



Department  
of Health

# Re-Tendering: Staff Returning to the NHS Pension Scheme

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# Re-Tendering: Staff Returning to the NHS Pension Scheme

**Prepared by**

Department of Health

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# Re-Tendering: Staff Returning to the NHS Pension Scheme

This pack provides an overview of the process that should be followed to ensure that appropriate Bulk Transfer arrangements are in place in the situation whereby an NHS organisation is re-tendering for the provision of services and this will involve staff transferring back into the NHS Pension Scheme via the terms of New Fair Deal.

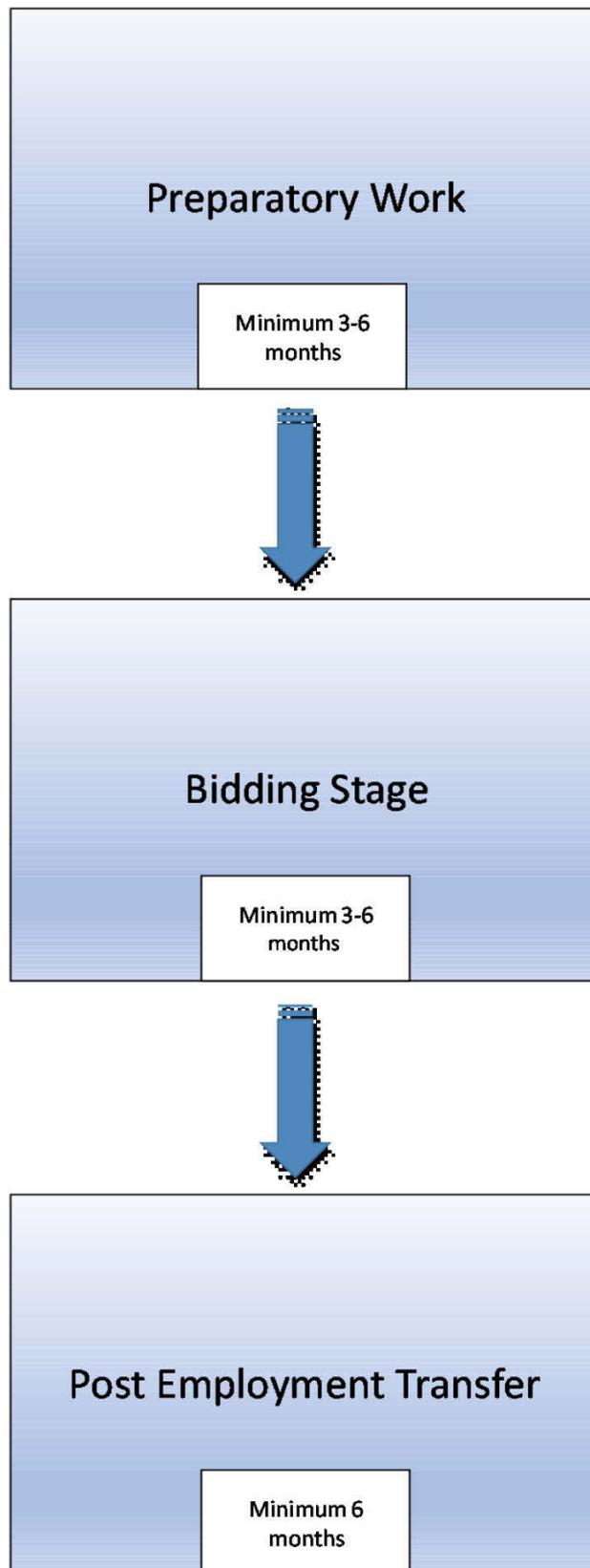
This guidance supplements HM Treasury's detailed New Fair Deal guidance. The process set out is only intended as an outline guide for typical cases rather than providing detailed step-by-step instructions that will be appropriate for all transfers. Appropriate legal and actuarial advice should be taken for each Bulk Transfer undertaken.

It should be noted that this guidance does not detail all steps required to undertake the full procurement exercise, merely those relating to Bulk Transfers. As such, any timescales outlined relate purely to Bulk Transfer activity and should therefore be regarded as the absolute minimum time periods within which specific stages can be undertaken. These activities should be integrated into an overarching procurement plan that details all required activity from the decision to retender to the completion of all transfers.

Further detail on this process can be found at

<https://www.gov.uk/government/organisations/department-of-health>

## A high level summary of the 3 stages involved in the Bulk Transfer



## Preparatory work to be undertaken prior to the issuing of the Invitation To Tender

### **NHS COMMISSIONER**

- a. Decision to retender.
- b. Check pensions obligations and exit provisions in current contract.
- c. Obtain membership data and proposed bulk transfer terms from Incumbent provider (draft Letter A under Fair Deal Guidance).
- d. Commission GAD to act on behalf of NHSPS and own actuary (which may also be GAD).
- e. Provide information already obtained (in steps b and c above) to own actuary.

### **NHS COMMISSIONER'S ACTUARY**

Analyse data and Incumbent's proposed bulk transfer terms (in draft Letter A) to establish whether these are consistent with contractual and Old Fair Deal requirements; resolve any issues in conjunction with the NHS Commissioner.

- a. Determine relevant NHSPS section for transferring staff.
- b. Establish NHSPS bulk transfer terms and required service credits (which will be included in Letter B under Fair Deal guidance).
- c. Work with the NHS Commissioner and Incumbent to agree and formalise Incumbent's bulk transfer terms (in Letter A).

### **NHS COMMISSIONER'S ACTUARY**

Establish whether there is a shortfall between Incumbent's bulk transfer terms (in Letter A) and NHSPS bulk transfer terms (in Letter B). Work with NHS Commissioner to agree ? Benchmark for Level Playing Field ?.

### **NHS COMMISSIONER**

- a. Possibly preceded by a pre-qualification stage (minimum 1 month timeframe).
- b. Make relevant data on transferring staff available to bidders.
- c. Confirm availability of NHSPS and publish formal Letter A.
- d. Publish NHSPS bulk transfer terms and, if appropriate, Benchmark for Level Playing Field in template of Letter B. This allows bidders to establish the extent of any shortfall requirement that will be met by the NHS Commissioner and whether they wish to make any additional shortfall claim.



## Bidding Stage

### **NHS COMMISSIONER**

Inform GAD of which bidders to approach, providing actuarial contacts.

### **GAD**

Supply detailed membership data for those eligible for NHSPS to each bidder.

### **BIDDERS**

Each bidder decides whether or not to claim a pricing adjustment for any shortfall to the NHSPS requirement compared to the Benchmark for Level Playing Field, as set out in template Letter B, and informs GAD.

### **GAD**

Issues formal Letter B to each bidder, which sets out NHSPS bulk transfer terms and, if relevant, the Benchmark for Level Playing Field and how much of total NHSPS shortfall requirement will be met by the NHS Commissioner.

### **BIDDERS**

Each bidder countersigns Letter B and includes with bid.



## Post Employment Transfer

### **INCUMBENT'S SCHEME**

- a. Prepare options packs and issue to all transferring staff.
- b. Members return decisions to Incumbent's Scheme (after 3-month option period).

### **INCUMBENT'S ACTUARY**

- a. Supply GAD and the NHS Commissioner's Actuary with membership data for those members wishing to transfer their benefits into NHSPS.
- b. Supply GAD with results of calculated final transfer value from Incumbent's Scheme (in line with Letter A).

### **GAD**

- a. Review data and agree bulk transfer value calculated by Incumbent's actuary in 12b above.
- b. Calculate NHSPS requirements and associated shortfall (in line with Letter B)

c. Inform successful bidder, the NHS Commissioner and NHS BSA of calculated figures.

**NHS COMMISSIONER'S ACTUARY**

If relevant, calculate extent of total shortfall under Letter B that will be met by the NHS Commissioner.

**INCUMBENT'S SCHEME**

Pay bulk transfer value from Incumbent's Scheme to NHSPS (in line with Letter A).

**NHS COMMISSIONER**

Pay agreed proportion of total shortfall to successful bidder (in line with Letter B).

**SUCCESSFUL BIDDER**

Pay total shortfall to NHSPS (in line with Letter B), including amount received via step 16.

**NHS BUSINESS SERVICES AUTHORITY**

Service credits awarded to transferring staff in NHSPS.



## Glossary

### Stages

**Preparatory Work** – Includes all activities that need to be undertaken between the point at which a decision is made to re-tender services and the point at which an Invitation to Tender is issued. May include the issuing of a Pre-Qualification Questionnaire and shortlisting of supplies.

**Bidding Stage** – The stage during which bidders complete and submit their bids.

**Post Employment Transfer** – This stage commences following contract award and the completion of the transfer of staff to the new organisation. Once complete, this concludes the Bulk Transfer process.

### Terms

**Incumbent's Bulk Transfer Terms** – The actuarial assumptions used to calculate the bulk transfer value payable from the Incumbent's scheme to the NHSPS (the level 1 bulk transfer terms).

**Benchmark for Level Playing Field** – The actuarial assumptions used to calculate the bulk transfer value which would meet the Old Fair Deal requirements (the "level 2" bulk transfer terms).

**NHSPS Bulk Transfer Terms** – The actuarial assumptions used to calculate the bulk transfer value requirements for the NHSPS (the "level 3" bulk transfer terms).

**Service Credit** – The proportion of service built up in the Incumbent's Scheme that a member will receive in the NHSPS following a bulk transfer. (for example a service credit of 105% indicates that a member will receive 1.05 years' service in the NHSPS for every 1 year they have built up in the Incumbent's Scheme).

**NHSPS Shortfall Requirement** – The excess (if any) of the amount calculated under the level 3 bulk transfer terms less the amount under the level 1 bulk transfer terms. The NHS Commissioner will meet the extent of this shortfall which relates to the excess of level 2 over level 1 (if any) for all bidders. The excess of level 3 over level 2 (if any) can also be met by the NHS Commissioner, if a bidder submits a shortfall claim for this element of the NHSPS shortfall requirement.

**Letter A** – Details the Incumbent's bulk transfer terms (level 1) and the service credits.

**Letter B** – Details the Benchmark for Level Playing Field (level 2), the NHSPS bulk transfer terms (level 3), the service credits, and sets out who is responsible for paying the NHSPS shortfall requirement.

**Fair Deal** – A non-statutory Government policy which sets out how pensions issues are dealt with when staff are compulsory transferred from the public sector to an independent sector provider delivering public services. The original policy was introduced in 1999, and subsequently updated in 2004 ("Old Fair Deal"). A new policy was published in 2013 ("New Fair Deal"), which allowed for outsourced staff to retain membership of their original public service pension scheme.

### Organisations

**NHS Commissioner** – The NHS organisation that has made the decision to re-tender for specific services and as such is responsible for leading procurement activity including the Bulk Transfer process.

**NHS Commissioner's Actuary** – The appropriately qualified Actuary appointed by the NHS Commissioner. This is not necessarily GAD.

**GAD** – the Government Actuary's Department.

**Bidders** – Organisations who are bidding for the contract for the service being procured.

**Incumbent's Scheme** – The administrator of the pension scheme operated by the organisation who is the current supplier of the services being re-tendered.

**Incumbent's Actuary** – The appropriately qualified Actuary who advises the Incumbent.

**Successful Bidder** – The organisation who secures the contract for delivery of the services being re-tendered.

**NHS Business Services Authority** – The organisation responsible for the administration of the NHS Pension Scheme.