



Compulsory transfer of employment under TUPE and the implications for Your NHS Pension Choice

Introduction

This factsheet is for you if:

- you are eligible for the NHS Pension Choice Exercise;
- you have not yet been offered Your NHS Pension Choice; **and**
- your employment is being compulsorily transferred as part of a TUPE¹ or TUPE like arrangement to another employer who is unable to offer you membership of the NHS Pension Scheme.

It explains the special arrangements for opting-in to Choice.

This factsheet is **not** for you if your employment is being compulsorily transferred to an employer who offers you continued membership of the NHS Pension Scheme because you are **not affected** by the issues set out below.

The factsheet also explains:

- how your decision about which NHS Pension Scheme section you wish your pension benefits to be in will determine the pension scheme arrangements offered to you by your new employer; and
- some of the key implications of leaving your pension benefits in the NHS Pension Scheme or of moving them to your new employer's pension scheme.

General information about the differences between the 1995 and 2008 Sections of the NHS Pension Scheme is provided in the NHS Pension Choice Guide and the NHS Pension Choice DVD, which should have been given to you by your employer. You should consider this material in conjunction with this factsheet. Further information is available at

www.nhsbsa.nhs.uk/pensions

What is Your NHS Pension Choice?

Eligible members of the NHS Pension Scheme are being offered a once only choice to move their 1995 Section pension benefits and future NHS Pension Scheme benefits into the 2008 Section of the NHS Pension Scheme. Members are going through the NHS Pension Choice Exercise on a regional basis, with those aged 50 and over in 2009 being offered a choice first.

As your transfer of employment may take place before Choice arrives in your area, you are being offered an opportunity to opt-in to Choice before you transfer.

Deciding to move from the 1995 Section to the 2008 Section could have advantages or disadvantages for you depending on your future work and retirement plans and your individual circumstances.

¹ Transfer of Undertaking (Protection of Employment) Regulations 2006 (TUPE)



What decisions do you have to make because of your employment transfer?

Because your employment is being transferred to an employer who is unable to offer you membership of the NHS Pension Scheme you will have four decisions to make:

Before your employment transfers

- i) Whether to opt-in to Choice.
- ii) If you decide to opt-in to Choice, whether you wish to transfer your NHS Pension Scheme benefits in the 1995 Section to the 2008 Section of the Scheme.

After your employment transfers

- iii) Whether to join your new employer's pension scheme.
- iv) Separately after your employment transfers, whether to leave your NHS pension benefits in the NHS Pension Scheme or transfer them to your new employer's pension scheme.

Opting-in to Choice

If your employer tells us that you may transfer to another employer before you would normally be offered Choice, we will ask you whether you want to take Choice **before** your employment is transferred. Your current employer will give you the NHS Pension Choice Guide and NHS Pension Choice DVD to help you consider whether or not you wish to do so. You will also be asked to complete the NHS Pension Choice Opt-In Form to confirm whether or not you wish to participate in the NHS Pension Choice Exercise.

If you say **no you do not want to opt-in to Choice** you will not be offered Choice unless you return to NHS employment in the future (more detail is given below).

If you say **yes** we will send you a personalised Choice Statement and you will then have three months from its receipt to make Your NHS Pension Choice. You must make your Choice before your employment transfers to your new employer.

By requesting your personalised Choice Statement you have participated in the NHS Pension Choice Exercise. You will not be offered Choice again.

How your transfer of employment may affect your future pension benefits

If you transfer to another employer who is unable to offer membership of the NHS Pension Scheme, they must offer you membership of a broadly comparable pension scheme – one which offers a package of pension benefits which overall matches the range and value of NHS Pension Scheme benefits.

After your transfer of employment you will be able to decide whether or not to join your new employer's pension scheme:

- i) if you join your new employer's pension scheme whether you do so for future service only; or
- ii) transfer across the NHS pension benefits you have already built up in the NHS Pension Scheme, or leave them in the NHS Pension Scheme as a deferred benefit.

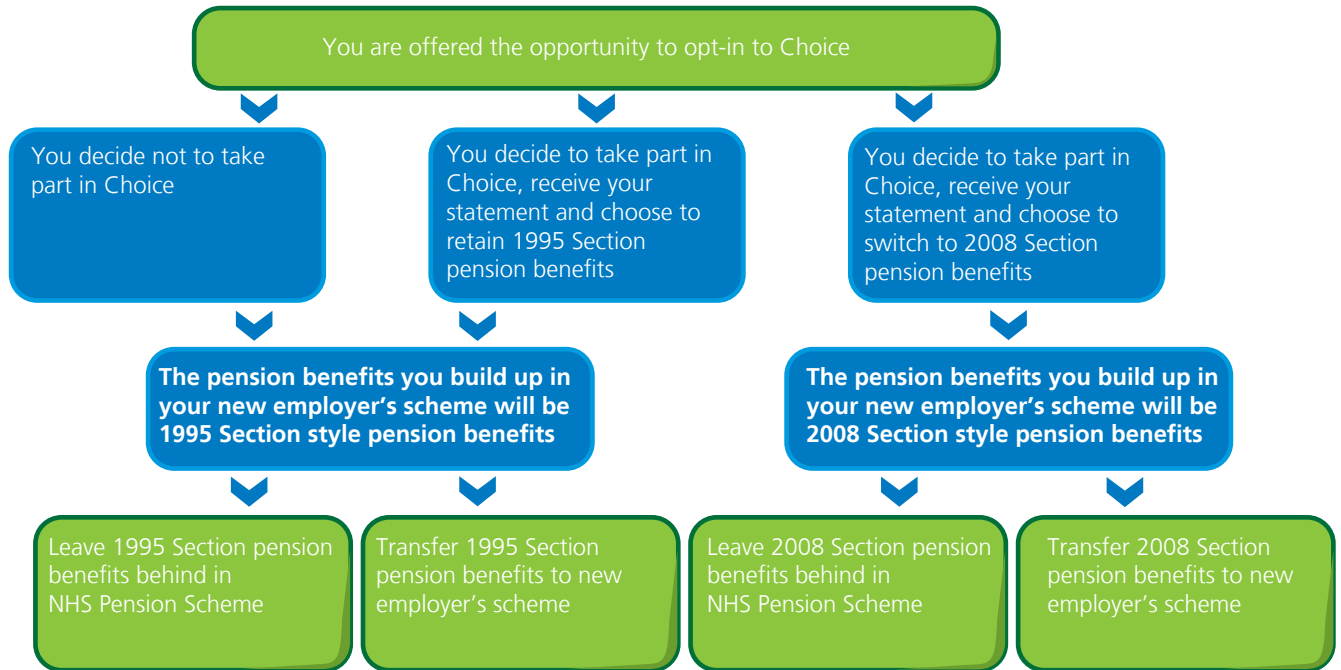
Separate information about these options will be made available to you by NHS Pensions and your new employer.



Decision Tree

The decision tree below shows how your decisions affect your pension benefits.

- If you move to the 2008 Section of the NHS Pension Scheme before your employment transfers, your new employer will offer pension benefits broadly comparable to the 2008 Section.
- If you do **not** move to the 2008 Section before your employment transfers, your new employer will offer pension benefits broadly comparable to the 1995 Section.



If you return to NHS employment in the future and did not opt-in to Choice before your employment was transferred

If you do not opt-in to Choice now, there are some circumstances in which you can be offered Choice in the future:

- if you return to an employer who offers NHS Pension Scheme membership within 5 years; and
- if you are transferred under TUPE back to an employer who offers NHS Pension Scheme membership at any time in circumstances where you are eligible to rejoin the 1995 Section (provided that, whilst working outside the NHS, you did not voluntarily leave a pension scheme with minimum pension age 60).

If you return to NHS employment after a break of more than five years in other circumstances:

- you will not be eligible to rejoin the 1995 Section;
- you will be eligible to join the section of the NHS Pension Scheme open to new joiners: currently the 2008 Section; and
- you may have an option to move any 1995 Section pension entitlement into the 2008 Section.

General points to consider about leaving your existing pension benefits in the NHS Pension Scheme or transferring your pension to another scheme

Pension benefits left behind in the NHS Pension Scheme remain backed by the government and will be based on the final pensionable pay you had when you left the NHS. But in the circumstances described in the preceding section of this factsheet you may regain the link to your future final pensionable pay if and when you return to NHS employment and rejoin the NHS Pension Scheme.

Pension benefits left behind in the NHS Pension Scheme will continue to increase in line with the cost of living. Pension benefits in the 1995 Section can be taken in full at age 60 whether or not you continue to work for your new employer.

Transferring your NHS pension benefits to your new employer's pension scheme means that it remains linked to your future final pay.

- The terms of a compulsory transfer under TUPE should be close to year for year, but this will depend on the relative pension benefits offered by the two schemes.
- Pensions in a private employer's scheme are backed by the assets of the scheme, the financial strength of the sponsoring employer and ultimately the Pensions Protection Fund².
- The protection of comparable pension and other employment benefits under TUPE transfer regulations is not enduring and a number of circumstances can lead your new employer to initiate changes to them.
- If you voluntarily transfer your pension service back into the NHS Pension Scheme it will not be credited on a year for year basis.

General points about the differences between the 1995 Section and the 2008 Section

When you consider your decisions you should read the NHS Pension Choice Guide and watch the NHS Pension Choice DVD taking particular note of the differences between the two sections summarised on page 4 and 5 of the NHS Pension Choice Guide.

Deciding whether to transfer from the 1995 Section to the 2008 Section is a significant financial decision. As each person's position will be different, it is important you consider all the issues.

The two most important issues to consider are the age at which you are going to retire and whether you are likely to leave your new employer's pension scheme (or the NHS Pension Scheme, if you return to it) before retirement.

You can draw your pension benefits from the 1995 Section unreduced from the age of 60.

In the 2008 Section, your pension benefits build up at a faster rate, but are reduced if drawn before age 65. There are no special class rights in the 2008 Section.

Your NHS employer is obligated to provide you with information about your employment transfer. Please let them know if you need any further information about your transfer.



² The Pensions Protection Fund is a compensation scheme which protects a proportion of the pension in an employer's defined benefit pension scheme, if an employer is insolvent and unable to meet the liabilities in the scheme: see www.ppf.gov.uk