Can I take redundancy?

No, because there is no redundancy situation as your role still exists. Your employment transfers and you have the opportunity to remain in continuous employment.

I don't work in the areas outlined above where Plan Personnel has a contract. What is my situation?

You are only entitled to transfer to Plan Personnel if you are employed (or are regarded as being employed) by a provider who provides you with work in the area covered by Plan Personnel's new contract. If you are not employed in those areas you may be entitled to transfer to one of the other providers. Alternatively, you are welcome to apply to Plan Personnel under our normal recruitment procedures – and we welcome more staff.

I don't know anything about your company. Who are you?

Plan Personnel is an employment agency which operates a very successful Domiciliary Care division. Our company started in 1970 and the domiciliary care division started in 1993 so we have a lot of experience. Our Domiciliary Care service provides over 1,000,000 hours of home care every year to Service Users in 20 local authorities and counties throughout London and the south. We are an established and secure business, independently owned and managed.

What if I don't want to transfer?

If you don't want to transfer, then you can either remain with your current employer (if they have work for you) or stop working.

My current employer says they can find me other work. Why can't I stay with them?

If you are part of the grouping of staff which is subject to transfer then you are entitled to transfer. Your employer should not move you into other work. If you want to carry on working in the same geographical areas that you have been used to, then your transfer should be automatic.

What about my rate of pay?

You are entitled to have your terms and conditions protected and this includes your pay. It is possible that the new employer has higher pay rates and that you may receive a pay rise, but TUPE doesn't give you any right to a pay increase. A new company should not make any changes to reduce or alter your pay or conditions and our company has no plans to make any changes to pay. It is even possible that you may get an increase.

What about holidays?

From April 2009 every worker is entitled to 28 days holiday in a full worked year. You will receive the same holiday entitlement as you had previously. However this entitlement will start from the date you transfer to us. Any holidays earned with the previous company must be taken before the transfer date or be paid by the previous company before you transfer or with your final pay.

What about sick pay?

If you have a contractual entitlement to company sick pay then this will transfer. If your current scheme is the statutory scheme (SSP) then you are entitled to this anyway.

Are there opportunities for promotion within the new company?

Yes, we are a large organisation and operate many home care contracts. All staff are given equal opportunity for promotion, training and development.

Will I have the same rota?

We may not have exactly the same amount of work in the same locations so your rota may not be exactly the same. However Domiciliary Care providers are keen to have the minimum disruption to services for vulnerable people and we will therefore do our best to keep any changes to a minimum.

My Service Users are worried about the situation and are concerned that they won't be seeing me any more. What can I tell them to reassure them?

As we've said, if you transfer to us our aim is to keep rotas the same as much as possible and therefore your Service Users should not be concerned. We are also visiting all of the Service Users to introduce ourselves and explain about the changes and we are also organising open days for Service Users to come and meet us.

Will we continue to operate from the same location?

The office location will change, because our company has different premises. However the area you work in will not change because our contract is with Bedford County Council.

Can we ask individual questions or have a meeting with someone from the

new company?

Yes this can be arranged. We are committed to full and open communication and consultation. You can contact our local office on the address below and they can give you more information.

Will my CRB transfer?

No. A CRB is not transferable from one company to another and you will therefore need to apply for a new CRB through Plan Personnel. However you can continue to work on your current CRB until your new one comes through.

I'm currently studying for an NVQ. Will I be able to continue?

If you are studying through a college or independent provider then there shouldn't be a problem with you continuing with it when you transfer to Plan Personnel. Our company also offers NVQs to staff so we are keen for Care Workers to undertake that. We also pay a higher rate for staff who have NVQ2 or NVQ3 in Care.

I'm hearing a lot of rumours and I'm worried about my future. What should I do?

People are naturally concerned if the provider they work for is unsuccessful with any retender procedure. However, our company is committed to providing accurate and fair information and doing what we can to protect people's rights. Please contact our office and discuss it with one of our staff.

What happens next?

If you wish to find out more information or ask further questions please contact our office in Bedford where the staff will be able to assist you.

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